

1996 MASTER AGREEMENT BETWEEN THE UNITED STATES MARSHALS SERVICE
AND THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
INTERNATIONAL COUNCIL OF U.S. MARSHALS SERVICE LOCALS, C-210

ARTICLE 1
RECOGNITION

Section 1. Exclusive Recognition

This Agreement is made and entered into between the United States Marshals Service, the U.S. Department of Justice, referred to as the "Employer" or the "Agency", and the International Council of U.S. Marshals Service Locals 210, American Federation of Government Employees, AFL-CIO, hereinafter referred to as the "Union", the exclusive bargaining unit agent for all bargaining unit personnel in the United States Marshals Service.

Section 2. Purpose

The Employer hereby recognizes the Union as the exclusive bargaining agent under the provisions of the Federal Service Labor Management Relations Statute, Title 5 Chapter 71, hereinafter referred to as the Statute, and the Civil Service Reform Act of 1978, for all the employees in the unit, as the recognized Union for bargaining purposes with respect to conditions of employment as defined in 5 U.S.C. 7103 a (14), of employees represented by the Union and as provided by law. The Union has the full authority as provided by Statute to meet and confer with the agency for the purpose of entering into collective bargaining agreements, concerning changes in conditions of employment covering the above employees, and to administer this collective bargaining Agreement.

The Employer agrees that it will not bargain, negotiate, or enter into any agreement of memorandums of understanding with any other labor organization, association, persons or representatives thereof with respect to the terms and conditions expressed or contained in this labor agreement.

Section 3. Certification of Unit

The Union was certified as the exclusive representative of bargaining unit employees on August 20, 1974, in Case No. 22-5070(Ro). The term "employee" as used in this Agreement means any employee of the Employer represented by the Union. Except as provided by 5 U.S.C. 7103, the bargaining unit consists of all nonprofessional employees of the United States Marshals Service, including Deputy U.S. Marshals/Criminal Investigators GS-1811, 5/7/9, operational employees (GS-1811) GS-11 and above not excluded by Executive Order, intermittent and term deputies, detention officers, and administrative employees.

Employees specifically excluded from bargaining unit coverage and representation by Statute and court decision include; professional employees, confidential employees, temporary employees with no reasonable expectation of continuous employment, internal investigators, supervisors, management officials, contract guards, and federal personnel workers in other than a purely clerical capacity. Employees excluded by Executive Order 12171 include those assigned to the USMS Headquarters Investigative Services Division, Judicial Services Division, and employees assigned to the Operations Divisions in the offices of the United States Marshal.

ARTICLE 2

PRECEDENCE OF LAWS & REGULATIONS

In the administration of all matters covered by the Agreement, the parties are governed by existing or future laws and the regulations of appropriate authorities, published agency policies and regulations in existence at the time the Agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level.

Prior to implementation of any Agency regulations relating to personnel policies practices and procedures affecting working conditions, the Employer will notify the Union and afford the Union the opportunity to bargain over such changes as required by law under procedures set forth in Article 3 of This Agreement.

ARTICLE 3

PROCEDURES FOR MID-TERM BARGAINING

A. NATIONAL NEGOTIATIONS

Section 1. Notification

The Union has the right to negotiate changes and revisions in working conditions, policies, and procedures of the Employer.

The Employer agrees to provide the Union notice and opportunity to negotiate as required by law and regulation new policies not converted by this Agreement under the procedures outlined below. Prior to implementation of changes in conditions of employment such changes will be referred in writing to the Council National President for review and offered an opportunity to negotiate such change as provided by law and regulation.

Section 2. Bargaining Request

If the Union desires to negotiate over the proposed change, it will serve a bargaining request on the National Labor Relations Officer for the Marshals Service within seven working days of receipt of the Employer's proposals. Along with the notice of intention of bargain, the Union will serve whatever proposals it has developed on the Employer. Employer policies may not be implemented until completion of negotiations as provided by law, regulation and

this Agreement.

Section 3. Bargaining Procedures

Upon timely notification to the Employer, the parties will meet to negotiate under the following procedures:

- a. The number of employees representing the Union for whom official time is authorized under the Statute and this Article shall not exceed the number of individuals designated as representing the Employer. The Union will notify the Employer at least three days prior to the commencing of negotiations of who the Union negotiators will be. The Union representative will request that the Union negotiators be released from duty on official time to participate in negotiations pursuant to Article 10 of this Agreement.
- b. The parties shall discuss the Employer's proposals in the order of their referral to the Union, unless the parties agree otherwise.
- c. When the parties have reached agreement, they shall reduce the agreement to writing and initial the written agreement. No agreement shall be binding on either party until the parties' designated representatives have initialed the agreement as provided in this paragraph.
- d. The parties shall meet no later than fourteen (14) days following the date on which the Union receives the Employer's proposals. Negotiations will be held Monday through Friday, 9:30 a.m. to 5:00 p.m. in the Washington, D.C. metropolitan area until agreement is reached or an impasse is reached on all outstanding issues. The site of negotiations will be chosen by mutual consent, if possible. If no agreement on the site can be reached by the deadline for commencement of negotiations, the Employer and the Union will rotate in choosing the site from one session of negotiations to the next.
- e. At any time either party may call recesses or caucuses, which may not last longer than one day. Longer recesses may be set by mutual agreement.
- f. When the parties have reached an impasse in negotiations, they may request assistance from the Federal mediation and conciliation Service (FMCS) or the Federal Service Impasse Panel (FSIP) in accordance with their regulations.

Section 4. Emergency Procedures

Nothing in this Article shall preclude the Employer from taking actions which may be necessary to carry out its mission during an emergency.

- a. In a non-emergency situation where immediate action is necessary to change a condition of employment, the Employer may request as expedited schedule for negotiations. In such a case, the parties will meet within three (3) days of receipt of the Employer's proposals and request expedited negotiations. The procedure for conducting expedited negotiations will be the same as those set out in Section 3 above.
- b. The time in this Article may be extended by mutual consent.

Section 5. Notice of Changes

The Employer agrees to send copies of any proposed changes of the policies, procedures and practices affecting national conditions of employment, with notice and all documents, to the Council President and designated Union Executive Council members. The Council President will annually submit the names of the above committee members and local presidents to the Employer.

Section 6. Dissemination of MOU's

The Employer agrees to disseminate signed off memoranda of understanding (MOUs) to appropriate management officials and district offices. Local MOUs will be placed on the Employee bulletin board in the appropriate district office. Notice of national MOUs will be made through the Employer's communication channels and placed on the employee bulletin board of local offices.

Section 7. Duplication of MOU's.

The Employer agrees to provide the Council President with a copy of local and national negotiated agreements, supplemental local agreements, and MOU's for distribution to Union Officials. The Council President is authorized to use Employer facilities and equipment for such purpose.

B. LOCAL NEGOTIATIONS

Section 1. Bargaining Procedures

The following procedures shall be followed whenever the United States Marshal/Division Chief or designee desires to change conditions of employment for Marshals Service offices.

- a. Within 30 days of execution of this Agreement, the Union shall notify each Marshal and the National Labor Relations Officer of the name and address of the person who is entitled to negotiate for the Union in each office. Annually, the Employer agrees to provide the Union with an updated listing of USM's and their fax numbers.
- b. If a local District/Division Chief or designee desires to change conditions of employment he/she shall refer the proposal to the person identified by the Union pursuant to subsection (a) referenced above.
- c. Should the Union decide to negotiate the proposals, the Union official shall refer counter proposals or meet to discuss the Employer's proposals within seven days after receipt of the Employer's proposals.
- d. The parties agree to commence negotiations requested by the Union within seven days after the Employer receives the Union's timely submitted counter proposals.
- e. By mutual consent, expedited procedures may be used which waive the above requirements.

Section 2. Groundrules

- a. Each party shall be represented by not more than two employees, except for the D.C. District and Superior Court which may have three employee representatives for each party.
- b. All negotiations shall be conducted Monday through Friday during normal working hours of the office.
- c. All negotiations shall be conducted at the United States Marshals Service offices or otherwise mutually agreed upon location.
- d. All negotiability disputes shall be appealed in accordance with regulations of the Federal Labor Relations Authority (FLRA) except for disputes over application of the Master Agreement, which shall be resolved by the Negotiated Grievance Procedure (NGP).
- e. If the parties are unable to come to agreement on a negotiable provision either party may request assistance from the FMCS as appropriate.
- f. Official time will be authorized pursuant to Article 10, Official Time, Travel and Per-diem.

C. UNION INITIATED PROPOSALS

Section 1. Mid-term proposals

The Employer agrees to negotiate proposals submitted by the Union during the term of this Agreement pursuant to the procedures outlined below:

Section 2. Exclusions

The Union agrees not to propose changes specifically covered by this Agreement or on specific issues which were negotiated in the discussions leading to this Agreement.

Section 3. Procedures

The parties agree to negotiate Union initiated proposals under the same procedures used to negotiate proposals made by the Employer.

ARTICLE 4

SUPPLEMENTAL LOCAL AGREEMENTS

Section 1. Changes in Conditions of Employment

The parties, recognizing the necessity to implement, improve, and maintain a more effective labor management relations program, agree to the negotiation of supplemental collective bargaining agreements with USMS District/Division Offices and the AFGE Locals for their respective districts. Changes in conditions of employment not covered by the supplemental local agreement will be referred in accordance with Article 3 of the Master Agreement. In accordance with Article 26 the parties agree that past practices will remain in effect.

Section 2. Exclusions for Supplemental Agreements

A supplemental agreement may be negotiated for bargaining

unit employees stationed in a district office and headquarters components. Supplemental agreement may cover matters specified in this Article to the extent that the local manager has discretionary authority to set policies for his/her own district/division office. Supplemental agreements may not modify or repeat the Master Agreement.

Supplemental agreements may not contain provisions dealing with the issues covered by this Agreement or specific issues which were discussed in negotiations leading to this Agreement. Specific subjects for which supplemental bargaining is authorized are set forth in Section 7 of this Article.

Section 3. Agency Head Review

Supplemental local agreements will be reduced to writing, signed by the parties, and subject to the provisions of this National Agreement, and will become effective upon approval of the Director

of the USMS and the National Council President, Council 210, AFGE. Notice of disapproval of supplemental agreements must be issued not later than (30) days after a copy of the supplemental agreement executed by the local parties is received by the National President and the Director.

Section 4. Grievances and Disputes

Grievances arising over any provisions of a supplemental local agreement will be processed in accordance with the Grievance and Arbitration Articles of this Agreement or Section 5 U.S.C. 7116, except that no grievance may be filed over a dispute as to whether a proposal is outside the duty to bargain on account of a statute or regulation of appropriate authorities of the Department of Justice. Such disputes may be resolved in negotiability appeal procedures established by the FLRA.

Section 5. Commence Supplemental Agreements

Negotiations for local supplemental agreements must be commenced not later than (60) days after receipt of the New Master Agreement. The limitation will not apply to newly formed AFGE units and may be extended by agreement of the parties at the level of recognition.

Section 6. Termination of Supplemental Agreements

All supplemental agreements shall terminate if the Master Agreement terminates, unless both parties agree to negotiate and extend the supplemental agreement in accordance with this Article. This language does not apply to previously implemented alternative work schedules and shift schedules.

Section 6. Official Time

Official time for supplemental negotiations including impasse will be governed by Article 10 of the Master Agreement. The number of Union negotiators for which official time is authorized under this section will not exceed the number of individuals designated as representing the Employer in the negotiation of a supplemental agreement.

Section 7. Subjects for Bargaining

In the interest of maximizing the efficiency of time spent in negotiating supplemental agreements, the supplemental agreement is restricted by the Master Agreement to the following subjects:

- a. Working conditions controlled by district management;
- b. Vacation scheduling;
- c. Administration of overtime;
- d. Facilities for representational activities controlled by Management;
 1. Union office space
 2. Meeting rooms
 3. Reasonable use of FAX machines during duty hours.This does not preclude use of fax machines after duty hours.
- e. Facilities controlled by Management;
 1. Clothing lockers
 2. Firearm lockers
 3. Parking spaces
- f. Procedures for employees adversely affected when the Employer rotates unit employees;
- g. Voluntary overtime, special assignments and leave rosters;
- h. Shift work, compressed work schedule, flexitime arrangements as provided in Model language contained in Article 37 of this Agreement.

ARTICLE 5

LABOR MANAGEMENT PARTNERSHIP COMMITTEES

Section 1. Labor Management Partnership

Under provisions of the National Labor Management Partnership Council MOU and or other mutually agreed upon committee that serves to promote improved labor management

relations and communications,

the parties agree to work towards mutual interests and create a more cohesive and effective relationship which better serves employees, management, agency mission objectives and the delivery of quality services.

Section 2. Representation

The parties agree that as part of the National Labor Management Partnership representation at these meetings shall be equal in number and the sessions shall be reasonable in duration.

Section 3. Official Time and Travel

The parties agree that employees serving as Union representatives on Partnership meetings will be on official time and travel as provided in the Labor Management Partnership MOU dated 05\24\95.

ARTICLE 6

STATUS OF EMPLOYEE REPRESENTATIVES

Section 1. Non-discrimination

Subject to this Agreement, the Employer agrees that pursuant to Public Law 95-454 (1978) and Statute, there will not be discrimination against any employee, Union officer, or Union representative while in the responsible exercise of their right to organize and designate representatives approved by the Union for the purpose of collective bargaining, the preparation and presentation of grievances, appeals from adverse actions, the fostering of effective Employer-Union relations and cooperation, or upon any duly designated Union representative acting on behalf of any employee or group of employees within the bargaining unit.

Section 2. Union Officers

National officers, regional officers, shop stewards and national local representatives will be named or designated by the ICUSMSL Council President, will be recognized as Union officials and representatives of the employees of the International Council,

AFGE, and will have the same duties, responsibilities and protection as stated by law and this Agreement. The selection of Union officials is an internal Union matter. The Council President will provide the Employer annual updates of the names and addresses of authorized Union officials at the national and local levels.

Section 3. Union Orientation

- a. The Employer agrees to provide a copy of the NMA to all bargaining unit present and new employees (administrative and operational) at all offices of the Employer.
- b. The National Council President will receive 300 copies of the NMA.

- c. Each Council member and local Union official will receive 16 copies of the NMA.
- d. The Employer agrees to allow the Union the opportunity to provide an orientation session on Official time for all new recruit classes at the USMS Federal Law Enforcement Training Center (FLETC) or other mutually agreed upon facility under the following conditions:
 1. Attendance at the union orientation session shall be voluntary.
 2. The session shall be scheduled after the normal training day.
 3. The session will be held on the same day that the USMS Human Resources Division makes it's presentation.
 4. The Union will notify the Employer 14 days in advance of it's intent to provide such an orientation.

The Employer agrees to provide information to all new employees at the USMS FLETC concerning the employees statutory right to join and be represented by the Union. Further, the Employer agrees to distribute copies of the NMA and any other appropriate material supplied by the Union to all employees at the USMS FLETC.

Section 4. Notification of Union Representative

The Employer will advise new unit employees, or employees transferring between stations upon entering on duty, of the name of the designated Union Official in the area.

ARTICLE 7

EMPLOYEE RIGHTS

Section 1. Chapter 75 Rights

Each employee covered by this Agreement 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 rights except as otherwise provided by law and the statute 5 U.S.C. 71. Such rights include :

To act for labor organization in the capacity of a representative. The right includes the capacity to represent the views of the labor organization to the heads USMS organizational components, to officials of the Executive Branch, the Congress, or other appropriate authority.

To engage in collective bargaining with respect to conditions of employment as provided by law and this agreement through representatives chosen by employees under the provisions of the law and the Statute.

The engage in protected activities concerning equal opportunity in employment in accordance with Article 29 of this Agreement.

Section 2. Employee Communications

All employees shall have the right to communicate and bring matters of employment and of personal concern to the attention of the Union, Federal Government appeal agencies, the USMS and Human Resources Office, the EEO office, the USMS Grievance Adjudicator and the Office of Inspections and other appropriate management officials through the chain of command in accordance with this Agreement and appropriate law.

Section 3. Payment of Just Debts

It is recognized that all employees are expected to pay promptly all just financial obligations. With respect to private debts, a just obligation means one acknowledged by the employee to be valid or reduced to judgement by court. In the event of a dispute between an employee and a private individual or a firm with respect to an alleged debt or financial obligation, the USMS will neither act as an arbitrator nor will the USMS take any action against the employee which is directly related to the debt, unless the debt is in default and has been acknowledged by the employee and/or reduced to a judgement by a court of competent jurisdiction.

Section 4. Retirement Withdrawal

An employee may withdraw a resignation or retirement application 61 days prior to the effective date of the action. The Employer will not obligate a position without first contacting the employee who filed an application for retirement or submitted a resignation and give the employee an opportunity to reverse his decision. The employee must make his/her decision to withdraw from or proceed with the resignation or retirement application within fourteen (14) calendar days after being notified by the Employer that the Employer intends to obligate the position. An employee who request withdrawal of a resignation or retirement within 61 days prior to the effective date of the action when the position has been obligated prior to the date of withdrawal he/she recognizes that he/she is subject possible reassignment if staffing ceilings require such action.

