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PREAMBLE

In accordance with Title VII of Civil Service Reform Act of 1978 (Public Law 95-454), and subject to all applicable Statutes, Executive Orders and regulations, this Collective Bargaining Agreement is entered into by and between the Defense Commissary Agency, Hawaii, hereinafter referred to as the Employer, and the Hawaii Council of Defense Commissary Unions, hereinafter referred to as the Council, and hereinafter collectively referred to as the Parties. Wherever the terms "he" or "his" are used, they are deemed to mean both genders.

WITNESSETH

WHEREAS, the Congress finds that:

1. Experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them:
 - a. Safeguards the public interest
 - b. Contributes to the effective conduct of public business
 - c. Facilitates and encourages the amicable settlement of disputes between employees and their Employers involving conditions of employment;
2. The public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.
3. The provisions of this Agreement should be interpreted in a manner consistent with the requirements of an effective and efficient Government, NOW, THEREFORE, the Parties hereby agree as follows:

ARTICLE 1

EXCLUSIVE RECOGNITION AND UNIT DESIGNATION

Section 1. The Employer recognizes the Council as the exclusive representative of all employees covered by this Agreement. The Parties recognize the Council's responsibility to represent the interests of all employees in the unit without discrimination and without regard to union membership.

Section 2. The Unit consists of:

a. Included: All nonprofessional employees of the Defense Commissary Agency on Oahu, Hawaii.

b. Excluded: All professional employees; management officials; supervisors and employees described in 5 USC 7112 (b) (2), (3), (4), (6) and (7) and temporary employees with appointments of 90 days or less.

ARTICLE 2

ADMINISTRATION OF AGREEMENT AND DUTY TO BARGAIN

Section 1. In the administration of all matters covered by this Agreement and any supplement hereto, officials and employees are governed by existing or future laws, Executive Orders and regulations of appropriate authorities; and by published Agency policies and regulations required by law, Executive Order or by regulations of appropriate authorities.

Section 2. The Parties to this Agreement have a duty to bargain collectively on the conditions of employment affecting employees in the Unit. This mutual obligation to meet at reasonable times to consult and bargain in a good faith effort to reach agreement on personnel policies, practices, and matters affecting working conditions shall not extend to matters relating to prohibited political activities, to those relating to the classification of any position, or to the extent such matters are specifically provided for by Federal statute.

Section 3. This Agreement is not all inclusive and the fact that certain working conditions have not been specifically covered in the Agreement does not lessen the responsibility of either Party to meet with the other for discussion and exchange of views and/or negotiations in an effort to find mutually satisfactory solutions to matters related to policies, practices, procedures and conditions of employment not covered by this Agreement.

Section 4. Rules, regulations and/or directives in the possession of the Employer which deal with personnel policies and practices affecting employees in the bargaining unit may

be made available to the Council upon request, or when deemed by the Employer to be of interest to the Council. The parties agree that in certain cases the Employer holds data, which the Council requires in order to represent bargaining unit employees. In such cases, the Council's written request will address the particularized need for the information. To the extent not prohibited by law, the Employer shall furnish data which is normally maintained in the regular course of business (not including memoranda of an intra-management nature), and which is reasonably available and necessary for full and proper discussion, understanding and/or negotiation of subjects within the scope of collective bargaining and representation of employees.

Section 5. The Employer recognizes the right of the Council to initiate midterm and impact and implementation bargaining.

Section 6. The Parties agree that before the Employer initiates changes to any conditions of employment, the following procedure will be followed:

a. The Employer will forward changes to agency policy or change of work practice via mail, hand delivery, or facsimile to the Council and permit a sufficient period of time from receipt for study and submission of comments. The Employer's notification will describe the proposed change, the reasons for the change and the planned implementation date.

b. Within ten (10) calendar days of receipt of the proposal, the Council must notify the Employer via mail, hand delivery, or facsimile of its desire to consult and bargain with the Employer. As an exception to the above, when a proposed change is related to schedule changes, the Council will notify the Employer of its desire to consult and bargain within five (5) working days. When the Council requests negotiations under this Article, such requests will be accompanied by written proposals, except by mutual agreement. Requests for extensions may be granted on a case by case basis where a showing of reasonable cause is made.

c. The parties agree that responsibility for verifying the submission of proposals rests with the sender.

d. If no response is received within the prescribed period, the Employer may institute the proposed changes and no further obligation to consult and bargain exists.

e. Time limits may be extended by mutual agreement.

ARTICLE 3

EMPLOYER RIGHTS

Section 1. Subject to Section 2 of this Article, nothing in this Article shall affect the authority of the Employer:

a. To determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

b. In accordance with applicable laws:

(1) To hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees

(2) To assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted

(3) With respect to filling positions, to make selection for appointments from:

(i) Among properly ranked and certified candidates for promotions

(ii) Any other appropriate source; and

(4) To take whatever actions may be necessary to carry out the mission during emergencies.

Section 2. Nothing in this Article shall preclude the Employer and the Council from negotiating:

a. At the election of the Employer, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

b. Procedures which management officials will observe in exercising any authority under this Article

c. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

ARTICLE 4

COUNCIL RIGHTS

Section 1. The Council is the exclusive representative of the employees in the bargaining unit and is entitled to act for and negotiate collective bargaining agreements covering all employees in the bargaining unit.

Section 2. The Council shall be given the opportunity to be represented at:

a. Any formal discussion between one or more representative of the Employer and one or more employees in the bargaining unit or their representatives concerning any grievance or any personnel policy or practice or other general condition of employment

b. Any examination of an employee in the bargaining unit by a representative of the Employer in connection with an investigation if:

(1) The employee reasonably believes that the examination may result in disciplinary action against the employee

(2) the employee requests representation.

Section 3. The Council shall not be restricted access to bargaining unit employees in non-work areas during non-work time. The Council and employees will ensure that break periods are not extended without appropriate authorization.

Section 4. The Council shall be permitted the use of an area not less than 18" by 24" on each official bulletin board for Council notices, bulletins and other material. The Council agrees that such literature shall not violate law, this Agreement, the internal security of the Employer, or contain vulgar, obscene or libelous material. A copy of material to be posted will be provided to the Employer designee prior to posting. The Council bears sole responsibility for the content of material distributed or posted.

Section 5. The Employer shall provide reasonable space in its facilities for use by the Council when requested and approved in advance for the purposes of holding meetings and for filing material pertinent to this Agreement. The Council shall maintain such space in clean and orderly condition and will make no alterations thereto without the Employer's prior approval. The Employer agrees to provide the Council limited access to office equipment to carry out its representational duties.

ARTICLE 5

EMPLOYEE RIGHTS

Section 1. Employees have the right to join and assist the Council, or to refrain from any such activity, freely and without fear of penalty or reprisal, and employees shall be protected in the exercise of such right. Except as otherwise provided by law, such right includes the right:

a. To act for the Council in the capacity of a representative and the right, in that capacity, to present the views of the Council to the heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities.

b. To engage in collective bargaining with respect to conditions of employment through Council representatives. The Employer will apprise employees of the above rights by furnishing each bargaining unit employee with a copy of this Agreement at the time of its printing or at the time of a new employee's hire date, as appropriate.

Section 2. Employees have the right to refer or not refer work related problems to the Council without fear of reprisal. Employees may bring matters of personal concern to the attention of the Employer or other appropriate officials under applicable law, rule, regulation or established Agency policy and may choose their own representative in an appellate action.

Section 3. Prior to the commencement of an investigatory examination, the employee will be informed of the purpose of the examination. If the employee reasonably believes that disciplinary action may result from the examination, the employee has the right to request Council representation at any time during the discussion. It is understood by the parties that this right to representation does not extend to discussions relating to non-disciplinary matters such as performance improvement plans (PIP), work assignments, etc.

Section 4. This Agreement shall be applied in a consistent and equal manner. Employees have the right to expect their supervisors to treat them with courtesy and respect, just as employees are to treat their supervisors and fellow employees with courtesy and respect.

ARTICLE 6
REPRESENTATION

Section 1. The Employer shall recognize the officials and designated representatives of the Council. The Council shall provide the Employer, and maintain on a current basis, a complete list of all officials, authorized representatives and any alternates, with their assigned areas of responsibility (i.e., store location).

Section 2. The primary point of contact between the Council and the Employer, for the purpose of discussing questions which may arise concerning the general administration or interpretation of this Agreement or other labor relations matters shall be:

- a. For the Council: The President or his designated representative
- b. For the Employer: The Personnel Management Specialist or his designated representative.

Section 3. Council representatives who are not employees of DECA will provide advance notification of visits to the stores. The parties agree that meetings with employees will be arranged in advance so as not to disrupt work. Representatives will ensure that proper notification addressing the general purpose and estimated duration of such meetings are provided to the appropriate supervisor/designee.

