



American Federation of Government Employees (AFGE)

Local No. 0055, AFL-CIO

Puerto Rico

COLLECTIVE BARGAINING AGREEMENT

between the

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFGE)

LOCAL 0055, AFL-CIO

and

USDA, FARM SERVICE AGENCY - PUERTO RICO

November 30, 1998

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PREAMBLE:

This Collective Bargaining Agreement (hereinafter referred to as the "Agreement") is entered into by and between the American Federation of Government Employees (AFGE), Local 0055, Puerto Rico, (hereinafter referred to as the "Union") and the USDA, Farm Service Agency - Puerto Rico, (hereinafter referred to as the "Employer, Agency, or Management").

The Parties mutually recognize that the Congress of the United States has expressed public policy concerning labor relations in the federal government as follows:

"the right of employees to organize, bargain collectively and participate through labor organizations of their own choice in decisions which affect them, safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlement of disputes between employees and their Employers involving conditions of employment; and the public interest demands the highest standards of employee performance and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the government."

Therefore, labor organizations and collective bargaining in the civil service are in the public interest. (5 USC 71)

Pursuant to this policy, the Parties have agreed upon the various Articles hereinafter set forth. This Agreement constitutes a Collective Bargaining Agreement between the American Federation of Government Employees (AFGE), Local 0055, AFL-CIO and USDA, Farm Service Agency - Puerto Rico.

It is the intent and purpose of both Parties to the Agreement to:

1. Promote and improve the efficient administration of USDA, Farm Service Agency- Puerto Rico and the well being of employees within the meaning of the Federal Service Labor-Management Relations Statute;
2. Establish and foster a basic understanding of personnel policies, procedures and practices, and matters affecting the conditions of employment; and
3. Provide a means for amicable discussion and adjustment of matters of mutual interest at USDA, Farm Service Agency - Puerto Rico.

The Parties of this Agreement recognize that they have a mutual and cooperative interest in accomplishing the mission of USDA, Farm Service Agency - Puerto Rico. They agree accomplishments will be greater by creating an atmosphere of cooperation and trust between labor and Management. This Agreement was negotiated on the basis of President Clinton's Executive Order (EO) 12,871, Vice-President Gore's National Performance Review (NPR), fairness and equity. The EO and NPR emphasize employee empowerment to get results, family-friendly work place, Labor-Management partnerships, consensus dispute resolution and interest-based negotiations.

By entering into this Agreement, all Parties agree to work towards the creation of a work environment in which everyone treats all others with respect, consideration and dignity. In an atmosphere of mutual respect and trust, all Parties shall be treated fairly and equitably in the administration of personnel policies, practices, procedures and matters affecting conditions of employment with proper regards for their privacy and constitutional rights.

DEFINITIONS:

The following definitions of terms used in this Agreement shall apply.

1. Employees: Employees of the bargaining unit.
2. Union: American Federation of Government Employees (AFGE), Local 0055, AFL-CIO
3. Employer/Agency/Management: USDA, Farm Service Agency - Puerto Rico
4. Grievance: See Article 26
5. Emergency Situation: An emergency situation is one which poses sudden immediate and unforeseen work requirements for the Employer or Agency as a result of natural phenomena or other circumstances beyond the Employer's or Agency's control or ability to anticipate.
6. Days: Calendar days unless otherwise noted.
7. Conditions of Employment: Personnel policies, practices and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term do not include policies, practices and matters:
8. Impasse: The state of inability of the representatives of the Employer and the Union to arrive at a mutually agreeable position, concerning negotiable matters, through the bargaining process.
9. Collective Bargaining: The performance of the mutual obligation of the representative of an Agency and the exclusive representative of employees in an appropriate unit in the Agency to meet at reasonable times and consult and bargain in good-faith effort to reach agreement with respect to the conditions of employment affecting such employees. The representatives are obligated to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.
10. Emergency Overtime: Overtime ordered during the same workday.
11. Individual Arbitration Hearing: An arbitration hearing where an individual employee or group of employees is seeking resolution through the arbitration process.
12. Institutional Arbitration Hearing: An arbitration hearing where Management or the Union is seeking resolution on global issues through the arbitration process.

**Article 1 - Parties to the Agreement, Recognition, Definition of
Bargaining Unit, and Coverage of the Agreement**

Section 1 - Parties to the Agreement

The Parties to this Agreement are the American Federation of Government Employees (AFGE) Local 0055, AFL-CIO, hereinafter referred to as the "Union" and the USDA, Farm Service Agency - Puerto Rico, hereinafter referred to as the "Employer, Agency, or Management".

Section 2 - Unit of Recognition

The unit of recognition covered by this Agreement is that unit certified by the Federal Labor Relations Authority (FLRA) in Case No. AT-RP-70041 approved on August 27, 1997. The Employer recognizes AFGE Local 0055 as the exclusive representative of all employees [hereinafter sometimes referred to as "employees" or "bargaining unit employee(s)"] in the bargaining unit as defined below.

Section 3 - Definition of Bargaining Unit

This Agreement covers all non-professional employees. This Agreement does not cover professional employees, Management officials, supervisors, confidential employees, employees engaged in federal personnel work in other than a purely clerical capacity, and employees described in Title 5, United States Code, Section 7112 (b) (6) and (7).

Section 4 - Coverage of the Agreement

- A. This Agreement covers only those positions included in the bargaining unit. Where the term "employee" or "employees" is used, it is understood that it includes bargaining unit employees.
- B. The Parties further agree that should AFGE request certification to include subsequently organized groups of employees in the unit, such certification will not be opposed by the US Department of Agriculture, if the grouping would otherwise be considered an appropriate unit under the Law. Upon certification by the FLRA, such groupings shall automatically come under this Agreement.

Article 2 - Governing Laws and Regulations

Section 1 - Relationship to Laws and Government-Wide Rules and Regulations

- A. In the administration of all matters covered by this Agreement, the Parties shall be governed by existing Federal laws and existing Agency, Department and government-wide rules, regulations and policies, as defined in 5 USC 71, and by subsequently enacted rules, regulations, and policies that do not conflict with this Agreement.
- B. Should future changes in law or regulations conflict with any portion of this Agreement, the Provisions of this Agreement shall prevail and shall not be changed except pursuant to 5 USC 71.

Section 2 - Agency Regulations

Where any Agency or Department regulations conflict with this Agreement and/or supplemental Agreement, this Agreement shall govern.

Section 3 - Past Practices

It is agreed and understood that any prior benefits and practices and understandings which were in effect on the effective date of this Agreement and which are not specifically covered by this Agreement and do not detract from it shall not be changed, except in accordance with 5 USC 71.

Article 3 - Union Rights

Section 1 - General

In matters relating to personnel policies, practices and other conditions of employment, the Parties will have due regards for the obligations imposed by 5 USC 71, this Agreement, and supplements thereto.

Section 2 - Restraint

There shall be no restraint, interference with, coercion, or discrimination against any Union official or representative in the exercise of their rights under 5 USC 71, or because of the performance of duties within the scope of this Agreement, or against any employee for filing a complaint or acting as a witness under this Agreement, the law, or applicable regulations.

Section 3 - Representation

- A. The Union is the exclusive representative of the bargaining unit and is entitled to act on behalf of bargaining unit employees. The Union is responsible for representing the interests of all employees in the bargaining unit without discrimination and without regard to Union membership.
- B. Designated officers or representatives of the Union have the right to represent the employees within the entire bargaining unit as provided in Article 31 - Official Time.
- C. The Union will designate four (4) Union Stewards and two (2) officers for representational purposes on a geographical basis. Management will recognize representatives designated by the Union.

Section 4 - Union Rights

- A. The Union has the right to represent an employee or group of employees in presenting a grievance or other appeal, or when raising matters of concern or dissatisfaction with Management.
- B. The Union has exclusive right to represent employees under the negotiated grievance procedure in this contract.
- C. An employee or group of employees may present a grievance without representation by the Union.
- D. The Union may be a party to all discussions and grievance proceedings with the employee's or group of employees' consent.

Section 5 - Formal Discussions

- A. Consistent with 5 USC 7114(a)(2)(A), as the exclusive representative of unit employees, the Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment.

- B. The Union President or designee will be given reasonable notice of, and provided reasonable time, to be present at formal discussions concerning any grievance, personnel policy or practice, or other general condition of employment. The determination of reasonableness will be based upon the circumstances of each case.

Section 6 - Working Relations

The Parties, Union representatives and first-line supervisors, are encouraged to meet, as necessary, to informally discuss and attempt resolution of matters of concern.

Section 7 - Notification of Change in Working Conditions

The Parties recognize that changes may occur in the work-place on a regular basis. When changes occur, the Parties will be governed by the following provisions:

- A. Management will provide the Union at least 15 working days advance notice, of anticipated implementation date and changes affecting conditions of employment of bargaining unit employees.
- B. If the Union wishes to negotiate on the proposed changes, it will notify Management within 10 days of receipt of Management's notice.

Section 8 - Notification to Employees of Exclusive Representation

- A. The Union will provide a general notice to employees of the exclusive recognition granted to the Union, together with a list of Union-designated representatives and their work locations and telephone numbers to be posted on Union bulletin boards.
- B. Where the Union does not have access or there is no on-site representative, the Employer will post it.

Section 9 - Communications with Bargaining Unit Employees

Consistent with 5 USC 71, the Employer will not communicate directly with employees regarding conditions of employment in a manner which will improperly bypass the Union under the law.

Section 10 - Non-Abridgement Clause

The Union reserves the right to grieve or appeal the exercise of Management's rights set forth in this Agreement through appropriate channels, unless specifically prohibited by other Articles of this Agreement.

Article 4 - Employee rights

Section 1 - Right to Unionism

- A. Each employee in the bargaining unit shall have the right to form, join or assist the Union, or to refrain from such activity, freely and without fear of penalty or reprisal; and each employee shall be protected in the exercise of such right.
- B. Except as otherwise provided under law, bargaining unit employees have the right to:
 - 1. Act for a labor organization in the capacity of a representative, and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
 - 2. Engage in collective bargaining with respect to conditions of employment through representatives.

Section 2 - Personal Rights

- A. All employees shall be treated fairly and equitably in all aspects of personnel Management, without regard to political affiliation, race, color, religion, national origin, sex, marital status, age or handicapping condition, and with proper regards and protection of their privacy and constitutional rights.
- B. The Employer agrees to annually inform all employees of their rights under 5 USC 7114(a)(1)(2)(B)(i)(ii)(3) by posting a notice on the official bulletin boards.
- C. Employees have the right to exercise their First Amendment Rights, and shall have the right to participate in picketing against the Employer, when such picketing does not interfere with Agency operations pursuant to 5 USC 71.
- D. Employees have the right to elect not to obey an order when the employee knows or has good reasons to believe the order is unlawful or there is a possibility of eminent harm to the employee. The employee will contact that Manager's immediate supervisor immediately avoiding a possible act of insubordination.
- E. This Agreement does not prevent any employee, regardless of Union membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations, or Agency policies, or from choosing his or her own representative in a statutory appeal action.
- F. Nothing in this Agreement shall cancel or annul any employee right or require an employee to become or to remain a member of a labor organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.
- G. Employees shall not be disciplined or otherwise discriminated against because he or she has filed a complaint or given testimony under the Civil Service Reform Act, the grievance procedure, or any other available procedure for redressing.

Section 3 - Whistle-Blower Protection

Employees shall be protected against reprisal for the lawful disclosure of information which the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences mismanagement, a waste of funds, an abuse of authority, or a danger to health or safety.

Section 4 - Right to Union Representation

- A. If the employee wishes to discuss a problem or potential grievance with a Union representative, the employee shall have the right to contact and meet with the Union representative on duty time. The employee will be released from duties to contact and meet with the Union representative when he/she requests to exercise this right, unless there is a pressing operational exigency.
- B. A representative of the Union shall be given an opportunity to be present at an examination, discussion, or interview involving an employee, if the employee reasonably believes that the event may result in a disciplinary action against him/her and the employee requests such representation. Once an employee chooses to exercise this right by requesting representation, no further questionings or action will take place until the employee's representative is present, provided no unreasonable delay occurs.
- C. When an employee is being interviewed by a government official, and criminal charges against the employee are being considered, the employee will be informed that criminal misconduct is involved and will be advised of his/her right to be represented by an attorney, or Union representative, at the interview and the right to remain silent.

Section 5 - Timely and Proper Compensation

- A. The Employer will make every effort to ensure that employees receive their salary on the established payday. The Employer will make every effort to ensure that employees receive their salary either personally or at locations designated by the employees by the established payday, in accordance with Treasury Department rules and regulations.
- B. Employees are responsible for reviewing their Leave and Earnings Statements and notifying their supervisors of any unexplained changes.
- C. Employees are responsible for arranging for the timely repayment of overpayments. Where employees have been overpaid, the Employer will advise employees of the procedures available and provide the necessary forms for filing a request for waiver of overpayments pursuant to the Debt Collection Act.

Section 6 - Voluntary Activities

The Parties agree that employee participation in the Combined Federal Campaign, Blood Donor Drives, Bond Campaigns and other worthy projects will be on a voluntary basis. This does not preclude giving general publicity and encouragement to employees to contribute. The Employer will not require or coerce employees to invest their money, donate to charity or participate in these activities; participation or nonparticipation will not advantage or disadvantage employees.

Article 5 - Negotiations During the Term of the Agreement

- A. The Employer will provide the Union reasonable advances notice prior to implementation of changes affecting conditions of employment subject to bargaining under 5 USC 71. Upon notice from the Employer of a proposed change, the designated Union representative will notify the designated Management representative of its desire to consult and/or negotiate on the change.
- B. The Union will submit written proposals, if applicable, within a reasonable period after notice of the proposed change. Bargaining will begin, as soon as possible, and will not exceed ten (10) working days. All issues not resolved at that time may be referred to the Federal Service Impasses Panel for resolution under its rules.

Article 6 - Dues Withholding

The American Federation of Government Employees (AFGE), Local 0055 and the USDA-Farm Service Agency - Puerto Rico has agreed that voluntary allotments by bargaining unit members for the payment of dues shall be authorized and processed in accordance with this Collective Bargaining Agreement.

Section 1 - Payroll Deductions

- A. In order to initiate Union dues withholding by payroll deductions, a bargaining unit employee must voluntarily complete Standard Form (SF) 1187, "*Request for Payroll Deductions for Labor Organization Dues*," or its equivalent form. The following conditions must be met by the employee before the allotment begins:
- Employee must have sufficient income to cover the amount of the allotment.
- B. SF-1187 can be obtained from either the Union or the Employer. The employee must complete the appropriate spaces, sign it, and submit the form to the Union. The Union will complete its portion of the form and submit it to the Employer's Administrative Officer. This official will provide a receipt copy to the employee.

Section 2 - Dues Revocation

- A. A bargaining unit employee can terminate Union dues withholding on the anniversary date of the pay-period in which the allotment began. To cancel the dues allotment, the employee must submit a completed Standard Form (SF) 1188, "*Cancellation of Payroll Deductions for Labor Organization Dues*", not earlier than the first day of the month preceding the anniversary date and not later than five (5) workdays prior to the beginning of the pay period in which the anniversary date falls.
- B. SF-1188 can be obtained from either the Union or the Employer. The employee must complete the appropriate spaces, sign it, and submit the form to the Union. SF-1188's or equivalent forms not timely filed by employees will be returned by the Union.
- C. The Union will complete its portion of the form and submit it to the Employer's Administrative Officer. The Administrative Officer will provide a receipt copy of the form to the employee.
- D. Employees who are uncertain of their anniversary may contact either the Union or the Administrative Officer.

Section 3 - Union Responsibilities

- A. The Union will undertake to inform members of the voluntary nature of dues withholding and of the conditions governing a member's cancellation of dues withholdings.

- B. The Union will forward any SF-1187 or its equivalent, and/or any SF-1188 or equivalent memorandum, within five (5) calendar days to the appropriate servicing personnel office when such forms or equivalent memorandums are submitted to the Union.
- C. The Union will inform the employee's servicing personnel office of the name of any participating employee on dues deductions who has been expelled or ceases to be a member in good standing of the Union, as soon as possible.
- D. The Union agrees to inform the servicing personnel office of changes in the following:
 1. The title and address of the individual local Union official responsible for certifying on each employee's authorization form the amount of dues to be withheld.
 2. The title and address and/or payee of the individual local Union official to whom remittances are to be made.
 3. Changes in dues amount in either single or multilevel dues structures. Changes in the amount of allotments over which the Union has control may not be made more than once during a calendar year. Changes in the amount of allotments over which the Union does not have control may be made when required by an outside party.
 4. The name of any employee on dues withholdings who transfers from one local to another within the bargaining unit, any change in the local to receive dues deducted and any changes in the amount to be deducted based on the transfer to a new local.
- E. The Union will obtain and distribute SF-1187's or their equivalent which includes the following language:

"Dues withholding may be revoked by submitting an SF-1188 or its equivalent within a 30 calendar day period prior to the anniversary date of signing the SF-1187 or its equivalent. If a request for revocation is not submitted within the time frame cited above, the authorization will recycle for additional 1 year periods on each anniversary of the date the SF-1187 or its equivalent was signed."

Section 4 - Management Responsibilities

It is the responsibility of Management to:

- A. Ensure that bargaining unit employees who are transferred, reassigned or otherwise relocated to a different local within the bargaining unit remain on dues withholding.
- B. Process voluntary allotments of dues in accordance with this Article. Dues changes and SF-1187's or equivalent forms will be processed effective on the next full pay-period in which the form was received by the Employer. Input exceptions will be corrected and re-input at the earliest practicable time.

- C. Withhold employee dues on a biweekly basis.
- D. Electronically transmit dues withholding to the local's bank account, together with the following information:
 1. The name of each unit employee for whom a deduction is made during that pay period and the amount withheld.
 2. Identification of unit employee(s) for whom allotments have been temporarily or permanently stopped and the reason(s) therefore.
- E. Upon request from an employee, furnish SF-1188's or equivalent forms in accordance with the terms and conditions specified on SF-1187's or equivalent forms and this Agreement. Management will inform the employee to submit the completed SF-1188 directly to the Union.
- F. Management will forward to the designated Union representative(s) the original SF-1188's or equivalent forms received directly from members before processing; in order for the Union to review members compliance with the original terms of SF-1187.

Section 5 - Effective Dates for Dues Withholdings or Cancellations

Dues withholding or cancellation action dates will be as follows:

- A. Start dues withholding - Beginning of the first pay period after computer acceptance based on a properly executed form SF-1187.
- B. Revocation by Employee - Revocations will be effective on the first full pay period following the employee's anniversary date after computer acceptance based on properly executed SF-1188. To be effective, SF-1188 must be submitted no earlier than 30 days prior to an employee's anniversary date. If Management does not have the employee's original SF-1187 to establish the anniversary date, the Union will provide a copy from its files.
- C. Termination due to loss of membership in good standing - Beginning of the first pay period after computer acceptance of notification.
- D. Termination due to separation or movement outside unit of computer recognition, except detail and non-competitive temporary promotions - Beginning of the first full pay period after acceptance of termination information.
- E. Changes in dues amount - First full pay period after computer acceptance of the change unless an alter date is specified by the Union.
- F. Transmittal of remittance payments to the Union - Normally, ten (10) working days from payday.

Section 6 - Disputed Eligibility

When the Employer believes a position subject to dues withholding is no longer eligible for such deduction, the Union will be notified in writing. When a dispute arises concerning the bargaining unit status of an employee on dues withholdings, dues withholding shall continue until the matter is resolved.

Article 7 - Duration of Agreement

Section 1 - Effective Date

This Agreement will be implemented and become effective when it has been approved, ratified and signed by the Parties, including review pursuant to 5 USC 7114(c)(2).

Section 2 - Duration of Agreement

- A. This Agreement will remain in full force and effect for three (3) years from its effective date and automatically renew itself from year to year thereafter. However, either party may give written notice and a list of proposals to the other party not more than 120 or less than 90 calendar days prior to the expiration date of its intention to reopen and amend, modify or terminate the Agreement. Such notice must be accompanied by written proposals for renegotiating, as applicable. Negotiations shall begin no later than thirty (30) calendar days after these conditions have been met.
- B. In the event the Parties re-negotiate the Agreement, the current terms will remain in effect until superseded by a new Agreement.
- C. In the event that neither party submits a notice to renegotiate, the Agreement will be renewed automatically for periods of one-year, except for provisions which may be in conflict with applicable law, rule, or regulation.

Section 3 - Reopener

Negotiations during the term of this Agreement to add, to amend or modify this Agreement may be conducted only by mutual consent of the Parties.

Section 4 - Printing and Distribution

Within 30 days of the signing of this Agreement, Management will print sufficient copies for the Union to distribute to all current bargaining unit members.

Article 8 - Official Travel

Section 1 - Compensation and Travel

To the maximum extent practicable, time spent in travel status away from the employee's official duty station will be scheduled by the Employer within the normal working hours. Where it is necessary that travel be performed during non-duty hours, the employee will be paid overtime when such travel constitutes hours of work under 5 USC or the Fair Labor Standards Act, if applicable.

Section 2 - Change from Per Diem Allowance to Actual and Necessary Subsistence Expenses

- A. Advance Authorization. An employee scheduled to traveling an area, for which a per diem allowance is prescribed, may request advance authorization for travel on the basis of actual and necessary subsistence expenses. Any such request will normally be approved when the supporting justification showing the unusual and exceptional circumstances for the request meet Agency-wide guidelines.
- B. Post Approval. Reimbursement for actual and necessary subsistence expenses allowable under law and/or rules and regulations issued above the USDA, FSA will normally be authorized on a post approval basis, if the employee can justify that prudent expenses required by the ordered travel exceeds (as defined by Agency-wide guidelines) the prescribed per diem rate. This provision applies only to travel involving assignments of 30 calendar days or less.

Section 3 - Continuation of Approved Travel Expenses

Employees who are unable to arrive at, or return from their destination during regular duty hours, will be reimbursed for authorized travel expenses provided said inability to arrive or return is due to arduous travel conditions beyond the employee's control resulting from natural calamity, unavailability of transportation, or severe weather.

Section 4 - Advancement of Expenses

Employees required to travel shall have the option of requesting a travel advance. Such requests shall be filed by the employee, as soon as possible, and processed by the Administration as expeditiously as possible. Normally, the Employer will not require an employee to travel overnight prior to receiving a travel advance.

The Employer shall process all claims for travel expenses as expeditiously, as possible. If an employee should not have adequate funds, the Employer will make every effort to make alternative arrangements.

Section 5 - Used of Privately Owned Vehicles/Government Owned Vehicles

Bargaining unit employees will not be required to use privately owned vehicles, unless such use is a condition of employment. If the Employer decides to extend the use of privately owned vehicles a condition of employment, the Employer will notify the Union and meets its obligation to bargain under 5 USC 71.

- A. Reasonable periods of time spent by a traveling employee during regular duty hours to make emergency repairs to or refueling of vehicles used to conduct government business will be considered duty time.
- B. In situations where a traveling employee is required to pick up or return a government owned vehicle from a motor pool or other assigned motor vehicle storage, without first checking in and/or out of the permanent duty station, the Employer will schedule the travel assignments so that the traveler may leave home at the same hour he/she would normally leave to report to the office, and, upon return, so that he/she may arrive home at the same time he/she would ordinarily arrive had he/she worked at the office.
- C. When an employee uses a privately owned vehicle (POV) instead of an available government owned vehicle (GOV), mileage will be paid at the maximum reduced rate consistent with GSA regulations.
- D. In all other cases, mileage for the use of the POV will be compensated at the maximum rate permitted by GSA.
- E. The Employer will not require employees to drive or ride in unsafe vehicles. When an employee is assigned a GOV that is not functioning or equipped properly, the employee shall report the situation to the supervisor or to the GSA official, whichever is appropriate.

Section 6 - Documents and Property Loss/Theft

Employees are accountable for government documents or property in their possession and/or custody. Employees exercising reasonable care will not be held responsible for documents or property damaged, lost, or stolen from their possession and/or custody.

Section 7 - Protective Assistance

- A. The Employer recognizes that some travel job assignments may present a threat to the personal safety of employees. When such circumstances are brought to the attention of the supervisor by employees or the Union, appropriate measures will be taken to assure the safety of the employee.
- B. The Parties agree to jointly review existing employee protective procedures from time to time to assure that employees receive the maximum protection from such dangers.

Section 8 - Return to Duty Station

An employee on a long-term assignment may be authorized occasional return trips to his permanent duty station at government expense on non-workdays. Approval for such return trips are at the administrative discretion of the authorizing official and may be authorized in accordance with published USDA, FSA travel policy.

Article 9 - Health and Safety

Definition:

- ◆ Abatement: alleviation, comfort, correction, cure, help, relief, remedy, respite, solace, solution.