Section 5. Probationary Period

In accordance with law and regulations, an employee who is appointed by transfer from another agency will not be required to serve a new probationary period, if the employee has previously completed a probationary period. Marshals Service employees who have completed a probationary period and who are reassigned or promoted into another position will not be required to serve a new probationary period unless the employee is appointed from a competitive certificate.

Section 6. Handling Sensitive Information

In those situations where an employee is directed to handle sensitive, classified or restricted information and is not advised of it's sensitivity, classification or restricted nature, such failure by management will be considered prior to any consideration of corrective measures for the inadvertent disclosure or misuse of that information unless said disclosure or misuse was deemed intentional or negligent.

Section 7. Conflicting Orders

Failure to follow conflicting orders issued by responsible officials will be taken into consideration in deciding whether any corrective actions will be taken.

Section 8. Change to Official Records

Any employee requested by a representative of the Employer to change or alter an official record, e.g. logs, returns, memo reports, etc., which they have properly prepared and believe such request to be inappropriate, shall report such request to the Inspector General for possible misconduct.

Section 9. Meeting with Union Representatives

Employees are permitted to meet privately with a Union representative during duty hours in accordance with the Master Agreement, the Civil Service Reform Act of 1978, and the Statute.

Section 10. Whistleblowing Protection

Employees are protected for lawful whistle blowing activities as provided by statute. Employees are protected against reprisal for the lawful disclosure of information by an employee which the employee reasonable believes evidences a violation of any law, rule, regulation, mismanagement or gross waste of funds, an abuse of authority, or substantial or specific danger to the public health and safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order or the conduct of foreign affairs.

Section 11. Performance Counseling

The parties recognize that effective counseling enhances employee performance and promotes management efficiency. Employees who believe the counseling is conducted to retaliate or discriminate may grieve under the NGP. Upon request, the employee will be given a copy of the memorandum made documenting the counseling session.

Section 12. Review of OPF's

Official Personnel Folders (OPF)'s are maintained at USMS Headquarters. When visiting Headquarters, employees have the right to review their OPFs and to request correction of records under appropriate procedures.

Upon request, the employee may receive a copy of everything maintained on the permanent side of his/her OPF.

c. Employees may submit to Employer official letters and or documents for inclusion in their OPF.

Employees OPF's will be maintained in accordance with Freedom of Information Act (FOIA) and the Privacy Act well as governing regulations. Employees may request the Employer to remove records from the OPF which are not required to be ordinarily

maintained by the Employer.

Section 13. Employee Injury-OWCP Benefits

Employees injured in the line of duty are entitled to benefits as provided by the Office of Workers' Compensation.

Section 14. College Courses

An employee may request his/her tour of duty be altered to attend college courses.

Section 15. Medical Separation Appeal

Employees involuntarily separated for medical reasons may appeal their separation.

Section 16. Pre-Retirement Counseling

Employees will be provided pre-retirement counseling by the Human Resources Office upon request. This counseling will include rights and benefits after retirement.

Section 17. Retirement Badge

When an operational employee retires from the USMS, he/she will receive a replica of the badge, identification and retirement credential which is similar to the one that was carried by him/her.

Section 18. Courteous Conduct

Management and employees are expected to demonstrate courteous conduct in the performance of their duties. When an employee believes he/she has been treated in a discourteous manner, the employee may bring his/her concerns to the attention of the Employer.

Section 19. Salary Advance

Employees whose pay checks are delayed for reasons beyond the control of the Employer, may request a salary advance which, if advanced, will be reimbursed upon receipt of their pay check.

The Employer will make reasonable efforts to ensure employees timely receive their pay checks.

Section 20. Travel Expenses

Employees assigned to travel in support of USMS business activities will be provided a Charge card for expenses and voucher reimbursement. If the Charge card is not provided, then employees are entitled to receive a travel and per diem advance up to the allowed legal cost of the assignment as provided by law and regulation. Employees are expected to repay any advances immediately upon receipt of their travel reimbursement.

Section 21. Meeting With Union Representatives

If an employee has a problem or situation which he/she desires to discuss with the Union during working hours, upon request and approval in advance, the employee can report to the Union official as approved. If the employee cannot be made available, then the supervisor will inform the employee when he/she can be made available. Workload permitting, the employee should be excused within one business day to meet with his/her representative.

Section 22. Prisoner Coordination Trips

Assignments of employees to prisoner coordination (pc) trips will consider such factors as distance, driving conditions, the number of stops, and the needs of the service.

If the employee becomes ill while on transport assignment, the employee will notify his or her supervisor of their illness. The employee may be entitled to per diem and overnight accommodations if authorized by his or her supervisor.

Section 23. Legal Assistance

Any employee desiring legal assistance from the Employer for a work related matter may request such assistance from the USMS Office of General Counsel (OGC). The OGC will submit the request to the DOJ according to DOJ regulations.

Section 24. Recording of Conversations

Generally, employees and managers may not make unauthorized recording of conversations. In some cases, pursuant to its internal security concerns and the law, management may record conversations. Any employee making unauthorized recordings of conversations may be subject to disciplinary action.

Section 25. Witness for Judicial Proceedings

Employees may receive administrative time without charge to leave or loss of pay to which the employee is otherwise entitled, when the employee serves as a witness or as a juror in connection with a judicial proceeding on behalf of the federal, state, or local government according to law, rule and regulation.

Section 26. Submission to Polygraph Examinations

It is a management policy that employees will not be required to submit to a polygraph test unless specifically required by statute, or regulation which does not violate the law. The Employer may request employees to take polygraph tests. However, employees are not required to take the test.

Section 27. Receipt of Pay Check

Employees may elect to receive his/her pay in one of the following:

a. Delivery by mail to a designated address other than that of the employer, where authorized by Public Law 103-356.

b. By electronic transfer of funds (direct deposit) to a financial institution of his/her choice.

Section 28. Maintenance of Employee Records

Employee records will be maintained as provided by the Records Maintenance Schedule and as otherwise provided by law and regulation.

Section 29. Certification of Employment

Prior to the time of retirement of an employee in a law enforcement position, upon request, the Employer may provide certification that such employee has served in a law enforcement position and verify dates of employment.

Section 30. Transit Subsidy

The Employer agrees to provide monthly transit pay as required by Public Law and Department of Justice regulations for employees who use mass transportation.

1. ARTICLE 8

MANAGEMENT RIGHTS

Section 1. Reserved Rights

Subject to Section 2 of this Article, nothing in this Agreement shall affect the authority of any management official of the Employer:

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

b. in accordance with applicable laws -

1. to hire, assign, direct, layoff, and retain employees of the Employer, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

2. to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Employer operations shall be conducted.

3. with respect to filing positions, to make selections for appointment from -

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

(b). any other appropriate source; and

(c.) to take whatever actions may be necessary to carry out the Employer's mission during emergencies.

Section 2. Permissive Subjects

Nothing in this contract shall preclude the Employer and the Union from negotiating -

- a. at the election of the Employer, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour or duty, or on the technology, methods, and means of performing work;
- b. procedures which management officials of the Employer will observe in exercising any authority under this Article; or
- c. appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

Section 3. Management Policy

All Articles and sections in this Agreement that include the language " It is a Management policy " shall be interpreted to mean that the policy is included in the Agreement for information purposes only. Management, pursuant to its reserved rights, has the right to change these policies provided the Union is notified of the change and afforded the opportunity to request impact and implementation negotiations, and management will entertain such request for negotiations as provided by Article 3 of this Agreement.

ARTICLE 9

UNION RIGHTS

Section 1. Exclusive Representative

The Union is the exclusive representative of employees in the unit and is entitled to act for and represent the interest of all employees in the unit. The Union is entitled by Statute and this Agreement to meet, act for a bargain collectively for employees covered by this Agreement. The parties agree that Union representatives will not be interfered with, restrained or coerced so long as their Union activities are protected under the Statute. Employee Union representatives who participate in unprotected activities may subject the employee to adverse action.

Section 2. Formal Discussion and Weingarten Examinations

The Union shall be given the opportunity to be represented at the following according to law and regulation:

- a. any formal discussion/meetings between one or more representatives of the Employer and one or more employees in the unit or their representative concerning any grievance or any personnel policy or other general condition of employment;
- b. any examination of an employee in the unit by a representative of the Employer in connection with an investigation if -
 1. the employee reasonably believes that the examination may result in disciplinary action

against the employee; and

2. the employee requests representation.

c. The Employer shall annually inform its employees of their rights under paragraph 2b of this Article.

Section 3. Union-Employer Communications

a. The Union will annually provide each United States Marshal and the National Labor Relations Officer an updated list of Union officers and representatives. The Union will also be responsible for advising unit employees of their representatives.

b. At the request of the Council president, the Employer will semiannually furnish a list of the names, position titles, grades, salaries, and duty stations of all bargaining unit employees.

c. Changes in conditions of employment and or new policies will be referred to the Union as provided in Article 3 of this Agreement.

d. The Employer agrees to provide information to the Union as requested which the law requires the Employer to provide to the Union.

e. The Employer agrees to permit distribution of notices and circulars sponsored by the Union to all unit employees in the USMS through regular dissemination channels. This language does not extend to franked mail.

f. The Employer agrees to provide a copy of the USMS Manual, updates, USMS phone directory and official USMS communications which are distributed to all personnel to each Council member and designated local Union official. A set of 5 CFR will be provided to the Council President. The Council

President will be on the distribution list for Official employee communications.

g. Upon request the Employer agrees to provide copies of its personnel regulations and changes to each National Council member and each district local. Upon request during duty hours, copies of DOJ regulations and pertinent teletypes, except those classified or containing confidential subject matter, will be made available for review by the Union.

h. The Employer will furnish to the Union, or to its authorized representatives, at no cost to the Union, upon request within a reasonable period of time, and to the extent not prohibited by law, data which:

1. is normally maintained by the Employer in the regular course of business.

2. is available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining.

Section 4. Polling of Unit Employees

Prior to polling bargaining unit employees, polls and surveys formulated to change conditions of employment will be referred to the Union for impact and implementation bargaining to the extent required by law in accordance with Article 3 of the Master Agreement. It is understood by the parties that this requirement does not apply to polls taken by other agencies which are not part of the USMS, or to the day-to-day operations of the local office. The Union will be provided statistical information and the results of polls and surveys of bargaining unit employees.

Section 5. Bargaining Unit Changes

Upon request, the Employer will provide the Council President and National Secretary/Treasurer of AFGE a list of names, position titles, grades, salaries, and duty stations of all bargaining unit employees appointed, transferred, promoted, and separated during the preceding two months.

Section 6. Representation on Committees

The Union may designate a minimum of two members on USMS reinvention committees. The Union is entitled to an equal number of members to participate on committees, boards, and panels which are established by this Agreement and or the labor management partnership committee.

Section 7. AFGE Health Benefits

Upon request, the Employer will make available copies of the AFGE Health Benefits brochure to any new and interested employees.

Section 8. Facilities

National Representatives of the Union and Council representatives shall be permitted upon all USMS facilities, except for sites which have been designated as secure areas for security purposes. Visitations at these installations shall be conducted under the procedures established by this Agreement, except for public areas.

Section 9. Performance Appraisal

Union activities will not be considered in rating an employee on his annual performance rating.

Section 10. Unfair Labor Practices

Union representatives have the right to file unfair labor practice charges in accordance with Title 5, United States Code, Section 7116 (a) of the Statute and this Agreement. The Union has the right to participate in proceedings before the Federal Labor Relations Authority (FLRA) in accordance with this agreement and the FLRA rules and regulations.

Section 11. Union Communications

Both parties agree that the Union has the right to communicate with Congress, officials of the Executive Branch, meet, confer and communicate, hold discussions, and present views to the Employer/Agency, FLRA or other appropriate authority.

Section 12. Charity Programs

Reasonable effort will be made to give the Union notice of charity programs. The Union agrees to cooperate with the Employer in truly voluntary charity drives and to lend its support to these worthy causes. In conducting these drives, the parties will be guided by appropriate regulations which provide that no compulsion or reprisals will be tolerated. Confidential gifts may be made by placing contributions in sealed, unmarked envelopes. Except for lists which are necessary to administer the program, it is further agreed that no lists will be kept showing the names of contributors and the amounts of their contributions.

Section 13. Mission Requirements and Representational Activities

Union officers are required to participate in USMS mission activities as assigned. Union officials may be excused from assignments and out of district assignments to the extent necessary to perform representational activities and provided official time and per diem for such activity as provided in Article 10 of this Agreement.

ARTICLE 10

OFFICIAL TIME TRAVEL AND PER DIEM

Section 1. Official Time Purpose

In order to develop and maintain effective labor-management relations, the Employer agrees to grant official time as provided above to accomplish specified functions set forth herein. Both parties agree that the release of Union representatives for the purposes outlined in this Agreement will enhance day-to-day labor management relations at all levels.

Section 2. Consistent with Regulations

Unless required by law, employees and recognized Union officials shall be entitled to official time and per diem consistent with government regulations as provided for in this Article and Agreement.

Section 3. Authorization of Time

Employees and recognized Union officials shall be permitted official time to meet, prepare and perform representational activities without charge to pay or leave.

a. Meetings and Conferences

1. Reasonable time to attend conferences or meetings with officials of the Employer and/or participate as members of USMS reinvention and continuous improvement teams.

2 . Reasonable time for Union officials to participate in

Labor-Management Partnership Committee, Health and Safety committee, and EEO meetings.

b. Grievances, Complaints and Appeals

1. Reasonable time, not to exceed eight (8) hours to prepare for presentation of a response, complaint, grievance, or appeal for the affected employee and an employee acting as his/her sole Union representative.

2. All time spent by an employee representative in a hearing held in connection with a grievance, complaint, oral reply, or appeal where he/she is the sole authorized Union representative for the employee.

3. For the purposes of training, a second Union representative may attend an arbitration proceeding when the Employer designates two employer representatives for training purposes.

4. The minimum time necessary for an employee to travel via the most economic means to:

(a). Attend a hearing on his/her own complaint, grievance, or appeal.

(b). Be properly called in a hearing on a grievance, complaint or appeal.

(c). When otherwise in a duty status, reasonable time to travel to represent an employee in an office located in an area where there normally is no Union official located. When the Union determines that an excess of two hours is required, prior authorization shall be requested from the National Labor Relations Officer.

5. Approved employee witnesses for arbitrations will be granted 4 hours of official time to prepare for the proceedings.

c. Collective Bargaining

1. Official time for bargaining at the National level.

Official time shall be provided as required by law to employee Union representatives in collective bargaining negotiations at the national level. In addition, employee representatives designated to participate in renegotiation of the Master Agreement are entitled to 24 hours per employee representative to prepare for such negotiations. Employee representatives designated to participate in national midterm negotiations shall be entitled to eight (8) hours to prepare for such negotiations.

2. Official time for supplemental negotiations.

(a). Official time shall be provided as required by law to employee Union representatives in supplemental bargaining negotiations at the District level. The number of employees for which official time is authorized for supplemental negotiations shall not exceed the number of individuals designated as representing the Employer in supplemental bargaining.

(b). The negotiation of a supplemental agreement is governed by Article 4 of the Master Agreement.

Section 3. Authorization of Travel

Authorization of Travel, and per-diem. The Employer agrees to provide travel and per-diem as provided in this Article and not in conflict with other provision of the Master Agreement.

a. Meetings

1. To attend conferences or meetings with officials of the Employer and/or participate as members of USMS reinvention and continuous improvement teams.
2. To participate in joint labor management committees as provided for in this Agreement.
3. To participate in other management committees, where the Union is invited and where such participation serves the best interest of the parties and the government.

b. Collective Bargaining as provided in Article 3 of the NMA.

Travel and per-diem for two Union Officials to meet at the National headquarters or other agreed upon location as necessary for the purposes of conducting negotiations of Employer initiated new policies and procedures. Travel and per-diem expenses is limited to 4 meetings each calendar year and may be scheduled at such time that other paid travel and per-diem is provided such to preserve the efficient use of resources.

c. Grievant and Representative

Travel expenses shall be payable to a grievant, complainant or appellant, his/her sole Union representative, and property called witness at a hearing on a grievance, complaint or appeal. The Union will bear the cost of any second employee representative's attendance at an arbitration proceeding. The attendance of a second employee representative as set forth in Section 2.b, (3) above, will not result in any additional cost, travel or per diem expenses to the Employer.

No travel and per diem expenses will be paid by the Employer for any Union Officer or representative to assist an Employee with the operation or presentation of a grievance at the local level.

Section 4. Prohibition for Organizing Activities

In no way will internal Union business, such as solicitation of membership or campaigning for an elective Union office, be conducted on official time.

Section 5. Release of Employee Union Representatives

Employee Union representatives shall be released from duty to perform functions as required by law and authorized by this Agreement under the following procedures established by this

Article:

a. The Union representative shall request from the Employer to be released from duty. The Union official shall provide sufficient information concerning the nature and duration the Union activity such that the Employer may make an informed judgement on the request. If the representative's workload permits, he/she shall be promptly released from his/her assignment.

b. Prior to leaving his/her work area, the representative shall identify the names of any other employees required to be relieved and ascertain from the Employer on the availability of the employees. If the representative is informed by the appropriate supervisor that the other employee(s) can be released, the representative may leave his/ her work station for whatever period is reasonably necessary to discharge his/her responsibilities to the other employee(s). If the other employees workload will not permit him/her to be released, the representative will return to his/her duty assignment until such time as both he/she and the other employee(s) can both be released from duty as provided above.

