Consolidated Bargaining Agreement (CBA)

UNION COUNCIL

BILLINGS AREA INDIAN HEALTH SERVICE

FEDERAL DISTRICT 1

NATIONAL FEDERATION OF FEDERAL EMPLOYEES (NFFE)

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS (IAM), AFL-CIO

AND

BILLINGS AREA INDIAN HEALTH SERVICE

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

EFFECTIVE DATE:

JANUARY 4, 2013

TERMINATION DATE:

JANUARY 4, 2016

TABLE OF CONTENTS

		Page
	Preamble	3
Article 1	Recognition and Unit Description	4
Article 2	Union Rights and Representation	5
Article 3	Employee Rights	8
Article 4	Management Rights and Responsibilities	11
Article 5	Use of Official Facilities and Services	13
Article 6	Official Time	15
Article 7	Negotiations	18
Article 8	Grievance Procedures	21
Article 9	Arbitration	26
Article 10	Pre-Notification for Unfair Labor Practice Charge	28
Article 11	Orientation of New Employees	29
Article 12	Position Descriptions/Desk Audits/Classification Appeals	30
Article 13	Performance Management System	33
Article 14	Productivity	34
Article 15	Awards Program	35
Article 16	Career Ladder Promotion	36
Article 17	Details/Temporary Promotions	38
Article 18	Employee Assistance Program	40
Article 19	Disciplinary and Adverse Actions	42
Article 20	Training and Career Development	45
Article 21	Work Schedules	47
Article 22	Overtime	54
Article 23	Holidays	57
Article 24	Leave and Attendance	58
Article 25	Pay	63
Article 26	Health and Safety	64
Article 27	Official Travel	67
Article 28	Reduction-In-Force/Transfer of Function/IPA Assignments/Contracting Out	69
Article 29	Equal Employment Opportunity	71
Article 30	Veterans Preference	72
Article 31	Benefits: Pension and Insurance	73
Article 32	Civil Disturbance/Assault Against Employees	74
Article 33	Distribution	75
Article 34	Voluntary Allotment of Union Dues	76
Article 35	Uniform Allowances	78
Article 36	Labor-Management Relations Committees	79
Article 37	Local Negotiations/Supplemental Agreements	80
Article 38	Indian Child Protection and Family Violence Protection Act	81
Article 39	Computer Access	82
Article 40	Flexible Workplace	83
Article 41	Severe Weather or Other Emergency Situations Policy	84

Article 42 Cultural Distinctions..... 85
Article 43 Duration and Extent of Agreement..... 86
Appendix A Bargaining Unit Descriptions..... 87
Appendix B Glossary..... 89
Appendix C Positions Approved to Receive Uniform Allowance..... 97
Appendix D 5 USC Chapter 71..... 98
Appendix E Negotiated Forms…… 123

PREAMBLE

Pursuant to the policy set forth by the Civil Service Reform Act of 1978 regarding Federal Labor-Management Relations, the following articles of this agreement, together with any and all supplemental agreements and/or amendments which may be agreed to at later dates, constitute a total agreement by and between the U.S. Department of Health and Human Services, Billings Area Indian Health Service, hereafter referred to as management and/or employer, and the National Federation of Federal Employees, Federal District 1, International Association of Machinists and Aerospace Workers, AFL-CIO, Billings Area Indian Health Service Union Council, hereafter referred to as Union Council, for the employees in the units described herein, hereafter referred to as the employees. Management and union are collectively referred to as the parties.

This agreement is entered into pursuant to the Certification of Representative, DE-UC-20028, dated February 12, 1993, and results of the election where on January 28, 1993, a majority of employees who voted elected for union representation.

WHEREAS; the dignity and well being of employees and the efficient administration of Government are benefited by the recognition by the employers of the diverse cultural heritages of the employees; and,

WHEREAS; the participation of employees is improved through the maintenance of constructive and cooperative relationships at the local level between the union and employer, both parties agree to foster local commitment to constructive problem solving at the local level; and,

WHEREAS; the well-being of employees and efficient administration of Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and,

WHEREAS; the employer and union look forward to building a workplace that treats employees as the most important element of meeting our mission and servicing customers; and,

WHEREAS; Bargaining Unit employees are encouraged to work through their union. The union will provide a means to solve problems, voice concerns and submit suggestions for meeting the mission and promoting employee satisfaction; and,

WHEREAS; the employer and union believe that all employees want to be involved in decisions that affect them. We believe that employees care about their jobs, take pride in themselves and in their contributions and want to share in the success of their efforts. These principles will guide the development of cooperative relationships within this agency.

NOW THEREFORE, the parties thereto, intending to be bound hereby, agree as follows:

ARTICLE 1 - RECOGNITION AND UNIT DESCRIPTION

Section 1.1 RECOGNITION: Management recognizes that the Union Council is the exclusive representative for all employees in the bargaining units.

Section 1.2 BARGAINING UNIT: The current descriptions of the bargaining units are included in Appendix A to this agreement.

Section 1.3: The parties further agree that this agreement will apply to additional groups of employees for whom the National Federation of Federal Employees, FD1, is certified as the exclusive representative.

ARTICLE 2 - UNION RIGHTS AND REPRESENTATION

SECTION 2.1 RECOGNITION: The employer recognizes the Union Council, its duly elected officers, appointed representatives as the exclusive representatives of employees in the bargaining units, and that the Union Council has the exclusive right to represent all employees in the bargaining units in negotiations and joint meetings with the employer with regard to matters affecting the conditions of employment.

A. The properly designated officers or representatives of the Union Council have the right to represent the employees within the entire bargaining unit. The Union Council President will provide the Area Director with a list of officers and representatives for the council within fifteen (15) calendar days of any changes.
B. Local officers and representatives have the right to represent employees within their Local in order to insure effective communication between the parties. Each Local Union President, or his designee, will be the primary person in all contacts with the Chief Executive Officer (CEO)/Area Director or his designee on matters involving personnel policies and/or practices or other general conditions of employment, except for formal discussions and investigations that are initiated by a supervisor. The Local President will provide the CEO/Area Director with a list of Local Union officials who will carry out representational duties at the Local level within fifteen (15) calendar days of any changes. These duties may include, but are not limited to: complaint handling, investigations, data requests, representation, etc.
C. In the event no Local officer or representative is designated, the Union Council President will be the primary contact for the Local.

SECTION 2.2: The Union has the right to represent an employee or group of employees in presenting a grievance or other appeal, or when raising matters of concern or dissatisfaction with management. The Union has exclusive right to represent employees under the negotiated grievance procedure in this agreement. An employee or group of employees may present a grievance without representation by the Union, provided that the Union is a party to all discussions between the grievant and the appropriate deciding official. The adjustment must be consistent with the terms of this agreement. For written grievances, the Union will have access to all written responses upon request. The Union will be given copies of all decisions.

SECTION 2.3 FORMAL DISCUSSIONS: The Union has the right to be in attendance at any formal discussion between one or more representatives of the employer and any member of the bargaining unit in connection with a grievance or any personnel policy or practice or other general conditions of employment. The Union's request for a response during formal meetings will be honored. The agenda or subject matter will be provided to the Union in a reasonable amount of time prior to the meeting.

SECTION 2.4 INVESTIGATION: The Union has the right to be represented at any examination of a bargaining unit employee by a representative of the employer in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests the Union to represent them.

ARTICLE 2 - continued

SECTION 2.5 NEGOTIATIONS: The employer agrees to respect the rights of the Union and meet jointly and negotiate with the Union on all appropriate matters as defined in 5 USC Chapter 71 affecting general conditions of employment, and agrees to negotiate with the Union the formulation, impact and implementation of proposed new policy or changes in such policy affecting the employees or their general conditions of employment that are under the control of the employer with the view of arriving at a mutually acceptable position.

SECTION 2.6 LABOR-MANAGEMENT RELATIONS COMMITTEES: Upon request of either party at the Local and/or Council level, the parties agree to establish a Labor-Management Relations Committee (LMR Committee). The purpose of the Committee is to provide an exchange of views between parties and discuss possible problems in the unit, but will not be a formal negotiation session. The LMR Committee meeting will not normally be utilized for discussion of individual grievances, but may be used to discuss problems which have led to or could lead to grievances. Refer to Article 36.

SECTION 2.7 CONSULTATIONS: It is recognized that the implementation and execution of the provisions of this agreement requires appropriate machinery for effective discussions and communication. In addition, there are other matters concerning personnel policies, procedures and working conditions not covered by this agreement, which may become a matter of interest to either party. In both situations, these matters may be subject to consultation between the Union and the employer. The parties will strive to bring these issues to each other as soon as possible and if time allows, at the next Labor-Management Relations Committee meeting.

SECTION 2.8 ACCESS TO RECORDS: The duty of the employer and the Union to negotiate in good faith under the law shall include the obligation of the employer to furnish the Union or its authorized representative upon request and to the extent not prohibited by law data which is normally maintained by the employer in the regular course of business; which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and which does not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining. When data is requested by the Union Representative, they shall submit a completed, signed, and dated Information Request Form (see Appendix E). Examples of data are employee lists including non-bargaining unit employees; organizational charts; disciplinary records; proposed disciplinary actions; leave records; policies; procedures; etc.

SECTION 2.9 MEMBERSHIP DRIVES: Upon request and subject to normal security limitations, the Union shall be granted authority to conduct up to two membership drives, within a one (1) year period, up to forty-five (45) days duration each, before and after duty hours, and at break periods and lunch periods; the details of which will be worked out among the parties. Upon request, management shall provide the Union with available, reasonable, and visible space, tables, bulletin boards and easels for use in such drive.

ARTICLE 2 – continued

SECTION 2.10: The employer will provide the Union with the names of its primary representative for each location within fifteen (15) calendar days after an official change.

SECTION 2.11: Management and the Union Council agree to maintain a cooperative relationship. Management will give prompt attention to written inquiries received from the Union and the Union Council representatives and answer such inquires within five work days.

SECTION 2.12: Visits by authorized non-employee Local or Union Council representatives to any facility to conduct business pertinent to this agreement are permitted. Council representatives who are IHS employees traveling outside their normal Local area, shall advise the Primary Management Official (Area Director or CEO) of the visit and its general purpose prior to their arrival at agency facilities. Non-IHS Union Council representatives and NFFE National Representatives will normally advise the Local of their visit prior to their arrival at agency facilities.

SECTION 2.13: NFFE IHS Council represents bargaining unit employee interests within Indian Health Service. In this regard, these unit employee issues and interests may be subject to change only at the highest levels of government, therefore, union representatives are not precluded from bringing these issues and interests to those authorities. Union representatives are allowed to lobby Congress on behalf of the employees they represent, however use of official time will be used for representational duties on addressing conditions of employment, and labor-management relations activities as defined under section 7131(d) of the Statute.

ARTICLE 3 - EMPLOYEE RIGHTS

SECTION 3.1: Each employee shall have the right to form, join or assist any labor organization, or to refrain from such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right (see Article 4 Management Rights and Responsibilities). Except as otherwise provided, such rights include the right:

A. To act for the Union in the capacity of a representative and the right, in that capacity, to present the views of the Union to heads of agencies and other officials of the Executive Branch of the government, the congress or other appropriate authorities, and
B. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

SECTION 3.2 OUTSIDE ACTIVITIES: Employees shall have the right to engage in activities of their own choosing, except as prohibited by law, Government-wide or IHS regulation, without being required to report to the employer on such activities. Refer to form HHS-520.

SECTION 3.3 INFORMING EMPLOYEES: The employer shall take such action consistent with law or regulation, as may be required, in order to inform employees of their rights and obligations, as prescribed in the Civil Service Reform Act of 1978, Executive Orders and this agreement.

SECTION 3.4 NONDISCRIMINATION: No employee will be discriminated against by either employer or Union because of race, color, religion, gender, national origin, age, marital status, disability, sexual orientation, or lawful political affiliation.

SECTION 3.5 NON-CONTRACT MATTERS: This agreement does not prevent any employee from bringing matters of personal concern to the appropriate officials in accordance with applicable laws, regulations, or agency policies. An employee may be represented by an attorney or representative other than NFFE, of the employee's own choosing, in any appeal action not under the negotiated grievance procedure. The employee may exercise grievance or appellate rights which are established by law, rule or regulation.

SECTION 3.6: Management will not take reprisal actions against employees for the exercise of any appeal right granted by law, rule, regulation, or this agreement (see Article 4 Management Rights and Responsibilities).

SECTION 3.7: It is agreed that employer/supervisors will not normally search individual(s) lockers, which are under lock and key, without the presence of the individual(s). If such a search is performed, it shall be conducted according to applicable laws and regulations.

SECTION 3.8: Counseling and warning sessions involving employees will be conducted privately and in a professional manner. Written records of counseling sessions will be safeguarded under the provisions of the Privacy Act. At the employee's request, the Union representative may attend counseling sessions.

ARTICLE 3 - continued

SECTION 3.9 OFFICIAL PERSONNEL FOLDERS (OPFS): Employees may review the contents of their OPF through the e-OPF system. This is a web-based system that provides online access to OPF data. The e-OPF system allows secured access to employees and Human Resource staff. At the time of hire, each employee will receive an e-OPF ID through the mail. If an employee does not receive their e-OPF ID, the Area Human Resources Office must be contacted and they will insure an e-OPF ID is obtained for the employee.

SECTION 3.10: Management is obligated to keep employees informed of rules, regulations and policies under which they are obligated to operate. To assist employees in the performance of their work, IHS manuals normally will be available during work hours. Management will keep employees abreast of the standards and requirements of the applicable accreditation for their department and work assignments. Specific details concerning access will be arranged at the local level.

SECTION 3.11: Both parties agree that all IHS employees deserve to be treated with common courtesy and consideration in a professional work environment.

SECTION 3.12 INDEMNITY OF EMPLOYEES: Consistent with law and regulations, the Government may provide legal representation for employees against whom suit is brought in a Civil or Criminal Court based upon activities alleged to be within the scope of their official duties and may assume financial liability for all monies awarded to claimants as the result of activities found to be within the scope of such official duties. Upon request, the employer agrees to provide information, guidance and assistance to employees who are considering and making a request for legal representation. Ad Hoc or other duties outside the employee's position description assigned by agency officials (e.g. security duties, injecting medications, etc.) are within the scope of the employee's official duties in this regard.

SECTION 3.13: Access to the appropriate staff to discuss concerns (Human Resource staff, EEO Officer/Counselor, Union Representative, and/or other persons designated to discuss employee concerns and provide assistance to employees) will be made available. Employees will be informed of what is expected of them, to whom they are directly responsible and what is expected of them in their work relationships with the fellow workers.

SECTION 3.14: Management will periodically review the employee's performance during the probationary/trial period and shall inform the employee of any shortcomings, deficiencies in performance, or instances of misconduct perceived by the supervisor. Although persons selected for employment are presumed to posses the skills and character traits necessary for satisfactory performance as a permanent employee, during the initial period of employment supervisors and human resource officials must make a sincere effort to orient new employees and provide essential training in the new work situation.

ARTICLE 3 – continued

SECTION 3.15: The administration of all personnel administration (law, rules, policies, contract, etc.) will be on a fair, consistent, and equitable basis.

SECTION 3.16: There are several avenues of recourse that are available to employees (Union grievance, Agency grievance, Unfair Labor Practice, EEO, Merit System Protection Board, etc). It is the employee's responsibility to become familiar with each forum and determine which one best meets their needs as generally, once the employee has selected the avenue of recourse, they cannot later utilize another system to review the same matter/concern. It is the responsibility of the Union Representative and/or the Area Human Resource staff to assist employees in becoming familiar with the various forms of recourse.

ARTICLE 4 - MANAGEMENT RIGHTS AND RESPONSIBILITIES

SECTION 4.1: GOVERNMENT REGULATIONS: In the administration of all matters covered by this Agreement, the Parties and the Employees are governed by existing or future federal laws and Executive Orders.

A. Management rights are specified in law and Executive Order.
B. The Labor-Management Relations Statute, Title 5 United States Code Chapter 71 is provided as Appendix D.
C. Regulations, policies, and manuals in effect on the effective date of this Agreement, shall cover all matters covered by this agreement.

SECTION 4.2 MANAGEMENT RESPONSIBILITIES

A. The Employer agrees to respect the privacy of all Employees during the grievance process. The credibility, privacy, and integrity of the grievance process will be protected to the extent possible.
B. Management must notify an Employee at the beginning of any investigative meeting that could reasonably be expected to lead to a disciplinary action that the Employee has the right to have Union representation. A Counseling session is an investigative meeting. (See Article 2 and Article 3)

SECTION 4.3 COMMUNICATIONS: All individuals shall be treated with respect, common courtesy, and consideration. Any Communication with Employees concerning performance or conduct will be done in a private Manner, unless imminent danger exists or is perceived to exist. Even in these situations, any Communication will be done in a most professional manner.

SECTION 4.4 UNION WORK PERFORMANCES: Management recognizes the need for Local Representatives to perform their union duties and responsibilities in accordance with Title 5 USC (Appendix D) and this Agreement in addition to their regular duties.

A. In this regard, the Employer will not allow any union work related time, in place of regular duties, to be used adversely against the Employee or cause lost opportunities for promotion, details, training, annual leave use, etc.
B. In this regard, for Employees serving as Union Representatives administering this Agreement, in addition to their regular duties, due consideration will be given to the amount and timeliness of union work when applying performance standards.
C. In this regard, the Employer will fully support an Employee's right to join the Local or act for the union freely and without fear of penalty or reprisal in management controlled matters. (Working conditions, employment, ratings, advancement, etc.

SECTION 4.5 TITLE 5 UNITED STATES CODE SECTION 7106: MANAGEMENT RIGHTS:

A. Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency:
    1. To determine the mission, budget, organization, number of employees, and internal security practices of the agency, and

Article 4 – continued

a. 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;
b. To assign work , to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
c. With respect to filling positions, to make selections for appointment from
   1) among properly ranked and certified candidates for promotion; or
   2) any other appropriate source; and
d. to take whatever actions may be necessary to carry out the agency mission during emergencies.

B. Nothing in this section shall preclude any agency and any labor organization from negotiating-
   1. At the election of the agency, 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;
   2. Procedures which management officials of the agency will observe in exercising Any authority under this section; or
   3. Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

ARTICLE 5 - USE OF OFFICIAL FACILITIES AND SERVICES

SECTION 5.1: The Union shall be responsible for the proper use and care of the facilities, service and equipment provided in this article.

SECTION 5.2: The employer agrees to provide office space at each facility to be used for a Local Union office, Local Union meetings and other appropriate activities. Desks, telephone, chairs, locking file cabinets, typewriters and otherwise available customary equipment (faxes, computers, printers, etc.) will be made available. The Local Union office space made available, including equipment use shall be reasonably private and secure to ensure confidentiality of records and conversations.

SECTION 5.3: The Union Council will be provided a private office equipped with all office equipment necessary for efficient office operations at the location of the Union Council President. If Local Union offices are suitable and properly equipped, the Union Council officers and representatives will not normally duplicate space and equipment at that facility.

SECTION 5.4 BULLETIN BOARDS: The employer will provide a bulletin board for Union use. The Union shall not post inappropriate information on those boards.

SECTION 5.5 DUPLICATING MATERIAL: Union representatives will be allowed the use of a copy machine in order to copy material necessary for representational duties within the Unit.

SECTION 5.6. MAIL:

A. Internal Mail.
    1. Regular Mail. Internal mail distribution service shall be made available to the Union for distribution of material to employees of the bargaining unit. Material for individuals will be individually addressed and placed in departmental mailboxes by the Union.
    2. E-Mail. Internal mail e-mail distribution service shall be made available to the Local Presidents and Union Council President for communication with employees of the bargaining unit.
B. External mail - Franked/metered mail. Management agrees to permit the Union to utilize the Agency postage system in all official Union correspondence as it concerns the Union's administration of this Agreement.
C. Individual mailboxes will be designated at each location for delivery of mail to the Union.

SECTION 5.7 PARKING SPACES:

A. Employee Parking Spaces. The employer agrees to make every reasonable effort to provide sufficient parking space to employees. All existing and future parking will provide for the employees' safety.
B. Local Union Parking Space. The employer agrees to designate one parking space for the Local President at those locations where the Primary Management Representative also has a reserved parking space. All existing Local Union parking spaces shall remain pursuant to the Local negotiations.

ARTICLE 5 – continued

C. Union Council Parking Space. The employer agrees to make every reasonable effort to designate one parking space for the Union Council President at his/her location. Details of the parking space will be negotiated at the Union Council President's duty location.

SECTION 5.8: The employer agrees to give access to the Union and employees, personnel publications, including regulations, supplements, and classification standards maintained locally, The Union or employees may request copies of other reasonably necessary publications.

SECTION 5.9 LISTS OF EMPLOYEES: The employer agrees to furnish the Union on a quarterly basis(no later than February 1, May 1, August 1, November 1, each year), an up-to-date list of all employees with the following information: Name, Title, Pay Plan, Series, Grade, and BUS Code. If the Union disagrees with any BUS cod3e they will notify the employer of the disagreement. This does not preclude the Union at the Council or Local Level from requesting additional information such as the FLSA status of individuals or more timely lists of bargaining unit employees.

SECTION 5.10 FACILITIES FOR DAY CARE CENTERS: The parties recognize that working parents may have special child care needs during working hours. The parties also recognized the need of such parents to secure adequate childcare. Therefore, the employer agrees to periodically secure listings of licensed day care centers in the immediate area which are provided by the State or licensed by the State or appropriate agencies and will make these listing available to inquiring employees. During orientation of new employees, the subject of available licensed Day Care Centers will be covered. Consistent with the requirements of mission accomplishment, the employer agrees that it will maintain a liberal leave policy for parents who need to be absent when child care arrangement problems occur which needs the immediate attention of the parent or when the problem is unexpected and could not have been anticipated.

ARTICLE 6 - OFFICIAL TIME

SECTION 6.1: Union representatives will be granted reasonable amounts of official time during working hours without loss of leave or pay for the administration of this agreement. These functions are reviewing the employer's proposals concerning negotiations and changes in policies, practices, and matters concerning working conditions, performing representational functions as specified in this agreement and the law, receiving, reviewing, preparing, and presenting grievances, handling an employee complaint, or Union complaint, preparing for negotiations, preparing reports required by 5 U.S.C. 7120 (C) and contacting other Union officers regarding aforementioned functions.

Recognizing that patient care and support of patient care is the first priority of every employee in this agency, reasonable time for receiving, investigating, preparing and presenting a complaint, grievance or appeal must necessarily depend on the facts and circumstances of each case, e.g., number and nature of allegations, number and complexity of supporting specifics, the volume of supporting evidence, availability of documents and witnesses and similar considerations. When management agrees, those employees in off duty status who are needed to effectively resolve complaints and labor management issues will be paid appropriately for the time spent administering this agreement. Travel and per diem will be paid to designated Union representatives who are employees and performing representational functions as specified in this agreement when the travel serves the convenience of the employer or otherwise is in the interest of the Government.

SECTION 6.2 LABOR RELATIONS TRAINING: The employer agrees to grant official time to those employees who are Local officials of the Union, if such employees are otherwise in a duty status. The Parties agree that all training will include emphasis on such things as developing statutory and technical knowledge, mediation skills, Interest-Based Negotiation skills, conflict resolution techniques, contract language intent, partnership development, and Steward training, as well as like-type sessions that are mutually beneficial to the Parties in promoting effective labor management relations. Agendas for such training will accompany the request for official time provided by this article. Training on internal Union administrative items is not appropriate for official time.

A written request will be submitted at least two (2) weeks in advance by the Local President or Union Council President to the primary management representative. The request will contain the name of the employee for whom the official time is requested and information about the duration, purpose and nature of the training, along with a copy of the schedule and/or agenda. Normally, authorized requests will be approved unless critical workload requirements prohibit the release of the employee during the period requested. The approval or disapproval will be provided within 5 work days of the receipt of the request.

6.3 TRAVEL AND PER DIEM: Travel and per diem may be authorized in accordance with this agreement when official time is approved for labor relations training. The Agency agrees to authorize $10,000 per fiscal year for travel and per diem for training for Union Officials who are

ARTICLE 6 – continued

Agency employees. In accordance with travel regulations, it must be documented that the travel is in the primary interest of the Government. Requests for payment of travel and per diem must be approved by the Union Council President and Area Director. These requests will be documented using the Union Training Release Form in Appendix E.