Section 1 - Policy Statement

- A. The Employer and the Union agree that the good health and safety of all employees are essential to the performance of the Employer's mission, and is a matter of highest priority. Accordingly, the Employer and the Union agree to work cooperatively to ensure that a healthy and safe working environment is maintained.
- B. The Employer will, to the extent of its authority and consistent with the applicable requirements of Title 29, Part 1960 of the Code of Federal Regulations, as well as other applicable health and safety codes, provide and maintain safe and healthful working conditions for all employees and will provide places of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm. The Union will cooperate to that end and will encourage all employees to work in a safe manner.
- C. The Union has the right to advise Management concerning safety and health problems.

Section 2 - Employer Responsibilities

- A. The Employer will work with all persons, entities or organizations which own and/or control work space to which bargaining unit employees are assigned to ensure that healthy and safe working conditions are maintained and to ensure compliance with applicable laws, rules, and regulations. The Employer will also take appropriate action to ensure that any reported hazardous or unsafe working conditions are examined and, if necessary, corrected in a timely manner.
- B. The Employer agrees to the following:

Prior to soliciting for office space, Employer shall provide copy of solicitation for offers so that Union members may evaluate the same to assure conditions being solicited are of accept standards.

1. To provide information concerning Federal Employee Health Benefits and Life Insurance Programs, pre-retirement planning, retirement benefits information, and occupational health services;
2. To make reasonable efforts to provide clean restrooms in which normal supplies shall be available at all times and in which all equipment is in working order;
3. To provide and maintain adequate fire and disaster plans and equipment on each floor, including smoke detection devices and exit signs that are visible during power failure;

4. To work with the building manager, the Department, GSA, and private lessors, to have safe electrical equipment and adequate ventilation in all work areas;
5. To provide an environment free of roaches and rodents through a regular extermination program and by other measures, as may be necessary for purposes of pest control. Spraying for extermination of pests will be accomplished during non-duty hours or employees will be given the opportunity to work an appropriate distance from his/her work site during such extermination. All employees will be given the opportunity to work away from the site of spraying for a period of 24 hours following such spraying. In addition, employees will be given the opportunity to work away from the site of painting or other activity adversely affecting air quality for a period of 24 hours following such activity;
6. To follow GSA and ADA regulations in providing facilities appropriate and adequate to accommodate the needs of qualified disabled employees; and
7. To inform the Union of any decision to introduce new office equipment into the work place so that the Union may, thereafter, request bargaining on the Implementation and Impact of the new equipment on working conditions.

Section 3 - Union Responsibilities

- A. The Union agrees that it will take appropriate action to encourage all bargaining unit employees to work safely with due consideration for the safety, health and comfort of all fellow employees. To avoid preventable unhealthy or unsafe working conditions, the Union will encourage respect and care by bargaining unit employees for the Employer's facilities and equipment and their own work environment.
- B. Each bargaining unit employee has a duty and is encouraged to report any unsafe or unhealthy working condition(s) to his/her immediate supervisor, as soon as any such condition(s) come to his/her attention.

Section 4 - Employee Reports of Unsafe or Unhealthy Working Conditions

- A. Any employee who believes that an unsafe or unhealthy condition exists, shall have the right and is encouraged to report the unsafe or unhealthy working condition to his/her immediate supervisor. The Employer will ensure a response to an employee report of hazardous conditions within twenty-four (24) hours for imminent dangers, three (3) working days for potential serious conditions, and five (5) working days for other than serious health and safety conditions. No employee will be required to continue working in a situation posing the threat of imminent danger.
- B. The Employer will investigate the reported condition as soon as is possible, and may refer the situation to (a) the appropriate FSA or USDA office; (b) GSA; (c) the Occupational Safety and Health Administration (OSHA) of the Department of Labor; (d) the Public Health Service (PHS) Health Unit; or (e) other appropriate official for further investigation. The Union will be given an opportunity to accompany any inspector who responds on such a complaint during the inspector's physical inspection of the work place. The Union representative will be granted official time for this purpose.

1. Safety and Health inspections shall be conducted by qualified personnel at least once per year for all work areas. High hazard areas jointly designated by Union and Management shall be inspected monthly.
 2. When a work-place inspection is conducted by the Employer's safety representative or by an outside agency such as OSHA or National Institute for Occupational Safety and Health (NIOSH), the Union shall be invited and encouraged to participate. During the course of any such inspection, any employee(s) may bring to the attention of the inspector any unsafe or unhealthful working conditions.
- C. If an employee is assigned duties, which he/she reasonably believes, could possibly endanger his/her health or well being, the employee will immediately notify his/her immediate or second-line supervisor of the situation. If the supervisor cannot solve the problem and agrees with the employee, the supervisor will delay the assignment and refer the matter through the proper channels for appropriate action, and will contact the designated Union representative. Where the supervisor does not agree with the employee's concerns, the employee has the right to consult the Union and the right to file a report, in accordance with the applicable Agency or departmental regulations.
- D. In the case of imminent danger situations, employees shall make reports by the most expeditious means available. The employee has the right to decline to perform his/her assigned task because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures.
1. If the supervisor believes the condition or corrected condition does not pose an imminent danger, then the supervisor will delay the assignment and shall request an inspection by an Agency safety officer, as well as contact the designated Union representative. A Union representative shall be afforded the opportunity to be present at the time the inspection is made.
 2. If the safety officer decides the condition does not pose an imminent danger, the instruction to return to work shall be in writing and contain a statement declaring the area or assignment to be safe. Continued refusal by the employee at this point would be justified, if there were a reasonable basis for the employee to believe the imminent danger still exists. It is also understood that at any time the Management official finds there is an imminent danger, the employee will not be obligated to return to the assignment until the imminent danger is removed.
- E. If the Employer determines that a hazardous condition exists which affects employees, the Employer shall advise the Union and the involved employees, as soon as possible. Upon request, the Employer will meet with the Union and to the extent permitted by law, rule, regulation and/or Executive Order, negotiate and/or consult with the Union regarding the matter.
- ◆ The Employer agrees to post notices of hazardous conditions discovered in any work place. This notice shall be posted at or near the location of the hazard and shall remain posted until the cited condition has been corrected. Such notices

shall contain a warning and description of the unsafe or unhealthful working conditions any required precautions required by applicable regulations.

- F. The Employer agrees to assure prompt abatement of unsafe or unhealthy working conditions found to exist by the Employer in conjunction with the Department, GSA, OSHA, PHS and/or other appropriate officials. When this cannot be accomplished, the Employer agrees to develop, following consultation with the Union, an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to such conditions shall be informed of the abatement plan and the Union shall be consulted during the implementation of the plan. When the hazard cannot be abated without the assistance of GSA or other Federal lessor agency, the Employer agrees to work with the lessor agency to seek abatement.
- G. The Employer will inform the Union of toxic chemicals that will adversely affect the health or safety of employees, such as paint or pesticides, as soon as it is aware that such chemicals will be used. This notice will be given no later than one full workday before the chemicals are to be used. This notice will also include any warning statements given to the Employer by the organization using the chemicals or that it otherwise has in its possession.
- H. The Employer shall assure that no employee shall be subject to restraint, interference, coercion, discrimination or reprisal for filing a report of an unsafe or unhealthful working condition, or other authorized participation in an Agency occupational safety and health program activities.
 - 1. The Employer shall assure the right of anonymity for those employees or Stewards who report an unsafe or unhealthful working condition.
 - 2. The Employer, after consultation with the Union, shall establish procedures to investigate employee complaints concerning restraints, coercion or reprisal.

Section 5 - Occupation Injury or Illness

- A. When an employee sustains a job-related injury or occupational illness, the employee will report the injury or illness to his/her supervisor, as soon as practicable. The supervisor will refer the employee to the Human Resources Staff (HRS), the Health Unit or other medical service, as appropriate, and as permitted by applicable law, rule, or regulation. The supervisor will also advise the employee to contact the HRS to obtain information on benefits under the Federal Employees' Compensation Act.
- B. When an investigation is made of an occupation accident by anyone, the Union shall be invited and encouraged to participate.

Section 6 - Employee Assistance Program

- A. The Employer presently maintains an Employee Assistance Program (EAP), which provides counseling, information and other sources for employees troubled by alcoholism, substance abuse, emotional illness, marital/family problems or financial

problems. The Employer will make employees and supervisors aware of the program at least annually.

- B. Employees whose performance is negatively affected by alcoholism or other forms of substance abuse will be given a reasonable opportunity to obtain professional assistance in overcoming the problem and to participate in programs, such as Alcoholics Anonymous. As required by the program, the Employer will make available to employees, on a completely confidential basis, the services of a qualified counselor specializing in alcohol and substance abuse problems.
- C. The EAP Office offers referral services to outside, local alcohol treatment programs, family counseling and substance abuse treatment programs, many of which are available free, or at a nominal cost.
- D. Employees undergoing a prescribed program of treatment for problems recognized under this Article will be granted the appropriate leave to the extent necessary to complete such program on the same basis as any other illness when absence from work is necessary.
- E. Employees with substance abuse or alcohol problems who voluntarily request assistance and participate in a prescribed program of treatment will not be disciplined for substance abuse or alcohol problems, which are construed to be health-related problems. When the Employer determines that a conduct or performance problem exists which may be substance abuse or alcohol related and refers the employee to EAP, the Employer may take appropriate disciplinary or adverse action, only consistent with fairness and the obligation to provide reasonable accommodation. The employee's involvement in the EAP must be considered by the responsible supervisory official in determining any appropriate disciplinary and adverse action.
- F. The Employer agrees for the life of this Agreement to continue participating in the EAP. Employees' participation in the EAP will be treated with the utmost confidentiality.

Section 7 - Occupant Emergency Plan

- A. The Employer shall maintain an Occupant Emergency Plan for all buildings in which bargaining unit employee's work. The plan designates floor monitors; area monitors, stairwell monitors, elevator monitors, monitors to assist the disabled and restroom monitors for each floor, and describe the duties and responsibilities of these persons during an emergency. A copy will be given to the Union upon request.
- B. The Employer will establish such programs, if they are not already in existence, in all buildings in which bargaining unit employees work, within 90 days of the effective date of this Agreement. Copies of these plans will also be provided to the Union upon request.

Section 8 - Labor-Management Occupational Safety and Health Committee

A. The Parties agree to establish a Labor-Management Occupational Safety and Health Committee composed of representatives of Management and, an equal number of representatives of labor. The Employer further agrees to develop and issue appropriate identification to all committee members, to assist them in carrying out their responsibilities.

1. Committee members should serve overlapping terms.
2. The committee chairperson shall be nominated from among and by the committee members. Management and labor members shall alternate as chairperson. Maximum service time as chairperson shall be one year.
3. The committee shall meet monthly provided there are agenda items. Special meetings shall be held, as necessary.
4. Written minutes of each meeting shall be maintained and distributed to each committee member and made available to employees upon request.
5. The Employer shall make available to the committee all Agency information relevant and necessary to its duties. Examples of such information include the Agency's safety and health policies and Program, accident and illness data, epidemiological data, material safety data sheets, inspection reports, abatement plans, and internal and external evaluation reports.
6. Union members shall be provided time prior to the meeting to caucus, so they can discuss and present their concerns in a clear and precise fashion.

B. Duties of the Committee shall include:

1. Monitor and assist in the operation of the safety and health program and make recommendations to the official in charge for improvement.
2. Monitor findings and reports of work-place inspections to ensure that appropriate corrective measures are implemented.
3. Participate in inspections of the establishment when in the judgment of either side of the committee such activity is necessary for monitoring establishment's inspection Procedures.
4. Review plans for abating hazards.
5. Review responses to reports concerned with allegations of hazardous conditions, alleged safety and health program deficiencies, and allegations of discrimination. If all the members of record on the committee are not substantially satisfied with the response, they may request an appropriate investigation to be conducted by OSHA.

6. Review procedures for handling safety and health suggestions and recommendations from employees.
7. Review reports of unsafe and unhealthful conditions, where the hazard has been disputed.

Section 9 - Official Time

All employees and/or Union officials will be granted official time for their health and safety participation. Official time under the Health and Safety Article shall not apply to any other leave time granted in other Articles of this contract.

Section 10 - Training

- A. The Employer agrees that wherever and whenever employees are required to perform duties, which involve potential hazards, they will be provided training to perform the job safely. An employee will not be required to work on a job, site, or machine with which he or she is unfamiliar until the Employer has provided adequate training and instructions to safely perform the job. Such training shall include instruction, proper work methods to be used and proper use of protective equipment, and any applicable regulations or standards.
- B. The Employer agrees to provide specialized safety/health training for Union selected members of occupational safety and health and health committees, and other Union designated representatives.
- C. The Employer agrees to provide official time for Union stewards and health and safety representatives to attend Union sponsored health and safety training.

Section 11 - Protective Clothing, Personal Protective Equipment, and Tools

- A. The Employer shall acquire, maintain, and provide approved safety equipment, approved personal protective equipment and clothing, and other devices necessary to provide protection of employees from hazardous conditions encountered during the performance of official duties, or as a result of the performance of such duties.
- B. The use of safety equipment, approved personal protective equipment and clothing, and other devices are only acceptable in conjunction with adequate employee training, equipment selection, and equipment maintenance programs.
- C. The Employer shall comply with 29 CFR 1960 and 29 CDF 1910.132(a) and will consider Union input on equipment selection and purchase. Discussions on this topic could occur at Safety and Health Committee meetings, Labor-Management Partnership meetings, and at the local or area office level.
- D. At no time shall the use of personal protective equipment be a substitute for feasible engineering controls.
- E. The Employer agrees that wherever and whenever employees are required to perform duties which involve potential hazards, they shall be issued gloves that cannot be pierced by any contaminated material.

Section 12 - Exposure to Hazardous Materials

- A. The Employer shall protect employees from exposure to hazardous materials through the use of personal protective equipment.
- B. Employees who are accidentally exposed to carcinogenic or similar hazardous materials will be offered an opportunity to take a physical examination provided by USDA. No cost will be afforded to the employee for this examination.
- C. The Employer will provide a means by which employees may document any exposure to chemical hazards contacted on-the-job or as a result of the performance of his/her official duties, by utilizing Office of Worker's Compensation (CA) Forms.

Section 13 - Field Federal Safety Council

The Employer agrees to encourage and permit Union representatives to participate in activities and attend meetings of the OSHA's Puerto Rico Health and Safety Council and other Field Federal Safety Councils in the area on official time and with full administrative support.

Section 14 - Employer Safety and Health Records

- A. The Employer agrees to compile and maintain records required by the Occupational Safety and Health Act and the USDA, Farm Service Agency, Safety and Health Program, and to provide copies of the records to the Union.
- B. Medical reports will be made available to employees or their designated representative upon request. Industrial Hygiene reports and summary medical reports will be made available to the Union upon request.

Section 15 - Alternate Standards

- A. The Agency shall comply with all occupational safety and health standards issued under Section (6) of the Act, or where the Secretary of Labor approves compliance with alternative standards, as negotiated by the Parties.
- B. The Agency agrees to follow either the OSHA Health Standards or the current year ACGIH TLV's (American Conference of Governmental Industrial Hygienist Threshold Limit Values), whichever provides greater employee protection.

Section 16 - Union Access

Officials or other representatives designated by the Union shall be permitted to enter the premises of the Employer at any time during normal working hours to conduct building inspections, program evaluations and other representational duties. The Employer agrees to allow Union representatives who are not employees of the Agency.

Section 17 - Miscellaneous Health Provisions

- A. An employee who donates blood is entitled to receive four (4) hours of administrative leave for recuperative purposes. In addition, administrative leave will be granted for travel to and from the donation site and for the time of actual blood donation. If necessary, additional recuperative time will be provided.
- B. Whenever it is necessary for an employee to leave work and return home because of illness or incapacitation, the Employer will transport the employee to his/her residence. If a co-worker is asked to transport the employee, he/she will be on official time.

Section 18 - Protection from Foul Weather, Glare and Prevention of Eye Injuries

- A. Employees will be allowed the use of sunglasses, at their discretion.
- B. Employees will be allowed the use of lightweight poplin shirts or garments shirt year-round, at their discretion.
- C. Employees will seek or be afforded shelter from foul weather and from the sun. Employees will not be required to work under the sun for more than 30 consecutive minutes out of every hour, except during extreme emergencies. Likewise, employees will not be required to work under the rain.

Section 19 - Emergency Medical Services

The Employer agrees to follow the requirements set forth in USDA regulations including training and certification requirements.

Section 20 - Impact on Technology Change

Prior to Agency implementation of new technology that impacts on the working conditions of unit employees, Management will provide the Union with advance notification. The notification should include information concerning the nature of the new technology and what categories of employees would be affected by it. At the request of the Union, Management will provide additional information necessary for the Union to carry out their bargaining rights.

Section 21 - Office Hazards

- A. *Temperature.* Should temperatures fall below 65 degrees Fahrenheit, or exceed 80 degrees Fahrenheit, employees shall be removed from the work site until optimum temperatures can be restored. During this time, any absence shall not result in loss of pay or charges to leave.
- B. *Ventilation.* Adequate ventilation shall be provided so as to reduce harmful concentrations of chemicals and chemical irritants. Adequate ventilation shall be defined, as providing a minimum of five cubic feet of fresh air per minute per person in non-smoking areas, and twenty cubic feet of fresh air per minute per person in smoking areas. Ventilation systems will be monitored two (2) times a year for microbial hazards and working efficiency or more frequently, as necessary.

- C. The Employer agrees that all copying machines, which emit fumes, shall be removed from employees' workstations or properly exhausted via a ventilation system. In the event, that the copying machine cannot be adapted to/with a proper ventilation system, the Employer will replace the equipment with a new model, which does not emit fumes.

Section 22 - Ergonomic Hazards

- A. The Employer shall provide employees with information about ergonomic hazards and how to prevent ergonomic related injuries. This information could be provided by Agency, Departmental, OSHA Safety and Health Guidelines, and any other available material or literature.
- B. The Employer agrees, to the maximum extent possible, to provide equipment (chairs, tables, workstations, etc.) which meets ergonomic design criteria. It is also agreed, to the extent possible when equipment is purchased, that training should be provided by the vendor on how to safely and properly operate the equipment.

Section 23 - Video Display Terminals (VDT)

Definition: A "Video Display Terminal" refers to a word processor or computer terminal, which displays information on a television-like screen.

- A. The Employer shall provide safe and healthful work places for all USDA, Farm Service Agency employees. In keeping with this guideline and/or policy, the Employer acknowledges that there are certain ergonomic and environmental factors that can contribute to the health and comfort of VDT users. These factors involve the proper design of workstations and the education of managers, supervisors, and employees to the ergonomic job design and organizational solution to VDT problems are recommended in various studies published by the NIOSH; therefore, the Employer will:
1. Acquire VDT's and accessory equipment that, to the maximum extent possible, provide comfort to the user. Keyboards, worktables, and chairs would be height adjustable and provide proper back support.
 2. Provide for the laying out of workspaces that are properly illuminated to reduce glare and ensure visual comfort to VDT users while providing adequate lighting for traditional clerical or computer-like tasks.
 3. Seek and acquire information and technical assistance from appropriate resources on methods for most efficiently designing VDT workstation layouts.
 4. Educate employees about the proper and safe operation of VDT's, including the value of interspersing prolonged periods of VDT use with other work tasks requiring less intensive visual concentration.
- B. *Job Rotation* - Because of the physical and psychological stress of intensive VDT use, employees who operate computer equipment shall be rotated during the workday between VDT work and other jobs for which they are qualified. Operators will not be required to spend a full working day at VDT work. It is the Employer's

responsibility to design a work schedule to allow for job flexibility to work part-time as a result of this clause.

- C. *Rest Breaks.* When an individual work on a VDT for more than one hour, he/she will receive a fifteen (15) minute break. Workers using VDT's for 2-4 continuous hours will be entitled to an additional 15-minute break. No worker shall be required to operate a VDT fifteen minutes before the end of his/her shift or tour of duty.
- D. Female employees who operate VDT's, as part of their normal functions, and who become pregnant, shall have the right to will be given additional breaks during VDT operation.
- E. *Training.* VDT operators shall be given training in the use and health hazards of VDT's. The Union will be provided with such time, as is necessary, to supplement the Employer's training. Workers will receive full compensation for this time.
- F. *Retraining.* Workers will have the option of training for any new equipment or skills that will be introduced into the work place. Training selection will be based on seniority and the Employer will pay the cost of training without loss of the worker's wages or benefits.
- G. *Radiation Hazards.* The Employer must provide VDT fitted with shielding to avoid radiation hazards. Management will conduct periodic (twice a year) tests of terminals for any emissions. Any terminal that tests above standard will be repaired to meet the standard or it will be removed from service.
- H. *Glare.* Each VDT shall be fitted with a non-glare screen cover, hood, brightness, and contrast controls.
- I. *Lighting.* VDT's will be located away from windows. Windows in the rooms where VDT's are used will have blinds or drapes. The work area will be painted with low-reflective colors and supplied with 500-700 lux of light (50-70 foot-candles) from indirect or recessed sources. Each VDT will be fitted with an adjustable light providing directed light so that the operator may adjust the brightness and direction of light falling on copy material.
- J. *Screen and Keyboard Position.* The VDT keyboard will be adjustable and detachable. The VDT screen shall be adjustable so that the top level of print is between 10 and 20 degrees below the operator's horizontal vision plane and the bottom line no more than 10 degrees below the operator's horizontal vision plane. When adjusted, the screen shall be 18-20 inches away from the operator's eyes.
- K. *Noise.* Acoustic screening will be used to reduce noise of printers used in the office. Ink-jet or Laser type printers should replace older model printers, when printers are to be replaced.
- L. *Chairs and Desk.* Chair and desk height will be matched to the individual characteristics of the operators. Chairs shall also have one-half length armrests.
- M. *Equipment Maintenance.* Each VDT will be maintained by qualified personnel and checked for flicker, clarity of image, size of image, contrast, brightness, and

adjustability. Each unit will be inspected every six months. Each VDT will be cleaned and otherwise maintained as often, as is necessary, to prevent glare and eye strain. Cleaning solution and materials will be provided by the Employer to each operator of VDT's.

- N. *Eye Glasses.* The Employer will pay for special eyeglasses used for VDT equipment where prescriptions must be changed due to VDT up to \$250.00.

Section 24 - Health Related Issues

The Employer shall make periodic studies of environmental conditions which may impair employee's health. The Employer agrees to provide medical testing for those employees who may be or have been exposed to potentially dangerous or unhealthy conditions. Such studies will also be initiated in response to employee or Union complaints.

Section 25 - Lunchrooms, Break-rooms, Restrooms in Dirty or Toxic Environments.

- A. The Employer shall furnish a clean and adequate office space in a designated area at each Farm Service Agency Office, where employees may eat their meals or take breaks.
- B. The Employer shall provide and assure that employees have adequate sanitary washroom facilities with sufficient hot water, sanitary materials (soap, sanitary paper, disinfectants, air deodorants, etc.), scrubbing materials (mops, brooms, buckets, etc.) and towels.
- C. Workers who come in contact with extremely dirty or hazardous materials shall be provided sufficient time during working hours to wash-up, shower, or change clothing prior to meals (such as lunch), prior to leaving the office or work environment. Such facilities will be kept clean. In the event that cleaning facilities are not available, the employee will be given reasonable time to clean up or will be excused for the remainder of the day, if the situation merits it, without loss of wages or benefits.

Section 26 - Work in Potentially Dangerous Situations

When there is reason to believe that a worker may face a potentially dangerous situation involving personal harm he/she shall be accompanied by another employee.

Section 27 - Repairs and Adjustments to Operating Equipment

Employees shall not be permitted to perform repair work on any office equipment. Only qualified maintenance personnel shall repair or adjust operating or moving machinery/equipment.

Section 28 - Public Contact

Employees will not be required to divulge personally identifiable information to the public under circumstances where there is reason to believe harassment or physical

abuse would result. In keeping with this principle, such employees may remove their name plates/tags should the need arise.

Section 29 - Vehicle Safety

- A. If at any time, a government owned motor vehicle is observed to be in need of repair, defective, or in any way unsafe, the vehicle shall be taken out of service until it has been restored to a safe operating condition. The use of such vehicle would constitute an imminent danger situation.
- B. Employees operating or riding in Government owned, leased, or privately owned vehicles on official business are to use safety belts (both seat and shoulder).

Section 30 - Cleaning of Air Conditioning (A/C) Ducts

Clean A/C ducts (supply and return) supply diffuses and returns registers. Replace filters of A/C system on buildings occupied by bargaining unit members according with OSHA 29 CFR Part 1910.1000, Standard for Air Contaminant, and ASHARE Standard 62-1989, and Ventilation for Acceptable Indoor Quality. OSHA/ASHARE both adopted B EPA.