Section 6. DOL Requirements

The Secretary-Treasurer of each local will be allowed a reasonable amount of official time to complete the necessary reports and forms required by law, rule, regulation, and the Department of Labor.

Section 7. Self Representation

In areas where no Union representatives exist, and an employee desires to present a grievance directly to Management without Union representation, the Union will be provided with the name of the grievant, and settlement in writing within five (5) days of the meeting. The Union reserves the right to send a representative at its own cost (travel only) to meetings such as these.

Section 8. Union Training

The Employer agrees that official administrative leave will be granted to employee Union officials to attend training approved by the Union, which is designated to advise representatives on matters within the scope of Public Law 95-454 (1978) and which are of mutual concern to the Employer and the Union. Travel time necessary to insure the presence of the employee will also be granted. The Union will provide the Employer 30 days advance notice of requested administrative leave so that arrangements can be made to release the individuals who are requesting the leave. Extension of this time can be granted by mutual consent. The number of employees permitted to attend training will depend on the workload of the office.

Section 9. 50% Official Time

The Employer agrees to authorize two Union officials 50 percent official time for the purpose of administering the terms of this Agreement. The Union agrees that this official time will be used only when needed to administer the terms of this Agreement.

ARTICLE 11

USE OF OFFICIAL FACILITIES

Section 1. Availability of Space

At the request of the Union, subject to availability, private and confidential space will be made available for meetings called by the Union and its membership and for Union Officials to administer their representational activities. The Union agrees to exercise reasonable care and due consideration for the maintenance of the facility.

Section 2. Bulletin Boards

Each Employer installation will provide a bulletin board space in a place of prominence and reasonably accessible for posting material published by the Union. Union bulletin boards in district offices is supplemental negotiation issue.

The Union is responsible for the upkeep of the bulletin board.

Material posted on these bulletin boards may:

- a. Contain nothing which would appear to identify it as the Employer's material or that it is sponsored or endorsed by the Employer.
- b. Contain no scurrilous or libelous material.

Section 3. Filing Union Material

Subject to availability, the Employer will provide space for filing of Union material.

Section 4. Use of Equipment

Union officials authorized to represent employees may make reasonable access of Government phone system, FAX machines, electronic mail system, and reprographic equipment to discharge their responsibilities under this contract. No commercial bill calls will be made. Calls placed under this section shall not be used to discuss internal Union business.

Section 5. National Office Space

The USMS will provide Union office space at the National level. The office will be sufficiently equipped so that the Union can perform their representational activities. The Union will be provided sufficient notice if the Employer desires to change the office location based on the needs of the service.

Section 6. Locker Space

Subject to availability, the Employer agrees to negotiate separate locker space for USMS employees as part of Supplemental Local Agreements as set forth in Article 3 of this Agreement.

Section 7. - Headquarters Office

- a. In accordance with GSA and DOJ regulations smoking is prohibited in all office space.
- b. The facility will have a health unit for employee use.
- c. The facility will have a credit union for employee use.
- d. Free parking will be provided on a space available basis and subject to specific requirements as negotiated during the term of this agreement. Changes in parking availability during the term of this Agreement will be negotiated according to law and regulation.
- e. The Employer will authorize the Duty Officer (subject to workload requirements) to escort personnel to their vehicles or to the subway station who are working after normal duty hours. Prior to leaving the facility, the employee must make a request and provide reasonable time for the escort to arrive. The USMS will continue to monitor the work environment to ensure security for employees.
- f. The Employer will provide three Union designated bulletin boards. The parties will jointly agree on a location.
- g. The Employer will provide the Union a designated Union parking space. This space shall remain in effect as long as other management personnel are provided designated reserved parking.
- h. The Employer will have a cafeteria for employees.
- i. The Employer will provide a designated FIT facility. All USMS personnel will have access to the facility.
- j. The Employer will allow employees access to the building for the purpose of viewing significant celebrations on the mall area in Washington, D.C.
- k. The Union recognizes that the Drug Enforcement Administration (DEA) is the primary occupant of the 600 Army/Navy Drive facility. Any changes to the structure or policies affecting joint use space is subject to approval of DEA.

ARTICLE 12

TRAINING

Section 1. Training Policy

Training and development of employees within the USMS is a matter of significant importance. To improve employee performance and delivery of services to USMS clients, the Employer and Union agree to encourage and assist employees in developing and following a plan of self-development.

Section 2. Training Information

The Employer will maintain information and furnish counseling and guidance on suitable educational programs for employees. The Union, on its part, will encourage employees to take advantage of self-development opportunities. Upon request, the Employer will make available to employees a current listing of all correspondence courses which are on file.

Section 3. Training for New Position

The Employer agrees that, when an employee is reassigned to a position as a result of his/her former position being eliminated, training determined necessary by the Employer will be given to the employee to enable him/her to perform the duties of the new position.

Section 4. Competitive procedures

When training is given primarily to prepare employees for promotion, selection for training will be made under the competitive promotion procedures. This section will not apply to training provided to employees in career ladder positions who have not reached the full performance level.

Section 5. Employee Responsibility

The Employer and the Union recognize that each employee is responsible for applying reasonable effort, time, and initiative in increasing his/her potential value to the Service through self-development and training. The Union, therefore, agrees to encourage employees to take advantage of training and educational opportunities which will enhance the skills and qualifications needed to increase the efficiency of the employees in the performance of their duties for possible advancement in the Service.

Section 6. Counseling and Assistance

Training and career development of employees serves the interest and efficiency of the government. Employees will be apprised of their progress in training and informed of any deficiencies or need for improvement and given reasonable additional assistance toward qualifying for career promotions. The Employer will certify the employee's completion of the training, furnish the employee with a copy of this certification, and also place a copy in the employee's Personnel Folder. The successful completion of career development and training by employees may be considered as a factor in promotion recommendations.

Section 7. Career Promotions

Subject to the provisions of Article 40, section 4 b (1) promptly upon satisfactory completion of prescribed training and demonstration of the ability to perform at the next higher level, the Employer will promote the employee in a timely fashion provided that a vacancy exists and there is sufficient work to be performed.

Section 8. Failure to Complete Training

When an employee is precluded from completing prescribed training due to operational requirements or failure to provide training determined necessary, the Employer agrees to take

this factor into consideration in determining whether the employee will be promoted. To arrive at a decision to promote the employee within a one year period, that portion of the training completed, coupled with employee's total on-the-job performance, shall be considered in determining the employee's ability to perform at the next higher grade level.

Section 9. Upward Mobility

The Employer and the Union agree that the Upward Mobility and Career Development Programs are important. The Union will submit written recommendations including the suggested method of implementation relating to the Upward Mobility and Career Development Programs. Employees will be responsible for keeping management informed of their interest in participating in the Programs.

Section 10. Travel Expenses

Employees who are required to attend Employer sponsored or approved training in excess of one day that requires overnight stay and more than 50 miles from their duty station are entitled to travel and per-diem expenses as provided by law and regulation.

Section 11. Overtime (LEAP) for Mandatory Training

Overtime and premium pay may be paid to employees in training status as required by law and regulation. The Employer recognizes that required training serves the efficiency of the USMS and unless prohibited by law and regulation may be considered hours of work for premium pay purposes. Employees covered under provisions of Law Enforcement Availability Pay (LEAP) may receive Availability Pay credit for official training as provided for by law and regulation.

Section 12. Training Methodologies

When developing training programs, the USMS will consider utilizing a variety of training methodologies conducive to adult learning and employ such techniques as appropriate.

Section 13. Training Lists Information ***

Upon request, the Employer will make available to employees and the Union a current listing of all USMS and DOJ correspondence and training lists.

Section 14. Posting of training Opportunities

The Employer will make a reasonable effort to make available and post training notices which contribute directly to the career development of USMS employees.

Section 15. Adjustment to Work Schedule

The Employer may make adjustments in the employee's work schedule to allow the employee to complete approved training.

Section 16. Employer Policy ***

It is the policy of the Employer to provide job enrichment to employees through training opportunities, redesigning of jobs, and on-the-job training when appropriate.

ARTICLE 13

POSITION DESCRIPTION AND REVIEW

Section 1.

The Union may make recommendations concerning the accuracy of improperly classified positions on a standardized unit position description. The Employer agrees to review the Union presentation and promptly make any corrections needed. Affected employee(s) has the right to file an appeal in accordance with law and regulation.

Section 2.

When the Employer proposes to modify an employee position description, the Employer will notify the employee thirty (30) days prior to the proposed effective date of the change. The notice of proposed change will include copies of the current position description and the proposed position description. The Employer agrees to consult with the Union over such changes.

Section 3.

For classifications purposes, it is understood that the statement "other duties as assigned," appearing on an employee's job or position description, refers only to duties of a minor nature assigned to the employee.

Section 4.

Upon request, the Employer will provide the employee a copy of an his/her position description.

Section 5.

If an employee is not satisfied with the classification of

his/her position the employee may request a job audit. If the employee is not satisfied with the Employer's response to the classification audit request, either the employee or the Union may file a Position Classification Appeal to OPM utilizing appropriate procedures.

Section 6.

Prior to affecting a change in the position or duties of an employee that affects the conditions of employment the Employer will notify the Union in accordance with the terms set forth in Article 3 of the Agreement.

ARTICLE 14

PERFORMANCE EVALUATION AND PERFORMANCE STANDARDS

Section 1.

As required by law, employees will be evaluated under a performance evaluation system that includes performance standards and critical elements that are directly related to the employee's job.

Section 2.

Each employee will be given a copy of the performance standards and critical elements that relate to the employee's position prior to the evaluation period. At the time, management will discuss such standards and elements with the employee.

Section 3.

Performance standards and critical elements shall be job related and in accordance with guidelines of appropriate authority to permit accurate evaluations of performance. Each employee shall be given a copy of the evaluation. Employees may review and respond to management statements on performance evaluation documents.

Section 4.

Unacceptable performance is a basis for reassignment, removal or demotion as provided by 5 CFR 432 and 752.

Normally, an employee will be given not less than thirty (30) days to demonstrate acceptable performance before reduction in grade, reassignment or removal based on unacceptable performance is initiated.

The supervisor will discuss the employee's unacceptable performance with the employee. The employee will be given a Performance Improvement Plan (PIP) advising the employee of the specific instances of unacceptable performance, the performance standards for those elements, the fact that the employee will be given an opportunity to demonstrate acceptable performance, what action must be taken to improve performance and what subsequent actions may be taken if performance does not improve. It is necessary to give the employee one (1) written performance warning.

If the performance has not improved and corrective action is necessary, the Employer will give the employee a written notice of the proposed action, setting forth, in detail, the basis for the action.

Employees will have fifteen (15) workdays in which to respond to proposed action. Grievances concerning performance based adverse actions may be filed initially at Step three (3) of the Negotiated Grievance Procedure.

Section 5.

Employees and the Union may request that the notice period for the PIP, extensions to the reply period to the proposed action, grievance or appeal may be granted for sufficient cause to promote the efficiency of the Service.

Section 6.

The Union may make recommendations for changes in the development and operation of the performance appraisal systems which will be considered by the Employer. The Employer agrees, upon request, to furnish the standards and critical elements to the Union.

Section 7.

When a supervisor, through daily contact, observes that an employee is experiencing difficulty in maintaining a satisfactory level of job performance, he/she will discuss the apparent difficulty with the employee.

Section 8.

Employees are not required to sign their annual performance rating evaluation. The signature denotes receipt of and not necessarily agreement with the rating.

Section 9.

Employees will receive their step increases based upon satisfactory and above performance as provided by law and regulation.

Section 10.

The Employer agrees that final ratings of record will only be completed by the supervisors who have served in such position for a minimum of 90 days as provided by law and regulation. The rating of record for employees subject to more than one supervisor may encompass the ratings of all supervisors if possible. In the event that an employee is transferred from one supervisor to another during the rating period, the rating period may be extended such to ensure that the employee is supervised by the rating official for not less than 90 days as required by law and regulation. The final rating may include the employees entire performance over the rating year.

Section 11.

Employees concerned about their performance evaluation may meet be released to meet with the Union on official time, as stated in this Agreement, to discuss the matter.

ARTICLE 15

1. EQUAL PAY FOR EQUAL WORK

The Employer and the Union understand that employees have the right to file an equal pay complaint in accordance with 29 U.S.C. 2006.D.

ARTICLE 16

PARKING

The Employer agrees to maintain the current parking policy at each office unless the policy is changed pursuant to Article 3-Mid-Term Bargaining.

ARTICLE 17

LEAVE

In matters concerning the approval of leave, The Employer has the discretion to approve leave subject to staffing, workload and mission requirements. Employees are entitled to accrue leave and take leave in accordance with law, regulation and this Agreement. Employees desiring leave shall complete an SF-71 stating the type of leave requested and the duration of the leave and submit such request to his/her supervisor. The supervisor shall exercise the discretion to approve or disapprove within 4 days of receipt of the request. If the employee is not advised on the approval or disapproval of the request the employee will request an immediate determination and the Employer will provide a response within one work day. If the leave is disapproved, the employee may request the reason be in writing and the Employer will provide such. The employee may raise the disapproval for reconsideration at the next higher level or may file a grievance under the terms of this Agreement. In the exercise of management discretion, the supervisor will be guided by equity, fairness and workload requirements.

The Employer, the employee and the Union will work together support the cross training of employees to temporarily perform the duties of an employee who is on leave.

Section 1.

The Employer may authorize annual leave or leave without pay to employees to attend an AFGE sponsored convention.

Section 2.

It is an employee's responsibility to report for work on time. Unavoidable or necessary tardiness may be excused in accordance with Part D of this Article. Repetitive lateness subjects an employee to adverse action. The employee has a responsibility to notify the Employer when he or she will be late or unable to report for duty. If the employee is unable to contact the his/her immediately supervisor, the employee will be carried in leave without pay status (LWOP), until the employee provides sufficient explanation and or documentation to support the appropriate approved status or the employee will be charged absence without leave (AWOL).

Section 3.

Leave may be taken in 15 minute increments as provided in this Article.

A. ANNUAL LEAVE

Section 1.

The use and accrual of annual leave is a right afforded to employees and not a privilege. Annual leave will be granted in a manner which allows each employee, if he/she wishes, to take extended leave based on the employees personal needs and wishes provided the employee has accrued the leave which is requested.

Consistent with the needs of the Service, annual leave which is requested in advance will be approved.

Section 2.

If prevented by emergency from taking approved annual leave, employees with use/or lose leave may apply for restoration under governing procedures. The forfeiture or carryover of annual leave balances shall be determined in accordance with applicable regulations.

Section 3.

In the event of a conflict in annual leave requests submitted by employees, the senior employee's request will be given first preference. All time served in a position in the USMS and in which the employee was entitled to earn annual leave, will be counted to determine which employee is senior. All employees with "use or lose" annual leave will be given first preference.

Section 4.

The Employer may approve a change in the selection of leave time, provided another employee's choice is not affected and workload permits, if requested by the employee.

Section 5. Emergency Annual Leave

Emergency annual leave should be requested within one-half hour after the beginning of the employee's work-shift. Notification should be directed to the employee's supervisor or other management official, if available. After the employee has made a reasonable

attempt to notify the supervisor (include electronic paging), and was unsuccessful, the employee shall complete a leave slip and advise another employee of the emergency situation. The employee requesting such will complete an SF-71 upon return to duty. Request for emergency annual leave while at work may be made by contacting the supervisor and stating the reason for the leave. In accordance with the Family and Work Life policy of the Employer, the supervisor will normally grant benefit requests for such leave.

Section 6.

Because a request for annual leave may involve business of a highly personal nature that the employee may not wish to divulge, the employee may give a reason of personal business, when requesting annual leave, and will not be required to provide details as to the specific reason, unless the employee is currently on a leave restriction notice.

Section 7.

Request for advance annual leave which would accrue during the current year, may be granted and must be repaid by the employee before any more annual leave can be advanced. The employee's leave usage and employment record will be taken into consideration in advancing annual leave. Exceptions to repayment may be made in accordance with appropriate regulations.

Section 8.

Annual leave will not be canceled by the Employer except under the following conditions:

1. during periods of emergency or serious personnel shortage, as determined by the responsible management official, or designee; or
2. after determination by the responsible management official, or designee, that duties require cancellation.

When cancellation appears to be necessary, the employee will be notified as far in advance as possible and be allowed to express any personal concerns. If leave is cancelled the employee will not be charged for the leave, may reschedule the leave and may request restoration of the leave as provided by law, regulation and this Agreement.

Section 9.

Where unforeseen emergencies arise while the employee is at work, the employee shall notify the immediate supervisor of the nature of the emergency and the possible anticipated extent of the employee's absence. The Employer will exercise discretion to approve the leave request as provided for in this Article.

Section 10.

If the emergency extends beyond the period for which the leave was originally approved, the employee will notify the Employer and request additional approval.

Section 11.

The Employer will consider request for annual leave in conjunction with a paid holiday under the same terms applied to other annual leave requests.

B. SICK LEAVE.

Section 1.