The Union Council President will submit all requests for travel and per diem for Union training to the Area Director. The Area Director will approve the request if he/she has the authority to grant travel and per diem under his/her authority (i.e., the Area Director ordered to only approve travel for patient travel only) and this Agreement. Any denial will be in writing including the reason(s). The approval or disapproval will be provided within 5 work days of receipt of the request. Denial of travel and per diem does not adversely affect the authorized use of official time for Union training.

SECTION 6.4 THIRD-PARTY HEARINGS: Union representatives who represent bargaining unit employees before the Federal Labor Relations Authority, Merit System Protection Board, Equal Employment Commission, Federal Mediation and Conciliation Service or Federal Service Impasse Panel shall be authorized official time for such purposes as determined by these authorities.

SECTION 6.5 OFFICIAL TIME FOR UNION REPRESENTATIVES:

A. A Union representative using official time will inform his/her supervisor personally of the approximate length of time needed and the location where the representative will be for representative functions. If pressing work requirements are prohibitive, the representative will be released in a timely manner. If delay in releasing representative for representational functions will cause the missing of a contractual time limit, the representative will be given an extension of time equal to the delay. The supervisor will document all denials of requests for official time and provide the Union a copy.
B. When performing representational functions with employees at other work site requirements, the supervisor shall establish another time at which the Union official can visit the employee. When an employee does not elect to have the Union represent him/her, reasonable time for a Union observer of a grievance will be afforded. This shall be the time necessary to observe the proceedings to their conclusion.

SECTION 6.6 OFFICIAL TIME FOR EMPLOYEES:

A. When exercising their rights under this Agreement, employees will be granted a reasonable amount of official time for initiating, reviewing, preparing and presenting the grievance.
B. An employee using official time will inform his/her supervisor of the approximate length of time needed and the location where the employee will be. If the employee cannot be released immediately due to work related reasons pertaining to the mandatory short term coverage and/or the critical mission of the functional area, the employee will be released as soon as the mandatory work requirements is met or appropriate arrangements are made. Ordinary workload will not preclude the release of the employee. If a delay in releasing an employee

ARTICLE 6 – continued

involves a situation with a contractual time limit, the time limit will be extended equal to the delay. The supervisor will document all denials of requests for official time and provide the Union a copy.

C. If the employee does not comply with A. and B. above and leaves the work area without authorization, they may be subject to disciplinary action.

SECTION 6.7 DOCUMENTING OFFICIAL TIME: See Appendix E for the forms to be used to request and document use of official time.

SECTION 6.8: Management recognizes the need for Union representatives to perform their union duties and responsibilities in accordance with Title 5 USC, Chapter 71 and this Agreement in addition to their regular duties. In this regard, management will not allow any union work related time, in place of regular duties, to be used adversely against the employee or cause lost opportunities for promotion, details, training, annual leave use, etc. In this regard, for employees administering this Agreement, in addition to the regular duties, due consideration to the amount and timeliness of work will be given when applying performance standards.

ARTICLE 7 - NEGOTIATIONS

SECTION 7.1 MANNER: The Union and employer have the responsibility of conducting negotiations and other dealings in good faith and in such a manner as will further the public interest. The parties agree to make every reasonable effort to resolve all differences that arise between them in connection with the administration of this agreement.

SECTION 7.2 SCOPE: Subjects appropriate for negotiations between the parties are personnel policies and practices and other matters relating to or affecting working conditions of employees within the bargaining unit. In the spirit of bilateral relationships, the parties agree that changing conditions will create a need for both management and the Union Council to propose mid-term negotiations. The parties may propose changes in conditions of employment not in conflict with this agreement.

If negotiations are requested, the parties are obligated to meet or otherwise communicate at reasonable times on a timely basis and bargain in a good faith effort to reach agreement with respect to the proposed changes to conditions of employment. Management may implement changes in conditions of employment, not in conflict with this agreement, after the Union officials at the management level proposing the change have been notified in writing of the changes and given the opportunity to bargain, including conclusion of mediation and impasse procedure.

Any questions of validity or noncompliance of a Local Supplement Agreement to this controlling Agreement may be submitted by either Local Party to the Union Council and Area Director (or designee) for resolution. A decision will be made by the parties within thirty (30) calendar days. If the parties are unable to agree as to compliance or validity, either party may submit the issue to Arbitration in accordance with Article 9. Any questions of non-negotiability may be submitted to the Federal Labor Relations Authority or to Arbitration.

Management agrees that it will not unilaterally implement changes in personnel policy or practices or conditions of employment, except for emergencies or delay of the effective date of law.

SECTION 7.3 SUBORDINATE AGREEMENTS: This agreement is controlling, and neither the Local Union nor management may negotiate nor implement any change which conflicts with this agreement. Only the Union Council and Area Director (or his designee) may reopen this agreement during its term, and only upon mutual consent. Agreements derived from midterm negotiations shall not duplicate, conflict with, nor otherwise be inconsistent with this agreement.

Unless the Local Union notifies management within six (6) months of the effective date of this agreement that they wish to renegotiate or extend existing subordinate agreements, the subordinate agreements shall be terminated. It is understood that any changes in conditions of employment after termination of subordinate agreements shall be negotiated.

ARTICLE 7 – continued

A copy of all local level subordinate agreements will be submitted to the Union Council President and the Area Director in order to be binding upon the local parties. The Union Council President and Area Director will be responsible for advising the parties within ten work days of receipt if the subordinate agreement is acceptable under the terms of this contract.

SECTION 7.4 NEGOTIATION PROCEDURES: Negotiation procedures are as follows:

A. Council Level: The proposing party will furnish written proposals delineating proposed changes affecting conditions of employment to the other party. Either party has up to thirty-five (35) calendar days after receipt of the proposed changes to request negotiations by presenting written proposals.
B. Local Level: The proposing party will furnish written proposals delineating proposed changes affecting conditions of employment to the other party. Either party has up to fifteen (15) calendar days after receipt of the proposed changes to request negotiations by presenting written proposals to the other party.
C. Documenting Official Notifications: See Appendix E for the format to be used to document official notifications regarding conditions of employment

SECTION 7.5 TIME LIMITS: When data is requested from the other party, the time limits will be automatically extended to that equal to the number of days it takes to receive such data. The parties agree that data requests will be prudent and necessary to respond to the proposal.

SECTION 7.6 GROUND RULES FOR MIDTERM NEGOTIATIONS:

A. Union negotiators in numbers equal to the number of management negotiators, but no less than two (2), will be entitled to official time. Travel and per diem will be paid for the negotiators. Negotiations will be by face-to-face meetings, mail or electronic mail as agreed by the parties.
B. A chairperson and alternate chairperson will be designated in writing for each negotiating committee. The chairperson of each will speak for the respective committee. Other members may speak with the approval of their chairperson.
C. Negotiations will normally begin not more than thirty (30) days after receipt of written proposals. A suitable room with access to a computer and/or copy machines and telephones will be provided by the employer. A reasonable space for caucusing will be provided.
D. Upon reaching agreement on all articles, the agreement shall be signed by the members of both negotiating committees.
E. Additional ground rules can be established by the parties prior to negotiations. Such ground rules can include additional negotiators, location, etc.

SECTION 7.7 GROUND RULES FOR MANDATORY 18-MONTH REOPENER: This Agreement is subject to mandatory negotiation by either party at the mid-point of the contract (See Article 43 Duration and Extent of Agreement). Ground rules will be negotiated immediately upon notification of either party of their desire to reopen specific articles of the Agreement at the mid-point.

ARTICLE 7 – continued

SECTION 7.8 FURTHER NEGOTIATIONS: Proposals may be initiated at any level in accordance with this section. Memoranda of understanding shall state whether or not negotiations can take place at the lower organizational level.

SECTION 7.9 RESPONSIBLE PARTIES: Midterm negotiations will occur at the proposing level unless otherwise agreed.

SECTION 7.10 DISPUTES AND IMPASSE:

A. Disputes. If management believes a written Union proposal is non-negotiable, it will raise the issue of negotiability in a timely fashion at the early stages of the negotiation process so that attempts can be made to cure any negotiability problems. The Union will be provided on request with a written statement of the rationale for a claim of non-negotiability. The Union may submit a negotiability appeal to the FLRA in accordance with applicable regulations.
B. Impasses: In the event of an impasse at the Local level, the impasse will be submitted to the Union Council and Area Director for resolution. The Federal Mediation and Conciliation Service (FMCS) may be called in by either party. In the absence of such resolution, either party may request the Federal Service Impasses Panel (FSIP) to consider the matter, or by mutual agreement, may refer to matter to binding arbitration in accordance with Article 9. In the event of an impasse at the Union Council/Area Management level, either party may request the FMCS and FSIP to consider the matter.

SECTION 7.11 PAST PRACTICES: Past Practices are privileges of employees which by custom, tradition, and known past practice have become an integral part of working conditions shall not be changed as a result of not being enumerated in this agreement.

Past practice or procedures which meet the following tests:

A. Are known to the employer;
B. Responsible management knowingly allows to continue and practice; and
C. Such practice continues for some significant length of time.

Such practices will remain in effect provided they are not contrary to law, management rights, and/or this agreement.

ARTICLE 8 - GRIEVANCE PROCEDURES

SECTION 8.1 COMMON GOAL: The purpose of this article is to provide a mutually acceptable method for the prompt resolution of workplace issues raised by the parties and/or employees pursuant to 5 USC 7121. The parties agree that most grievances and complaints should be resolved in an orderly, prompt, and equitable manner that will maintain the self-respect of the employee and be consistent with the principles of good management and the public interest.

SECTION 8.2 DEFINITIONS: Grievance means any complaint by any:

A. Employee concerning any matter relating to his/her employment.
B. Labor organization concerning any matter relating to employment of any employee.
C. Employee, labor organization, or agency concerning:
    1. the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or
    2. any claimed violation misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.

SECTION 8.3 APPLICATIONS:

A. A grievance may be filed by an employee or group of employees, by the Union, or by Management.
B. Only the Union, or a representative designated by the Union, may represent employees in such grievances.
C. Any employee or group of employees may personally present a grievance and have it resolved without representation by the Local Union provided that the Local Union will be given an opportunity to be present at all formal discussions in the grievance process.
D. Any resolution must be consistent with the terms of this Agreement.
E. Upon request of either party, the number of representatives at representational meetings will be equal. Management will approve additional Union Representatives when reasonably appropriate. The parties agree to keep the number of participants at the meetings to a necessary minimum.

SECTION 8.4 EXCLUSIONS: This grievance procedure does not apply to:

A. A violation relating to political activities;
B. Retirement, life insurance, or health insurance;
C. A suspension or removal for national security;
D. Any examination, certification, appointment or non-selection for promotion from a group of properly ranked and certified candidates;
E. Classification of position which does not result in the reduction in grade or pay of the employee;
F. Separation/Removal of excepted service employee who does not enjoy appeal rights to the Merit Systems Protections (MSPB) unless otherwise provided for by law.
G. Reductions-in-Force for Competitive employee.
H. Proposals of disciplinary and adverse action (however, the final decision may be grievable).
I. Termination of a probationer/trial period employee prior to the end of the probationary/trial period.

ARTICLE 8 - continued

SECTION 8.5 ALTERNATE APPEAL PROCEDURES: For those matters that are grievable, this procedure will be the exclusive procedure for the parties and employees. However, nothing in this section will prevent employees from exercising their statutory rights to:

1. File an EEO complaint;
2. Appeal adverse actions or actions for unacceptable performance to the MSPB;
3. File a charge of an unfair labor practice with the FLRA;

Provided the employee has not filed a grievance in writing on the matter in accordance with this Agreement.

If an Agency listed above determines that they have jurisdiction to hear an appeal or complaint of an employee who filed a grievance in writing on the same issue, the grievance will be cancelled.

Nothing in this section will prevent an employee from filing a complaint with the Office of Special Counsel.

SECTION 8.6 STEP 1 GRIEVANCE PROCESS:

A. The grievant and/or representative must file the Step 1 grievance notification with the appropriate official in writing within twenty-one (21) calendar days of the incident resulting in the complaint or the date the grievant first became aware of the matter.
B. See Appendix E for the format to be used to file and track a Step 1 grievance.
C. Step 1 grievance notification: When submitting a Step 1 grievance notification, the grievant or their representative will identify:
   1. the incident resulting in the complaint,
   2. the date of the incident, or the date the grievant became aware of the matter
   3. the relief requested; and
   4. this is a "Step 1 grievance notification." Grievants are encouraged to state this identification in the subject of e-mail or hard-copy document.
D. The grievant will file the Step 1 grievance notification with the appropriate official identified below:
   1. Employee Step 1 grievance:
   If the grievant is an employee of the organization listed at the left below, they send the Step 1 grievance notification to the individual listed at the right:
   Service Unit……..... Chief Executive Officer
   Area Office……..... Deputy Area Director
   2. Local Union Step 1 grievance:
   For a Local Union grievance at the organization level on the left below, the Union Official sends the Step 1 grievance notification to the individual listed at the right:
   Service Unit……..... Chief Executive Officer
   Area Office……..... Deputy Area Director
   3. Management Step 1 grievance:
   Management officials listed on the left send the Step 1 grievance notification to the individual listed at the right:

ARTICLE 8 – continued

Service Unit……..... Local President
Area Office……..... Local President

4. Council Step 1 grievance:

Council President/Designee send the Step 1 grievance notification to the individual listed at the right:

Council President……..... Deputy Area Director

E. The individual receiving the Step 1 grievance notification will identify the responding official who will act upon the notification.

F. After the Step 1 grievance is sent, the grievant and responding official have twenty-one (21) calendar days to resolve the issue using a dispute resolution process that is acceptable to both parties.

G. During Step 1 grievance discussions, if the grievant and responding official reach the conclusion that they cannot resolve the issue, the responding official will issue a written decision letter documenting the fact the parties could not reach resolution, including the reason(s) why the parties did not resolve the issue. The grievant then has **twenty-one (21)** calendar days to elect to file a Step 2 grievance.

H. When a settlement agreement is reached it will be documented and signed by the grievant and the appropriate official using the Settlement Form (Appendix E). If a settlement agreement is signed, no Step 2 grievance will be filed on the issues raised in the Step 1 grievance.

I. If a settlement is violated, the grievance will proceed at the next step of the grievance procedures; e.g., Step 1 grievance settlement violation proceeds to Step 2; Step 2 settlement violation proceeds to arbitration.

SECTION 8.7 STEP 2 GRIEVANCE PROCESS:

A. If the complaint is not resolved in the Step 1 grievance process, the grievant may file a step 2 written grievance within twenty-one (21) calendar days of the end of the Step 1 grievance period or date the decision letter is received by the grievant. A Step 2 grievance may not be filed unless the grievant has attempted to resolve the complaint through the Step 1 grievance notification process as described in Section 5 above except for Section 8.7.B.

B. In the case of grievance filed in response to a suspension, down grade, or removal decision, an employee must file a Step 2 grievance within thirty (30) days of the effective date of the action.

C. See Appendix E for the format to be used to file and track a Step 2 grievance.

D. A Step 2 grievance will contain the following:
   1. A copy of the Step 1 grievance notification (except as described in item B above);
   2. The decision letter;
   3. The issue(s) being grieved;
   4. Any supporting evidence, including the date of the occurrence, and,
   5. The relief requested.

E. The grievant will file the Step 2 grievance with the appropriate official identified below.

1. Employee Step 2 grievance:

ARTICLE 8 - continued

If the grievant is an employee of the organization listed at the left below, they send the Step 2 grievance notification to the individual listed at the right:
Service Unit……..... Area Director
Area Office……..... Area Director

2. Local Union Step 2 grievance:
For a Local Union grievance at the organization level on the left below, the Union Official sends the Step 2 grievance notification to the individual listed at the right:
Service Unit……..... Area Director
Area Office……..... Area Director

3. Management Step 2 grievance:
Management officials listed on the left send the Step 2 grievance notification to the individual listed at the right:
Service Unit……..... Council President
Area Office……..... Council President

4. Council Step 2 grievance: If the Step 1 grievance Council Grievance response from the Area Director is not resolved, the matter may be referred to arbitration in accordance with Article 9.

F. A written decision will be transmitted to the grievant within twenty-one (21) calendar days after the filing of the Step 2 grievance.
G. This response will be the final decision on the grievance. If the grievance is not resolved, the matter may be referred to arbitration in accordance with Article 9.

SECTION 8.8 AUTHORITY:
A. The responding official in the Step 1 grievance process and deciding official in the Step 2 grievance must have full authority to resolve all issues raised by the grievant.
B. In the case of a grievance involving suspension, down grade, or removal, it is not appropriate for the deciding official for the Step 2 grievance to be the same individual as the deciding official for the suspension, down grade, or removal.

SECTION 8.9 MEDIATION: If dissatisfied with a decision reached at the Step 2 stage or in the absence of a decision, the grievant may request the Union to refer the grievance to mediation in accordance with the provisions of this article. The Union will within ten (10) work days, request the immediate services of a mediator from the Federal Mediation and Conciliation Service. Requests for mediation will be signed by the Union President or designee. The chosen mediator will meet with the parties at the earliest possible date and attempt to resolve the grievance through voluntary methods. If the mediation procedure is unsuccessful and the grievance is still unresolved, the Union may request arbitration in writing within thirty (30) calendar days from the date of the last mediation meeting. A request for arbitration shall be valid only if signed by the Local Union President or Union Council President, as appropriate.

SECTION 8.10 TIME LIMITS:
A. Time limits for this Article start with “Day One” on the day following transmittal or occurrence.

ARTICLE 8 – continued

B. The intent of the parties is for all participants to act within the time limits allowed within this Article. However, time limits in this Article may be extended by mutual consent of the grievant and appropriate responding official.
C. When information needed by management to process a grievance is requested from a grievant or the Union the time limits will be extended equal to the amount of time required to receive the information but not more than fifteen (15) calendar days. If the information is not received during that time period, management will render a decision based on the information they have at the time.
D. When information needed by the Union to process a grievance or to determine whether a grievance exists is requested from management the time limits will be extended equal to the amount of time required to receive the information.
E. Failure by the grieving party to meet time limits, or to request and receive an extension of time, will automatically cancel the grievance, unless mitigating circumstances prevail.
F. Failure of the deciding official to meet time limits on grievances, or to request and receive an extension of time, will result in the deciding Party's liability for the arbitrator's fees and expenses, unless mitigating circumstances prevail.

SECTION 8.11 GRIEVANCE TERMINATION: Management will cancel an employee's grievance:
A. At the employee's request;
B. Upon termination of employment with the agency, unless the personal relief to the employee may be granted after termination of employment;
C. Or upon the death of the employee, unless the grievance involves a question of pay.

ARTICLE 9 - ARBITRATION

SECTION 9.1 RIGHT TO ARBITRATION: If the decision on a grievance processed under the negotiated grievance procedure is not satisfactory, the Union, either as grievant or as representative of the grievant(s), may refer the issue to arbitration. The notice referring an issue to arbitration must be in writing, signed by the Union Council President and submitted within thirty (30) calendar days following receipt of the decision or completion of mediation efforts.

SECTION 9.2 SELECTING THE ARBITRATOR: Within five workdays from date of receipt of a valid arbitration notice, the parties shall attempt to select an arbitrator. If the parties are unable to agree upon an arbitrator, they shall immediately request the Federal Mediation and Conciliation Service (FMCS) to submit a list of seven impartial persons to act as arbitrators. A brief statement of the nature of the issues in the dispute will accompany the request to enable the FMCS to submit the names or arbitrators qualified for the issues involved. The request shall also include a copy of the Collective Bargaining Agreement. In the event that the entire agreement is not available, a verbatim copy of any provision relating to arbitration of the grievance shall accompany the request. The parties shall meet within ten workdays after receipt of such list to select an arbitrator. If they cannot agree upon one of the listed persons, the employer and Union will strike one arbitrator's name from the list of seven and shall repeat this procedure until only one name remains. The remaining name shall be the only duly selected arbitrator. A flip of the coin will determine which party shall strike the first name. The Union may withdraw the grievance at any time prior to the actual convening of a hearing or submission to the arbitrator.

SECTION 9.3 FEES AND EXPENSES:

A. The arbitrators fees and expenses shall be borne by the losing party, except that in any decision not clearly favoring one party's position over the other, the arbitrator may specify that cost be split proportionate to the arbitrator decision of issues, i.e., 10 issues, 8 for grievant then grievant may be required to pay 20% or 10-day suspension reduced to a 2-day suspension.
B. If clarification of an arbitrator's decision is necessary, the requesting party will pay for the additional arbitration fees and expenses.

SECTION 9.4 ARBITRATOR'S AUTHORITY: The arbitrator’s decisions shall be final and binding and the remedy shall be effective in its entirety unless either party invokes Section 7122, Title VII, Civil Service Reform Act.

SECTION 9.5 ARBITRATOR'S AUTHORITY IN DISPUTES OVER THE AGREEMENT: The arbitrator shall have the authority to resolve any questions of arbitrability and interpret and define the explicit terms of this agreement, agency policy, etc., as necessary to render a decision. The arbitrator shall have no authority to add to or modify any terms of this agreement or agency policy.

SECTION 9.6 TIME LIMIT: The arbitrators will be told that in order to fulfill the delegation to arbitrate, he/she must render a decision and remedy to the employer and Union as quickly as

ARTICLE 9 - continued

possible, but in any event no later than thirty (30) days after the conclusion of the hearing unless the parties otherwise agree.

SECTION 9.7 ARBITRATION PROCESS:

A. The process to be utilized by the arbitrator may be one of the following:
   1. A "stipulation" of facts to the arbitrator can be used when both parties agree to the facts at issue and a hearing would serve no purpose. In this case, all facts, data, documentation, etc., are jointly submitted based upon the facts presented.
   2. An "arbitrator inquiry" can be used when a formal hearing would serve no purpose. In this case the arbitrator would make such inquires as he/she deemed necessary (e.g., inspecting worksites, taking statements).
   3. A "submission to arbitration hearing" should be used when a formal hearing is necessary to develop and establish the facts relevant to the issue. In this case, a formal hearing is convened and conducted by the arbitrator.
   4. A "mini-arbitration" may be used to expedite the resolution of the grievance. In this case, the arbitrator would make such inquires as he/she deemed necessary, prepare a brief summary of the facts and render an on-the-spot decision without an opinion.

B. The parties may mutually agree on a stipulation of facts to the arbitrator or the parties may agree to request an inquiry, mini-arbitration, or hearing.

C. The parties may agree to direct the arbitrator to simplify or eliminate a written opinion when using the process in (1), (2), or (3) above.

D. The arbitration hearing or inquiry shall be held on the employer's premises during the regular day-shift work hours of the basic work week. Witnesses will be given excused absence for the period of time they are actually testifying in arbitration proceedings.

E. In considering grievances concerning actions based on unacceptable performance and adverse actions appealable to the Merit Systems Protection Board, the arbitrator shall be governed by 5 U.S.C. 7701(c)(1), existing MSPB Case Law and FLRA precedent and case law as applicable.

SECTION 9.8 EXCEPTIONS:

A. Either party may seek judicial review of the arbitrator's decision on matters which could have been appealed to the MSPB within thirty (30) calendar days, beginning on the date the award is served on the filing party. Such review will be sought in the Court of Claims, or the U.S. Court of Appeals in accordance with the provisions of 5 U.S. C. 7703.

B. Either party may file an exception with the Federal Labor Relations Authority to the arbitrator's award in any matter other than those described in A. above. Such exceptions must be filed within thirty (30) calendar days of issuance of the decision in accordance with Federal Labor Relations Authority procedures. If no exceptions are filed, the arbitrator's decision shall be effected immediately.

ARTICLE 10 - PRE-NOTIFICATION FOR UNFAIR LABOR PRACTICE CHARGE

SECTION 10.1: The parties recognize that law and regulation encourage the resolution of unfair labor practice allegations in an informal and voluntary manner. To this end, the party making an unfair labor practice allegation will normally communicate such to the other party prior to filing a charge with the Federal Labor Relations Authority. The charging party should normally allow a reasonable amount of time for discussion and/or resolution of the dispute.

SECTION 10.2: The parties will have full authority to mutually agree to any procedures necessary during the process of resolution.

