

1994

LABOR AGREEMENT

Between

Agricultural Research Service  
USDA

and

Local 3247  
American Federation of  
Government Employees

At the National Center for Agricultural  
Utilization Research

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## PREAMBLE

In accordance with the provisions of law and applicable regulations, this Agreement is entered into between the Agricultural Research Service, U.S. Department of Agriculture, hereinafter referred to as the "ARS," and Local 3247, American Federation of Government Employees, AFL-CIO, hereinafter referred to as the "Union." This Agreement will bind the National Center for Agricultural Utilization Research.

As stated in 5 USC 7101(a):

"(1) experience in both private and public employment indicates that the statutory protection of the right of the employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them--

"(A) safeguards the public interest,

"(B) contributes to the effective conduct of public business, and

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

"(2) the public interest demands the highest standards of employee performance and the continued development of implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

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

# ARTICLE 1. AUTHORITY AND REPRESENTATION

## Section 1. Certification by FLRA's Predecessor

The relationship between the parties and this Agreement is established in accordance with the Certification of Representative issued by John W. Beaty,, Area Administrator, LMSA, Chicago Area Office and the letter of recognition dated August 11, 1972, from R. J. Dimler, Area Director, to Timothy L. Mounts, AFGE Local 3247.

## Section 2. Unit of Recognition

The bargaining unit covered by this Agreement is:

Included: All general schedule employees of the National Center for Agricultural Utilization Research, Peoria, Illinois.

Excluded: Management officials, supervisors, guards, confidential employees, and employees engaged in federal personnel work in other than in a purely clerical capacity, and all wage board employees.

## Section 3. Representatives Other Than ARS Employees

The Local has exclusive recognition. Upon request by the Local, Union national and district representatives will be provided access to all unit locations for representative duties. During the visit the Union will provide the escort who shall be an ARS employee. The escort shall be responsible for the safety and security of the visit.

## Section 4. Precedence of Agreement

Where any ARS regulation conflicts with this agreement and/or a supplemental agreement, the agreement shall govern.

# ARTICLE 2. RIGHTS OF EMPLOYEES

## Section 1. Participating in Labor Activities

As provided by 5 USC 7102: "Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right--

- (1) to act for a labor organization in the capacity of a representative and the right, in that capacity to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and
- (2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter."

## Section 2. To Be Represented And To Grieve

As provided in 5 USC 7114(a)(5),

"The rights of an exclusive representative under the provisions of this subsection shall not be construed to preclude employees from--

- (1) being represented by an attorney or other representative than the exclusive representative of the employee's own choosing in any grievance or appeal action; or
- (2) exercising grievance or appellate rights established by law, rule, or regulation; except in case of grievance or appeal procedures negotiated under this chapter," in which case an employee who wishes to be represented must be represented by the Union or someone approved by the Union.

## Section 3. Receiving Warrants and Subpoenas

If a unit employee is to be served with a warrant or subpoena, if possible, it will be done in private without the knowledge of other employees.

## Section 4. Notice of Interview

If an employee is called by the supervisor to be questioned before a witness/es concerning a matter which may lead to discipline, the employee shall first be informed of the right to have a Union representative present.

Section 5. Storing Personal Property

Each employee shall have access to a lockable locker, drawer or file cabinet to store such items as pocketbooks or other small items while they are on duty. ARS shall not be held responsible for the safekeeping of these items or their contents. Employees are encouraged to refrain from bringing in valuables or large amounts of cash.

Section 6. Clarifying Rights

Employees who request clarification of their employment rights are entitled to a reasonable explanation from both ARS administrative personnel and a union representative.

Section 7. Right of Authorship

All employees have the right to authorship when their contributions warrant it. ARS considers it important to recognize any employee's creative contribution to the research effort. ARS delegates to the immediate supervisor the authority to recommend technician and Category 3 scientists authorship for the approval of the Center Director in accordance with applicable directives. If a supervisor fails to recommend authorship, the next level supervisor will reconsider the decision upon request of the employee.

Section 8. Official Personnel Folder

The Official Personnel Folder (OPF) is the official source for nearly all records affecting an employee's status and Federal service. This folder provides the basic source of data about the employee's Federal employment history and is used in personnel actions. There is also an Employee Performance Folder (EPF) which is used to store records relating to work performance. This is used as a reference in many types of personnel actions such as a reduction in force.

The employee may review any or all documents in these folders permitted by law, by contacting the administrative officer at the Center. The exclusive representative may review the documents if there is written authorization by the employee. Each employee is entitled to include rebuttal or comment to information in the folders.

In any proposed disciplinary or adverse action, all relevant documentation will be attached or contained in the notice of the proposed action. Letters of caution, admonishment, or reprimand shall be maintained in the employee's OPF until they are no longer in effect. They will then be removed and destroyed.

Section 9. Raising Issues and Problems

Employees have the right to bring matters of personal concern regarding conditions of employment to the attention of the Agency and/or Union and shall be encouraged to bring the matter to the lowest level capable of resolving the matter.

Section 10. Whistleblowers

Employees shall be protected against reprisal of any nature for the disclosure of information (not prohibited by law, or Executive Order) to the appropriate authorities which the employee reasonably believes evidences a violation of law, rule, or regulation, or evidences mismanagement, waste of funds, abuse of authority, or a danger to employee or public health or safety.

Section 11. Access to records

Employees and/or their representatives designated in writing shall have the right to examine records personally identified to the employee (i.e. OPF, EEO, appeal and grievance records, position descriptions, classification standards, etc.) Upon request, the employee shall be provided with one copy of each.

A copy of other Agency records that are readily available and otherwise releasable and that are relevant and necessary for processing active appeals or grievances will be furnished at no cost to the employee. The employee shall have the right to prepare and enter a concise statement of disagreement with any document in personally identified records.

No derogatory information in an individual or "drop" file not approved as an official system of records will be used by management against an employee in any formal action unless a copy of the derogatory information has been given to the employee within 30 days of the supervisor having reason to know of the occurrence causing the entry.

Section 12. Investigations

Before being questioned in a formal investigation, the employee who is the subject of the investigation will be informed as to the nature of the allegations and possible consequences, and told of the right to be represented by a representative of the employee's choice.

If the Union is requested as the representative, the Union will make an individual available within 24 hours. The interview will be postponed until the representative is present.

An employee against whom an adverse action is proposed is entitled to thirty days advance notice. The notice will state specific reasons for the proposed action. The employer agrees that the employee and/or representative will be given the opportunity to review the relevant evidence.

Section 13. Employee Assistance Program

The Parties agree to support the Employee Assistance Program (EAP) for employees suffering from alcoholism, drug abuse, or emotional disorders (including work stress induced problems). The Parties recognize that the treatment of these diseases is in the best interest of the employee, the Union, and the Center. When an employee's problems interfere with the efficient and proper performance of duties, reduce dependability, or reflect discredit upon the Agency, supervisors will encourage troubled employees to pursue help through the EAP before considering disciplinary or other corrective action. Employees whose treatment necessitates absence from work will be granted sick leave.

Other than testing designated positions as determined by USDA criteria, ARS will not initiate any drug screening program or actions except where there is cause. In the event that an initial drug test is positive, ARS will conduct a retest using a highly reliable method.

Section 14. Discussions between Union Officials and Employees

The conversations concerning matters covered by this agreement between employees and officials of the Union are absolutely confidential unless authorized for release by the employee. The Union may, however, use the information for reports, arguments, etc., if totally sanitized to prevent any association of the employee with the information.

Section 15. Developing Patentable Inventions

Support personnel will be recommended as an inventor for patent purposes if they have made a creative contribution to the invention. Coinventors are entitled to patent application awards and a reasonable percentage of any licensing fees in accordance with applicable directives.

Section 16.      Dependant Care

The Parties recognize that the dependant care needs of the employees are a growing concern. The needs of the employees must be periodically reassessed, and cost effective answers need to be sought. The Union and ARS agree to cooperate in the formation and functioning of a Day Care Committee which will investigate, recommend, and implement reasonable and creative solutions to address the employees' dependant care needs.

**ARTICLE 3.      RIGHTS AND OBLIGATIONS OF THE UNION**

Section 1.      Exclusive representative

In accordance with 5 USC 7114a)(1), the Union,

"is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.

Section 2.      Attending Meetings

In accordance with 5 USC 7114(a)(2), the Union shall be given the opportunity to be represented at--

- A. any formal discussion between one or more representatives of the agency and one or more employees of the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or
- B. any examination of an employee in the unit by a representative of the agency in connection with an investigation if--
  - (i) the employee or the supervisor reasonably believes that the examination may result in disciplinary action against the employee; and
  - (ii) the employee requests representation.

Section 3.      Disclosing Information

In accordance with 5 USC 7114(b),

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

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

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

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

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

Section 4.      List of Union Officers

The Union agrees to provide the Employer with a current list of its officers and stewards, including their addresses and telephone numbers, with the understanding that such information will be used only for official purposes.

Section 5.      Distributing Bulletins

The Union will be placed on the distribution list for all informational bulletins concerning personnel policies or safety intended for general distribution.

Section 6.      Freedom from retaliation

The Parties recognize that the Union may file an unfair labor practice charge with the FLRA if any superior threatens a member of the Union due to their Union activities.

Section 7.      Centerline Newsletter

ARS agrees to publish Union announcements, that contain no inflammatory or derogatory information in the Centerline without editing anything except the physical form of the message.

# **CARTICLE 4. RIGHTS AND OBLIGATIONS OF THE EMPLOYER**

## **Section 1. Protected Management Rights**

Management officials of the agency retain the right, in accordance with 5 USC 7106(a), "(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and (2) in accordance with applicable laws--

- (A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
- (B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
- (C) with respect to filling positions, to make selections for appointments from--
  - (i) among properly ranked and certified candidates for promotion; or
  - (ii) any other appropriate source; and
- (D) to take whatever action may be necessary to carry out the agency mission during emergencies."

## **Section 2. Issues Negotiated At Management Discretion**

As stated in 5 USC 7106(b), nothing in 5 USC 7106 shall preclude the Employer and the Union from negotiating "(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work; (2) procedures which management officials of the agency will observe in exercising any authority under this section [7106] or (3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section [7106] by such management officials."

## **Section 3. Protected Activities**

As provided by 5 USC 7116(e), "The expression of any personal view, argument, opinion or the making of the statement which--(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election, (2) corrects the record with respect to any false or misleading statement made by any person, or (3) informs employees of the Government's policy relating to labor-management relations and representation, shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under

coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter [Chapter 71 of 5 USC] or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter [Chapter 71 of 5 USC]."