The use of sick leave is an employee right and benefit to be used as provided in this Agreement and as provided in law and regulation. Sick leave may be used for the following purposes:

- a. When an employee is incapacitated by sickness, injury, or pregnancy and confinement;
- b. For medical, dental, or optical examination;
- c. When a member of the immediate family is ill with a contagious disease which requires care and attendance of the employee or a serious illness under the provisions of the Family Friendly Leave Act (FEFFLA). In a case where a family member has a contagious disease, upon request, the employee will furnish a statement from the attending physician.
- d. When an employee has been exposed to a contagious disease which would danger the health of co-workers.

Section 2.

Sick leave should be reported within one-half hour after the beginning of the employee's work-shift. Notification should be directed to the employee's supervisor or other management official, if available. If this is not possible, it may be given to another employee. Application for sick leave for medical, dental or optical appointments must be made in advance except in emergencies.

Section 3.

Employees may be required to furnish reasonable acceptable evidence to substantiate a request for approval of sick leave if the sick leave exceeds three (3) consecutive workdays. Employees will not be required to furnish a doctor's certificate to substantiate a request for approval of sick leave periods of three (3) consecutive days or less, due to abusive use of sick leave, the Employer has given written notice to an employee that for a stated period (not to exceed six (6) months, unless the abuse continues), the employee must furnish a doctor's certificate for each absence from work which he/she desires to use sick leave. Employees who, because of illness, are released from duty, and are not subject to restrictions in this section, will not be required to furnish a medical certificate to substantiate sick leave.

Section 4.

In the event an employee receives on-duty injury or exposure to a communicable disease blood-born or air-born pathogen or injury due to exposure to hazardous waste materials, such employee may be placed in approve leave status as provided 20 CFR Part 10.

Section 5.

The Employer may allow employees to visit the health unit in a USMS facility for periods of a short duration to receive temporary medical care without charge to leave.

C. FAMILY LEAVE AND CARE

Section 1.

As provided by the Family Medical leave Act (FMLA), employees may use available sick, annual, or leave with out pay (LWOP) for up to 12 weeks for the care or birth of a child, adoption or foster placement of a child with the employee, care for themselves if they have a disabling illness, or care for a family member with a serious health condition. Family member means the following relatives of the employee;

- a. spouse and parents thereof,
- b. children including adopted children and spouses thereof
- c. parents,
- d. brothers and sisters and spouses thereof,
- e. any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

This leave may be extended upon request and approval by the supervisor.

Employees may also request an advance of sick leave, annual leave or use LWOP for family care purposes. Employees are expected, when possible, to give no less than a 30 day notice of their intention to take this leave. Use of such leave must be scheduled through the submission of a SF-71 to the employees immediate supervisor. The leave may also be used on an intermittent basis during the same 365 day period. Any leave over and above the 12 weeks provided by the FMLA must be approved in advance by the immediate supervisor.

Section 2.

Employees may request as provided in this Article long term family and emergency leave not to exceed four months - two of which may be non-pay status. This period includes any time provided by the FMLA. The request shall include the types of leave desired, approximate dates and anticipated duration. While on the above leave, the employee's position will be protected and benefits continued including health benefits as provided by law.

Section 3.

Upon request and approval, employees may use sick leave to cover physical examinations, medical treatment and the period which the employee is physically incapacitated due to pregnancy, confinement or a serious illness provided sufficient medical evidence is provided.

Section 4.

Upon request and approval, leave may be taken to care for a new born or newly adopted child or a seriously ill parent or spouse. Leave will be granted as stated above.

Section 5.

If employees use all of his/her leave for family care purposes, additional leave as provided by law and regulation may be granted and charged to accrued annual and sick leave or LWOP.

Section 6.

Employees with deaths in their immediate family may request extended periods of annual leave. Normally, these requests may be granted unless the workload does not permit.

D. ADMINISTRATIVE LEAVE

Section 1.

The Employer agrees that when voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, he/she will be granted an amount of excused leave which will permit him/her to report to work three (3) hours after polls open or leave work three (3) hours before polls close, whichever requires the lesser amount of time. Under exceptional circumstances where the rules do not permit sufficient time, an employee may be excused for such additional time, not to exceed a full day, as may be needed to enable him/her to vote, depending upon the particular circumstances in each individual case.

Section 2.

When an excused absence is administratively granted because of weather conditions or other similar reasons, and the period of excused absence is preceded and/or followed by official work time, in order to receive the benefit of the excused time, the employee must be in an active duty status immediately before or after the period of excused absence. This provision does not apply to personnel designated as essential who must report for work during emergency situations. In order to avoid confusion, essential personnel should be designated in writing by the offices concerned.

Section 3.

An unavoidable emergency absence of less than fifty-nine (59) minutes can be excused.

Section 4.

Employees who are eligible may be placed on court leave for jury duty and receive compensation in accordance with applicable regulations.

Section 5.

The Union and the Employer agree that not more than once each eight (8) weeks, employees who donate blood without compensation will be authorized up to four (4) hours excused absence. Time for recuperation may be extended upon a request of an appropriate medical authority.

Section 6.

If a fellow Deputy U.S. Marshal is slain while on duty, the Employer agrees to let as many fellow employees attend the funeral services as possible, without charge to annual leave.

E. RELIGIOUS OR PERSONAL LEAVE

To the extent modifications in work schedules do not interfere with the efficient accomplishment of the Employer's mission, an employee will be granted accrued compensatory time for religious reasons and/or religious holidays which occur on a regularly scheduled work day of the employee basic work week, in accordance with appropriate regulations.

F. VOLUNTARY LEAVE TRANSFER PROGRAM

The Employer will consider employee request to be placed in the voluntarily leave program as provided by DOJ regulations and this Article.

G. LEAVE WITHOUT PAY

The Employer may approve leave without pay for three (3) years to any employee elected a National Officer of AFGE. Such leave may be extended in three (3) year increments and will be terminated when the employee leaves office. In such an event, the employee maintains federal benefits and rights to the extent as provided by law.

ARTICLE 18

COMPENSATORY OVERTIME

Section 1.

Employees covered under premium pay provisions of the Fair Labor Standards Act (FLSA) whose rate of basic pay is less than the maximum rate of basic pay of GS-10, will not be required to work compensatory time in lieu of overtime. Should an employee elect compensatory time in lieu of overtime and the employee is not allowed to take time off within the prescribed time period set out in DOJ Order 1551.1c, the employee will be paid overtime at the appropriate rate of pay pursuant to law, rule, or regulation.

Section 2.

Employees will not be required to take compensatory time during periods that were not requested by the Employee. It is understood that employees must use earned compensatory time by the end of the year following that in which it was earned.

ARTICLE 19

PAYROLL ALLOTMENT PROCEDURE FOR WITHHOLDING UNION DUES

Section 1.

Nothing in this Agreement shall require an employee to become, or to remain a member of the Union or to pay money to the Union except pursuant to a voluntary, written authorization by the

member for the payment of dues through payroll deductions.

Section 2. Definitions

- a. Dues -- The regular, periodic amount determined by the Union to be required of the member to maintain good standing in the Union. This amount is certified by the Union on the SF-1187 form and excludes special assessments, back dues, fines, and similar items not considered to be dues. A multi-level dues structure may be utilized.
- b. SF-1187, "Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues."
- c. SF-1188 - "Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues."
- d. Payroll Office- Justice Payroll Center, Justice Management Division, Department of Justice.
- e. Personnel Office - Human Resources Division, Office of the Director, USMS.

Section 3. Eligible Employees must:

- a. Be in the Unit covered by this Agreement.
- b. Be a member in good standing with the Union.
- c. Have a regular net salary, after other legal and required deductions, sufficient to cover the amount of the authorized allotment for dues; and
- d. Request the allotment on the prescribed form (SF-1187) which has been certified by the authorized Union official.

Section 4. Responsibilities of the Union

The Union shall:

- a. Certify on the SF-1187 form the amount of dues to be withheld each biweekly pay period.
- b. Promptly forward completed SF-1187 forms to the National Secretary-Treasurer, 1325 Massachusetts Ave., N.W., Washington, D.C. 20005.
- c. Provide the Personnel Office with written notifications concerning:
 - 1. Changes in the amount of Union Dues.
 - 2. The name of any employee who has been expelled or ceases to be a member in good standing in the Union within ten days after the date of such determination.
 - 3. The name of any employees on dues checkoff who transfers from one local to another; any change in the local to receive dues deducted from check; and any changes in the amount to be deducted occasioned by the transfer to a new local.

Section 5. Responsibilities of the Employer

The Employer shall:

- a. The USMS Human Resources Office will screen each SF-1187 to insure that only eligible employees are on the dues withholding listing. The Employer will notify the National Secretary-Treasurer of each employee whose dues withholding has been terminated pursuant to this section.
- b. Receive in the USMS Office of Human Resources the SF-1187 form from the Union; certify on the SF-1187 form that the employee is in the Unit covered by this Agreement; and promptly forward the SF-1187 form to the Payroll Office for processing.
- c. Promptly, upon receipt of a revocation, the Employer will notify the National Secretary-Treasurer, AFGE, of the revocation.

Section 6. Procedures:

It is agreed that the following procedures will govern the voluntary allotment of dues:

a. Withholding of Dues

1. Upon receipt of a properly prepared and transmitted SF-1187 form from the National Secretary-Treasurer, AFGE, the Personnel Office shall forward same to the Payroll Office. The Payroll Office shall arrange to withhold the Union dues in accordance with existing pay periods (26 biweekly periods) under which employees are regularly compensated.
2. The dues deduction will be effective as soon as possible but in no case will it be later than two (2) full pay periods following receipt by the Payroll Office of the SF-1187 form.

b. Change in Dues

1. The amount of dues certified on the original allotment form (SF-1187) will remain unchanged until an authorized Union official provides written certification to the Personnel Office that the amount of dues has changed. New SF-1187 forms will not be required.
2. Changes in the amount of the allotment due to changes in the amount of Union dues will not be made more than twice every twelve months.
3. Changes in the amount deducted for Union dues will be effective as soon as possible, but in no case will it be later than two full pay periods following receipt by the Payroll Offices of the Union's certification of changes in its dues.

c. Termination of Allotments:

Allotments by employees shall be terminated:

1. Upon loss of exclusive recognition by the Union, effective at the beginning of the first full pay period after such loss or recognition;
2. When the dues withholding agreement is terminated;

3. When an employee ceases to be eligible for inclusion in the unit covered by this Agreement for which the Union is the exclusive representative. Employees temporarily promoted out of the unit will have their dues withholding terminated while they are the incumbent of a non-unit position. The employee

may continue to pay dues directly to the Union during his or her temporary promotion. When the temporary promotion is terminated, the Employer will automatically resubmit a request to Justice Payroll to reinstate dues withholding;

4. When an employee is expelled or ceases to be a member of the Union in good standing, effective with the first complete pay period after receipt by the Personnel Office of written notice from the authorized Union official;

5. Revocations by employees shall be in duplicate, preferably on an SF-1188 form, shall be forwarded by the employee to the Personnel Office. The SF-1188 forms will be purchased by the Employer and made available to employees at their duty station.

6. Employees may submit SF-1188's ninety (90) days prior to their annual revocation period, but no earlier. Employees who have elected dues withholding prior to January 11, 1979, or who have been on dues withholding for one year after January 11, 1979, may revoke dues withholding each January 15th. Employees may revoke dues withholding no earlier than one (1) year after the initiation of dues withholding.

Section 7. Remittance of Dues.

a. The Employer shall remit, by check, the dues withheld after each pay period for which deductions are made.

b. Checks in payment of dues shall be made payable to and forwarded to:

AFGE National Secretary-Treasurer

80 F. Street., N.W.

Washington, D.C. 20001

c. The remittance checks shall be accompanied by listings of the following information to the extent applicable:

1. identification of the Payroll Office reporting the data and the Union Local to receive the dues;
2. pay period ending date;
- 3 . the name of each member whose dues were forwarded to the Union and the amount of dues withheld;
4. the gross amount deducted; and
5. the net amount remitted to the Union local.

Section 8.

Under Payments and Over Payments - Any SF-1187 submitted to the Personnel Office that management does not process will be returned to the Union with the reason why this was not accepted. The Union reserves the right to discuss the exclusions with Management personnel. Management will be responsible for corrections of any administrative errors. There will be no charge to the Union for dues withholding.

ARTICLE 20

GRIEVANCE PROCEDURE

Section 1.

The purpose of this Article is to provide a mutually acceptable method for a prompt and equitable settlement of grievances. This shall be the exclusive grievance procedure available to the parties and employees in the unit.

Section 2. A grievance means any complaint:

- a. By an employee concerning any matter relating to the employment of the employee;
- b. By the Union concerning any matter relating to the employment of an employee; or
- c. By an employee, union or management concerning
 - 1. the effect or interpretation or a claim of breach of this agreement; or
 - 2. any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 3. Exclusions - This procedure does not cover grievances concerning:

- a. Any claimed violation of Subchapter III of Chapter 73 of Title 5 U.S.C. (relating to prohibited political activities);
- b. Retirement, life insurance, or health insurance;
- c. A suspension or removal under Section 7532 of Title 5 U.S.C. for reasons of national security;
- d. Any examination, certification, or appointment;
- e. The classification of any position which does not result in a reduction in grade or pay of any employee;
- f. Any personnel action (to include also the proposed action and the incidents which form the basis for the action) if the employee has elected to initiate the statutory appeal procedure of the agency's EEO appeals process, the EEOC, the FLRA, or the MSPB to challenge, in any way, the personnel action. Initiate an action is defined as filing or authorizing the filing of an appeal under another appeals procedure. Employees are subject to all regulations governing other appeals procedures.

g. An appeal of an adverse action based on performance under 5 U.S.C. 4302 or efficiency under 5 U.S.C. 7512 if the employee elects the statutory appeal procedure provided under 5 U.S.C. 7701;

h. A Union appeal of an adverse action or an allegation of discrimination against any employee if the Union is not expressly designated by the employee as his/her representative on the matter.

i. Issues raised as Unfair Labor Practices complaints cannot be raised as grievances under the NGP.

j. Non-selection for promotion from a group of properly rated and ranked certified candidates. (Appeal rights are contained in applicable laws and regulations).

k. A counseling or preliminary warning notice, which if effected, would be covered under the grievance procedure. (This does not apply to a meeting in which an examination takes place, where there is a reasonable belief that disciplinary action may occur and the employee requests Union representation).

l. An employee can file a grievance alleging unsafe or unhealthful working conditions or alternatively file an Office of Safety and Health Administration (OSHA) complaint but not both.

Section 4.

Only officials designated by the Union may represent employees in grievances. Union officials representing employee grievants have the right to be present during any phase of the grievance process. Employees may present their own grievances directly to management; however, when the grievant specifically requests or designates a Union representative in the grievance, the representative must be notified prior to any meeting and afforded the opportunity to be present during any discussion of the grievance, subject to provisions of Article 10 - "Official Time, Travel and Per Diem."

Section 5.

The parties recognize that the NGP is designed to give the parties the opportunity to resolve interpretations and/or applications of this Agreement. Therefore, any violation of this agreement should be processed under the provisions of this Article. The parties agree to submit virtually all contract related matters to the NGP for final disposition and to use sparingly unfair labor practice procedures concerning contract related issues which may occur in the day-to-day administration of this agreement. Violations of the Statute should be processed under the ULP procedures.

Section 6.

A grievance must be presented within thirty (30) days after the date of the incident giving rise to the grievance or thirty (30) days after the incident became known, except that no grievance may be filed more than one year after the date the grievance occurred. Grievances concerning letters of caution, reprimands, suspensions, demotions, and removals will be filed at Step 3 of the Negotiated Grievance Procedure.

Third level grievances filed originally at the third level must be delivered to the third level

deciding official not more than thirty (30) days after date or receipt by the grievant of the decision letter. Reasonable extensions may be requested and will normally be granted.

Section 7. Grievance Procedure

Step One.

Normally, employee grievances should be filed with the immediate supervisor. However, grievances may be filed at the level that caused the grievance. If the grievance is filed with the USM or Division Chief or other designated management official, the parties will meet within five (5) workdays of receipt of the grievance, and discuss the grievance informally. The management official will issue a decision within ten (10) workdays of the meeting to the employee and his representative, if any.

Step Two.

If the grievance is not resolved by the procedures in Step One, the grievance may be submitted to the National Labor Relations Officer or other designated management official within seven (7) workdays after receipt of the Step One decision. The management official will review, investigate, and discuss the grievance with the employee and his representative within seven (7) workdays of receipt of the Step Two grievance. The management official will issue a decision in writing within ten (10) workdays after receipt of the Step 2 grievance unless time limits are mutually extended.

Step Three.

If the grievance is not resolved by the procedures in Step Two, the grievance may be submitted to the Director or his designee within seven (7) workdays of receipt of the Step Two decision. The Director or his designee will review, investigate, and if necessary, discuss the grievance with the employee and his representative. The Director, or his designee, will issue a final decision in writing to the Step Two grievance. The

Director, or his designee, will notify the employee and his representative within thirty (30) days after receipt of the

grievance at Step Three. The decision at Step Three will state that it is the final decision of the Employer on the grievance. A grievance that is properly filed directly with the Director shall be processed under Step Three procedures. If there are any questions concerning who is currently the "designee", the Chief of Employee and Labor Relations in Service Headquarters should be contacted.

