

**INTERIM AGREEMENT  
BETWEEN  
UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) FARM SERVICE AGENCY (FSA)  
AND  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFGE)  
AFGE LOCAL 1031**

This Interim Agreement between the above parties (hereinafter "the Agency" and "the Union", respectively) reflects consensus on the following issues and will remain in effect until superseded by a negotiated term contract agreement, or reopened by mutual agreement between the Agency and the Union. By September 30, 2000, the Agency and Union agree to cooperatively pursue: (1) combined training on interest-based bargaining (IBB) to be provided to a maximum of eight (8) members of the negotiation team, (2) negotiation of ground rules, (3) completion of a comprehensive labor-management agreement. For the basis of IBB training the Union agrees to pay travel expenses of its members and the lodging costs of trainers; the Agency will pay travel expenses of its members and the travel and per diem costs of the trainers. If a comprehensive agreement has not been completed by June 30, 2001, either party may reopen this interim agreement.

1. Both parties recognize the rights and obligations conferred on unions and management by the Federal Service Labor-Management Relations Statute, 5 U.S.C., Chapter 71, (hereinafter "the Statute") which will be the basis of resolving any issues not addressed by this agreement.
2. The Union is entitled to elect officers and elect/appoint representatives. Of the elected officers and elected/appointed representatives only 5 officers and 6 stewards will be eligible to utilize official time for representational purposes. In the interest of cost - effectiveness, only the appropriate officer or steward will be provided official time for representational purposes in the geographical area designated, unless mutual agreement regarding workload considerations indicates that a substitute is necessary on an individual basis.
3. The Agency will process properly authorized dues withholding forms for the Union in accordance with the two Memoranda of Understanding (MOU) between USDA and AFGE dated June 22, 1979 (Attachment 1) and September 30, 1988 (Attachment 2).
4. For all representational purposes, the Union will have reasonable access to such official time, facilities and services as are reasonable, demonstrated as necessary and in the public interest. Travel and per diem expenses for representational purposes will be shared as follows: The Union will pay all travel costs except mileage. GSA vehicles will be used by the Union President and Chief Steward if available for representational purposes. Mileage will be reimbursed to Union representatives as allowed by travel regulations for representational purposes. Subject to workload considerations and availability, this will include meeting rooms, duplicating equipment, telephones, FAX machines, computers, internet access, scanners, internal mail distribution, e-mail, PA systems, usual office supplies and any other present or future administrative technology available to (current or future) management. Use of facilities, equipment, and communication system will be in accordance with agency procedure and availability. The above will not be used for personal use.

In order to arrange for appropriate use as noted above, the Union will notify the Agency in writing of the official time, travel, facilities, and staff estimated as needed before undertaking each representational task. The Agency will promptly respond in writing within two (2) business days to the Union authorizing, denying, or making alternative arrangements for the time, travel, facilities and staff needed. The Union may similarly request additional time and resources if the necessary task has not been completed. For the identified representational task, travel authorizations and vouchers will be processed in accordance to existing travel policy.

Bargaining unit employees may contact designated Union representatives and the Union may receive unscheduled telephone contacts. Time spent on initial contacts will be limited to 15 minutes at which time the designated union representative will determine whether a written notification will be submitted to the Agency specifying the time, travel, facilities and staff estimated as needed to undertake the

representational task. Each Union Officer, Steward or Representative will record official time used on the appropriate form, SF-71, and will add a notation to state purpose of official time. Such use of official time will be recorded on the appropriate time and attendance report.

5. For purposes of this Agreement, a "grievance" means any complaint as defined under Section 7103 (a)(9) (Attachment 3) of the Statute, excluding from grievability such issues as are defined under Section 7121(c) (Attachment 4) of the Statute.

Grievance procedures will generally adhere to the procedures outlined in Section 7121 of the Statute.

A grieving employee will first raise the matter to be grieved to the appropriate Union Steward in person, (if on site), or by phone. The Union will raise the issue with the grievant's immediate supervisor within fifteen (15) workdays of the date the grievant became aware, or had reason to become aware, of the incident giving rise to the grievance. As a minimum, the written grievance will note the incident being grieved and identify the specific law, rule, regulation or contract provision allegedly violated, the remedy requested, and identify the appropriate Union Steward representing the grievant. If any formal discussion is held during the grievance steps the supervisor must extend a notice to the Union to be present, even if the Grievant has not requested Union representation.

Within fifteen (15) workdays of receipt of a written grievance, the supervisor will review the matter being grieved, schedule and hold a meeting to include the supervisor, the grievant and/or Union Steward, and another management designee, if desired by management, and discuss the issues. The supervisor will forward a written response granting or denying the remedy requested within fifteen (15) workdays of that meeting.