#### Section 4. Meetings With Employees

Management officials and supervisors retain the right to meet with unit employees and without the presence of a Union representative concerning any matter not covered by 5 USC 7114(a)(2) [See Article 3, Section 2].

#### Section 5. Committee Membership Lists

The Employer agrees to inform the Union of the membership of the following Center committees: Safety, Library, EEO, Storeroom, and Long-Range Facility Planning; to provide advance notice of committee meetings with agenda; to allow the presence of a Union observer; and to provide a copy of the minutes or decisions of such meetings, if prepared.

#### Section 6. Extra Copy of Notices

Affected unit employees will be provided with an extra copy of any letter of proposed disciplinary or adverse action and any letter of decision which they may forward to the Union at their option. The extra copy will be annotated "For AFGE Local 3247 or other designated representative."

#### Section 7. List of Employees

The Union will be furnished each April and October, a position organization listing or equivalent which covers all employees at the Center, including their names, grades and steps, position title, classification series, supervisor, and organizational units. It will contain information necessary to discriminate between "Post Doctoral" Research Associates, 1040 appointments, and whether a title such as "Microbiologist" or "Engineer" is a Category I or a Category III.

#### Section 8. Telephone Listing

The Employer agrees to publish the names, titles, locations, and work telephone numbers of Union officers and stewards on the front page of the Center's telephone directory.

Section 9. Report of Adverse and Disciplinary Actions

The Union will be provided annually, by the end of each January, with a depersonalized report of adverse actions and formal disciplinary actions (including Performance Improvement Plans) involving unit employees in the previous calendar year.

Section 10. Non-Union Representatives

In any matter covered by this agreement, when an employee chooses to be represented by other than a Union official, ARS agrees to notify the Union and allow them to be present at any meeting involving the resolution of the issue, subject to the Privacy Act.

Section 11. Participating in Demonstration Projects

In the event that the Agency is requested to participate in an OPM sponsored research or demonstration project under Chapter 47 of Title 5, USC, the Agency will:

A. Not approve any project involving bargaining unit employees if:

1. The project will violate this Agreement unless the Union has agreed to permit its inclusion, or
2. Until there has been consultation or negotiation, as appropriate, with the Union if the project is not covered by this Agreement.

B. Abide by 5 USC para 4703(e) if the OPM or the Agency determines that the project creates a substantial hardship on or is not in the best interest of the public, the Federal Government or employees.

# ARTICLE 5.

## SCOPE AND LEVEL OF CONSULTATIONS AND NEGOTIATIONS

### Section 1. Notice To Union

Before changing personnel policies or practices or matters affecting working conditions, ARS will notify the Union. Generally, this notice will be at least two weeks before the change is implemented. If the Union requests negotiations, the change will not be implemented until the negotiations are completed, unless there is an overriding exigency.

Procedures before the Federal Services Impasses Panel shall be considered as part of the negotiation process for this purpose. Therefore, if the Union provides written notice to ARS that it is requesting assistance from the Mediation Service or the Impasses Panel, implementation will be delayed in the absence of an overriding exigency.

### Section 2. Comments On New Policies

When the NCAUR has been provided the opportunity to make suggestions to higher level authorities concerning changes in working conditions of unit employees, the Union will be immediately notified and invited to comment. If the Union provides its views in writing, they will be transmitted with management's response. This applies to, but is not limited to, changes in pay, in hiring, retirement, leave, reduction-in-force, contracting out, reassignment with relocation, performance appraisal, and parking.

### Section 3. Negotiations on New Demonstration Projects

If a new demonstration project under 5 USC 4703 is approved for use at the Center, negotiations requested by either party will occur in accordance with appropriate law, regulation, and provisions of this agreement.

### Section 4. Criteria For Negotiations

The Parties will consider, among other things, in attempting to resolve all issues before them, the goals of promoting greater efficiency and high morale.

Section 5. Partnerships

The Parties agree to implement and maintain a labor-management partnership as described in Executive Order 12871, section 2. If anything in this Agreement conflicts with the Executive Order, the Order takes precedence.

## **ARTICLE 6. JOINT UNION-EMPLOYER COMMITTEE**

Section 1. Composition and Purpose

A joint Union-ARS Committee shall be established consisting of not more than four (4) members selected by the Union and an equal number selected by ARS. The Committee will meet as the need arises at the request of either party. The requesting party shall submit as far in advance of the meeting as possible the agenda to be discussed. The committee will consider and make, by mutual agreement of the Committee members, recommendations to the Center Director who will give due consideration to such recommendations. The Chair of the meeting will be the leader of the party requesting the meeting. Minutes of the meeting will be issued by the party requesting the meeting.

Section 2. Topics Considered

The purpose of holding joint Union-ARS Committee meetings shall be to give consideration to such matters as the interpretation and application of this Agreement; the interpretation and applicability of rules, regulations, and policies; the correction of conditions causing grievances and misunderstandings; the encouragement of good human relations in employer-employee relationships; the promotion of job related education and training; the improvement of working conditions; and the strengthening of morale; etc. The Committee shall not be limited to the above matters.

Section 3. Flexible Meeting Schedule

Nothing contained in this Agreement shall preclude the Employer and the Union from meeting as often as is mutually agreed to resolve emergency problems that may arise.

# ARTICLE 7. USE OF GOVERNMENT FACILITIES

## Section 1. Bulletin Boards

ARS will provide one bulletin board at least 20" by 30" on each floor. Each will be at a busy, easily accessible location in the administrative portion of the floor, except that the board already in the basement will remain by the cafeteria.

## Section 2. Union Office

The Union will be provided shared office space in the Center suitable for confidential interviews and communications, with a phone, a phone answering machine, several chairs and a desk. It will also have enough room for two or three locked filing cabinets and a closable door. The Union will have priority use of this room. The Union will be permitted to use up to three locked four or five drawer filing cabinets for the storage of Union records and materials.

One of the filing cabinets will be located in close proximity to the work location of the Union's President at the Center. The other two will be in the Union office at the Center. One two drawer locked file cabinet will be provided close to the desk of the Union Treasurer. One two drawer locked file cabinet will be provided close to the desk of the Union Secretary. Such filing cabinets will be provided by the Center at no cost to the Union.

## Section 3. Meeting Space

Upon request by an authorized Union representative, available Center space will be provided for Union meetings if the request has been made sufficiently in advance of the meeting and if the use of the space will not interfere with the normal operations of the Center.

## Section 4. Copying Equipment

The Union shall be provided use of copying equipment under the following conditions;

- (1) Such use does not interfere with normal working requirements,
  - (2) The cost of materials is reimbursed to the Employer by the Union;
- and

- (3) The material to be reproduced does not involve any campaign against a rival labor organization or a Government wide policy.

Section 5. Distributing this Contract

Each employee of the unit and each new employee of the unit will be furnished a full sized print copy of this Agreement. The miniature copies provided to employees in the past will no longer be distributed. Each Article shall start at the top of a new page. Twenty five (25) copies will be furnished to the Union. The cost of reproducing this Agreement shall be borne by the Employer.

Section 6. Requests for Regulations

The Center Director agrees to forward to the proper level, Union requests for regulatory information not available at the Center. FPM, OPM, USDA, and ARS Personnel Information which is distributed to the Center shall be available for review by unit employees and a copy provided to the Union.

Section 7. Internal Mail

The interoffice mail delivery system shall be made available for distribution of Union literature provided such use shall not interfere with official business and/or work requirements.

Section 8. Telephone System and Facsimile Machines

The Union will have use of Center telephones including the Federal Telecommunication System (FTS) and fax equipment for official Union business and representational activities including coordinating with and seeking advice from the AFGE District and National offices.

# **ARTICLE 8.    USE OF OFFICIAL TIME**

## **Section 1. Amount**

In accordance with 5 USC 7131, Union representatives shall be allowed a reasonable amount of official time, if otherwise in a duty status, to carry out their representational activities.

## **Section 2. Travel and Meetings**

- A. Official time will be granted for one Union representative at a time to appear before the Federal Labor Relations Authority, the Merit Systems Protection Board, the Federal Services Impasses Panel, or the Federal Equal Employment Opportunity Commission, if designated by an ARS appellant or complainant as the personal representative. If not at the Center, the Agency will pay for travel and per diem for one Union official at a time, as permitted by law and regulations.
- B. Unit employees who wish to leave their work station to confer with union officials at the Center will be permitted to do so for brief periods, not to exceed one hour. They must obtain the approval of their supervisor before leaving the work station.

## **Section 3. Union Sponsored Training**

The Employer agrees to allow up to four (4) unit employee Union representatives per trip official time to attend Union sponsored training sessions. The total amount of time for all such trips will be limited to a maximum of 160 hours per year.

## **Section 4. Internal Union Business**

As provided by 5 USC 7131(b), "Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a nonduty status."

Section 5. Appropriate Activities

The use of duty time will be permitted for, but not limited to, the performance of the following representational functions:

- A. Discussing grievances and appeals, discrimination complaints or matters affecting general working conditions with employees;
- B. Preparing (including making inquiries) and presenting grievances, appeals, or discrimination complaints;
- C. Attending meetings with supervisors and other management officials;
- D. Considering and preparing responses to proposed employer directives when the Union has been specifically requested to do so by the employer.
- E. Attending meetings necessary to the collective bargaining or the representational process;
- F. Considering and preparing Union proposals to Management; and
- G. Giving or receiving in-house Union training concerning labor-management topics.

Section 6. Meetings With Union Representatives

With prior supervisory approval and subject to workload needs, unit employees will be granted reasonable duty time, if otherwise in a duty status, to confer with designated Union representatives concerning personnel practices, working conditions or grievances.

# ARTICLE 9. TRAINING

## Section 1. Considering Employee Desires

The Employer and the Union acknowledge the importance of training and employee development to the accomplishment of the mission of the Center. The Employer will consider the desires of unit employees and the benefit to the Government when planning and scheduling employee training.

## Section 2. Considering Needs Identified by the Union

The Union may, at any time, bring to the attention of the appropriate Center officials such training needs as it deems necessary for the safe and efficient performance of the duties of employees. These officials agree to give serious consideration to recommendations of the Union. The Employer and the Union agree that general and specific training needs of mutual concern will be discussed at meetings of the Joint Union-Employer Committee.

## Section 3. Annual Report

The Employer will provide the Union with an annual report of unit employee training. Available funds permitting, subject to workload, ARS will conduct training for employees when specific training needs have been identified and/or agreed upon by management.