Section 31 - Smoking Policy

Farm Service Agency employees will follow the current Departmental or Agency Regulations on Smoking Policy.

Section 32 - Water Fountains

The Employer will make every effort to install Water Coolers in each of the Area and Field Offices. The Employer will contract for Water Bottle supplies and replacement, if microbiological and chemical analysis of the water shows it is not potable.

Article 10 - Hours of Work and Overtime

Section 1 - Definitions

A. Alternative Work Schedules (AWS)

Are comprised of compressed and flexible work schedules. Employees can work either a compressed schedule (5-4-9 or 4-10), flexi-time or a flexi-tour schedule, but not combined. These schedules provide a family friendly work environment and can be used to improve productivity and the quality of life for Agency employees by encouraging job orientation instead of time orientation. The Agency can improve productivity through reduced tardiness and short-term absences, the implementation of quieter hours at the beginning and the end of the workdays, and enhanced employee morale. The quality of life for employees is improved by empowering employees through control over their personal working situations and a greater opportunity to participate in the Wellness Program activities as well as community, family, and leisure activities. The employees have workday flexibility for child/dependent care arrangements and emergency short-term absences which may be necessary when caring for sick children or elderly parents.

B. Five-Four-Nine (5-4-9) Schedule (Compressed)

This is a fixed, non-flexible schedule, which means that it does not vary from day-to-day. The arrival and departure times are according to a set schedule requested by the employee and approved by the supervisor in advance. The schedule includes nine (9) workdays in each pay period consisting of five (5) in one week and four (4) in the next week. Employees work nine (9) hours per day for eight (8) days and eight (8) hours for one (1) day, excluding any scheduled lunch period, for a total of 80 hours per pay period.

C. Ten Hour (4-10) Schedule (Compressed)

This is a fixed, non-flexible schedule, which means that it does not vary from day-to-day. The arrival and departure times are according to a set, written schedule requested by the employee and approved by the supervisor in advance. The schedule includes eight (8) workdays in each pay period. Each workday is ten (10) hours in length excluding any scheduled lunch period. A ten-hour schedule may not include any combination of half-days or workdays of less than ten hours.

D. Flexi-tour Schedule (Alternative Eight-Hour Schedule)

This is a fixed schedule, which does not vary from day-to-day. The arrival and departure times are according to a set, written schedule requested by the employee and approved by the supervisor in advance. The schedule includes ten (10) workdays in each pay period. Each workday is eight (8) hours in length excluding the scheduled lunch period. This schedule differs from the normal eight-hour tour in that the scheduled arrival and departure times need not coincide with the basic eight-hour workday.

E. Flexi-time Schedule (Alternative Eight-Hour Schedule)

This is a fixed schedule, which does vary from day-to-day. Times during the workday, workweek, or pay period within the tour of duty during which an employee covered by a flexible work schedule may choose to vary his or her times of arrival to and departure from the work site consistent with the duties and requirements of the position (5 USC 6122 (a)(2)). This schedule differs from the normal eight-hour tour in that the scheduled arrival and departure times need not coincide with the basic eight-hour workday.

F. Basic Eight (8) Hour Workday

The basic workday for full-time employees consists of eight (8) hours from 7:30 a.m. until 4:30 p.m.

G. Operating Hours

The Operating hours are the specific hours of the Agency in which employees may begin or end the workday. Those hours are from 6:30 a.m. until 6:00 p.m., daily.

H. Customer Service Band

The customer service band is the span of time that clerical and professional coverage will be provided to serve customer needs. This span of time is from 8:00 a.m. until 4:00 p.m.

I. Core Hours

Core hours are the hours in a workday when "all" full-time employees must be present for duty. The core hours are from 9:00 a.m. until 3:30 p.m.

J. AWS Quarters

The four (4) AWS quarters are defined as:

1. January, February, March
2. April, May, June
3. July, August, September
4. October, November, December

K. Credit Hours

"Credit hours" are any hours, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday. Credit hours must be approved by the supervisor in advance.

Section 2 - Hours of Work

- A. The basic workweek for full-time employees shall consist of five consecutive eight-hour workdays, Monday through Friday (with the same starting and finishing time

each day), except for those employees with Alternative Work Schedules (AWS) such as Flexi-time, Flexi-tour or Compressed Work Schedules. The function of these exceptions is to enhance the ability of the Agency to carry out the mission and to address employee needs.

- B. The basic workweek for part-time employees shall be in accordance with applicable laws and regulations. The Employer will make every possible effort to establish a workweek of four (4) consecutive days for part-time employees. When changes within the basic workweek become necessary, Management will give employees at least 1 pay period's notice, after consideration of the employee's circumstances.
- C. Unless flexi-time, flexi-tour or compressed work schedules apply, the basic non-overtime workday for full-time employees shall be the same 8 hours each day.
- D. The occurrence of holidays shall not affect the designation of the basic workweek.
- E. Upon request from the Union, the Employer will fulfill its duty to bargain under 5 USC 71, concerning flexi-time, flexi-tour and/or compressed work schedules.
- F. A rest period of fifteen-(15) minute's duration will be allowed each employee twice during each 8-hour day. A rest period of 10 minutes duration will be allowed each employee during each period of extended shift overtime of at least 2 hours duration. On days when all work is overtime, a rest period of 15 minutes will be allowed for each period of 4 hours worked. Rest periods will not be appended to periods of leave or the beginning or ends of the employees work shift.

Section 3 - General Overtime Provisions

- A. Time spent performing official business in excess of eight (8) hours a day, 40 hours a week, or 80 hours per biweekly pay period shall be considered overtime when officially ordered or approved for employees exempt from the Fair Labor Standards Act (FLSA). An employee covered under the FLSA shall be considered to be in an overtime status when performing work prior to or after the established hours of work or during the prescribed lunch period for the benefit of the Agency, whether requested or not, and the Agency knows or has reason to believe it is being performed. All employees shall be compensated for overtime work either by compensatory leave or overtime pay, in accordance with applicable laws and regulations (See Section 5, "Compensatory Time").
- B. Overtime shall be distributed fairly and equitably to all bargaining unit employees.
- C. Overtime shall not be distributed or withheld as a reward or penalty.
- D. When an employee, whether covered by the FLSA or exempt, works regular overtime, such overtime will be scheduled and paid in increments of 15 minutes. When an employee, whether covered by the FLSA or exempt, works irregular overtime, such overtime will be paid in increments of 15 minutes. Daily increments of less than 15 minutes, if such occur, will be accumulated during the workweek. At the end of the workweek, any increments of 7 minutes or fewer will be rounded down and any increments of 8 minutes or more will be rounded up to the next 15-minute interval.

- E. Employees covered by both the FLSA and Title 5 USC shall receive overtime compensation in accordance with whichever benefit is greater.
- F. Employees covered by Title 5 CFR, when approved by Management, can accrue and use compensatory time. When feasible, the Employer shall grant such an employee's request for compensatory time rather than payment for overtime. The request will be made in writing.
- G. It is agreed that non-bargaining unit employees shall not be schedule on overtime to perform the duties of bargaining unit employees for the sole purpose of eliminating the need to schedule bargaining unit employees for overtime.
- H. When employees, in a voluntary situation, indicate in advance that they will work overtime, the Employer should have a reasonable expectation that they will keep their commitment. It is understood that employees occasionally may be unable to report for scheduled overtime work. Therefore, an employee who volunteers for overtime works and fails to report as scheduled without good cause may have his or her name placed at the end of any overtime roster. Such employees may be considered for overtime after all eligible employees have been given proper consideration or will be excluded from overtime work for two (2) weeks, whichever comes first.
- I. Employees who are called back for a period of overtime unconnected to their regularly scheduled tour or who work overtime on Saturday, Sunday or holidays are entitled to a minimum of two (2) hours overtime pay.
- J. When scheduled overtime is to be mandated for all employees in a division or series, employees will be notified at least 3 days in advance. Notice of 2 days will be given for all other scheduled overtime work, whenever possible.
- K. Employees will not be scheduled to perform functions on overtime below their grade levels unless the number of volunteers at the lower level is insufficient, and the employee accepts the assignment.

Section 4 - Implementation of Alternative Work Schedule (AWS)

The AWS's available, to be considered by Management, to the bargaining unit employees are:

- 5-4-9
- 4-10
- Flexitour
- Flexitime

A. Requesting AWS

Requests for AWS must be made in writing two (2) pay periods before the beginning of the quarter. Requests are made using Form FSA 956, "Request For Alternative Work Schedule".

B. Approval/Denial of AWS

Approval or denial of AWS requests must be communicated to the employee one pay period before the start of the quarter. The approval/denial shall be based on the "three prong test" which is defined as:

1. Service to the public cannot diminish,
2. Productivity cannot diminish, and
3. Costs of operations must not increase.

C. Implementation of AWS

1. Employees may request to change their work schedule quarterly.
2. Because changes to the work schedule are implemented quarterly, new requests for AWS, or requests for changes in an existing AWS schedule, must be made in writing two (2) pay periods before the beginning of the quarter.
3. No more than one third of a work unit's employees may be scheduled for a compressed day off at any one time.
4. AWS (flexitour, flexitime, 5-4-9, 4-10) for individual employees cannot be combined.
5. To implement AWS, in any organizational subdivision, three prerequisite criteria must be met. These criteria are:
 - service to the public cannot diminish,
 - productivity can not diminish, and
 - costs of operations must not increase.
6. If a manager finds that an existing schedule has had an adverse impact, he may terminate or suspend AWS, if one of the three criteria in number 5 above cannot be met.
7. When an employee travel in excess of three (3) days to a site which does not have AWS, the employee would temporarily revert to an eight hour day for the complete pay period.
8. When an employee's scheduled training is more than three (3) days duration, an employee would temporarily revert back to an eight hour day for the complete pay period.
9. An employee may revert to the basic eight hour workday (7:30-4:30) at anytime at the start of a pay period.
10. Employees must be provided two pay periods notice for permanent changes in the work schedules.
11. To resolve conflicts in schedules:
 - The Parties encourage informal resolution within the employees work unit.
 - The Service Computation Date (SCD), as shown on SF-50, shall be used to determine order of priority in choosing the schedules and days off when informal resolution is not successful.
 - A new employee coming into the work unit cannot force a change in the existing employees' work schedules.

Section 5 - Compensatory Time

- A. Compensatory (comp) time is an alternative form of compensation for overtime work. Upon request, and in accordance with applicable law, and with the approval of the supervisor, employees may be granted comp time in lieu of payment for overtime. Normally, comp time is restricted to irregular or occasional overtime

work. Irregular or occasional overtime work is overtime work that is scheduled after the beginning of the administrative work week. Although, for employees who work flexible work schedules, comp time may be granted whether or not the overtime work is irregular or occasional. Comp time earned is to be used prior to scheduling annual or sick leave and must be used prior to the end of the leave year following (after) the year in which it was earned. Before changing an employees hour of work or tour of duty, the granting of comp time is to be considered.

- B. Employees who are covered under the FLSA may elect comp time in lieu of payment for overtime. FLSA employees who fail to take comp time within the time limits must be paid overtime at the rate in effect when the overtime was earned.

Section 6 - Credit Hours

- A. Employees may earn credit hours by working beyond their normal tour of duty. Then, employees may use the hours just like annual leave. Credit hours may not subsequently be converted to overtime pay. An employee may carry over a maximum of 24 credit hours at the end of any pay period. There is no time limit for using credit hours. However, should an employee leave FSA he/she should use the hours before his/her last day of service or the hours will be paid in a lump sum at the employees current regular hourly rate of pay.
- B. If an employee wishes to earn credit hours, he/she must complete a Form LR-102, Request to Earn Credit Hours, and submit to his/her supervisor by noon on the day which the employee wants to earn some credit hours. Supervisors will approve the request, if there is sufficient work available, and all other requirements of this Article are met.
- C. Credit hours will be earned in one-half hour increments. An employee may earn as much as two full hours of credit hours per day.
- D. An employee may not earn credit hours on the same day that he/she uses credit hours or leave. An employee must earn credit hours within the regular work day. The Agency will only approve credit hour work during operating hours.
- E. Once an employee has earned some credit hours, he/she may use the credit hours in one-half hour increments just like annual leave by submitting a leave request form (SF-71) to the supervisor. Employees should check the "other" block on the SF-71 and write in "credit hours."
- F. Part-time employees may also earn credit hours by working extra hours beyond their normal tour of duty. The maximum carryover for part-time employees is 1/4 of the hours in their normal pay period. For example, a part-time employee who works 32 hours per week (64 hours per pay period) would carryover a maximum of 16 credit hours (rather than the 24 which full time employees carryover).
- G. For approval purposes, credit hours are treated just like annual leave.

- H. Employees may also use credit hours in lieu of sick leave, but employees on formal leave restrictions which require documentation for use of sick leave must submit proper documentation.
- I. Requests to use credit hours have the same priority as annual leave. In the event of conflicts over a day off, it doesn't matter whether annual leave or credit hours have been requested.

Section 7 - Dealing with Alternative Work Schedule Abusers

Employees who abuse the AWS will not be permitted to remain on the AWS. The following procedure will be followed in cases where the AWS is abused:

A. Informal Notice

When it becomes apparent that an employee is abusing the AWS, the supervisor will verbally counsel the employee and document the conversation, providing a copy to the employee. The supervisor will instruct the employee that if another instance of abuse is observed anytime within the next 12 consecutive months, the supervisor will issue a formal warning letter.

B. Formal Warning

If another abuse occurs within the next 12 consecutive months, the supervisor will again counsel the employee and issue a letter providing written notice that another instance of abuse will result in suspension of that employee's AWS. The formal warning period will cover 12 months from the date of the letter. If there is no abuse within that 12 month period, this warning period will expire.

C. Suspension

If an abuse occurs during the 12 month formal warning period, the employee will be suspended from AWS. If suspended, the employee will not be eligible for AWS for a period of one year from the date of suspension. At the end of the one year suspension, the employee may be reconsidered for eligibility for AWS. Reinstatement of AWS must comply with Section 4, of this Article.

Article 11 - Holiday Work

Work on holidays will be avoided to the maximum extent possible. In the event, that holiday work is needed, the State Executive Director or designated officials acting in this position may approve work on holidays; however, holiday work shall be voluntarily performed by employees.

Section 1 - First consideration for holiday work assignments will be given to employees currently assigned to the office in need of the overtime work. Second consideration will be given to other employees who have the required skills to do the job. Work on holidays will not be assigned as a reward or penalty, but solely in accordance with actual needs.

Section 2 - The Employer agrees that, upon reasonable request, employees will be excused from working on a holiday, if another employee with the required skills is readily available and willing to work.

Section 3 - The business rationale concerning holiday hours worked will be made available, when requested, to employees and/or the Union to aid in resolving specific complaints concerning distribution of work on holidays. If a dispute arises, the grievance procedure will be followed.

Section 4 - The Employer will notify those employees who are needed for holiday work assignments, as far in advance, as possible.

Section 5 - If an employee is not more than 30 minutes late in reporting for a holiday work assignment, he/she will not be denied the remainder of the holiday work assignment. It is further agreed and understood that if an employee who has been assigned holiday work cannot report for the assignment due to illness or emergency, such employee shall notify the appropriate available supervisor. However, the Employer agrees to give consideration to an employee who, because of special or unique circumstances, is unable to meet these requirements. In this connection, all employees shall be informed as to the proper procedure to use for notification of absence.

Section 6 - The following Federal designated holidays and Puerto Rico holidays will be granted to all bargaining unit members.

Holidays by Federal Statute:

New Year's Day - January 1
Martin Luther King - Third Monday in January
Washington's Birthday - Third Monday in February
Memorial Day - Last Monday in May
Independence Day - July 4

Labor Day - First Monday in September
Columbus Day - Second Monday in October
Veterans Day - November 11
Thanksgiving Day - Fourth Thursday in November
Christmas Day - December 25

Puerto Rico Holidays:

Three Kings Day - January 6th of each year
Good Friday - Movable feast between March and April of each year
PR Constitution Day - July 25th of each year.

In the event, that any future Federal Holiday not listed above is designated by Federal Statute, the same will also be granted to all bargaining unit employees.

Article 12 - Use of Official Facilities

Section 1 - Office Space and Furnishings

- A. The Employer will provide adequate space for confidential discussions between bargaining unit members and designated Union representatives, when held in accordance with the terms of this Agreement.
- B. The Employer will provide the Union with private office space, of no less than 250 square feet, to conduct official business. A private telephone line with FTS, a fax machine, a personal computer and printer, a desk with two chairs, four filing cabinets with locks, and a table with four additional chairs will be provided with the office space. The office will be adequately air conditioned and be cleaned and maintained in the presence of a Union official. (see note below*)
- C. Each elected Union officials will have a private telephone line with FTS capabilities. Elected officials are: President, Vice-Presidents, Secretary, and Treasurer. In addition, one filing cabinet with locks will also be provided for each elected official.
- D. Appointed officials such as Union Stewards will also be provided with a private telephone line with FTS capabilities. One filing cabinet with locks will also be provided.
- E. When available, during and after duty hours, the Union may reserve and use the Employer's conference rooms or other suitable spaces for official or internal business meetings of its officers, stewards, and members.

**This section will be reopened for negotiations upon notice of the relocation and co-location of the States Offices and pursuant to Article 5 of the Interim Agreement.*

Section 2 - Issuances

- A. The Employer will provide the Union access to all current Agency or Departmental written issuances on personnel policies, practices, working conditions, organizational structures, labor-Management materials, or any written document that is related to, or may have an impact on bargaining unit employees, the Union or the Agency. The Union will be furnished one (1) printed copy.
- B. The Union will be provided with access to personnel manuals and guidelines, and upon request, to copies of materials from personnel manuals and guidelines.
- C. All distribution of issuances under this Article will be at no cost to the Union.

Section 3 - Non-Duty Use of Facilities

The Employer agrees that where there are facilities, they shall be made available for local meetings before or after duty hours, or during lunch periods, if such space is not already committed. The Union must give sufficient advance notice to ensure no disruption to the normal mode of business. Cost related to use, if facilities "after hours" shall be paid by the Employer.

Section 4 - Telecommunications Systems

- A. The Employer will make telephones and the Federal DISN Telecommunications available to the Union for the conduct of labor-Management relations. Full access to FTS2000 Government Services will be provided.
- B. The Union agrees that the use of telephones will not be used for internal Union business.
- C. The Union will be provided a computer with access to the Internet. Internet E-mail address will also be provided and authorized.

Section 5 - Other Facilities and Services

The Employer agrees to furnish customary routine services which are consistent with the best interest of the Employer, employees and the Union. Such services include internal mail (for other than mass mailing), use of franked envelopes, photocopy equipment, shuttle and the like. This will include Union representatives, if they are conducting representational duties away from their permanent duty station.

Article 13 - Communications

Section 1 - Bulletin Boards

- A. The Employer will provide Union bulletin board space, not less than 36 inches x 36 inches.
- B. Union bulletin boards will be prominently identified as such by the Union, and will be located in areas accessible to bargaining unit employees. All posting will be marked prominently as "Union Notices", and only the designated Union bulletin boards will be used for such posting.
- C. The Union bulletin board will be used solely for Union materials. Management may not post any material on the bulletin board without the consent of an Union elected official.

Section 2 - Distribution of Union Publications

- A. Official publications of the Union may be distributed on USDA, Farm Service Agency property by Union representatives during the non-duty time of the Union representatives who are distributing, and the employees receiving the materials, distribution shall not disrupt operations. All such materials shall be properly identified as official Union issuances.
- B. The Union may distribute Union publications.

Section 3 - Space for Pamphlet Racks

To the extent practicable, the Employer will provide space for Union-supplied publication racks.

Section 4 - Copies of Agreement

- A. The Employer will provide copies of this Agreement in quantities necessary for ratification purposes.
- B. The Employer will provide, at no cost, booklet copies of this Agreement, printed in type that can be read easily, to each employee on duty at the distribution date, and to all employees entering on duty after that date. Initial distribution will be made within two weeks of signing.
- C. The Employer will provide a reasonable number of additional booklet copies to the Union.

Section 5 - Health Insurance Plans Information

The Employer agrees to provide bargaining unit employees with information on open enrollment periods and, upon request, information on the various types of health plans available to employees through AFGE. All applications for AFGE Insurance must be accompanied by the Union verification of AFGE membership.

Section 6 - Addressing New Employees

The Employer will provide the Union an opportunity to address new employees during first week of orientation sessions and will introduce new employees to the Union representative.

Section 7 - Use of fax machines and office copying equipment

The Employer will permit use of fax machines and office copying equipment to reproduce material related to the Labor-Management process.

Section 8 - Contents of Literature

Union literature, whether posted on bulletin boards or distributed, must not violate any law, regulations, security of the office, or provisions of this Agreement. Union Statements will not include defamatory or derogatory remarks that undermine the authority of Agency and its officials, when the remarks have no reasonable nexus to legitimate representational issues. Any disagreement over what constitutes defamatory or derogatory remarks will be addressed by a duly selected arbitrator.

Article 14 - Parking and Parking Areas

Section 1 - The Employer agrees, in so far as possible, to collocate offices in areas where there is sufficient parking space for all employees and prospective clientele.

Section 2 - Union Officials will be notified and will negotiate all aspects related to the assignment of parking spaces.

Section 3 - The required number of reserved spaces will be made available to accommodate physically handicapped personnel after the employee have requested a space in writing and it has been certified that the employee's handicap is of such a nature as to warrant a reserved parking space.

Article 15 - Reduction-In-Force and Transfer of Function

Section 1 - Negotiations

- A. The Employer and the Union recognize that unit employees may be seriously and adversely affected by a reduction-in-force (RIF) and/or transfer of function actions. In the event of a RIF and/or transfer of function, the Employer will notify the Union and fulfill its obligation to bargain consistent with 5 USC 71.
- B. The Employer shall provide the Union with all available information related to the RIF and/or transfer of function in accordance with 5 USC 7114(b)4.

Section 2 - Notification to the Union

- A. When it is anticipated that a RIF will affect bargaining unit employees, the Union President will be given the earliest possible preliminary notification in writing. To the maximum extent possible, this notification will be at least 180 days in advance of the anticipated implementation date and will include the following information:
 1. Specific functions to be transferred and identification of employees assigned to this function;
 2. The reason for the RIF;
 3. The competitive area and levels (type of positions and approximate number of employees) that the Employer proposes may be affected initially in a RIF;
 4. The anticipated effective date that the action will occur; and
 5. The manner in which Management anticipates exercising its discretion under 5 CFR 351.

Section 3 - Impact and Notification to Employees

- A. The Employer will attempt to minimize actions that adversely affect employees which often follow a RIF by studying, to the maximum extent possible, all feasible solutions before accomplishing reductions. All reductions-in-force will be carried out in strict compliance with all applicable laws and regulations.
- B. The Employer will give an advance general notice of 90 calendar days to employees who may be affected by a RIF action, and a specific notice of 60 calendar days to individual employees who will be affected by a RIF action.
- C. Employees receiving a RIF notice have the right to review retention lists pertaining to all positions for which they are qualified within their competitive area. This includes the retention register for their competitive level and those for other positions for which they are qualified, down to and including those in the same or equivalent grade as the position offered by the Agency. If separation occurs, this includes all positions to or below the grade level of their current positions in their competitive areas. Affected employees shall have the right to the assistance of the Union when reviewing such lists or records.
- D. Any career or career-conditional employees who are separated because of RIF will be placed on the re-employment priority list for all competitive positions in the commuting area for which qualified and available in accordance with applicable rules and regulations. It is understood that acceptance of a temporary appointment will not alter the employee's right to be offered permanent employment.
- E. Bargaining unit employees have the right to outplacement services described in the USDA and *Farm Service Agency Career Transition Assistance Plans* and 5 CFR 351.

Article 16 - Contracting Out Bargaining Unit Work

Section 1 - Notification to the Union

- A. The Employer and the Union will cooperate and communicate to the maximum extent possible concerning Commercial Activities (CA) issues. The Employer shall provide the Union without charge a list of all CA affecting the bargaining, and who is performing the work, which shall be current as of the effective date of this Agreement. When the Employer anticipates contracting out of work presently being performed by bargaining unit employees, the Union will be notified at least 180 days prior to implementing a decision to contract out which may result in RIF or demotion of any bargaining unit employee.
- B. Manager agrees to notify and consult with the Union regarding any anticipated review of a function for contracting out that could affect bargaining unit positions, as required or allowed by law; rule; regulation; OMB Circular, No. A-76 and its supplement; and this Agreement.
- C. The Employer's oversight or advisory group will include a Union Representative during the conduct of a cost study. Upon issuance, a solicitation used in the conduct of a cost comparison will be made available to the Union for comment. The Union will be given the opportunity to review the document and submit comments before final receipt of offers from the private sector. Private sector offerors shall comment, as provided by the federal acquisition regulations (FAR).
- D. The Union shall have the opportunity to review and make comments on the Employer's submission to the annual "OMB Circular No. A-76 Inventory" as required by Part 1, paragraph F and Appendix 2 of the Circular's.