SECTION 10.3: If an Unfair Labor Practice charge is filed against the employer or the Union, the appropriate head of the parties will be the person charged. The employer Unit Head is the Area Director. The Union head is the Union Council President.

ARTICLE 11 - ORIENTATION OF NEW EMPLOYEES

SECTION 11.1: All new employees shall be informed by the employer that the Union is the Exclusive Representative of employees in the Unit. Each new employee shall be advised that the Agreement and any existing supplemental agreements are available on the Billings Area IHS Homepage. The employer shall also provide each new unit employee the most current list of the officers and representatives of the local union, and the council officers.

SECTION 11.2: The Union will be notified when each new employee enters on duty and will be authorized official time, normally not to exceed 15 minutes, to introduce the new employee to the purposes, goals and achievements of the Union. This will normally be accomplished at scheduled group orientation sessions by the employer.

SECTION 11.3: The employer shall furnish the President of each Local union, on a bi-weekly basis, the following information regarding all new permanent employees: Name, Title, Pay Plan, Series, Grade and BUS Code.

ARTICLE 12 - POSITION DESCRIPTIONS/DESK AUDITS/ CLASSIFICATION APPEALS

SECTION 12.1 GENERAL: The parties agree that each employee is entitled to a current, complete and accurate position description which accurately reflects the principle duties and responsibilities of the position. The position description shall be reviewed annually by the employee and work supervisor in an effort to insure position descriptions are kept current.

The phrase "performs other duties assigned" will not be reflected in the position description. The Union recognizes that in cases of emergency, it may be necessary to work temporarily outside his/her position description. In no case will any employee be required to perform duties which might result in injury to the employee, fellow employees or the general public served, due to lack of knowledge of the task.

The union will be provided a copy of new or revised position descriptions upon written request. Upon request, the union may review the material utilized to arrive at the assigned title, series and grade which may include copies of any new classification standards for bargaining unit positions, and copies of any position classification audits performed on unit positions resulting in a change of series and/or grade.

SECTION 12.2 POSITION DESCRIPTIONS:

A. The employer will maintain a complete, and up-to-date file of descriptions of all classified positions in the bargaining unit, and will provide each employee with a copy of his/her description.
B. If an employee believes that significant changes have occurred in their regularly assigned responsibilities and regularly performed duties, or that their current position description~~s~~ are not accurate and/or complete, or that the title, series, or grade of their position is incorrect, the employee will discuss the issue with their supervisor.
   1. If the supervisor determines the position description is incorrect, the supervisor will prepare an accurate position description, certify to its accuracy on the OF-8, Position Description Cover Sheet, and submit it with an SF-52, Request for Personnel Action, through established channels to the Human Resources Office for appropriate classification and action.
   2. If the supervisor determines the position description is current and correct, considering the employee’s concern, he/she will explain the classification to the employee. If the supervisor cannot resolve the employee concerns to the employee’s satisfaction, within ten (10) calendar days the supervisor will arrange for a Human Resource Specialist to provide further information to the employee within sixty (60) calendar days. As a part of any such communication, the Human Resource Specialist will talk with the employee(s) whose duties are affected. Any such discussion may include an explanation by the Human Resource Specialist of the applicable job grading process. The employer agrees to consider fully any information on this subject which the employee may wish to present, and to discuss the finding with the employee. If a satisfactory resolution of the employee's concerns is not reached, the employer will furnish the affected employee(s) with copies of the findings in writing which will include the employee's classification

ARTICLE 12 - continued

appeal rights. This will include the evaluation of the position results of any recent audits and/or reviews, and an explanation of the classification standard used in determining the title, series and grade.

SECTION 12.3 DESK AUDITS: A desk audit is a structured conversation or formal interview conducted by a Human Resource Specialist with an employee regarding their position and position description. The desk audit usually includes a review of the major duties and all applicable factors to insure the position description is accurate. Following the desk audit, the classification of the position's title, series, and grade is reviewed to insure the position is properly classified. At any time, an employee may request a desk audit of their position. A desk audit may also be requested by the immediate supervisor or higher level supervisor or manager within the applicable organizational structure. A desk audit may also be initiated by Human Resource staff.

If an employee wishes to request a desk audit, they will contact their supervisor. The supervisor will contact the Area Human Resources Office within ten (10) calendar days. The Area Human Resources Office will contact the supervisor within thirty (30) calendar days to a set a date for completion of the desk audit. The supervisor will keep the employee informed of the status of their request.

SECTION 12.4 CLASSIFICATION APPEALS: At any time, an employee may file a Classification Appeal. Title 5 CFR 532.703b(4), allows that an employee may elect to be represented either by the Union representative or another representative of his/her choice to assist him/her in the submission of such appeal. If the employee elects to select a representative, the representative shall be granted up to eight (8) hours of official time, when requested in writing to the employer representative, to carry out appropriate representational duties. If the employee chooses not to select a representative, the employee shall be granted up to eight (8) hours of official time when requested in writing and approved by the supervisor in presenting the appeal and shall be assured freedom from restraint, interference, coercion, or reprisal in pursuing the appeal.

A. A General Schedule (GS) employee wishing to file a Classification Appeal may submit their appeal as follows:

Step 1 REGIONAL HUMAN RESOURCE OFFICE, Northern Plains Region, P.O. Box 36600, Billings, MT 59107. The employee may elect to bypass Step 1 and proceed directly to Step 2.

Step 2 Office of Human Resources (OHR), IHS, 12300 Twinbrook Pkwy, Suite 230, Rockville, MD 20852. The employee may elect to bypass Step 2 and proceed directly to Step 3.

Step 3 OFFICE OF PERSONNEL MANAGEMENT, Dallas Oversight Division Agency Compliance and Evaluation Division, South West Region, 1100 Commerce Street, Room 4C22, Dallas, TX 75242.

If the employee elects to bypass any of the above steps, they may not elect to retreat to the bypassed step at a later date. Employees may proceed to the next step in the Classification

ARTICLE 12 - continued

Appeal process if they are not satisfied with the decision issued at the lower level. However, if he/she is dissatisfied with the OPM (Step 3) decision, there are no subsequent appeal rights as decisions made by OPM are final on both the employee and employer.

B. Wage Grade (WG) employees do not have the optional appeal procedures afforded to General Schedule employees. WG employees must first appeal to the Headquarters Support office. The resulting decision may then be appealed to OPM.

C. The Classification Appeal must be submitted in writing to the appropriate selected appeal authority and must include the following specific information:

1. Full name;
2. Home address;
3. Title and address of the immediate organization to which he/she is officially assigned; i.e., IHS Blackfeet Community Hospital, Medical Records Department, etc.;
4. Title, series, grade and position number of the position to which he/she is officially assigned;
5. Title, series, and/or grade he/she considers to be proper, if known;
6. Reasons he/she considers the present classification to be incorrect, and reasons supporting the classification he/she considers proper;
7. A statement that a like appeal is not pending adjudication by the OPM if the employee chooses to first submit the appeal to the Office of Human Resources. Simultaneous appeals to the Department and OPM are not permitted;
8. A statement as to whether or not the reconsideration processes in Section 12.1 and/or a desk audit has been accomplished. Failure to indicate such may delay action on the request;
9. A statement as to whether or not the employee considers the position description to which he/she is officially assigned to be accurate;
10. The full name, address and organizational designation and Union affiliation if appropriate, of the representative if the employee chooses to select one.

ARTICLE 13 - PERFORMANCE MANAGEMENT SYSTEM

SECTION 13.1: The parties recognize that high level performance by Indian Health Service employees is essential to the efficient operation of the agency and is necessary for the achievement of its goals and programs. The purpose of this article is to set forth a fair and equitable procedure to be utilized when informing employees of their performance. The parties agree that the Performance Management Appraisal Program for bargaining unit employees will be the IHM, Part7, Chapter 7 established 09/26/2009 (Appendix F) as modified by the following provisions and applicable laws, rules, and government-wide regulations. Changes to the IHM Part 6 Chapter & will require fulfillment of bargaining obligations by the parties.

SECTION 13.2 EMPLOYEE PARTICIPATION: Each employee should actively participate in developing his or her performance plan for the appraisal period. Employee participation includes raising the issue of the accuracy of their position description. At the beginning of the appraisal period the rating official and employee shall meet and discuss the PMAP. No employee will be required to back date any PMAP document. Employees will be afforded a minimum of two (2) workdays to review evaluation documents prior to signing.

SECTION 13.3 PROGRESS REVIEWS: There should be continuous feedback between the employee and their supervisor. At a minimum, one formal progress review shall be held between the supervisor and employee at approximately the midpoint in the rating period. Interactions regarding progress reviews and feedback will be held in a setting that protects the employee's privacy. At any time during the rating period, employees and supervisors will work closely together to enhance and elevate the employee's performance.

SECTION 13.4 DISAGREEMENT WITH THE RATING OF RECORD: Employees are encouraged to discuss disagreements normally with the rating official and if appropriate with the rating and reviewing officials, in an attempt to resolve the issue informally. An employee may file a grievance utilizing the grievance procedures in Article 8 of this agreement if they disagree with their rating of record.

SECTION 13.5 PERFORMANCE AWARDS: Each year the Area Director (or designee) and Union Council President (or designee) will execute a Memorandum of Understanding (MOU) prior to payment of performance awards to establish and document the terms and conditions that shall govern performance awards for that year. All employees will be treated equally regardless of bargaining unit status.

SECTION 13.6 PERFORMANCE IMPROVEMENT PLANS (PIP'S): If performance of any critical element is determined to be Achieved Unsatisfactory Results level at any time during the rating period, the supervisor will provide assistance to help the employee improve performance to at least a Partially Achieved level. The supervisor must, at a minimum, give written notice to the employee of his/her failure to demonstrate acceptable performance and give the employee an opportunity to demonstrate acceptable performance under a PIP. At the employee's request, they may have a Union Representative present at the time the PIP is issued for the purpose of assisting the employee in understanding the PIP.

ARTICLE 14 - PRODUCTIVITY

SECTION 14.1: Delivery of health care services in the most efficient, effective and courteous manner is paramount importance to the Union and to management. Such achievement is recognized to be a mutual obligation of both parties within their respective roles and responsibilities.

SECTION 14.2: The parties agree to encourage the highest degree of efficiency and effectiveness of Agency operations as well as management and employee performance and productivity. This includes, but is not limited to the following:

A. Conservation of materials, manpower, and supplies.
B. Correction of conditions causing grievances and misunderstandings.
C. Enhancing the public image of the Agency.
D. Encouragement of beneficial suggestions and provisions of incentive awards for money saving ideas as well as high quality performance.
E. Maintain good attendance, promptness, and carefulness.
F. Eliminate waste.
G. Improvement of the quality of workmanship.
H. Encourage the proper use of sick leave.
I. Encourage the employee to use proper channels.

ARTICLE 15 - AWARDS PROGRAM

SECTION 15.1 PURPOSE AND POLICY: The parties agree that the employee suggestions and incentive awards programs are beneficial to both management and the employee. The incentive awards program will be managed in accordance with 5 CFR 451, IHS Circular 97-10, and any supplemental instructions thereto.

SECTION 15.2 INCENTIVE AWARDS: An award is a method of recognizing and motivating employees to increase their productivity and creativity for the benefit of the IHS and the served public. An employee or group of employees may receive incentive award for special contributions such as heroic acts, inventions, special acts, savings to the Government, outstanding service to the community, etc. The award may be monetary or non-monetary.

SECTION 15.3: The parties agree to encourage employees to file suggestions under the employer suggestion program. The suggestion will be considered in a manner consistent with applicable regulations. Should a suggestion be rejected by the employer, the employee will be informed in writing. In the event a rejected suggestion is later implemented, it will be considered in accordance with the applicable suggestion system policy. If it is finally determined that an award is appropriate, it shall be processed accordingly. Employees will submit a copy of all individual suggestion(s), which have been presented to the employer for consideration under this article, to the appropriate Union official for future reference. Should the employer reject an employee suggestion, a copy of the rejection will be presented to the Local President, stating the reason. Should the employer consider a suggestion presented by an employee, then the employer will inform both the employee and Local President that such is the case.

SECTION 15.4 AWARDS INFORMATION: At least annually, the employer will publicize the criteria for various awards.

SECTION 15.5: The employer agrees the Union may also present awards to Union members for outstanding service. These awards may be monetary or otherwise. The employer further agrees that awards presented by the Union will in no way prohibit an employee from receiving an award from management for the same contribution.

SECTION 15.6: Additional items applicable to this article are subject to local supplemental negotiations.

ARTICLE 16 – CAREER LADDER PROMOTION

SECTION 16.1 PROCEDURES: Both parties agree to utilize the procedures outlined in the IHS Merit Promotion Plan and IHS Excepted Examining Plan for the purposes of this agreement, the negotiated grievance procedures outlined in this agreement will be utilized by employees who have a grievance in relation to Merit Promotion.

SECTION 16.2 CAREER LADDER PROMOTION: A career ladder promotion occurs when competitive hiring procedures are used to select someone to fill a lower level, multi-grade position from entry level to full performance level. The employee must meet certain criteria to be promoted. The criteria are:

A. The employee first entered the position by a competitive appointment, an Excepted Service Examining Plan appointment, or in accordance with merit promotion procedures, i.e., competed under a vacancy announcement indicating the known promotion potential.
B. The employee meets all the qualifications and eligibility requirements on or before the effective date of the promotion.
C. The performance in the present grade is fully satisfactory and the employee has demonstrated the ability to perform satisfactorily at the next higher level.
D. The promotion has been recommended by the supervisor and concurred by the 2nd level supervisor.
E. The promotion action will be approved by the appointing authority if all regulations have been met.

Promotions are not automatic; therefore, employees in a career ladder are encouraged to become familiar with the position description for the full-performance level and to discuss with their supervisor a developmental plan to assist them in reaching the competency for the next level in their career ladder. The supervisor will be responsible for having a discussion with the employee which will result in the development of an Individual Development Plan (IDP). This will occur within 30 calendar days of the employee's entrance on duty date with the final IDP being in place within 45 calendar days of the employee's entrance on duty. In the IDP discussion, the supervisor will identify training needs of the employee and will, to the maximum extent possible, provide training designed to assure efficiency of the employee in the performance of their official assigned duties and for their career development needs. The IDP may contain formal classroom training, HHS University sponsored training, developmental assignments, cross-training, mentoring, and one-on-one guidance.

The supervisor will meet with the employee at least 60 calendar days prior to the employee meeting eligibility for the promotion. If the supervisor's review shows the employee is meeting all requirements for the promotion, the supervisor will submit the request for promotion within 30 calendar days following the review (note: the promotion cannot be made effective until the employee has met all time and eligibility requirements). If the supervisor's review leads to the conclusion that the employee's performance does not warrant promotion or that other factors exist that may delay a promotion, the supervisor will provide a written notice to the employee at

Article 16 - continued

least 45 calendar days before the employee is eligible for the promotion. The written notice will explain where the employee's performance is lacking and advise what the employee must do to qualify for the promotion.

SECTION 16.3: The Employer agrees to furnish the Union on a quarterly basis (no later than February 1, May 1, August 1, November 1 each year) an up-to-date list of bargaining unit employees in multi-grade positions who may be eligible for career-ladder promotion.

ARTICLE 17 - DETAILS/TEMPORARY PROMOTIONS

SECTION 17.1 GENERAL: A detail/temporary promotion is the temporary assignment of an employee to a different position for a specified period, with the employee returning to their regular duties at the end of the detail/temporary promotion. Details/temporary promotions will be made in accordance with applicable regulations and this agreement.

SECTION 17.2 PROCEDURES:

A. An employee temporarily assigned to a higher graded position or to a position with a special salary rate will be temporarily promoted or have his/her pay adjusted if he/she meets basic qualifications and applicable law, rule, and regulation. An employee can elect to accept a temporary assignment to a higher graded position without being temporarily promoted.
B. Documentation. All details will be documented in accordance with OPM, and placed in the employee's Official Personnel Folder. The request for detail will be submitted to the Area Human Resource Office by the Assistant Administrative Director /Administrative Officer and the request must be approved prior to the proposed effective date of the detail.
C. Whenever one or more employees are needed to be detailed the Union and Employee will be notified in writing as far in advance as possible.
    1. No less than 10 calendar days if the detail/temporary promotion is out of the facility
    2. No less than 3 three calendar days if the detail/temporary promotion is within the facility.
    3. Whenever the employee(s) and the employer meet to discuss this change in the employee(s) condition of employment, the Union will be a party to this meeting/discussion.
    4. The Union will be provided in writing, but not limited to, the following information that is applicable to the detail:
        a. The number and type of employees affected;
        b. The location of the detail;
        c. A description of the work to be performed;
        d. The expected actual duration of the detail;
        e. The expected impacts of the detail on employees;
        f. The transportation, lodging, and per diem arrangements;
        g. The time and attendance procedures;
        h. The reporting supervisor who will be responsible for providing unit specific orientation.
        i. Written statement by Associate Area Director/Administrative Officer that the detail was approved by Human Resources.
D. The Union may request negotiations as appropriate over the details that involve another facility within 5 calendar days of Union's receipt of written notification. Should negotiations be requested, the union will submit written proposals with the request for negotiation. Negotiations will commence on the day of submission or no more than 2 workdays after the Union's submission or upon a time agreed mutually by both parties.
E. The Union may request negotiations on same facility details. Should negotiations be requested the Union will submit proposals to the Chief Executive Officer within three 3

ARTICLE 17 - continued

work days of being notified of the proposed detail. Negotiations will commence on the day following the submissions of the Union proposals, or upon a time agreed mutually by both parties.

F. In accordance with this agreement and Article 7 the employer agrees to negotiate as appropriate with the Union on the impact and implementation of the employer's statutory right to assign employees to a detail prior to implementation.

G. See Appendix E: Notification of Detail which must be utilized by the Associate Area Director/Administrative Officer and appropriate forms: Negotiation Form, Official Release Form, Formal Meeting Form.

ARTICLE 18 - EMPLOYEE ASSISTANCE PROGRAM

SECTION 18.1: Management shall maintain an Employee Assistance Program, meeting the requirements of applicable laws, regulations and guidelines (P.L. 91-616, P.L. 92-255). The program will be consistent with agency regulations. Employee participation in the program shall be voluntary, though supervisors have a responsibility to identify poor job performance or conduct and refer an employee to this program as corrective action. An employee may bring a Union representative to any discussion in connection with this Article. Management will publicize the content of the EAP Program to ensure that all employees are aware of its existence. Employee's can directly access the EAP by calling 1-800-222-0364. The EAP is available 24 hours a day, 7 days a week, 365 days a year.

SECTION 18.2 POLICY:

A. The parties acknowledge that the employee has the primary responsibility to maintain acceptable performance and for taking any actions or treatment necessary to maintain it. When an employee sincerely seeks treatment in order to maintain or regain acceptable performance or conduct, management will provide assistance, create an atmosphere of understanding, and attempt to remove the effects of social stigma associated with the problem.
B. Management will attempt to provide employees with the appropriate assistance to overcome problems which contribute to poor performance or conduct.
C. It is a basic function of a supervisor to identify poor job performance or conduct and to take corrective action.
D. Management recognizes alcoholism, other drug dependencies, and mental illness as illnesses. Employees who have these illnesses will receive the same careful consideration and respect as employees who have other illnesses. The same consideration will be given to employees who have other personal problems which contribute to poor performance or conduct. Employees who may be impacted by other employees or family members with these illnesses will receive the same careful consideration upon request.
E. Diagnosis and treatment should be accomplished by referral of employees to outside professional treatment and assistance sources.

SECTION 18.3 RESPONSIBILITIES AND GUIDELINES:

A. When a supervisor, through daily job contact, observes that an employee is experiencing difficulties in maintaining his/her job performance, the supervisor will discuss the apparent difficulties with the employee.
B. If the employee is unable to correct his/her job performance difficulties through his/her own efforts, management will refer the employee to the EAP.
C. The focus of corrective discussions by supervisors is restricted to the issue of job performance or conduct, and the possible job-related consequences.
D. Conduct which has medical aspects, such as conduct which evidences emotional disorder or impaired judgment, or alcohol or drug abuse, will be addressed as medical problems in an effort to provide rehabilitation to the employee. An employee who refuses professional help or is unable to improve his/her performance or conduct with the assistance of a medical rehabilitation program may be subject to disciplinary action which may include separation.

ARTICLE 18 - continued

E. Supervisors shall consider the guidance of the referral sources in establishing reasonable expectations for recovery time of an employee.
F. Participation in the program shall not jeopardize an employee's job security or his/her opportunity to compete for promotion.
G. Sick leave is an appropriate form of leave for treatment or counseling sessions.
H. In most circumstances, a disciplinary action may be held in abeyance if the employee enters an appropriate rehabilitation program and permits the counselor to report to management on the employee's attendance in the program, and if the employee is making observable progress in conduct and/or performance on the job.

SECTION 18.4 CONFIDENTIALITY: The confidential nature of records of employees with medical/behavioral illnesses shall be maintained. No release of information will be made by any party without the employee's written consent.

SECTION 18.5 TRAINING: Union representatives will receive the same training as supervisors receive.

ARTICLE 19 - DISCIPLINARY AND ADVERSE ACTIONS

SECTION 19.1: The parties agree the objective of disciplinary and adverse action is to maintain an orderly, competent, and productive organization. All disciplinary and/or adverse actions must be based on just cause, be consistent with applicable laws and regulations, and be fair and equitable. This Article applies to reprimand, suspension, removal, reduction in grade or pay, and furlough of 30 days or less. The most appropriate corrective action to correct the problem will be taken.

SECTION 19.2: It is recognized the Agency retains the right to discipline. However, it is recognized that any disciplinary action demands the exercise of responsible judgment so that an employee will not be penalized out of proportion to the character of the offense. It is further recognized that in order for disciplinary action to be effective, it must be initiated within a reasonable time of the incident precipitating the action.

SECTION 19.3 REPRIMAND is the lowest level of formal discipline. Counseling, verbal warnings, letters of admonishment, caution, warning are tools that may be used by supervisors, at their discretion, none of which are formal disciplinary action and are not maintained in the employee's Official Personnel Folder and are grievable. Reprimand is a formal disciplinary action that is issued without advance notice or proposal. All reprimands will inform the employee:

A. Of the specific acts for which he/she is being reprimanded.
B. That a copy will be maintained in his/her OPF for a determined length of time not to exceed 2 years.
C. That he/she may grieve the reprimand by following the negotiated grievance procedures.
D. That a repetition of the offense or other improper conduct may lead to more severe disciplinary action, up to and including removal from the Federal service.

SECTION 19.4 SUSPENSION OF 14 CALENDAR DAYS OR LESS: The employee is entitled to:

A. A written notice which states the charge(s) and reason(s) for the proposed suspension specifically and in detail.
B. Be represented by an attorney or other eligible representative.
C. Up to 4 hours of official time to secure affidavits and prepare a written and/or oral answer.
D. The opportunity to review and/or receive a copy of all material relied upon to support the reason(s) for the proposal.
E. The opportunity to submit a written and/or oral reply, within 14 calendar days, to the proposal and consideration of the reply before a decision is made.
F. A written decision before the effective date of the suspension and at the earliest practicable date which provides the reason(s) for the suspension, the right to file a grievance beginning at Step 2 (Article 8, Section 8.7), and the right to file an EEO complaint.

SECTION 19.5 REMOVAL, SUSPENSION FOR MORE THAN 14 CALENDAR DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS: The employee is entitled to:

ARTICLE 19 – continued

A. A written notice stating all charge(s) and all reason(s) for the proposed suspension at least 30 calendar days in advance of the effective date of any decision.
B. Be represented by an attorney or other eligible representative.
C. Up to 4 hours of official time to secure affidavits and prepare a written and/or oral answer.
D. The opportunity to review and/or receive a copy of all materials relied upon to support the reason(s) for the proposal.
E. The opportunity to submit a written and/or oral reply, within 14 calendar days, to the proposal and consideration of the reply before a decision is made.
F. A written decision before the action is effective and at the earliest practicable date stating which of the reasons in the advance notice have been sustained and which have not been sustained.
G. The right to appeal the decision to the Merit Systems Protection Board (MSPB) or to grieve the matter through the negotiated grievance procedures (Article 8, Section 8.7B), but not both. The choice of the appeal/grievance forum is irrevocable. An employee shall be deemed to have exhausted his/her option at such time as the employee timely files an MSPB appeal or a Step 2 grievance.
H. The right to file an EEO complaint if the employee believes the action was taken as the result of discrimination.