If not satisfied with the immediate supervisor's response, the Union may similarly submit a written request for review by the State Executive Director (SED) within fifteen (15) workdays of receipt of the immediate supervisor's decision. Within fifteen (15) workdays of receipt, the SED or designee will schedule a meeting to include the Chief Steward or designee, the grievant or Union Steward originally involved, the SED or designee and a management designee, if desired by management. The SED or designee will respond with a written decision granting or denying the remedy requested within fifteen (15) workdays of that meeting.

The Union retains the right to determine which Union official(s) will attend each step of the grievance. The Union may designate an equal number of Union officials, as there are management officials at each step of the grievance.

If the Union is not satisfied with the SED's response, that response may be appealed to arbitration within twenty (20) calendar days of receipt of the final Agency response. Arbitration procedures will generally adhere to those described under item 6 of this agreement.

Time limits indicated above may be modified by mutual agreement of both parties. Failure to meet agreed upon time limits will allow the Agency to reject a grievance/appeal to arbitration as untimely, or will allow the Union to proceed to the next step in this procedure.

6. The party invoking arbitration will request the Federal Mediation and Conciliation Service (FMCS) to furnish the parties a list of seven impartial persons qualified to act as arbitrators. Any and all fees charged by FMCS will be the responsibility of the party invoking the arbitration. An information copy of the request will be sent to the other party. The Agency and the Union shall agree, within fifteen (15) working days after receipt of the list, upon one of the listed arbitrators. If they cannot agree, they will each strike one name from the list and shall repeat the procedure. The remaining individual shall be the duly selected arbitrator. The Union will maintain a log of each arbitration case for the purpose of rotation. The log will be used for determining which party strikes first for the next arbitration. The arbitrator's decision shall be binding on the parties, unless either party files exception to an award in accordance with regulations prescribed by the Federal Labor Relations Authority.

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

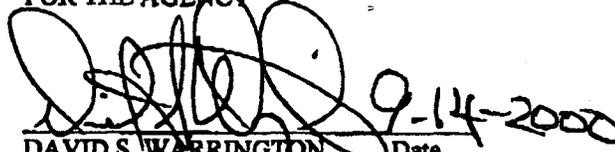
The arbitrator's fees and expenses of the arbitration, if any, will be borne in equal shares. The arbitration hearing will be held, if possible, on the Agency's premises during the regular day shift hours of the basic workweek. All bargaining unit employees (BUE) in the hearing shall be in duty status during the number of hours they would normally be at work and in accordance with law and Government-wide rules and regulations. The parties will mutually agree on a case-by-case basis to appropriate arrangements to ensure all Employees needed for the hearing are available and able to participate on official time without unduly interfering with workload demands.

7. Unless there are compelling workload demands, a reasonable amount of official time will be granted to bargaining unit employees designated by the Union to attend Union sponsored training sessions, provided the subject matter of the sessions specifically pertain to bargaining unit representational matters (e.g. Steward/Officer training, grievance handling, arbitration, negotiations, Merit System Protection Board (MSPB) / Equal Employment Opportunity Commission (EEOC) practice and procedure, Federal Labor Relations Authority (FLRA) practice and procedure, etc.) and not to internal Union business. Agency approval of official time for training of bargaining unit employees will only be considered if the Union sanctions the training and pays any applicable travel and per diem expenses associated with traveling to or attending the training.
8. Management agrees to negotiate issues under Section 7106(b)(1) of the Statute in accordance with E. O. 12871 and that Statute.
9. The Agency will allow the Union to post to the existing office bulletin board/wall space.
10. The parties agree to begin negotiation of an additional MOU, within 60 calendar days of both parties signing this agreement, for the purpose of establishing a Labor-Management Partnership Council, which will include representatives of Management, the Union, MACOE, MACS, the State Committee, and a County Committee.
11. This agreement will be effective immediately upon signature by the appropriate Union and Agency representatives.

FOR THE UNION

  
LEONARD A. BEATTY      9/14/2000  
President, AFGE Local 1031      Date

FOR THE AGENCY

  
DAVID S. WARRINGTON      9-14-2000  
State Executive Director      Date

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
DEPARTMENT OF AGRICULTURE AND THE AMERICAN  
FEDERATION OF GOVERNMENT EMPLOYEES

This Memorandum of Understanding is between the Department of Agriculture, hereinafter referred to as USDA, and the American Federation of Government Employees, hereinafter referred to as AFGE.

I. It is agreed that this Agreement is subject to and governed by CSRA.

II. The individual employee of the USDA who is a member of the AFGE and included within an exclusive unit shall obtain his/her SF-1187, REQUEST AND AUTHORIZATION FOR VOLUNTARY ALLOTMENT OF COMPENSATION FOR PAYMENT OF EMPLOYEE ORGANIZATION DUES, from AFGE and shall file it with the designated AFGE representative, who will forward it to the Personnel Office of the Agency. In those cases wherein management and the Union disagree regarding the eligibility of an employee for dues withholding, both parties acknowledge that such representation disputes are the sole function of the FLRA and accordingly agree that the dues of such an employee shall be placed in an escrow account pending an appropriate Authority determination. The employee shall be instructed by AFGE to complete Part A and Part B. No other number must appear in the block provided as "identification Number" except the employee's Social Security Number.