## Section 4. Retraining

The Employer agrees, where vacancies exist, to first consider to retrain employees whose jobs are abolished or absorbed into other positions because of lack of money, transfer of function, contracting out, technological changes or procedural changes.

## Section 5. Career Enhancement

- A. The Employer agrees to consider implementation of career enhancement plans as provided in current ARS directives.
- B. When an employee has reached the top of a career ladder, they are, upon request, entitled to a reasonable amount of counselling from both their supervisor and an administrative employee on how to advance their career.

## Section 6. Yearly Training

ARS agrees to provide formal training during duty time at least yearly or as significant changes occur to educate employees about personnel issues in the federal system.

#### Section 7. Reimbursement

It is agreed that reimbursement shall be given for the payment of tuition, books, and fees for a class or classes identified on an approved Individual Development Plan. ARS reserves the right to determine the time, location, and provider of training.

#### Section 8. Learning About This Contract

- A. Once, within six months of the effective date of this Agreement, each unit employee will be provided with approximately two hours of training regarding this Agreement. The Union representatives giving the presentation and the employees attending the presentation will receive official time to attend if otherwise in a duty status. A representative from the AFGE district or national office may attend and participate.
- B. All new employees will be identified to the Union by the agency. Employees are entitled to a maximum of 30 minutes of official time with a union representative following the completion of their first year of employment.

#### Section 9. Training Others

If technicians are required to train other employees on a regular and recurring basis, the training task will be listed as a specific duty in the job description of the employee.

#### Section 10. Recording Instructions

Employees may at their option record on paper any oral instructions they receive. They may also make one copy of the instruction and submit it to the supervisor for verification and initialing by the supervisor.

#### Section 11. How Work Fits Into The Big Picture

All employees will be kept informed of the "Big Picture," that is, where their work fits into the research unit and what are the plans and goals of the research unit. If the employee performs only one or more steps of a multistep procedure, the employee has the right to be informed where their work fits into the entire procedure.

## Section 12. Cross Training

ARS will give serious consideration to every employee request for cross training on the special equipment in their research unit. Denials will be explained in writing.

## Section 13. Learning About Performance Appraisals

All supervisors of one or more employees will receive training about the application of the Performance Appraisal System to the employees. Supervisors should complete this training prior to rating their subordinates. When a delay of the rating may have a negative impact on the employee, a properly trained reviewing official will assist the untrained supervisor.

## Section 14. Training for Union Officials

- A. The Agency agrees that Labor-Management Relations training is of mutual benefit to all parties when it covers areas such as contract administration, grievance handling, and information relating to Federal personnel/labor relations laws, regulations, and procedures.
- B. The Union will be allowed up to 40 hours of official time during the first year of this Agreement to prepare training programs for its officers and stewards. In subsequent years of the contract the Union will be allowed up to 32 hours to prepare training programs for its officials.
- C. New Union officials will each be allowed up to 40 hours of official time during their first year in office to attend these programs. After their first year in office, Union officials will each be allowed up to 24 hours for training.

# ARTICLE 10.

## PERFORMANCE APPRAISAL SYSTEM

### Section 1. General

- A. The performance appraisal system (PAS) will be administered in a fair, reasonable, and equitable manner to promote the research mission of the agency and to permit accurate evaluation of job performance. The elements and standards included in each performance plan form the basis upon which the employee's work performance will be measured.
- B. Employees will be rated by individuals who have knowledge of the employee's elements and standards and are personally knowledgeable of the employee's job performance.
- C. Reviewers of performance plans shall consist of individuals who have knowledge of the employee's elements and standards and possess the background and training to understand the position and the work performed.
- D. Union officials who are granted official time for representational activities under Article 3 (Union Rights) will not be penalized in their performance appraisals for such use of official time, and will be evaluated on the time available to perform their duties.

### Section 2. Creating Performance Plans

The Parties recognize that it is the supervisor's responsibility to establish performance plans which comply with applicable laws and regulations.

- A. Within 30 days after the agreement goes into effect an ad hoc committee will be established to develop model performance plans for unit employees. The committee will be composed of a first or second level supervisor, an administrative employee, a lab technician and a union official. These plans, along with other agency requirements, will be given serious consideration by supervisors when developing individual plans for each position, including making a determination on the number of levels for each element in an employee's plan.

After the Agreement has been in effect for one year, either Party may unilaterally invoke renegotiation of this Article.

- B. Within 21 days after the beginning of the appraisal year, employees will receive a copy of their tentative performance plan which will set forth specific elements and standards. The employee will have seven days to furnish their comments to the supervisor.
- C. The supervisor will give careful consideration to the employee's input. In a timely manner the supervisor should arrange to meet with the employee and explain the plan. If the supervisor does not incorporate all of the employee's suggestions they will explain why. Employees will sign the performance plan to acknowledge receipt and discussion with the supervisor. The signature does not indicate that the employee agrees with the supervisor. Employees are encouraged to ask questions about their plans at any time during the year. If the employee does not understand any aspect of their plan or how it is to be implemented, they are responsible for notifying the supervisor as soon as possible. Supervisors will provide timely and clear responses. At the initial meeting the supervisor and employee may discuss opportunities for the employee to obtain the knowledges and skills necessary to attain the known promotion potential of the position. The supervisor and the employee will establish an Individual Development Plan (IDP) to help the employee better perform required ARS duties and progress toward job-related individual career goals.
- D. Employees who are hired or reassigned to new positions during the performance year will follow the same procedures described above after assuming their new duties. If the nature or priorities of employee's duties and responsibilities changes significantly, the performance plan should be revised. The supervisor should provide the employee with a written record of such changes.
- E. The critical element(s) identified on an employee's performance plan will normally be reflected in an adequately described position description. The Parties are reminded that the law requires that the critical element(s) should cover the major duties and responsibilities of the position.
- F. Employees must be covered by a written performance plan for an appropriate period of time before a rating of record can be completed. Close-out ratings will be conducted when an employee is reassigned to a new position, or when the employee's supervisor changes, provided the performance plan was in effect for an appropriate period of time.

- G. Every employee will receive a performance evaluation at least every 15 months. Employees who do not receive a new rating within 12 months after their last rating should notify their supervisor within 30 days after the 12 month period ends.

Section 3. How To Exceed Fully Successful

Performance standards for each FLSA non-exempt employee should be written in such a way that the employee will reasonably be able to see how to achieve an "exceeds" in each element. It is the responsibility of the employee and the supervisor to work together to achieve this. However, the supervisor shall have the final authority to determine the substance of the elements and standards. It will be possible to achieve an "exceeds" in all elements.

Section 4. Resolving Disagreements On Performance Plans

- A. In the event that a unit employee and the supervisor disagree over the employee's performance elements and standards, the employee may request a meeting with the next level supervisor. This meeting will be held on a timely basis, and upon the request of the employee, a Union representative may be present. The purpose of the meeting is to attempt to resolve any differences of opinion regarding the content of the employee's performance elements or standards.
- B. If the parties cannot agree, the employee may omit the informal stage and file a formal grievance over the procedures used to establish the elements or standards.

Section 5. Midterm Review

There will be a midterm progress review for each bargaining unit employee. The review should consist of a face-to-face meeting to exchange information concerning the performance of the employee as compared to the established performance plan. The employee will be advised in writing of the level of performance which the employee has demonstrated in each element since the initial meeting. If a supervisor is aware of deficiencies, the supervisor will document such deficiencies and notify the employee at the time of the meeting. The employee will be given an opportunity to provide to the supervisor written evidence or reasons for the employee's performance, or for any disagreement the employee may have with the supervisor's feedback. Employees are encouraged to bring to the attention of the supervisor information which bears on the employee's performance.

Section 6.      Using the Plan

- A. The parties recognize that there is an important duty to accomplish the mission of the agency in an effective and efficient manner, and to encourage employees to perform to the best of their ability. They also recognize that individual work performance varies on a daily basis. Supervisors are responsible for being aware of their employees' work throughout the performance year. Supervisors are encouraged to act informally, when appropriate, at an early stage to correct any decline and avoid the need to take formal action. If there is reason to believe that the decline is caused, or made worse, by a personal problem, employees should be reminded of the Employee Assistance Program (EAP). Employees are entitled to reasonable accommodation within the meaning of the EEO statute.
- B. Supervisors should provide regular informal feedback to their employees about their performance. This feedback should tell the employee how their performance is measuring up to the performance plan. If a performance standard is based in whole or in part on timeliness, due dates should be clearly established as work is assigned. If a standard is based in whole or in part on an error rate, records of performance should include data which summarizes and includes specific examples of such errors.
- C. Employees cannot be required to perform at a level higher than fully successful. With this in mind, if a supervisor observes a steady, consistent decline in performance in one or more elements which is likely to affect the summary rating, but the level of performance in the element remains at least fully successful, the supervisor will promptly meet with the employee to discuss their performance in that element. Because higher level performance is voluntary, only if the employee requests help will the supervisor assist the employee in correcting the decline. Examples of the type of corrective action contemplated are counselling, closer supervision and training. Other appropriate measures may be taken.
- D. If at any time during the performance year an employee demonstrates a recognizable and significant downward trend in performance towards below fully successful, the supervisor will intervene as quickly as possible. The employee will be counselled about specific deficiencies and performance standards, so that they are aware of what is expected at the fully successful level. Such counseling will identify the performance element(s) involved, the instances of performance supporting the deficiency, what performance is necessary to correct the deficiency, and what assistance will be provided

to the employee to maintain their performance at the fully successful level. A record of counselling will be provided to the employee.

Section 7. Rating Employees

- A. During the summary performance rating, rating officials will only consider work actually assigned or performed with their prior approval. Employees will receive a summary rating for the appraisal year, along with a written explanation of the basis of the summary rating.
- B. Management recognizes that performance appraisals should be fair and adequately documented. In cases where the employee disagrees with their supervisor concerning the rating level received on any element, ARS bears the burden of proof for each and every element appraised below the Meets Fully Successful level. However, the employee must bear the burden of proof if they assert that their performance in any element is above the Meets Fully Successful level. ARS will provide a reasonable amount of official time to the employee to gather information and prepare the case.
- C. If a decrease in performance is alleged during the performance year, upon written request, the employee will be provided with the documentation establishing the decrease. The supervisor will show such documentation to the employee prior to the issuance of a performance appraisal which is based in whole or in part on that documentation.
- D. Performance evaluations shall take into account all job functions the employee is expected to perform and the actual amount of time available (or not available) to perform those functions. Factors to be considered shall include, but are not limited to training, official time, and other duties as assigned.
- E. Performance evaluations should accurately reflect an employee's actual performance as related to the elements and standards. When rating an employee, the rating official shall consider factors beyond the employee's control.