Section 4. Reasonable official time during working hours (time-allowed) shall be granted Council representatives (stewards, chief stewards and representatives who are DECA employees) to carry out their duties and responsibilities in furthering the employees' interest in work-related matters in assigned areas. In determining reasonable time, the Employer will consider, as a whole, the issue involved, the criticalness/urgency of the issue, manpower requirements and the timeliness of resolution and any other relevant factors. Reasonable time-allowed shall be granted for consultations and discussion with employees who have pertinent knowledge of the matters involved or complained of; attendance at meetings with employees and with management officials; and preparation of agenda for formal meetings with the Employer. Representatives shall guard against the excessive use of Government time in connection with such matters. The Employer shall ensure there is no discrimination or retaliation against the Council or its representatives in the performance of their functions and the use of time-allowed.

Section 5. Employees have the right to request Council representation during meetings or interrogations in which the employee reasonably believes may result in disciplinary action. Employees and their Council representative may request and shall be provided information regarding the purpose and subject of the discussion prior to the meeting. The Council representative may consult in private with the employee before and during any such meeting, but may not answer for the employee.

Section 6. The Employer and the Council shall encourage their respective representatives to seek mutually acceptable solutions of problems at the lowest level. Consultation shall commence between appropriate Union representatives and supervisors.

Section 7. Prior to release, the authorized Council steward and/or the employee must request and obtain permission from the appropriate supervisor to be excused from work for the purposes referred to above. Such requests for official time will be made in advance to allow the Employer to arrange for sufficient workload coverage. The steward and/or the affected employee will complete Appendix 2 and hand-deliver it to his supervisor, who will timely complete the form, provide one copy to the requesting employee and maintain one copy for record. In the absence of the supervisor, the steward/employee will hand-deliver it up the chain of command for approval. The steward and/or employee will be released promptly, workload permitting. If permission is denied, the Employer will provide the reason for the denial on the steward's/employee's copy of Appendix 2 and the time and date when the steward or representative can be permitted to meet with employee.

The steward and employee shall report back to the supervisor or work station as previously arranged within allocated time frame. If more time is needed, the steward and/or the employee will request for more time, unless precluded by justifiable circumstances. If permission is denied, the steward's supervisor will provide the reason for the denial on the employee's copy of Appendix 2 and the time and date when the steward or representative can be permitted to meet with employee.

Section 8. Official time off from work granted to Council representatives shall not be used for: discussion of any matter connected with the internal management or operations of the Council or any other labor organization; the collection of dues or assessments of other funds; the solicitation of memberships; campaigning for elective office in the Council or any other labor organization; the distribution of literature; or the deliberate seeking out of grievances and complaints. The Council agrees that activities described above shall be performed during the time an employee is in a non-work status.

Section 9. Council representatives who have a continuing Council assignment shall not be reassigned or detailed from one work shift (unless assigned to a rotating shift position) or geographical area to another except when:

- a. Mission requirements necessitate the change
- b. Geographical mobility is a part of their normal work assignment when appointed steward (e.g., truck driver). If and when such management-initiated reassignment or detail becomes necessary, the Employer shall notify the Council as far in advance of the effective date as practicable; and time permitting, shall consult with the Council about the matter. The curtailment does not extend to or preclude assignment to other work areas or changes of shift, as warranted by unforeseen circumstances, to meet temporary, emergency or unscheduled work requirements, except that such assignments will be terminated as soon as possible.

Section 10. The Employer will grant a reasonable amount of official time to employees who are representatives of the Council to attend Council sponsored training which is of mutual concern to the activity and the employee in his capacity as a Council representative and where the activity's interest will be served by the employee's attendance. The Council will provide the Employer a copy of the training objectives and agenda at least fourteen (14) calendar days in advance, along with the request for official time.

Section 11. Within thirty (30) days from the reporting date of a new bargaining unit employee, the Employer will arrange for the employee to be introduced to the appropriate steward for his work area. The steward will be allowed up to fifteen (15) minutes to explain the function of the Council in representing employees and may give the employee information describing the purposes of the Council.

Section 12. Representatives of the Council and the Employer will meet periodically, at a mutually agreeable time to exchange work-related information, discuss potential problems, and improve communications.

ARTICLE 7

HOURS OF WORK

Section 1. Tour of duty is the hours of the day and the days within the administrative workweek during which the employee is required to perform work on a regular, recurring basis. The administrative workweek for employees of the bargaining unit is the calendar week beginning at 12:01 a.m. Sunday and ending at 12:00 midnight the following Saturday.

Section 2. Basic Workweek.

a. Full-time. Except when the Employer would be seriously handicapped in carrying out its functions or when costs would be substantially increased, the basic workweek of full-time employees shall consist of five (5) consecutive eight (8) hour workdays, with two consecutive days off. To the extent practicable and where there is no adverse impact on mission driven needs, an employee's days off will include a Saturday or Sunday.

b. Part-time. Generally, the basic workweek of part-time employees shall consist of 16-32 hours. The minimum hours to be worked shall be noted on their Standard Form (SF) 50. An SF 52 will be initiated upon a change of work schedule for more than two (2) consecutive pay periods. Annotation will include a "not-to-exceed" date, unless the employee has been permanently assigned to a new work schedule. To the extent practicable, part-time employees will have two (2) days off in the administrative

workweek. While two (2) consecutive days off are not required, the Employer will make reasonable attempt to schedule part-time employees with two (2) consecutive days off.

c. Employees shall not be scheduled to work more than six (6) of any seven (7) consecutive days unless management determines it is necessary in order to meet mission requirements.

d. Split shifts will be used as a last resort.

Section 3. Notification of Schedules. Regular full-time and part-time employees work schedules shall be posted one (1) week in advance of the administrative workweek. Employees on intermittent work schedules do not have a set tour of duty and are not guaranteed to work a minimum number of hours per week, consistent with applicable laws. Intermittent schedules are sporadic, unpredictable and cannot be regularly scheduled.

Section 4. Schedules are subject to change depending on the operational needs of management; however, the Agency will consider the Employees input prior to making permanent schedule changes. Establishment of new, permanent scheduled workweeks or changes to permanent existing schedules is subject to negotiations with the Council in accordance with the procedure stated in Article 2, Section 6. Employees will be notified of changes in the days and/or shift hours of their workweek in writing at least one week before the start of the administrative workweek in which the change takes place, except when the Employer would be seriously handicapped in carrying out its functions or when costs would be substantially increased.

Section 5. Open Shifts. Except when the Employer has practicable reasons not to, selection of employees for open shifts (reassignment from one work schedule to another) shall generally be made based on seniority. For purposes of this Section, seniority is defined as the employee's Service Computation Date (SCD). After the Employer advises of an open shift, interested employees shall notify their immediate supervisor or designee of their interest in being considered for that work shift. The qualified employee with the greatest seniority will prevail if more than one qualified employee volunteers for the work shift, provided the employee is within the same department and holds the same title, series and grade of the open position. Subsequent reassignments shall be made in the descending order of seniority. Full-time employees may not volunteer for a part-time work shift or vice versa, nor may employees volunteer for unequal part-time work shifts. If no one volunteers for a needed work shift, then reverse seniority will be applied, if the shift is not filled by other means.

Section 6. Meal Break.

a. Employees who work six (6) hours or more per day shall be granted a scheduled non-paid lunch period of thirty (30) minutes duration at or near the midpoint of their shift.

b. Employees who are required to perform work or who must remain at the jobsite for work related purposes during their lunch period will be paid for such time. Employees in these types of situations will be allowed to eat on the job unless it presents a safety hazard or there is no opportunity to eat.

c. As an exception to section a, above, employees who are scheduled for six (6) hours of work may request to have their work day shortened by foregoing a thirty (30) minute lunch period. The Employer may authorize such requests at its discretion.

Section 7. Rest Breaks.

a. Employees who work six (6) hours or less per day will normally be authorized one fifteen (15) minute rest period during the workday, at or near the midpoint of their shift.

b. Employees who work more than six (6) hours or more per day will normally be authorized two fifteen (15) minute rest periods during their workday, at or near the midpoint of the first portion, and at or near the midpoint of the second portion or their work shift.

c. In the case where an employee works longer than an eight (8) hour shift, he will receive a fifteen (15) minute rest period for every three (3) hours of overtime work.

Section 8. Prior to any scheduled lunch period and/or prior to the end of the shift, the Employer shall determine whether adequate time should be allowed for personal cleanup.

Section 9. When an employee is required to travel away from his duty station on official business, government transportation will be provided. As an alternative, supervisors may authorize employees to use their POV when government transportation is not readily available and employees will be reimbursed for mileage in accordance with Joint Travel Regulations. However, no employee will be required to use his personal vehicle for the performance of his duties.