Exceptions. (1) Section 7513(b) of title 5 of the United States Code authorizes an exception to the 30 days' advance written notice when the agency has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension (including indefinite suspension). The agency may require the employee to furnish any answer to the proposed action, and affidavits and other documentary evidence in support of the answer, within such time as would be reasonable, but not less than 7 days.

SECTION 19.6 STATUS DURING NOTICE PERIOD: An employee will remain in an active duty status during the notice period provided he/she reports for duty to his/her assigned post of duty or requests leave in accordance with standard procedures. When the circumstances require that the employee be kept away from the worksite, the agency may place him or her in a non-duty status with pay for such time as is necessary to effect the action. Management has the option to detail an employee during the notice period which must be in compliance with the detail article.

SECTION 19.7 ALTERNATIVE DISCIPLINE: Alternative discipline is an alternative to traditional penalties for employee misconduct. It is a form of alternative dispute resolution that can be used to effectively resolve, reduce or even eliminate workplace disruption that arises from circumstances where disciplinary action is appropriate. The traditional penalties which alternative discipline generally replace are suspensions and removals. Last chance agreements are a form of alternative discipline. The parties agree alternative discipline may be appropriate in some cases. Either party may suggest utilization of alternative discipline; however, use of alternative discipline is not mandatory. Alternative discipline may be initiated instead of traditional discipline at any stage of the traditional process.

ARTICLE 19 – continued

A. Alternative Discipline Agreements contain terms and conditions agreed to by the employee and Management which are in lieu of traditional discipline. If the employee fails to satisfy the terms and conditions of the agreement, a notice of violation will be issued to the employee and will inform the employee the agreement has been breached and the traditional penalty specified in the agreement will be effected immediately.
B. Settlement Agreement is an agreement between the employee and Management that brings closure to a dispute over a pending or completed disciplinary, performance-based or adverse action. Settlement Agreements typically involve compromises aimed at resolving the situation without further resort to litigation before the Merit Systems Protection Board, the Equal Employment Opportunity Commission, arbitrators, or the courts.
C. Alternative Discipline Agreements and Settlement Agreements require the following:
    1. The agreement will be presented to the Union for review and negotiation to specific terms.
    2. The Union will have the opportunity to be present at meetings concerning the agreement.
    3. If all parties agree to the terms, the agreement will be signed by the employee, Union representative, supervisor, Human Resources representative.
    4. Will be comprehensive, freely made, and fair;
    5. Will be specific to the misconduct the employee is charged with;
    6. Will require the employee to waive all grievance, appeal and/or EEO complaint rights with respect to the particular action.
    7. Cannot modify the terms of this collective bargaining agreement.

SECTION 19.8 DIRECTED REASSIGNMENTS: Management has the authority to direct an employee's reassignment to a different position, including one outside the commuting area. If a reassignment is directed as a disciplinary measure, this must be specifically stated in the written notice to the employee and the employee must be advised they have the right to utilize the negotiated grievance procedures to contest the action.

ARTICLE 20 - TRAINING AND CAREER DEVELOPMENT

SECTION 20.1: The employer and Union agree that training and development of employees in the bargaining unit by this agreement are matters of importance and concerns. Consistent with needs and budget and travel limitations, the employer will conduct a training and development program in accordance with applicable laws and regulations such as CFR 410. It is recognized that this training policy may encompass the goals of upward mobility and career development.

SECTION 20.2: The employer will identify training needs of bargaining unit employees and will, to the maximum extent possible and within budget limitations, provide training designed to assure continued efficiency of employees in the performance of their officially assigned duties and for their career development needs. To assist in the identification of these training needs, supervisors and employees are encouraged to discuss training requirements at the time of the employee's final appraisal. However, employees may request training at any time.

SECTION 20.3: The employer agrees that it will not make its training nominations or selection determinations for bargaining unit employees on any non-merit factors. Rather, nominations will be made based on the need of the employer and subject to the availability of funds.

SECTION 20.4: It shall be a matter of interest and concern for the employer and the Union that appropriate training courses, seminars, conferences and meetings be scheduled whenever possible during work hours to allow the employees the opportunity to gain information, education and training. All feasible efforts will be made to reschedule tours of duty or work schedules to allow employees who are directed to attend training to do so.

SECTION 20.5: Supervisors will insure that Employees record all training of one (1) hour or more on ARMS (Administrative Resource Management System), regardless of whether or not there are costs associated with the training.

SECTION 20.6: The employer agrees to extend every reasonable consideration to the reimbursement of expenses incurred by an employee in attendance at approved work-related courses on his/her own time. An employee desiring to enroll in a non-Government facility shall submit a memorandum of request, via the supervisor prior to registration. Partial or full reimbursement, if approved, shall be in accordance with existing policies and regulations.

SECTION 20.7: When employees request training and funds are not available for training, the employee may be allowed official time for appropriately approved training; when the employee elects to bear the associated training costs.

SECTION 20.8: If an employee is required to train a new employee, the supervisor may provide additional help in the position to compensate for the time spent training the employee, if required. If the employee's work falls behind due to training another employee, management may provide help, if available, to bring the work up-to-date. (No employee will be disciplined, have their performance appraisal, within-grade increase, etc., negatively affected for training a new employee).

ARTICLE 20 - continued

SECTION 20.9 USE OF EQUIPMENT: The employer agrees to make academic aids, available on the premises, such as desk calculators, computers, etc., available to employees enrolled in approved training courses, at mutually agreeable times during the employee's non-duty hours.

SECTION 20.10: For employees who are required to obtain continuing education in order to maintain their state board certification, management will make a reasonable effort to approve requests.

SECTION 20.11: The local union shall be allowed membership on all training committees established at the facility level which develop training plans covering bargaining unit employees and/or consider requests for unit employee training.

SECTION 20.12: Consistent with budget and staffing restrictions, management agrees to make every effort to provide training to any unit employee whose position is adversely affected by reorganization or changes in the mission, budget or technology, in order to assist in the placement of the employee in existing or projected vacancies.

SECTION 20.13: The employer agrees to provide training to all employees on Sexual Harassment.

SECTION 20.14: Management will make reasonable efforts to provide and/or make available appropriate stress management training for unit employees. Participation is such training will be excuse with no charge to leave if otherwise in a duty status.

ARTICLE 21 – WORK SCHEDULES

SECTION 21.1: INTRODUCTION: There is a wide range of work schedule options available (standard-fixed, compressed-fixed, and several flexible schedules), any of which may be applied to either full- or part-time tours. Work schedule assignments will be based on the nature of the assigned work. Work schedules must be approved in advance to assure work objectives are met and to give employees a reasonable advanced notice.

A. Work schedules must be administered fairly and equitably to all employee and in accordance with applicable regulations.
B. No intimidation, coercion, or threats may be placed on employees by Management, the Union, or other employees regarding work schedules.
C. The Parties recognize the benefits to employee and the agency of allowing employees to use alternative work schedules (AWS's). The parties will make every effort to accommodate agency and employee needs when assigning employees to work schedules.

SECTION 21.2: STANDARD WORK SCHEDULES:

A. Definitions:
    1. Regularly scheduled administrative workweek, for a full-time employee, means the period within an administrative workweek, established in accordance with 5 CFR 610.111, within which the employee is regularly scheduled to work including any regularly scheduled overtime hours. For a part-time employee, it means the officially prescribed days and hours within an administrative workweek during which the employee is regularly scheduled to work.
    2. Tour of duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.
B. A standard work schedule consists of 5 consecutive 8-hour workdays, normally Monday through Friday, in which the employee has a set arrival and departure time. Days off will normally be 2 consecutive days.
C. Unless otherwise ordered or approved, employees regularly scheduled administrative workweek will fall between the hours of 6 a.m. and 6 p.m., on 5 consecutive days in each week of the pay period. Exceptions based on requirements of the nature of the work may be negotiated by the Local parties.
D. Management will provide notice in writing to the employee of changes in an employee's tour of duty, Regularly Scheduled Administrative Workweek (RSAW), and/or on-call schedule. Notice will be provided at least 10 days in advance except for emergencies which would result in undue hardship in mission accomplishment and/or substantial additional cost. Management will give consideration to an employee's personal needs when changing tours, RSAW, and/or on-call periods.
E. An employee who needs to work a different tour of duty, RSAW, and/or scheduled on-call period will make a written request to their supervisor indicating the reason for their request. The employee and supervisor will discuss both employee and agency needs related to the request. If consistent with the needs of the job, the employee may be assigned to the tour of duty. Management will provide their decision in writing. If the request is denied, the decision will state the reason for the denial.

ARTICLE 21 – continued

F. An employee may have union representation, if requested, during discussion with Management about changes in their tour of duty or RSAW.

SECTION 21.3 FLEXIBLE WORK SCHEDULES:

A. The Parties agree that flexible work schedules (FWS's) will be used servicewide according to the following guidelines and approved schedules, for the purpose of improved productivity and greater service to the public, according to Title 5, United States Code, Sections 6120-6133 (5 U.S.C. 6120-6133).

B. Definitions:

1. Flexible Work Schedules: Flexible work schedules are schedules for which an employee may vary the length of their workday and/or workweek. Employees on flexible work schedules may earn and use credit hours. The Billings Area will use the following flexible work schedules:
   a. Variable Day: Variable day schedule is a type of flexible work schedule containing core hours on each workday in the week and in which a full-time employee has a basic work requirement of 40 hours in each week of the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday within the week within the limits established for the organization. For a part-time employee, the basic work requirement is the number of hours the employee must work in a week.
   b. Variable Week: Variable week schedule is a type of flexible work schedule containing core hours on each workday in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization. For a part-time employee, the basic work requirement is the number of hours the employee must work in a pay period.
   c. Maxiflex: Maxiflex schedule is a type of flexible schedule in which the employee may vary the number of hours per day and the number of days per week, accounting for at least 80 hours per pay period, including core hours. There are core hours on fewer than 10 workdays per pay period. For a part-time employee, the basic work requirement is the number of hours the employee must work in a pay period.
   d. Gliding: Gliding schedule is a type of flexible work schedule in which a full-time employee has a basic work requirement of 8 hours in each day and 40 hours in each week. Employees may select a starting and stopping time each day within the established flexible hours.
2. Basic work requirement means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise. Employees who work flexible work schedules have a basic work requirement in lieu of a RSAW. All work performed by an employee within the basic work requirement is considered regularly scheduled work for premium pay and hours of duty purposes (5 CFR 610.111(d)).

ARTICLE 21 – continued

3. Tour of duty under a flexible work schedule means the limits within which an employee must complete their basic work requirement.
4. Core hours: The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required by the Billings Area to be present for work or otherwise account for their time.
5. Credit hours are those hours within a flexible work schedule that an employee elects to work in excess of their basic work requirement so as to vary the length of a workweek or workday.
6. Administrative workweek: The administrative workweek is a period of 7 consecutive days beginning on Sunday.

C. Tour of Duty:
1. For employees on a Maxiflex schedule, the default tour of duty will fall between 5 a.m. and 10 p.m. on Sunday through Saturday.
2. For employees on Variable Day, Variable Week, and Gliding schedules, the default tour of duty will fall between 5 a.m. and 10 p.m. on 5 consecutive days in each week of the pay period.
3. Changes to the 5 a.m. to 10 p.m. time band (tour of duty) for a flexible schedule may be negotiated at the Local level to address work requirements of the work unit (for example, shift work at hospitals).

D. Core Hours:
1. The default core hours for employees on Maxiflex schedules will be the 3 middle days of the employee's tour of duty from 9 a.m. to 11 a.m. and 1 p.m. and 3 p.m., excluding a meal break.
2. The default core hours for employee on Variable Day and Variable Week schedules will be 9-11 a.m. and 1-3 p.m. on each day of the tour of duty, excluding a meal break.
3. Employees may request and supervisors may grant deviations from core hours on a case-by-case basis.
4. Changes to the specific clock hours designated as core hours and which days of the week are core days for the work unit may be negotiated by the parties at the Local level.
5. Existing subordinate agreements for core hours will remain in effect unless changed in accordance with Article 11.

E. Credit hours:
1. Earning of Credit hours
   a. Credit hours are earned at the election of the employee. No coercion may be placed on any employee for the purpose of interfering with that employee's right under a FWS to elect a time of arrival or departure and to work or not work credit hours (5 USC 6132). Employees must inform their supervisors in advance of their intent to earn credit hours, including the work they plan to perform and approximate time unless mitigating circumstances prevail; however, supervisors have the right to deny the earning of credit hours if there is no assigned work that may be performed during that time. Employees and supervisors may mutually agree on alternate arrangements for providing notice regarding the earning of credit hours on a continuing basis.

ARTICLE 21 – continued

b. Employees have the option of recording credit hours earned daily or after 80 hours.
c. Credit hours may not be earned while an employee is in training. The earning of credit hours for travel will be in accordance with existing law and regulation.
d. Employees cannot be forced to earn credit hours.

2. Use of Credit Hours:
   a. The use of credit hours must be scheduled and approved in advance like any other absence from work. The employee will be released from work unless there are work-related reasons. Normally, ordinary workload will not preclude this release. Release procedures are subject to local negotiations.
   b. Credit hours may be earned and used within the same biweekly pay period.
   c. Credit hours may be used during core hours.
   d. Employees cannot be forced to use credit hours.
   e. A maximum of 24 hours may be used as a credit hour carry-over from one pay period to another with flexible work schedules. Employees on part-time tours may carry over credit hours on a prorated basis on one-fourth of their part-time tour hours.

SECTION 21.4: OVERTIME AND PREMIUM PAY UNDER FLEXIBLE WORK SCHEDULES:

A. Those hours an employee is directed by management to work in excess of 8 hours per day or 40 hours per week are overtime hours.
B. Night pay and night differential premium pay for night work is handled pursuant to 5 USC 6123(c).
C. Management may restrict an employee on a FWS from electing to perform work as part of their basic work requirement on a Sunday in order to avoid the increased operational costs associated with Sunday premium pay; however, such an employee may elect to earn credit hours on a Sunday.

SECTION 21.5 COMPRESSED WORK SCHEDULES:

A. The Parties agree that compressed work schedules (CWS's) will be used servicewide according to the following guidelines and approved schedules, for the purpose of improved productivity and greater service to the public, according to Title 5, United States Code, Sections 6120-6133 (5 USC 6120-6133).
B. Definitions:
   1. Compressed work schedules are fixed schedules in which employees complete their basic work requirements in less than 10 days during a pay period. Compressed schedules are fixed schedules, and employees may not vary the time of arrival or departure. Credit hours are not earned or used on a compressed schedule.
   2. Tour of Duty means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that an employee is required to work.
C. Employees' scheduled hours of work will fall between the hours of 6 a.m. and 6 p.m. on consecutive days in each week of the pay period, unless negotiated otherwise by the Local parties.

ARTICLE 21 – continued

D. Approved compressed schedules:
   1. 4-10: The employee works four 10-hour days per week. Employee schedules day off with supervisor. Credit hours are not earned.
   2. 5-4/9: The employee works with 9-hour days with on 8-hour day. Employee schedules short day and day off with supervisor. Credit hours are not earned.

E. Specific hours scheduled and days off are a matter of joint discussions, including provisions for required coverage, between the respective supervisor and employee. Employees approved to use 5-4/9 or 4-10 will select, with supervisor approval, their "off" day and/or their "short" day. At the request of the employee, the supervisor may approve a change in the scheduled "off" day during a pay period subject to work demands.

F. Employees for whom a compressed work schedule would impose a personal hardship shall be excluded from the schedule or reassigned (5 USC 6127 (b)). Upon receipt of a written request for personal hardship relief, Management will consider it based on, but not limited to, the following:
   1. Health problems, including care for a family member as defined at 5 CFR 630.201;
   2. Child or elder care problems; or
   3. Other personal hardships that would impact the employee.

   A written determination shall be transmitted to the employee not later than 10 days after receipt of their request, unless mitigating circumstances prevail. Denials provided to the employee shall include the rationale for the decision. The Local Union will be notified that a request was made and whether it was granted or denied.

SECTION 21.6 FIRST 40-HOUR TOUR: The first 40-hour tour of duty will used only when extenuating circumstances preclude a regular schedule of definite hours of duty for each workday of a RSAW in accordance with Title 5, Code of Federal Regulations, Section 610.111(b). First 40 –hours tours will not be used to circumvent overtime pay or compressed work schedules.

SECTION 21.7 ADMINISTRATION OF WORK SCHEDULES:

A. An employee's tour of duty will be recorded in the header of the Paycheck record.
B. The default schedule is the standard work schedule.
C. An employee may not be assigned to an FWS unless the employee requests an FWS.
D. Management may assign an employee to a CWS based upon any of the criteria in paragraph F, below
E. FWS's and CWS's are both considered alternative work schedules (AWS's). All employees may apply for any AWS described in this article.
F. In reviewing an employee's request for an AWS, Management may deny the request based upon any of the following criteria:
   1. Productivity.
   2. Level of direct or indirect services furnished to customers.
   3. Cost of operations, other than reasonable administrative costs.

   Denials shall be in writing, transmitted to the employee and Local Union within 10 days, and

ARTICLE 21 – continued

include the rationale for the decision. The employee or the Union has the right to grieve the decision in accordance with Article 8.

G. Discontinuation of an employee's AWS:
   1. Management may discontinue the AWS for an employee when they have identified an adverse impact to the agency based upon any of the criteria in paragraph F, above, Written notice shall be transmitted to the employee and the Local Union 10 days in advance and will include the rationale for the decision.
   2. Management will remove an employee from an FWS within 10 days upon the employee's request.
   3. Management will not discontinue or shift the type of AWS for the purpose of avoiding overtime or other premium or extra compensation.
   4. Any employee removed from an AWS will be assigned to a standard work schedule.
   5. Management will pay an employee reassigned from a FWS to a fixed schedule for all accumulated credit hours, not to exceed 24 hours, at the employee's regular rate of pay (5USC 6126(b)) within three pay periods.

H. Special situations:
   1. Management may make short-term changes, of no more than one pay period, in work days and/or arrival and departure times that are necessary to accomplish the work objectives of the unit. The changes must be administered fairly and equitably in the work unit affected. The Union will be notified of the changes in advance when possible. Regular and recurring schedule changes should be achieved by assignment to a different work schedule or by negotiations to change FWS tour of duty and/or core hours.
   2. Employees attending training that exceeds 2 days shall be temporarily placed on a schedule consisting of five 8-hours days. Employees are guaranteed 8 hours on each training day.
   3. Supervisors of field employees working flexible work schedules may limit work to 8 hours on a given day if weather or work conditions warrant, provided they can fulfill their basic work requirement associated with the employee's FWS to accomplish a full pay period.

SECTION 21.8 REST BREAKS: Each employee is authorized one (1) fifteen (15) minute rest break within each four (4) hour work period, including overtime. Where possible, employees shall be allowed to take the rest break away from the immediate worksite. It is agreed that the rest periods may not be continuations of the meal break and they may not be granted immediately after the beginning of the work shift or immediately prior to the end of the work shift, nor may rest breaks be accumulated. It is recognized by both parties that rest breaks occur during DUTY TIME and are a privilege afforded to the employee. Although there may be rare occasions when the employee may not be able to exercise this privilege, it will not be arbitrarily withheld by the supervisor.

SECTION 21.9 MEAL BREAKS:

A. Employees will take a meal break as close to the midway point of their shift as practicable. However, it is understood that in an emergency, an employee's meal break may be postponed

ARTICLE 21 – continued

or canceled. It is recognized by both parties that meal breaks occur during NON-DUTY TIME. If an employee is directed to continue working through their meal break, the supervisor must insure one of the following occurs:

1. The meal break is taken as soon as possible during the tour; however, the meal break will not be taken immediately preceding the end of the employee's tour; OR
2. If the meal break cannot be taken, the employee must be compensated through overtime or compensatory time equal to the amount of time worked during the meal break

B. In certain situations, including a meal break in the employee's tour may not be possible e.g., only employee that possess specialized skills that have direct patient care duties. In those rare cases, no meal break will be included in the employee's tour and the employee will be appropriately compensated in accordance with law, rule, and regulation for all hours worked. In the majority of cases, a meal break will be included in the employee's tour.

SECTION 21.10: The details of additional tour of duty policies are subject to local supplemental negotiations.

ARTICLE 22 - OVERTIME

SECTION 22.1: Overtime is hours of work that exceed the tour/schedule established for the employee.

A. Overtime for employees on a regular tour is work than is more than 8 hours in a day or more than 40 hours in a week.
B. Overtime for employees on an alternate work schedule is work that exceeds their scheduled tour or more than 80 hours in a pay period. Example: The tour/schedule for the day is 10 hours and the employee works 12 hours then the employee is entitled to overtime payment for the 2 hours that exceed the scheduled tour.

SECTION 22.2 OVERTIME ASSIGNMENTS: When overtime, including call-back overtime, is required, employees will not be required to perform duties that are higher graded than their regularly assigned duties. If there is a need to assign employees to higher graded duties on overtime, the provisions of Article 16, Section 16.3 (temporary promotion) must be adhered to. Care will be taken to ensure that employees in the same job classification performing the work during the normal duty hours receive the opportunity for such work on the basis of equitable distribution. In no case will overtime work be assigned to any employee as a reward or punishment.

SECTION 22.3 COMPENSATION: An employee directed or authorized to work overtime will be compensated to the extent permitted by law.

A. Employees directed or authorized to work overtime shall be compensated for any partial hour worked in increments of fifteen (15) minutes.
B. FLSA exempt employees may request compensatory time in lieu of overtime pay. FLSA non-exempt employees must be paid overtime unless they request compensatory time, in writing, in advance of working. An FLSA non-exempt employee may not be forced to work compensatory time in lieu of overtime.
C. An employee who is called back and performs duty will receive a minimum of two (2) hours of compensation for each instance of call-back overtime.
D. Employees will not be routinely scheduled to work overtime that cannot be compensated because it exceeds the pay cap established by law, if other appropriate scheduling can be accomplished.

SECTION 22.4 CALL BACK OVERTIME WORK: Irregular or occasional overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed to be at least 2 hours in duration for the purpose of premium pay, either in money or compensatory time.

The Employer recognizes that call-back work potentially has a negative impact on the employee's off-duty time and agrees that call-back work will be limited to those emergency or urgent situations that cannot be postponed.

A. Employees may be placed on a call-back to work status.
B. An employee is off-duty, and time spent in an on-call status is not hours of work if:

ARTICLE 22 – continued

1. The employee is allowed to leave a telephone number or carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius (See Section 22.8); or
2. The employee is allowed to make arrangements for another person to perform any work that may arise during the on-call period.

Call-Back Lists/Schedules:

A. A list of employees on call-back will be posted well in advance. The list will be provided to all affected employees upon posting.
B. The call-back list will first identify volunteers willing to respond and after the volunteers are called in rotating order, the remaining listed employees will be called on a rotating basis. If the employee called cannot be reached, the next name on the call-back list will be contacted.
C. The Employer must notify the employee prior to being placed on each call-back list whether the employee will be held accountable for not responding. When an employee is held accountable for responding they will be considered on duty and time spent on Standby.
D. The Employer may at anytime declare an emergency and call-back employees. Employees will be responsible for responding as soon as possible. All such emergency situations will be documented and provided to the Union.

SECTION 22.5 STANDBY: An employee will be considered on duty and time spent on Standby Duty will be considered hours of work if:

A. For work-related reasons, the employee is restricted by official order to a designated post of duty or location; and
B. Is assigned to be in a state of readiness to perform work; and
C. Has their activities substantially limited.
    1. An employee will be provided a written notification on the specific restricted activities to ensure that the employee will be able to perform his or her duties and responsibilities. Restrictions on alcohol consumption or use of certain medications will be detailed in the notification.
    2. An employee is not considered restricted for “work related reasons” if, for example, the employee remains at the post of duty voluntarily, or if the restriction is a natural result of geographic isolation or the fact that the employee resides on the agency’s premises.
    3. If the employee does not volunteer and is restricted to agency facilities or worksite, or so close that the employee cannot use the time effectively for their own purpose they shall be in Standby. Simply being in government owned living quarters would not be a basis for being restricted for work related reasons.