Section 8. Deficient Performance

- A. In accordance with the Code of Federal Regulations, ARS will first give serious consideration to options other than removal if any employee fails to demonstrate fully successful performance during or shortly after a PIP. Examples of such options are "last chance" agreements, reassignments, retirement and reductions in grade. When ARS proposes to take corrective action based on a unit employee's performance, such as a denial of a within-grade increase, reassignment,

reduction in grade or removal, a discussion will be held between the supervisor and the employee. A PIP is not a corrective personnel action for this purpose.

1. An employee may be represented by the Union during the discussions and any future meetings.
2. The supervisor will inform the employee of their right to Union representation.
3. the performance standards and other performance related documentation will be available for review at the meeting.

B. PIPs will be prepared to document in writing:

- the specific critical elements in which the employee's performance is deficient;
- the types of improvements the employee must attain in order to improve performance to the Meets Fully Successful level;
- the assistance to be provided to the employee in improving their performance;
- a period of time appropriate to the circumstances which the employee will be given to improve performance;
- the personnel actions which could be taken if performance does not improve.

Management has the burden of showing that the length of the PIP period is appropriate. Performance results will be documented at the conclusion of the improvement period on a summary rating form supported by an explanation of how the employee's performance during the improvement period compared to the Fully Successful standard in the elements identified in the PIP.

C. Upon satisfactory completion of a PIP, a new performance appraisal will be issued and will become the rating of record.

# ARTICLE 11. Merit Promotion

## Section 1. Policy

ARS recognizes that its most valuable resource is its employees. It is the policy of ARS to make the highest and best use of these employees. In order to achieve this policy, ARS will make the maximum use of the following staffing sources: the competitive promotion process; upward mobility programs; reemployment priority lists; handicapped individuals; Veterans Readjustment eligibles; and employees who have been previously demoted, transferred, reduced-in-force, or reassigned. Wishes of the affected employees will be considered in these types of actions.

## Section 2. Announcing Vacancies

All permanent full-time GS positions which are to be filled within ARS by merit promotion procedures, for which bargaining unit employees are eligible, will be announced on bulletin boards for a period of ten (10) workdays when possible prior to the closing date to give employees an opportunity to apply for the position. When not possible, merit promotion announcements will be posted when received in the Center personnel office.

## Section 3. Future Vacancies

Unit employees may apply for a promotion or lateral transfer in advance of the vacancy occurring or at any time the vacancy actually exists.

## Section 4. Career Counseling

ARS and the Union agree that career counseling is an important part of employee development. As a part of the counseling, supervisors and employees should review opportunities for training, higher-level positions, and requirements of higher-level positions.

## Section 5. Actions Not Subject To Competition

The Parties recognize that the Office of Personnel Management has excepted the following types of reassignments and promotions from competition:

- A. A promotion resulting from the upgrading of an employee's position due to the unplanned accretion of additional duties and responsibilities or due to the issuance of a new classification standard or the correction of an initial classification error.
- B. Career promotion of an employee when at an earlier stage the employee was selected from a certificate of eligibles or under competitive promotion procedures for an assignment intended to prepare the employee for the position being filled.
- C. A position change from a position having known potential to a position having no higher potential.
- D. Repromotion to a grade or position from which the employee was demoted without personal cause or at the employee's request.

Section 6. Promotion Records

Promotion actions will be documented and records maintained. Subject to the limitations of the Privacy Act, the Union shall have the right to review pertinent promotion records such as the promotion certification and methods and procedures for evaluation and ranking candidates in order to determine that the selection was made from a group of properly ranked and certified candidates.

Section 7. Accreting New Duties

If there is a reasonable basis for believing that a position has accreted new duties which are at a higher grade than currently allowed, the supervisor will update the position description in a timely manner. The updated position description will be referred for appropriate classification action.

Section 8. Technicians and Category III Scientists

ARS will supply the Union with a written policy statement or directive regarding the promotion of Technicians and Category III Scientists above the GS-09 and 10 levels. Changes to said policy will be conveyed to the Union prior to implementation.

# ARTICLE 12. Tour of Duty

## Section 1. Comply with Directive

The use of maxiflex will follow Directive 402.2 (9-28-90). Any employee who is denied the requested schedule will be given a signed explanation in writing.

## Section 2. Maxiflex

Unit employees will have the option to work on a maxiflex schedule, subject to workload requirements determined by the supervisor. The flexitime or gliding time is that part of the maxiflex schedule of working hours during which employees may vary their time of arrival and departure from their work site on a daily basis without prior notification to the supervisor, within limits consistent with the duties and requirements of the position.

## Section 3. Absences

An absence during core or flexible time may be made up during other flexible time bands within the same biweekly pay period. If the time is not made up within the period of 6AM to 6PM Monday-Friday during the same biweekly pay period, accrued leave, compensatory time or credit hours must be used. If no such leave or credit hours are available then leave without pay will be used.

## Section 4. Master Schedules

- A. Subject to circumstances beyond their control, employees must submit their requested master schedule, if to be changed, not later than the close of business on the Thursday before the beginning of the next pay period.
- B. Employees will declare estimated starting and stopping times on the master schedules. However, employees will be allowed to flex on a daily basis.

## Section 5. Working During Nonduty Time

When an employee who is covered by FLSA is instructed to work, due to a compelling need, in time that had been approved on the master schedule to be nonduty time, the employee may choose compensatory time or overtime pay.

Section 6. Assigning Overtime

Overtime will be assigned first to qualified volunteers who will require little or no instruction to perform the duties in question. If more volunteers exist than are needed, the work will be rotated among them as it arises.

Section 7. Breaks

Employees will generally be allowed one fifteen minute break in the morning and a fifteen minute break in the afternoon.

**ARTICLE 13. Leave**

Section 1. When To Approve It

Annual leave will be approved by the supervisor consistent with his staffing and workload requirements. ARS agrees to make every reasonable effort to grant a unit employee annual leave when an unforeseen circumstance arises.

Section 2. Vacations

- A. The Parties agree that annual leave is an employee's right and not a privilege, and therefore ARS will endeavor to allow each unit employee an annual vacation period of two consecutive workweeks provided sufficient accrued annual leave is available and such a period of leave is requested far enough in advance to permit necessary arrangements of schedules for the continuation of the work. This section does not prohibit granting longer periods of leave.
- B. Any time it is determined by management that they are unable to give an employee the two consecutive weeks selected, they will furnish the employee the rationale along with the denial in writing.

Section 3. Documenting Sick Leave

- A. There is no requirement to provide health care provider verification for infrequent absences due to the personal illness of an employee which are for one week or less. However, employees shall submit signed and completed 71 forms for absences due to illness of 3 days or more.

- B. Absences in excess of one week must be supported by medical documentation. If a sick leave restriction letter has been issued, the supervisor will review the need for maintaining it at least every six months.

Section 4. Advances of Sick Leave

- A. When there is a reasonable expectation that an employee will return to duty despite serious illness or temporary disability, the employee shall upon request be advanced up to 240 hours of sick leave. The request must be supported by medical documentation which states that the employee is expected to return to work and remain long enough to earn the advanced leave. Employees on extended sick leave shall not be required to exhaust their annual leave before they are granted advance sick leave.
- B. Disputes over a supervisor's decision to grant or refuse advanced annual or sick leave will be processed in accordance with the negotiated grievance procedure.

Section 5. Family and Medical Leave

- A. Under the Family and Medical Leave Act (FMLA), employees who qualify are entitled to a total of 12 administrative work weeks each of unpaid leave during any 12 month period for:
- The birth or placement for adoption or foster care of a child; or
  - To care for the employee's seriously ill spouse, child or parent; or
  - Because of a serious health condition that make the employee unable to perform essential job functions.
- B. The periods of unpaid leave may be intermittent or as a reduced work schedule. There are no minimum requirements for daily or intermittent leave.
- C. Annual leave, sick leave (when permitted by law and regulations), donated leave, compensatory time, or credit hours may be substituted for all or part of the period of leave without pay.
- D. Employees who want to exercise this right must invoke their entitlement to leave under the FMLA. - When foreseeable, the employee must give at least thirty days notice. For unforeseen events, employees must give verbal notice as soon after as practicable. The employee may not be required to take the FLMA leave.

- E. The employee, upon return from the leave, is entitled to be returned to the same position or to an "equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment."
- F. If an employee is not fully recovered upon returning to work, the employee may request additional leave, including advanced annual or sick leave, donated leave, and additional leave without pay.

Section 6. Donating Leave

Employees will be allowed to donate leave to other employees in the Local 3247 Unit area in accordance with the leave donor program, as permitted by law and regulations. If the law is changed to allow donations of sick leave then donations of sick leave for this purpose will be allowed.

Section 7. Death In Family

In the event of the death of the parent (or in-laws), grandparent, sister, brother, child, or spouse of an employee, the employee will be allowed to take leave or leave without pay for up to two weeks. Additional time may be requested.

# ARTICLE 14.

## SAFETY AND HEALTH

Section 1. Cooperation

The Union and the Employer agree to cooperate in the furtherance of safety objectives and the enforcement of appropriate safety regulations and the rules promulgated by the Center Safety Committee. When the Employer is apprised of working conditions which the Union or employees consider to be unsafe, prompt action will be taken to investigate the situation and to apply appropriate remedies.

Section 2. Union Representative On Committees

The Employer agrees to allow a Union representative on the Center Biohazard Committee, Safety Committee and the Radiochemistry and Radiation Committee. The unit employees so designated shall not suffer loss of leave or pay while serving in such a capacity.

### Section 3.        New Equipment

The Employer agrees to purchase equipment necessary for employee safety as recommended by the Center Safety Committee. Such equipment may include items such as lab coats, protective clothing, shields and pipette bulbs and larger items which are required for especially hazardous operations. For those employees who work in laboratories, prescription laboratory safety eye glasses will be provided every three years if the employee's vision changes enough to warrant it. The Employer will give due consideration to employee comfort in the choice of safety equipment. The Union agrees to encourage the proper utilization of safety equipment.

### Section 4.        Spreading the Word

The Employer agrees to keep employees informed -- through the use of movies, posters, and/or appropriate methods -- of the emergency procedures regarding fire, release of toxic fumes, and on-the-job injury. Annually, ARS will offer CPR training to any interested employee on a volunteer basis. Such training will be paid by ARS and on official time.

### Section 5.        Assigning Alternate Duties

The Employer shall make every reasonable effort to assign an employee alternate duties when his/her request is supported by an acceptable medical certificate. This does not waive ARS's right to assign work.