ARTICLE 8

OVERTIME

Section 1. Overtime work is defined as such work that is in excess of eight (8) hours per day or in excess of forty (40) hours per administrative workweek. Employees who have worked overtime will be paid in accordance with applicable law and regulations. Overtime will be computed in increments of fifteen (15) minutes.

Section 2. The assignment of overtime work is a function of management. Supervisors shall distribute overtime work assignments fairly and equitably, as provided below,

among qualified employees by individual and/or group assignments in accordance with their particular skills and the need for overtime work.

Section 3. Overtime shall be distributed in the following manner:

a. The Employer will first seek qualified volunteers from among the department performing the work during regular shift hours to perform the duties of the overtime assignment. The volunteer with the least amount of overtime worked shall be assigned the overtime. All else being equal, the employee with the earliest service computation date shall be assigned.

b. If there are insufficient volunteers from among the department performing the work, the Employer will seek volunteers from all qualified employees who are on duty within the store that the overtime work is available to perform the duties of the overtime assignment. The volunteer with the least amount of overtime worked shall be assigned the overtime. All else being equal, the employee with the earliest service computation date shall be assigned.

c. If there are insufficient volunteers, qualified employees from among the work group performing the work during regular shift hours will be directed to do the work starting with the employee with least amount of overtime worked.

d. In no case shall a supervisor assign overtime as a reward or penalty, except when an employee who has been deprived of his turn by mistake, or who has been awarded a grievance decision granting assignment of overtime as a redress, may be assigned even though his total overtime is higher than another employee.

e. Normally, the provisions described herein shall be observed. However, emergency situations may preclude strict adherence.

Section 4. Employees assigned to overtime work will be given as much advance notice of such assignment as possible. Upon reasonable and timely request, the appropriate supervisor will normally relieve an employee of an overtime assignment provided another qualified employee is available and has expressed his desire to the supervisor regarding his willingness to work.

Section 5. If an employee is called in to work at a time outside of and unconnected with his scheduled hours of work to perform unscheduled overtime work of less than two (2) hours duration, the employee will be paid a minimum of two (2) hours of overtime pay for each such "call-back," even though no work, or less than two (2) hours of work is actually performed.

Section 6. The Employer may excuse employees from performing overtime assignments under the following conditions:

a. When the employee is unable to work for medical reasons. The employee may be required to submit a medical certificate to substantiate the claimed illness.

b. If, in the judgment of the Employer, the employee has a justifiable emergency or unavoidable personal situation.

Section 7. Necessary and pertinent information concerning overtime hours worked will be maintained by the Employer. Employees and/or Council representatives may request such information to aid in resolving specific complaints concerning overtime distribution.

ARTICLE 9

DETAILS, TEMPORARY PROMOTIONS, AND REASSIGNMENTS

Section 1. A detail is a temporary assignment of an employee to a position or duties other than that employee's permanent position. An employee detailed to another position is not required to meet the prescribed OPM qualification standards or time-in-grade requirements for the position to which he is detailed. A detail may be at an equal, higher or lower grade level than the employee's permanent position. A detailed employee does not receive additional compensation if the detail is to a higher graded position. Upon completion of the detail, the employee returns to his permanent position.

Section 2. Details will be made for brief periods to meet the particular needs of the situation requiring the temporary service of an employee. The duration of details will conform to the time limits established by regulation.

Section 3. Prior to temporarily assigning a lower graded employee to a higher graded position, the Employer is strongly encouraged to first offer qualified part-time employees, whose series and grade match the detailed position, the opportunity to increase their work schedules, up to forty (40) hours per week, unless there are performance, conduct or other justifiable reasons not to.

Section 4. If there are no qualified volunteers in the same grade, title and series, then the Employer shall consider lower graded volunteers beginning with the most senior volunteer. Specific detail opportunities of thirty (30) days or more shall be posted on the official bulletin board for at least seven (7) calendar days. Details shall be rotated in a fair and equitable manner. The Employer shall discuss the duties to be performed and the estimated duration.

Section 5. Details will be recorded as follows:

a. Details in excess of thirty (30) days will be documented on a Standard Form 50/52, which is to be filed in the employee's official personnel folder, and will be entered in the employee's work folder maintained by his supervisor.

b. Details of thirty (30) days or less will be documented with a memo for the record in the employee's work folder maintained by his supervisor. A copy of the documentation shall be provided to the employee.

Section 6. Selections of Employees for details assignments will be made on a fair and impartial basis. The Employer is responsible for informing the employee of the detail assignment, reasons for the assignment, duties to be performed, estimated duration, and for establishing controls to ensure that details are recorded and timely terminated. (Details should not be made to avoid the filling of an otherwise necessary job on a permanent basis.) Employees detailed to higher graded positions for more than thirty (30) consecutive days and up to one hundred twenty (120) consecutive days will be temporarily promoted (if otherwise eligible and qualified). As an exception to the above, unqualified employees on an initial detail to a position may be detailed for up to sixty (60) days. Time limits for details may be waived by mutual agreement of the Parties.

Section 7. Details/temporary promotions to higher graded positions for more than one hundred twenty (120) consecutive days will be accomplished under Merit Promotion procedures in accordance with Article 11.

Section 8. An employee may not be noncompetitively detailed/temporarily promoted to a higher graded position for more than one hundred twenty (120) days in a twelve month period.

Section 9. It is recognized that management has the right to assign work and within that right to involuntarily reassign employees. The Employer will explore options available prior to reassigning employees. Upon request, management will provide the effective date of the reassignment, the location of the reassignment, and the expected duration of the reassignment as the information is available.

ARTICLE 10

TRAINING

Section 1. Training is a necessary and inseparable function of management for the maintenance of a skilled and efficient workforce and shall be accomplished on the Employer's time when the employee is directed to attend. The choice of subject matter, areas for training, selections and assignments of training priorities, and the selection of employees to be trained is a management function. The Employer is responsible for encouraging learning and determining training that is necessary to improve performance and develop skills (e.g. correspondence courses). The Council is responsible for encouraging employees to engage in work related self development activities. Employees are responsible for applying reasonable effort, time and initiative toward increasing their skills and knowledge through self development activities and for sharing with fellow employees new skills acquired through training.

Section 2. Employees may inform their supervisors of any job-related training needs and preferences in time for consideration for the subsequent fiscal year.

ARTICLE 11

PROMOTIONS

Section 1. It is the policy of the Employer to utilize the skills and potentials of all employees as fully as practicable and to give employees the opportunity for progressive development. In consonance with this policy, the Employer agrees to evaluate and select employees for promotion to positions in the bargaining unit in accordance with the provisions of the Merit Promotion Plan and other applicable regulations. The Employer will give prior consideration to all DECA repromotion eligible employees who are registered for such consideration. The Council recognizes that the Employer has the right to fill vacancies from other sources, including but not limited to appointment, reinstatement, reassignment, change to lower grade, and transfer. The Employer may also cancel or postpone action to fill a vacancy.

Section 2. The area of consideration for such promotions shall normally be no wider than the bargaining unit. The minimum area of consideration is where the Employer reasonably expects to get at least three (3) highly qualified candidates for the vacancy. Where the Employer determines that sufficient need exists for establishing a wider area of consideration for a specific position, the Council shall be notified of the reasons for the expansion.

Section 3. Each Commissary Store will distribute copies of vacancy announcements/listings to work center locations for posting. Vacancies which are publicized will be open for a minimum of seven (7) calendar days to allow maximum opportunity for bargaining unit members to file applications. The store where the vacancy exists will send the Council a copy of the announcement at the time of distribution.

Section 4. The Employer will notify bargaining unit employee applicants, on request, of the person or persons selected for promotion. Employees not selected have the right to know whether they were considered, whether they were basically eligible, or whether they were in the group from which the selection was made. The Employer agrees to review the selection process utilized with an applicant not selected, upon request, and may refer the non-selectee to the servicing personnel office to counsel such applicant as to ways to improve his chance for selection in the future.

ARTICLE 12

PERFORMANCE EVALUATIONS

Section 1. Performance elements shall be identified and performance standards established for each individual employee's position and set of duties, and shall be used as a basis for evaluating the employee's performance. The Employer shall encourage employees to participate in identifying key performance elements and establishing performance standards.

Section 2. The Employer agrees that a copy of the performance standards shall be given and discussed with new employees, as soon as possible, after entering the position, but normally within thirty (30) calendar days of the beginning of the rating period.

Section 3. The Employer shall hold private discussions with employees providing feedback and advice in relation to their overall performance on an as needed basis, but as a minimum at midterm in the appraisal cycle and in accordance with applicable regulations. If the Employer chooses to document this counseling, the affected employee shall be given a copy of the document and shall have the right to make written comments concerning any disagreement with the document. These written comments shall be attached to and become part of the document.

Section 4. Evaluations shall be consistent with the established performance standards for the position. An employee's signature on an evaluation indicates only that the evaluation has been received, and does not necessarily indicate an employee's agreement with the evaluation and assigned rating.