Section 2 - Management Decisions

The Employer agrees that the decision to possibly contract out work presently being performed by bargaining unit employees will be made in accordance with OMB Circular A-76, applicable rules and regulations. The Employer will make every possible effort to avoid contracting out work presently performed by bargaining unit employees.

Section 3 - Statement of Work

The Union will have the opportunity to consult and fully participate in the development of supporting documents and proposals, including the development of performance standards, performance work statements, Management plans/ Management efficiency study, the milestone Chart governing the conduct of the CA study, the development of in-house and contract cost estimates, invitation for bid, request for quotation, and any other information used in the development of the above documents. The Union will have the opportunity to consult with Management at least monthly.

A Union representative will be permitted to participate in the "walk through" held for potential bidders.

Section 4 - Impact and Implementation

The Employer agrees that prior to any possible implementation of a decision to contract out, the Union will be given the opportunity to timely negotiate regarding the impact

and implementation of such a decision which substantially impacts bargaining unit employees according to 5 USC chapter 71.

Section 5 - Access to Regulations

The Employer will provide to the Union, in a timely manner, copy of pertinent information relative to the contracting out, to the extent permissible under law, rule, and regulation. Any questions regarding request for information or access to documentation will be jointly addressed by labor and Management, as soon as they arise.

Section 6 - Adverse Effects on Bargaining Unit Employees

If bargaining unit employees are adversely affected (RIF or demotion) by the decision to contract out work presently being performed by bargaining unit employees, the Employer will proceed in accordance with this Agreement.

Section 7 - Placement Assistance

The Agency agrees to assist in locating suitable employment for bargaining unit employees who are displaced as a result of contracting out including:

- A. Giving priority consideration for suitable vacant positions within Farm Service Agency - Puerto Rico in accordance with Agency policies and procedures;
- B. Paying reasonable costs for training and relocation, when these will contribute directly to placement;
- C. Make every effort to arrange for gradual transition when conversions are made to provide greater opportunity for attrition and placement; and,
- D. Coordinating with the USDA and other agencies to obtain employment for separated employees.

Section 8 - Appeals

The Employer and the Union recognize the right of first refusal required by OMB Circular No. A-76 and its Supplement. Declining to exercise the right of first refusal due to displacement by contracting out shall not be deemed to be a waiver of any appeal grievance rights by a bargaining unit employee he/she may have under applicable law, regulation, and this Agreement.

The Employer recognizes the Union's right to file an Appeal of Tentative Waiver and Cost Comparison Decisions and to have necessary documentation for purposes of filling this Appeal. Additionally, consideration will be given to extending the appeal period to a maximum of thirty (30) calendar days, if the cost comparison is particularly complex.

Section 9 - Performance Monitoring

Should the CA result in a decision to convert to contract, the Union is encouraged during the period of contract to bring known contract discrepancies to the attention of the appropriate contract administrator or designee.

Article 17 - Training and Career Development

Section 1 - Statement of Policy

The Parties agree that the primary function of training is to assure the optimum use of human resources in attaining organizational needs and, when feasible, to provide career development opportunities to employees. While it is understood that determination of training needs is the responsibility of the Employer, the Parties agree that the Employer should provide training necessary for the performance of employee's assigned duties, and, where appropriate, for improvement of organization and individual performance, and to meet the employees career development and self enhancement needs. The Employer will provide a share of its training resources to prepare for existing and projected staffing needs.

Section 2 - Non-Discrimination

The Parties agree that nomination and/or selection of employees to participate in training and career development programs and courses shall be non-discriminatory and made without regard to sex, race, religion, age, marital status, ethnic group, handicap and Union membership or activity, and shall be in accordance with equal employment opportunity guidelines, and consistent with other applicable laws.

Section 3 - Training Programs

- A. The Employer will remind employees, at least annually of the criteria for approval of training, and the nomination procedures.
- B. Training nominations and/or approval will be based on the potential use of the training in the employee's current position, or individual development plan (IDP), and other criteria established by applicable law, rule or regulation. Nominating and approving officials will apply such criteria equitably. Employees within the same series and grade competing for a training nomination will be nominated according to their service computation date.
- C. The Employer agrees to advise individual employees of all currently available government-sponsored training courses so as to provide the employee the opportunity to express timely interest. All Employee Development Announcements will be posted expeditiously on bulletin boards.
- D. Employees will be notified of the approval or disapproval of their nominations and the reason for disapproval. To the extent feasible, employees will be notified of the approval or disapproval prior to the starting date of the training. Should an employee's nomination for training be disapproved for lack of resources, the employee may be renominated as funds later became available, and the nomination will be given first consideration.

Section 4 - Individual Development Plan

- A. Career development for individual employees shall be encouraged through establishment of an Individual Development plan (IDP).

- B. The Employer agrees to provide information to employees, on an annual basis, on the purpose and means of establishing IDP, and the designated approving officer.
- C. Because of the nature of their appointments, IDP are not appropriate for term or temporary employees.
- D. Employees may initiate Individual Development Plans through their supervisors. The supervisor will assist the employee in the preparation of the IDP and will review it with the employee to assure conformance with organizational needs and individual career needs. The plan will be referred to the designated approving official and the employee will be notified of the approval/disapproval or the need for modification.

Section 5 - Employee Training Counseling

The Employer and the Union recognize that each employee should apply effort, time and initiative in increasing his/her potential through self-development, training and job performance. When requested by an employee, the supervisor will provide counseling concerning areas of development the employee might consider.

Section 6 - Training Expenses

When local training is approved, the Employer will pay costs of tuition and required textbooks and other expenses as appropriate, and may pay travel costs, subject to travel regulations and fiscal considerations. If travel funds are not authorized and the training would otherwise be approved, the employee will be notified and given the option of attending the training without travel reimbursement. Official time will be approved for training, when it is scheduled during the employee's basic workweek, unless the training is deferred or cancelled.

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| Article 18 - Incentive Awards |
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Section 1 - Purpose and Policy

- A. The Parties agree that a motivational Incentive Awards Program is a necessary and useful mechanism through which employees accomplishments shall be recognized. Employees and Managers are strongly encouraged to take an active part in the program by objectively recognizing and rewarding contributions which increase productivity, empower employees, and promote team building.
- B. The Parties also agree that an effective incentive awards program should result in a more effective work-force, higher productivity, and improved working environment. Therefore, within the context of budgetary considerations and limitations, the Employer may provide incentive awards to employees whose performance is substantially in excess of normal expectation and to employees who submit suggestions which result in measurable improvements in efficiency.
- C. The Employer will make reasonable efforts to allot awards to supervisors and non-bargaining unit employees in proportion to the number of bargaining unit employees within USDA, Farm Service Agency, Puerto Rico.
- D. It shall be the policy of the Employer that incentive awards will be used to encourage creativity, promote initiative, improve morale, and be sufficiently flexible so as to provide incentive to employees to enhance their performance, resulting in better quality service to our customers.
- E. The Incentive Awards system will be based solely on merit factors and centered on the principles of fairness and equity. To ensure these principles are observed and credibility is maintained in the system, awards will be publicized to the maximum extent possible.
- F. Employees who perform community service activities, which promote volunteerism, may be recognized for their contributions through monetary or non-monetary awards.
- G. The current rating of record will be used as a basis for decisions to grant performance-based awards under the Department's Performance Management System.
- H. To the maximum extent practicable, Management will fully utilize the awards budget to reward deserving employee performance.
- I. This Article is designed to encourage maximum involvement and flexibility for all Managers and employees.

Section 2 - Review Committee

- A. The Parties will establish an Incentive Awards Review Committee consisting of four (4) members. The Employer and the Union will each select two (2) representatives. Either party may invite one observer.

- B. This Committee is established to perform annual post-reviews and analyses of the Incentive Awards issued by the Agency.
- C. Members of the Committee will serve for two years with one Employer member and one Union member rotating off the committee each year. Initially, the term for two members will be for one year.
- D. The Committee will initially meet within 60 days of the signing of this Agreement. At the first meeting the Committee will develop and publish procedures for the conduct of its business. At its discretion, the Committee may call upon subject matter experts to assist in conducting its reviews. The committee will perform the following activities:
 - 1. Review written justifications for awards;
 - 2. Develop trend analyses, by organization, which will identify as a minimum:
 - a. any perceived disparate treatment in issuing or receiving of awards;
 - b. awards that might be based on factors other than merit;
 - c. fair and equitable distribution by grade, race, gender, and organizational component; and
 - d. timeliness.
 - 3. Submit written analyses, findings, and recommendations to the State Executive Director or his/her designate.
- E. The Committee has no veto power but serves only in an advisory capacity. As an advisory committee it is responsible for promoting fairness and equity in the distribution of awards of all types. The Committee will recommend that awards be used to improve the quality of work life and provide incentive to employees to improve their performance and increase efficiency of Farm Service Agency operations.

Section 3 - Type of Awards

- A. Incentive awards are granted in the form of monetary and non-monetary recognition based upon the tangible or intangible benefits realized by the government. The Incentive Awards Program consists of the following categories of awards:
 - 1. Quality Step Increases:
 - a. Quality step increases and cash awards will be used to recognize and reward employees whose performance so warrants.
 - b. To be considered for a quality step increase, an employee must perform the duties and responsibilities of his/her assigned position at a level that substantially exceeds an acceptable level of competence so that, when viewed as a whole, the employee's performance is at a high level of quality and is expected to continue. An employee will be considered for a high quality increase when the employee's work is

determined to be outstanding on a summary basis. This does not prevent awarding high quality increases between rating periods.

- c. An employee who receives a rating of record of Outstanding must receive a performance award or Quality Step Increase or a combination of both. The suggested percentage of base pay should be between 2 and 10% of salary.

2. Performance and/or Cash Awards:

- a. An employee who receives a rating of record of Superior should receive a performance award, based on availability of funds. The suggested percentage of base pay should be between 2 and 7% of salary.
- b. Superior performance for cash awards shall be sustained for a period of at least 3 months.
- c. An employee who receives a rating of record of Fully Successful should be considered for and may receive a performance award based on performance which exceeds the standard in one or more critical elements and which demonstrates a significant contribution to the Agency, based upon availability of funds. The suggested percentage of base pay should be between 2 and 4% of salary.

3. Challenge Awards:

- a. A Challenge Award is a Special Act Award negotiated between the supervisor and employee or group of employees (e.g. task force members, individuals, Division, Branch), and must be approved in advance by the Division Director, Local Manager, Area Manager, State Executive Director or Designate responsible for the activity or project. It is designed as an incentive for completion of a unique assignment in which the employee or group of employees displayed unusual initiative or creativity in successfully completing the task beyond what would normally be expected.
- b. Employees or supervisors may initiate the development of a Challenge Award for those assignments which require varied specialized skills and abilities.
- c. Challenge awards must have definite criteria developed in advance between the supervisor and the employee or group of employees. Such criteria might include, but is not limited to, the following elements:

- (1) Timeliness
- (2) Quality
- (3) Quantity
- (4) Personal Initiative
- (5) Overall Value to Agency's Mission
- (6) Improvement in Customer Service
- (7) Award Amount

- d. The key factor in development and approval of a Challenge Award is that the mutually developed criteria be challenging, yet attainable. This criterion must be stated in a written agreement. The award amount will be developed as part of the agreement.
- e. Challenge Awards may consist of cash payment or time off as defined under the Time-off Award provision of this Article. The agreement which defines the criteria must be submitted to the Human Resources Staff along with the Form AD-287-2 after approval by the Division Director, Local Manager, Area Manager, State Executive Director or Designate. Funds for these awards will count against the organizations award allocation.

4. Group Awards

- a. Agency initiatives accomplished by teams of employees, rather than individuals working alone, should be recognized with group awards.
- b. Group awards are encouraged and should be a principle component of the overall Agency incentive awards program.
- c. Each individual should be recognized equally in the award process because the synergy that develops through the group process precludes identifying the unique contributions of individual members.

5. Time-off Awards

- a. A Time-off Award is a period of time-off from duty, without loss of pay or charge to leave, in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Farm Service Agency - Puerto Rico. Time-off Awards may be granted to an employee for up to 80 hours per year. Each single award may not exceed 40 hours. No employee may receive more than two (2) individual Time-off Awards per year. Time-off Awards must be used within 120 days after the award is made. The scheduling of the time off will be coordinated between the employee and the supervisor and will consider workload needs as well as the individual employees personal needs.
- b. Employees are eligible for Spot Time-off Awards of one day. Spot Time-off Awards differ from regular Time-off Awards in that approval are only necessary from the employee's immediate supervisor and do not require higher level review.
- c. Time-off Awards will be recommended by the first line supervisor and approved by the next higher level supervisor. In no instance may a Time-off Award be converted to a cash payment once approved.
- d. All Time-off and Spot Time-off Awards must be documented with a Form AD-287-2, "USDA Recommendation and Approval of Awards" and a SF-50, "Notification of Personnel Action".

6. Spot Cash Awards

Cash awards for one-time special act, service or achievement of a nonrecurring nature will be based on OPM guidelines set forth in CFR 451.

7. Honorary Awards

Section 4 - Processing

Incentive awards will be processed in a timely and expeditious manner. High quality increases will be effective on the first day of the first pay period following the date of approval. Cash awards will be processed within three (3) pay periods following the date of approval. Cash awards will be credited for promotional consideration upon receipt of a letter issued promptly after final approval of the award. Employees should attach a copy of the award letter to applications for posted vacancies.

Section 5 - Awards Information

The Employer shall provide the Union with a copy of an annual report of incentive awards program. The report will show distribution of cash awards and high quality increases by grade and series.

Section 6 - Suggestion Awards

- A. The Employer will encourage employees to file suggestions under the USDA, Farm Service Agency Employee Suggestion Program (ASCS Handbooks 7-PM). Suggestions will be considered in a fair and equitable manner. Suggestion awards will be appropriate for tangible suggestions, intangible suggestions, and problem identification.
 - a. In the event a decision regarding adoption or non-adoption of a suggestion is not made within 120 days of submission, the employee, upon request, will be given a written or oral status report.
 - b. Non-adoption of employee suggestions are to be written and contain specific reasons for non-adoption.
 - c. If the idea set forth in a rejected suggestion is later adopted, the appropriate suggestion coordinator will, if the matter is brought to his/her attention within the 2-year period after the date of the rejection notice, reopen the case for award consideration.
 - d. An employee who informally submits a suggestion (i.e., orally give his/her idea to a staff or Management person) that is adopted, must submit it in writing within 1 year of the date the suggestion is placed in effect. Otherwise, the suggester will not be considered for a cash award.
- B. The amount of suggestion awards approved or recommended will be in accordance with OPM guidelines set forth in CFR Chapter 451.

Article 19 - Equal Employment Opportunity

Section 1 - Equal Employment Opportunity (EEO)

- A. The Employer and the Union affirm their commitment to the policy of providing EEO to all employees and to prohibit discrimination because of race, color, religion, sex, national origin, age, or disability, and to promote the full realization of EEO through a continuing Affirmative Employment Action Program.
- B. In addition, the Parties recognize their commitment to the policy of prohibiting discrimination on the basis of marital status or political affiliation. The Employer will have a positive, continuing and results-oriented program of affirmative action. The Parties agree that EEO shall be administered in accordance with Title 5 USC, Executive Order 11478, authorizing legislation, and applicable regulations.
- C. The Employer will be responsible for taking necessary affirmative action with the objectives of ensuring a work-place free of discrimination based on any of the factors listed above and will take appropriate remedial action when discrimination occurs. The Agency also agrees to provide reasonable accommodation, in accordance with law and regulations.
- D. The Parties agree that all reasonable efforts will be made to avoid adverse impact on any group of employees who are protected under the EEO laws within the limits prescribed by law, fiscal considerations, and work-related conditions. The Employer agrees to engage in impact and implementation bargaining in this regard, where appropriate.
- E. The Employer and the Union will conduct an on-going campaign to eradicate every form of discrimination.
- F. In the administration of the Federal Equal Opportunity Recruitment Program (FEORP) and the Multi-Year Affirmative Employment Program Plan (AEP), the Employer agrees to place special emphasis on internal recruitment and promotion. The Employer will develop, establish, and maintain contact with the minority and female work-force, community groups, schools, universities, and other public and private groups to improve employment status of minorities and women in the work-place.

Section 2 - Affirmative Action Plan

- A. Establishment and implementation of the Affirmative Action Plan are a fundamental Employer objective. The Employer will continue to provide overall Management support and budgetary planning to achieve affirmative action objectives throughout the organization.
 1. The Employer will provide the Union with the procedures for developing the Affirmative Action Plan, including time frames set by both the EEOC and the Employer.

2. Prior to submitting its Affirmative Action Plan to the EEOC or successor Agency for approval, the Employer will provide a copy of the plan to the Union, and upon request, will fulfill its duty to bargain under the law.
 3. Any information shared, discussions and/or negotiations held under this Article will only apply to bargaining unit positions.
 4. The Employer will publicize affirmative action measures, including the Multi-Year AEP to all employees. Employees who wish to read the Multi-Year AEP will be allowed to review the office copy.
- B. Consistent with the EEOC Guidelines for Agency AAP'S, the Employer's Plan shall include as appropriate:
1. Identification of the most populous GS occupations which shall be analyzed for under representation when compared to the Civilian Labor Force or SMSA, whichever is most appropriate.
 2. Identification of designated target occupations.
 3. Analysis to identify impediments to the elimination of under-representation for target occupations.
 4. Determination of anticipated vacancies over the period of the plan in targeted occupations.
 5. Identification of innovative staffing techniques to increase pools of qualified internal and external candidates for targeted occupations.
- C. Should adverse EEO impact be evidenced pursuant to the Affirmative Action Plan, specific and measurable objectives shall be set to correct the conditions. Those objectives will include, but not be limited to:
1. Validating existing selection procedures or;
 2. Modifying or substituting selection procedures to alleviate adverse impact.

Section 3 - Information and Data

- A. The Employer shall make available to employees written information describing the Affirmative Action Plan and the EEO complaint procedure. The names and telephone numbers of EEO counselors will be posted on bulletin boards and kept current.
- B. The Employer agrees to furnish the Union the following EEO information on a yearly basis:
 1. Work-Force profile by grade level according to sex and race. Should age and handicap data become available, it will be provided to the Union.

2. Work-Force profile by selected occupations according to sex and race.
3. Promotion trend data for selected positions according to sex and race.
4. Outside hiring statistics for selected positions according to race and sex.

Section 4 - Coordinators

- A. The Parties agree that a sufficient number of EEO Coordinators are necessary to a properly administer the EEO program. Coordinators will be given training and will be available and accessible to employees.
- B. It is mutually agreed by the Parties that the Union may submit nominees for EEO Coordinator positions. The Employer will appoint the EEO Coordinators and will give consideration to the Union nominees.
- C. When feasible, employees may select EEO Coordinators of their choosing.
- D. Union officials representing employees in EEO complaints will have prompt access, subject to applicable EEOC procedures, to copies of the EEO Coordinators, Counselor and Investigative Reports and the personnel records of the complainant.

Section 5 - Complaints

- A. Any employee who wishes to file or has filed a complaint shall be free from coercion, interference, and reprisal, and shall be entitled to expeditious processing of the complaint within the time limits prescribed by regulations. Any employee who seeks to file a complaint shall have the right to select a representative of his/her choosing.
- B. An employee has the option of filing a complaint under the Negotiated Grievance Procedure (Article 26) or under the Agency EEO complaint procedure, but not both. EEO Counselors will provide an insuring employee a written description of both procedures.
- C. The Employer agrees to furnish the Union statistical reports concerning discrimination complaints where the Union is the representative of record.

Section 6 - Duty status

Union representation and Employer participation in EEO under this Article shall be on official time in accordance with ASCS Handbook 19-PM and as outlined in Article 31 (Official Time) of this Agreement. Official time for negotiations under Section 2 will be granted under the provisions of 5 USC 71.

Section 7 - EEO Advisory Committees

- A. The Employer shall establish and maintain a Joint Union-Management EEO Committee.

- B. The Employer and the Union firmly believe that the effectiveness of the EEOAC depends on the selection process of members, the integrity of volunteers, and the ability to fulfill their responsibilities. In keeping with this belief, the EEOAC shall be permitted to operate with the maximum support of the Administrator.
- C. Training shall be provided for representatives of special emphasis employment programs and EEOAC members in accordance with ASCS Handbooks 19-PM, as soon as possible, after their terms begin. In those cases where a Committee member cannot attend training due to a critical need for the Employee's services, training will be provided for that employee at the next earliest opportunity.
- D. Official time will be made available to EEOAC members to attend Committee meetings and to carry out projects specifically assigned to them by the Committee. Time for Committee assignments can only be refused if the employee's services are necessary at the work-site; however, supervisors should make every attempt to release employees to fulfill EEOAC responsibilities when requested. If this is not possible, they should be released, as soon as possible, based on workload requirements.

Article 20 - Upward Mobility

Section 1 - Goal

The Parties agree that the goal of upward mobility is to provide employees the opportunity to compete for USDA, Farm Service Agency positions so as to advance and perform at their potential.

Section 2 - Objective

In implementing upward mobility programs, the Employer will consider the following approaches which will provide for:

- A. Identification of job patterns and promotional opportunities commensurate with employee skills and potential.
- B. Lateral reassignments and bridge positions for employees whose current jobs do not provide an opportunity for further advancement.
- C. Education and training to provide employees the opportunity to enhance promotional qualifications.
- D. Staffing techniques.
- E. Elimination of non-performance related impediments as promotion factors.

Section 3 - Affirmative Action Planning

Upward mobility objectives are to be an integral consideration in affirmative action planning and will be consistent with EEO goals and objectives.

Section 4 - Educational Programs

The Employer, where practicable, will establish programs with local institutions or other training sources that increase the opportunity for employees to participate in continuing education programs.

Article 21 - Child/Dependent Care

Section 1 - Policy and Planning

This Article addresses the child or dependent care needs of USDA, Farm Service Agency, Puerto Rico employees. The Parties recognize that working parents may have special child or dependent care needs during working hours. The Parties recognize the need for such employees to secure appropriate child/dependent care arrangements.

Section 2 - Day Care Information

The Employer will provide inquiring employees with information concerning facilities available in Puerto Rico area. Recognizing that a broad range of child/elderly care needs exists, the information will include such data as age groups served, types of programs offered, hours of operation, availability of spaces, "drop-in" arrangements, cost and availability of tuition assistance.

Section 3 - Employee Needs

The Employer recognizes that it may be necessary for employees to contact child or elderly care providers during duty hours. Employees will be allowed at least one phone call daily to child/elderly care providers.

Section 4 - On-going Support

The Employer will participate with USDA, and other entities, in providing support to various activities to meet on-going child/dependent care needs. These may include, but are not limited to, such things as child care and parenting information, elderly care, workshops, counseling and fund raising support. The Parties will work together in disseminating this information to employees and inviting their support and/or participation.

Section 5 - Orientation

During the orientation of new employees, the subject of the availability of adequate child or dependent care centers will be covered, if appropriate.

Section 6 - Leave

The Employer agrees to grant emergency annual leave requests and to consider emergency requests for leave without pay brought about by unexpected changes in child care or dependent care arrangements.

Article 22 - Performance Appraisals

Section 1 - Statement of Policy

- A. The Parties agree that the Agency's Performance Appraisal System will be administered in accordance with the provisions of applicable law; Government-wide rules and regulations, FSA Handbook 5-PM (Revision 9), and this Agreement.
- B. Supervisors and managers have a responsibility to ensure consistency, objectivity, and equity in the development of performance elements and standards and the subsequent appraisal of performance against these standards. Elements and standards must be based on the requirements of the employee's position. Communication between the supervisor and the employee is essential in this process.
- C. The identification of performance elements and the establishment of performance standards require joint participation of the supervisor and the employee. All employees will have a summary rating at the time specified on Forms AD-435A and AD- 435B, "Performance Plan, Progress Review and Appraisal Worksheet" (Performance Plan), or at such other times as specified for special circumstances. Such summary ratings should be timely, but no later than 30 days, after the end of the specified time.