### Section 6.        Advance Notice of Hazards

- A. Employees shall be advised in advance by their supervisor before they will be required to work with chemicals or organisms which have been determined and published by any Federal government agency to be carcinogens, teratogens, or otherwise harmful to health.
- B. When any employee is exposed to a health hazard, they will be immediately included in the health screening program. They will be informed of their right to medical screening and their right to participate or refuse any part of it.

### Section 7.        Notice of Unsafe Conditions

The Employer will immediately inform the Union and all affected employees when an unsafe situation arises.

Section 8. Screening Programs

- A. The Employer agrees to provide health services designed to detect and eliminate job-related health hazards. Information about individuals which is collected and stored under this program is covered by the Privacy Act. Only employees and management officials with an official need to know will have access to this information. Upon request, ARS will furnish any employee who participates in the program with a copy of their own test results.
- B. ARS also agrees to explore means of providing other health services such as flu shots, chest X-rays, glaucoma examinations, diabetes tests, and pap tests whenever possible. These health services will be offered either at no cost or at minimal cost to employees.

Section 9. Safety Inspections

The Employer will recommend that a Union representative accompany outside safety inspectors (e.g., OSHA) during their inspections of the Center. Said representative shall be on official time while serving in this capacity.

Section 10. Smoking

Smoking will be allowed, but only in designated areas which allow no secondary smoke to reach the other employees, subject to GSA regulations.

Section 11. EMF Radiation

ARS will conduct one survey of all Center work space for EMF levels. If U.S. standards are established for EMF, the Agency will comply.

Section 12. Avoiding Danger

As soon as an employee becomes aware that a hazardous situation or condition would create imminent danger in the course of performing an assignment, the employee should refrain from completing the assignment until they have discussed the problem with their supervisors. At any time the supervisor finds there is imminent danger, the employee will not be obligated to return to the assignment until the imminent danger is eliminated.

# ARTICLE 15. Equal Employment Opportunity

## Section 1. Law

The Parties recognize that 5 USC 2301(b)(2), provides that,

"All employees and applicants for employment should receive fair and equitable treatment in all respects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights."

The Employer agrees to continue an affirmative program of equal employment. The policy of equal opportunity will apply to and be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of employees.

## Section 2. Utilizing Employee Skills

The Union endorses the Center's policy on the utilization of present skills of employees including, but not limited to, the redesign of jobs where feasible and the opportunity for employees to enhance their skills through on the job training, work-study programs, and other appropriate training programs.

## Section 3. Data Provided to Union

ARS agrees to provide the Union annually with statistical data of formal discrimination complaints filed by unit employees.

# ARTICLE 16. Reduction in Force

## Section 1. Trying To Avoid Them

The Employer will make diligent effort to plan ahead in an effort to avoid any need for a reduction-in-force, and to consider other possible actions to minimize the need for RIF. If a RIF is unavoidable, ARS will make a diligent effort to minimize disruption and adverse effects on morale. Employees will be notified at least 60 days before any action affecting them is taken.

## Section 2. Notice To The Union

ARS will notify the Union at least 14 days before it notifies employees of a reduction in force. The notice will include at a minimum the organization(s) to be affected and the number of positions to be abolished. To the extent permitted by law, especially the Privacy Act, ARS will disclose to the Union the names and positions of employees who are to be reached for release. This information will be provided when the specific notice letters are issued. If the Union wishes to negotiate concerning the proposed action, it will notify the employer within three weeks of receiving the notice.

## Section 3. Topics To Be Negotiated

The Union shall be given the opportunity to negotiate the impact and implementation, within the Center, of training programs and priority placement programs established under Section 5364 (2) and (3) of the CSRA in accordance with provisions of this Agreement.

## Section 4. Information To Employees

Information concerning benefits available under Federal law and regulations will be provided to unit employees affected by Reduction in Force.

## Section 5. Placement

The Employer will make every reasonable effort to help place employees to be separated for no reason of their own (neither discipline nor performance) into appropriate jobs in other locations or in other Federal agencies.

# ARTICLE 17. Contracting Out

## Section 1. Request for Proposals

Where contracting out may reduce the grade level of, or eliminate, positions of unit employees, a copy of the Request for Proposals (including the Statement of Work) will be provided to the Union upon release to private industry. The Union will be given the opportunity to present its views and to make recommendations regarding the impact on affected unit employees.

## Section 2. Union Input

If the Union wishes to negotiate over the impact and implementation of a contracting out proposal, it must inform ARS within 14 days after being notified of the request for bids. The contract will not be implemented until negotiations are finished.

## Section 3. First Refusal

Any employee who has been displaced by contracting out under A-76 is entitled to the right of "first refusal". This means that the contractor must first offer each comparable position to the former federal employee who occupied it immediately before it was contracted out. ARS will provide further details about these rights to employees who are displaced as a result of the A-76 process.

# ARTICLE 18. Grievance Procedure

## Section 1. Purpose

The purpose of this Article is to provide a fair and mutually acceptable method for the settlement of grievances within the scope of this Article (Section 2 below). This negotiated procedure shall be the exclusive procedure available to the parties and employees in the unit for resolving such grievances. As required by 5 U.S.C. 7121(b) (3):

- A. This procedure is available for use by the exclusive representative in its own behalf or on behalf of any employee in the unit;
- B. Employees may present grievances on their own behalf, although the Union has the right to be present during the grievance proceeding; and
- C. Any grievance not satisfactorily settled under this grievance procedure may be taken to binding arbitration under the Arbitration Article by either the Union or management.

## Section 2. Coverage

Matters covered by this procedure shall include all matters not excluded by law or agreement of the parties under section 3.

## Section 3. Exclusions

This procedure shall not apply to any grievance concerning:

- A. Any claimed violation of subchapter III of Chapter 73 of Title 5 U.S.C. (relating to prohibited political activities).
- B. Retirement, life insurance, or health insurance.
- C. A suspension or removal under Section 7532 of Title 5 U.S.C. (National Security).
- D. Any examination, certification, or appointment.
- E. The classification of any position that does not result in the reduction in grade or pay of the employee.
- F. The content of published Agency regulations or policy.

- G. Nonselection for promotion from a group of properly ranked and certified candidates.
- H. A preliminary warning of an action which, if effected, would be covered under the grievance system.
- I. An action which terminates a temporary promotion within a maximum period of two (2) years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.
- J. Grievances for which the desired relief would constitute a change to established policies and practices or other matters affecting conditions and practices or other matters affecting conditions of employment in the unit. These matters would be subject to negotiations between the Agency and the Union.
- K. Any other matter for which the desired relief may be obtained through the established rules and regulations of the Federal Labor Relations Authority or the Federal Services Impasses Panel.

#### Section 4. Choices For Grievants

Employees may grieve matters covered by 5 U.S.C., Sections 2302(b)(1) (discrimination), 4303 (actions based on unacceptable performance), and 7512 (adverse actions) under this procedure or under the statutory procedure, but not under both. For matters covered by Section 2302(b)(1), an employee will have exercised the option upon timely initiating an action under the applicable statutory procedure or timely filing a written grievance at the appropriate level of this procedure, whichever occurs first. In regard to Sections 4303 and 7512, an employee will have exercised the option upon timely filing of an appeal under the statutory procedure, or timely filing of a written grievance at the appropriate level of this procedure, whichever occurs first.

#### Section 5. Not An Unfavorable Action

The filing of a grievance will not reflect unfavorably on the employee's conduct or performance.

#### Section 6. Official Time

Employees will be allowed a reasonable amount of official time to present grievances to their Union representative and to Center management. Likewise, designated Union representatives will be allowed a reasonable amount of official time to receive, investigate, and present grievances of unit employees to management in accordance with the provisions of this Article.

Section 7.      Procedure

Procedure for grievances over the interpretation and application of this Agreement over matters within the discretion of the Center Director:

Step 1:      Immediate Supervisor      An aggrieved employee is required to seek informal resolution of the grievance with the immediate supervisor within thirty (30) days of the event or their knowledge of the event giving rise to the grievance. The employee may request that a Union representative be present to discuss the matter with the supervisor.

Step 2:      Second Level Supervisor      If no satisfactory settlement is reached within fourteen (14) days, the employee and the representative shall have fourteen days in which to reduce the grievance to writing and present it to the next higher level of supervision who will discuss the grievance with the party (parties) and/or resolve the grievance informally if mutually agreeable. If no satisfactory settlement is reached, a written determination on the grievance will be issued within 14 days of receipt of the written grievance. If there is no second line supervisor, proceed to Step 3. If an employee presents a grievance, the Union will be informed and may have an observer present during the proceedings.

Step 3:      Center Director - Within 14 days of the employee's receipt of the written decision of the STEP 2 supervisor, the employee or the Union may refer the grievance to the Center Director, providing the information contained in STEP 2. The Center Director may take any actions necessary to acquire additional information and/or to resolve the grievance informally, including consultation with appropriate officials. The Parties will meet to discuss and attempt to resolve the grievance. If they are unable to resolve the matter they will consider requesting the assistance of an FMCS mediator. The mediator will be requested only if the Parties agree that there is a viable chance of success with their assistance. If no satisfactory settlement is reached within 14 days of the request for review by the Center Director or completion of the mediation session, the Center Director will issue a written decision.

Section 8.      Area Director

Procedure for grievances beyond the authority of the Center Director but within the authority of the Area Director (AD).

- A. Within 60 days from the date of the event (or knowledge thereof) giving rise to the grievance, an employee (or designated Union representative) may file a written grievance to the AD.
- B. The AD will have 45 days from the date of receipt of the grievance to make appropriate inquiries and issue a written decision.
- C. If the decision is unsatisfactory, the Union or employee will have 21 days to submit the written grievance to the Administrator of the Agricultural Research Service (ARS).
- D. The ARS Administrator will have 45 days to prepare the final decision.
- E. If the matter is not resolved the next step is to request formal arbitration.

Section 9. Administrator

Procedure for grievances beyond the authority of the AD but within the authority of the Administrator, ARS.

- A. Within 60 days of the event (or knowledge thereof) giving rise to the grievance, or within 60 days from the effective date of any disciplinary action, an employee (or designated Union representative) may file a written grievance to the Administrator, ARS.
- B. The Administrator will be allowed 60 days from the date of receipt of the grievance to make appropriate inquiries and to issue a written decision. If the matter is not resolved that next step is arbitration.

Section 10. Structure of a Grievance

At a minimum, grievances required to be in writing shall contain:

- A. The employee's name, title, and work location.
- B. The nature of the grievance, including the available details, as well as rules or regulations applicable to or affecting the grievance.
- C. Whether the employee is represented by the Union and, if so, the name of the representative.
- D. The desired relief.