Section 5. Prior to making a performance appraisal and rating part of the employee's official personnel record, a discussion of his performance with the responsible rating official shall take place.

ARTICLE 13

HOLIDAYS

Section 1. Federal holidays will be observed as non-workdays to the extent practicable, consistent with workload and manpower requirements as determined by the Employer.

Section 2. The following are Federal holidays:

New Year's Day, January 1.

Birthday of Martin Luther King, Jr., the third Monday in January.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.
Labor Day, the first Monday in September.
Columbus Day, the second Monday in October.
Veterans Day, November 11.
Thanksgiving Day, the fourth Thursday in November.
Christmas Day, December 25.
Any other calendar day designated as a holiday by Federal statute or Executive Order.

Section 3. In accordance with 5 USC 6103 (b), the following rules apply:

a. For employees whose basic workweek is Monday through Friday, the holiday is the day designated by law or executive order except that:

(1) When the holiday occurs on a Saturday, the Friday immediately before is the holiday.

(2) When a holiday fall on a Sunday, the following Monday is the holiday.

b. For employees who work other than Monday through Friday, the holiday is the day designated by law or executive order except that:

(1) When a holiday falls on a regular weekly non-workday, except Sunday, the workday immediately before the holiday is the observed holiday.

(2) When a holiday falls on a Sunday, the holiday is observed on the following workday for the employee.

Section 4. Part-time employees who are on a regular or a regular rotating schedule will receive holiday pay for all hours normally scheduled if the holiday falls on a day they are normally scheduled to work.

Section 5. Part-time employees who are on irregular schedules, and who are not scheduled to work on the holiday, will not be entitled to holiday pay.

Section 6. If the store is closed to provide full-time employees an “in lieu of holiday,” part-time employees who are scheduled to work on that day shall have their hours rescheduled, if the Employer deems needed, within the same pay period to recapture hours otherwise lost.

Section 7. When additional workers are needed for holidays due to work demands or a shortage of workers during a holiday, the Employer will first ask for volunteers and will select the number of needed, qualified employees by the least amount of hours worked during that pay period. Should more employees be needed, qualified employees will be assigned to work starting with employees who worked the least amount of hours during

that pay period. Authorized leave count towards credit for hours of work. Personal needs exceptions will be considered on a case by case basis.

ARTICLE 14

SICK LEAVE

Section 1. Employees shall earn and be granted sick leave in accordance with applicable regulations and this Agreement. The insurance and retirement values of sick leave are jointly recognized and employees in the bargaining unit will be encouraged to conserve such leave so they may receive full pay during a prolonged absence due to illness or disability. The Employer shall also grant sick leave consistent with the provisions of 5 CFR 630.403.

Section 2. Sick leave, if available, shall be granted when properly requested for an employee who is incapacitated for duty because of illness, injury, pregnancy, medical, dental or optical examination; or when confined because of exposure to a contagious disease requiring isolation or quarantine. If the properly requested sick leave is denied, the employee will be provided a written denial as well as the reason for the denial upon the employee's return to work. Sick leave will be charged in fifteen (15) minute increments.

Section 3. An employee who is unable to report to work because of incapacitation due to illness or injury or for other unexpected reasons for which sick leave may be granted is responsible for providing proper notification to his immediate supervisor or designee normally fifteen (15) minutes before the start of the workshift but no later than the start of the workshift on the first day of his absence along with an estimated date of return. The Employer recognizes that there may be circumstances that preclude strict compliance with this requirement and therefore agrees to seek and seriously consider the employee's explanation when adequate notification has not been provided. An employee sent home from work because of illness shall be subject to the above reporting requirement on the next workday after he is sent home, if he is still ill and unable to report to work. When any absence for which sick leave is chargeable extends from one workweek to another, in addition to the initial call-in, unless excused by his supervisor from doing so, the employee shall notify his supervisor on the first workday of the second week and the first workday of each workweek thereafter until he returns to duty.

Section 4. Employees seeking medical, dental, or optical examinations or treatment shall make every effort to schedule such appointments after working hours or on non-workdays. Where this is impractical, requests for sick leave to cover such examinations or treatment (on other than an emergency call-in basis) shall be submitted for approval as far in advance as possible, and shall specify the date and time of the appointment.

Section 5. Sick leave will be documented on the appropriate DeCA form. The Employer may require a medical certificate for an absence in excess of three (3) workdays or for a

lesser period when the Employer determines it is necessary. In such cases, the Employer should first advise the employee of the questionable sick leave record, and should inform the employee of the reason(s) for this evaluation. The employee's sick leave record upon which this evaluation is based will be made available to the employee during this discussion. The employee may be advised during the discussion to submit a medical certificate to substantiate all future requests for sick leave due to claimed illness. Written notice of this requirement shall, as a minimum, inform the employee of the starting date of the requirement and any provisions for review of the notice and shall explain fully the reasons for believing the employee is abusing his sick leave benefits. It is agreed that these notices shall not be based on absences for which the employee has been granted leave by submitting medical certification. It is further agreed that copies of such notices shall not be made part of the employee's permanent record. This requirement will be reviewed by the supervisor and the employee after six (6) months and will be canceled in writing at such time as improvement in the employee's sick leave record warrants.

Section 6. Unearned sick leave may be advanced in amounts not exceeding thirty (30) days to employees who are unable to work because of serious disability or ailments. The employee shall submit a written request for such leave to the Employer, attaching a doctor's certificate covering the need for the advance of sick leave and the doctor's prognosis of estimated time the employee is expected to be able to return to work. The conditions under which sick leave is to be advanced are:

a. The employee has exhausted all accumulated sick leave and any annual leave the employee might otherwise forfeit must be exhausted and there must be reasonable assurance the employee will return to duty.

b. Sick leave will not be advanced to an employee known to be planning to resign or retire, or when it is anticipated he is to be separated for other reasons before he can repay the advance.

c. An employee under a temporary or limited appointment may not be advanced sick leave in excess of the amount he would otherwise earn during the term of his employment.

d. In considering requests for advance sick leave in maternity cases, the standards applied will be those governing the granting of advanced sick leave in other cases of serious disability, regardless of the maternity aspect.

e. When advanced sick leave has been approved and circumstances arise which indicate the advanced sick leave is not longer warranted, payment under the grant of advanced sick leave will cease.

Section 7. When an employee is injured on the job he may elect to have any resulting absence from duty charged to sick and/or annual leave, or continuation of regular pay. He also may request an advance of sick leave, in accordance with the provisions of Section 6, above.

Section 8. Employees who visit dispensaries during regular working hours, for reasons other than examination and treatment of on-the-job injuries, will have their absence charged to leave.

ARTICLE 15

ANNUAL LEAVE

Section 1. Employees shall earn and accumulate annual leave in accordance with applicable regulations. Annual leave will be granted to employees at the discretion of the Employer, based on the employee's request and management's considerations of mission requirements (e.g., workload, staffing, and training requirements). The minimum charge for annual leave is fifteen (15) minutes with additional charges in multiples thereof.

Section 2. Employees will submit between January 1st and January 31st of each year an annual leave plan and official leave request(s) for that year through February of the following year. Approval and/or disapproval of this plan and leave slips will be given to employees by March 1st of that year. Once this plan and the leave slip are approved, the Employer may make changes to that approved leave for reasons and in a manner consistent with the mission of the Employer. Likewise, once vacation schedules are approved, employees will not be allowed to change their leave schedule if such action infringes upon another employee's approved leave. Employee requests for leave submitted outside of the above time-frame shall be granted whenever possible on a first-come, first-served basis consistent with operating needs and the necessity for having certain skills available.

Section 3. While the employee has the responsibility to plan and schedule annual leave, care will be exercised by supervisors and employees to prevent any unintended loss of an employee's excess annual leave because of the limitation of a maximum leave which he can carry forward to the succeeding leave year. "Use or lose" leave must be scheduled and approved no later than the end of October of the calendar year in order to be eligible for restoration. An employee's request for annual leave will be granted when he can be spared from his duties.

Section 4. Conflicts in requested vacation submitted during the timeframe of section 2 above will be resolved by granting requested dates to employees in the order of their seniority based on their service computation date. However, employees will be able to exercise their "seniority privilege" for only one (1) vacation period in a leave year.

Section 5. Normally, requests for annual leave shall be planned, scheduled and approved ahead of time to allow supervisors to maintain a balance of employees to meet work requirements. Requests for occasional, unscheduled/unplanned leave that could not have been foreseen shall normally be submitted at least the day prior to the beginning of the workday for which the time off is requested. The supervisor will advise the employee as

promptly as possible, but before the date of the requested leave, whether such leave request is approved; and, if not approved, why not. If the employee's request is for a day or days for which more requests have been received than can be approved consistent with the work requirements, approval, if granted, will be based on the earliest requests received and the urgency of the request. Where the basis for a request for unscheduled annual leave could not have been foreseen one day prior, the employee will normally make the request before the start of his shift. The parties understand that should such leave request be denied, the employee still has the responsibility to report for duty at the start of his shift.