SECTION 22.6: Records showing the overtime distribution shall be maintained, and all employees within each organizational segment and at the appropriate grade and series, shall have an equal opportunity to share in the overtime, unless an employee indicates unwillingness to perform overtime duties. In the event an employee does not desire to work overtime, the employer shall make every effort to accommodate the employee's request to be excused from overtime work provided that another qualified employee is available for the overtime.

ARTICLE 22 – continued

SECTION 22.7 RELIGIOUS COMP TIME: It is Departmental policy to make every reasonable effort to accommodate employee's request for compensatory time off for religious observance when personal religious beliefs require employees to abstain from work during periods of the workday or workweek. Employees must request such compensatory time in writing. Should an employee not use earned religious compensatory time at the originally scheduled time, the time will be preserved for future religious compensatory time utilization or be paid to the employee in a lump sum should they separate from the Department.

SECTION 22.8: Details of overtime (beepers, cell phones, response time for call-back overtime, etc.) are subject to local negotiations and this agreement.

ARTICLE 23 - HOLIDAYS

SECTION 23.1: This applies to holiday leave requests for bargaining unit employees who will prioritize their holiday leave scheduling in accordance with the Article on Hours of Work and Tours of Duty. Employee choices are to be granted to the extent feasible. Where conflicts arise, employees will be given the opportunity to work it out between them. If no decision can be reached among employees, the decision will be made by the immediate supervisor in a fair and equitable manner. The deciding factors will include who had the holiday off last year and who had the most choices granted previously. However, all requests are subject to the needs and approval of the employer.

SECTION 23.2: For employees with Monday through Friday workweek if a holiday falls on Saturday, the preceding Friday is a day off for holiday purposes. If the holiday falls on a Sunday then the following Monday is the day off for holiday purposes. For an employee whose tour of duty is other than Monday through Friday and the holiday falls on the employees first scheduled day off the previous day is the day off for holiday purposes. For example: If an employee's normal days off are Wednesday and Thursday and the holiday falls on Thursday, then Friday would be the day off for holiday purposes. Employees who are not given the day off, but are required to work the holiday, will be compensated.

SECTION 23.3: The employer will consider any day designated by Federal Law or Executive Order as a legal holiday.

ARTICLE 24 – LEAVE AND ATTENDANCE

SECTION 24.1 MANAGEMENT RESPONSIBILITIES:

A. All leave will be administered on a fair, consistent, and equitable basis in accordance with law, rules and regulations (5 CFR 630). Approval/disapproval of leave must be based on sound, factual information present in each situation and leave will not be denied solely on the basis of the employee's leave balance. The parties agree that routine attendance is required for successfully meeting the Mission of the IHS. In addition, planning and approving absences is an integral responsibility for both employees and supervisors.

B. Each Leave Approving Official (LAO) will establish and communicate to each employee, in writing, procedures for requesting and approving leave within 90 days of the effective date of this contract. LAO's will respond in a timely manner that will permit the employee sufficient time to plan accordingly. If the LAO fails to respond in a timely manner, the employee should seek approval from the employee's next higher level management official in the employee's chain of command. The procedures will, at a minimum provide:
   1. The names and alternates for LAO's in each work unit;
   2. How the employee is to submit leave requests to the LAO (i.e., e-mail, voicemail, in person, etc.);
   3. How the employee will be informed of the LAO's decision.

   LAO's will use the template at Appendix E for establishing procedures for requesting leave. A copy of the LAO's leave procedures will be provided to the Union. Any proposed changes to established policies are subject to negotiations.

SECTION 24.2 EMPLOYEE RESPONSIBILITIES: Employees are responsible for requesting leave in accordance with the supervisor's established procedures.

SECTION 24.3 GENERAL:

A. Employees earn leave in accordance with applicable statutes.

B. The supervisor will utilize the automated timekeeping system to record approval/disapproval of the request. The employee and supervisor are responsible for insuring all leave used by the employee is recorded in the automated timekeeping system before the timecard is approved.

C. Leave will be charged in increments of fifteen (15) minutes.

SECTION 24.4: Authorities for Approval:

A. Supervisors have been delegated the authority approve/charge the following for employees under their supervision:
   - Accrued annual and sick leave;
   - Leave without pay (LWOP) up to 40 hours in a calendar year;
   - Charge absence without official leave (AWOL)
   - Excuse absences without charge to leave for occasional, unavoidable absences of less than one (1) hour
   - Grant other types of paid leave authorized by law or regulation (e.g., military leave, court leave, etc.).

B. Chief Executive Officers have been delegated the authority to grant LWOP not to exceed 12 weeks for employees at their respective service units.

ARTICLE 24 - continued

C. The Associate Area Director, Office of Administrative Support has been delegated the authority to grant/approve the following for all employees in the Billings Area:
   - Advance sick/annual leave
   - LWOP for more than 12 weeks
   - Donated Annual Leave

D. The Area Director retains the authority to excuse absences that exceed one (1) hour.

SECTION 24.5: In accordance with appropriate authority set forth above, the following guides will constitute general leave policies to be adhered to within the bargaining unit.

SECTION 24.6: The employer and employee will tentatively schedule vacation time for the year in order to allow the employee rest and recreation from the worksite.

SECTION 24.7: Following are the various types of leave which may be available to an employee, consistent with applicable rule and regulation. The employer agrees to ensure that employees are appropriately advised of leave which may be available for use depending upon their individual circumstances.

A. ABSENCE WITHOUT OFFICIAL LEAVE (AWOL) is an unapproved absence in a non-pay status. This is NOT requested by the employee. The supervisor should consult with their local Administrative Officer or the Employee Relations Officer when they place an employee in an AWOL status.

B. *ADVANCE ANNUAL LEAVE may be granted to an employee when they do not have accrued annual leave available. Advance annual leave is granted only in extreme circumstances and is not intended for routine absences. The advance amount cannot exceed the amount of annual leave that the employee will earn through the end of the leave year or the end of their appointment if they are temporary.

C. *ADVANCE SICK LEAVE can be granted to an employee for the reasons described in 5 USC 6307. The advance amount cannot exceed 240 hours.

D. ANNUAL LEAVE can be used for any reason.

E. CONTINUATION OF PAY (COP) may be granted to an employee for up to 45 calendar days if they were injured on-the-job and they must be absent from work as a result of the injury. COP cannot be used for occupational diseases. The day of the injury is charged to excused absence and subsequent absences are charged to COP.

F. COURT LEAVE is an excused absence for certain attendance at court in an official capacity with a State, municipal, Federal, or District of Columbia Court, certain attendance in an unofficial capacity as a witness on behalf of a State or local government, legitimate preparation time in preparing that testimony the witness is required to present, or to serve as a member of a jury.

G. *DONATED ANNUAL LEAVE is appropriate when an employee or a family member of an employee is affected by a medical emergency. A medical emergency is defined as "a medical condition that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability

ARTICLE 24 – continued

of paid leave." This definition specifically does not include maternity leave for a normal pregnancy, normal postnatal care, or death/funerals. Donated Leave is also not appropriate for use when the employee is pursuing an application for disability retirement.

H .EDUCATIONAL LEAVE (LWOP) is when an employee requests leave to attend an educational institution to pursue a post-secondary degree/certification program. The supervisor will assist employees to fullest extend possible in accommodating the request in accordance with applicable law and regulation.

I. EXCUSED ABSENCE (Administrative Leave) is when the employee is excused from duty without charge to any other type of leave. Supervisors may grant up to one (1) hour of excused absence. Longer absences must be approved by the Area Director unless it is to accommodate for a permanent change of station. IHS policy allows for up to 80 hours of excused leave to be used either at the losing station, the gaining station, or a combination of the two.

J. *FAMILY AND MEDICAL LEAVE provides for an entitlement to a total of 12 workweeks of unpaid leave (LWOP) during any 12-month period for any of the following:

1. The birth of a son or daughter of the employee and the care of such son or daughter;
2. The placement of a son or daughter with the employee for adoption or foster care;
3. The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition;
4. A serious health condition of the employee that makes the employee unable to perform the essential functions of his/her position.

K. FUNERAL LEAVE is an excused absence for up to three (3) work days to make arrangements for or to attend the funeral, or memorial service for, an immediate relative who died as a result of wounds, disease, or injury incurred as a member of the Armed Forces in a combat zone.

L *LEAVE WITHOUT PAY (LWOP) is an approved absence in a non-pay status which must be requested by the employee. LWOP is generally used when an employee must be absent and does not have accrued leave available for their use. LWOP generally is not granted when an employee has paid leave available.

M. MATERNITY/PATERNITY LEAVE is a combination of annual leave, sick leave, and/or leave without pay.

N. MILITARY LEAVE may be appropriate for employees with full-time permanent or term appointments who are members of the National Guard or Reserve components of the Armed Forces. All requests for military leave must include a copy of the applicable military orders.

O.. OFFICE CLOSINGS (excused absence). All employees at all times are to presume, unless otherwise notified, that their office will be open each regular workday regardless of any weather or other emergency conditions which may develop. Employees are expected to be prepared to cope with difficult driving conditions and disruptions of public transportation facilities. When the employer decides it is necessary to close the workplace for a full day, due to inclement weather or other conditions, employees not required to work at their assigned worksite or at another location will be granted excused absence in accordance with

ARTICLE 24 – continued

applicable laws, rules and regulations. When Employees request leave, because of conditions discussed above and early dismissals or office closing have not been authorized, the supervisor, consistent with the needs of the employer, will apply a liberal leave policy.

P. RELIGIOUS COMPENSATORY TIME is a special category of compensatory time that is appropriate for use when the employee's sincerely held religious beliefs require him/her to abstain from working. Religious compensatory time, if approved by the supervisor, can be earned either before or after the actual absence.

Q. SICK LEAVE can be used for any of the following reasons:

1. Receives medical, dental, or optical examination or treatment;
2. Is incapacitated for the performance of duties by sickness, injury, or pregnancy, or child birth;
3. Provides care for a family member as a result of physical or mental illness; injury; pregnancy; childbirth; or medical, dental or optical examination or treatment;
4. Provides care for a family member with a serious health condition;
5. Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;
6. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his/her presence on the job because of exposure to a communicable disease;
7. Must be absent from duty for purposes relating the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
8. Employees with medical problems may use sick leave for treatment by traditional tribal methods.

NOTE: The amount of sick leave granted under items 3 and 5 may not exceed 104 hours in a leave year, subject to restrictions contained in 5 CFR 630.401. The amount of sick leave granted under item 4 may not exceed a total of 480 hours in a leave year (or, in the case of a part-time employee, an amount of sick leave equal to 12 times the average amount of hours in his/her scheduled tour of duty each week) subject to restrictions contained in 5 CFR 630.401.

*FINAL APPROVAL MUST BE OBTAINED FROM THE AAD/OAS, THROUGH THE AREA HUMAN RESOURCES OFFICE FOR ADVANCE LEAVE, DONATED LEAVE, AND LEAVE WITHOUT PAY.

SECTION 24.8: The employer recognizes that its service is mainly to Indian people. Accordingly, the employer will, to the extent possible, adopt a liberal leave policy for employees to observe Native American Day, local cultural events, etc.

SECTION 24.19 LEAVE RESTRICTION: When conditions arise such as those reflected below and the employee has not provided valid reasons for the excessive use of sick or annual leave, then the supervisor will consider imposing a leave restriction. Some of the indications of leave abuse are excessive tardiness, failure to request leave in advance and having no truly

ARTICLE 24 – continued

unanticipated or emergency situations, repeated instances of AWOL, repeated unplanned absences on Mondays and Fridays as well as before or after holidays, etc. When such conditions occur, the leave approving official will contact the Administrative Officer for procedures, guidance and assistance. Should it be determined that a referral to the EAP is appropriate, such a referral by the supervisor will be made after contact with the Administrative Officer and will not cancel the requirement that the employee be placed on a leave restriction. In the instance leave restriction is imposed, those restrictions will be reviewed at least every six (6) months.

SECTION 24.10: The details of additional local leave policies are subject to local supplemental negotiations.

SECTION 24.11 RESTORED ANNUAL LEAVE: Employees should refer to the HHS Timekeeper's Manual for information and instructions regarding restored annual leave.

ARTICLE 25 - PAY

SECTION 25.1: In accordance the Debt Collection Improvement Act of 1996 (P.L. 104-134), all employees are required to receive their salary payments through Direct Deposit (Electronic Fund Transfer). Employees may submit a written request for waiver of P.L. 104-134 to the Associate Area Director, Office of Administrative Support.

SECTION 25.2: Management agrees to provide accurate and timely reports of time and attendance for pay purposes and to assist any employee who does not receive a salary payment by Monday following the scheduled payday.

SECTION 25.3: Management agrees to follow-up with the Area Payroll Liaison or appropriate authorities on lost, stolen, or late salary payments.

SECTION 25.4: Employees will be paid the applicable wage for their position according to the wage scale for their area. This applies to overtime, call-back, standby, night differential, Sunday differential, etc. Employees may request a copy of the wage scale for their area

SECTION 25.5: Management agrees that if the employee is overpaid for whatever reason, the employee will be advised of the waiver for overpayment procedures. The employee will advise the employer anytime they suspect they were overpaid. Terms for any repayment are negotiable within the existing rules, law or regulation. In the event the employee is notified of the overpayment prior to receipt, the employee will normally be expected to repay the overpayment on the applicable payday.

SECTION 25.6: The Parties agree the employee is responsible for accessing myPAY to obtain a copy of their leave and earning statement (LES) each pay period. If the employee has a payroll issue, it is the employee's responsibility to provide a copy of the LES to their timekeeper. The employee has the option of establishing or canceling limited access in myPay for their timekeeper. This allows the timekeeper the ability to review and reconcile the employee's leave balances. It is encouraged that all employee's utilize this option.

ARTICLE 26 HEALTH AND SAFETY

SECTION 26.1: The parties agree safety is of prime consideration in the accomplishment of the Indian Health Service mission and commit themselves to establishing and maintaining safe working conditions. Management is committed to maintaining a safety program that meets the requirements of applicable statutes and government-wide regulations.

SECTION 26.2 SAFETY COMMITTEES:

A. The parties agree to undertake programs to provide for safe working conditions of employees. The employer agrees to utilize available resources to protect the health and safety of the employees and to utilize the Occupational Health and Safety Act and other appropriate employer standards as a guide.
B. The name, location and telephone number of the local safety officer will be posted on all official employer bulletin boards.
C. The Union will designate one (1) representative to serve on safety committees at each facility. The Union may provide information to the committee(s) regarding any health and safety hazards.
D. The Union will attend meetings of this committee scheduled during working hours, and will actively participate in committee functions. Such time will be designated as official time.

SECTION 26.3 ACCESS TO INFORMATION: The Union will be allowed access to any information pertinent to bargaining unit employees' safety that is available at the facility and which is releasable under applicable laws and government-wide regulations.

SECTION 26.4 WORKPLACE INSPECTIONS: The Union will be given the opportunity to accompany any management official, safety officer, health official, OSHA inspector, etc., during a physical inspection of any workplace. Copies of inspection reports will be furnished to the Union upon request.

SECTION 26.5 EMPLOYEE PROTECTION: Employees are encouraged to work safely and required to report any observed unsafe or unhealthy conditions to their immediate supervisor or management official.

A. The employer will provide approved personal protective equipment, safety equipment and other devices as necessary for protection of employees from hazardous conditions during performance of their official duties.
B. The employer will provide workspace, lighting, heating and ventilation in the work area in compliance with appropriate regulations. In extreme conditions, considerations will be given to excusing employees without charge to leave. If a decision is made not to excuse employees, supervisors will exercise a liberal leave policy.
C. In the interest of the safety of employees, when requested, the employer agrees to provide assistance, when available, to employees who are requested to move furnishings such desks, filing cabinets, etc. When such assistance is not immediately available management will normally wait a reasonable time before making the move in order to see if assistance becomes available.

ARTICLE 26 – continued

D. The employer agrees to promptly respond to reports of unsafe or unhealthy working conditions and will require an inspection within 24 hours for employee reports of imminent danger conditions or within 3 workdays for potentially serious safety and health conditions.
E. The term "imminent danger" means any condition or practice in the workplace which could be reasonably expected to cause death or serious physical harm. This includes communicable diseases. In the case of imminent danger, employees will make reports by the most expeditious means available. It is also understood that at any time the management official finds there is an immediate danger the employee will not be obligated to return to the assignment until the imminent danger is removed. Any refusal to perform such assignment after the safety officer's decision or written instruction to return to work might be cause for discipline.
F. All employees are required to use seat belts when traveling in a government owned or leased vehicle. The Employer will strive to keep all vehicles in a high state of safety at all times. Employees are required to report any unsafe condition which may injure employee(s) or public to the appropriate official or immediate attention for repair.

SECTION 26.6 JOB RELATED INJURIES AND OCCUPATIONAL DISEASE:
A. Employees must report any and all job-related injuries and occupational disease to their immediate supervisor. The immediate supervisor will provide a CA-1, Report of Traumatic Injury, or CA-2, Report of Occupational Disease and Claim for Compensation, and other appropriate forms and ensure the employee has the opportunity to report to the facility health unit or his/her personal physician for treatment and to complete the necessary reports, etc.
B. The immediate supervisor will forward the completed forms within the legally specified timeframes to the Administrative Officer.
C. Employees will be provided assistance in preparing necessary forms and documents, and, if appropriate to submit them to the Office of Workers compensation Program (OWCP). Employees will be provided assistance in all phases of claims processing, including follow-up contacts with OWCP on the employees' behalf. When management determines employees are temporarily unable to perform their duties due to injury or occupational disease, but may be capable of returning to or remaining in duty status, management will make a good faith effort to locate a work assignment compatible with the employee's physical condition before sending the employee home. This good faith effort shall include an examination as to whether the employee's regular duties may be temporarily tailored to meet the situation.

SECTION 26.7 VIOLENCE IN THE WORKPLACE: Management has a zero tolerance policy for violence in the workplace. Employees are required to report any incident of violence in the workplace (i.e., employee/employee, patient/employee, employee/visitors) to their immediate supervisor or other management official. Every effort will be made to protect staff, patients and the general public. Appropriate corrective and/or disciplinary action will be taken. Also see Article 32 of this agreement.

SECTION 26.8 EMPLOYEE HEALTH PROGRAM: The Employer agrees to maintain an employee health program in accordance with law, rules, regulations, and within the facility resources.

ARTICLE 26 – continued

SECTION 26.9: The details of additional health and safety policies are subject to local supplemental negotiations.

ARTICLE 27 - OFFICIAL TRAVEL

SECTION 27.1 POLICY: Employees may be required to perform official travel as part of their assigned duties. It is the employer's responsibility to pay for authorized travel expenses. Employees who are required to travel five (5) or more times per year have the option of applying for a government-sponsored travel credit card (travel credit card) for the purpose of paying for official travel costs. All other employees will utilize the travel advance and travel voucher procedures.

SECTION 27.2 TRAVEL CHARGE CARDS: Employees who possess a travel credit card must understand and agree that:

A. The travel charge card may be used ONLY for their own authorized official business expenses associated with temporary duty travel, including cash travel advances at an ATM, and allowable relocation expenses (such as en-route travel and an authorized house-hunting trip) – use of the card for any other purpose is misuse;
B. They are responsible for securing their travel credit card to prevent its unauthorized use by others.
C. Using the card for personal purchases or other non-travel related expenses or ATM withdrawals other than for official travel for which such use is authorized, is misuse.
D. Using the card for local travel expenses is misuse unless a specific exception (listed in section 9-00-10 of the 2005 HHS Travel Manual) applies;
E. Official Reprimands, suspension from duty without pay, and removal from the Federal service are some actions that may be taken for misuse or abuse of the Government-issued travel charge card.
F. They must pay the travel charge card bill on time every month they receive a bill, although they may dispute any charge they believe is inaccurate by following the specified procedures in the Cardholder Agreement with the card issuer;
G. An applicable Federal statute grants HHS the authority to collect undisputed delinquent amounts owed to a contract travel charge card issuer through involuntary salary offset under Public Law 105-264 and 5 USC 5701(d);
H. The travel charge card contractor who issued the card may suspend or cancel the card and may ultimately report the delinquency to credit bureau(s). This may have unfavorable effects on the employee's personal credit rating and reports; and
I. The employee's failure to adhere to the terms of the Traveler's Agreement and the Individual Cardholder Agreement may be considered misconduct and could subject the employee to disciplinary and/or adverse action, up to and including removal from Federal Service.

The travel credit card may be cancelled due to failure to pay the bill in a timely manner and/or for unauthorized use (personal expenses). If the travel credit card is cancelled for either reason, the employee WILL NOT BE ELIGIBLE FOR TRAVEL ADVANCES and will be expected to pay for their travel expenses and submit a travel voucher for reimbursement.

SECTION 27.3 TRAVEL ADVANCES: If the employee is not a travel charge card holder, they may apply for a travel advance if they are required to perform official travel. Requests for

ARTICLE 27 - continued

travel advance must be initiated at least ten (10) work days in advance of the start of the travel. Travel advances are limited to 60% of the estimated travel expenses, excluding airfare. However, if the employee establishes that this limit would cause a financial hardship, the percentage may be raised to 80%. Travel advances are paid through electronic fund transfer (EFT) directly to the employee's checking or savings account. It is the employee's responsibility to provide the EFT routing number for their bank and their account number in order for the travel advance to be processed.

SECTION 27.4 TRAVEL REIMBURSEMENTS: The employer agrees that processing of travel vouchers will be considered a high priority and will be processed accordingly.

A. The employee is responsible for submitting their travel voucher within five (5) work days after completion of the trip, unless circumstances as approved by their supervisor requires later submittal.
B. Travel vouchers will be processed within thirty (30) calendar days of submission. Reimbursement will be paid through electronic fund transfer (EFT) directly to the employee's checking or savings account. It is the employee's responsibility to provide the EFT routing number for their bank and their account number in order for the travel reimbursement to be paid.
C. If there is a delay in receipt of reimbursement, it is the employee's responsibility to work with their local travel coordinator. The local travel coordinator will work with the Area Finance Office to determine the cause for the delay and to determine what corrective action is required. If the employee is travel credit card holder, the Area Finance Office will be responsible for contacting the credit card company to advise them of the delayed reimbursement and will advise the credit card company of an approximate date when reimbursement should be received by the employee.

ARTICLE 28 - REDUCTION-IN-FORCE/TRANSFER OF FUNCTION/ IPA ASSIGNMENTS/CONTRACTING OUT

SECTION 28.1 GENERAL: The parties jointly recognize the desirability of maintaining the stability of employment for employees. It is further recognized that occasions may arise when Reduction-in-Force (RIF), Transfer of Function (TOF), Intergovernmental Personnel Agreements (IPA'S) and Contracting Out (CO) may be necessary. The primary reason for such actions will normally be as the result of a Tribe contracting with the Indian Health Service to take over a function or entire organization under Indian Self-Determination regulations. When a RIF, TOF, and/or IPA is necessary and it will affect employees, Office of Personnel Management (OPM) Regulations, as set forth in the 5 CFR 351, and DHHS Instruction 351-1, or such superseding instructions and Indian Preference Law, will be complied with.

SECTION 28.2 IMPACT BARGAINING: When it has been determined that a RIF, TOF, CO, and/or IPA is necessary, the employer will notify the Union as far in advance as possible and fulfill its obligation to bargain consistent with 5 USC 71 and this Agreement.

SECTION 28.3 PROCEDURES FOR UNION INVOLVEMENT:

A. When a decision is made to effect a planned RIF, TOF, CO, and/or IPA, and the action will affect employees, prior to notification to employees, the Union will be informed of the decision. Such notification will be in writing and will provide the following information:
    1. The reason for the RIF, TOF, CO, and/or IPA;
    2. The competitive area;
    3. The approximate number of employees who may be affected;
    4. The types of positions anticipated to be affected; and
    5. The anticipated effective date that the action will be taken.
B. The employer will provide specific material related to the action to the Union as soon as is administratively possible. The Union will be bound by the regulatory requirements of the Privacy Act to insure no unauthorized access is provided to those who do not have a valid need to know.
C. The employer will provide the Union with the following information in accordance with the preceding section.
    1. Access to OPM and DHHS Regulations and Instructions concerning the RIF Procedures, Grade and Pay Retention, Veteran's Preference Rights, and Indian Preference Rights, and proposed changes to such regulations;
    2. A copy of RIF Authority;
    3. A final list of identified positions to be abolished;
    4. Final copies of applicable established Retention Registers;
    5. Copies of General Notices; and
    6. Copies of Specific Notices.
D. The employer will continue to keep the Union informed as to the status of the actions being taken.