New facts may be introduced to grievances at any time prior to arbitration. New allegations may be introduced through and including Step 2 of the process.

Section 11. Inquiries by Union

In the event that an employee asks the Union for help, and the Union must conduct an inquiry, all ARS managers and supervisors at the Center will cooperate with the Union by providing all requested information to the extent permitted by the Privacy Act. The Union Representative will be allowed to question employees and supervisors on official time, subject to the article in this agreement which controls union rights.

## ARTICLE 19. ARBITRATION

Section 1. Either Party May Invoke

If the Parties are unable to resolve the grievance upon completing the procedures in Article 18, either Party, i.e., the Union or ARS, may refer the grievance to arbitration. The procedures for arbitration shall be as follows:

- A. Within 60 days after any final decision is received, either party may prepare a request to Federal Mediation and Conciliation Service (FMCS) to submit a list of seven (7) qualified arbitrators to the Parties. A copy of the request will be provided to the other Party at the time of mailing to FMCS. Within 20 days after receipt of the list, the Parties will meet (telephone is OK) and select one arbitrator from the list either by mutual agreement or by alternatively striking names.
- B. Prior to transmitting the grievance to the arbitrator, the Parties will prepare a written statement of the specific issues to be submitted to arbitration. If the Parties fail to agree on the issues, each may submit a separate statement, and then the arbitrator will decide what are the issues directly involved in the grievance. The award shall be limited to the issues directly related to the grievance.
- C. The arbitrator shall be the sole judge of the procedures to be followed in the hearing and deciding of the grievance. Agency employees who are called to testify as witnesses at a hearing shall suffer no loss of pay if they are otherwise in an active duty status.

- D. The decision of the arbitrator is binding except that either party may appeal the award to the Federal Labor Relations Authority in accordance with the regulations prescribed by the Authority. The appealing party will notify the other party of such an appeal.
- E. Either party may contact the arbitrator for clarification of the decision.

Section 2. Grievability

Questions involving grievability or arbitrability must be raised under this procedure (See Section 1). Where a question of grievability/arbitrability is raised in connection with a grievance, the two matters may be forwarded to an arbitrator for simultaneous hearing. The arbitrator will render separate decisions on the two matters and transmit both decisions to the parties. The arbitrator's decision regarding the grievance will be held in abeyance while the Employer and the Union are permitted to appeal the arbitrator's decision regarding the grievability/arbitrability to the Federal Labor Relations Authority. If an appeal is filed, any implementation of the arbitrator's grievance award will be in accordance with the decision of the FLRA.

Section 3. Transcripts

If either party requests a verbatim transcript in matters covered under sections 2301(b)(1), 4303 or 7512 of 5 U.S. Code, the cost of the court reporter and the official transcript will be paid by the requesting party. Except by mutual consent, verbatim transcripts will not be made of arbitration hearings over other matters. Either party may by mutual consent use audio equipment to record the proceedings at their own expense and a courtesy copy will be given to the other party.

# ARTICLE 20. Allotment of Dues

## Section 1. Payroll Withholding

The allotment of dues to the Union through payroll withholding, for members of the representation unit, shall be processed in accordance with procedures set forth in the current Memorandum of Understanding between the U.S. Department of Agriculture and the American Federation of Government Employees, AFL-CIO, dated 6/22/79.

## Section 2. Posting Information

The Employer agrees to post and maintain on appropriate bulletin boards a copy of the current Memorandum of Understanding between the U.S. Department of Agriculture and AFGE as well as any Agency regulations pertinent to the initiation or cancellation of dues deduction allotments.

## Section 3. Allotment

ARS will request that the National Finance Center deduct union dues from the pay of those employees who request it in the amount indicated by the Union. The Union may change the amount withheld not more often than once each year.

# ARTICLE 21. Effective Date and Term of This Agreement and Amendments

## Section 1. Effective Date

The effective date of this Agreement and any supplement or amendment thereto shall be the date of its approval by the Director of Personnel, U.S. Department of Agriculture, or as directed by the Federal Service Impasses Panel. Any Agreement not approved or referred to the parties for further negotiation by the 30th day after execution by the parties shall become effective on the 31st day.

## Section 2. Duration

The duration of this Agreement shall be for a period of three (3) years from the date of its approval. Either party may give written notice to the other not more than one hundred and five (105) nor less than sixty (60) days prior to the three (3)-year expiration date for the purpose of renegotiating this Agreement. The specific changes proposed shall be included in the written notice. Upon such notice, negotiations shall commence not later than 30 days prior to the expiration date, except by mutual consent. The contract shall be automatically extended until a new agreement is in effect. If neither party serves notice to renegotiate this Agreement, the Agreement shall be automatically renewed for one-year periods subject to the other provisions of this Article. Negotiation of a new Agreement may begin at any mutually agreed upon time during the extensions of the Agreement.

## Section 3. Issues Declared Nonnegotiable

- A. This Contract Reopener will be utilized for negotiation on those issues declared nonnegotiable by ARS in the following circumstances:
1. ARS or the head of the Agency withdraws their claim of nonnegotiability (Section 2424.5, (1) FLRA Rules); or
  2. The FLRA declares the issue negotiable (Section 2424.8, FLRA Rules).
- B. Negotiation shall commence within 30 days of a decision in (1) or (2) above. Negotiations shall be conducted under the ground rules used for negotiating this contract. Agreement reached will be included as part of this contract and will have the same duration.
- C. The above procedure does not preclude the parties from

revising the proposals to overcome questions of nonnegotiability.

Section 4. Amendments

- A. The Parties may effect amendments to this Agreement during its term if such action is necessary to implement legal or regulatory changes. The specific changes proposed shall be attached to the proposal. If any provision of this contract shall be held invalid by legislative act or court decision, the remainder of this contract shall not be affected thereby.
  
- B. Any changes in conditions of employment, regardless of cause, shall be grounds for negotiations between the Agency and the Union.

# ENDORSEMENTS

For the Agricultural  
Research Service:

Arthur S. Rosenzweig  
Arthur S. Rosenzweig  
Chief Negotiator

Pat Jackson  
Pat Jackson  
Team Member

Timothy L. Mounts  
Timothy L. Mounts  
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Marvin O. Bagby  
Marvin O. Bagby  
Team Member

For the Union:

John H. Salch  
John H. Salch  
Chief Negotiator

Bruno Mannarelli  
Bruno Mannarelli  
Team Member

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Della McKnight  
Team Member

Lynne Kopes  
Lynne Kopes  
Team Member

James Johnson  
James Johnson  
Team Member

July 25, 1994

Approved by the Director of Personnel, U.S. Department of  
Agriculture, and effective August   , 1994

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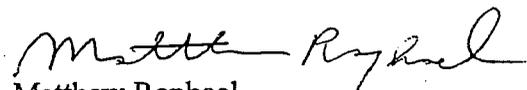
APR 21 1997

**SUBJECT:** Approval of Memorandum of Understanding Between the National Center for Agricultural Utilization Research and the American Federation of Government Employees, Local 3247

**TO:** Peter E. Themelis  
Labor Relations Officer  
Agricultural Research Service

The subject Memorandum of Understanding (MOU) has been reviewed. The MOU has been found to conform with applicable laws, rules, and regulations. Therefore, the MOU is approved and is effective as of the date of this memorandum.

Please provide four copies of the MOU to this office when it has been printed in final form.

  
Matthew Raphael  
Program Manager  
Labor Relations

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
AFGE LOCAL 3247  
AND  
NATIONAL CENTER FOR AGRICULTURAL  
UTILIZATION RESEARCH

The parties agree that Directive 402.1, Maxiflex Tour of Duty Plans for ARS, dated January 27, 1995, will become Article 12, Tours of Duty, as contained in the current Negotiated Agreement dated July 25, 1994. The following shall apply with respect to the implementation of the Directive.

**Section 1.** Employees may submit a proposed work schedule to their supervisor for approval. The supervisor will review the proposed work schedule and approve it unless there is a bonafide conflict with the employees work assignment. After a work schedule is approved, the supervisor may alter it based on work requirements, but should provide reasonable notification of the change to the employee when it is possible. If the employees work schedule is altered by the supervisor, the employee shall not be required to work more than 8 hours a day, 5 days a week without being paid overtime.

**Section 2.** The agreed upon work schedule may be recorded by the supervisor and the employee. Employees may use annual or credit leave for approved absences. It is understood that credit leave exceeding 24 hours will not be carried over to the next pay period. The Center will normally be open 6 a.m. to 6 p.m. Monday through Friday. There will be no established core times.

**Section 3.** Employees will notify the appropriate person of any deviation from the agreed work schedule by more than one hour. Supervisors will not require that employees keep track of the beginning and ending time of each day's work unless there is a reasonable concern regarding the employee's adherence to the work schedule or performance.

**Section 4.** This Memorandum of Understanding superceeds Directive 402.3, Premium Pay, dated May 26, 1992, for purposes of premium pay.

**Section 5.** It is recognized that exempt employees, who are in transit, are only credited with base pay during regularly scheduled working hours for travel purposes.

Non-exempt employees, who are in transit, will be credited with base pay during regularly scheduled working hours for travel purposes. In addition, overtime or compensatory time, as appropriate, will be paid for travel outside their regularly scheduled working hours.

Non-exempt employees who travel on a non-work day will receive overtime or compensatory time, as appropriate, only during the hours which correspond with their regularly scheduled hours.

**Section 6.**

This Memorandum of Understanding constitutes the Parties total understanding with respect to the implementation of Directive 402.1. This agreement will remain in full force until such time as the parties current agreement expires and there is a legitimate request to renegotiate a new agreement. At that time each party may propose changes to the implementation language. Any and all changes to this MOU will become part of the new Negotiated Agreement

**FOR THE AGENCY**

**FOR THE UNION**

Peter E. Themelis 4/30/97  
Peter E. Themelis                      Date  
Labor Relations Officer  
ARS

Bruno Mannarelli 4/24/97  
Bruno Mannarelli                      Date  
President  
AFGE LOCAL 3247

Approved by the Director of Personnel, USDA, and effective on 4/21/97

# DIRECTIVE

# 402.1

<b>ORIGINATING OFFICE:</b> Personnel Division	<b>SUBJECT:</b> Maxiflex Tour of Duty Plans for ARS
<b>DISTRIBUTION:</b> All Employees	

Remove 402.1, 2/4/91; and 402.2, 9/28/90

## A REFERENCES

- 1 For overtime, Sunday pay, and night differential, see DIRECTIVE 402.3.
- 2 For leave administration, see DIRECTIVE 402.6.
- 3 For guidance on transaction codes and completion of the ARS-331 form, see T&A Reporting, Chapter 21, Title I of NFC Procedures.
- 4 For hazardous weather procedures, see DIRECTIVES 402.8 and 402.9.
- 5 For guidance on training procedures, see DIRECTIVE 440.3.
- 6 For delegations of travel authority, see DIRECTIVE 340.0.