Section 6. If the Employer cancels previously scheduled leave because of mission requirements, or when unscheduled leave is denied, the reasons for such actions will be provided in writing to the affected employee at the earliest possible time. If the previously scheduled leave is canceled, consideration will be given to the employee's request to reschedule leave.

Section 7. Annual leave for emergency purposes may be requested when unforeseen circumstances prevent the request and approval of leave in advance and will be considered subject to workload considerations. Should an emergency arise which prevents an employee from reporting to work, the employee shall request annual leave by telephone to his immediate supervisor. If the employee's immediate supervisor is unavailable, the employee will provide information as to how he may be contacted if the supervisor desires to do so. All such information received will be relayed to an appropriate supervisor. Normally, requests shall be made before the start of the workshift or, where not practicable, as soon as circumstances permit. In making such requests, the employee will provide information concerning the basis for the expected duration of his absence. It is understood that call-in requests for annual leave will not normally be approved in cases where there is considered to be insufficient justification for the absence or where the reason for the absence is such that leave could have been requested in advance.

ARTICLE 16

FAMILY AND MEDICAL LEAVE ACT

Section 1. Employees requesting leave under this Article must specify if the leave requested is Family and Medical Leave Act (FMLA) or Sick Leave to Care for a Family Member with a Serious Health Condition. Employees are encouraged to use the SF-71 at the time of request to document notification date.

Section 2. Family and Medical Leave.

a. Pursuant to the Code of Federal Regulation (CFR) and its implementing regulations, an employee who has completed at least twelve (12) months of service shall be entitled to a total of twelve (12) administrative weeks of leave without pay (LWOP)

during any twelve (12) month period for any qualifying reason as specified by FMLA. Upon request, management will provide an employee with a list of covered situations as expeditiously as possible.

b. The employee shall provide his supervisor, in a timely manner, written medical certification issued by the health care provider of the employee or his spouse, son, daughter or parent, as appropriate.

c. An employee shall take only the amount of family and medical leave that is necessary to manage the circumstance that prompted the need for leave under this Section. An employee's pay, grade, position, and seniority shall not be adversely affected as a result of taking leave of absence granted pursuant to the FMLA.

d. An employee may elect to substitute accrued annual or sick leave for LWOP consistent with current law and regulation, for any or all parts of the twelve (12) week unpaid entitlement.

e. If leave taken under this Article is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide notice to the Employer of his intention to take leave not less than thirty (30) days before the date the leave is to begin. If the date of birth or placement or medical treatment requires leave to begin in less than thirty (30) days, the employee shall provide such notice as is practicable.

f. If the need for leave is foreseeable and the employee fails to give thirty (30) days notice with no reasonable excuse for the delay of notification, the Employer may delay the taking of leave under this Article until at least thirty (30) days after the date the employee provided notice of the need for leave.

g. If leave taken under this Article is foreseeable based on planned medical treatment, the employee shall consult with the Employer and make a reasonable effort to schedule medical treatment so as not to unduly disrupt the Employer's operations, subject to the approval of the health care provider. The Employer may, for justifiable cause, request that an employee reschedule medical treatment, subject to the approval of the health care provider.

h. If the need for leave is not foreseeable because of a medical emergency or unexpected circumstances, and the employee cannot provide thirty (30) days notice of the need for leave, he shall provide notice within a reasonable period of time appropriate to the circumstances involved. If necessary, notice may be given by an employee's personal representative (e.g., a family member or other responsible party). If the need for leave is not foreseeable and the employee is unable, due to circumstances beyond his control, to provide notice of the need for leave, the leave may not be delayed or denied.

i. As a result of taking leave under the FMLA, an employee shall not suffer the loss of any employment benefit accrued prior to the date on which the leave commenced.

However, an employee will not be entitled to any employment right, benefit or position other than to which he would have been entitled had he not taken the leave. While normally an employee is entitled to be returned to the same position held when the leave commenced, or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment, he is not entitled to be returned to the same or equivalent position if he would not otherwise have been employed in that position at the time he returns from leave.

j. An employee may continue his health benefits enrollment while in a LWOP status. If so, the employee must pay his contribution to the group health plan. An employee may pay his share of the premiums on a current basis or pay upon return to work.

Section 3. Federal Employees Family Friendly Leave .

a. Employees may use sick leave in order to:

(1) Provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy or childbirth

(2) Provide care for a family member as a result of medical, dental, or optical examination or treatment

(3) Make arrangements for or attend the funeral of a family member.

b. The amount of sick leave allowed under this provision shall be the maximum provided for in law and/or regulation.

c. The term “family member” means:

(1) Spouses, and parents thereof;

(2) Children, including adopted children, and spouses thereof;

(3) Parents;

(4) Brothers and sisters, and spouses thereof; and,

(5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Section 4. Leave Transfer Program. In order for an employee to participate in the voluntary leave transfer program to care for a family member, the employee must use all available accrued leave before applying to participate in such programs.

Section 5. The Employer agrees to publicize and post information related to family and medical leave. Such information shall be posted on all official bulletin boards.

ARTICLE 17

EXTENDED LEAVE AND EXCUSED ABSENCES

Section 1. Leave without pay (LWOP) is a temporary non-pay status and absence from duty granted upon an employee's request. LWOP is not an employee right but a determination made by the Employer. All requests for LWOP, regardless of duration, are subject to approval by the appropriate authority. Subject to workload considerations and the need for the employee's services, requests for leave of absence without pay will be considered on their individual merit and shall not exceed a period of one (1) year for each application. LWOP may be granted when the services of the employee can be spared without serious detriment to the work environment, when it can reasonable be expected that the employee will return to work, and when at least one of the following benefits would result:

- a. increased job ability;
- b. protection or improvement of employee's health;
- c. retention of a desirable employee;
- d. furtherance of a program of interest to the government (e.g., Peace Corps).

Section 2. Request for LWOP shall be in writing, shall justify and explain the need, and shall normally be submitted at least thirty (30) calendar days prior to the time for which the leave has been requested.

Section 3. When an employee in the bargaining unit has been elected or appointed to a Council office or as a delegate to any Council activity requiring a leave of absence, such employee may be granted annual leave and/or leave without pay consistent with regulations and workload requirements.

Section 4. Employees who are absent on extended leave without pay shall accrue all rights and privileges accorded by regulations.

Section 5. Subject to workload considerations and the need for the employee's services, excused absences may be granted for varying periods under the following circumstances in accordance with applicable regulations:

- a. for voting registration, and to vote;

- b.** to donate blood;
- c.** for brief periods of tardiness;
- d.** for tests, interviews and physical examinations as prescribed by merit promotion regulations;
- e.** for attendance at the funeral of an immediate family member, in the service, who died while in a combat zone;
- f.** registration or examination for selective service.

Section 6. Court Leave

a. Court leave, whether for jury duty or service as a witness, will be administered in accordance with applicable laws and regulations. The employee must inform his supervisor of the need for court leave as soon as it is known. The employee will present the Employer with evidence of such service. Any fees payable for such service must be collected and turned in to the employee's supervisor.

b. If an employee receives his regular pay from the government for a period on court leave, the employee will reimburse the government the amount paid by the court, except that the employee may retain reimbursement for out-of-pocket expenses (e.g., mileage and parking).

c. At the employee's request, an employee will be granted an adjustment in his work schedule so that the employee's hours coincide with the court day(s).

d. If an employee is excused from court service with sufficient time to enable that employee to return to duty for at least two (2) hours of his scheduled workday, the employee shall return to duty.

Section 7. In cases of interrupted or suspended operations due to equipment breakdown, power failure, lack of material, transportation strikes, storms floods or other unforeseeable circumstances, the provisions of this section shall apply to employees who cannot be assigned other work:

a. If twenty-four (24) hours advance notice or notice before the end of their shift immediately preceding the one in which they are to be placed on leave is provided, employees will be given a choice of annual leave or leave without pay.

b. If neither twenty-four (24) hours advance notice nor notice before the end of their shift immediately preceding the shift to be canceled is possible, employees will be administratively excused with pay for a period not to exceed eight (8) hours. Employees may then elect to use annual leave or leave without pay for subsequent continuous absence required beyond eight (8) hours.

ARTICLE 18

REDUCTION IN FORCE

Section 1. To minimize the adverse impact on employees, the Employer shall, to the extent possible, accomplish the goals otherwise achieved by a reduction in force (RIF) through attrition, reassignment of qualified employees affected by a RIF to vacant positions, and other cost reduction efforts before abolishing positions.