Each step of the grievance must be completed in sequence. If the Employer does not issue a decision within the time limits provided in this Article, the aggrieved party may advance the grievance to the next step.

The time limits of the grievance procedure may be extended by mutual agreement. For the purposes of determining time limits of this procedure, a grievance shall be deemed filed or presented under this Article when it is received by the proper official.

Section 8.

When an employee covered by this Agreement suffers loss or damage as a result of management's violation of this Agreement, the employee will be paid back pay in accordance with applicable law.

Section 9.

The parties have the obligation to make a complete record during the steps of the grievance procedure including the obligation to produce any and all witnesses who have relevant information. New issues may not be raised after Step One unless the party had no knowledge of the issue at the time the grievance was initially filed.

Section 10.

Any rejection of a grievance on the grounds of non-arbitrability or non-grievability will be served on the aggrieved party at or prior to the time when a final decision on the grievance is to be issued. If the grievance is not resolved by the procedures in Step Three of the grievance procedure, the Union may invoke arbitration pursuant to Article 25, Arbitration.

If a party raises a grievability or arbitrability issue, based on timeliness or substance, the arbitrator must conduct a two stage hearing and rule on the procedural issue(s) prior to hearing the substance of the grievance.

Section 11. Employer Grievances:

a. Scope. The Employer may file a grievance with the Union over any matter which by law may be resolved through the negotiated grievance procedure. The Employer may present a grievance to the National President, AFGE, or his/her designee.

b. Procedures. The grievance shall be presented in writing. The grievance shall be decided by the President or his designee within 30 work days of receiving the grievance. If the Employer is dissatisfied with the President's disposition of the grievance, the Employer may refer the grievance for binding arbitration.

Section 12.

Employees who have sought informal EEO counseling may still file a grievance on the matter, provided that such grievance is initiated within thirty (30) days of incident giving rise to the grievance to be filed, and no formal EEO complaint has been filed.

Section 13.

The parties hereto agree that every reasonable effort will be made to settle grievances at the lowest possible level.

ARTICLE 21
ARBITRATION

Section 1.

Only the Union or the Employer may request binding arbitration.

a. Any party wishing to arbitrate a grievance not settled through the grievance procedures must serve written notice of their intent on the other party within thirty (30) days of completing the last appropriate step of the procedure. The notice shall consist of the properly executed form customarily used by the Federal Mediation and Conciliation Service (FMCS) for requesting a Panel of Arbitrators. The party served shall execute the portion of the form reserved for it and will forward it to the appropriate FMCS office. The President of the Council, or his/her designee, or a representative of the National Office of AFGE are authorized to invoke arbitration on behalf of the Union.

b. The moving party shall contact the opposing party within ten (10) working days after both receive a list of arbitrators from the FMCS. If the parties cannot mutually agree upon one of the listed arbitrators, then the Employer and the Union will each strike one arbitrator's name from the list, repeating this procedure until one name remains. The remaining person shall be the duly selected arbitrator.

c. If the moving party fails to contact the other party within 61 days after both parties have received a list of arbitrators from the FMCS, then the moving party has failed to exercise its right to arbitrate the issue and the arbitration is moot. The other party is under no obligation to proceed to a hearing on the issue.

Section 2.

All fees and expenses of arbitration will be borne equally by the Employer and the Union. Any fees paid by the Employer are subject to applicable regulations.

Section 3.

The grievant and employees who are called as witnesses, shall be excused from their duties to the extent necessary to participate in the arbitration without loss of pay or charge to leave.

Section 4.

The Parties shall exchange witness lists at least seven (7)

workdays prior to the hearing. Where there is a dispute between the parties as to whether a witness's testimony is needed by an arbitrator to reach a conclusion on an issue in the case, the parties agree to a conference call with the arbitrator at least three (3) work days prior to the hearing to request the arbitrator to determine in advance of the hearing whether the witness shall testify. The Arbitrator shall determine whether the witness shall testify on the basis of an offer of proof from the proponent of the witness. The arbitrator's determination on a witness's appearance shall be final and binding on the parties.

Section 5.

The Employer will choose the site of any hearing prior to the selection of the arbitrator. The selection of hearing site will consider such factors as the overall costs to the government, the issues in the hearing, the location of grievant, witnesses or evidence in the dispute and the location of the arbitrator.

Section 6.

Approved witnesses may be provided up to four (4) hours of official time to prepare and assist the Union with preparation for the arbitration proceeding. The Union shall have the right to prepare for arbitration, to include but not limited to interviewing the grievant, on official time pursuant to Article 10 of this Agreement.

Section 7.

The arbitrator will be requested to render his decision as quickly as possible, but in any event, not later than thirty (30) days after the close of the record, unless the parties mutually agree to extend the time limit.

Section 8.

The arbitrator's award shall be binding on the parties. However, either party may file exceptions to an award with the FLRA under its regulations.

Section 9.

Any dispute over the interpretation of an arbitrator's award, including remanded awards, shall be returned to the arbitrator for settlement.

Section 10.

Upon mutual agreement of the parties, arbitration hearings may be conducted as oral proceedings with without verbatim transcript or filing of briefs. Either party may request that the hearing be transcribed. The original of the transcript shall be provided to the Arbitrator. If both parties agree to have the hearing transcribed, the costs will be borne equally by the parties. If only one party requests that the hearing be transcribed, the costs shall be borne by the requesting party. In this case, the requesting party will have exclusive use of and access to the transcript; the other party shall not be entitled to a copy of the transcript or to review the transcript.

Section 11.

The Arbitrator's authority shall be limited to deciding only the issue or issues presented in a grievance.

Section 12.

The FMCS shall be empowered to make a direct designation of an arbitrator to hear the case in the event:

- a. Either party refuses to participate in the selection of an arbitrator; or
- b. Upon inaction or undue delay on the part of either party.

Section 13.

If the parties fail to agree on a joint submission of the issue for arbitration, each party shall submit a separate submission, and the arbitrator shall determine the issue to be heard.

Section 14.

To protect the privacy of the parties and witnesses, arbitration hearings shall be closed except by mutual consent of the parties.

Section 15.

All arbitration hearings shall be scheduled during the regular work week except by mutual consent of the parties.

Section 16.

Exceptions to the arbitrator's award must be filed within thirty (30) days plus five (5) days from the date the arbitrator mails the decision. Exceptions are governed by Title 5 U.S.C., Section 7122 of the Labor Relations Statute or other applicable regulations.

Section 17.

The Arbitrator has full authority to award appropriate remedies and attorney fees as provided by law and regulation.

Section 18.

The parties may mutually agree and request an expedited arbitration procedure. In such event, the Arbitrator may render a decision at the close of the proceedings.

ARTICLE 22

1. REDUCTION IN FORCE/FURLOUGH

Section 1.

The Employer has a reduction in force (RIF) when it releases an employee from his competitive level by separation, demotion, or furlough for more than thirty (30) days, or assignment requiring displacement; when lack of work, shortage of funds, reorganization, insufficient personnel ceilings, reclassification due to change in duties, or the need to make a place for a person exercising reemployment or restoration rights requires the Employer to release the employee. Employees may be furloughed for less than 30 days due to budgetary constraints or other conditions as required by law and regulation.

Section 2.

Once the Employer decides a RIF/Furlough is necessary, the decisions on which and how many jobs are to be reduced, and when the reduction is to be made are Management decisions of the Employer. All reductions and transfers will be carried out in strict compliance with applicable laws and regulations and the NMA.

Section 3.

When a RIF/Furlough is necessary, the Employer will notify the Union as soon as possible. The written notice will state:

- a. The reasons why it is necessary to conduct a RIF/Furlough;
- b. Information on a continuous basis as it becomes available, including but not limited to:
 1. competitive area(s) and levels affected employees as appropriate;
 2. numbers and types of positions or employees affected; and
 3. the approximate effective date and or duration of the RIF/Furlough.
- c. That the Employer will meet with the Union, upon request, to discuss the RIF/Furlough, transfer of function or reorganization.
- d. When the Union receives notice pursuant to Section 3a. of this Article, the Union may request impact bargaining as to affected bargaining unit employees. If impact bargaining is requested, proposals must be submitted by the Union within ten (10) days of receipt of the Employer's notice.
- e. RIF/Furlough actions will be accomplished in full conformance with law and regulation and this Agreement.

To effect expeditious resolution, negotiations, if requested, will commence immediately. Nothing in the above established procedure will affect the Employer's right to conduct the reduction-in-force, transfer of function, reorganization or the effective date of the personnel action(s).

Section 4.

To minimize adverse effects upon employees in a RIF/Furlough situation, it is the policy of the Employer, where proper, to accomplish the RIF/Furlough through attrition where the attrition will occur prior to the effective date of the RIF/Furlough.

Section 5.

The Employer will provide complete information needed by employees to understand fully the reduction or transfer of function and why they are affected in accordance with law and regulation. Specifically, the Employer shall:

- a. Inform employees selected for release, in writing, of the proposed action and such shall be

given to the employee(s) sixty (60) days or earlier, if known, in advance of the proposed action;

b. Inform all affected employees of the extent of the affected competitive area, the regulations governing RIF/Furlough, and the kinds of assistance provided for affected employees;

c. Give affected employees maximum assistance in obtaining other employment.

Section 6.

An employee will be given ten (10) calendar days in which to accept or reject any reassignment offer made in accordance with his/her rights under regulations.

Section 7.

Employees who have been affected by a RIF may exercise their bumping and retreat rights in accordance with law and regulations.

Section 8.

If an employee is proposed for separation or assignment to a lower grade level, he/she and/or his/her representative shall have the right to review all records pertaining to the action. This review includes the retention register for his/her competitive level and those for other positions for which he/she believes he/she are qualified, down to and including those in the same or equivalent grade as the position "offered" by the Employer. If separation occurs, this includes all positions equal or below the grade level of his/her current position.

Section 9.

Competitive areas are governed by Departmental and Office of Personnel Management Regulations.

Section 10.

In a RIF/Furlough, the Employer will counsel employees for whom no positions are located, on the basis of information obtained from the local state employment agency, on any benefits that may be available to them.

Section 11.

The Employer will explain to every eligible employee affected by RIF/Furlough the program for early retirement with the discontinued service annuity and other programs such as retirement and severance pay.

Section 12.

The transfer of function means:

a. The transfer of the performance of a continuing function from one competitive area and its addition to one or more competitive areas; or

b. The movement of the competitive area in which the function is performed to another

commuting area.

Section 13.

Reorganization is defined as the planned elimination, addition, or redistribution of functions or duties in an organization.

Section 14.

The Employer agrees, to the extent possible, and consistent with its right to direct the work force, to consider an individual employee's request in the implementation of any reorganization.

Section 15.

Employees may meet with union representatives to discuss the impact of any RIF/Furlough action. Employees may grieve the application of RIF procedures in accordance with Article 24 of this Agreement or exercise MSPB appeal rights as provided by law.

ARTICLE 23

USE OF GOVERNMENT VEHICLES

Section 1.

No employee will be required to use his/her privately owned vehicle (POV) for official business. However, if an employee is requested to use his/her POV for official duty and he/she elects to do so, the Employer agrees to pay the employee the maximum rate allowable per mile, tolls, ferry fares, and other expenses for the use of the vehicle according to regulations. Employees acting within the scope of their authority and are on official duty, may as request coverage for accident or injury than occurs during the performance of duty as provided by law and regulation.

Section 2.

The use of an official vehicle between the residence of an employee and his/her office or other place of employment is not considered

"official business" unless such use has been determined to be necessary by the United States Marshal (USM) responsible and

the USM has issued written authorization to the employee involved. Personal use of a Government Vehicle is prohibited as provided by law and regulation.

Section 3.

It is the policy of the Employer that employees will not be required to operate unsafe vehicles. Employees required to operate an unsafe vehicle may bring the matter to the supervisor's attention, may contact the Joint Health and Safety committee as provided for in this Agreement, or may file a grievance under the NGP or, alternatively, file a complaint under OSHA Complaints Procedure, but not both.

Section 4.

The USMS will equip law enforcement vehicles with emergency equipment giving full consideration to the needs and mission of the USMS. Government vehicles must be operated in a safe a prudent manner. In an emergency situation where the vehicle operator believes that he/she must deviate from the obedience of state or local traffic laws, the operator should use emergency equipment if the vehicle is equipped with such and when operationally feasible notify state or local law enforcement authorities of the emergency. Use of a vehicle in an emergency situation requires that priority consideration be given to the safety of passengers, the general public and the preservation of private and government property. The vehicle operator bears the burden to justify departing from obeying state or local traffic laws.

Section 5.

Mandatory restrictions will be placed on employees having multiple at-fault accidents. In cases where merited, restrictions may be imposed for solitary at-fault incident. Restrictions may include suspension of home to work use, suspension of all use for a 30-dy period and disciplinary measures. Disciplinary measures may be mitigated by employees attending local traffic school at the employees expense.

The USMS may consider alternative corrective actions such as requiring employees to attend traffic school at the employees expense in lieu of disciplinary action for multiple at fault incidents. The USMS will provide due process procedures and negotiated appeal rights as provided in this Agreement to employees subject to a requirement to attend traffic school at their own expense.

ARTICLE 24

CLOTHING

Section 1.

If requested, employees will be provided overgarments to protect their personal clothing when they are to perform dirty and dusty work.

Section 2.

Upon request, females will be issued holster type handbags in lieu of the Service issued holsters.

Section 3.

The Employer agrees to process all DJ-110, Voucher and Employee Claim for Loss or Damage to Personal Property, for loss or damage of property, including personal clothing and vehicles, subjected to risks in the performance of duty, such as in connection with civil disturbances, law enforcement activities, public disorder, common or natural disaster, or efforts to save government property or human life.

Section 4.

The Employer agrees to provide protective vests for operational personnel. The wearing of vests is optional except when, in the judgement of the detail commander, a dangerous situation exists, the detail commander, deputy in charge or other appropriate supervisor may require the wearing of vests.

ARTICLE 25

PHYSICAL/MEDICAL REQUIREMENTS

Section 1.

Operational employees are required to meet the physical qualification standards established for their positions and by the Office of Personnel Management.

Section 2.

An employee in an operational position who fails to meet this standard will be given a reasonable opportunity to correct his/her deficiencies.

Section 3.

During a period in which an employee is temporarily restricted due to physical and or medical conditions, from performing the full range of duties for the position the Employer may assign such employee to light duty without loss of pay (exclusive of LEAP provisions) provided that light duty work assignments are available and the employee is able to perform such duties, consistent with light duty requirements set forth in the USMS Manual.

Section 4.

The Employer will schedule periodic medical examinations for law enforcement personnel at the Employer's expense. Alternatively, an employee can go to his/her own private physician with the proper forms for his/her physical examination at the employee's expense. It is recognized by the parties that additional examinations may be scheduled by the Employer in accordance with governing regulations.

Section 5.

Unit employees hired after July 1, 1984, and those personnel who do not maintain their weight proportionate to their height must participate in the Fitness-In-Total (FIT) Program. Other personnel may participate in the FIT Program on a voluntary basis.

Section 6.

Fitness-For-Duty Examinations - An employee shall be informed of his/her right to a representative in conjunction with a

fitness-for-duty examination. In seeking a fitness-for-duty examination, the employee may have one representative in a

fitness-for-duty processing. The representative should be designated in writing. Medical examination records will only be released to authorized personnel in accordance with applicable laws.

Section 7.

If the employee fails to meet the medical qualification standards for the position, and is eligible for disability retirement as provided by law and regulation, he/she may be processed for disability retirement. The employee will be counseled about his/her options. Retirement procedures as provided for by law and regulation will be followed when processing an employee for disability retirement.

Section 8. Drug Testing

The Employer may test for reasonable suspicion use of illicit drugs, and abuse of prescription drugs (use in excess of medically prescribed doses) and other drug use as provided by Executive Order 12564.

ARTICLE 26

PAST PRACTICES

The parties agree that Employer policies and mutually understood and accepted practices affecting conditions of employment which do not conflict with this Agreement shall remain in effect unless changed pursuant to the procedures set out in Article 3 - "Mid-Term Bargaining." Such practices may not conflict with published Employer policies and regulations and published applicable regulations of other agencies. In the event of a conflict between such practices and such policies and regulations, the Employer shall give affected employees and the Union reasonable notice that the Employer intends to enforce the policy or regulation before bringing the practice into compliance with the appropriate policy or regulation.

ARTICLE 27

HEALTH AND SAFETY

Section 1.

It is recognized that the health and safety of employees is one of its highest priorities and a mutual concern of the Employer and the Union. The Employer will provide a safe and healthful working environment consistent with the Occupational Safety and Health Act, Executive Order 12196, and the Basic Program Elements for Federal Employees Occupational Safety and Health Programs (29 C.F.R. 1960).

The Employer agrees to establish a Health and Safety committee as provided by EO 12196 and law that serves to advise and make recommendations as appropriate on the operation of the USMS Health

and Safety program. A safety representative will be designated for each district who will be responsible for reporting any hazardous or unsafe conditions observed by him/her or reported to

him/her, to the Safety Officer. The Employer will initiate prompt and appropriate action to correct any unsafe working conditions which are reported and which are determined to be unsafe. There will be an annual safety inspection of all areas occupied by the employees. The Union may designate a representative at each post of duty who will participate in an annual inspection.