SECTION 28.4 EMPLOYEE INFORMATION AND ASSISTANCE: The employer will make every effort to preclude or deal with employee fears and anxieties concerning the RIF, TOF,

ARTICLE 28 - continued

and/or IPA by insuring, to the extent possible, every effort is made to protect their employment status; and to provide affected employees with as much information as possible. This will include, but not be limited to:

A. As much advance notice of RIF, TOF, CO, and/or IPA as is administratively possible, but in no case will such notice be less than thirty (30) calendar days prior to the proposed effective date;
B. Counseling concerning the importance of current information in their Official Personnel Folders (OPF's); procedures for conducting RIFs; procedures and as much assistance as possible in converting from the excepted service to competitive service; retirement and individual counseling as may be necessary and/or desired by the employee;
C. Specific Notice of RIF, normally not less than fourteen (14), but in no case less than five (5) calendar days preceding the effective date of the action to be taken. Specific Notices will include the employee's right to grieve, and the appropriate grievance procedures, including applicable time limitations.

SECTION 28.5 TIE BREAKING PROCEDURES TO BE APPLIED: In the event two (2) or more employees affected by the RIF and/or TOF tie for placement on a retention register because all related mandatory ranking criteria are identical, the following items will be used in tie breaking in the following respective order to the extent required to break the tie:

A. Competitive employees who have Indian Preference eligibility will be given preference over excepted employees, who have Indian preference;
B. The employee with the greatest length of service in the Indian Health Service will be given preference over those who have a lesser length of service with the Indian Health Service;
C. The employee with the greatest length of service in the competitive area will be given preference over those who have a lesser length of service in the competitive area.

SECTION 28.6 OUTPLACEMENT PROGRAM: The employer, in the interest of effective and efficient management of the IHS mission, agrees to maintain an Outplacement Program, in conjunction with the Displaced Employee Program and the Re-employment Priority Lists (which afford assistance to competitive status Employees) as outlined in the CFR 330 and 351, and DHHS Regulations and Instructions. The purpose of this program is to help place both competitive career and/or career-conditional employees who have been displaced or are scheduled or are scheduled to be displaced from their positions. Career conditional employees will be provided outplacement services for a period of one (1) year, or until they are placed; and career employees for a period of two (2) years, or until they are placed; whichever comes first. The parameters of the program will be those outlined in the guides referenced previously. In addition, every effort will be made to provide information regarding vacancies in other Federal agencies and local and/or private governments and sectors.

ARTICLE 29 - EQUAL EMPLOYMENT OPPORTUNITY

SECTION 29.1: Within the scope of Indian Preference, Affirmative Action, and any other applicable program, management will not in any way discriminate for or against an individual regarding employment or conditions of employment because of race, color, religion, gender, national origin, age, disability or sexual orientation. Policy will be in the strictest adherence to both the letter and spirit of the Equal Employment Opportunity Act, the Civil Service Reform Act, and all other applicable laws and regulations.

SECTION 29.2: The Union may nominate employees to serve as EEO counselors. The employer retains the right to select EEO counselors from among employees nominated by the Union or others, including employees outside the bargaining unit. The name, work location, and phone number of each EEO counselor will be prominently posted in the appropriate unit or installation. Employees and their representatives will have a reasonable amount of official time to discuss the pre-complaint counseling issues with the designated EEO counselor.

SECTION 29.3: The employer and the Union agree that formal EEO complaints will be processed by the applicable provisions of public law, rules and regulations.

SECTION 29.4: The employer will make available to the Union copies of the Equal Employment Opportunity Complaint Procedure and will periodically publish the names of EEO counselors who will periodically advise employees of the EEO Complaint Procedure. The employer will make available to the Union, as it is received, copies of all published EEO regulations, policies, and procedures applicable to the employer.

SECTION 29.5 SEXUAL HARASSMENT: The employer acknowledges that sexual harassment undermines the integrity of the Federal Government and will not be condoned. Merit System principles require that all employees be allowed to work in an environment free from sexual harassment. Further, sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as the taking or refusal to take a personnel action, including promotion of employees who submit to sexual advance or refusal to promote employees who resist or protest sexual overtures. Union officials will receive the same training on sexual harassment that is afforded to supervisors. Sexual harassment is defined as: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual employment;
B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

ARTICLE 30 - VETERANS PREFERENCE

SECTION 30.1: The employer agrees to abide by and honor all legislative laws that apply to employees who meet the definition of veteran for employment purposes. Thus the employer recognizes that honorably discharged veterans have faithfully served our country, further the employer agrees not to impede any veteran employee from joining veteran support groups.

SECTION 30.2: Veterans may file a grievance if rights and privileges afforded by law or regulation are violated.

SECTION 30.3: The Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 offers employment and benefits protections to those who are members of the National Guard or Reserves or who serve in the uniformed services of the United States. USERRA guarantees reemployment rights for up to five (5) years following an employee's entry into a period of uniform service. It also prohibits discrimination on the basis of uniformed service with respect to initial employment, reemployment, retention in employment, promotion or any other benefit of employment. It also clarifies the employee's rights with regard to leave that is taken in connection with active duty service. Employees who believe their USERRA rights have been violated may file a complaint with the Secretary of Labor or file an appeal directly to the Merit Systems Protection Board (MSPB).

SECTION 30.4: Excused absence for funeral leave may be granted for a veteran to enable him/her to participate in a military funeral as an active pallbearer or as a member of a firing squad or guard of honor. The maximum excused absence allowed in this instance may not exceed four hours in any one day.

ARTICLE 31 - BENEFITS: PENSION AND INSURANCE

Upon request of an employee who is within sixty (60) days of, or otherwise eligible, for retirement, the employer will make pre-retirement counseling available to employees prior to date of retirement. Such counseling will inform the employees of such items as the approximate amount of annuity, eligibility to continue health and life insurance, lump sum payment of annual leave, eligibility for future employment, and the effect of outside earnings on the annuity if appropriate.

ARTICLE 32 - CIVIL DISTURBANCE/ASSAULT AGAINST EMPLOYEES

SECTION 32.1: In case of a civil disturbance in or near employee's work location, an employee fearful of his/her safety should contact their immediate supervisor for instructions as to work assignment.

SECTION 32.2: The employer will make a determination as to the extent of possible personal danger to the employee and will take such into consideration as to whether the employee should report to his/her normal worksite or an alternate location. If released from duty, the employee will make daily contact with his/her immediate supervisor for instructions, unless otherwise instructed by the supervisor.

SECTION 32.3: All cases of physical threat or violence to an employee will be reported to the employee's immediate supervisor immediately. If in the judgment of the employee and/or supervisor, the assault and/or threat is sufficiently severe, the proper law enforcement officials will be notified. The employer will take the circumstances into consideration and determine whether further assistance is necessary.

SECTION 32.4: A thorough written report of the incident will immediately be prepared by the employee and forwarded to the proper authority for his/her review. This report will contain specific recommendations by the employee for future prevention of such incidents.

SECTION 32.5: Absence from work of the employee because of injury resulting from assault while on duty may be handled in accordance Federal Employee Compensation Act regulations.

SECTION 32.6: The employer agrees to make every reasonable effort to safeguard the employees while performing their duties.

SECTION 32.7: Verbal threats that are abusive, intimidating and are a cause of the employee to fear for their safety will also be reported immediately to their immediate supervisor, and/or proper authorities.

ARTICLE 33 - DISTRIBUTION

SECTION 33.1: Management will be responsible for reproduction of the agreement for distribution. The Agreement will be available on the Billings Area IHS Homepage and 20 hard-copies will be provided to each Local.

SECTION 33.2: The Union will distribute the agreement as they deem appropriate. If copies of the contract are required, the contract can be printed from the copy located on the Billings Area IHS Homepage.

ARTICLE 34 - VOLUNTARY ALLOTMENT OF UNION DUES

SECTION 34.1 PAYROLL ALLOTMENT: Management will continue to deduct dues allotments in place when this Agreement becomes effective. An employee may authorize a payroll allotment for the payment of union dues, based on the following criteria:

A. The employee is a member in good standing of the bargaining unit.
B. The employee's earnings are sufficient to cover the amount of the allotment.
C. The employee has voluntarily authorized a payroll deduction for union dues by properly completing and certifying an SF-1187. The forms shall be made available to employees by the union.
D. The Union has certified the employee's completed SF-1187.
E. The completed form has been submitted to the Area Human Resource Office.

SECTION 34.2 ALLOTMENT CHANGES:

A. Dues Amount: The Local President, Union Council President, or National Union Representative will notify the Area Human Resource Office in writing when the Local's dues structure changes.
B. Employee Change: When an employee moves from one Local to another covered by this Agreement, and the employee continues to be covered by this Agreement, the employee will be responsible for completing a Union Dues Transfer form (see Appendix E) and submitting the form to the Area Human Resource Office.

SECTION 34.3 ALLOTMENT TERMINATIONS: Dues allotment shall be terminated when:

A. This agreement ceases to be applicable to the employee;
B. Reassignment, promotion or any other personnel action that permanently removes the employee from the bargaining unit;
C. Separation of the employee from active Federal employment for any reason;
D. The Area Human Resource Office receives written notice from the Union that the employee has been expelled or has ceased to be a member of the Union in good standing; and/or
E. An employee requests voluntary revocation of dues by submitting an SF-1188 to the Area Human Resource Office between April 1 and May 1 of any year, providing the employee has been on dues withholding for one (1) year. Such revocations will be effective at the end of the first full pay period which begins after May 1. A copy of all SF-1188's will be provided to the Council President.

SECTION 34.4 EFFECTIVE DATES AND MONITORING ALLOTMENTS: The parties recognize changes can only be processed by Management; however, the monitoring of allotments is a shared responsibility.

A. EMPLOYEE RESPONSIBILITY: Employees are responsible for ensuring their dues allotment status is accurately reflected each pay period and their Leave and Earnings Statement (LES). Employees shall promptly notify the Area Human Resource Office of any errors. Failure or delay by the employee to promptly initiate contact regarding any such errors will release any obligation to reimburse the employee for dues withheld.
B. UNION RESPONSIBILITY: The Local President will notify the Area Human Resource Office if they believe an employee is mistakenly having dues withheld.

ARTICLE 34 – continued

C. MANAGEMENT RESPONSIBILITY: Management will insure all allotments are processed in accordance with the terms of this article. Any delays in processing will be reported to the Council President or Local President as appropriate.

D. EFFECTIVE DATES: All actions will be made effective in the pay period after the applicable form/notice is received by the Area Human Resource Office unless a different effective date is specified in this article or a later effective date is requested by the Union.

SECTION 34.5 REMITTANCE AND REPORTS: Deductions and remittances will be made each pay period by DFAS to the National Office of NFFE along with a list containing the name of each employee with a dues allotment and the amount of the deduction made for each employee listed. A copy of the list, with social security numbers removed, will be providing in a consolidated report to each Local President, Council President, and NFFE National Business Representative.

ARTICLE 35 - UNIFORM ALLOWANCES

SECTION 35.1: Management will pay uniform allowance to employees who are required to wear a uniform in the performance of his/her official duties. Appendix C is the list of positions, by occupational series, which are generally required to wear a uniform. Other positions may be designated by Management as required to wear a uniform based upon a case-by-case designation. Uniforms are distinguished from protective gear as such gear protects the employee from hazards presented by official duties, whereas uniforms do not provide such protection.

SECTION 35.2: Uniform allowance amounts will be based on the typical cost and upkeep of uniforms, not to exceed the maximum amount allowable by law and/or regulation. Management will conduct annual reviews to determine whether allowance amounts should be changed. Changes are subject to negotiations.

SECTION 35.3: Employees who wear uniforms which are not provided by the employer and maintenance is not provided by the employer, will receive $400 per annum.

ARTICLE 36 - LABOR-MANAGEMENT RELATIONS COMMITTEE

SECTION 36.1 PURPOSE: Upon request of either party at the Local and/or Council level, the parties agree to establish a Labor-Management Relations Committee (LMR Committee). The purpose of the Committee is to provide an exchange of views between parties and discuss possible problems in the unit, but will not be a formal negotiation session. The LMR Committee meeting will not normally be utilized for discussion of individual grievances, but may be used to discuss problems which have led to or could lead to grievances.

SECTION 36.2 PROCEDURES: The individual Committees will establish policies and procedures which will govern the manner in which the Committee will conduct its business, which do not conflict with this agreement. Following the minimum requirements for all Committees in establishing their policies and procedures.

A. Committee members will be on official time and meetings will take place during regular duty hours.
B. The policies and procedures will be in writing and will be effected in accordance with Articles 37.
C. Meetings will be conducted in as short a time as the agenda permits.
D. Meetings will be held at least monthly. Meetings for Local Committees will occur the 1st Tuesday of the month at 10:00 a.m. unless agreed otherwise by the Parties.
E. The Parties will post/publish the schedule.
F. Minutes will be kept for all meetings.
G. Local Committees will consist of the Chief Executive Officer and Local President and may include up to three (3) members each from Management and the Union. Area Office Committee will consist of Area Executive Officer and Local President and may include up to three (3) members each from Management and the Union.
H. Local Committee meetings will be in a face-to-face format.
I. Meetings for the Council Committee will occur at least every 6 months. Meetings for the Council Committees will occur 2nd Tuesday in May and October at 10:00 a.m. unless agreed otherwise by the Parties. The meetings will generally be conducted via conference call. Council Committee will consist of the President, NFFE Council; each Local President; Area Director, Area Executive Officer; Northern Plains Human Resource Representative.

SECTION 36.3 COMMITTEE OBJECTIVES:

A. To identify problems and craft solutions to better serve the agency's employees, customers and mission;
B. To create a quality workplace through improved working conditions, enhanced working relationships and recognition for accomplishments;
C. To increase creative dialogue, influence change, and sharing of workplace issues in a positive and professional manner;
D. To enhance and establish policy and program improvement initiatives through pre-decisional involvement;
E. To act as equal partners to address issues from a problem-solving interest-based perspective;
F. To provide a harmonious relationship from which to build a mutual trust, respect, and understanding, based upon creativity and open mindedness.

ARTICLE 37 - LOCAL NEGOTIATIONS/SUPPLEMENTAL AGREEMENTS

SECTION 37.1: The parties recognize that not all subjects can be covered in a manner that is appropriate for all Locals depending on many variables such as the size and physical limitations of a facility, nature of services provided, hours of operation, etc. The items listed in Section 37.3 are appropriate for local negotiation and development of supplemental agreements and are not referenced in other articles within this agreement. This is not an all-inclusive list. In addition, several articles within these agreement state additional items are subject to local negotiations.

SECTION 37.2: The negotiating parties cannot exceed the provisions in this agreement when developing supplemental agreements and the following must occur:

A. All agreements must be in writing and signed/dated by the Local President and Chief Executive Officer.
B. Agreements must clearly state the items agreed to by the parties.
C. All agreements must be forwarded to the Union Council President and Area Director before implementation and must include a concurrence line for both individuals to sign and date.
D. The Union Council President and Area Director will review all agreements within 10 work days of receipt and will sign as concurring and provide a signed copy to the negotiating parties or if there are concerns, will advise of the parties of the concerns and work with the parties to resolve any issues.

SECTION 37.3: In addition to any other provisions contained in this agreement, Union and Management have agreed to the parameters described below regarding the following subject.

A. GOVERNMENT QUARTERS: The details of government quarters are subject to local negotiations.
B. VOLUNTEERS: The parties recognize that the volunteer program may impact the working conditions of the bargaining unit employee. Furthermore, the parties agree that adverse impacts to the bargaining unit employees when identified by the Union, such as changes in duties, responsibilities, training, safety, are subject for negotiations, upon request, at the local level. In order for the Union to determine adverse impacts, all available data concerning the use of volunteers, such as number of volunteers, their assigned duties, work locations, or periodic reports, will be provided the Union upon request.
C. BREAK AREAS: Both parties recognize the issue of appropriate break areas for employees is an important issue and those specific areas are a subject for local negotiations. All existing areas, practices, and facilities in current use will continue until the local parties agree to changing the local practices. The details of break areas are subject to local negotiations.
D. VENDING MACHINES: The employer will allow reasonable use of vending machines by the Union, for food items, the proceeds of which will be administered by the Union, unless prohibited by law or regulation. The details of vending machines are subject to local negotiations.
E. EMPLOYEE SPACE: The employer agrees to provide employees adequate space to store personal items (coats, shoes, purses, etc.) while the employee is on duty. The employee space must allow reasonable access to the employee while taking breaks. The details of employee space are subject to local negotiations.

ARTICLE 38 - INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PROTECTION ACT

Section 38.1: P.L. 101-630, Section 408, requires that the Secretary of HHS conduct an investigation of the character of each individual who is employed, or is being considered for employment, in a position with duties and responsibilities that involve regular contact with or control over Indian children.

ARTICLE 39 - COMPUTER ACCESS

SECTION 39.1: Employees are specifically authorized to access automated and web-based functions during duty hours for the purpose of dealing with their employment benefits, applying for positions within the Department of Health and Human Services, accessing e-mail, etc.

SECTION 39.2: Many functions applicable to employee benefits have been automated, including the job application procedure. The nature of the work generally dictates which employees will have a computer on their desk. It is not cost effective to place a computer on the desk of each employee if the computer is infrequently used to carry out official duties.

A. Employees with an assigned computer on their desk. These employees are expected to utilize their assigned computer to access the various automated functions.
B. Employees without an assigned computer. If 100% of the employees in a unit do not have an assigned computer, at least one general use computer will be available within that work unit (example: Dental Unit, Housekeeping Unit, Medical Records Unit, etc.)

SECTION 39.3: The employer agrees that employees will be afforded access to the internet for the purpose of conducting official duties. It is also appropriate for limited personal use during breaks. Employees are responsible for insuring they do not access inappropriate internet sites; i.e., pornographic sites, sites which condone illegal activities, etc. Inappropriate access to such sites could result in disciplinary action which could include removal.

SECTION 39.4: In the event an employee accidentally accesses a site that appears to be inappropriate, they must notify their supervisor and their local Site Manager. The Site Manager will make a record of the access and will notify appropriate officials so that this site will be blocked and future inadvertent accesses do not occur.

SECTION 39.5: Additional details of computer access are subject to local negotiations.

ARTICLE 40 - FLEXIBLE WORKPLACE

SECTION 40.1: The parties agree that the policy contained in the Indian Health Manual, Part 7, Chapter 6, Flexible Workplace Arrangements Program, (FWAP) will be adhered to. Any Billings Area IHS FWAP policy is subject to Council negotiations.

SECTION 40.2: The parties agree that all flexible workplace agreements will be in writing. The parties also agree the Local Union President will be afforded the opportunity to review all agreements for bargaining unit employees and will indicate their concurrence by signing the agreement.

ARTICLE 41 - SEVERE WEATHER OR OTHER EMERGENCY SITUATIONS POLICY

SECTION 41.1: GENERAL BACKGROUND STATEMENT: Periodically, weather conditions or other emergency situations impact on the ability of the employees to report for duty as scheduled and may cause the facility to be closed or minimally staffed.

SECTION 41.2: All employees are to presume, unless otherwise notified, that their facility will be open each regular workday regardless of weather or other emergency conditions.

SECTION 41.3:

A. FACILITY CLOSED: If the respective facility is closed, employees who were not otherwise scheduled to be on leave will be granted excused absence for the period of closure.
B. LATE ARRIVAL/EARLY DEPARTURE: For those employees who request to leave early or they arrive late for work due to severe weather or other emergency situations (i.e., road closures) management will adopt a liberal leave policy in granting requests for annual leave, LWOP, and/or comp time to those employees. Supervisors and Chief Executive Officers have the authority to grant excused absence for occasional, unavoidable absences of 1 hour or less. This authority is appropriate for this type of situation.
C. ENTIRE TOUR/SHIFT: For those employees who are absent for the entire tour/shift due to severe weather or other emergency situations (i.e., road closures) management will adopt a liberal leave policy grand requests for annual leave, LWOP, and/or comp time for those employees.
D. Employees who cannot be released will be paid in accordance with applicable law, rule, and regulation. Generally there will be no impact to an employee's salary unless they work beyond their scheduled hours and simply working while others have been allowed to leave or otherwise be excused, does not entitle the employee to additional compensation.

SECTION 41.4: Additional details are subject to local negotiations.

ARTICLE 42 - CULTURAL DISTINCTIONS

SECTION 42.1: The parties recognize the value of specialized skills of employees such as their ability to communicate in multiple languages. The work environment and patient care is uplifted when the employee is able to better communicate with patients, the public, and other workers. Management recognizes the need for employees to maintain their cultural distinctions as well as to perform their duties and responsibilities.

ARTICLE 43 - DURATION AND EXTENT OF AGREEMENT

SECTION 43.1 EFFECTIVE DATE AND TERM: The effective term of this agreement will be the date it is signed by the designee of the secretary of Health and Human Services or thirty (30) calendar days after it is signed by the parties, whichever comes first, unless disapproved in accordance with law. It will remain in effect for three (3) years. The agreement will be renewed for an additional one (1) year period on the anniversary date, unless between 60 and 105 calendar days prior to such date, either party gives written notice to the other of its desire to amend or modify the agreement. If such notice is given, this agreement will remain in full force and effect until the changes have been negotiated and approved.

SECTION 43.2: MANDATORY 18-Month Reopener: This agreement is subject to mandatory negotiation by either party at the mid-point of the contract. Either party may give written notice to the other of its desire to amend or modify the agreement between 30 and 90 days prior to the mid-point between the effective date and the expiration date of the 3 year length of the agreement. Ground rules will be negotiated immediately upon notification of either party of their desire to reopen specific articles of the Agreement at the mid-point.

SECTION 43.3: Union initiated mid-term bargaining is allowed as appropriate under law. The provisions of any article in this agreement may not be reopened through the mid-term bargaining process except by mutual agreement or when necessitated by statutory changes as per 43.2 above.

SECTION 43.4: Should Union mid-term or 18- month reopener bargaining occur, agreement reached will be approved in accordance with 5 U.S.C. 7117.

In witness thereof, the Parties hereto executed this basic Labor-Management Agreement on December 7, 2012.

For the National Federation of Federal Employees (NFFE):	For the Billings Area Indian Health Service (BAIHS):
Steve Flory, Business Representative	Pete Conway, Area Director

APPENDIX A

BARGAINING UNIT DESCRIPTIONS

BILLINGS AREA OFFICE / LOCAL 478

Non-Professional Employees

INCLUDED: All full-time non-supervisory employees of the Billings Area Office.

EXCLUDED: All temporary employees, supervisors, managers and personnel officials except those in purely clerical positions, professionals, and security guards.

WIND RIVER SERVICE UNIT / LOCAL 478

Non-Professional Employees

INCLUDED: All full-time non-supervisory employees including temporary employees with appointments of more than 90 days of the Wind River Service Unit.

EXCLUDED: All temporary employees (appointments of 90 days or less), supervisors, managers and personnel officials except those in purely clerical positions, professionals, and security guards.

BLACKFEET SERVICE UNIT / LOCAL 2107

Professional and Non-Professional Employees

INCLUDED: All permanent full-time and part-time professional and non-professional employees of the Indian Health Service's Blackfeet Service Unit.

EXCLUDED: All supervisors, managers, and personnel officials except those in purely clerical positions, and security guards.

CROW SERVICE UNIT / LOCAL 224

Professional and Non-Professional Employees

INCLUDED: All professional and non-professional non-supervisory employees of the Crow Service Unit.

EXCLUDED: All supervisors, managers, and personnel officials except those in purely clerical positions, and security guards.

FORT BELKNAP SERVICE UNIT / LOCAL 58

Professional and Non-Professional Employees

INCLUDED: All full-time non-supervisory employees of the Fort Belknap Service Unit.

EXCLUDED: All supervisors, managers, and personnel officials except those in purely clerical positions, and security guards.