Section 2. As soon as it is known by the Employer that a RIF action affecting employees in the bargaining unit is required, the Council will be so notified and informed of the reasons for such action. Prior to the issuance of official notices to the employees involved in a RIF action, the Council will be notified of the number of employees, types of positions, competitive levels to be affected, and the date the action is to be taken. Such notification shall allow the Parties the opportunity to negotiate the impact and implementation of the RIF.

Section 3. Employees affected by a RIF shall receive advance written notice as required by regulations. In addition to the advanced written notice, the affected employee shall also be provided with a copy of the Merit Systems Protection Board appeal form (MSPB Form 185). Upon written request, but no sooner than the day after issuance of the written notice, an affected employee shall be given the opportunity to review any available retention register(s) and other relevant documents pertaining to the RIF, and to discuss RIF procedures with an appropriately knowledgeable representative of the Employer.

Section 4. To minimize the impact of any RIF, an out-placement program will be activated to determine placement opportunities and locate existing vacancies at other Department of Defense and government agencies on Oahu to which qualified employees not placed will be referred. Career or career-conditional employees who are separated by RIF will be placed on the Reemployment Priority list. Such employees will be assisted by the Employer in applying for entry into the DOD Priority Placement Program (PPP), the OPM Displaced Employee Program and Interagency Placement Program, and other job placement, training and reemployment programs. Acceptance of a temporary position by an employee on the Employment Priority list or in the Displaced Employee Program will not affect his status on the lists or his eligibility for reemployment into a permanent position. Affected employees shall also be offered counseling services concerning retirement eligibility and benefits.

ARTICLE 19

CONTRACTING OUT

Section 1. Prior to conducting any study concerning work performed by bargaining unit employees which may lead to contracting out the work, the Employer will notify the Council. The notification will include the reasons and rationale for the contracting action. The Council will have the opportunity to comment during the study and fully participate in the development of supporting documents and proposals. The Employer agrees to notify the Council as soon as any study is completed and to allow the Council to fully review any and all information related to study results upon issuance of such study. The Council will be allowed to submit comments before final receipt of offers from the private sector.

Section 2. In the event the Employer decides to contract out, the Employer will notify the Council and afford the Council the opportunity to bargain on the impact and implementation of the decision, as related to the conditions of employment of affected employees.

Section 3. The Employer agrees to take all possible actions to minimize the impact on employees when functions/positions are contracted out. Affected employees will be reassigned and/or retrained to the maximum extent possible, including being given priority consideration for available positions within DECA and the paying of reasonable costs for training and relocation that contribute directly to placement. Maximum retention of career employees shall be achieved by considering attrition patterns and restricting new hires.

Section 4. The Employer recognizes the “right of first refusal” required by OMB Circular A-76, which provides that the contractor will grant those federal employees displaced by direct result of such contract the right of first refusal of employment openings created by the contractor.

ARTICLE 20

ADMINISTRATION OF DISCIPLINE

Section 1. Discipline is a tool intended to correct deficiencies in employee conduct and performance and is used to correct situations which interfere with efficient operations. Disciplinary action shall be taken only for just cause. Discipline shall be imposed at the Agency’s discretion. All changes to personnel policies must be provided to the Union in accordance with applicable federal law. It is understood that certain breaches of regulations may be grounds for more severe corrective action for the initial offense. The parties agree that an objective of this Article is to promote the efficiency of the service by

ensuring high government standards and maintaining public confidence in the Defense Commissary Agency.

Section 2. When the Employer determines that disciplinary action may be required to correct an employee's misconduct, the supervisor will obtain information concerning the alleged misconduct. Such review may include an investigative interview with the employee, except when unusual circumstances, e.g., TAD, illness, etc., make such discussion impractical or where such discussion would develop no additional useful information. If the employee so requests, he may be represented in this discussion by a Council representative.

Section 3. Supervisors shall advise employees when derogatory entries are made in their files, and the employee will initial to indicate knowledge of the entry. Derogatory entries will not be maintained in the employee's file for more than one year. After six (6) months, the employee can request the entry be deleted. If no further similar incidents have occurred, the supervisor will remove the entry.

Section 4. Advance Notice/Reply:

a. For proposed suspensions of fourteen (14) calendar days suspension or less, the Employer shall provide at least seven (7) calendar days advance notice. The employee shall be allowed seven (7) calendar days from the date of receipt of the proposed action to make a reply.

b. For proposed disciplinary actions more severe than a fourteen (14) calendar days suspension, the Employer shall provide at least thirty (30) calendar days advance written notice. The employee shall be allowed fifteen (15) calendar days from the date of receipt of the proposed action to make a reply.

Section 5. Notices of proposed action will advise the employee of his right to reply, of his right to a representative of his choice in making such reply, and of his right to review the material relied upon by the Employer in proposing the disciplinary action. Should the Council act as the employee's representative, the Council shall be furnished a copy of such material upon request. Both parties recognize that information protected by law will be handled accordingly. Notices of decision to effect disciplinary action will advise the employee of his grievance/appeal rights.

Section 6. Where the Council is acting as an employee's representative, the Council will be forwarded a copy of any notice of proposed action and decision letter at the time of issuance.

Section 7. Disciplinary actions may be grieved/appealed as follows:

a. Letters of reprimand and suspension of fourteen (14) days or less may be grieved only under the negotiated grievance procedure.

b. Adverse Actions, i.e., removals, suspensions of fifteen (15) days or more, reduction in grade, reduction in pay, and furloughs of thirty (30) days or less may either be grieved under the negotiated grievance procedures or be appealed under an applicable statutory procedure (e.g., MSPB or EEO), but not both.

c. Grievances on disciplinary actions shall be submitted at Step 2 of the grievance procedure.

Section 8. A reprimand shall not be retained for longer than three (3) years in an employee's official personnel folder (OPF). After one (1) year, an employee can request the reprimand be canceled and removed from his OPF. If no further infractions have occurred, the reprimand will be canceled and removed.

ARTICLE 21

GRIEVANCE PROCEDURE

Section 1. This Article provides an orderly procedure for processing grievances of the parties and bargaining unit employees as defined in Section 2 below. It is the sole procedure that may be used by the parties to the Agreement and the employees in the bargaining unit except as provided in Sections 3 and 4 below.

Section 2. A grievance means any complaint:

a. by any employee concerning any matter relating to the employment of the employee;

b. by the Council concerning any matter relating to the employment of any employee; or

c. by any employee, the Council, or the employer concerning:

(1) The effect, or interpretation, or a claim of breach, of this Agreement;
or

(2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 3. Excluded from processing under this Article are grievances concerning:

a. Any claimed violation of Subchapter III of Chapter 73 of 5 USC (relating to prohibited political activities);

b. Retirement, life insurance, or health insurance;

- c. A suspension or removal for national security reasons (Section 7532 of 5 USC);
- d. Any examination, certification, or appointment;
- e. The classification of any position which does not result in the reduction in grade or pay of an employee.
- f. Any dissatisfaction which involves a position in the Activity which is outside the bargaining unit;
- g. Any action terminating a temporary promotion for reasons other than for cause;
- h. Non-adoption of a suggestion or disapproval of a quality step increase, performance award or other kinds of honorary or discretionary awards;
- i. Notices of proposed disciplinary action due to unacceptable performance or conduct, a preliminary warning, or notice of specific action which, if effected, would be covered under the negotiated grievance procedure;
- j. Decisions of another activity;
- k. Actions where the head of the activity does not have the authority to grant the corrective action desired;
- l. Separation for failure to satisfactorily complete a probationary period;
- m. Discharge of temporaries;
- n. Separation of a Veteran's Readjustment Appointment employee during the first year;
- o. Referral to a Civilian Employee Assistance Program (CEAP) counselor;
- p. Non-selection for promotion from a group of properly ranked and certified candidates;
- q. The establishment of critical elements and employee performance standards (5 CFR 430.204).
- r. The violation of any regulation that otherwise sets out an exclusive method of resolving any claim regarding its implementation.

Section 4. The following matters may be pursued under the negotiated grievance procedure or under a statutory procedure, but not both:

- a. Removal;
- b. Suspension for more than 14 days;
- c. Reduction in grade;
- d. Reduction in pay;
- e. Furlough of 30 days or less;
- f. Alleged prohibited discrimination.

An employee shall be deemed to have raised the matter under either a statutory procedure or this negotiated grievance procedure at such time as the employee timely initiates a valid action under the applicable statutory procedure or timely files a valid grievance in writing in accordance with this negotiated grievance procedure, whichever event occurs first.

Section 5. In the event of a disagreement over whether a grievance is subject to this grievance procedure, or is subject to arbitration under this Agreement, the parties shall attempt to resolve this issue informally. If unresolved, the matter may be pursued as a threshold issue under Article 22, Arbitration.