Section 2.

Any employee who becomes ill or is injured in the performance of his/her duties will be promptly informed by the Employer of any and all benefits they are entitled to under the OWCP. The Employer will immediately investigate the facts and circumstances concerning the illness or injury and the employee will be furnished a copy of the report submitted to the OWCP office. If an employee is injured in the line of duty, he/she will be placed on administrative leave in accordance with applicable regulations.

Any employee or Union representative who believes that an unsafe or unhealthful condition exists at his/her facility shall report such condition to appropriate supervisory authority. If such condition is found to exist and has not been corrected within a reasonable time after it was reported, any employee or Union representative may request an inspection of the unsafe or unhealthful condition by a designated safety representative of the Employer. Grievances relating to Health & Safety issues will be made pursuant to Article 20 of this contract.

Section 3.

Where full health facilities are not available on the premises the Employer agrees to provide first aid kits(s) and to designate an employee(s) from among volunteers to maintain the kit(s).

Section 4.

The Employer agrees to maintain copies of each Health Benefit Plan offered to employees within a particular area. Upon request, such copies will be available to the Union and the employees.

Section 5.

Whenever it is necessary for an employee to leave work and return home because of serious illness or incapacitation, the Employer will make a determination as to whether or not an employee is needed to transport the employee to his/her residence and, if so, will allow the transporting employee time to do so.

Section 6.

The Employer will maintain and provide to the Union copies of statistical reports on Health and Safety required by the Department of Labor. Information on safety and health problems will be disseminated to all employees. Changes in health and safety programs will be negotiated with the Union as required by law.

Section 7.

Upon request, employees who, in the line of duty, are exposed to a contagious disease or a hazardous substance that has potential of causing health problems, can be examined and/or

treated at government expense. Managers will see that all personnel who are exposed receive treatment in accordance with the OWCP and other appropriate regulations.

Section 8.

Training - The Employer agrees that its occupational safety and health program will provide appropriate safety and health training for employees responsible for conducting occupational safety and health inspections, members of the occupational safety and health committee, and other unit employees, as necessary.

Section 9.

Health Services - The Employer agrees to continue to provide the various health services which are currently provided to employees of the bargaining unit.

Section 10.

Disabled Employees - The Employer agrees to develop procedures to ensure that all disabled employees are provided appropriate assistance to evacuate buildings in the case of an emergency.

Section 11.

The Employer and the Union agree to establish a joint Health and Safety Committee that will consist of four (4) members with an equal number of Employer and Union representatives. Each party shall choose its own members for such duration as the respective parties determine is appropriate for its members. Travel and per-diem will be authorized as provided for in Article 10 of this Agreement.

a. The Health and Safety Committee shall be self-organizing and will meet as necessary at mutually agreed times at the Headquarters of the USMS other appropriate places and perform such functions as provided by EO 12196 and law which includes:

1. Have access to agency information relevant to their duties including information on the nature and hazardousness and substances in agency work places.
2. Monitor performance including USMS inspections, of the Health and Safety program.
3. Consult and advise and make recommendations on the operation of the USMS Health and Safety program.

Section 12.

The following procedures will be utilized in unusual non-law enforcement situations when an employee believes that a working condition under the control of the Employer poses an imminent threat of death or serious bodily injury. In formulating this procedure, it is understood by the parties that the parties do not sanction insubordinate conduct or failure to follow written or oral instructions properly given by an employee's superiors. In the normal course of business, all employees are expected to carry out written and oral instructions of superiors when orders are given. If an employee does not agree with the order, the order should be carried out, after which

it can be grieved or an OSHA complaint filed, as appropriate.

a. When duties involving special hazards must be performed, it will be each employee's responsibility for his or her own safety. There is an obligation for each employee to know and observe safety rules and practices as a measure of protection. When an employee believes he or she is being required to work under conditions which are unsafe or unhealthy beyond normal hazards inherent to the operation in question, the employee shall refer the matter to the supervisor. The supervisor will make an evaluation of the working condition, and direct that the work assignment either be continued or be stopped. If the employee is unsatisfied with the supervisor's decision, the decision may be grieved under the negotiated grievance procedure or a complaint filed under the OSHA Complaint Procedure but not both.

b. When a supervisor is unavailable, an employee may terminate an assignment if the employee believes there is an imminent threat of death or serious bodily injury to himself or herself. In these situations or in situations where an employee refuses or fails to carry out an order, the employee will have the burden of showing appropriate evidence that he or she had a reasonable basis for his or her belief. In the absence of demonstrated proof, the employee will be subject to adverse action for insubordinate conduct or failure to carry out assignments, as appropriate.

Section 13. Communicable Diseases

a. If a USMS employee contracts or tests positive for a communicable disease and the employee believes that the disease is job-related, all issues concerning compensation, payment for medical treatment, use of leave etc., will be governed by applicable law and regulation (e.g., FECA, Disability Retirement under Title 5, U.S.C.)

b. The Employer will provide each employee who is at risk to exposure to air borne pathogens free immunization as required by law. Immunization for Hepatitis B will be provided to operational employees as required by law. Employees whose duties bring them into contact with significant amounts of blood or airborne pathogens, may request immunization. Such requests will be granted when, in the sole discretion of the USMS, these employees are determined to fall within CDC guidelines for immunization.

c. The USMS will authorize the districts to purchase the standard kit being used by law enforcement agencies, which includes gloves, mask, apron, CPR device and goggles.

d. On a local level, each district will request local law enforcement agencies to inform the USMS of the health status of prisoners who are being transferred to USMS custody. The parties recognize that such notification may be restricted by state law, and that the notification arrangements necessarily will depend upon the cooperation of individual law enforcement agencies. Once the USMS has notice that a prisoner has a communicable disease, the appropriate supervisor will be notified; the supervisor will inform all other USMS personnel who may come into contact with the prisoner.

e. In addition to training conducted at Glynco, the USMS will provide training in the districts to educate USMS personnel on the risks associated with handling prisoners with communicable diseases, and provide current medical information on communicable diseases. The USMS will provide updated medical information to the districts on an ongoing basis.

Section 14.

The Employer agrees to post at each district office and headquarters a poster in accordance with OSHA regulations. Among the information, the poster will list the names and phone numbers of the Union and Employer designated persons to contact for safety and health matters.

ARTICLE 28

FIREARMS

Section 1.

It is a management policy that employees in law enforcement positions are authorized to carry, use and maintain USMS issued firearms and/or carry and use approved personally owned firearms on and off duty only as provided for by law, regulation and the United States Marshals Service Weapons Policy.

Section 2.

Employees will be provided firearms training as to assure that weapons qualifications are maintained and that employees are proficient in the use of firearms. Therefore, it is the Employers policy to ensure that all USMS offices have access to a firearms range for qualifications and practice. The Employer will make reasonable efforts to ensure that operational employees are provided sufficient opportunity for firearms practice. Employees may request use of the range for practice purposes and workload permitting, the employee will be made available for practice purposes. Any use of the range shall conform to the Employer's safety practices. Further operational employees shall be allocated sufficient practice rounds of ammunition as set forth in the USMS Manual for practice and qualification purposes . Additional rounds may be requested.

Section 3.

In cases where a person has been seriously injured or killed by a USMS employee acting in the line of duty, the employee will be required to participate in trauma counseling with a mental health professional provided by the Employer and at the Employer's expense.

Section 4.

The Employer will review the proficiency standards for firearms training. The Union will be informed of any changes and findings before implementation of any new standards.

Section 5.

Employees training and qualification for firearms is an appropriate use of LEAP pay.

ARTICLE 29

EQUAL EMPLOYMENT OPPORTUNITY

Section 1.

It is the Employer's policy to provide equal opportunity in employment for all persons, to prohibit discrimination because of race, color, religion, sex, national origin, age or disability and to promote the full realization of equal employment opportunity by maintaining a continuing affirmative action program as provided in 29 C.F.R. 1614 and the DOJ Order.

The parties agrees that racial slurs, ethnic jokes, obscene, abusive or insulting comments (racially /sexually offensive language) are unprofessional, inappropriate and are not tolerated within the USMS work environment.

The Employer agrees to conduct a continuing campaign to eradicate every form of prejudice or discrimination from the USMS's personnel policies, practices and working conditions; including but not limited to promotions and disciplinary actions. The Employer will not tolerate any form of discrimination and take actions as necessary to ensure that all USMS activities are free from every form of prohibited discrimination.

The appointing officer, except as required by law, shall not discriminate on the basis of the person's political affiliations, marital status, nor shall he/she discriminate on the basis of a physical handicap.

The Union agrees to be a positive force in promoting the EEO policy in this Article and to work with the Employer in the exploration to enhance the overall EEO program objectives.

Section 2. Prohibition Against Sexual Harassment

As required by law all employees are protected from unwelcome and offensive behavior. Management will make reasonable efforts to identify employment conditions that constitute a sexual harassment situation and require corrective action. The Employer's policy prohibits unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature which constitute harassment when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;
- b. submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such person;
- c. such conduct has the purpose of interfering with an individuals work performance or creating an intimidating, hostile or offensive work environment.

Section 3. Reasonable Accommodation

It is the Employer's policy to make reasonable accommodation to religious needs and known physical and mental limitations of a qualified employee with a disability unless the Employer demonstrates that the accommodation would impose an undue hardship on the Employer's

operations. No requirement exists to accommodate physical or mental limitations of a temporary basis.

Section 4.

The Employer agrees to provide the Union statistical information which reflect numbers and types of EEO complaints. Where development and implementation of the Employer EEO and affirmative action plans and programs involve changes in personnel policies, practices or working conditions, the Employer will fulfill its bargaining obligation with the Union as stated in this Agreement and the law prior to implementation.

Section 5.

That whenever the Employer solicits nominations for EEO collateral duty counselors, the Union will be provided an opportunity to make nominations for such positions. Candidates selected shall meet the criteria established by their program and will be trained in accordance with the provisions of applicable regulations.

Section 6.

The Employer will make available names and business telephone number of EEO counselors to the Union. Prior to filing an EEO complaint, employees are required to consult with an EEO counselor within 45 days of the alleged discriminatory act. Processing of EEO complaints will be in accordance with 29 CFR 1614. The Employer will provide annual notice of the names of EEO counselors and complaint processing procedures to employees.

EEO counselors will inform employees of his/her right to a Union representative, which may include Union representatives, or any representation before or during the EEO process, as stated by the EEO regulations and this Agreement.

Section 7. Relationship to the Grievance Procedure

If an employee feels he/she is being treated unfairly or is being discriminated against he/she may raise the matter by filing a grievance under the NGP provisions of the NMA, or by filing an EEO complaint to the USMS. The employee must elect to raise the matter

under the NGP or EEO process but may not raise the matter under both procedures. Use of the pre-complaint process by contacting an EEO counselor for pre-complaint counseling does not prejudice the filing of a grievance under the NGP. Once the employee files an official complaint under the provisions of 29 CFR 1614, he/she is precluded from filing under the NGP. Once the employee has filed a written grievance under any step in the NGP, he/she is precluded from filing a discrimination complaint under the EEO process.

Section 8.

a. EEO Counselors will inform all complainants covered by this agreement that they have the right to Union representation at each stage of the complaint procedure.

b. The complainant and the complainant's representative will be provided a reasonable official time to prepare the complaint and respond to USMS or EEOC request for information. The

USMS is not obligated to change work schedules, incur overtime wages or pay travel expenses to facilitate the choice of a representative or to allow for conferral purposes.

c. The Union shall have the right to be present at all formal discussions between management and employees, concerning adjustments of EEO complaints.

d. The Union shall have the right to attend discrimination complaint hearings held pursuant to EEOC regulations. If the employee who requested the hearing objects to the attendance of the Union observer on the grounds of privacy, the examiner will determine the validity of the objection and make the decision on the question of attendance.

e. After the Employer receives written notice of the name of the employee's (complainant) representative, all official correspondence shall be mailed to or hand delivered to the representative with copies to the complainant, as stated in 29 C.F.R. 1614, and the EEOC regulation.

Section 9.

Witnesses to EEOC hearings shall be in duty status with paid travel and per diem (if needed) when the witness's presence is authorized or required by the EEOC or Agency in connection with a complaint as required by law. Employee's representatives will be on Official Time and travel and per-diem may be authorized as provided by the 29 C.F.R 1614 and DOJ regulations.

Section 10.

The parties will establish an EEO Advisory committee to discuss and make recommendations regarding the Employers EEO, Affirmative Employment, Special Emphasis and EEO complaints adjudications. The Employer representatives will be designated by the EEO Officer and approved by the Council President. The Union will be afforded two representatives to be designated by the Council President. Union representatives will be on Official time and paid travel and per-diem for attendance at the EEO advisory committee.

ARTICLE 30

1. ASSIGNMENT OF PERSONNEL

Section 1.

In the event that a duty assignment involves a detail to a higher graded position at the District level, the following procedures shall be used. It is understood by the parties that these procedures apply to unit positions.

a. All qualified employees in an office shall be considered for the assignment.

b. Qualified employees shall be ranked according to a non discriminatory criteria including but not limited to performance, mission, budget and other needs.

c. Qualified employees shall also be considered for the assignment on the basis of seniority in accordance with

Section 2 of this Article.

d. The selecting official may select any properly rated and ranked employee for the position or no employee at all.

Section 2.

If the Employer decides not to use the competitive procedures outlined above, temporary details or promotions to higher grade positions shall be offered to qualified employees in an office on the basis of seniority. If all employees decline the assignment, the position shall be assigned to the least senior qualified employee. A detail within the meaning of this Agreement is a detail as defined in OPM regulations and refers to the formal assignment of an employee from one permanent position to another established position on a temporary basis. The term detail as used in this Article has no relation to witness security details or other similar assignments.

Section 3.

When an employee is to be detailed to a higher graded position for more than 120 calendar days, the employee will be temporarily promoted as provide by law and regulation.

Section 4.

Prior to the reassignment of a bona-fide disabled employee, the Employer will consider the impact of the reassignment and make such accommodations as required by the Federal Employee Rehabilitation Act.

Section 5.

The parties recognize that seniority plays an important part in employment and assignment on all details, PC trips, and other temporary assignments. When making assignments among qualified personnel, absent specific management designation as to who the deputy-in-charge of the assignment will be, the senior person will serve as deputy-in-charge of the assignment.

ARTICLE 31

EMPLOYEE ASSISTANCE PROGRAM

Section 1.

The Employer and the Union recognize the importance of the Employee Assistance Program for employees whose job performance is affected by alcoholism, drug abuse, emotional illness, serious personal problems which adversely affect on-the-job performance or interpersonal relationships in the work place, and other personal problems. The Employee Assistance Program (EAP) is a confidential voluntary program designed to help employees and family members resolve problems, whether they occur on or off the job.

Section 2.

In accordance with DOJ and other appropriate guidelines the Employer will provide EAP program services to employees and family members with confidential EAP services to include

assessment counseling and referral to qualified mental health professionals at no cost to the employee.

Section 3.

The provisions of law, rule, and regulations must be complied with prior to the Employer taking any disciplinary action against employees for alcohol or drug related problems.

Section 4.

It is understood by parties that all EAP program services and personal information will be held in the strictest of confidentiality in accordance with law and regulation. EAP

information will only be released to designated individuals upon written consent of the employee except as otherwise provided by law and regulation.

Section 5.

Any employee who is found to use drugs through a confirmed positive test or other appropriate evidence, may be disciplined as provided by E.O. 12564 and subject to the requirements of law, regulation and this Master Agreement.

No adverse personnel action will be taken as a result of information provided by an employee who voluntarily seeks confidential help and assistance through the USMS EAP prior to being identified through other means, seeks confidential help and assistance through the EAP, attends treatment and rehabilitation recommended by the EAP assessment and refrains from using illegal drugs. Any delay by an employee in attending treatment and rehabilitation may subject the employee to adverse personnel action.

Section 6.

To the maximum extent possible, the Employer will provide employees assistance by providing program administration, counselors, and referrals for treatment to local community

resources and services. Any employee who participates in this program will be entitled to all of the rights and benefits provided to other employees who are ill, in addition to specific services and assistance which this program may provide.

Section 7.

No employee will have his/her job security or promotion opportunities jeopardized by his/her request for referral assistance.

Section 8.

The focus of corrective interviews for the abuse of legal drugs (not prescribed by a physician) or alcohol is restricted to the issues of job performance and misconduct.

Section 9.

The employee(s) participating in the program shall be afforded the opportunity to have

appropriate Union representation at interviews required or requested for the purpose of assisting the employee(s) in solving the alcoholism or drug abuse problem.

Section 10.

Employees removed for alcoholism and drug abuse may be counseled by the Employer regarding their right to request disability retirement, if eligible.

Section 11.

The Employer and agrees to make available and provide employees with information and training or orientation materials outlining EAP program services. This material will identify the EAP coordinator name and phone number.

ARTICLE 32

INVOLUNTARY REASSIGNMENT

Employees who are subject to involuntary reassignment will be reassigned under the following procedures:

Section 1.

The Employer agrees to provide a minimum of 45 days notice prior to the effective date of the reassignment.

Section 2.

The Employer agrees to provide reasonable extensions to employees for legitimate reasons.