FORT PECK SERVICE UNIT / LOCAL 2171

Non-Professional Employees

INCLUDED: All full-time non-supervisory employees of the Fort Peck Service Unit.

EXCLUDED: All supervisors, managers, and personnel officials except those in purely clerical positions, professionals, and security guards.

NORTHERN CHEYENNE SERVICE UNIT / LOCAL 1801

Professional and Non-Professional Employees

INCLUDED: All full-time non-supervisory employees of the Northern Cheyenne Service Unit.

EXCLUDED: All supervisors, managers, and personnel officials except those in purely clerical positions, professionals, and security guards.

APPENDIX B
GLOSSARY

ABSENTEEISM - Failure of worker to report to work when scheduled.

ADVANCE NOTICE - In general, an announcement of an intention to carry out a certain action, given to an affected or interested party in sufficient time to prepare for the action.

ADVERSE ACTION - An official personnel action, usually taken for disciplinary reasons, which adversely affects an employee and is of a severity such as suspension for more than 14 days, reduction in grade, or removal. For most Federal employees, an appeal system established by statue exists and the employee may choose to use the statutory procedure or, if coverage under the contract permits, the negotiated procedure, but not both.

AFFIRMATIVE ACTION: A written program to actively eliminate employment standards and practices which tend to discriminate on the grounds of race, creed, sex, or national origin.

AGENCY: For purposes of this contract, agency refers to the Department of any entity of the Department above the activity level.

AGREEMENT: See Collective Bargaining Agreement.

ARBITRATION: Method of settling employment disputes through recourse to an impartial third party whose decision is usually final and binding.

ARBITRATOR: An impartial third party to whom disputing parties submit their differences for decision (award).

ARBITRABILITY: Refers to whether a given issue is subject to arbitration under the negotiated agreement.

AUTHORITY: See Federal Labor Relations Authority.

AWARD: In Labor-Management arbitration, the final decision of an arbitrator, binding on both parties.

BACK PAY: Pay awarded an employee for compensation lost due to an unjustified management action.

BARGAINING: See Collective Bargaining.

BARGAINING RIGHTS: Legally recognized right of the labor-organization to represent employees in negotiations with employers.

BINDING ARBITRATION: Method of settling employment disputes through recourse to an impartial third party (an arbitrator). The arbitrator's decision is usually final and binding. (In the Federal Government binding arbitration is required as the final step in a negotiated grievance procedure. It may also be used to settle impasses if its use is approved by the Federal Labor Relations Authority).

CALL-BACK OVERTIME WORK: Irregular or occasional overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed to be at least 2 hours in duration for the purpose of premium pay, either in money or compensatory time. (Also, see STANDBY).

CIVIL SERVICE REFORM ACT OF 1978 (CSRA): Legislation enacted in October 1978 for the purpose of reforming and upgrading the Federal Civil Service System and improving efficiency and quality of public service. The CSRA gives to management the tools and flexibility it needed to improve operations. The new law also guaranteed protection of the basic rights of Federal employees. In the Labor management relations area, CSRA was important because it gives Federal employees legal basis for their right to organize, bargain collectively, and participate through labor unions in decisions which affect their working conditions.

COLLECTIVE BARGAINING (COLLECTIVE NEGOTIATIONS, NEGOTIATIONS, NEGOTIATION OF AGREEMENT: The performance of the mutual obligations of the employer and the exclusive representative to meet at reasonable times, to consult and bargain in good faith, and to execute a written agreement with respect to terms and conditions of employment. This obligation does not compete either party to agree to proposals or make concessions.

COLLECTIVE BARGAINING AGREEMENT (AGREEMENT, CONTRACT, BARGAINING CONTRACT, NEGOTIATED AGREEMENT): A written agreement between an employer (or an association of employers) and a labor organization (or organizations), usually for a definite term, defining conditions of employment, rights of employees and labor organizations, and procedures to be followed in settling disputes or handling issues that arise during the life of the agreement.

COMPELLING NEED: If the Federal Government, a basis upon which rules or regulations issued by an agency or a primary national subdivision of any agency may serve as a bar to negotiations with a labor organization. A labor organization may challenge the agencies interpretation of compelling need before the Federal Labor Relations Authority (FLRA). In its regulations, FLRA prescribes illustrative criteria for determining compelling need.

CONCILIATION: See Mediation.

CONFIDENTIAL EMPLOYEE: Employee who acts in a confidential capacity with respect to an individual who formulates or administers management policies in the field of labor-management relations.

CONDITIONS OF EMPLOYMENT (WORKING CONDITIONS): In the Federal sector, this terms means personnel policies, practices and matters whether established rule, regulation or otherwise, affecting working conditions. It does not include policies, practices and matters relating to prohibited political activities, to the classification of any position, or to the extent the matters are specifically provided for by Federal statute.

CONFLICT OF INTEREST: In labor-management officials (managers and supervisors) which could cause or appear to cause a lessening of loyalty to management's interests due to involvement in the leadership of management of a labor organization.

CONSOLIDATION: A procedure to combine existing bargaining units into one or more larger appropriate bargaining units.

CONSULTATION: An obligation on the part of employers to consult the labor organization on particular issues before taking action on them. In the Federal government consultation refers only to the duty owed by agencies to labor organizations which have been accorded national consultation rights. That duty involves informing the union of substantive changes in conditions of employment, giving the union time to present its views and recommendations, considering those views and recommendations, and giving union written reasons for the final action.

CONTRACTING OUT: Practice of having certain steps in a work function performed by outside contractors, using their own workforces.

CONTRACT (AGREEMENT, COLLECTIVE BARGAINING AGREEMENT, NEGOTIATED AGREEMENT): See Collective Bargaining Agreement.

CREDITED SERVICES: Years of employment counted for seniority. See Seniority.

DISCIPLINARY ACTIONS: Management-initiated actions designed to correct errant employee behavior.

DISPUTE: Any disagreement between an employer and a labor organization requiring resolution; for example, the inability to agree on contract terms or grievances.

DOWNGRADING (DEMOTION, REDUCTION IN GRADE): Assignment of workers to tasks or jobs with lower rates of pay.

DUES ALLOTMENT (DUES WITHHOLDING, DUES CHECK-OFF): Practice whereby the employer, by agreement with the union (and upon written authorization form the employee where required by law or agreement), regularly withholds union dues from employee's wages and transmits these funds to the union. In the Federal government dues allotment occurs without charge to the employee or the union.

EMERGENCY SITUATION: A situation which possess immediate and/or unforeseen work requirements for the employer as a result of natural phenomenon or other circumstances beyond the employer's reasonable control.

EMPLOYEE: An individual employed by the Billings Area Indian Health Service who is included in the bargaining unit as described in Article I, Section 2.

EMPLOYEE COMPLAINT: A discussion between an employee and a union representative in advance of a determination as to a final course of action by the employee, and a management official if appropriate.

EMPLOYER: Broad term used to define any individual who represents the agency in an official capacity, most commonly, supervisors and managers.

EXCLUSIVE RECOGNITION/REPRESENTATIVE: In the Federal government, the status conferred on a labor organization which (1) receives a majority of votes cost in a representation election and (2) is certified by the Federal Labor Relations Authority (FLRA) to represent all employees in an appropriate unit. Certification by the FLRA means that only this particular union is authorized to act for the employees in the bargaining unit and negotiating agreements on their behalf. The labor organization enjoying this status is known as the exclusive representative.

EXPIRATION DATE: Formal termination date established in a collective bargaining agreement or the earliest date at which the agreement may be terminated.

FAMILY MEMBER: In relation to an employee, family member is the spouse and parents thereof; children including adopted children, and spouses thereof; parents; brothers and sisters and spouses thereof; and any person related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.

FEDERAL LABOR RELATIONS AUTHORITY (FLRA): An administrative body empowered by Title VII of the Civil Service Reform Act of 1978 to provide leadership in Federal service labor-management relations matters by establishing policies and guidance.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS): An independent Federal agency which provides mediators to assist the parties involved in negotiations, or in a labor dispute, in reaching a settlement; provides lists of suitable arbitrators on requests; and engages in various types of "preventive mediation."

FEDERAL SERVICE IMPASSE PANEL (FSIP): Organizational entity within the FLRA, which resolves bargaining impasses in the Federal service. The Panel may recommend procedures, including arbitration, for the settling of impasses or it may direct settlement of the impasse itself.

FORMAL DISCUSSION: Any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment.

GENERAL COUNSEL: An individual, appointed by the President, to the FLRA. The General Counsel is responsible for investigation unfair labor practice (ULP) allegations, filing and prosecuting ULP complaints and exercising others powers prescribed by the FLRA.

GENERAL WORKING CONDITIONS: Pertaining to, or applicable to, each and all bargaining unit employees and/or employees within the work unit; e.g., Maintenance, Housekeeping, Medical Records, etc.

GOOD FAITH BARGAINING: Defined by law as the obligation to approach negotiations with a sincere resolve to reach a collective bargaining agreement; to be represented by properly authorized representatives who are prepared to discuss and negotiation; to meet at reasonable times and convenient places as frequently as necessary; to avoid unnecessary delays in negotiations; and in the case of the agency, to furnish insofar as possible information requested by the union.

GRIEVANCE: Any complaint by an employee or by any labor organization relating to the employment of the employee(s). Also, any complaint concerning the effect or interpretation or claim of breach of a collective bargaining agreement; or any claimed violation, interpretation, or misapplication of any law, rule or regulation affecting conditions of employment. Whether a complaint is formally recognized and handled as a grievance depends on whether the subject of the complaint is covered under the grievance procedure.

GRIEVANCE PROCEDURE: See Negotiated Grievance Procedure.

INVESTIGATORY EXAMINATION: Any examination of an employee in the unit by a representative of the agency in connection with investigation if (1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and (2) the employee requests representation.

JUST CAUSE: Good or fair reasons to take some action.

LOCAL UNION (LOCAL, CHAPTER): Labor organization representing a bargaining unit located in a particular area or establishment, which is chartered by an affiliated with, a national or international union.

MANAGEMENT: Broad term used to define any individual who represents the agency in an official capacity, most commonly, supervisors and managers.

MEDIATION: A procedure by which an impartial third party (a mediator) is used to settle disputes. The mediator assists in resolving the dispute by attempting to find a solution satisfactory to both parties in a dispute but renders no binding decisions. In the Federal

government, mediation is required before impasses can be referred to the Federal Service Impasses Panel.

NEGOTIABILITY: Negotiability refers to whether a given topic is subject to bargaining between the agency and the union. The Federal Labor Relations Authority makes final decisions on whether a subject is negotiable.

NEGOTIATION: The process of offers and counter-offers on a proposal to reach a mutual agreement.

NEGOTIATED GRIEVANCE PROCEDURE: The systematic procedure agreed to by the negotiating parties for the resolution of grievances. The negotiated grievance procedure is applicable only to employees in the bargaining unit.

OFFICIAL TIME: Duty time that is granted to a union representative to perform designated functions without loss of pay or charge to that employee's leave account.

OPEN PERIOD (WINDOW PERIOD): In the Federal government, the 45-day period (105 to 60 days prior to contract expiration) when a union holding exclusive recognition is subject to challenge by a competing union or by employees in the bargaining unit who no longer desire representation by the recognized union.

ORGANIZING: That initial stage of union activity at an installation when a membership based is developed. This may then be followed by attempts to gain exclusive recognition.

PANEL: See Federal Service Impasses Panel.

PAST PRACTICE: Those privileges of employees which by custom, tradition and known practice have become an integral part of their working condition will not be changed as a result of not being enumerated in this agreement.

PRIMARY MANAGEMENT OFFICIAL: The Primary Management Official for each Service Unit is the respective Chief Executive Officer. The Primary Management Official for the Area Office is the Area Director.

RECOGNITION: EMPLOYER acceptance of a labor organization as the one authorized to negotiate, usually for all members of a negotiating unit.

RECOGNITION ELECTION: See Representation Election.

RECOGNITION PETITION: Document filed by a union, group of employees, or management with the Federal Labor Relations Authority requesting an election to determine whether or not employees wish to be (or continue to be) exclusively represented by a given labor organization.

REOPENER: See Reopening Clause.

REOPENING CLAUSE: Clause in a collective agreement stating the time or the circumstances under which negotiations can be requested prior to the expiration of contract. Reopenings usually restrict the number of issues subject to renegotiation during the term of the agreement.

REPRESENTATIONAL ELECTION (ELECTION, RECOGNITION ELECTION: Election conducted to determine whether the employees in an appropriate unit desire a labor organization to act as their exclusive representative.

REPRESENTATIONAL ACTIVITIES: Activities performed by a union (or the union's representative) on behalf of the employees the union represents. Such activities include meeting and negotiating with management, investigating problems, handling grievances, and policing the terms of the collective bargaining contract, lobbying Congress and providing and receiving training.

SHOWING OF INTEREST: The required evidence of employee evidence through petition signatures, signed and dated authorization cards, allotment of dues forms executed by the employee, an existing or recently expired agreement, or other evidence which is submitted to FLRA requesting a representation election or inclusion on the ballot. In decertification requests, a "showing of interest" can consist of signed and dated petitions or cards, from employees indicating that they no longer desire to be represented by the currently certified union.

STANDBY: An employee will be considered on duty and time spent on standby duty will be considered hours of work if: (1) the employee is restricted to an agencies premises, or so close thereto that the employee cannot use the time effectively for his or her own purposes; or (2) the employee, although not restricted to the agencies premises; (i) is restricted to his or her living quarters or designated post of duty; (ii) has his or her activities substantially limited; and (iii) is required to remain in a state of readiness to perform work. (Also, see Call-back).

STATUTE: A law.

STEWARD (UNION OR SHOP STEWARD): A local union's representative in a plant or department elected by union members (or sometimes appointed by the union) to carry out union duties, such as handling grievances, collecting dues, and soliciting new members. Stewards are usually fellow employees who are trained by the union to carry out the duties described above.

SUPPLEMENTAL AGREEMENT: An agreement negotiated subsequent to the basic or initial agreement. Also, an agreement often negotiated at the local level to augment a national agreement.

SUSPENSION: Form of a disciplinary action of a temporary nature, as in removing a worker from his job for a stipulated time with the consequent loss of pay.

THIRD PARTY PROCESS: Refers to a method of settling a dispute through recourse to an impartial party

TOUR OF DUTY: Term applied to whatever shift or which an employee is working.

UNFAIR LABOR PRACTICE: Action by either an employer or union which violates the provisions of national or state labor relations laws, such as refusal to bargain in good faith.

UNILATERAL ACTION: Implementation of management decisions concerning personnel policies and matters affecting working conditions which were developed without union input. Unilateral actions in areas requiring consultation or negotiation are subject to unfair labor practice charges.

UNION: See Labor Organization.

UNION OBSERVER: Person present at an event but not participating.

UNIT: See Bargaining Unit.

VOLUNTARY APPLICATION: An application received that is not for a specific announcement and which has not been solicited.

WEINGARTEN RIGHT: Name taken from a private sector case. Refers to the right of a bargaining unit employee to be represented by the union under specific circumstances. That right exists when (1) the employee is examined in an investigation (an investigatory examination) conducted by an agency representative, (2) the employee reasonably believes disciplinary action against him or her may result, and (3) the employee requests union representation.

WORKING CONDITIONS: See Conditions of Employment.

WORK HOURS: The hours during which the employer normally provides official services.

APPENDIX C
POSITIONS APPROVED TO RECEIVE UNIFORM ALLOWANCE

The following positions are approved by management as being eligible to receive Uniform Allowance:

TITLE	SERIES
Security Guard	GS-0085
Medical Officer	GS-0602
Physician Assistant	GS-0603
Nurse/Community Health Nurse	GS-0610
Practical Nurse	GS-0620
Nursing Assistant/Aide	GS-0621
Medical Supply Technician	GS-0622
Dietitian/Nutritionist	GS-0630
Physical Therapist	GS-0633
Physical Therapy Assistant	GS-0636
Health Technician	GS-0640
Medical Technologist	GS-0644
Medical Technician	GS-0645
Diagnostic Radiologic Technologist/Technician	GS-0647
Pharmacist	GS-0660
Pharmacy Technician	GS-0661
Optometrist	GS-0662
Podiatrist	GS-0668
Medical Records Librarian	GS-0669
Medical Records Clerk/Technician	GS-0675
Dental Officer	GS-0680
Dental Assistant	GS-0681
Dental Hygienist	GS-0682
Custodial Worker	WG-3566
Motor Vehicle Operator	WG-5703
Cook	WG-7404
Food Service Worker	WG-7408
Maintenance Mechanic	WG-4749
Utility Systems Operator	WG-5406

APPENDIX D

5 USC CHAPTER 71

The Federal Service Labor-Management Relations Statute

Subpart F--Labor-Management and Employee Relations

CHAPTER 71 -- LABOR-MANAGEMENT RELATIONS

SUBCHAPTER 1 -- GENERAL PROVISIONS

Sec.

7101. Findings and purpose.
7102. Employees' rights.
7103. Definitions; application.
7104. Federal Labor Relations Authority.
7105. Powers and duties of the Authority.
7106. Management rights.

SUBCHAPTER II -- RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

Sec.

7111. Exclusive recognition of labor organizations.
7112. Determination of appropriate units for labor organization representation.
7113. National consultation rights.
7114. Representation rights and duties.
7115. Allotments to representatives.
7116. Unfair labor practices.
7117. Duty to bargain in good faith; compelling need; duty to consult.
7118. Prevention of unfair labor practices.
7119. Negotiation impasses; Federal Service Impasses Panel.
7120. Standards of conduct for labor organizations.

SUBCHAPTER III -- GRIEVANCES, APPEALS AND REVIEW

Sec.

7121. Grievance procedures.
7122. Exceptions to arbitral awards.
7123. Judicial review; enforcement.

SUBCHAPTER IV -- ADMINISTRATIVE AND OTHER PROVISIONS

Sec.

7131. Official time.
7132. Subpoenas.
7133. Compilation and publication of data.
7134. Regulations.
7135. Continuation of existing laws, recognitions, agreements and procedures.

SUBCHAPTER I--GENERAL PROVISIONS

Sec. 7101. Findings and purpose

(a) 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, and

(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and

(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.

Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

(b) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal Government and to establish procedures which are designed to meet the special requirements and needs of the Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

Sec. 7102. Employees' rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right--

(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

Sec. 7103. Definitions; application

(a) For the purpose of this chapter--

(1) ``person'' means an individual, labor organization, or agency;

(2) ``employee'' means an individual--

(A) employed in an agency; or

(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include--

(i) an alien or noncitizen of the United States who occupies a position outside the United States;

(ii) a member of the uniformed services;

(iii) a supervisor or a management official;

(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the International Communication Agency, the Agency for International

Development, the Department of Agriculture, or the Department of Commerce; or

(v) any person who participates in a strike in violation of section 7311 of this title;

(3) ``agency'' means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Department of Veterans Affairs), the Library of Congress, the Government Printing Office, and the Smithsonian Institution \1\ but does not include--

(A) the General Accounting Office;

(B) the Federal Bureau of Investigation;

(C) the Central Intelligence Agency;

(D) the National Security Agency;

(E) the Tennessee Valley Authority;

(F) the Federal Labor Relations Authority;

(G) the Federal Service Impasses Panel; or

(H) the United States Secret Service and the United States Secret Service Uniformed Division.

(4) ``labor organization'' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include--

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by an agency; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(5) ``dues'' means dues, fees, and assessments;

(6) ``Authority'' means the Federal Labor Relations Authority described in section 7104(a) of this title;

(7) ``Panel'' means the Federal Service Impasses Panel described in section 7119(c) of this title;

(8) ``collective bargaining agreement'' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

(9) ``grievance'' means any complaint--

(A) by any employee concerning any matter relating to the employment of the employee;

(B) by any labor organization concerning any matter relating to the employment of any employee; or

(C) by any employee labor organization, or agency concerning--

(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or

(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;

(10) ``supervisor'' means an individual employed by an agency

having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term ``supervisor'' includes only those individuals who devote a preponderance of their employment time to exercising such authority;

(11) ``management official'' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency;

(12) ``collective bargaining'' means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

(13) ``confidential employee'' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(14) ``conditions of employment'' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters--

(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;

(B) relating to the classification of any position; or

(C) to the extent such matters are specifically provided for by Federal statute;

(15) ``professional employee'' means--

(A) an employee engaged in the performance of work--

(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(ii) requiring the consistent exercise of discretion and judgment in its performance;

(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a

professional employee described in subparagraph (A) of this paragraph;

(16) ``exclusive representative'' means any labor organization which--

(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit--

(i) on the basis of an election, or

(ii) on any basis other than an election,

and continues to be so recognized in accordance with the provisions of this chapter;

(17) ``firefighter'' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

(18) ``United States'' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

(b)(1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that--

(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

Sec. 7104. Federal Labor Relations Authority

(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority.

(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of--

(1) the date on which the member's successor takes office, or

(2) the last day of the Congress beginning after the date on

which the member's term of office would (but for this paragraph) expire.

(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

(2) The General Counsel may--

(A) investigate alleged unfair labor practices under this chapter,

(B) file and prosecute complaints under this chapter, and

(C) exercise such other powers of the Authority as the Authority may prescribe.

(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

Sec. 7105. Powers and duties of the Authority

(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority--

(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

(E) resolves issues relating to the duty to bargain in good faith under section 7117(c) of this title;

(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

(b) The Authority shall adopt an official seal which shall be judicially noticed.

(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.

(e)(1) The Authority may delegate to any regional director its authority under this chapter--

(A) to determine whether a group of employees is an appropriate unit;

(B) to conduct investigations and to provide for hearings;

(C) to determine whether a question of representation exists and to direct an election; and

(D) to supervise or conduct secret ballot elections and certify the results thereof.

(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of--

(1) the date of the action; or

(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

(g) In order to carry out its functions under this chapter, the Authority may--

(1) hold hearings;

(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

(i) In the exercise of the functions of the Authority under this

title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

Sec. 7106. Management rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency--

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws--

(A) 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;

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

(C) with respect to filling positions, to make selections for appointments from--

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

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

(b) Nothing in this section shall preclude any agency and any labor organization from negotiating--

(1) at the election of the agency, 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;

(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

SUBCHAPTER II--RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS

Sec. 7111. Exclusive recognition of labor organizations

(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

(b) If a petition is filed with the Authority--

(1) by any person alleging--

(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after a reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

(c) A labor organization which--

(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

(3) has submitted other evidence that it is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose--

(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(2) not to be represented by a labor organization.

In any election in which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization--

(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless--

(A) the collective bargaining agreement has been in effect for more than 3 years, or

(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election for the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

Sec. 7112. Determination of appropriate units for labor organization representation

(a) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of the agency involved.

(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes--

(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;

(2) a confidential employee;

(3) an employee engaged in personnel work in other than a purely clerical capacity;

(4) an employee engaged in administering the provisions of this chapter;

(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;

(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or

(7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization--

(1) which represents other individuals to whom such provision applies; or

(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an

election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

Sec. 7113. National consultation rights

(a) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

(b)(1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall--

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) be permitted reasonable time to present its views and recommendations regarding the changes.

(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization--

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

Sec. 7114. Representation rights and duties

(a)(1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at--

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if--

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and

(ii) the employee requests representation.

(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.

(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and

negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

(5) The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude an employee from--

(A) being represented by an attorney or other representative, other than the exclusive representative, of the employee's own choosing in any grievance or appeal action; or

(B) exercising grievance or appellate rights established by law, rule, or regulation;

except in the case of grievance or appeal procedures negotiated under this chapter.

(b) The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation--

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--

(A) which is normally maintained by the agency in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

(c)(1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule, or regulation.

(4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.

Sec. 7115. Allotments to representatives

(a) If an agency has received from an employee in an appropriate

unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.

(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when--

(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

(2) the employee is suspended or expelled from membership in the exclusive representative.

(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose.

(2)(A) The provisions of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.

(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.

Sec. 7116. Unfair labor practices

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency--

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization--

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered as an unfair labor practice.

(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure--

(1) to meet reasonable occupational standards uniformly required for admission, or

(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

This subsection does not preclude any labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws to the extent consistent with the provisions of this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7121(e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

(e) The expression of any personal view, argument, opinion or the making of any statement which--

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election,

(2) corrects the record with respect to any false or misleading statement made by any person, or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

Sec. 7117. Duty to bargain in good faith; compelling need; duty to consult

(a)(1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Government-wide rule or regulation.