Section 2 - Coverage and Definitions

- A. The provisions of this Article apply to all bargaining unit employees in the competitive and excepted service, except employees excluded by law or *430.101 CFR* or existing USDA, Farm Service Agency Personnel Policy.
- B. All bargaining unit employees will receive a performance appraisal which will be based on a comparison of the employee's performance with the standards and elements established for the appraisal period. When used in this Article, the applicable terms have the following meaning:
 - 1. *A Job Element*: a component of an employee's position consistent with the duties and responsibilities of the position description that can be described in terms of an outcome such as work product or service, or in terms of a work process such as a task which leads to a result.
 - 2. *A Critical Element*: a major job element that is of sufficient importance that performance below the minimum standard established by Management requires remedial action and may be the basis for removing or reducing the grade level of that employee. Such action may be taken without regard to performance on other job elements. A critical element is a job element which is of such importance that acceptable performance in other job elements does not outweigh unacceptable performance in that critical element.
 - 3. *A Non-critical Element*: a job element that is of such importance as to require measurement, but which is not critical. Performance on non-critical elements will be included as a basis for personnel decisions which affect the employee.

4. *Performance Standard*: expressed measures of the level of achievement of each element for the duties and responsibilities of a position or group of positions. Performance standards may include, but are not limited to, measures such as quantity, quality, timeliness and cost efficiency.

Section 2 - Employee Participation

The Union will be given reasonable advance written notice (normally at least 30 days), when the Employer proposes to change, add to, or establish standards and elements.

Section 3 - Appraisal System Principles

- A. *In General*: performance standards are critical or non-critical elements must be consistent with the duties and responsibilities contained in the employee's position description. The performance standards, the critical and non-critical elements and their application must be fair, and reasonable, and, to the maximum extent feasible, objective. Performance standards will be applied in a fair and equitable manner.
- B. *Elements*: critical and non-critical elements will be uniform for standard positions component-wide, to the maximum extent feasible. Variations in elements for standard positions must be based on real differences in the job.
- C. *Performance Standards*: performance standards must be clearly stated in writing before the beginning of the appraisal period and given to the employee at that time. Standards will be established in such a way that performance can be accurately evaluated. When feasible, terms such as timeliness, quantity, quality and accuracy will be expressed to indicate how well, how accurate, how soon, or when, how many or how much.
- D. *Measuring Performance*: when statistical data is utilized in order to evaluate employee performance, the procedures that are used must reasonably insure the accurate evaluation of performance.
- E. *Appraising Employees*: when rating employees or otherwise applying performance standards, the Employer shall consider factors which affect performance that is beyond the control of the employee. An employee will be held accountable only for those job elements and performance standards for which the employee is officially responsible.

Section 4 - Applications of the Appraisal

Results will be used by the Employer as one of the basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, removing employees, granting and withholding within-grade increases and other decisions affecting the employee for which performance is a factor.

Section 5 - Preparing and Giving the Appraisal

- A. Performance appraisals are normally prepared on a regular cycle. For employees other than seasonal employees this will be a twelve (12) month cycle except for certain situations set forth in USDA, Farm Service Agency policy.

- B. The supervisor will determine the employee's level of achievement on each critical and non-critical job element by comparing the employee's actual performance against the performance standards.
 - 1. The elements and standards will be limited to those established for the performance period and modified where necessary during the period.
 - 2. For each job element, the supervisor will select and document one of the five levels which most accurately describes the employee's performance.
- C. The supervisor will appraise the employee's overall job performance by summarizing the employee's performance on the individual job elements.
- D. When the appraisal is finalized, the supervisor will discuss the appraisal with the employee, if he or she believes a discussion would be beneficial or, if the employee requests a discussion, and ask the employee to sign and date the final appraisal. By signing, the employee officially signifies only that the appraisal has been received, but does not constitute Agreement.
- E. The final appraisal of the employee's performance for the most recent performance period will be considered the appraisal of record until replaced by another appraisal.
- F. Employees who use authorized official time in labor relations activities will not be disadvantaged on their appraisals for approved absences or use of official time for labor relations.

Section 6 - Discussions, Progress Reviews and Performance Improvement Plans

- A. Informal discussions, including review of performance to determine progress and problems, are a normal part of supervision and should occur throughout the appraisal period.
- B. Progress reviews provide the opportunity to identify and resolve problems in the employee's performance. Where the appraisal period lasts a full twelve (12) months, there will be at least two (2) documented progress reviews at approximately four(4) months intervals in the annual performance period. Seasonal employees, whose appraisal may occur after six (6) months of service, will receive a documented progress review every 90 to 120 days unless the appraisal is to be done within 30 days.
 - 1. Progress reviews may be conducted whenever needed.
 - 2. There should be a progress review within ninety (90) to one hundred twenty (120) days following the establishment of a new performance period.
 - 3. Documented progress reviews will summarize the employee's progress in comparison to the performance expectations, any problems encountered or anticipated, any corrective actions taken or planned, and any changes in the performance expectations warranted by changes in the work situation including

those beyond the control of the individual. The supervisor will provide a copy of the documented progress review to the employee.

- C. Should performance indicate potential unsatisfactory performance (i.e., the employee is failing to meet one or more critical elements) and/or that employee's next within-grade increase may be denied, appropriate action will be taken as follows. The supervisor shall develop and discuss with the employee a written performance improvement plan identifying the employee's performance deficiencies, the action that must be taken by the employee to improve the performance, and any provisions for counseling, training, reassignment, or other assistance, as appropriate.

Section 7 - Unacceptable Performance

- A. Should an employee's performance in one or more critical elements become unacceptable, the supervisor shall identify for the employee the critical element(s) for which performance is unacceptable and the action that must be taken by the employee to improve the performance to an acceptable level. The supervisor shall give the employee a reasonable opportunity to demonstrate acceptable performance before proposing a reduction in grade or removal under this section.
- B. Unacceptable performance means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee's position over a reasonable period of time during which the employee has not sufficiently improved.
- C. Should remedial action fail and the employee's performance continues to be unacceptable after a reasonable opportunity to demonstrate improvement, the employee may be liable for adverse action under 5 050 13. The appropriate personnel action will depend on the following considerations:
1. When the employee is capable of performing another position of the same grade, the supervisor will propose to reassign the employee to such a position, if available.
 2. When the employee is not capable of performing a position at the same grade but is capable of performing a position at a lesser grade, the supervisor will propose a demotion to a position at the next lower grade, if available.

Section 8 - Procedures for Removal or Demotion Proposal

- A. An employee whose reduction in grade or removal is proposed for unacceptable performance is entitled to:
1. Thirty (30) days advance written notice of the proposed action, which identifies:
 - a. Specific instances of unacceptable performance by the employee on which the proposed action is based; and
 - b. The critical elements of the employee's position involved in each instance of unacceptable performance.

2. A representative. The employee must inform the deciding official, in writing, of the representative's name.
3. A reasonable time, not to exceed 20 days, to answer orally and in writing.

B. Decision.

The decision to retain, reduce in grade, or remove an employee shall be made within thirty (30) days after the date of expiration of the notice period. The employee will be given a written decision which:

1. specifies directly or by reference the instances of unacceptable performance on which the reduction in grade or removal is based;
2. unless proposed by the Head of Agency, has been concurred in by an employee who is in a higher position than the employee who proposes the action;
3. specifies the effective date and the action to be taken, and the employee's right to appeal the decision.

C. Appeal Rights

The employee may appeal to either the Merit Systems Protection Board, in accordance with applicable law, or the Union on behalf of the employee may timely file a written request to invoke arbitration under the terms of this Article. The choice of appeal forum is irrevocable. An employee shall be deemed to have exercised the appellate option at such time as the employee timely initiates an appeal under the statutory procedure or the Union, on behalf of the employee, timely files a written request to invoke arbitration, whichever occurs first. Arbitration must be invoked no later than 20 days after the effective date of the action.

Article 23 - Within-Grade Increases

Section 1 - General

Pursuant to 5 USC 5335, an employee is entitled to receive a within-grade increase subject to completion of the appropriate waiting period and a determination that the employee's work is of an acceptable level of competence. Such determination must be made upon completion of the waiting period.

Section 2 - Definition of Acceptable Level of Competence

For within-grade purposes, acceptable level of competence means where a performance is at or above the fully successful level in the performance standards for all critical elements.

Section 3 - Basis for Granting or Denying

Within-grade increases will be granted or denied on the basis of whether an employee attains an acceptable level of competence and meets other statutory requirements.

Section 4 - Supervisory Responsibilities

- A. The decision to grant or withhold a within-grade increase must be supported by the employee's most recent appraisal.
- B. Denial of a within-grade increase may not be used in lieu of disciplinary action.
- C. No less than 120 days prior to the completion of the waiting period, when a supervisor's evaluation leads to a conclusion that an acceptable level of competence is not being met, the supervisor will provide the employee with a minimum of 60 days to improve. When such notice is necessary, the employee will be given:
 1. an explanation of each aspect of job-related activities in which he/she falls below an acceptable level and how this renders his/her performance on the job, as a whole, below an acceptable level;
 2. a statement of the acceptable level of competence in each of those areas; and
 3. a Performance Improvement Plan pursuant to Article 22 Section 6 C that explains what the employee must do to achieve an acceptable level of competence in identified areas.

Section 5 - Decisions

After completion of the waiting period, if the within-grade increase is to be denied, the employee will be given the supervisor's official determination in writing. The determination will include:

- A. A statement of the reasons for the negative determination;

- B. Identification of the areas in which the employee must improve in order to be granted a within-grade increase;
- C. The right to file a written request for reconsideration not more than 15 days after receiving the negative determination;
- D. The name and address of the official who will reconsider the official determination and with whom the request for reconsideration should be filed (who shall have taken no part formally or informally in the original determination);
- E. The right of the employee to have representation according to the terms of the Collective Bargaining Agreement;
- F. The right of the employee to contest, orally and/or in writing, the basis for the negative determination;
- G. The right of the employee and/or his/her representative, to be granted a reasonable amount of official time to review material relied upon to support the negative determination and to prepare a response to the determination;
- H. That an extension of the time period for making a reconsideration presentation may be granted upon request to the reconsideration official.

Section 6 - Reconsideration

- A. When a request for reconsideration of a negative determination is received, the Personnel Office shall establish an employee reconsideration file which shall contain all pertinent documents relating to the negative determination, including copies of the written determination and the basis therefore, the employee's written request for reconsideration, the report of investigation, if an investigation was made, the decision of the reconsideration official, and any other documents the employee may have submitted regarding the determination.
- B. The reconsideration file shall not contain any document that has not been made available to the employee and/or his/her representative with an opportunity to submit a written exception, including any exception the employee may have had to the written summary of his/her personal presentation.
- C. The Management official to whom a timely request for reconsideration has been filed will give the employee and his/her representative an opportunity to explain, personally, why he/she believes the negative determination is erroneous.
- D. The Management official shall reconsider the official determination of the supervisor, taking into consideration any personal and/or written response from the employee and/or his/her representative.
- E. The Management official, after reconsideration, will issue a decision in writing on the negative determination, within 15 calendar days after meeting with the employee and his/her representative. If this decision sustains the initial negative determination, the decision letter shall notify the employee of his/her right to grieve

that decision. The notice of decision shall inform the employee that any grievance filed will enter the grievance procedure at Step 3.

- F. A copy of the decision of the Management official will be sent promptly to the employee, his/her representative, and to the Personnel Office.
- G. An employee has the right to request and be given a separate consideration for each negative official determination.
- H. If the decision reverses the negative determination, the within-grade increase shall be effective on the first day of the first pay period following completion of the required waiting period.

Section 7 - Appeal Rights

When a determination is made that an employee's job related activities are not at an acceptable level and the determination is final, an employee may file a grievance or appeal the adverse action to the Merit Systems Protection Board.

Section 8 - Union Notification

The Union will be notified when a within-grade increase is withheld with the name and position of the affected employee at the time of the proposal.

Section 9 - Effective Date/Administrative Error

A within-grade increase shall be effective on the first day of the first pay-period following completion of the required waiting period and the employee meets conditions for eligibility. When, due to administrative error, oversight or delay, a positive determination made after the waiting period is completed, the effective date of the within-grade increase shall be retroactive to the original due date.

Article 24 - Actions based on Unacceptable Performance

Section 1 - Scope Definition

- A. An action based on unacceptable performance is defined as the reduction in grade or removal of an employee whose performance fails to meet established performance standards in one or more critical elements of the employee's position.
- B. This Article applies only to employees who have completed their probationary or trial period. It does not apply to employees serving on a temporary appointment, except as defined in Article 1 Section 3 of this Agreement.

Section 2 - Procedural Requirements

The procedural requirements prescribed by USDA/FSA/FmHA regulations and this Agreement applies in processing unacceptable performance actions. At a minimum, the employee will be given written notice of the proposed action stating the specific reasons of unacceptable performance, the penalty proposed, and the procedure for response. The notice will also state that the employee may review all the evidence relied upon by the supervisor in preparing the notice and that the employee is entitled to Union representation in preparing and presenting their oral and/or written response.

Section 3 - Performance Improvement Plan (PIP)

- A. As early as possible, the employee's attention will be called to areas of performance needing improvement and steps will be initiated to assist the employee in meeting performance standards.
- B. When informal efforts discussed above do not result in acceptable performance, a Performance Improvement Plan (PIP) will be developed with the participation of the employee.
- C. The PIP will be developed in writing and the employee will be given five (5) days to comment on the PIP prior to its implementation. Final authority for the establishment and the content of the PIP rests with Management.
- D. The PIP will include the following:
 1. Identification of the critical element(s) and performance standard(s) for which performance is unacceptable.
 2. Specific examples of how the employee's performance is failing to meet the standard.
 3. Advice as to what the employee must do to bring performance up to an acceptable level.
 4. A statement that the employee has a reasonable period of time but never less than ninety (90) days in which to bring the performance up to an acceptable level.
 5. The PIP shall include an assessment biweekly, in writing, by the supervisor of the employee's progress in meeting the required level of performance.
- E. When employees request changes to lower grades due to their inability to perform the duties of their current positions, the supervisor will make a reasonable effort to place the employees in lower graded positions which the supervisor believes that the employees can successfully perform, if available.

Section 4 - Written Notices

- A. In all cases of proposed action based on unacceptable performance, the employee will be given written notice of the specific reasons of unacceptable performance on which the proposed action is based thirty (30) days in advance of the action.
- B. The advance written notice proposing either to remove, downgrade, or reassign an employee for unacceptable performance will include:
 - 1. Specific instances of unacceptable performance by the employee on which the proposed action is based;
 - 2. The critical element and performance standard;
 - 3. The employee's right to be represented;
 - 4. The employee's right to answer orally and/or in writing, and;
 - 5. The employee's right to review the material relied upon to support the specific reasons.

Section 5 - Employee Response

- A. The employee will be given the opportunity to respond orally and/or in writing prior to a decision. Any request for an oral reply must be submitted within five (5) days, written reply must be submitted within fifteen (15) days.
- B. If the employee elects to make an oral reply, the supervisor will document the oral reply and provide a copy to the employee.

Section 6 - Decision Letter

- A. The deciding official will set forth findings with a response to each reason listed in the letter proposing the action.
- B. The decision letter will also:
 - 1. Address factual disputes, if any, raised in the employee's reply by stating the reasons why each factual dispute was rejected.
 - 2. State whether the employee has a right to appeal the final decision to the Merit Systems Protection Board or through the Negotiated Grievance Procedure.
 - 3. Indicate the effective date of the action.

Section 7 - Time Extensions

Any of the time limits set forth in this Article may be extended or waived by mutual agreement of the Parties.

Section 8 - Removal of "Unacceptable" Performance Information in Personnel Files

If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed and the employee's performance continues to be acceptable for one (1) year from the date of the advance notice, any entry or other notation with regard to the "unacceptable" performance for which the action was proposed shall be removed from any Agency record relating to the employee.

Article 25 - Disciplinary and Adverse Actions

Section 1 - Statement of Purpose and Policy

- A. The Parties agree that the objective of discipline is to correct and improve employee behavior so as to promote the efficiency of the service. The Parties agree to the concept of progressive discipline designed primarily to correct and improve employee behavior. Bargaining unit employees will be the subject of disciplinary or adverse action only for just cause.
- B. All disciplinary and adverse actions will be consistent with Agency regulations and existing laws. Early communication between the affected employee and supervisor to achieve resolution is encouraged. If either party believes that resolution would be aided, if the Union were involved in these early discussions, they are encouraged to contact the applicable Union steward. Every effort will be made to assure that actions/agreements are fair and equitable to both Parties involved.

Section 2 - Definitions

- A. *Day* - For the purpose of this Article, the word "day" means calendar day unless otherwise specified.
- B. *Disciplinary action* - Refers to a letter of official reprimand or a suspension for 14 days or less as outlined in Subchapter I, Chapter 75, 5 USC.
- C. *Adverse action* - Refers to a removal, suspension for more than 14 days, reduction in grade, reduction in pay or furlough of 30 days or less as outlined in Subchapter II, Chapter 75, 5 USC.

Section 3 - Counseling and Warnings

Normally, discipline will be preceded by counseling and assistance including oral warnings which are formal in nature and must be recorded. Counseling and warnings will be conducted privately and in such a manner so as to avoid embarrassment of the employee.

Section 4 - Reprimand

- A. An official reprimand is a written disciplinary action which specifies the reasons for the action. The reprimand will specify that the employee may be subject to more severe disciplinary action upon any further offense and that a copy of the reprimand will be made a part of the personnel folder for up to one (1) year.
- B. If a discussion is to be held when a reprimand is given, the supervisor will advise the employee of his/her right to Union representation prior to the start of the discussion. The letter of reprimand will inform the employee that he/she has the right to file a grievance on the reprimand under the negotiated grievance procedure, and the right to Union representation.

Section 5 - Short-Term Suspensions

- A. An employee against whom a suspension for 14 days or less is proposed is entitled to:
 1. An advance written notice stating the specific reasons for the proposed action;

2. A reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer; and

3. Be represented.

B. After considering the employee's response, the Employer will issue a written decision. If the decision is unfavorable to the employee, the decision may be grieved, beginning with the last step of the grievance procedure.

Section 6 - Removal, Suspension for More Than 14 Days, Reduction-in-Grade, Reduction-in-Pay, and Furlough of 30 Days or Less

A. An employee against whom such an action is proposed is entitled to:

1. A 30-day advance written notice stating the specific reasons for the proposed action.

2. Twenty (20) calendar days to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer.

3. Be represented.

B. After considering the employee's response, the Employer will issue a written decision.

1. If the decision is to effect an action specified in this section, it will specify the reason therefore, the effective date, the action to be taken, and the decision appeal rights.

2. The employee may appeal the decision to the Merit Systems Protection Board or, the employee may file a written grievance under the terms of this Agreement. Any such grievance will be initiated at the final pre-arbitration step.

3. The choice of the appeal forum is irrevocable. An employee shall be deemed to have exercised his/her option at such time as the employee timely initiates an action under the statutory procedures, or timely files a written grievance at the final pre-arbitration step, whichever occurs first. Any grievance must be initiated no later than 20 days after the effective date of the action.

C. Employees shall be entitled to representation in all phases of these procedures.

Section 7 - Requests for Time Extensions on Proposals

The Employer will not deny a request for extension of the time to respond to proposals.

Section 8 - Notice to Union

The Union shall be notified in writing by an appropriate Management official of proposed action at the time they are proposed.

Section 9 - Timeliness of Discipline

If the Employer feels that disciplinary or adverse action is necessary, such action will be initiated timely after the offense was committed or made known to the Employer.

Article 26 - Grievance Procedure

Section 1 - Purpose

The purpose of this Article is to provide a mutually acceptable method for the prompt and acceptable settlement of grievances filed by bargaining unit employee(s), the Union or the Employer.

Section 2 - Coverage and Scope

- A. A grievance means any complaint subject to the control of the Employer, which seeks personal relief:
1. By an employee in the bargaining unit concerning any matter relating to the employment of the employee; by the Union concerning any matter relating to the employment of any employee in the bargaining unit; and
 2. By any employee in the bargaining unit, the Union, or the Employer concerning:
 - a. The effect or interpretation, or a claim of breach of this Collective Bargaining Agreement; or
 - b. Any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment.
- B. Grievances on the following matters are excluded from the scope of this procedure:
1. any claimed violation of 5 USC 73 relating to prohibited political activities;
 2. retirement, life insurance or health insurance;
 3. a suspension or removal under 5 USC 7532 relating to national security;
 4. any examination, certification, or appointment; or
 5. the classification of any position which does not result in the reduction in grade or pay of an employee.

Section 3 - Exclusivity

Grievances may be initiated by employee(s) covered by this Agreement and/or their Union representative, or by the Employer. Representation of bargaining unit employees shall be the sole and exclusive province of the Union. This is the exclusive procedure available to bargaining unit employees, the Union or the Employer for the resolution of grievances.

Section 4 - Representation

- A. Bargaining unit employees filing a grievance under this procedure, may represent themselves or be represented only by a designate of the Union.

- B. Upon filing of a grievance, whether an employee is self-represented or represented by a designate of the Union, the Union has the right to be present during the grievance proceedings.
- C. Where the grievant elects Union representation, meetings and communications with regard to the grievance attempts at resolution shall be made through the designated Union representative.

Section 5 - Resolution of Grievances and Employee Standing

The Union and the Employer agree that grievances should be settled in an orderly, prompt and equitable manner so that the efficiency of the Employer may be maintained and morale of employees shall not be impaired. Every effort shall be made by the Employer and the Union to settle grievances at the first level of supervision. Employees and their representatives will be unimpeded and free from restraint, interference, coercion, discrimination or reprisal, consistent with USC 71 and this Agreement, in seeking adjustment of grievances.

Section 6 - Grievability/Arbitrability Questions

In the event either party should declare a grievance non-grievable or non-arbitrable the original grievance shall be considered amended to include this issue. The Parties agree to raise any questions of grievability or arbitrability of a grievance prior to the limit for the written answer in the final step of this procedure. All disputes of grievability/arbitrability shall be referred as threshold issues in the related grievance, except where the Parties agree to hear the threshold issue and merits of the grievance separately.

Section 7 - Time Limits

- A. A grievance concerning a continuing practice or condition including EEO matters may be presented at any time. Except as covered in Section 8 (B), a grievance concerning a particular act or occurrence must be presented to the Step 1 Management official within fifteen (15) working days of the action or date the employee became aware of it.
- B. Proof of service shall be a return post office receipt executed by the person served; or a written acknowledgment from the person served when hand delivered.
- C. All the time limits in this Article may be extended by mutual consent.

Section 8 - Options

- A. In accordance with 5 USC 7121, an employee at his/her option may raise matters covered under *Section 6303 (Unacceptable Performance) and 7512 (Adverse Actions)* under the appropriate statutory procedures or the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his/her option at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing, whichever event occurs first. Similarly, an employee affected by a prohibited personnel practice under Section 2302(b)(1) of the Civil Service Reform Act may raise the matter under a

statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his/her option at such time as he/she timely files a grievance in writing or files a written complaint under the statutory EEO procedure, whichever event occurs first.

- B. Before filing a grievance which alleges discrimination, the employee may first discuss the allegation with an EEO Counselor. This discussion must be within 30 calendar days after the event causing the allegation or after the date the employee became aware of the event. The counselor shall have 21 calendar days to resolve the matter informally. If the counselor is unsuccessful, he/she will give the employee a written notice stating his/her right to file either a formal complaint under the statutory EEO procedure or a grievance under this procedure. If the employee elects to file under the negotiated procedure, he/she shall proceed under Section 9 of this Article within 15 working days and, if the counseling process was used, attach a copy of the counselor's notification to the grievance. The EEO Counselor will advise the employee with whom the grievance may be initially filed. For the purpose of this section, the Step 1 official is the official who took the action which gave rise to the allegation of discrimination or his/her designates. If this official is also the Step 1, 2 or 3 official identified in Section 9, the grievance will be entered at that step of the grievance procedure. If the official is the Step 3 official or higher, that official will have 15 working days to attempt to resolve the matter and issue a decision. If the matter is not resolved, the grievant will have 5 workdays to elect to have the matter reviewed by a higher appropriate authority identified by the Employer. That official will have 25 workdays to either resolve the matter or render a final decision. If the employee does not elect to use EEO counseling, any grievance must be initiated within 30 days of the event which gave rise to the allegation, or after the date the employee became aware of the event, in accordance with the above procedure.