Section 6. Grievances which require interpretation of agency policies, or regulations, provisions of law or regulations of appropriate authorities outside the agency, shall be handled as follows if the parties are unable to resolve the question informally:

a. Processing of the grievance beyond Step 1 of Section 10 (Step 2 if grieving a disciplinary action) will be delayed until the questioned policy, law or regulation has been interpreted. The Employer will forward the position papers of both parties to the cognizant office of issue.

b. Upon receipt of the interpretation, the employee, Council or Employer may resume processing the grievance, including alleged misapplication of the policy, law, or regulation.

Section 7. An employee using this procedure may be represented only by an individual appointed by the Council or may represent himself. A decision of self-representation shall be irrevocable and made in accordance with the procedures, time limits, and provisions of this Article, except that the employee is not entitled to any representation (e.g., lawyer, another employee, etc.) at the various steps nor is he entitled to invoke arbitration. The Employer may adjust such grievances so long as the adjustment is not inconsistent with the terms of this Agreement. A Council representative shall be notified and given the opportunity to be present at all steps of the grievance procedure. Inasmuch

as the employee without representation is not entitled to arbitration, the decision rendered in Step 2 of the grievance procedure shall be final.

Section 8. A grievance must be presented within fifteen (15) calendar days of the date of the particular act or occurrence which gave rise to the grievance, or within fifteen (15) calendar days after the date the grieving party became aware of the act or occurrence.

Section 9. Grievances may arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. The Employer and the Council agree that every reasonable effort will be made by management and the aggrieved party(s) to settle grievances at the lowest possible level. Inasmuch as dissatisfactions and disagreements arise occasionally among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorable on an employee's good standing, performance, loyalty, or desirability to the organization.

Section 10. The following procedure shall be used in cases of grievance filed by an employee and/or the Council on behalf of an employee:

Step 1. The grievant shall reduce the grievance to writing using Appendix 1 and submit it to the General Manager, or his designee. The written grievance shall state specifically the nature of the complaint, the name of the grievant's representative (if any), the remedy sought, and any other pertinent facts. The parties involved shall make an earnest effort to resolve the matter at this level. A meeting will be held upon request, normally within seven (7) calendar days after submission of the grievance. The General Manager shall make whatever investigation is necessary and shall give his written decision to the grievant within seven (7) calendar days after receipt of the grievance or after the requested meeting, whichever is later. Should the decision be unsatisfactory to the grievant, he may proceed to Step 2.

Step 2. At this step, the grievant shall submit the grievance to the Store Director, or designee, within ten (10) calendar days after receipt of the Step 1 decision. The Store Director shall meet 30 within seven (7) calendar days after receipt of the written grievance with the grievant, the Council representative, if appropriate, and other appropriate persons. Within seven (7) calendar days after the meeting, the Store Director shall render his decision. Such decision will be the final agency decision for the purpose of this administrative procedure. If the Council is dissatisfied, the matter may be submitted for arbitration in accordance with Article 22.

Section 11. Should the deciding official of an action be the Store Director, the grievance shall begin at Step 2 of the grievance procedure.

Section 12. If two or more employees have identical grievances (the dissatisfaction expressed and the relief requested are the same, and the same representation is desired), other than those involving disciplinary action, the grievances will be joined and processed as one grievance, with the decision applicable to all who filed. In such cases, the Employer will advise the Council to designate a representative case for the group.

Only the employee and/or his representative in the designated case will be authorized time allowed to prepare and present his grievance.

Section 13. Nothing in this Agreement shall be so interpreted as to require the Council to represent an employee in processing his grievance or to continue to represent him, if the Council considers the grievance to be invalid, without merit, or not covered by the terms of this Agreement or law.

Section 14. Should the grieving party fail to meet the time limits in the grievance procedure, the grievance shall be considered withdrawn and shall not be eligible for appeal. Should the party receiving the grievance fail to meet the time limits in the grievance procedure, the grieving party may move the grievance to Step 2 or arbitration, as appropriate. All time limits prescribed in the Article may be extended by mutual consent.

Section 15. Grievances of the Council or the Employer shall be processed as follows:

a. Grievances shall be submitted in writing to the Store Director or the President of the Council, as the case may be. The grievance shall provide all pertinent data relating to the grievance including dates, places and personnel involved; and state the relief desired and the grieving party's rationale supporting its content. If any such grievances affect two or more stores and are identical (the dissatisfaction expressed and the relief requested are the same), the grievances will be combined and the President of the Council shall submit the grievance to the Zone Manager or his designee.

b. Representatives of the parties shall meet within ten (10) calendar days of receipt of the written grievance to attempt to resolve the matter. The party to whom the grievance was submitted shall issue a written decision within ten (10) calendar days of the meeting.

c. If the grievance is not resolved by the decision given in subsection b, above, the grieving party may further process the grievance under Article 22, Arbitration, by notifying the other party within fifteen (15) calendar days following receipt of the decision. Grievability and arbitrability disputes will be submitted to the arbitrator as a threshold question.

ARTICLE 22

ARBITRATION

Section 1. Arbitration may be invoked only by the Council or the Employer and shall extend only to matters which may be processed under Article 20, Grievance Procedure. The arbitrator's award shall be binding on the parties except that the Council or the Employer may file exceptions to the arbitrator's award in the manner prescribed by law.

Section 2. The parties agree that before invoking arbitration, they will consider using a mutually agreeable alternative dispute resolution (ADR) process to resolve the matter. The parties acknowledge that the attempt to resolve the matter through an ADR process does not preclude either party from invoking arbitration if they do not successfully resolve the matter through ADR. All time limits shall be held in abeyance until the ADR process is completed.

Section 3. Within ten (10) calendar days from the date either party receives the written request for arbitration, representatives of the Council and the Employer shall meet to mutually select an arbitrator. If agreement cannot be reached within five (5) calendar days from the initial meeting, the parties shall submit a joint request to the Federal Mediation and Conciliation Service for a list of five (5) qualified arbitrators. All costs of any such list(s) shall be shared equally by the parties. Within five (5) calendar days following receipt of this list, the parties will meet in an attempt to select a mutually acceptable arbitrator from the list. If agreement cannot be reached, then the parties will alternately strike a name from the list. This process will be repeated and the name remaining will be the duly selected arbitrator.

Section 4. Following selection and receipt of acceptance from the arbitrator, the parties will prepare a joint letter submitting the matter in dispute. This letter shall present, in question form, the matter on which arbitration is sought; it shall also outline the rules governing arbitration and the fees and expenses which will be paid. It may contain mutually agreed upon stipulations of fact, and it may be accompanied by any documents the parties mutually agree should be submitted to the arbitrator in advance of the hearing but which may not necessarily be stipulations of fact. When agreement cannot be reached on the matter in dispute, each party will submit separate statements to the arbitrator and provide a copy for the other party. Post-hearing briefs may be submitted provided both parties agree or the arbitrator requests them.

Section 5. The arbitration hearing will be held during regular day shift working hours, excluding weekends. A reasonable number of relevant witnesses as determined by the arbitrator, may be called by both parties. Bargaining unit employees who participate in arbitration hearings (who are otherwise in an active duty status) shall be in a pay status without charge to annual leave while so engaged.

Section 6. In considering any case submitted under the provisions of this Agreement, the arbitrator shall be limited to the specific issue jointly submitted by the parties and to the evaluation of the testimony, evidence and arguments presented for the purpose of determining whether the action taken was reasonable or warranted or whether it was arbitrary or an abuse of discretion and is bound by any interpretation sought by the parties in accordance with Section 6 of the Grievance procedure. An arbitrator shall not change, modify, alter, delete, or add to the provisions of the Agreement, such right being the prerogative of the contracting parties only.

Section 7. The arbitrator will be expected to transmit his written opinion to the parties as soon as possible but not later than thirty (30) calendar days after conclusion of a grievance hearing.

Section 8. The fees and expenses of the arbitrator shall be borne equally by the Employer and the Council. The cost of a qualified reporter, if required by the arbitrator, and mutually agreed to by both parties, will be shared equally by the parties.

Section 9. The time limits in this Article may be extended by mutual agreement of the parties.

ARTICLE 23

SAFETY AND HEALTH

Section 1. The Employer shall conform to and comply with applicable regulations requiring safe, healthy, and sanitary working conditions. The Council in turn will encourage all employees to work in a safe manner and to comply with all safety rules and practices.

Section 2. No employee shall be required to work where conditions exist which are unsafe or detrimental to health without proper precautions, personal protective equipment and/or safety devices determined to be necessary by the Employer. All special clothing and/or equipment, including safety shoes, which employees may be required to use in connection with their assigned work, will be furnished and replaced at the expense of the Employer.

Section 3. Upon receipt of an employee initiated complaint, the Employer will expeditiously conduct the investigation into the facts and circumstances which promoted the complaint. The appropriate Council representative will be afforded the opportunity to accompany the Employer when the investigation is conducted.