(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

(b)(1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if--

(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

(B) the Authority determines that a compelling need for a rule or regulation does not exist.

(3) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as a party.

(4) The agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

(c)(1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provisions of this subsection.

(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred

to in paragraph (1) of this subsection, institute an appeal under this subsection by--

(A) filing a petition with the Authority; and

(B) furnishing a copy of the petition to the head of the agency.

(3) On or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall--

(A) file with the Authority a statement--

(i) withdrawing the allegation; or

(ii) setting forth in full its reasons supporting the allegation; and

(B) furnish a copy of such statement to the exclusive representative.

(4) On or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

(5) A hearing may be held in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the agency a written decision on the allegation and specific reasons therefore at the earliest practicable date.

(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

(2) A labor organization having consultation rights under paragraph (1) of this subsection shall--

(A) be informed of any substantive change in conditions of employment proposed by the agency, and

(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization--

(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

Sec. 7118. Prevention of unfair labor practices

(a)(1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the

reasons for not issuing a complaint.

(2) Any complaint under paragraph (1) of this subsection shall contain a notice--

(A) of the charge;

(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the authority and designated for such purpose); and

(C) of the time and place fixed for the hearing.

(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(4)(A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of--

(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(5) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order--

(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

(C) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

(D) including any combination of the actions described in

subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provisions of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.

Sec. 7119. Negotiation impasses; Federal Service Impasses Panel

(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.

(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation, fail to resolve a negotiation impasse--

(1) either party may request the Federal Service Impasses Panel to consider the matter, or

(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.

(c)(1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.

(2) The Panel shall be composed of a Chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

(4) The Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee (as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

(5)(A) The Panel or its designee shall promptly investigate any

impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either--

(i) recommend to the parties procedures for the resolution of the impasse; or

(ii) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may--

(i) hold hearings;

(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpenas as provided in section 7132 of this title; and

(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(C) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the agreement, unless the parties agree otherwise.

Sec. 7120. Standards of conduct for labor organizations

(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for--

(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that--

(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply

with governing requirements comparable in purpose to those required by subsection (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation--

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

SUBCHAPTER III--GRIEVANCES, APPEALS, AND REVIEW

Sec. 7121. Grievance procedures

(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d), (e), and (g) of this section, the procedures shall be the exclusive administrative procedures for resolving grievances which fall within its coverage.

(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

(b)(1) Any negotiated grievance procedure referred to in subsection (a) of this section shall--

(A) be fair and simple,

(B) provide for expeditious processing, and

(C) include procedures that--

(i) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

(ii) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive

representative the right to be present during the grievance proceeding; and

(iii) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order--

(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.

(c) The preceding subsections of this section shall not apply with respect to any grievance concerning--

(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

(2) retirement, life insurance, or health insurance;

(3) a suspension or removal under section 7532 of this title;

(4) any examination, certification, or appointment; or

(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

(e)(1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the

applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

(3) The remedies described in this paragraph are as follows:

(A) An appeal to the Merit Systems Protection Board under section 7701.

(B) A negotiated grievance procedure under this section.

(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

(4) For the purpose of this subsection, a person shall be considered to have elected--

(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).

(h) Settlements and awards under this chapter shall be subject to the limitations in section 5596(b)(4) of this title.

Sec. 7122. Exceptions to arbitral awards

(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient--

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

Sec. 7123. Judicial review; enforcement

(a) Any person aggrieved by any final order of the Authority other than an order under--

(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

(2) section 7112 of this title (involving an appropriate unit determination),

may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designee, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the

jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

SUBCHAPTER IV--ADMINISTRATIVE AND OTHER PROVISIONS

Sec. 7131. Official time

(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

(d) Except as provided in the preceding subsections of this section--

(1) any employee representing an exclusive representative, or

(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative,

shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

Sec. 7132. Subpenas

(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may--

(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

(2) administer oaths, take or order the taking of depositions,

order responses to written interrogatories, examine witnesses, and receive evidence.

No subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

Sec. 7133. Compilation and publication of data

(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

Sec. 7134. Regulations

The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

Sec. 7135. Continuation of existing laws, recognitions, agreements, and procedures

(a) Nothing contained in this chapter shall preclude--

(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter.

APPENDIX E
FORMS

REFERENCE ARTICLE	FORM NAME	PAGE
6	Official Time Release Form	124
7	Negotiation Notice Form	126
8	Formal Grievance Procedures Flow Chart	127
8	Grievance Tracking Form – Step 1 Grievance	128
8	Grievance Tracking Form – Step 2 Grievance	129
8	Grievance Settlement Agreement Format	130
17	Notification of Approved Detail of Bargaining Unit Employee	132
24	Established Procedures for Requesting Leave	133
34	Dues Change – Between Locals	135
34	Cancellation of Dues	136
Various	Information Request Form	137
Various	Notice of Formal Meeting Form	138
Various	Notice of Weingarten/Investigative Meeting Form	139

1

Official Time Release Form

(Reference CBA NFFE/BAIHS, Article 6)

SECTION A

Official Time For: □ Union Representative □ Bargaining Unit Employee

Requester's Printed Name**:** _____Local Lodge: _____

Requester's Signature/Date**:**_____

Function(s) Being Performed

Dispute Resolution: □ Complaint □ Step 1 Grievance □ Step 2 Grievance □ Unfair Labor Practice

General Labor Relations Activities: □ Labor-Management Committee □ Training (Complete Section B on form if travel required)

Employee Attended Meetings: □ Counseling □ Formal Meetings □ Investigation Meeting

Negotiations: □ Local Negotiations □ Council Negotiations □ Term Negotiations

Estimated Departure: Date: _____ Time: _____

Estimated Return: Date: _____ Time: _____

Estimated Total Official Time Hours: _____ Location: □ Local Unit □ Area Office

□ **Released**

□ **Not Released.** If requestor will not be released as requested, when will the representative be released?

Date: _____ Time: _____

Reason not released:_____

_____

Supervisor's Name Printed:_____

Supervisor's Signature/Date:_____

2

3

1

SECTION B

TO BE COMPLETED ONLY IF TRAVEL/PER DIEM IS REQUESTED FOR ARTICLE 6.3

□ **Approved** □ **Disapproved**

Union Council President's Name Printed:_____

Union Council President's Signature/Date:_____

□ **Approved** □ **Disapproved:** if disapproved, reason(s) will be stated in writing

Area Director's Name Printed:_____

Area Director's Signature/Date:_____

2

3

NEGOTIATION NOTICE FORM

NFFE and Billings Area IHS

ARTICLE 7: A copy of all local level subordinate agreements will be submitted to the Union Council President and the Area Director in order to be binding upon the local parties.

NOTICE OF PROPOSED CHANGE	
Proposing Party	□ Area Management □ Union Council □ Local Management □ Local Union
Name, Title of Proposing Official	
Signature and Date of Proposing Official	
Subject of Notice	
Proposed Implementation Date	
Projected Impact of Change	
	Attach all appropriate data. Note: If the proposed change is at the Local Level, attach a copy of Area Office approval in the case of reorganization, personnel changes and details or any other required higher level approval
Date Response to Proposed Change is Due	
Name, Title of Receiving Official	
Date Notice Received	
Signature and Date of Responding Official	
RESPONSE TO PROPOSED CHANGE	
Name, Title of Responding Official	
Signature and Date of Responding Official	
Action Requested	□ Negotiations as appropriate, proposed date to start negotiations _____ □ No negotiations requested. □ Meeting(s) to discuss proposed change and/or requested data. □ Extension of time – reason for request _____ _____
CBA SECTION 7.4 NEGOTIATION PROCEDURES	
COUNCIL LEVEL	The proposing party will furnish written proposals delineating proposed changes affecting conditions of employment to the other party. Either party has up to **thirty-five (35) calendar days** after receipt of the proposed changes to request negotiations by presenting written proposals.
LOCAL LEVEL	The proposing party will furnish written proposals delineating proposed changes affecting conditions of employment to the other party. Either party has up **to fifteen (15) calendar days** after receipt of the proposed changes to request negotiations by presenting written proposals to the other party.
TIME LIMITS	When data is requested from the other party, the time limits will be automatically extended to that equal to the number of days it takes to receive such data. The parties agree that data requests will be prudent and necessary to respond to the proposal

Note: Refer to Article 7 for negotiation obligations and procedures.

NFFE-BAIHS
Formal Grievance Procedures
Flow Chart

Settlement: When a settlement agreement is reached it will be documented and signed by the grievant and the appropriate officials on the Settlement Form (see Appendix E of the CBA). If a settlement agreement is signed, no STEP 2 grievance will be filed on the issues raised in the STEP 1 grievance.

STEP 1

Grievance is filed within 21 calendar days after the act or occurrence, or the awareness of the act or occurrence, giving rise to the matter being grieved by the employee. The Step 1 grievance official is the sevice unit CEO for service unit employees, or the Deputy Area Director for BAO employees. Note: If the matter being grieved is a suspension, downgrade, or removal the grievance begins at Step 2

Within 21 calendar days after receipt of the written grievance, the Step 1 official informs the employee in writing of the decision and the reasons therefore.

STEP 2

If the matter is not resolved at STEP 1 within 21 calendar days after the receipt of the Step 1 decision or the date the decision should have been issued, the employee may present his/her STEP 2 grievance.

Within 21 calendar days after receipt of the STEP 2 grievance, or 30 calendar days in response to a suspension, downgrade, or removal decision (8.7.B.), the STEP 2 official shall issue a written decision including the reasons for the finding. This is the final stage in the NFFE-BAIHS Negotiated Grievance Procedures. If the grievance is not resolved, the matter may be referred to arbitration in accordance with the Article 9 of the CBA.

Timeframes: The intent of the parties is for all participants to act within the time limits. However, time limits may be extended by mutual consent of the parties

Formal Grievance Tracking Form
Step 1 Grievance

This Form is required when using Article 8 of the NFFE/BILLINGS AREA IHS CBA
e-mail service is the preferred method of delivery

Note: In the case of filing a grievance in response to a suspension, down grade, or removal decision, the employee must file a Step 2 grievance within thirty (30) calendar days of the effective date of the action. (See Section 8.7.B).

Filing Party: □ Employee □ Local # □ Management □ Council

Name of Step 1 Grievance Filer (typed or printed)	
Signature and Date of Step 1 Grievance Filer	
Subject of Step 1 Grievance **(attach additional page(s) if needed)**	
Date of Incident	
	The grievant and/or Representative must file the Step 1 grievance notification with the appropriate official in writing within 21 calendar days of the incident resulting in the complaint or the date the grievant first became aware of the matter.
Suggestions for remedies**(attach additional page(s) if needed)**	
Name, Title of Grievance Official • Service Unit=CEO • Area Office= Deputy Director	
Signature and Date of Grievance Official	
Date Step 1 Grievance Received	
Due Date for Response to Step 1 Grievance	
	After the Step 1 grievance is received, the grievant and grievance official have 21 calendar days to resolve the issue. If they do not reach resolution within 21 calendar days, the grievant then has 21 calendar days to elect to file a Step 2 grievance.
Documentation of Time Extensions	Date of Request Agreed to Extension Date □ Requested e-mail service is preferred □ Approved □ Disapproved
Step 1 Grievance Outcome	□ Resolution achieved– attach completed Settlement (See Appendix E for format). □ Resolution not achieved, written decision issued on _____ □ No written decision issued
Deadline for filing Step 2 Grievance, if applicable	

Note: Refer to Article 8, Section 8.6 for Step 1 Grievance requirements and procedures.

Formal Grievance Tracking Form
Step 2 Grievance

This Form is required when using Article 8 of the NFFE/BILLINGS AREA IHS CBA
e-mail service is the preferred method of delivery

Filing Party: □ Employee □ Local # □ Management □ Council

Name of Step 2 Grievance Filer (typed or printed)	
Signature and Date of Step 2 Grievance Filer	
Subject of Step 2 Grievance	□ Unresolved Step 1 grievance. Attach Step 1 grievance submission and written decision if one was issued (21 calendar days). □ A grievance in response to a suspension, down grade, or removal decision. Attach copy of proposal and decision notices, and any other supporting documentation (30 calendar days).
Suggestions for remedies**(attach additional page(s) if needed)**	
Name, Title of Grievance Official • Area Director-all Step 2 grievances	
Signature and Date of Grievance Official	
Date Step 2 Grievance Received	
Due Date for Response to Step 2 Grievance	
	A written decision will be transmitted to the grievant within 21 calendar days after the filing of the Step 2 grievance.
Documentation of Time Extensions	Date of Request Agreed to Extension Date □ Requested e-mail service is preferred □ Approved □ Disapproved
Step 2 Grievance Outcome	□ Resolution achieved – attach completed Settlement (See Appendix E for format). □ Resolution not achieved, written decision issued on _____ □ No written decision issued
Date Written Decision Issued	
	This response shall be the final decision on the grievance. If the grievance is not resolved, the matter may be referred to arbitration. SECTION 8.9 MEDIATION may be invoked.

Note: Refer to Article 8, Section 8.7 for Step 2 Grievance requirements and procedures. Section 8.9 provides for possible mediation.

Refer to Article 9 for Arbitration requirements and procedures.

NFFE-BAIHS GRIEVANCE SETTLEMENT AGREEMENT

Recitals

1. The parties to this agreement are:
   a. Employee:
   b. Agency: Supervisor:
      Grievance Official:

2. The parties are represented by:
   a. Employee:
   b. Agency:

3. The Employee filed a Step 1 on [DATE] regarding [DESCRIPTION OF MATTER(S) GRIEVED]. The parties agree that resolution of this matter is in their mutual best interests and have agreed to set forth the terms of this Agreement in writing. This Agreement is authorized under 5 USC 71 and Article 8 of the Consolidated Bargaining Agreement. As a result, the Parties have agreed as follows:

Terms of Settlement Agreement

4. Grievance Settlement items:
   [LIST ALL ITEMS AGREED TO]
5. This agreement constitutes the entire agreement between the Parties.
6. This agreement shall become effective as of the date on which the last signature is applied to this agreement.
7. The Parties attest that they fully understand the terms of this agreement and they are voluntarily and knowingly entering into this agreement.
8. The undersigned parties and/or representatives attest they have the authority to enter into this agreement.
9. If this settlement is violated, the grievance will proceed at the next step of the grievance procedures (Article 8, Section 8.6.I).

FOR THE EMPLOYEE:

_____ _____
[EMPLOYEE NAME] Date

_____ _____
[PRESIDENT OF LOCAL NAME] Date

_____ _____
[NFFE UNION COUNCIL PRESIDENT NAME] Date

FOR THE AGENCY:

_____ _____
[SUPERVISOR NAME] Date

_____ _____
[GRIEVANCE OFFICIAL NAME] Date

TECHNICAL REVIEW: I certify I have reviewed the terms of this agreement and they do not conflict with the CBA, law, rule, or regulation.

_____ _____
[AGENCY REPRESENTATIVE NAME] Date

NOTIFICATION OF APPROVED DETAIL OF BARGAINING UNIT EMPLOYEE

Reference: Article 17

ISSUING OFFICIAL	
Date of Notification	
Printed Name of Responsible Management Official BAO AAD / Service Unit AO	
REQUIRED NOTIFICATION ITEMS The following must be completed. If additional space is needed, attach additional page.	
Employee Name	
Location of Detail	See SF-52, Part B, Item 22
Description of the work to be performed	( ) Position Description attached ( ) Description of Unclassified Duties attached
Expected actual duration of detail **NO MORE THAN 120 DAYS MAX**	If detailed over 89 calendar days, a PMAP will be attached
Expected impacts of the detail on employee	
Transportation, lodging, per diem arrangements	
Time and attendance procedures	
Reporting supervisor	
Unit specific orientation	
Performance expectations attached	
All extensions past NTE date must be renewed through the complete detail process	
ACTION TO BE PROCESSED (mark the application item	
( ) The action will be processed as a DETAIL because the temporary assignment is: ( ) At the same or lower grade than the employee's current grade ( ) To unclassified duties ( ) At a higher grade; however, IHS Merit Promotion Plan, 7-2.3.C does not allow for noncompetitive (unadvertised) temporary promotion of the employee. **( )** The action will be processed as a TEMPORARY PROMOTION because the temporary assignment is to a higher grade position and the employee meets basic qualifications and all applicable law, rule, and regulation for temporary promotion.	
NOTIFICATION TIMEFRAME (mark the applicable item)	
( ) Detail is within the facility: a 3 calendar day advance required ( ) Detail is not within the facility: a 10 calendar day advance required	
VERIFICATION OF RECEIPT To be completed by Local Union President. Upon completion the Local Union President will provide a copy to the AAD / AO	
Date of Notification Received	
Printed Name of Local Union President	
Signature of Local Union President	

Date:

To:

From:

Subject: Established Procedures for Requesting Leave

In accordance with Article 24 of the Collective Bargaining Agreement (CBA), the following procedures are established for submitting and responding to leave requests.

The Leave Approving Official (LAO) is: (LIST NAME/PHONE NUMBER/E-MAIL)

In the absence of the LAO, the following persons in descending order are designated to approve/disapprove leave requests:

1. (LIST NAME/PHONE NUMBER/E-MAIL)
2. (LIST NAME/PHONE NUMBER/E-MAIL)
3. (LIST NAME/PHONE NUMBER/E-MAIL)

(NOTE: List all designated LAO's)

Planned leave: Employees will request ***planned*** leave at least ___ work days prior to the start date of leave using the following method(s):

☐ ITAS ☐ By telephone ☐ e-Mail

☐ In person ☐ Voice mail ☐ OPF Form 71;

☐ other (describe);

The LAO will respond to planned leave requests within 2 work days. Employees will be advised of the leave decision by the LAO using the following method(s):

☐ ITAS ☐ By telephone ☐ e-Mail

☐ In person ☐ Voice mail ☐ OPF Form 71;

☐ other (describe);

Unplanned leave is leave that could not have been anticipated by the Employee and cannot be request in the time frame designated for planned leave. Employees will request ***unplanned*** leave at least ___ (hours/minutes) (before/after) their tour begins using the following method(s):

☐ ITAS ☐ By telephone ☐ e-Mail

☐ In person ☐ Voice mail ☐ OPF Form 71;

☐ other (describe);

The LAO will respond to unplanned leave requests as soon as possible. Employees will be advised of the leave decision by the LAO using the following method(s):

☐ ITAS ☐ By telephone ☐ e-Mail

☐ In person ☐ Voice mail ☐ OPF Form 71;

☐ other (describe);

In the event the leave request and/or decision are made by methods other than the automated time and attendance system, the Employee is responsible for entering the leave request into the automated time and attendance system as soon as practicable for LAO confirmation.

A copy of this completed form is to be provided to the Employee. If the employee is a Bargaining Unit Employee, a copy must be provided to the Local Union President.

_____ _____

[EMPLOYEE NAME/SIGNATURE] Date

Billings Area Office Indian Health Service

DUES CHANGE - BETWEEN LOCALS WITHIN THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES (NFFE) LABOR ORGANIZATION

Employee Name (Last, First, Middle)	Last Four Digits Social Security Number XXXX – XX - _____
Local Number Transfer Out: Local _____ Local Number Transfer In: Local _____	Service Unit or Facility Out: Service Unit or Facility In:

PART 1

THIS CHANGE AUTHORIZATION IS TO BECOME EFFECTIVE IN THE FIRST PAY PERIOD AFTER WHICH IT IS RECEIVED BY THE BAIHS LABOR RELATIONS OFFICER.

EMPLOYEE SIGNATURE_____ DATE_____

PART II

I CERTIFY THAT THE EMPLOYEE IDENTIFIED HEREIN IS ELIGIBLE FOR VOLUNTARY PAYROLL WITHHOLDINGS IN ACCORDANCE WITH CHAPTER 71 OF TITLE 5 U.S. CODE.

PRINT NAME_____ TITLE _____

SIGNATURE_____ DATE _____

Copy To: Employee, Council President

Billings Area Office Indian Health Service

Cancellation of Withholding of Dues to Labor Organizations

Employee Name (Last, First, Middle)	Last Four Digits Social Security Number XXXX – XX - _____
Local Number Transfer Out: Local _____	Service Unit or Facility Out:

PART 1

I AM NO LONGER IN A CERTIFIED BARGAINING UNIT POSITION.

I HEREBY REQUEST MY UNION DUES BE CANCELLED IMMEDIATELY.
THIS CHANGE AUTHORIZATION IS TO BECOME EFFECTIVE FOR THE PAY PERIOD DURING WHICH IT IS RECEIVED BY THE BAIHS LABOR RELATIONS OFFICER.

EMPLOYEE SIGNATURE_____ DATE_____

PART II

I CERTIFY THAT THE EMPLOYEE IDENTIFIED HEREIN IS NOT ELIGIBLE FOR VOLUNTARY PAYROLL WITHHOLDINGS IN ACCORDANCE WITH CHAPTER 71 OF TITLE 5 U.S. CODE.

PRINT NAME_____ TITLE _____

SIGNATURE_____ DATE _____

Copy To: Employee, Council President

INFORMATION REQUEST FORM
(BA/IHS AND NFFE)

Union Request For Information Under Section 7114(b)(4) of the Statute and the Parties Consolidated Bargaining Agreement

DATE of the information request: _____ LOCAL NUMBER:_____

UNION CONTACT: Name, union title, mailing address, phone number, email address of the union requestor:

AGENCY CONTACT: Council Level: Area Director
Local Level: Service Unit – CEO
Area Office – Area Director

INFORMATION REQUESTED: Description of information requested. Include in request whether personal identifiers such as names, social security numbers or other matters identifying individual employees are included or may be deleted. (Attach additional pages if necessary)

PARTICULARIZED NEED: Specific statements explaining exactly why the union needs the requested information. Explain how the union intends to use the requested information and how that use of the information relates to the union's role as the exclusive representative. (Attach additional pages if necessary)

PRIVACY ACT: Do you know if the requested information is contained within a system of records under the Privacy Act?

PUBLIC INTEREST: If you know or think that the requested information is within a system of records under the Privacy Act, describe how disclosure of the requested information, including any personal identifiers and the time period encompassed by the request, would shed light on the agency's performance of its statutory duties or otherwise inform citizens of the activities of the Government.

OTHER MATTERS: Other matters related to the request for information. (Discuss any other matters not listed above which relate to the union's information request and which may assist the agency in responding to the request.)

1

Notice of Formal Meeting Form

(Reference CBA Article 2, Article 3, Article 4, Article 8, Article 11, Article 29, Appendix A & B)

SECTION 2.3 FORMAL DISCUSSIONS: The Union has the right to be in attendance at any formal discussion between one or more representatives of the employer and any member of the bargaining unit connection with a grievance or any personnel policy or practice or other general conditions of employment. The Union's request for a response during formal meetings will be honored. The agenda or subject matter will be provided to the Union in a reasonable amount of time prior to the meeting.

Title 5 USC Section. 7114. Representation rights and duties
(a)(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at
(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment;.

Date:_____

From: _____

To: _____

Subject of Formal Meeting: _____

Lead Presenter: _____

Key Participants:_____

Place of Formal Meeting: _____

Date of Formal Meeting: _____

Time of Formal Meeting: _____

Expected Duration: _____

Pre-Meeting Data or Information: ____Yes ____ No

Employer Name:_____

Employer Signature:_____

2
3

1

Notice of Weingarten / Investigative Meeting Form

WEINGARTEN RIGHT: Refers to the right of a bargaining unit employee to be represented by the union under specific circumstances. That right exists when (1) the employee is examined in an investigation (an investigatory examination) conducted by an agency representative, (2) the employee reasonably believes disciplinary action against him or her may result, and (3) the employee requests union representation.

Title 5 USC Section. 7114. Representation rights and duties
(a)(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at
(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if- -
(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and
(ii) the employee requests representation.

Date:_____

From: _____

To: _____

Subject of Investigative Meeting: _____

Lead Investigator/Questioner: _____

Key Participants:_____

Place of Investigative Meeting: _____

Date of Investigative Meeting: _____

Time of Investigative Meeting: _____

Expected Duration: _____

Pre-Meeting Data or Information: ____Yes ____ No

Employer Name:_____

Employer Signature:_____

2