Section 9 - Procedures for Employee Grievances

- A. *Step 1.* A grievance must be submitted in writing, preferably, on the standard grievance form provided by the Employer, and presented to the Step 1 Management official (designated in the Grievance Steps chart below) who will meet with the representative and/or the grievant. Within ten (10) workdays after receipt of the grievance, the Step 1 official will issue a decision in writing either granting, partially granting or denying the relief sought. The grievance may be appealed to the Step 2 official within ten (10) working days after receipt of the Step 1 decision. The Step 1 official will forward the grievance material to the Step 2 official as indicated by the grievant's election to proceed to the next step.
- B. *Step 2.* The grievant shall have ten (10) workdays to make an oral and/or written presentation. The Step 2 official or designates will, as speedily as possible, attempt to resolve the grievance and will, within ten (10) workdays after the presentation date give a written decision containing the reasons for the decision. The grievance may be appealed to the Step 3 official within ten (10) workdays after receipt of the Step 2 decision. The Step 2 official will forward the appropriate grievance material to the Step 3 official as indicated by a grievant's election to proceed to the next step.
- C. *Step 3.* The grievant shall have ten (10) workdays to make an oral and/or written presentation. The Step 3 official or designates will, as speedily as possible, attempt to resolve the grievance and will, within ten (10) workdays after the Step 3 presentation date, give a written decision containing the reason for the decision. In

the case of Administration employees, the Assistant State Executive Director will be the first level and the State Executive Director the second level. If the decision is not acceptable, the Union may refer it to arbitration in accordance with Article 27 (Arbitration) of this Agreement. If the employee feels he/she cannot initially discuss the alleged grievance with the immediate supervisor, he/she may grieve the matter initially with the next level supervisor. If this is done, it is understood that this is the 2nd step in the grievance procedure.

D. Grievance Steps Chart:

| | | |
|----------------------------------|----------------------------------|--------------------------|
| <i>Step 1 Official</i> | <i>Step 2 Official</i> | <i>Step 3 Official</i> |
| 1 st Level Supervisor | 2 nd Level Supervisor | State Executive Director |

E. The Employer shall not delegate down in the line function in using designates in the grievance procedures.

Section 10 - Union-Management Grievances

- A. Either party may opt to submit grievances through their respective representatives.
- B. A grievance concerning a continuing practice may be presented at any time. A grievance concerning a particular act or occurrence must be presented to the other party within twenty-five (25) working days of the action or date the moving party became aware of it.
- C. When a grievance is filed, the Parties will meet and/or discuss the matter within ten (10) working days after receipt. A written decision will be issued within 10 working days of the meeting. If the grievance is not settled by this method, the grieving party may invoke arbitration within 30 working days after receipt of the final decision. However, prior to involving arbitration, each party will consult with appropriate levels within its respective organization.

Section 11 - Failure to Meet Requirements

- A. In employee grievances, failure on the part of the Employer to meet any of the time requirements of this procedure, will permit the grievance to advance to the next step.
- B. If a decision is not issued, the grievance will not terminate.

Section 12 - Withdrawal

The Union, acting as the responsible representative of all employees in the bargaining unit, may, at any step of this procedure, withdraw on a nondiscriminatory basis from the grievance.

Article 27 - Arbitration

Section 1 - Invoking Arbitration

- A. A grievance processed under any Article of this Agreement, if unresolved may be referred to arbitration as provided for in this Article. A referral to arbitration can be made only by the Union or the Employer, and shall be in writing. Such referral shall be made within thirty (30) working days after receipt of the written decision rendered in the final step, of an action processed under Article 26 (Grievance Procedure) or under the conditions specified elsewhere in this Agreement.
- B. Within seven (7) days of the date of the request for arbitration, the Parties shall try to define the issue(s). If the Parties fail to agree on a joint submission of the issue for arbitration, each shall submit a separate submission and the arbitrator shall determine the issue or issues to be heard.

Section 2 - Procedures

- A. The procedures used to conduct the arbitration shall be determined by the arbitrator. The Union will be entitled to have three (3) representatives and one (1) technical advisor at each hearing.
- B. The arbitrator's fees and expenses, if any, will be shared equally by the Parties.
- C. If the arbitrator requests a transcript, the Employer will pay the fees and a copy shall be ordered for the Union.
- D. The arbitration hearing shall be held during regular business hours (Monday through Friday) on government controlled property, unless the Parties agree to hold the meeting elsewhere.
- E. All travel and related expenses for Union witnesses shall be borne by the Employer.
- F. The arbitrator will be requested to render the decision, as quickly as possible, but in any event not later than thirty (30) days after the conclusion of the hearing, unless the Parties mutually agree to extend the time limit. The arbitrator shall submit all findings in writing, and this report shall decide all issues raised by any party, including arbitrability.
- G. Issues concerning the arbitrability of a grievance presented for arbitration under the terms of this Agreement shall be resolved by the arbitrator on written motion, or, if either party requests a hearing, in advance of any scheduled arbitration to decide the merits of the case. The arbitrator's decision on any such issue shall be communicated in writing to the respective Parties at least 14 days prior to scheduling an arbitration hearing. Unless otherwise mutually agreed to by the Parties, no arbitration hearing may proceed unless and until the arbitrator has rendered a written decision on issues of arbitrability. If the Employer declares a grievance nongrievable or nonarbitrable, the original grievance shall be considered amended to include that issue.
- H. If the arbitration award is unclear to either party, the award shall be returned to the arbitrator for clarification.

Section 3 - Effect of Arbitrator's Award

The arbitrator shall have no authority to add to, subtract from, disregard, alter, amend, or modify any terms/provisions of this Agreement.

Section 4 - Expedited Arbitration Procedures

- A. The following expedited arbitration procedure is hereby adopted with respect to any grievance which involves:
1. An employee's formal performance appraisal, other than demotions or removals for unacceptable performance under 5 USC Chapter 43;
 2. Final decision to withhold a within-grade salary increase;
 3. Reprimands and suspensions of 14 days or less;
 4. Action imposing sick leave restriction; and
 5. Any other matter mutually agreed upon.
- B. The Parties agree that the primary purpose of this supplemental arbitration procedure is to provide a swift and economical method for the resolution of identified disputes. The Parties agree to take positive action to see that this purpose is fulfilled; and, in addition the arbitrator shall have the authority to take steps necessary to see that the purpose is fulfilled.
1. The hearing shall be informal.
 2. No briefs shall be filed or transcripts made.
 3. There shall be no formal evidence rules.
 4. Normally, at least two (2) cases a day will be scheduled and heard.
 5. The hearing shall be scheduled not more than ten (10) days after notification to the arbitrator.
- C. A single case should normally not require more than four (4) hours to be heard with each party being allowed up to two (2) hours to examine witnesses and make opening and closing statements. The arbitrator shall ensure that the length of the hearing is not unnecessarily extended because of irrelevant or repetitious testimony. The arbitrator may also waive the time limits for good and sufficient reasons.
- D. The arbitrator may issue a bench decision at the hearing but, in any event, the arbitrator shall render the decision within forty-eight (48) hours after conclusion of the hearing. This decision shall be based on the record developed by the Parties before and at the hearing and shall include a brief written explanation of the decision.
- E. The arbitrator's findings and awards shall be final and binding on both Parties. However, either party may file exceptions to an award with the FLRA or the appropriate Court under regulations prescribed by the Civil Service Reform Act or the FLRA.

Article 28 - Merit Promotion

Section 1 - Purpose and Policy

The Parties agree that the purpose and intent of the provisions contained herein are to ensure that merit promotion principles are applied in a consistent manner with equity to all employees and without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, disabling condition, or age, and shall be based solely on job-related criteria. This Article sets forth the Merit Promotion System, policies and procedures applicable to bargaining unit positions in the USDA, Farm Service Agency.

Section 2 - Definitions

For the purpose of this Article, the definitions contained in CFR Chapter 335 and related chapters of the manual shall be incorporated as a part of this Agreement.

Section 3 - Applicability of Competitive Procedures

- A. *Promotion.* Any selection for promotion must be made on a competitive basis unless it is excluded by Section 6, below.
- B. *Reassignments/Changes to Lower Grade.* Any selection to a position that provides specialized experience that the employee does not already have and is required for subsequent promotion to a designated higher grade position and/or to a position with known promotional potential must be made on a competitive basis.
- C. *Details.* Competitive procedures will be applicable to any selection for details of more than 120 days to a higher graded position, to a position with known promotional potential, or a position which provides specialized experience required for subsequent promotion to a designated higher grade position.
- D. *Training.* Competitive procedures will be applicable to selections for training when eligibility for promotion to a particular position depends on whether the employee has completed that training.
- E. *Appointments.* Competitive procedures will be applicable in case of the transfer of a Federal employee or reinstatement of a former Federal employee to a higher grade position than the candidate's last permanent position held under a career-conditional or career appointment or to a position at the same grade with known promotional potential. Such an action may be taken only, if the candidate ranks among the best qualified with eligible USDA, Farm Service Agency employees under competitive procedures. To the extent feasible, the same qualification standards and the same methods of evaluation will be applied to both USDA, Farm Service Agency employees and persons being considered for appointment to a higher graded position by transfer or reinstatement. If it is determined that these methods are not feasible, the Parties will meet and confer on the methods to be utilized.

Section 4 - Applicability of Non-Competitive Actions

- A. *Promotions* - The following promotions may be taken on a non-competitive basis unless otherwise provided:

1. Promotion of the incumbent of a position that is reclassified at a higher grade due to the accretion of additional duties and responsibilities and not on planned Management action. To be eligible for a non-competitive promotion in this situation, the employee must have performed to he/her level duties for at least 6 months, must have continued to perform the same basic function, and the employee's former position must be absorbed administratively into the new position.
 2. Promotion of an incumbent or an individual entitled to reemployment rights to position that is reclassified to a higher grade without significant change in duties or responsibilities, either on the basis of a new classification standard or as a result of correction of an original classification error. When the incumbent of the upgraded position meets the legal requirements and qualification standards for promotion to the higher grade, the incumbent will be promoted.
 3. Promotion of an employee previously selected competitively for a lower step of a career ladder.
 4. Promotion after receiving priority consideration.
 5. Promotion of an employee when directed by authorized authorities (i.e., judges, arbitrators, FLRA and other appropriate authorities).
 6. Re-promotion of an employee to a grade previously held on a non-temporary basis and from which the employee was downgraded without personal cause, i.e., where downgrade was not due to misconduct, inefficiency, or at the employee's own request. This applies only when the employee was downgraded in the USDA, Farm Service Agency and the re-promotion are to a grade formerly held in the USDA, Farm Service Agency. A non-competitive promotion also may be made to an intervening grade.
 7. Temporary promotions to a higher grade totaling 120 days or less during any 12-month period. If a temporary promotion which was not expected to exceed 120 days was originally made on a non-competitive basis, any extension beyond 120 days must be made under competitive procedures.
 8. Career ladder promotions following non-competitive conversion of a cooperative education student in accordance with the requirements of applicable OPM policy.
 9. Promotion of an employee covered by an approved training agreement.
 10. Promotion of an employee placed competitively in a trainee position.
- B. Reassignments/Changes to Lower Grade

A reassignment or change to lower grade to a position that does not provide specialized experience that the employee does not already have and is required for subsequent promotion to a designated higher grade position, or to a position having no known promotion potential may be taken on a noncompetitive basis.

C. Promotion Panels

1. When vacancy announcements result in 3 or less basically qualified applicants, all basically qualified applicants will be certified to the selecting official.

2. When vacancy announcements result in more than 3 qualified applicants, a panel will be convened to rate the basically qualified applicants. The panel will be conducted as outlined in FmHA Instruction 2045-C. A reasonable number of the best qualified applicants (minimum of 3) will be certified to the selecting official.
3. The Union has the right to have a representative at all merit promotion panels that involve bargaining unit positions. Participation by the Union representative will be as an observer or participant in the panel at the election of the Union. The Union representative will not have a vested interest in the position the panel is rating. The Union representative is bound by the same confidentiality standards as the panel members.

D. Details with Temporary Promotions

1. Employees assigned to higher grade positions for more than 30 consecutive days will be temporarily promoted and receive the higher rate of pay effective on the first day of the detail. Short details shall not be used to avoid temporary promotions. Management will make every reasonable effort to attempt to assign qualified employees for such positions.
2. Details, such as described above which do not exceed 120 days, will be handled in accordance with the guidelines as set forth in Article 29 - Details, of this Agreement.
3. Promotional credit, or points, will not be given for such details.

E. Other

1. Conversion of an employee from a temporary promotion to a permanent promotion in the same position and office, provided the vacancy announcement for the temporary promotion indicated that the promotion could later become permanent.
2. Selection from an OPM approved register.
3. Transfer of a Federal employee or reinstatement of a former Federal employee to a position at the same or lower grade than the candidate's last permanent position held under a career or career-conditional appointment provided the position does not have known promotional potential to a grade higher than the last permanent position held.
4. Reinstatement to the same career ladder position for which an employee was previously selected competitively or to a similar career ladder position having similar qualification requirements and having no greater known promotion potential.
5. A position change permitted by RIF regulations.

Section 5 - Vacancy Announcements and Areas of Consideration

- A. *Positions and Training to be Announced.* All sections requiring the use of competitive procedures under this Agreement will be announced and posted throughout the area of consideration.

- B. If a vacancy announcement is cancelled, the Human Resources staff will notify the Union that the announcement is cancelled, providing a written reason and explanation for the cancellation.
- C. *Areas of Consideration.* The area of consideration for a position vacancy is that area in which the Employer should reasonably expect to locate enough well-qualified candidates. Employees within an area of consideration are given the opportunity to be considered by means of the vacancy announcement and application procedure and/or by being automatically considered without having to submit an application. Unless otherwise indicated in this Article, areas of consideration applicable when filling bargaining unit position vacancies are as follows:
1. For positions at GS-11 and below, including wage rate positions: Area-wide, however, if there are at least three highly qualified candidates within the bargaining unit, the area of consideration will be USDA, Farm Service Agency, Puerto Rico, as long present rules and regulations do not provide for other mandatory consideration.
 2. When a position is established at the grade of a full performance level, together with one or more trainee grades, the grade of the full performance level will be used to determine the area of consideration for the trainee positions regardless of the grade at which it is being filled at any given time.
 3. *Reducing the Area of Consideration.*
 - a. *Mandatory Reduction.* Where a position is re-engineered to a higher grade, the area of consideration must be restricted to those employees performing the duties which form the basis for the higher grade. (In filling such positions, competitive procedures must be used, rather than through a vacancy announcement and application procedure). The term "re-engineered position" means a new position resulting from the restructuring of the duties of one or more already established positions through planned Management action.
 - b. *Optional Reduction.* When solicitation throughout the normal area would be clearly impractical because extenuating and unique circumstances exist, the promotion record must contain complete documentation justifying the smaller area, which shall only be instituted by mutual consent of the Parties.
 4. *Extending the Area of Consideration.* When the area of consideration does not or is not expected to produce an adequate number of well-qualified candidates for the selecting official's consideration, it may be extended by the Employer. The vacancy announcement will identify the extended area of consideration.
 - a. Well-qualified candidates are those who could be expected to perform in the vacant position at a level significantly above the minimum performance requirements.
 - b. An "adequate" number of well-qualified candidates will be considered to be three for the first vacancy plus two for each additional vacancy. However, if the area of consideration yields a lesser number of well-qualified candidates and the selecting official decides to make his/her selection(s) from them, extension is not necessary.

5. *Consideration of USDA, Farm Service Agency candidates for reinstatement.* Where a former USDA, Farm Service Agency employee applies for reinstatement and is eligible for consideration, the Puerto Rico State Office will determine the bargaining unit positions for which the individual can be considered and whether consideration must be competitive. When consideration is given, noncompetitive referral will initially be made for the last grade previously held. If vacancies do not exist at the last grade previously held, or if the employee requests it, referrals may be made to a lower grade position. Last grade is defined as the grade of the last position held under a non-temporary appointment for reinstatement candidates. If applicants accept referral to the lower level position, they must sign a statement that they fully understand and accept the referral. However, the employee will also be informed that they do not have to accept a lower position in order to be reinstated. Consideration for bargaining unit positions above the last grade permanently held must be competitive.

6. *Automatic Areas of Consideration*

- a. An area of automatic consideration consists of employees who are identified as candidates for a vacancy without being required to apply. An area of automatic consideration will be used together with a vacancy posting procedure and applicants will be evaluated and ranked with those in the automatic area of consideration. If the area of automatic consideration and the normal area of consideration are the same, and the employees are not required to apply, a vacancy announcement will still be posted for informational purposes.
- b. When the Employer determines that certain employees can be expected to be interested in, and qualified for, a vacancy, these employees may be identified as being in an area of automatic consideration.
 - i) Applicants in the area of automatic consideration need not file in order to be considered for such a vacancy unless the announcement specifies that they must file in order to ensure receiving credit for certain factors such as incentive awards or training programs completed.
 - ii) An area of automatic consideration will consist of all qualified and eligible employees in the area of consideration at the next grade level below that of the vacancy, except that for positions in a line of work classified at two-grade intervals or for which there are no other positions within the organizational entity at the next lower grade, the area of automatic consideration will consist of employees two grades lower.

D. *Information on Vacancy Announcements.* Vacancy announcements will include, as a minimum:

1. Statement of non-discrimination;
2. Announcement number and opening and closing dates;
3. Position number(s), title(s), series, and grade(s);
4. Number of vacancies to be filled;

5. Promotional test to be used, if any; and where applicable, positions in the "same line of work";
6. Selective placement factors, if any;
7. Geographic and organizational location and tour of duty hours;
8. Time in grade requirements, if any;
9. Area of automatic consideration, if any;
10. Summary of qualification requirements;
11. If appropriate, a statement that the vacant position is a trainee position leading to a non-competitive promotion;
12. Permanent or temporary nature, and duration, if temporary;
13. Name and telephone number of the personnel specialist or other individual to contact for information relating to the announcement; and
14. The Servicing Personnel Office or the address where the application is to be submitted.

E. *Announcing Career Ladder Vacancies and Vacancies Covered by Training Agreements.*

These vacancies may be announced at any or all grades. The Union will be provided with written notice of any changes in the posting of these announcements, prior to being posted.

F. *Posting and Distribution of Vacancy Announcements.* The Employer agrees to provide a copy of the following at the time of or prior to posting: vacancy announcements will be provided to the Union, as well as the factors and weights applied. The Employer agrees to post vacancy announcements within the area of consideration and to make copies available to employees, upon request, in accordance with the following:

1. Individual vacancy announcements will be posted and remain posted for a pay period after closing date.
2. Open continuous announcements will remain posted at all times unless the Employer determines to discontinue the usage of these announcements in which case the Union will be provided proper notice prior to notice to employees.

G. *Amending Vacancy Announcements.* If a vacancy announcement has been posted and is later found to contain a substantial error concerning items listed in Section 5 D, then the announcement will be amended, if the selecting official still intends to fill the position under the competitive process. The amendment should cite the change(s) and indicate whether or not the original applicants needed to re-file in order to be considered. Vacancy announcements will not be amended for the sole purpose of preventing or discouraging otherwise qualified employees from applying.

Section 6 - Factors and Weights

Factors and weights used by the Employer to rank candidates must be fair, job related, applied equitably and the sole basis for determining best qualified individuals in the

merit promotion plan. Employees have the right to review and have copies, upon request, of the factors and weights for positions for which they are applying.

Section 7 - Employee Applications

- A. *Who must file:* to be considered for an announced vacancy, an employee must file the appropriate application (as described in the announcement) unless the employee is in an area of automatic consideration. When an area of automatic consideration is used, an employee need not file unless the announcement specifies that an application is necessary in order to receive credit for specific items such as incentive awards received, or training/educational programs completed.
- B. *Time Limits:* the time limits for filing for an announced vacancy are as follows:
1. *Open-Continuous Announcements.* An employee may file at any time as outline in the vacancy announcement. The list of eligible established from open-continuous announcements will be updated every 2 months. The cutoff date for applicants to be considered for a specific vacancy will be date the request to fill the vacancy is received in the Servicing Personnel Office. Applications received after that date will be considered for future vacancies.
 2. *Individual Announcements.* For an individual announcement, an employee's application must be received by the Servicing Personnel Office, or postmarked, by the closing date shown on the vacancy announcement.
 - a. *Delayed Filing:* If an employee's filing of an application is delayed beyond the closing date because the employee was awaiting information which a Management official had agreed to furnish, the employee will have 3 workdays to submit the application following receipt of the information. The employee should attach to the late application a brief note by his/her supervisor verifying the delay.
 - b. *Scheduled Absence Over 3 Weeks.* Employees scheduled to be absent in excess of 3 weeks for any of the following reasons will be considered for promotion opportunities within the area of consideration for vacancies which occur during their absence. Prior to departure, employees should complete an application with a written request and submit it to their Servicing Personnel Office who will ensure that the application is considered for vacancies for which the employee is eligible.
 - i) Approved Leave
 - ii) Details
 - iii) Training Course
 - iv) Official Business
 - v) Compensable Injury
 - vi) Service with the military, public international organizations, or with state or local governments.
 - c. *Scheduled Employee Absence of 3 weeks or Less:* Employees temporarily absent on approved leave, detail, at training courses, or on official business, for

periods not to exceed 3 weeks may, upon their return, review position vacancies announced and closed during their absence, and make application for such vacancies in which they are interested. Such late applications must be submitted within 3 workdays after return to duty and must be accompanied by a statement prepared and signed by the employee, and also signed by his/her supervisor, explaining the dates and reason(s) for the employee's absence. Employees filing delayed applications under this provision will be considered only for those vacancies for which a best-qualified list has not yet been prepared.

3. *Filing Extension Due to Delayed Posting.* If a vacancy is not posted on official bulletin boards timely, employees will be granted an equal extension of time to file their application, to compensate for the amount of time the posting was late. Employees requesting an extension for this reason should attach to their applications a brief note by their supervisor verifying the late posting. Employees filing delayed applications under this provision will be considered only for those vacancies for which a best-qualified list has not yet been prepared. If a vacancy was not posted at all, employees filing delayed applications under this provision will be considered fully, if the position(s) has not yet been filed.
- C. *Completing the Applications.* Employees will complete written applications, when required, and in accordance with instructions in the vacancy announcement, using such forms as are prescribed.
- D. *Multiple Applications.* When an employee has applied for, or been automatically considered for, more than one announcement, he/she will be bound by the first promotion or reassignment (the case of a career ladder) for which the employee has reported, unless:
1. He/she has accepted a reassignment and another vacancy leads to a promotion to a higher grade;
 2. Another vacancy is in a career ladder or a trainee position leading to a higher grade;
 3. He/she has accepted a temporary promotion or reassignment and another vacancy is being filled permanently or if temporary, has a later expiration date.
- E. *Wage Grade.* Wage grade employees may compete for General Schedule positions and vice versa, but must meet applicable legal requirements including minimum qualification requirements.

Section 8 - Priority Consideration

- A. *Definition.* For the purposes of this Article a priority consideration is the bonafide consideration for non-competitive selection given to an employee on account of previous failure to properly consider the employee for selection because of procedural, regulatory, or program violation. Selection will normally be made in favor of priority consideration cases.
- B. Priority consideration consists of a promotion certificate which contains an employee's name alone being sent to the selecting official before the official considers other applicants for a position.

- C. If more than one employee is entitled to consideration, the names of only those employees will be submitted on the single certificate to the selecting official for the next appropriate vacancies.
- D. An employee will be entitled to a separate priority consideration for each vacancy announcement for which the employee was improperly considered.
- E. Under normal circumstances priority consideration will be given prior to a vacancy being announced. If the appropriate vacancy has already been announced, the employees due the priority consideration will be considered by the selecting official before other applicants are rated or referred for selection.
- F. If the selecting official declines to select the priority consideration employee, documentation must be presented showing legitimate job-related reasons for the non-selection.
- G. Once a deadline for filing a grievance or other complaint has passed, employees who have not filed a grievance or other complaint or had one filed on their behalf may only be given priority consideration pursuant to an order issued by an official at the Deputy Administrator level or higher.
- H. *Eligibility.* The following employees will receive priority consideration in accordance with the procedures set forth.
 1. Where the erroneous selection was allowed to stand, those employees who were not properly considered (as identified below) because of the violation will receive priority consideration for the next three (3) vacancies for which the employee is qualified.
 2. If the action taken to correct an erroneous promotion was to require that the position be vacated, employees who were not promoted or given proper consideration because of the violation (that is, employees in the best qualified group who were not selected or employees who should have been in this group but were not) will be considered for promotion to the vacated position before candidates are considered under a new promotion or other placement action.
 3. The following employees will receive priority consideration, in accordance with the procedures set forth below. Employees under these provisions will receive a priority consideration for each grade for which they were demoted or downgraded.
 - a. Employees who are in a retained grade status under Title VIII of the Civil Service Reform Act as a result of action taken in the USDA, Farm Service Agency and who:
 - i) Are serving on a full-time or part-time basis under career or career-conditional appointments at GS-09 or below, or a wage equivalent, in the competitive service; or
 - ii) Are serving under excepted career or excepted career conditional appointments (except that their eligibility for priority selection consideration is limited to positions which can be filled under the same excepted authority as the one used for their appointment); or

iii) Are career or career-conditional employees serving on a part-time basis (except that their eligibility for priority selection consideration is limited to other part-time assignments).

b. Employees who were downgraded without personal cause, i.e., where downgrade was not due to misconduct, inefficiency, or at the employee's own request. Re-promotion may be made to a grade previously held on a non-temporary basis or to an intervening grade. This applies only when the employee was downgraded in the USDA, Farm Service Agency and the re-promotion are to a grade formerly held in the USDA, Farm Service Agency.