Section 3.

The Employer agrees to pay expenses related to an involuntary reassignment including travel, per diem, and housing assistance, as provided by applicable regulations. Upon request, the Employer will provide the Union with relevant information regarding the reassignment unless the information violates the law.

Section 4.

The parties agree that the provisions of the Article apply only to involuntary reassignments of personnel outside the local commuting area (50 mile radius). This Article does not apply to involuntary reassignment of personnel within their present commuting area.

ARTICLE 33

VOLUNTARY REASSIGNMENTS

Section 1.

When the Employer chooses to fill a operational vacancy (222 reassignment) by voluntary reassignment, the vacancy shall be announced USMS wide.

Section 2.

A preference list will be established ranking the employees who submit applications.

Section 3.

Consideration of applicants will be under the following priority basis:

- a. Grade level
- b. Date of application
- c. Length of service in present district
- d. Length of service in USMS.

Section 4.

After considering the employees who apply for voluntary assignment, the Employer may select any applicant on the list, or none.

ARTICLE 34

REOPENER CLAUSE

The Employer agrees to commence negotiations within 60 days after any proposals declared nonnegotiable are found negotiable by appropriate authority. The ground rules used for the negotiations of the Agreement will be in effect during any reopened negotiations.

ARTICLE 35

CONTRACTING OUT

Section 1.

The Employer has the right to contract out work in accordance with 5 U.S.C. Section 7106 and Article 8 of this Agreement. The term contracting out relates to commercial activity actions by the Employer which will displace and/or impact on career or career conditional employees within the bargaining unit.

Section 2.

The Employer retains the right to determine what constitutes the most efficient organization. However, recommendations by the Union will be accepted for review.

Section 3.

If the decision to contract out will impact on working conditions, the Employer will notify the Union of its decision. If the Union chooses, it may request impact bargaining arrangements for career and career conditional employees who are adversely affected. The Employer agrees to advise the Union of the organizational segments and number of employees affected and other

relevant information, which is releasable, will be provided to the Union at the time of impact bargaining.

Section 4.

Impact bargaining regarding contracting out for employees adversely affected will be conducted in accordance with the procedures set forth in Article 3 of the Master Agreement.

The Employer agrees to assist members of the bargaining unit who are displaced because of a commercial activity action. This includes, but is not limited to, officially requesting "early out" authority for employees vested under the retirement regulations. Affected career status employees will be reassigned and/or retained to the maximum extent possible.

Section 5.

The decision to contract work out made by the Employer is non-grievable and non-arbitrable under the negotiated grievance procedures since these disputes are covered by the administrative appeals process.

Section 6.

If requested, periodic discussions will be held with Union officials to provide information on studies made to contract out unit work.

Section 7.

It is understood by the parties that the Employer may direct unit employees to supervise contracted out activities.

ARTICLE 36

NEPOTISM

Section 1.

In accordance with the intent of the Office of Personnel Management's regulations on employment of relatives, an official of the Department may not appoint, promote, or advance a relative to a position in the Department, nor may an official propose a relative for appointment, employment, promotion, or advancement in the Department.

Section 2.

Members of the same family will be considered to be father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, in accordance with 5 U.S.C. Section 3110.

ARTICLE 37
HOURS OF WORK

Section 1.

As provided by law, the basic administrative work week is seven consecutive days scheduled in advance. The basic non-overtime workweek is scheduled for five (5) consecutive days, Monday - Friday, whenever possible. The basic non-overtime workday shall not exceed eight hours except for employees covered under availability pay provisions. The occurrence of holidays shall not affect the designation of the basic work-week. Breaks in working hours of more than one hour shall not be scheduled in any basic workday.

Section 2.

If an employee's workload permits, an employee may take a ten (10) minute rest period during the middle of the first and last half of each shift. Every effort will be made to give each employee his/her lunch period in the middle of the day.

Section 3.

The Employer and the Union recognize that the Employer may schedule employees on alternative work schedules, (AWS)/ (compressed work schedules) and shift schedules and the Union has the right to negotiate impact and implementation of the proposed change. AWS and shift schedules will be implemented consistent with provisions set forth in 5 C.F.R. 610.121. When the Employer decides to implement an AWS or shift schedule, the Employer may implement such schedule without any further duty to negotiate using the following procedures set forth in Section 4 of this Agreement. If the Employer decides to implement AWS or shiftwork under any other procedures, the Employer must notify the Union of the proposed change and negotiate the proposed change as required by law rule and regulation.

Section 4.

Before implementing any AWS or shift schedule, the Employer will poll the employees to see if sufficient volunteers are available to work the alternative schedule. If sufficient volunteers are not available, then the Employer may assign employees as necessary. The following procedures will be used prior to implementation of AWS or shift schedule.

AWS - (compressed schedules)

1. The Employer decides the tour of duty and type of schedule to be available.
2. The Employer decides the hours of the tour of duty to be available.
3. Prior to assignment of any schedules, the Employer will permit employees to volunteer for tour of duty of choice.
4. If insufficient qualified volunteers are available to staff and tour of duty, the Employer will assign qualified employees with the least amount of seniority first.

5. Definition of Seniority: USMS service, DOJ service, Federal service.
6. When a holiday occurs on the employee's regularly scheduled nonworkday other than Sunday, the preceding workday is the employee's holiday. When the holiday occurs on a Sunday that is a scheduled nonworkday the next scheduled workday is the employees holiday.
7. Employees will be paid overtime when an employee works beyond their scheduled tour of duty in accordance with law and regulation.
8. Any changes in hours of work will be carried out in accordance with Article 4 of the Master Agreement.

Shift Schedules

1. The Employer decides the tour of duty and type of schedule to be available.
2. The Employer decides the hours of the tour of duty to be available.
3. Prior to assignment of any shift schedules, the Employer will permit employees to volunteer for their schedule of choice.
4. If insufficient qualified volunteers are available to staff a scheduled shift, the Employer will assign qualified employees with the least amount of seniority first.
5. Definition of Seniority: USMS service, DOJ service, Federal service.
6. Employees will be paid overtime when an employee works beyond their scheduled tour of duty in accordance with law and regulation.
7. Any changes in hours of work will be carried out in accordance with Article 4 of the Master Agreement.

ARTICLE 38

OVERTIME AND AVAILABILITY PAY

Section 1.

The Employer should exempt Union officers or stewards from scheduled overtime and special assignments during off duty hours when a request for such exemption is made in writing and the stated purpose for the exemption is to conduct official Union business. This section shall not apply in instances where there is a clear and immediate need to perform the work and the assignment cannot be made to another employee.

Section 2.

The Employer determines when overtime will be performed. It is understood that overtime must be worked when scheduled. The Employer agrees to advise employees as soon as practicable when overtime is necessary. Overtime work is incident to employment in the USMS and subject to the provisions of this section.

An employee may request, in writing, relief from scheduled and unscheduled overtime assignments and such a request may be granted if another qualified employee is available and willing to accept the assignment.

In cases determined necessary, such as but not limited to emergencies, an employee must accept an overtime assignment. Overtime may be compensated pursuant to Section 7 of this Article.

It is recognized that circumstances may differ from district to district. Accordingly, specific procedures may be developed and negotiated at the district level. It is understood that the Employer retains the authority to assign specifically trained or qualified employees to assignments involving overtime. These qualifications include but are not limited to special language capabilities, specialized training etc. The Employer retains the authority to assign overtime to any employee for the efficiency of the USMS.

Section 3.

To the maximum extent practicable, an employee will be scheduled to perform official travel away from the duty station within his/her or her regularly scheduled workweek. In cases where travel outside his or her regularly scheduled workweek is necessary, employees will be compensated pursuant to law, rule, and regulation.

Section 4.

When known in advance and practicable, the Employer will give advance notice of overtime assignments. For security and sensitive reasons, the parties recognize that in some instances, advance notice cannot be given.

Section 5.

Irregular or occasional overtime work performed by an employee on a day when work was not scheduled for him/her, or for which he/she is required to return to his/her place of employment, is deemed at least 2 hours in duration for the purpose of overtime pay or compensatory time off.

Section 6.

The Employer may grant an employee compensatory time off in lieu of overtime under appropriate statutory authority pursuant to Article 18 of this Agreement.

Section 7.

Overtime work assignments to employees should be scheduled on a fair and equitable basis.

Section 8.

Employees assigned to an alternative work schedule such as shift work, compressed work week, and flexitime, are entitled to overtime for all time worked in excess of their scheduled tour of duty as required by law and regulation.

Section 9.

Unscheduled overtime pay shall be calculated in 15 minute increments as provided by law and regulation. Scheduled overtime will be calculated in 1 minute increments as provided by law and regulation.

Section 10. Law Enforcement Availability Pay (LEAP)

- a. Employees in law enforcement positions (Criminal Investigators, GS-1811 5-7-9) will be covered under the provisions of LEAP.
- b. The Employer will not unnecessarily schedule employees for 2 hours when no work is available.
- c. In accordance with the LEAP Act of 1994, and the USMS LEAP Policy, criminal investigators are entitled to overtime pay for all work performed, on a regular workday, that is scheduled in advance of the administrative workweek, in excess of 10 hours; or for all work performed, on other than a regular workday, that is scheduled in advance of the administrative workweek. Overtime pay for other bargaining unit employees, not covered by LEAP, will continue in as provided in this Agreement. ****
- d. Union officials will be considered to be eligible to be certified for LEAP, and will not be decertified for conducting official union business in accordance with law and regulation. Bargaining unit employees and employee representatives, entitled to Official Time in accordance with Article 10 of the Negotiated Master Agreement, will continue to receive LEAP pay during such periods of Official Time. In addition, these periods of Official Time may not be used as a basis for decertification.

Section 12. Call Back Overtime

- a. Employees required to remain in a standby status will be paid in accordance with law or regulations.
- b. Employees shall be provided advance notice, to the maximum extent possible, of the requirement to perform call-back overtime work. (USMS does not agree with Union proposal).
- c. At least two (2) hours overtime pay is guaranteed for call-back overtime work.
- d. An employee will be considered off-duty and time spent in an on-call status shall not be considered hours of work if:
 1. The Employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or
 2. The employee is allowed to make arrangements such that any work which may arise during the on-call period will be performed by another person.
- e. Employees covered under provisions of LEAP are excluded from the provisions of this section as provided by law.

Section 13.

FLSA covered employees may receive premium pay as provided by law and regulation for all hours of work performed while engaged in stand-by duty. FLSA covered employees assigned to carry a beeper and directed to be in "Stand by" status are entitled to premium pay as provided by law.

Section 14.

The parties agree the Employer may require law enforcement personnel on LEAP pay to carry an electronic device and to serve as a duty officer to be available to respond to emergent needs of the Service. The requirement to carry an electronic device does not automatically guarantee premium pay for such employees. Employees will be compensated for all hours of actual work as provided by law and regulation.

1. ARTICLE 39

DISCIPLINARY ACTIONS

Section 1. Weingarten Protection

An employee can be represented at any examination of the employee in the unit by a representative of the Employer in connection with an investigation if;

- a. the employee reasonably believes that the examination may result in disciplinary action against the employee; and;
- b. the employee requests representation.

Section 2. Procedures for Taking Investigative Statements -

Prior to taking an investigative statement from an employee in an administrative investigation against whom an allegation of misconduct has been made and the employee reasonable believes may result in discipline, the Employer will follow the following procedures:

- a. In matters where the allegations would result in a penalty of 14 days or less and the investigation is conducted at the district or local office level the following procedures apply:

1. The Employer will notify the employee that it wishes to take a statement from the employee.
2. Upon request, the subject employee will be reasonable official time to exercise his/her rights and to contact the Union representative for advice.

3. If the employee desires Union representation, he/she has one work day to advise the Employer of this request.

4. If such a request is made, the employee has another two days to secure a representative.

5. If the employee is unable to obtain a representative within the three days (72 hours,) time period, then the

Employer is free to take a statement.

6. If the employee does not wish to have a representative

or fails to inform the Employer of his/her desire to have a representative within one work day, then the Employer may take the statement anytime at the Employer's convenience.

b. In matters where the allegations would result in a penalty grater than 14 days, demotion or removal and the investigation is conducted by an official of the Office of Inspections the following procedures apply:

1. The Employer will notify the employee that it wishes to take a statement from the employee.

2. Upon request the subject employee will be provided reasonable official time to exercise his/her rights and to contact the Union representative for advice.

3. If the employee desires Union representation, he/she has three work days (72 hours) to secure a representative.

4. If the employee is unable to obtain a representative within the three days (72 hours,) time period, then the Employer is free to take a statement.

5. This provision may be extended upon request.

c. In matters of exigent circumstances when the delay in taking a statement will prejudice the investigative process and or critical security needs require immediate collection of information for the protection of life and property employees will be required to provide the information as soon as possible not to exceed one business day. Employees are still entitled to representative and must secure a representative within one business day.

Section 3.

Employee and union representatives will provided reasonable Official time to meet with and advise employees subject to disciplinary investigations.

Section 4.

When the Employer conducts an interview of an employee while conducting an administrative investigation, the Employer will notify the employee of the charges and inform him/her that the questions must be answered. Failure of an employee to answer work related questions in an administrative investigation may result in disciplinary action.

Section 5.

Disciplinary interviews will normally be held during regular hours of the basic work week. An employee is entitled to premium pay as provided by law and regulation if the disciplinary interviews are conducted outside normal duty hours.

Section 6.

The parties agree to cooperate toward the development of programs and policies which contribute to the prevention of misconduct and subsequent disciplinary actions. Disciplinary actions if imposed should be consistent with principles of like penalties for like offenses.

Section 7.

The Employer will take reasonable steps to ensure the safeguarding of internal investigative files. Each file distributed to local management officials will include a warning limiting the release of the contents of the investigative file to those officials with a need for access to the information. After local district management review of the investigative file, the copy will be returned to the Office of Inspections.

Section 8.

Upon receipt of a written request by the Office of Inspections from an interviewee, a copy of the interview statement will be provided to an employee when the investigation is completed. Employees may also file for a copy of the investigation under provisions of the Freedom of Information Act (FOIA).

Section 9.

If the allegations involve criminal conduct, and the Marshals Service is conducting an investigation, the employee may be represented by a Union representative. It is also understood by the parties that subjects of the same investigation cannot represent each other during an investigative interview.

Section 10.

The Employer shall determine when the need arises for adverse actions. An employee will be subject to adverse action for such cause as will promote the efficiency of the Service.

Section 11.

Adverse actions include removals, suspensions, reduction in pay or grade, and furloughs of thirty (30) days or less for employees serving in bargaining unit positions in the competitive service who have completed a one year probationary period in a permanent position. This Article does not apply to excepted service employees, employees on temporary appointments, or employees in the bargaining unit serving a probationary period.

Section 12.

It is understood by the parties that the Employer has the right to counsel employees and to direct the work force and manage office operations. There is no right to representation during these counseling sessions. The purpose of counseling is for management to provide feedback, both positive and negative, to an employee. The purpose of counseling is not to intimidate or harass employees. If the employee feels that the counseling session may result in disciplinary action, he/she should refer to his/her rights in Section 1 of this Article.

Section 13.

In those cases where discipline becomes necessary, it should, to the extent possible, have a constructive effect. Discipline is taken by management to correct offending employees and to maintain good order and morale among all employees.

Section 14.

Employees subject to discipline are entitled to the following as provided law and DOJ Orders.:

The right to be advised in writing of the allegations and charges with sufficient specificity and to receive a copy of the Employer investigation file and statements used in preparing the disciplinary proposal so that the employee can to make a reasoned response to the allegations.

The right for administrative time not to exceed 8 hours to prepare a written response and the right to submit an oral or written response on administrative time without charge to leave to the allegations or charges.

The right to a representative of his/her choice provided that such representative is not a subject to the investigation which may result in a conflict of interest.

The right to grieve and appeal any discipline action through appropriate administrative bodies.

The Employee acknowledgement of discipline denotes receipt of and not agreement with the discipline letter. The employee is not required to sign a discipline letter.

Section 15.

a. The procedures set forth in the United States Marshals Service Manual, DOJ Order, 5 CFR Section 752, and law, on adverse actions and performance based adverse actions and any future changes thereto, will be used to process adverse actions against employees covered by this Agreement. The normal reply periods set forth in the Manual and Order for taking an adverse action will be utilized by the parties. It is understood by the parties that reasonable requests for extensions to reply to proposed adverse actions can be requested and normally will be granted except in cases involving the crime provisions, in which case the employee will only be given seven (7) days to respond to a proposal.

b. When a disciplinary action of any type is proposed against an employee, the notice of the proposed action will have attached to it the evidence, including statements, documents, affidavits, and investigative reports relied upon to support the proposed action.

c. Disciplinary and adverse actions will be taken consistent with the DOJ-USMS Table of Offenses and Penalties, as appropriate. Disciplinary actions are taken for the such cause to promote the efficiency of the Service and will not be taken in a manner which discriminates against an employee by reason of race, color creed, national origin or sex or handicapping condition, The Table of Offenses appears in this agreement for information purposes only and is not intended to be all inclusive. Reckoning periods for each offense will run from the date the Employer becomes aware of the offense. The reckoning period is defined as that period of time during which a second or third offense of the same nature as an earlier offense, will result in more severe disciplinary action against an employee. The Employer reserves the right to change the Table of Offenses and Penalties at any time, with notification to the Union as required by law.