Section 4. Employees will report all on-the-job injuries or illnesses, regardless of their severity as soon as possible after becoming aware of the injury or illness. The injury or illness should be reported to their immediate supervisor, but if their immediate supervisor is not available, to any manager/supervisor. In the event of an injury or illness on the job, the Employer will obtain and provide medical treatment and transportation, as appropriate.

Section 5. Employees unable to perform their assigned tasks due to injury or illness on or off the job may request light duty. Employees must furnish a statement from medical authority providing information related to their limitations and the length of time limitations are expected to last.

a. The Employer agrees to consider assigning the injured employee to light duty, when such need is substantiated by a doctor's certificate, and such work is available.

b. Employees working light duty may be required to work a schedule other than their normal schedule in order to perform the light duty available.

Section 6. The parties agree that the Council is entitled to one representative and one alternate representative for each store Safety Committee.

ARTICLE 24

GENERAL PROVISIONS

Section 1. Alternative Dispute Resolution. The Parties agree that Alternative Dispute Resolution (ADR) should be considered as an effective means of resolving and reducing workplace disputes. ADR techniques include, but are not limited to:

- a. Partnership
- b. Alternative Discipline
- c. Mediation
- d. Conciliation
- e. Interest Based Problem Solving
- f. Facilitation
- g. Dispute Panels
- h. Settlement Conferences

Section 2. The Employer agrees to furnish the Council, upon request, a listing of bargaining unit employees, by store, at least twice a year.

Section 3. The Employer agrees to provide the Council, upon request, a reasonable number of copies of this Agreement.

Section 4. The Employer will provide ready access of computers to employees for on-line job applications and to access pertinent employment information. The Employer will assist employees who may need help with the use of computers.

ARTICLE 25

PAYROLL DEDUCTIONS OF COUNCIL DUES

Section 1. The Employer shall deduct dues from the pay of all eligible employees of the bargaining unit who request such dues deduction and who are bona fide members in good

standing with the Council. In implementing the dues deduction program, the Employer and the Council shall be governed by provisions of this Agreement and applicable laws.

Section 2. Each bargaining unit member in good standing with the Council shall have the right to make a voluntary allotment from their pay for the payment of regular periodic dues each payroll period, as well as the right to revoke such an allotment, as provided below. The Council will annually notify bargaining unit employees of the right to participate in Union membership through payroll deduction and the procedures for terminating membership.

Section 3. The Council is responsible for obtaining Standard Form (SF) 1187, distributing the form to members, certifying as to the amount of its dues and delivering completed forms and certification to the Hawaii Personnel Support Office.

Section 4. Employees may, at any time, complete and sign the appropriate portions of SF 1187 and submit it to the Council for certification and delivery to the Hawaii Personnel Support Office. The Hawaii Personnel Support Office shall promptly process the SF 1187. The Employer will make every effort to ensure that deduction of dues begins with the first pay period after receipt of the SF 1187 by the servicing payroll office. Employees may not request payroll deduction of dues to a labor organization other than the Council.

Section 5. A bargaining unit employee may request cancellation of his dues withholding by properly completing and submitting a SF 1188, "Cancellation of Payroll Deductions for Labor Organization Dues," to the Hawaii Personnel Support Office. These forms may be obtained from the Employer. An employee who submits his request for cancellation of dues deduction within the initial year will have the revocation take effect on the first pay period beginning on or after the first anniversary of the date the dues deduction went into effect. Thereafter, an employee who completes the initial one year period and desires to cancel his dues participation through the payroll deduction may submit a SF 1188 to the Hawaii Personnel Support Office anytime during the six (6) week period immediately preceding March 1. Requests for cancellation must be received by the Hawaii Personnel Support Office no later than 12:00 noon on the last business day of February. Such cancellations will take effect on the first pay period beginning on or after March 1 following the submission of the request. The Hawaii Personnel Support Office shall promptly notify the Council of all such cancellations received by transmitting a copy of the form to the Council.

Section 6. An employee's voluntary allotment for payment of dues shall also be terminated with the start of the first pay period following the pay period in which any of the following occur:

- a. Loss of exclusive recognition by the Council.
- b. An employee leaves the bargaining unit.

c. Upon receipt of notice from the Council that the employee is no longer a member in good standing.

Section 7. The Council shall notify the Hawaii Personnel Support Office in writing of the dues amounts stated in a biweekly pay period basis, of any changes in the amount of regular dues and the effective date of the amended dues structure. The amended amount will be withheld effective with the payroll for the next pay period during which the notice is received by the servicing payroll office, unless a later date is specified by the Council. Only three (3) changes in the dues structure will be made in any period of twelve consecutive months.

Section 8. The Council will name an official and/or financial institution to receive the electronic fund transfer (EFT) remittance of dues withheld. A listing of dues deduction participant names, and amounts withheld will be furnished the Council official. The Council will furnish the Hawaii Personnel Support Office the name and address of this individual, relevant account and EFT routing numbers. The EFT transmission will be made not later than ten (10) working days after the close of each pay period.

ARTICLE 26

DURATION AND CHANGE OF AGREEMENT

Section 1. The Agreement will become effective on the date of DOD approval or on the 31st day after execution by the parties, whichever is sooner, and remain in full force and effect for a period of thirty six (36) months subsequent to the effective date and be automatically renewed from year to year thereafter, until modified or terminated by either party as provided for herein, or terminated on any date on which it is determined that the Council is no longer entitled to exclusive recognition.

Section 2. On the written request of either party, representatives of the Employer and the Council shall meet to commence negotiation of a new Agreement on a mutually agreeable date between the 105th and 60th days, inclusive, prior to the expiration date of this Agreement. If the new Agreement has not been concluded prior to such expiration date, this Agreement shall continue in effect, unless precluded by law, until a new Agreement is effected.

Section 3. This Agreement is subject to reopening:

- a. By mutual consent of the Parties concerned;
- b. When new or revised laws or regulations of appropriate authority require changes to provisions of the Agreement.

Section 4. Any amendments to this Agreement agreed to by the parties will be in writing and will become effective upon approval by DOD or 31 days after execution of the amendments, whichever comes first.

APPENDIX 1

**DEFENSE COMMISSARY AGENCY
EMPLOYEE GRIEVANCE FORM**

NAME OF GRIEVANT (Print): _____

DATE SUBMITTED: _____ JOB TITLE & GRADE: _____ STORE: _____

SELECT ONE: _____ I DESIRE TO REPRESENT MYSELF

_____ I HEREBY AUTHORIZE THE COUNCIL TO REPRESENT ME

COUNCIL REPRESENTATIVE (Print): _____

ADDRESS & PHONE: _____

DOES THE GRIEVANT REQUEST A MEETING BEFORE A DECISION IS MADE? ___ YES ___ NO

BASIS OF GRIEVANCE: INCLUDE ALL RELEVANT INFORMATION NECESSARY TO
UNDERSTAND THE GRIEVANCE IN ORDER TO ISSUE A FAIR DECISION (WHAT HAPPENED,
WHO INVOLVED, WHEN, WHERE, ETC.). ATTACH OTHER PAGES AS NEEDED:

CORRECTIVE ACTION REQUESTED _____

SIGNATURE OF GRIEVANT: _____

SIGNATURE OF REPRESENTATIVE: _____

RECEIVED BY MANAGEMENT _____ DATE _____

ALL CORRESPONDENCE REGARDING THIS GRIEVANCE SHALL BE PROVIDED TO ALL
PARTIES INVOLVED (E.G., MANAGEMENT OFFICIAL, EMPLOYEE, & COUNCIL
REPRESENTATIVE, IF ANY)

APPENDIX 2

OFFICIAL TIME REQUEST FORM

TO BE COMPLETED BY STEWARD / EMPLOYEE

From: Requesting Employee's Name: _____

To: Authorizing Supervisor's Name: _____

Subj: Request for Official Time

In accordance with Article 6 Section 7, request approval to be excused from work assignments on (date) _____ from (time) _____ to _____.

Reason for Request: Grievance Mediation Union Sponsored Training
 Employee Complaint Concerning Employment Other (specify) _____

Meeting Location: _____ Telephone Contact #: _____

Employee's Signature Date and Time of Request

TO BE COMPLETED BY AUTHORIZING SUPERVISOR

From: Authorizing Supervisor: _____

To: Requesting Employee: _____

Your request for excusal from work assignments is:

Approved circle as appropriate (BA) (BB) (BD) (BK)

Disapproved Reason for disapproval: _____

Alternate Date and Time: _____

_____ Time Out _____ Time In _____

Supervisor's Signature

REMARKS:

The PARTIES agree to the amended changes for the provisions disapproved by CPMS on the 3rd day of June 2011:

FOR THE EMPLOYER

FOR THE UNION


Chief Negotiator


Chief Negotiator


6/14/11