I. *Processing.*

The procedures for processing priority consideration(s) shall be:

1. Employees will be notified in writing by the authorized Management official of entitlement to each priority consideration. Such notice will advise employees that, if a vacancy are announced and posted and the employees wish to exercise their priority consideration, they should submit the necessary application to the Servicing Personnel Office with a written request that they wish priority consideration for the vacancy.
2. Priority consideration is to be exercised by the selecting officer at the option of the employee for (an) appropriate vacancy(ies). An appropriate vacancy is one for which the employee is interested, is eligible, and which leads to the same grade level of the vacancy for which proper consideration was not given, or for which an employee was denied.
3. Prior to completion of the best-qualified list, the name(s) of the employee(s) requesting to exercise priority consideration will be referred to the selecting office. The selecting officer will make a determination on the requests prior to receiving a best-qualified list.
4. The fact that the employee chooses to exercise a priority consideration does not prevent that employee from also filing a regular application.

J. *Union Notification.* In order to assure compliance with this section, the Union will be furnished statistics on priority considerations granted, exercised, and the results. Statistics will be kept and provided to the Union on a quarterly basis. The Union will also be notified in writing of each individual priority consideration completed.

Section 9 - Establishing the Best Qualified List

- A. The personnel specialist or designated official will refer to the selecting official the necessary information concerning all eligible applicants. If there are no more candidates than could constitute the number of individuals on a best-qualified list, their names will be referred to the selecting officer in accordance with 10 (c) below. Eligible applicants who have been referred to the promotion committee will be evaluated in relation to the weights and factors and ranked from the highest to the lowest.
- B. For a single vacancy, the highest three (3) ranking individuals, plus those tied for the last score, will comprise the best-qualified list. For more than one vacancy the top ranking three, plus two (2) additional for each additional vacancy, plus those tied for the last score, will comprise the best-qualified list.

- C. After the candidates for the best-qualified list have been determined, they will be arranged in alphabetical order showing the date of grade attainment and certified and referred to the selecting official.
- D. The Parties may agree through mutual consent to extend the best-qualified list for good and sufficient reasons as shall promote the intent of this Agreement and mission of the Agency.
- E. If an announcement pertains to more than one grade level, a separate best-qualified list will be prepared for each grade level based on the number of vacancies for that grade.
- F. When additional vacancies occur within 90 calendar days after the initial vacancy(ies) is announced, the personnel specialist may increase the number of candidates on the best-qualified list to conform to paragraph B above, provided that a best-qualified list has not been established.
- G. If an employee is determined to be not basically qualified for the position, the employee may request an explanation from the Human Resource Staff. If requested, the Human Resources staff will provide a written explanation to the employee.
- H. If an employee does not make the best qualified list for a position, the employee may request an explanation from the Human Resources staff. If requested, the Human Resources staff will provide a written explanation to the employee.
- I. If an employee is on the best-qualified list but is not selected for the position, the employee may request an explanation from the selecting official. If requested, the selecting official will provide a written explanation to the employee.

Section 10 - Selection

- A. The personnel specialist's actions will be completed in accordance with this Article and the best-qualified list will be forwarded to the selecting official.
- B. If the selecting official wishes to interview the candidates, all candidates will be offered an interview.
- C. The selecting officer shall utilize the following procedures in selecting individuals for posted vacancies:
 - 1. If the vacancy is one for which an under representation exists and is a targeted occupation as identified in the Affirmative Action Plan, and the best-qualified list contains highly qualified candidates which would reduce the under representation, then the selecting official will give serious consideration to those individuals who would reduce, the under-representation.
 - 2. If an under representation is not present, then the selecting official will consider providing upward mobility for those highly qualified candidates who have been stagnated in grade.
- D. The selecting official may use an existing best-qualified list to fill any unanticipated vacancies (beyond the number cited in the vacancy announcement) occurring in the same position (i.e. same position number) as listed on the vacancy announcement for a period of 90 calendar days from the date the vacancy was posted.

- E. When selecting for the posted vacancies, if the best qualified list is reduced to fewer than the number indicated in Section 9 B because of employee declinations or resignations, additional candidates may be added in order of the highest ranking remaining candidates.
- F. When a selection has been made, the Administration will arrange a release date, notify the employee, and ensure that the appropriate personnel forms are processed. The effective date of a promotion action, other than promotion within a career ladder, will be the first day of the pay period in which the employee is scheduled to report. If an employee has been selected for promotion has accepted the offer, and a reporting date has been established, and the resultant request for personnel action (SF-52) is not timely received and/or acted upon by the appointing official, the action shall be made retroactive to the reporting date.

Section 11 - Employee Information

- A. *General.* Employees are entitled to the following information upon request about vacancies filled under the competitive provisions of this Article and for which they are/were under consideration.
 1. The factors and weights used in filling the vacancy;
 2. Whether they meet minimum requirements;
 3. What points were awarded to them, in each category;
 4. What was the best-qualified list cutoff score;
 5. Whether or not they were on the best-qualified list; and
 6. The name(s) of the employee(s) who were selected for the vacancy.

Section 12 - Union Review of Competitive Actions

- A. The Union will be permitted to conduct audits of promotion packages for all bargaining unit positions, when it has reason to believe a discrepancy exists or when requested to do so by an employee.
- B. The Union will provide the Employer with the names of the Union representatives who are responsible for conducting audits. Changes to the list of designated representatives will be sent to the Employer in writing. The representative designated to conduct the audit will not have been an applicant for the promotion package being audited.
- C. Employees who believe they were improperly excluded from a best-qualified list may request a review of the promotion package through the Union audit procedure described below.
- D. If the employee chooses to use the Union procedure, he/she must make a written request to the Union during the period from the date the best-qualified list is approved up to 30 working days after the list section is posted on the biweekly promotion listing. A Union request under subsection (A) above must be made within the same time limits.
- E. The designated official responsible for the package will make the pertinent records from that package available to the Union auditor within 7 working days of the receipt of the audit request. An auditor shall treat information confidentially.
- F. If an error is discovered which resulted in an employee's exclusion from the best-qualified list, the provisions of Section 8 of this Article will apply.
- G. If during the course of the audit additional information is determined to be necessary, such information shall be secured.

- H. Employees who elect to use the grievance procedure rather than the Union audit procedure, must initiate action in accordance with Article 26, Grievance Procedure.

Section 13 - Career Ladder Positions

- A. The Parties agree that career ladder and sequential positions help to develop internal candidates to successfully perform in higher level positions.
- B. The Employer will ensure that procedures for administration of career ladders will be consistent with published policy. Career ladder plans must show the promotion criteria at each grade level of the plan which employees must meet to be promoted. A copy of the plan will be given to employees as they enter each level of the plan.
- C. When career ladder plans are established or revised, the Employer will notify the Union prior to implementation.
- D. At the time an employee meets time-in-grade and any other legal promotion requirements, the Employer will make a decision to promote or not to promote.
1. If an Employer is meeting the promotion criteria in the career ladder plan, the Employer will certify the promotion which will be effective at the beginning of the first pay period after the pay period in which the requirements are met.
 2. If the employee is not meeting the promotion criteria in the career ladder plan, he/she will be given written notices which will reflect the tasks which must be successfully performed and skills which must be demonstrated before promotion can be effected.

Section 14 - Announcement of Selections

Competitive selections will be announced throughout the area of consideration by posting announcements on designated bulletin boards. Normally, such announcements should be made within 10 workdays after the close of the pay period during which the selection(s) was made effective.

Section 15 - Temporary Promotions

- A. When employees are temporarily assigned to a position of a higher grade for a period in excess of 30 days, the assignment must be made via temporary promotion effective the first day of the assignment.
- B. Employees assigned to higher grade positions for more than 30 consecutive days will be temporarily promoted and receive the higher rate of pay effective on the first day of the detail. Short details shall not be used to avoid temporary promotions. Management will make every reasonable effort to attempt to assign qualified employees for such positions.

Section 16 - Miscellaneous

Personnel Data Summary. An Employee Qualifications Form will be prepared by the Employer and distributed to all unit employees every 2 years. However, employees may receive a copy at any time, upon request, in order to verify and update the listing. Employees will be given a reasonable amount of official time to review and update the information shown.

Article 29 - Details

Section 1 - Definition

- A. *Detail* - a detail is the temporary assignment of an employee to a different or equal position within the same or a different duty station, for a specified period, with the employee returning to his/her regular duties at the end of the detail.
- B. *Family Member* - any of the following: spouse and his/her parents; children, including adopted children, and their spouses; parents, brothers and sisters, and their spouses; and individuals related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Section 2 - Procedures

- A. The Employer agrees to notify the Union President in writing of its intent to implement a detail assignment and give the Union the opportunity to negotiate the impact and implementation, as appropriate, of such details, in accordance with 5 USC 71, herein referred to as the "Statute".
- B. The Union shall have five (5) work days after the receipt of any written notice described in item above to request to bargain. In order to trigger's USDA's obligation to bargain thereunder, the Union's request to bargain must be received by USDA by or before COB of the fifth (5th) work day of the five (5) day period.
- C. The State Executive Director of USDA, Farm Service Agency, Puerto Rico or his/her designates shall provide notification of any future detail assignments to the Union reasonably in advance of any proposed implementation date in order to allow the Parties an opportunity to engage in meaningful negotiations concerning the future details. The notice shall contain the proposed implementation date of the detail assignment.
- D. For the purpose of defining "*reasonably in advance*" as described in item C above, the Union establishes that detail assignments require a minimum of 5 days advance notice.
- E. The State Executive Director of USDA, Farm Service Agency, Puerto Rico may pursue detail assignments for five (5) days or less, when these short term assignments cannot be planned in advance and are not recurrent events. The details, therefore, are authorized with simultaneous notification of the employee and the Union.
- F. For all other detail assignments, the Employer agrees to notify the Union prior to notifying the employee who is going to be detailed.
- G. Merit promotion procedures do not apply when a detail is to a position of the same grade and promotion potential; however, when the detail is to a higher grade position or to a position with known promotion potential, competitive promotion procedures must be used. This means that once a vacancy has been identified, a decision to fill the vacancy has to be made, the vacancy will be announced and selections made within 60 days.
- H. USDA shall not implement any future details until such time as the Parties have completed negotiations, unless implementation is otherwise allowed under, and is consistent with, the Statute or other law.
- I. Whenever it is necessary to make detail assignments for the purpose of improving job performance of an employee, Management will prepare the training program, present the program to the employee, and give the employee the opportunity to be represented by a Union Official at the discussion. The training schedule will not cause undue stress, embarrassment or behavior discomfort to the employee.

- J. These procedures are not intended to restrict the Employer's right to assign work according to the Federal Service Labor-Management Relations Statute; however, all details must be consistent with the provisions of law, controlling regulations, and this Agreement.
- K. No employee will be detailed in an acting capacity in a higher grade for more than 120 days during a twelve (12) month period. If the employee is detailed in a higher grade for more than 120 days, the position will be filled through a temporary promotion procedure, or by designation of another employee.
- L. Whenever possible, details with higher promotion potential will be rotated among qualified eligible employees to afford them the opportunity to develop leadership skills.

Section 3 - Documentation

Details in excess of 30 calendar days will be reported on SF-52, "Request for Personnel Action", or similar document and filed in employee's personnel folder as a permanent record, along with a statement of duties.

Section 4 - Duration

The Employer is responsible for keeping details within the shortest practicable time limits and assuring that details do not compromise the open competitive principles of the Merit Promotion System.

Section 5 - Higher Graded Duties

- A. Those details to higher graded positions or to positions with known promotional potential which requires competition will be handled, in accordance with Article 28 - Merit Promotion.
- B. Employees assigned to higher grade positions for more than 30 consecutive days will be temporarily promoted and receive the higher rate of pay effective on the first day of the detail. Short details shall not be used to avoid temporary promotions. Management will make every reasonable effort to attempt to assign qualified employees for such positions.

Section 6 - Lower Graded Duties

Employees shall not be detailed to lower-graded duties.

Section 7 - Union Officials

Management will make every effort to avoid placing a Union official on a detail that would prevent that official from performing his/her representational functions. The Employer agrees to notify the Union prior to placing any designated Union representatives on detail away from the representative's normal duty station.

Section 8 - Reassignments

- A. When an employee is reassigned to a different position, the employee will be given 90 days to demonstrate acceptable performance under the performance standards for the position to which she/he was reassigned. If he/she cannot attain satisfactory performance, serious consideration will be given to reassign the employee back to the previous position or a new position at the same grade level, if available.
- B. The Employer agrees that any eligible employee who submits a request for reassignment will be provided:
 1. Bona fide consideration of the reasons for requesting the assignment,

2. Appropriate consideration of any documented hardship reasons submitted in support of the request,
 3. Written notice that he/she was considered for a position and whether he/she was selected, and
 4. If not reassigned, the employee is also entitled, upon request, to be advised in writing of the job related reason(s) for not being reassigned.
- C. When the Employee's request for lateral reassignment documents an adverse effect (i.e., health related, childcare, or transportation hardship) which is impacting the employee in his/her current job assignment and may reasonably be expected to be alleviated by reassignment, the Employer will grant the request unless there are substantive employment reasons for not complying with the request. Health related reasons which are used as a basis for requesting reassignment must be supported by medical documentation. Childcare problems refer to employees who have sole responsibility for the care of children (i.e., pre-teenage children), or other dependents, during the hours/days in question. Transportation problems refer specifically to problems arising from dependence on public transportation.
- D. Training and professional development details will be handled in accordance with Article 17 - Training and Career Development.

Section 9 - Assignment of Duties for Medical Reasons

Upon request, the Employer will make every reasonable effort to assign limited duties to an employee who is temporarily unable to perform the full range of his/her assigned duties because of medical reasons. The Employer may require sufficient medical documentation in support of the request, but shall not challenge medical recommendations or orders. The Employer may request a second opinion, if so the Employer will provide the names of no less than three specialists for the employee to choose one. All costs will be borne by the Employer.

Section 10 - Travel Time

Bargaining unit employees shall travel to and from temporary duty stations during regular business hours -- Monday through Friday, on a government owned vehicle, when available, unless the Parties agree to other arrangements.

Section 11 - Selection of Employees

Detail assignments, reassignments, including special project assignments, will not be made or denied solely to punish or reward an employee or used instead of taking appropriate disciplinary action.

Section 12 - Restrictions

- A. The provisions of this Article are not intended to restrict the Employer from detailing or reassigning an employee or otherwise adjusting the work assignment of an employee because of demonstrated performance problems taken, in accordance with provisions of this Agreement.
- B. It is appropriate to detail or reassigns an employee when such action is being taken to avert a disruption to the safety or security of the employees or the work area.
- C. It is also appropriate when an employee's conduct is the subject of a disciplinary inquiry and the employee's reassignment or detail is determined to be consistent with providing a safe and secure environment for the Agency and its employees. Such action will be taken consistently with the provisions of law, controlling regulations, and this Agreement.

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| <i>Article 30 - Position Description/Classification</i> |
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Section 1 - General

The Parties agree that position descriptions shall accurately reflect the principal duties and responsibilities of the position. If the duties of a position change significantly, the employee will be provided with an accurate, updated position description.

Section 2 - Position Description

- A. Position descriptions (PD) will be prepared by the Employer and will contain the principal duties and responsibilities for the purpose of classification. Each bargaining unit member will be provided with an official description of his/her duties and responsibilities in the form of a PD within 30 days of the employee assuming their duties. When appropriate, the PD will identify any special qualifications and/or requirements of the position.
- B. The Parties agree that the principle of equal pay for substantially equal work will be applied to all position classifications. Accordingly, Management agrees that a bargaining unit listing consisting of each employee's name, series, grade, title, and organizational unit will be supplied semiannually to the Union.
- C. Disputes which may arise over whether or not an employee's PD is accurate, if unresolved between the employee and the supervisor, may be processed through the negotiated grievance procedure. Disputes regarding the appropriate schedule, title, series or grade are covered under established classification appeal procedures and may only be appealed through these procedures. If an employee is found to be performing higher or lower grade level duties and responsibilities than those in the PD, Management is responsible for ensuring that the employee is compensated at the appropriate grade-level.
- D. When an employee believes that significant changes have occurred in his or her regularly assigned responsibilities and regularly performed duties, the employee will discuss the situation with his/her supervisor. If the supervisor cannot resolve the Employer's concerns to the employee's satisfaction, the employee may request that the supervisor arrange for an appropriate personnel specialist to provide further information to the employee. This should include information concerning the results of any recent reviews and audits. The specialist may audit the position, if an audit has not been conducted recently. A copy of the audit report will be given to the employee upon request. Upon request, the Employer will make a reasonable effort to allow the employee an opportunity to talk with the personnel specialist. Any employee may file a statutory classification appeal of his/her position at anytime, in accordance with appropriate rules and regulations.
- E. Employees will not be assigned duties outside their PD, except during emergencies. Projects, if consistent with PD, will be assigned in writing, with expected results, and will not be evaluated unless the time-frame for project completion is expected to last 12 months. Employees will be afforded reasonable time to complete project assignments.

- F. The Parties agree that phrases such as "other related duties" or "other duties as assigned" mean assignments reasonably related to duties, responsibilities, and qualifications for the particular employee.
- G. The Employer will maintain a complete and up-to-date file of PD of all classified positions in the bargaining unit, and will provide each employee with a copy of his/her position description, upon any change in position.
- H. A reclassification to a higher grade shall be effective at the conclusion of the first full pay period following final approval by the Servicing Personnel Office, if the incumbent of that position is promoted non-competitively to the position, whenever budget and FTE ceilings allow it.
- I. Collateral duties may be part of PD, in as much as these duties do not require more than 25% of the employee's total productive work-time. Employees will be afforded reasonable time to complete collateral duty assignments.
- J. A PD Review will be performed once per year, to eliminate unnecessary functions and add necessary tasks.
- K. PD will contain specific information and work assignments. No employee will have law enforcement or protection functions as part of their title or description, unless the position includes law enforcement functions and the incumbent is awaiting training at the Federal Law Enforcement Training Center, or is awaiting issuance of a Law Enforcement Commission.

Article 31 - Official Time

Section 1 - Policy Statement

The Employer recognizes that in the furtherance of positive labor-Management relations as provided for in the Civil Service Reform Act of 1978, Union officials have the responsibility of carrying out representative duties. In order to accomplish, this official time shall be granted to designated representatives as follows:

A. Official Time and Union Representation

1. For purposes of using official time, the Union will provide a list of Representatives.
2. The Union shall be granted of official time of 300 hours per month. Unused hours will not be rolled over or accumulated to the next month, however, the Union can request advances of Official Time from future months.
3. In addition to the official time described in section 2.B above, recognized Union Officials are authorized official time, after informing Management of its need. If there is an exigency of business, the scheduling of the official time may be changed but to not later than the next day of the tour of duty. Normally, no later than 24 hours after the initial notice.
 - a. Servicing as a Union Representative during meetings of Partnership Council and other committees established by agreement of the Parties.
 - b. Negotiating labor Management agreements.
 - c. Participating for or on behalf of the Union, or individuals employees, in any phase of proceedings before the FLRA, EEO Commission, Merit System Protection Board (MSPB), Office Workers Compensation Program (OWCP) or any other statutory appeals forum available to federal workers.
 - d. Representing another bargaining unit member in replying to a notice of proposed adverse action or any performance based action or replying to and requesting reconsideration of a denied within-grade increase.
 - e. Representing bargaining unit members in any phase of the grievance procedure including arbitrations:
 - f. Receiving, or providing, Union sponsored labor Management relations training sponsored by the Union, the Employer or a Third Party.
4. If the Union believes that the amount of official time is insufficient to carry out its obligations, additional time will be granted in the amount necessary to accomplish the task at hand. Management and Union will meet to agree on the increase of bank hours to be authorized within 72 hours of such request.
5. All internal Union business will be performed during non-duty hours.

Section 2 - Allegations of Abuse

Alleged abuses of official time shall be brought to the attention of an appropriate Management official on a timely basis by supervisors and Management officials. The Management official will then discuss the matter with the Local.

Section 3 - Training of Bargaining Unit Employees and Union Officials

- A. The Union may provide training on the Agreement to bargaining unit employees no later than 1 year after the effective date of this Agreement so as to minimize any adverse impact on operations.
- B. The Employer will provide a reasonable amount of official time, not to exceed 24 hours, per Union Official, for such training for contract training. The Employer shall permit the use of available training facilities.

If the Union President is in FSA, the Parties agree to reopen this section.

Article 32 - Time and Leave

Section 1 - Leave Increments

All absences will be charged in increments of one-quarter (1/4) hour or 15 minutes.

Section 2 - Annual leave

- A. Employees shall accrue leave in accordance with statute and regulations of the Office of Personnel Management. Annual leave is provided and used to allow employees an annual vacation period of extended leave for rest and recreation and to provided periods of time off for personal and emergency purposes. The use of accrued annual leave is the right of the employee. Employees should apply in advance for approval of all anticipated leave to permit the orderly scheduling of leave to avoid leave forfeitures which might otherwise result.
- B. Normally, leave requested in advance will be granted except where conflicts of scheduling or undue interference with the work of the Employer would prevent it. Leave may also be granted when it is not scheduled in advance and business permits. Leave for personal emergencies, ordinarily infrequent in number, will be granted unless there is an operational exigency which requires the employee's presence.
- C. At the beginning of each calendar year, employees will be notified to submit requests for extended annual leave of one calendar week or more and/or requests for days immediately preceding and following holidays for the following 12 months. Such written requests should be submitted to the appropriate leave approving official by the last day of January.
 1. In the event of a conflict in the scheduling of extended annual leave requests, leave will be tentatively approved for employees in the order of service computation date.
 2. When such leave requests are submitted after the January leave-scheduling periods, leave will be considered on a first-come, first-served basis.

Section 3 - Excused Absence

Infrequent tardiness of less than one hour shall normally be excused, if the reasons are acceptable. Infrequent is defined as twice (2) per month with exceptions for justifiable reasons.

Section 4 - Infrequent Sick Leave

- A. Employees may use sick leave accrued in accordance with the statute and regulation of the CFR in the following situations:
 1. Incapacity due to physical or mental illness or injury.
 2. Receive medical, dental, optical or surgical examination or treatment.
 3. Emergency medical, dental, optical or surgical examination or treatment.
 4. Incapacity due to pregnancy or childbirth.
 5. Because of exposure to a communicable disease.

6. Required to give care and attendance to a member of the immediate family who is afflicted with a contagious disease. Contagious disease means a disease which is ruled as subject to quarantine, isolation or restricted movement as prescribed by the health authorities having jurisdiction.
7. Presence at the office would jeopardize the health of others because of exposure to a contagious disease as described above.
8. For adoption-related activities.

B. In addition, you may use a limited amount* of sick leave to:

1. Provide care for a family member as the result of physical or mental illness, injury, pregnancy, childbirth, or medical, dental, or optical examination of treatment, or
2. Make arrangements necessitated by the death of a family member or attend the funeral of a family member.

** If you are a full-time employee, you may use up to 40 hours (5 days) of your sick leave each leave year for family care and bereavement purposes. An additional 64 hours (8 days) may be used as long as you maintain a balance of at least 80 hours of sick leave in your sick leave account. Part-time employees are also covered, and the amount of sick leave they may use for these purposes is pro-rated.*

- C. Employees normally shall not be required to furnish a medical certificate to substantiate a request for approval of sick leave unless sick leave exceeds three consecutive workdays. In cases where the nature of the illness is such that an employee did not need to see a medical practitioner, a medical certificate may not be required, if the employee provides an acceptable explanation.
- D. In individual cases, if there is evidence that an employee's leave pattern may indicate that an abuse of sick leave exists, the employee shall first be advised by an interview, which shall be recorded in the Field Personnel Folder, of the reasons a medical certificate may be required for each subsequent absence of sick leave. If the employee's pattern continues, the employee will be advised in writing as to whether an acceptable medical certificate may be required for each subsequent absence for which sick leave is requested. The sick leave usage of all employees under sick leave restrictions will be reviewed at least every six (6) months and a written decision to continue or lift the restrictions made; if the review shows significant improvement, the supervisor will lift the restriction.
- E. Employees who are incapacitated for duty because of serious illness or disability may be advanced sick leave for up to 30 days. The employee will not be required to utilize any annual leave prior to utilizing the advanced leave. Sick leave will be advanced when the following required conditions have been satisfied:
1. The employee is serving under a career or career- conditional appointment.
 2. The employee has a minimum of 1 year Federal Civilian Service.
 3. All available accumulated sick leave to his/her credit has been exhausted.
 4. There is no expectation that the employee is contemplating separation by retirement or resignation.
 5. A medical certificate substantiates that a serious illness or injury exists, and that the employee will be capable of subsequently returning to work and fulfilling the full scope of his/her job.