## B SUMMARY

This DIRECTIVE:

- 1 Defines the ARS policy.
- 2 Assigns responsibilities.
- 3 Describes the impact of maxiflex on premium pay, leave, and travel.

## C ABBREVIATIONS

ARS - Agricultural Research Service  
CFR - Code of Federal Regulations  
FEPA - Federal Employee Pay Act  
FLSA - Fair Labor Standards Act  
GS - General Schedule  
LWOP - Leave Without Pay  
NFC - National Finance Center  
PC-TARE - Personnel Computer-Time and Attendance Remote Entry

## ABBREVIATIONS (Continued)

SF - Standard Form  
 T&A - Time and Attendance  
 USC - United States Code

## D FORMS

ARS-331 - Time and Attendance Log  
 (Local Reproduction)

ARS-331 - Time and Attendance Log with frequently  
 used transaction codes  
 (Local Reproduction)

SF-71 - Application for Leave

## E DEFINITIONS

- 1 Basic Work Requirement (Schedule) is the schedule of working hours which an employee accounts for through job performance or leave. Saturday, Sunday and nights may be a part of the basic work requirement. For full-time employees, it is normally the 80 hours in the biweekly period that fit within the tour of duty.

For part-time employees, it is the number of scheduled hours which fit within the tour of duty. The exception being that regularly scheduled overtime can be established as a part of the basic work requirement.  
 (See G 18.)

This Schedule is established in advance of the pay period.

- 2 Breaks. There is no inherent right to a paid break during working hours. Units and locations where Unions have negotiated on this matter will abide by their negotiated agreements.
- 3 Compensatory Time is paid absence from duty taken by an employee in lieu of monetary payment for an equivalent amount of irregular or unscheduled overtime worked. Compensatory time may be earned and used in as little as 15 minute increments. (For further instructions see DIRECTIVE 402.3)
- 4 Core Time is that part of the schedule of working hours, set by the supervisor, during which employees must be present for work.

## E DEFINITIONS (Continued)

This core time is set by the supervisor before the beginning of the pay period. However, it may be the supervisor's option to not set a core time or to change the schedule during the pay period. Also see item 6 below, Customer Services Band.

- 5 Credit Hours are all hours in excess of an employee's basic work requirement which the employee elects to work and the supervisor approves so as to vary the length of the workweek or a workday. Credit hours may not be used before they are earned. Up to 24 hours may be carried over from one pay period to the next or from one leave year to the next. Any earned credit hours greater than 24 in a pay period will be forfeited if they are not used by the end of the pay period. Up to 24 hours of credit leave have to be paid at the hourly rate when an employee leaves the Agency and cannot transfer them. Therefore, supervisors shall encourage employees to use credit hours already earned prior to separation from Federal service. It may be the policy of the manager/supervisor to require that credit time be used before annual leave. Credit hours may be earned and used in as little as 15-minute increments.

NOTE: A part-time employee may carry over an amount equal to 1/4 of his/her Schedule.

- 6 Customer Services Band. All ARS work units will schedule employees so customer services (e.g., telephone coverage) are provided for 8 hours between 0800-1700, Monday through Friday. Supervisors are encouraged to make arrangements with other work units and to include part-time employees in considering alternatives for providing necessary coverage during the required hours. Since this requirement may restrict the degree of choice an employee may have, supervisors are encouraged to avoid requiring the same worker to maintain a schedule throughout the entire year to meet customer service requirements.

NOTE: Electronic answering equipment may be used to provide this service, if there is a commitment that the customer will be contacted the following day.

## E DEFINITIONS (Continued)

- 7 Exempt Employees are covered only by the FEPA. Generally speaking, these are specialist, supervisory, or management employees.
- 8 First-40 Hour Employees are those employees in a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or engineering or architecture for whom the first-40 hours of duty is the basic work requirement. Thus there should be no Schedule filled out for them on the ARS-331. Only a record of their total hours present or absent should be recorded.
- 9 Flexible/Gliding Time is that part of the schedule of working hours during which employees may choose their time of arrival and departure from the work site, within limits, consistent with duties and requirements of the position as set by the supervisor.
- 10 Intermittent Employees are employees who serve without a regularly scheduled tour of duty. Thus, there should be no Schedule filled out for them on the ARS-331. Only a record of their total hours present or absent should be recorded.
- 11 Irregularly Scheduled Overtime is overtime not specific as to the employee, day, hour, and time to be worked or is scheduled later than midnight Saturday of the pay period before it is to be preferred.
- 12 Meal Break. Each 7 hours or more of worked time must include an unpaid break of no less than 30 minutes. This break may not be the first 30 nor the last 30 minutes of the worked time.
- 13 Nonexempt Employees are covered by the FLSA and the FEPA. Generally speaking, these are nonmanagement employees in wage grade, clerical, and technical positions.
- 14 Nonstandard Tour of Duty. ARS no longer has nonstandard tours of duty. In ARS, the various options under maxiflex are considered the standard tour. Tours that establish schedules on Saturday, Sunday, or nights, such as various types of shift work, are now standard.

## E DEFINITIONS (Continued)

- 15 Off-Day. Under the ARS maxiflex system, these are the days out of the pay period that may be scheduled by the employee and management to be non-workdays.
- 16 Overtime is all hours in excess of 8 in a day or 80 in a pay period which are officially ordered in advance by management. Overtime may be earned and used in as little as 15-minute increments.
- NOTE: Overtime and consequently compensatory time delegations are made to Area Directors, Staff/Division Directors, or Office Heads and it is their option whether this authority will be redelegated in writing to subordinate supervisors. (DIRECTIVE 402.3 G)
- 17 Pre/Post Approval are the systems by which the supervisor authorizes the maxiflex flexibilities. The instrument for pre-approval is usually the SF-71, Application for Leave form. The instrument for post approval is the supervisor's full signature on the PC-TARE printout.
- 18 Regularly Scheduled Overtime is overtime that is scheduled in advance of the basic work requirement. To be regularly scheduled, overtime work must be specific as to the employee, day, hour, and the time to be worked, and must be scheduled no later than midnight Saturday of the period before it is to be performed. Overtime which does not meet all above conditions is defined as irregular or occasional.
- 19 Time Accounting is a system which permits the supervisor to have a personal knowledge that employees are entitled to their pay. It contains the approved and dated Schedule, the Time in Pay Status including paid absences, Other Time including unpaid absences, and compensatory and credit hours earned. The manager/supervisor may require that the employee keep track of the beginning and ending time of each day's work.
- NOTE: This information is to be accounted for on a daily basis.
- 20 Tour of Duty is comprised of all hours and days for which core time bands, flexible time

## DEFINITIONS (Continued)

bands, and credit hour periods have been designated. It extends from 12:01 a.m. Sunday morning and ends at midnight on Saturday of the second week of the pay period.

## F AUTHORITIES

FEPA Title 5 USC, Chapter 55 and 61  
FEPA Title 5 CFR, Part 550 and 610  
FLSA Title 5 CFR, Part 551

The legal basis for the maxiflex system is 5 USC 6120 through 6126, 5 CFR 610.405, and 5 CFR 610.408.

The FEPA and FLSA are codified under Subpart D, Chapters 51 through 59, of 5 USC and Parts 530 through 595 of 5 CFR.

## G COVERAGE

The requirements described in this DIRECTIVE apply to all ARS employees, except for those sections covered under a negotiated bargaining agreement.

## H POLICY

The mission of ARS is our overriding concern, and carrying out our research responsibility is our primary commitment. While the employee may propose the schedule they are to work, there is no inherent right of the employee to set whatever schedule he/she needs. Each employee will have to adjust his/her schedule to meet the job requirement needs as determined by the supervisor or manager. Due to varied program needs, it is expected that employees will not all be accommodated in the same manner.

## I RESPONSIBILITIES

1. Each management official directly reporting to the Administrator is delegated the authority to establish or disestablish a maxiflex schedule. Each has the authority to redelegate or rescind all or any segment of this schedule to or from any subordinate level supervised.

## I RESPONSIBILITIES (Continued)

- 2 Subsequent subordinate supervisors, upon redelegation from the management officials in 1 above, have the authority to redelegate or rescind all or any segment of this schedule through the supervisory chain to first line supervisors. Examples of these segments are:
  - a The approval or disapproval of the workweek and workday for their employees.
  - b The approval or disapproval of the use of credit hours or flexible/gliding time.
  - c The approval or disapproval of scheduled off-days.
- 3 Supervisors will:
  - a Approve or disapprove any schedule proposals by signing and dating the Schedule section of the ARS-331. (Supervisors may set the basic work requirement, if they disagree with the employee's proposal, but they may not schedule more than 8 hours a day, 5 days a week.)
  - b Approve or disapprove applications for any changes in the Schedule, any applications for annual and sick leave, overtime/compensatory time, or any absence during a core time period.
  - c Approve or disapprove the use of credit hours or flexible/gliding time to vary the duration of daily working hours, their arrival and departure times or their off-days. This may be done through a system of per--approval or post approval.
  - d Assure workdays and workweeks meet the, core time, and the specific coverage for the customer services band.
  - e Coordinate and maintain the work schedules of his/her staff--especially ensuring that, when safety and health considerations so dictate, there must be more than one employee present.
  - f Approve the Schedule section of the ARS-331 in advance of the pay period by

## I RESPONSIBILITIES (Continued)

signing and dating item 7. The frequency of any subsequent change in Schedule will be set by the supervisor.

NOTE: Supervisors may alter the employee's previously agreed-to Schedule when necessary, but should provide reasonable notification of the change to the employee when it is possible. Supervisors may not schedule more than 8 hours a day or 80 hours in a pay period without paying overtime.

4 Employees will:

- a Propose the total daily hours they will work under the Schedule section of the ARS 331, and submit it to the Supervisor.
- b Be required to record their time by showing the total hours for paid attendance and absence under the Time In Pay Status section.
- c Show the total hours for unpaid attendance and absence under the Other Time section.
- d Make sure they stay within the requirements of their unit's coverage of the customer services band and any required core time.
- e Have supervisory approval for overtime, compensatory time, or credit hours.
- f Complete the totals on the ARS-331 and turn it in to the T&A clerk at the end of the pay period.