Section 16.

Prior to the termination of a probationary employee, the Employer will follow procedures set forth in 5 CFR. 315.804 and the employee will be advised of any appeal rights (EEO-MSPB) as provided by law and regulation.

Section 17.

When the employee does not elect to have a representative of the Union represent him or her and unless not permitted by the Merit Systems Protection Board, the representative of the Union can serve as an observer at a disciplinary or adverse action hearing and will not be on official time.

Section 18.

Making a statement or statements about fellow employees or officials with knowledge of falseness of the statements or with reckless disregard of the truth, subjects the employee to adverse action.

Section 19.

Letters of reprimand shall be dated and placed in an employee's Official Personnel Folder for up to one (1) year.

Section 20. Expedited Grievances.

Grievances concerning [letters of caution], reprimands, suspensions, demotions, and removals will be filed at Step Three (3) of the NGP procedure within thirty (30) days of receipt of the action. Priority will be given to processing grievances concerning discipline through arbitration.

Section 21.

Upon request, in accordance with the DOJ Order on Discipline, an employee and his employee representative will be given official time to review the file and present a response to the proposed action. Official time will be governed by Article 10 of the Master Agreement.

Section 22.

Employees who are the subject of investigations who are found to have acted appropriately and are cleared of all charges will receive a Letter of Clearance in a timely manner.

Section 23.

Employees who are subject to removal for disciplinary reasons may request to retire prior to a final decision being made on the removal charge.

Section 24.

The Employer will make reasonable efforts to verify anonymous complaints before taking disciplinary action. Employees making false complaints against other employees are subject to disciplinary action.

Section 25.

Upon request, The Employer agrees to provide to the Union, in accordance with Privacy Act and other laws, regulations and this Agreement, statistical information and reports on the USMS discipline program to include proposed actions, final decisions and locations of employees subject to disciplinary actions.

Section 26.

Discussion with employees regarding conduct or corrective measures will, to the extent possible, be conducted in private to avoid personal embarrassment to the affected employee.

Section 27.

If an employee files a grievance to the Employer, the Employer will give a copy of the final grievance decision and appropriate materials to the employee and a copy to the employee representative.

Section 28.

Disciplinary actions will be administered as discreetly as possible to ensure appropriate privacy of the employee subject to discipline. Disciplinary actions will be processed within as reasonable time as possible.

Section 29.

The parties agree that the union may request expedited arbitration appeal for a disciplinary action involving the removal of a bargaining unit employee for reasons of misconduct, and/or unsatisfactory performance and in any case involving suspension for more than 14 days. However any request must be made within 30 days of the decision letter imposing the discipline. If the Employer concurs with such request, the grievance process may be waived and the Union has may proceed immediately to arbitration.

*****(USMS/DOJ TABLE OF PENALTIES)**

ARTICLE 40

MERIT PROMOTION

Section 1.

The objective of this Article is to assure that the USMS is staffed by the best qualified candidates available and to assure that employees have an opportunity to develop and advance to their full potential according to their capabilities. To this end, this Article is designed:

- a. To bring to the attention of management on a timely basis qualified candidates from whom to choose;
- b. To ensure that merit promotions principles are applied in a consistent manner with equity to all bargaining unit employees without regard to political, religious or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying physical or mental handicap, or age, and shall be based solely on job-related criteria.
- c. To give employees an opportunity to receive fair and appropriate consideration for higher level jobs;
- d. It is agreed that the Employer will utilize the skills and talents of its employees as well as those outside applicants toward attaining a mix of employee representatives of all segments of society.
- e. To assure the maximum utilization of employees;
- f. Promotions will be made only on the basis of merit and qualifications.
- g. To provide an incentive for employees to develop their skills, knowledge, and abilities;
- h. To provide attractive career opportunities for employees;
- i. To afford required integrity of the agency Merit Promotion System, in accordance with appropriate law and regulation.

Section 2.

The Employer agrees to give primary consideration to selecting internal applicants for

positions covered by this plan. Promotions shall be made on the basis of merit and qualifications. Non-merit promotion factors will not enter into any part of the promotion process. No discrimination shall be exercised because of race, color, creed, national origin, sex, physical handicap, marital status, age, religious affiliation, or membership/nonmembership in an employee organization.

Section 3.

The following personnel actions are covered by these procedures in the competitive service for employees of the bargaining unit:

- a. Promotions to unit positions through GS-14;
- b. Filling a unit position by transfer or reinstatement to a higher-grade position than the candidate's last position except when RPL procedures apply.
- c. Filling a unit position with known promotion potential by reassignment. Positions with known promotion potential are those from which career promotions are authorized.
- d. Selection for training when the training will increase the employee's promotion potential, i.e., the employee is not eligible for promotion unless he has completed the training.

Section 4. Exception to Competitive Procedures

- a. Appointments to entry level positions;
- b. Career promotion is the promotion of an employee in any of the following situations without competition under this Article.
 - (1) Career-ladder promotion. An employee may be successively promoted until reaching the highest non-supervisory position in the career-ladder if all the following circumstances are present:
 - (a). The employee was initially selected from a Civil Service register or by competitive merit procedures.
 - (b). The fact that the initial selection could lead to promotion to specified positions in the career-ladder without further competition was made known to all potential candidates in the USMS.
 - (c). The employee is one of a group in which all employees are given the necessary experience to be promoted as they meet the qualification requirement and demonstrated ability to perform at the higher level, and if there is enough work at the full performance level for all employees in the group.
 - (2). Promotion of employees from apprentice positions, trainee positions, understudy positions, and positions filled at a grade below the established or anticipated grade when the initial position was filled through competitive procedures.

- (3). Promotion of employees who satisfactorily complete training under an OPM approved training agreement or executive development agreement, if the agreement provides for such promotion and if the employee was chosen under competitive promotion procedures or appointment from Civil Service register.
- (4). Promotion of employees detailed to a higher grade position or one with known promotion potential for the purpose of training or evaluation, if competitive procedures were used and if the fact that the detail could lead to promotion was made known to all employees.
- (5). The employee's position is reconstituted in a higher grade because of the accretion of additional duties and responsibilities not the result of planned action.
- (6). Promotion to positions upgraded without significant change in duties or responsibilities on the basis of new position classification standards or to correct an error in the classification of the position.
- (7). Repromotion of an employee to grades or positions from which demoted involuntarily without personal cause, that is, without misconduct on the part of the employee and not at the employee's request. Consideration of an employee entitled to special consideration for Repromotion must precede efforts to fill the vacancy by other means (including competitive promotion procedures).
- (8). Promotion during Reduction in Force when special factors (explained in the Federal Personnel Manual, Chapter 335), related to regulatory pay fixing practices exist.
- (9). Temporary promotion to a higher-grade for 120 days or less.
- (10). Promotion after failure to receive proper consideration. If it is found that an employee did not receive proper consideration in a promotion action and the erroneous promotion is allowed to stand, the employee must be considered for the next appropriate vacancy to make up for the lost consideration. The employee may be selected for promotion to this vacancy in competition with others entitled to the same considerations, as an exception to competitive merit placement promotion procedures. An employee is entitled to only one consideration under this procedure.
- (11). Automatic consideration of certain employees. Qualified employees in the following categories will be accorded automatic consideration the Office of Human Resources in filing vacant positions.
 - (a). Employees who have been, or are about to be declared surplus because of a reduction in force.
 - (b). Current employees who have been demoted through no personal cause.
 - (c). Employees absent on extended military duty who have restoration rights.
 - (d). Employees temporarily absent on detail, on leave, at training courses, in the military service, for service in public international organizations, or on extended official travel.

Employees in the above categories are responsible for informing the Office of Human Resources of their availability for consideration during their absence.

If an employee is unable to submit a written notice as provided above, he may contact his supervisor and request him to submit a written request for consideration on his behalf. Upon receiving the employee's request, the supervisor will submit a written notice to the Office of Human Resources indicating those positions for which the employee wishes consideration.

Section 5.

In considering an employee for promotion under this section, the selecting official may review the employee's Official Personnel Folder, application forms under the present Merit promotion Announcement and supervisory appraisal.

Section 6. Vacancy Announcements

a. Vacancy announcements will contain, as a minimum, the following:

- (1). Title, series, and grade of position;
- (2). Geographic location of the vacancy;
- (3). The minimum area of consideration;
- (4). The duties of the positions; the minimum qualifications required, including selective placement factors, if any; and a statement indicating the evaluation methods to be used. If the position requires more than occasional travel, a statement of the amount of travel involved will be included in the announcement;
- (5). The opening and closing date for filing applications, the address of the Personnel Specialist to whom applications should be sent, and the application forms required;
- (6). A statement of equal employment opportunity;
- (7). Identification number of the announcement and issue date;
- (8). A statement that the position has known promotion potential if such is the case;
- (9). A statement as to whether relocation expenses will be paid by the Employer.
- (10). Drug testing requirements.

b. Vacancy Announcements will be open for at least ten days but not more than thirty calendar days for all positions.

c. Vacancy announcements will be posted on the Employer's bulletin boards. Two copies will be furnished to the Union. Additional copies will be available in the office which issued the announcements.

Section 7.

The determination of basic eligibility is the responsibility of the Office of Human Resources. The minimum qualification standards used shall be those prescribed by the Office of Personnel Management in Handbook X-118 in Single-Agency Qualification Standards, or in appropriate examination announcements, plus any special placement factors which are jointly determined by the selecting official and the Office of Human Resources to be essential to successful performance in the position being filled. An application may be accepted from a candidate who has not yet satisfied the time-in-grade or the qualification requirements for length of experience, provided that the applicant will fully meet the requirements by the time action is effected (normally thirty days). Any applicant not found qualified will be notified of the disqualification.

Section 8.

Eligible candidates will be evaluated and rated usually by the Personnel Officer, or his designee, using the Rating and Promotion Panels System as he may designate. The Personnel Officer will also insure that the Merit Promotion Policy Guidelines are followed to identify the best qualified candidate(s).

Subject to law and DOJ regulations, upon request, the Union will be permitted to review the promotions documents submitted to the selecting officials, prior to the announcement of the selection(s).

Section 9.

In order to identify the best qualified candidates, each eligible

candidate will be evaluated and rated based on applications, supervisor's appraisals. If the area of consideration is expanded and includes consideration of voluntary applicants from outside the USMS, they will be evaluated by the same methods and criteria in accordance with governing regulations.

a. The rating official(s) will be given appropriate instructions concerning his/her responsibilities, the evaluation criteria for meaningful ranking of eligibles, the supervisory appraisals, and the OPFs of employee eligibles, as well as any other materials which may be useful in evaluation of eligible.

b. The rating official(s) is responsible for evaluating all competitive eligibles by reviewing and rating pertinent qualifications and supervisory appraisals against the evaluation criteria, ranking the candidate in numerical order; identifying any highly qualified candidates; and identifying best qualified candidates to be certified to the selecting officer. Non-USMS candidates are evaluated and ranked by methods comparable to those used for USMS employees.

Section 10.

The parties also agree that employees will be provided information about the Merit Promotion Program. A discussion of the Merit Promotion Program will be incorporated

into the orientation of new employees. In addition, continuing publicity shall be given in USMS internal communication publications. As a minimum, the following shall be made available to employees:

- a. Copies of the promotion plan;
- b. Career information indicating short and long range career opportunities. Supervisors shall discuss employee appraisal records with their subordinates and counsel them concerning their promotability and career development;
- c. Information about the qualification requirements, evaluation techniques, and methods used in selecting candidates for promotion to positions in which they are interested.

Section 11.

The selecting official may make the selection from any of the candidates on the Promotion Certificate for each position announced. If one candidate is interviewed, then all candidates on the Promotion Certificate and within the commuting area must be interviewed.

Section 12.

Candidates within the commuting area may be interviewed at the discretion of the selecting official. If one candidate is interviewed, then all candidates on the Promotion Certificate and within the commuting area must be interviewed.

Section 13.

Promotion records, ranking schedules, promotion certificates, and correspondence or documents pertaining to the ranking of competitors will be maintained by the Office of Human Resources in accordance with the Federal records retention schedule.

Section 14.

Periodically, the Employer will conduct reviews of the operation of the Merit Promotion Plan. The Union will be notified, in writing, that such a review will take place and will be provided at least 30 days to submit Union comments. Within a reasonable time after completion of the report, the Employer will discuss the conclusions of the report relating to the Merit Promotion Plan with the Union.

Section 15.

The Employer will notify the Union of the names of selectees promptly after the effective date of the selection.

Section 16.

The Employer agrees that final ratings of record will only be completed by the supervisors who have served in such position for more than 90 days as provided by law and regulation. The rating of record for employees subject to multiple supervision may

encompass the views of all supervisors if possible. In the event that an employee is transferred from one supervisor to another during the rating period, the rating period may be extended such to ensure that the employee is supervised by the rating official for 90 days as required by law and regulation. The final rating may include the employees entire performance over the rating year.

Section 17.

Confidentiality - Promotion appraisals are confidential documents and may be reviewed only for official purposes by employees themselves, by his/her designated representative, or by an appropriate official of the USMS, other appropriate Government official, or Union officials designated by the employee.

Section 18.

Release of employee after Selection - In most cases, in-service placement actions will be made effective at the beginning of the second pay period following notification of selection. The gaining supervisor will coordinate the specific reporting date with the losing supervisor. If workload exigencies exist, the supervisors may mutually agree to allow the employee to remain in the current position for up to 30 days from the effective date of the action providing this does not create a personal hardship to the employee.

Section 19.

When filling a position through merit promotion, a supervisor who is to make the final selection shall not state that he wants to promote a particular candidate or submit a name request for a particular candidate.

Section 20.

Employees will not be detailed to a higher graded position for more than 120 days unless competitive procedures outlined in Article 33 are utilized to staff the position on a temporary basis.

Section 21.

Failure to accept an offer - Candidates for positions covered by this plan, who decline an offered position, will have their names removed from consideration for the graded series and type for the remainder of the current open season and the following open season. Removal from a list will be restricted to the same position type only. A selectee has ten workdays (10) in which to decline in writing an offered position without being removed from a Merit Promotion list. There will be no penalty to any candidate for removing his/her name from a list prior to a selection being made.

Section 22.

Upon completion of the selection process, the promotion file will be made available, subject to the requirements of the law, to the Union representative, when requested, as part of an investigation to determine whether or not to file a grievance or to process a

grievance concerning the competitive procedures of that particular vacancy.

Section 23.

Non-selection for promotion from a group or properly ranked and certified candidate is not a grievance. Other merit promotion-related complaints can be resolved through the negotiated grievance procedure such as rating, ranking procedures, posting, non-selection, etc.

ARTICLE 41

AWARDS

Section 1.

The Employer agrees that awards and incentive awards will be administered on a fair and equitable basis, without prejudice or favoritism being an influential factor in the selection of awardee.

Awards are to recognize superior performance and achievement of employees

Section 2.

USMS awards include Time off Awards, On the Spot awards, special achievement Awards- special Act or service awards and Quality Step increases (QSI's). QSI and cash awards may be used to reward superior performance using the guidelines set forth in the Performance Management System. Employees are also eligible for monetary and non-monetary awards for suggestions, inventions, special acts of service or heroism under the law and regulations.

Section 3.

The Employer agrees that the Union will be afforded the opportunity to have a representative participate on any established awards or incentive awards committee for all awards applicable to bargaining unit employees that require committee recommendation.

Section 4.

Generally employees will not receive more than a total of four awards per calendar year for any combination of the following categories: Time off Awards, On the Spot awards, special achievement Awards- special Act or service awards and Quality Step increases (QSI's).

ARTICLE 42

DURATION OF AGREEMENT

Section 1.

This NMA will remain in full force and effect three years from the date it has been signed by the National President of the AFGE, the Director of the USMS and reviewed by the

DOJ. Either party may give written notice to the other, not more than 90 days nor less than 60 days, prior to the expiration date for the purpose of renegotiating or continuing this NMA. The present NMA is automatically extended and will remain in full force and effect during the renegotiation of said NMA and until such time as an NMA is approved, except that any permissive rights that were waived by either party in this NMA shall terminate after proper notice is given and the other party is given the opportunity to negotiate on the impact of the termination as required by law.

Section 2.

The parties agree that there will not be a reopening of the NMA during the life of this NMA unless the NMA must be changed to comply with Agency policies and regulations, regulations of other appropriate authorities, the FSLMRS and other applicable laws.

Section 3.

This NMA was approved and signed by the parties on ----- and is hereby in effect.

FOR THE UNITED STATES MARSHALS FOR THE AMERICAN FEDERATION SERVICE, DEPARTMENT OF JUSTICE OF GOVERNMENT EMPLOYEES,

EDUARDO GONZALEZ

JOHN N. STURDIVANT

DIRECTOR, U.S. MARSHALS SERVICE NATIONAL PRESIDENT

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

THOMAS MULHERN

WALLACE RONEY

CHIEF NEGOTIATOR

CHIEF NEGOTIATOR

NATIONAL LABOR RELATIONS OFFICER

PRESIDENT, INTERNATIONAL U.S. MARSHALS SERVICE COUNCIL OF U.S. MARSHALS SERVICE LOCALS, AFGE

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