6. There is no expectation that the employee will not remain employed after his/her return to duty long enough to repay the advance of sick leave.
7. The employee does not have a current letter of warning or disciplinary action properly proposed or effected for abuse of sick leave.

Section 5 - Unanticipated Use of Leave

If the use of annual leave or sick leave cannot be anticipated, the request for approval shall be called in within 2 hours after the start of the employee's normal tour of duty, or core time when flexi-time is in effect, or as soon as possible thereafter. Contact will be made with the employee's immediate supervisor or other designated official. In the event, the employee does not report during the reporting period, the supervisor will not record the leave status until the end of the scheduled day, except for the need to process Time and Attendance Sheets. If the employee's leave status has not been clarified by the end of the day, the absence may be charged to AWOL. This will not prevent a later change in leave status for good and sufficient reasons.

Section 6 - Leave Balances

Employees will not be denied leave usage solely because of their leave balances.

Section 7 - Leave Without Pay

- A. Leave without pay (LWOP) is a right which accrues to an employee and may not be demanded by the Employer.
- B. An employee may be granted LWOP to engage in Union activities, to work in programs sponsored by the Union or the AFL-CIO, upon written request by the appropriate Union office. Such requests will be referred to the appropriate Management official and will normally be approved, as long as the missions goals are not adversely affected. Such employees shall continue to accrue benefits in accordance with applicable CFR regulations. Leave without pay for this purpose is limited to one (1) year, but may be extended or renewed upon proper application indefinitely.

Section 8 - Leave for Maternity, Paternity and Adoption Reasons

- A. The Employer will be liberal when granting leave for maternity reasons and will apply its policies fairly. Such leave may include LWOP, sick leave (when appropriate) or annual leave. Employees shall qualify to receive donated hours of Sick Leave from other USDA employees for maternity reasons.
- B. The following conditions apply to granting of leave to cover a period of absence for maternity reasons.
 1. Sick leave will be granted for the period of incapacitation due to pregnancy and confinement. Additional periods of annual leave and LWOP may be granted in whatever order the employee requests for a non-incapacitated period.
 2. The employee may also request and be granted annual leave or LWOP instead of sick leave for the period of incapacitation. The total absence for maternity reasons may be authorized for a period up to 180 consecutive days. Requests for additional leave following the end of the regular period of leave will be handled, in accordance with applicable regulations and this Agreement. Once requested and approved, the order or leave may be changed only on approval by the proper supervisory authority.

3. In considering requests for sick leave, annual leave, and/or LWOP for maternity reasons, the proper supervisory authority will apply pertinent laws, regulations, and this Agreement in the same way they would apply them in any other cases. No arbitrary cutoff date requiring an employee to cease work or prevents an employee from returning to work will be established.
 4. The employee should submit notice, at least 3 months in advance, of the prospective need for leave for maternity reasons.
- C. Accrued annual leave and LWOP may be granted to a male employee for the purpose of assisting and caring for the mother of his child or minor children during the mother's incapacitation for maternity reasons. Requests for advanced leave will be handled on a case-by-case basis.
- D. Annual leave and LWOP may be appropriate for adoption or proceedings for adoption.

Section 9 - Family and Medical Leave

- A. The Employer will be liberal when granting leave under the *Family and Medical Leave Act* (FMLA). Under the FMLA of 1993, employees are entitled to a total of 12 administrative workweeks of unpaid leave (LWOP) during any 12-month period for:
1. The birth of a son or daughter and care of a newborn;
 2. The placement of a son or daughter with the employee for adoption or foster care;
 3. The care of your spouse, son, daughter, or parent with a serious health condition;
 4. Employee's own serious health condition that makes them unable to perform the duties of their position.
- B. Upon return from FMLA leave, employees shall return to the same or equivalent position. While on FMLA leave, employees are entitled to maintain health benefits coverage. If the employee is on LWOP under the FMLA, they are responsible for paying the employee share of the health benefits premium.
- C. Employees may choose to substitute annual leave for unpaid leave under the FMLA. They may also substitute sick leave in those situations in which the use of sick leave is permitted.

Section 10 - Leave for Bone-Marrow or Organ Donation

The Employer will be liberal when granting leave for bone-marrow or organ donation. Federal employees are entitled to use 7 days of paid leave each calendar year (in addition to annual or sick leave) to serve as bone-marrow or organ donor.

Section 11 - Other Leave

Other types of existing leave such as leave under the leave transfer program, will be requested and denied/approved according to Departmental Agency (ASCS Handbooks 17-PM), or any other type of existing law or regulation.

Article 33 - Leave of Absence (Union Officials)

Section 1 - AFGE Officer or Representative

Management agrees to approve leaves of absences for any bargaining unit employee who is elected to a position of National Officer of the American Federation of Government Employees, AFL-CIO, for the purpose of serving full time in the elected position or who is selected as an AFGE National Union Representative.

Section 2 - Period of Leave of Absence

Leave of absence granted under Section 1 of this Article will be for a period concurrent with the term of office of the elected Official or Representative and will be automatically renewed by Management upon notification in writing from the elected official or representative that he/she has been reelected or re-selected and wishes to continue in a leave of absence status.

Section 3 - Conditions and Return Rights

- A. The Union agrees that all of the leaves of absences granted or approved in accordance with this Article are subject to the following conditions in addition to such other conditions, as may be imposed by law or higher regulation:
1. Without pay; and
 2. Access to Departmental premises by such employees will be in accordance with the terms of this Agreement or Department regulations, whichever is applicable.
- B. Management, to the extent of this authority, will attempt to accomplish the following:
1. Place an employee returning from leave of absence in the position held at the time that the leave of absence began; failing this,
 2. An effort will be made to place the employee in a like position within the District Area; or failing either of the foregoing,
 3. The employee will be placed in a like position somewhere in the Agency.

Article 34 - Fitness for Duty

Section 1 - Scope

The Union and the Employer recognize that performance and conduct problems can be caused by the poor health of employees and that employees may be subject to fitness-for-duty examinations in those circumstances. Employees will not be subject to fitness-for-duty examinations where an alleged health problem does not affect performance or conduct on the job.

Section 2 - Relationship to Adverse Action

Evidence obtained in the fitness-for-duty procedures cannot be used as a basis for adverse action (5 USC 75) or demotion or termination for unacceptable performance (5 USC 43). However, if in the course of a disciplinary or adverse action proceeding, the employee or a third party raises an issue concerning the employee's health, such evidence obtained in the fitness-for-duty procedures may be used by Management.

Section 3 - Prerequisite Conditions

When there are reasonable grounds to believe that a health problem is causing performance or conduct problems of the employee, the employee shall be given an opportunity through counseling, as provided in Article 36, for referral to appropriate medical experts of his/her choosing and/or an opportunity to voluntarily initiate an application for disability retirement on his/her own behalf.

Section 4 - Procedures

In seeking a fitness-for-duty examination which may or may not lead to a disability application, the following rules and procedures shall apply:

- A. In all discussions with any Management official, the employee shall be entitled to Union representation; prior to any discussion the employee shall be notified of this right, given an opportunity to contact and discuss the matter with his/her Union representative, and permitted the right of representation in such discussion. This will not prevent an employee from having another representative of his/her choosing.
- B. Should a fitness-for-duty examination be necessary, the Employer shall designate five (5) qualified physicians from which the employee shall choose one to conduct the examination. The employee will be offered an opportunity to submit other qualified physicians for consideration and will be offered an opportunity to also have medical documentation submitted from his/her personal physician, which the Employer will consider. The Employer shall pay all fees or other costs of the examination, shall pay any reasonable travel expenses, and the employee shall not suffer any loss of part or charge to leave for any absence related to the examination, but shall be permitted such time as is necessary during his/her normal duty hours.
- C. During these procedures, the employee will be apprised of his/her rights and, where supported by appropriate medical evidence, given the opportunity to suitable interim adjustments in his/her work assignments.
- D. When the results of the medical examination reveal that the employee:

1. Cannot satisfactorily perform useful and efficient service in his/her regularly assigned job.
2. Retain the capacity to do other work at the same grade or pay level within the Agency.
3. Otherwise meets the minimum qualifications for an available position that the Employer seeks to fill; the Employer will ordinarily offer the employee a reassignment to this position.

Section 5 - Counseling

- A. When the Employer determines that the medical evidence reveals:
 1. That the employee is totally disable for service in his/her current position and;
 2. That reasonable accommodation for another position cannot be made; the Employer will so advise the employee and provide appropriate counseling.
- B. When such a disabled employee has five (5) or more years Federal Service and would meet existing disability retirement requirements, the Employer will counsel him/her concerning disability retirement and explain the procedure for voluntarily applying for disability retirement. In the event, that such an employee is unable or unwilling to file on his/her own behalf, the Employer may initiate an application for the employee as required by the circumstances and appropriate regulations. The Employer shall provide the employee proper notice, and shall permit the employee thirty (30) days to respond in writing.
- C. If the medical evidence and performance records establish that the employee retains the capacity to perform satisfactorily in a vacant lower grade position which the Employer seeks to fill, the employee will be informed of his/her option to request such a demotion.

Section 6 - Confidentiality of Records

All records pertaining to the employee's examination and, as applicable, any subsequent personal information included with an application for disability retirement are confidential and may be disclosed only to those with an administrative need to know or as specifically authorized by the subject employee in writing.

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| Article 35 - Temporary, Probationary, Part-time, and Permanent Employees |
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Section 1 - General

All employees of the bargaining unit shall be covered by the terms of this Agreement to the extent consistent with CSRA and other applicable laws and regulations.

Section 2 - Temporary Employees

- A. Should the need arise to employ individuals at other than entry-level positions, the Union will be informed prior to the appointment.
- B. The Employer will notify the Union of the proposed separation of temporary employees.
- C. Temporary employees may be separated at any time upon notice in writing from the Agency. When it is determined that a temporary employee is to be separated, the employee will normally be given two (2) weeks notice, whenever possible.

Section 3 - Probationary Employees

- A. The Employer agrees to provide probationary employees with the opportunity to develop and to demonstrate their proficiency.
- B. During the probationary period, the employee's conduct and performance in the actual duties of their position may be observed, their pre-employment background investigation, and they may be separated from the service for cause.
- C. Probationary employees will be entitled to ongoing counseling about their conduct and performance and their standing through completion of their probationary period.
- D. Probationary employees have the right to Union representation in accordance with applicable laws, rules, regulations and this Agreement.
- E. When it is determined that a probationary employee is to be separated, the employee will usually be given two (2) weeks notice of termination, when possible, or such notice as the remaining probationary period permits.
- F. In cases of impending separation (for cause other than misconduct), the Employer will give consideration for placement of the probationary employee in positions commensurate with his/her demonstrated ability.

Section 4 - Part-Time Employees

- A. If a full-time employee wishes to convert to part-time, he/she shall make a request to his/her supervisor. The Employer will give good faith consideration to the employee's request based on the employee's circumstances and the needs of the organization.
- B. Employees who accept or convert to part-time positions have no guarantee that they will subsequently be converted to full-time employment, but the Employer agrees to

consider the employee's request based on the employee's circumstances and the needs of the organization.

- C. The Employer will advise the employee of the effects of change to part-time employment and, in case of a change in grade the salary of the part-time appointment.
- D. Requests for changes to part-time and full-time employment can be made in writing and will be retained and considered for at least 6 months.
- E. An employee who is denied a conversion from full-time to part-time or vice versa shall be notified in writing, upon request, of the reasons.
- F. The Employer agrees to establish regular tours of duty for part-time permanent appointees which are consistent with appropriate law, rules and regulations. Tours of duty for part-time employees will be established or changed by Standard Form 52. Tours of duty determine the employee's eligibility for pay on holidays as well as other benefits and entitlements under law.

Article 36 - Counseling

Section 1 - Employee Disability Compensation (OWCP)

- A. The Employer agrees that when an employee suffers job-related illness or injury in the performance of duties and reports it to his/her supervisor, the supervisor and/or the administrative officer will counsel the affected employee as to the following:
1. His/Her right to file for compensation benefits;
 2. The types of benefits available;
 3. The procedure for filing claims; and
 4. The option to use compensation benefits in lieu of sick or annual leave.
- B. The supervisor will notify the local Union steward when he/she becomes aware that a bargaining unit employee has filed an OWCP claim.
- C. An employee who has filed for compensation benefits will be counseled, upon request, by his/her supervisor and/or a personnel specialist at any stage in the processing of the case concerning such options as may be available to the employee at that point.

Section 2 - Employee Options

- A. An employee with a job-related injury/illness (including conditions aggravated by job-related factors) may elect to be placed on sick or annual leave instead of LWOP, pending approval or disapproval of his/her compensation claim.
- B. Employees shall have the option of buying back the leave used and having it reinstated to their account, if their claim for compensation is approved.

Section 3 - Placement of OWCP Claimants

- A. Where the employee requests and supports his/her request with appropriate medical information, the Employer will make a serious effort to assign the employee on a temporary basis to duties consistent with the employee's medical needs, pending resolution of his/her claim. The Employer will make every effort to locate light duty work as provided in 5 CFR Part 353.306.
- B. Where the employee requests and supports his/her request with an approved OWCP claim and appropriate medical information, the Employer will make a serious effort to assign the employee to duties consistent with the employee's medical needs. Any such action will be consistent with the negotiated Merit Promotion Article.
- C. When an employee who has been determined by OWCP to be disabled has recovered sufficiently that he/she is required or permitted to seek reemployment, Management will make a serious effort to offer appropriate employment.

Article 37 - Employee Assistance and Counseling

Section 1 - Policy Statement

- A. The Employer and the Union jointly recognize that treatable illness and disorders occur in the work force as result of alcohol, drug, and dangerous substance abuse. The Parties further recognize that whenever such conditions adversely impact on an employee's work performance, attendance, reliability or conduct, the employee should constructively address these problems through participation in counseling and treatment, where appropriate.
- B. Therefore, the Employer and the Union will work together to encourage troubled employees whose work performance is adversely affected to pursue counseling help or treatment.

Section 2 - Referrals/Community Resources

The Employer agrees to assist employees in securing counseling services when work performance, attendance, reliability or conduct are adversely affected as a result of alcohol, drug or dangerous substance abuse. This may accomplish through providing information and encouragement to the employee to use any of the following types of services where available:

- A. Referrals to available counseling service in the local community.
- B. Counseling services provided by the Employer either on-site or on an as-needed basis.
- C. Counseling services provided through joint efforts with other Federal agencies.

Section 3 - Voluntary Participation and Employee Responsibility

Although the existence and functions of counseling and referral programs will be publicized to employees, no employee will be required to participate or be penalized for merely declining referral to a counseling service. Should any counseling appointment or treatment require an absence from duty, the employee must get sick leave approval or make other appropriate arrangements with his/her supervisor.

Section 4 - Confidentiality/Relationship to Disciplinary and Adverse Action

- A. The Parties recognize that all confidential information and records concerning employee counseling and treatment will be maintained, in accordance with applicable laws, rules and regulations.
- B. Without an employee's specific written consent, the supervisor may not obtain information about the substance of the employee's involvement with a counseling program. Information obtained with the employee's authorization from such counseling programs may not serve as the basis for disciplinary or adverse actions. Should disciplinary action be necessary, job behavior or performance problems will be the basis, not progress in a counseling program as such. In evaluating an employee's work performance and job-related conduct, the supervisor may take into account whether an employee referred to counseling is cooperating with a recommended plan of counseling.

Article 38 - Personnel & Official Records and Files

- A. No official personnel record may be collected, maintained, or retained except in accordance with law, government-wide regulation, and this Agreement. All personnel records are confidential, shall be viewed or disseminated by officials/employees only with a legitimate administrative need to know, and must be retained in a secure location at the State Office upon completion of Administrative Convergence.
- B. Employees and/or their authorized representatives have the right, and shall be granted a reasonable amount of official time, to examine or photocopy any of their personnel records on duty time in the presence of a Management official. The employee shall have the right to prepare and enter on the records, while on duty status, a response to material placed in such records. This right also applies to the merit promotion files, employee performance files, and any file maintained because of a grievance, adverse action, or EEO complaint.
- C. Access to personnel records of the employee by the employee and/or the authorized representative normally shall be granted within two (2) working days of the request for such records, are maintained on the premises in which the employee is located and is immediately available. If the records are not so maintained as available, the Employer will initiate prompt action to obtain records from their location.
- D. Employees shall be advised of the nature and purpose of their official personnel folder, field personnel folder, and their locations. Employees shall be notified and given a photocopy of any material placed in their personnel file within three (3) working days. Employees who review their official personnel file or field personnel file may request a copy of material not routinely furnished them. Employees should acknowledge receipt by signature. It is understood such acknowledgment does not constitute agreement with the contents.
- E. Employees will revise their field personnel folder annually. On the first inspection, the employee will initial all items on the lower right corner. From then on, the employee's initials will be obtained prior to inserting any document in the file folder. The initials signal only that a copy was received and does not imply agreement by the employee with the contents of the document.
- F. Other than records that are exempt, any record that has not been disclosed to an employee on a timely basis and placed in his/her personnel folder cannot be used in a disciplinary or adverse action.

Article 39 - Partnership Council Chapter

This Agreement establishes the by-laws for the Partnership Council and is jointly entered into by the American Federation of Government Employees (AFL-CIO), Local 0055 and the USDA, Farm Service Agency, Puerto Rico, for the purpose of establishing a full partnership in accordance with National Partnership Agreement and Executive Order 12,871.

PURPOSE

The Partnership Council is created to enhance employee work life, improve public service, and fulfill the mission of the Agency, by establishing a positive working relationship between AFGE and Management. To that end, the partners will design, implement and maintain a cooperative constructive working relationship, the goal of which is to identify problems and craft solutions. The partners agree to make the investments necessary to establish an atmosphere of mutual respect and trust. This includes open and honest communication with a view toward recognizing the interests of the partners. The Parties are committed to fulfilling the labor relation's obligations utilizing interest based bargaining (IBB) techniques and principles.

OBJECTIVES

In order to achieve this purpose, the partners agree to the following objectives that are in the spirit of Executive Order 12,871:

- A. Ensure implementation of partnership concepts, which include:
 1. Involvement of all partners in the making of decisions to the maximum extent possible.
 2. Shared responsibility.
 3. Identification of issues from all sides.
 4. Achieve consensus about the nature of the issues and their integrative solutions whenever possible in a time-related manner.
 5. Meaningful representation and participation at the partnership discussions from both sides.
 6. Sharing of information which includes equal access to appropriate, timely and confidential information.
- B. Ensure that the process shall be interest-based, i.e., the legitimate needs and interests of all participants must be examined and understood before generating options.
- C. Ensure that options be developed jointly and tested against jointly held criteria.
- D. Identification of the method of alternate dispute resolutions for an issue at the onset in the event that no agreement is reached.
- E. Ensure full implementation of the Statute and Executive Order 12,871, whether at the Union's request of as a result of proposed Agency action.
- F. The partners agree that any innovations resulting from the partnership will neither result in the lay off, nor reduction in grade or pay of any employee.

STRUCTURE

The Council will be comprised of the following individuals:

| <u>Union</u> | <u>Management</u> |
|-----------------------------------|-------------------|
| Chief Union Officer (President) | Head of Agency |
| Others (Vice President, Stewards) | Others |

The intent is to have equal numbers. Each side will name alternates to fill in for members unable to attend a particular meeting. They will have the power and authority to act on behalf of those they have replaced. AFGE Local 0055 and USDA, Farm Service Agency - Puerto Rico shall co-chair the Council. The responsibility for chairing the partnership meeting will be rotated between the chairpersons.

COMMUNICATIONS

The Council shall foster a harmonious atmosphere of communication through timely sharing of all information that will affect the relationship of the partnership. The Parties will have equal access to information as appropriate and necessary. Information identified as confidential will be respected. The co-Chairpersons shall be responsible for the distribution of all correspondence, etc., to all members of the Council. The Council shall establish an open line of communications that is available to all members of the Council.

Minutes will be recorded at each meeting and the final draft of the minutes will be distributed to each member two weeks prior to the next regular meeting. Minutes from the prior session will be read and approved at the meetings. All agreements reached by the Council shall be distributed to each member for review and comment prior to final signatures.

Between regular meetings, teleconferences will be utilized as an effective means of communications with members. The results of these conference calls will be reported at the next scheduled meeting.

OPERATING PROCESS/PROCEDURES

Face to face meetings will be held bimonthly on the fourth Friday of the month. Additional meeting and/or modifications in scheduling may occur by mutual Agreement of the co-Chairs.

A quorum will consist of at least 2 members from each side.

The meeting place will be a neutral place or other site the Parties agree to mutually.

A facilitator will be utilized at the partnership meetings, unless the Parties agree one is not required.

Advisors may be called upon by the Council for briefings on specialized subjects. Advisors are not members and do not determine consensus.

An issue can be proposed for the Council's consideration by either the Union or the Agency. Agenda items will be submitted to the co-Chairpersons at least 10 work days

in advance. The co-Chairpersons will jointly draft the agenda and approve minutes from each meeting before distribution.

When an issue is accepted for resolution by the Council, the Council may charter a subgroup for the specific purpose of addressing that particular issue. The subgroup may be comprised of any appropriate combination of Council members, their alternates and/or other personnel. The Council shall determine the composition of the subgroup as well, as its mission, necessary support reporting requirements, and deadlines. Such subgroups will be required to report their findings and recommendations back to the Council. Only the council may take or not take implementation action.

The Parties agree that every effort should be made to avoid disputes over whether a proposal is non-negotiable because it conflicts with Management or Union rights. Rather the Parties shall focus on the intent of the proposal and on ways to reformulate it in a manner that does not result in conflict. All decisions will be made by consensus of the participants at the meeting. Consensus is defined as a decision that all, Council members, can accept and support.

Whether to accept an issue within the partnership Council will require a consensus decision at the outset.

Issues that have been accepted for resolution will be discussed in good faith, using interest-based discussions in the search for an integrated solution that will be based on the legitimate interest of all the Parties.

The Agency shall provide non bank official time to Union participants for all partnership activities. Union participants who travel to engage in partnership activities will be provided travel and per diem, if applicable in accordance with Federal Joint Travel Regulation (FJTR).

The Parties agree to reopen this Agreement one-year from the date of signing to review and revise it as necessary. Changes may occur upon mutual Agreement at any time.

No rights afforded to the Parties by Contract or 5 USC 71 are being waived by entering into this Agreement. The Agreement is incorporated as a separate Article to any existing negotiated bargaining Agreement.

In witness whereof the parties hereto have entered into this Agreement on this day 30 of November of 1998.

For the Union:



Pedro Romero
Chief Negotiator

For Management:



Juan M. Ortiz
Chief Negotiator



Jacqueline Lazú
Negotiator



José A. Torres
Negotiator



Edwin G. Granell
Negotiator



Ada I. Rivera
Negotiator

**MEMORANDUM OF UNDERSTANDING
AUTHORIZATION OF MAXIFLEX WORK SCHEDULES
BETWEEN AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFGE), LOCAL 0055
AND USDA/FARM SERVICE AGENCY, PUERTO RICO**

This Memorandum of Understanding (MOU) is entered into by and between the American Federation of Government Employees (AFGE), Local 0055 (hereinafter referred to as the Union) and the USDA/Farm Service Agency, Puerto Rico (hereinafter referred to as the Employer) collectively the "Parties". This agreement is entered into to implement the Maxiflex Work Schedule.

The parties hereby agree as follows:

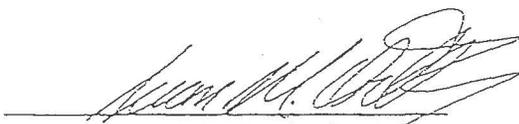
With regard to Notice PM-2135 "Authorization of Maxiflex Work Schedules (WS's) for Nonbargaining Unit FSA Field Offices", the Parties agree to implement the Maxiflex Work Schedule on a pilot basis until November 17, 2000, for bargaining employees. The Parties agree to reevaluate and make any changes, if they become necessary at that time, and to decide whether to continue Maxiflex Work Schedule permanently. Any changes to Maxiflex Work Schedule must continue to be in accordance with the provision of the *Collective Bargaining Agreement* dated November 30, 1998.

This MOU is effective on May 22, 2000 (pay period 11).

FOR THE UNION:

FOR THE EMPLOYER:


Catalina Carrasco Alamo
Acting Vice-President


Juan M. Ortiz Serbía
Agency Negotiator

May 17, 2000

May 17, 2000