NOTE: If over three pay periods, the employee has established a different pattern of work than his/her Schedule indicates, the employee must initiate a revised Schedule for the supervisor's approval.

- 5 Timekeepers are responsible for translating this usage of time into the transaction codes which they transmit to the NFC. They must remember to record the credit hours earned and used on the T&A's, otherwise NFC will charge the employee with LWOP.

## J PREMIUM PAY

- 1 If any full-time employee is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive Order, such employee is entitled to pay with respect to that day for 8 hours.

For a part-time employee the holiday will be based on the number of hours equal to the number of hours scheduled to work on that day. Even for part-time employees, the holiday may not exceed 8 hours.

If the employee is in pay status for as little as 15 minutes either the workday prior to or subsequent to the holiday, the holiday is considered a day of pay status.

- 2 Night Pay is a 10% differential for only those quarter hours that GS employees are scheduled to work between 1800 and 0600. It is a 7.5% differential for the entire shift for wage grade, wage leaders, and wage supervisors, a majority of whose scheduled hours fall between 1500 and 2400. It is a 10% differential for the entire shift for wage grade, wage leaders, and wage supervisors, a majority of whose scheduled hours fall between 2300 and 0800.

Work that is performed at the initiative of the employee between these hours, is not considered night pay.

- 3 Sunday Pay is a 25% pay differential, required for employees whose Schedule includes Sunday. Work performed on Sunday, at the initiative of the employee, is not considered Sunday pay.

## K LEAVE

- 1 Time off work during core time is subject to the supervisor's approval. Depending on that approval, it may be made up by working the same amount of regular time, it may be covered by credit hours or compensatory time off, or it may be charged to the appropriate leave category.
- 2 A Day's leave. The maximum amount of leave which an employee may apply to his/her basic work requirement for any given day is the number of hours the employee is scheduled to work on that day.

## K LEAVE (Continued)

- 3 Excused absence, e.g., administrative leave for hazardous weather should be granted based upon the "normal pattern of arrival." The supervisor may decide to set this pattern by the domination of one particular arrival time or by the mathematical average of the employee's arrival time for the previous 2-week period. The latter method should only be used if there is no discernible pattern to the employee's arrival times.
- 4 Administrative leave, e.g., jury duty, witness, or court leave. Under maxiflex the definition of a "day" as spoken to in the law refers to 8 hours. Thus, employees should adjust their schedule so that they are accountable for only 8 hours of work on days that will be used for such administrative leave.

## L TEMPORARY DUTY STATIONS AND TRAVEL

- 1 Temporary duty station - Regardless of the time zone, as the basic work requirement is the same for all standard tours of duty, it is expected that the traveler's daily schedule can be fit into that of the temporary duty station.
- 2 Travel - It is important to distinguish time at the temporary duty station from transit time. Time at the temporary duty station is treated the same as time at the official duty station. For example, arrival and departure times may be changed and credit hours, compensatory time and overtime may be worked.

During transit time, credit hours cannot be earned/worked. The time in transit is either hours of work or not credited. Thus, it may be either base pay (transaction code 01 time) or overtime/compensatory time (transaction code 21 or 32 time.) Below is a chart that shows the only occasions when transit time is hours of work:

WHEN...	AND IN TRANSIT...	THEN
EXEMPT	during scheduled working hours only	yes
NONEXEMPT	during scheduled working hours	yes
NONEXEMPT	within a day (no overnight rest period) (can be passenger or driver)	yes
NONEXEMPT	during non-work day corresponding hours	yes
NONEXEMPT	while driving (not as a passenger)	yes

## K LEAVE (Continued)

In calculating the hours of work while in travel status, the arrival time at work shall be based on the "normal pattern of arrival" (see K3).

- 3 **Training.** No funds may be used for the payment of premium pay to an exempt employee engaged in training.

The guidance for nonexempt employees is that time spent outside regular working hours is hours of work if:

- a the employee is directed to participate, or
- b the purpose is to bring an employee's performance up to an acceptable level in his/her current position, or
- c the purpose is to provide the knowledge or skills to perform new duties or responsibilities in his/her current position.

Thus, such time under FLSA is hours of work, but such time under FEPA is not hours of work. However, since such training is scheduled by management, the hours of work cannot be converted to credit hours and have to be regular time or overtime/compensatory time.

## M LABOR MANAGEMENT RELATIONS CONSIDERATIONS

Units having bargaining units must contact the Labor Relations Specialist, Labor and Employee Relations Branch, Personnel Division, before implementation of this schedule.



R. D. PLOWMAN  
Administrator

## Exhibit

- 1 ARS-331 - Time and Attendance Log (Local Reproduction)
- 2 ARS-331 - Time and Attendance Log with frequently used transaction codes



**INSTRUCTIONS FOR COMPLETING SCHEDULE & HOURS WORKED**

- ITEMS 1-3: Self-explanatory.
- ITEM 4: Enter pay period number and date.
- ITEM 5: Balance brought forward (if optional use by employee).
- ITEM 6: Employee shows hours scheduled each day. For GS employees scheduled between 6pm-8pm; hours between 6am-5pm must be entered first, then hours between 6pm-8pm followed by "N" must be entered in the lower portion of the block. For WG employees for whom a majority of their scheduled hours fall between 3pm and midnight, the hours scheduled must be entered followed by "N1." For WG employees for whom a majority of their scheduled hours fall between 11pm and 8am, the hours scheduled must be entered followed by "N2." Supervisory approval of schedule and total hours scheduled each week. Timekeepers will enter commonly used descriptions prior to handling out forms.
- ITEM 7: At end of each day, employee will enter the appropriate number of hours for each applicable code.
- ITEM 8: For timekeeper use only.
- ITEM 9: Enter totals for each code for Week 1 and Week 2.
- ITEM 10: At end of each day, enter the appropriate number of hours for each applicable code.
- ITEM 11:
- ITEM 12:

**GENERAL RULES FOR USE OF PREFIXES & SUFFIXES**

- Refer to timekeeper's copy of NFC's PPPM, Ch 21, dated 9/93, pages 23-24.
- Prefix
- o Use a % for all Wage Grade (WG) employees on an environmental differential
  - o \*9\* will be used with TC49 for all employees eligible for Danger Pay.
  - o \*61\* will be used with TC68 for all employees receiving time off awards.
  - o \*77\* will be used with TC32 for all employees eligible for religious, compensatory time worked.
- Suffix
- o \*1\*-4\* will be used for all WG employees.
  - o \*2\*-4\* will be used for General Schedule (GS) employees eligible as union representatives and for paid absences of GS employees entitled to night, Sunday or night and Sunday differentials.
  - o \*5\*-7\* will be used, instead of \*1\*-4\*, for WG employees entitled to Sunday differential.
  - o \*3\* will be used with TC66 for full time GS employees eligible for time worked on a Sunday holiday.
  - o \*4\* will be used with TC68 for full time GS employees eligible for Sunday and night differential worked on a Sunday holiday.

**TRANSACTION CODES**

- 01--Regular Time - Base Rate
- 04--Sunday Differential
- 08--Sunday Differential with Night Differential
- 11--Night Differential
- 12--Compensatory Time Earned with Night Differential
- 13--Night Differential on Sunday Double Time (See T/C 22)
- 14--Hazard Pay Differential
- 17--Commute Use of Government Auto
- 19--Overtime Over 8 Hours Per Week
- 21--Overtime Over 40 Hours Per Week
- 23--Overtime Under FLSA Only
- 24--Overtime Travel Under Title V
- 26--Overtime In Excess of 40 Hours Per Week With Night Differential
- 28--Overtime Over 8 Hours Per Day Within 40 Hour Week With Night Differential
- 29--Credit Leave Expired
- 30--Overtime Call Back - No Work Performed - Compensable Under Title V Only
- 31--Holiday Work
- 32--Compensatory Time Earned in Lieu of Overtime at the Premium Rate
- 36--Regular Time - Basic, Renegotiations or Reopener Negotiations
- 38--Regular Time - Mid Term Negotiations
- 37--Regular Time - On-going Labor-Management Relationship
- 38--Regular Time - Grievances and Appeals
- 40--Home Leave Earned
- 46--Begin Cost of Living Allowance
- 48--Begin Foreign Post Differential
- 47--Discontinue Cost of Living Allowance
- 48--Discontinue Foreign Post Differential
- 49--Remote Worksite Allowance/Quarters Allowance
- 50--Credit Leave Taken
- 60--Compensatory Time Used - Religious Observance
- 61--Annual Leave Taken
- 62--Sick Leave Taken
- 63--Restored Annual Leave
- 64--Compensatory Time Used
- 66--Military Leave - Regular
- 68--Other Leave Taken
- 67--OWCP Injury Leave
- 68--Military Leave - Emergency
- 69--Home Leave
- 71--Leave Without Pay (LWOP)
- 72--Absence Without Official Leave (AWOL)
- 73--Suspension
- 74--Furlough
- 88--Commissary Deduction
- 89--Imprerz Fund Deduction
- 91--Quarters/Subsistence Deduction
- 92--Meal Deduction



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- ITEM 6: Supervisory approval of schedule and total hours scheduled each week. Timekeepers will enter commonly used descriptions prior to handing out forms.
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  - o "6"-7" will be used, instead of "1"-4", for WG employees entitled to Sunday differential.
  - o "3" will be used with TC66 for full time GS employees eligible for time worked on a Sunday holiday.
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- 35--Regular Time - Basic, Renegotiations or Reopener Negotiations
- 36--Regular Time - Mid Term Negotiations
- 37--Regular Time - On-going Labor-Management Relationship
- 38--Regular Time - Grievances and Appeals
- 40--Home Leave Earned
- 45--Begin Cost of Living Allowance
- 46--Begin Foreign Post Differential
- 47--Discontinous Cost of Living Allowance
- 48--Discontinous Foreign Post Differential
- 49--Remote Worksite Allowance/Quarters Allowance
- 50--Credit Leave Taken
- 60--Compensatory Time Used - Religious Observance
- 81--Annual Leave Taken
- 82--Sick Leave Taken
- 83--Restored Annual Leave
- 84--Compensatory Time Used
- 85--Military Leave - Regular
- 86--Other Leave Taken
- 87--OWCP Injury Leave
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- 46--Begin Foreign Post Differential
- 47--Discontinue Cost of Living Allowance
- 48--Discontinue Foreign Post Differential
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- 60--Compensatory Time Used - Religious Observance
- 61--Annual Leave Taken
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