III. Deductions will be made each pay period by the USDA and remittances will be made each pay period to the National Office of the AFGE. Remittances shall be accompanied by a computer tape, one for each pay period, by Locals, showing the names of the member employees from whose pay dues were withheld, the amount withheld, the code number of the Local to which each employee member belongs, social security number, and will be summarized to show the number of members for whom dues were withheld, total amount withheld, and the amount due the Local. Each tape will also include the name of each employee member for that Local who previously made an allotment for whom no deduction was made whether due to leave without pay or other cause. Such employee shall be designated with an appropriate explanatory term.

IV. It is agreed that Part A of SF-1187, including the insertion of code numbers of the AFGE (52) and the appropriate Local number, will be executed by the Financial Officer of the Local to which the employee member belongs or by the National Secretary-Treasurer of the AFGE, if the member is a member-at-large. The amount so certified shall be the amount of the regular dues (exclusive of initiation fees, assessments, back dues, fines and similar charges and fees). One standard amount for all employees or different amounts of dues for different employees may be specified. If there should be any change in the dues structure or amount; a blanket authorization listing each employee's name and social security number, and the amount of dues to be withheld will be submitted to the appropriate payroll office. The listing will be identified by labor organization and Local codes. Only one such change may normally be made in any period of twelve consecutive months for a given Local.

V. The payroll office of the USDA will terminate an allotment per a request received in accordance with any one of the following:

- (1) as of the beginning of the first full pay period following receipt of notices that exclusive recognition has been withdrawn;
- (2) at the end of the pay period during which an employee member is separated from USDA;

- (3) at the end of the pay period during which payroll office receives notice from the AFGE or a Local of the AFGE that the employee member has ceased to be a member in good standing;
- (4) pursuant to a timely request in accordance with the following time provision effective September 1, 1979, for all revocations received prior to September 1, 1978;
- (5) effective September 1, 1979, and each September 1 thereafter for all allotments in effect as of January 11, 1979;
- (6) on the annual anniversary date of each allotment completed after January 11, 1979.

VI. The USDA payroll office will send to the National Financial Officer of the AFGE a copy of each written revocation of an authorization which it receives. Revocation must be submitted to the appropriate Local in writing over the signature of the member on the Standard Form 1188 and must be submitted to the appropriate Personnel Office not earlier than the first day of the month prior to the annual date upon which revocation may be effective in accordance with the above.

Agreed to on the 15<sup>th</sup> day of January, 1979, and as amended by FLRA decision No. O-P5-1 on April 19, 1979.

/s/ JOHN W. FOSSUM  
Director of Personnel  
U.S. Department of Agriculture

/s/ KENNETH T. BLAYLOCK  
National President  
American Federation of Government  
Employees

6/22/79

Date

Memorandum of Understanding  
Union Dues Payroll Deduction

Under the terms of the new Labor-Management Relations (LRA) Agreement, Management and the Union have agreed to continue to comply with a memorandum of agreement regarding Union dues withholding which was initially negotiated between USDA and AFGE in 1979. A copy of this agreement is contained as appendix K of the LRA Agreement.

While this does not constitute a new agreement, in the past, procedures contained in this agreement have been the source of some confusion. The purpose of this memorandum is to clarify those procedures and to provide for the orderly, timely processing of dues withholding requests and cancellations.

Due Withholding

In order to initiate Union dues withholding by payroll deduction, a bargaining unit employee must complete a Standard Form (SF) 1187, Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues, and submit to the Union for processing. Employees should complete the top portion of the form (with their name, social security number, home address, city, state, zip code and work unit) and sign and date the form at the bottom. The Union President will complete the middle portion of the form, including the amount of dues to be withheld and the Union local number, and will sign and date the form. Dues deductions will normally begin the pay period following submission of the SF-1187 to the Personnel Office. Employees can secure SF-1187s in the personnel Office or in the Union Office. The Union will provide each employee who submits a completed SF-1187 with a receipt copy of that document for the employee's records. The receipt copy will reflect the pay period in which the deduction is to be made effective, i.e., the "anniversary date."

Dues Revocation

Once a bargaining unit employee has processed a union dues withholding request, the employee can terminate union dues deductions on the anniversary date of the pay period in which the dues allotment began. To cancel the dues allotment, the employee must submit to the Union a completed Standard Form (SF) 1188, Cancellation of Payroll Deductions for Labor Organization Dues, at least 6 workdays prior to the beginning of the anniversary pay period and not earlier than the first day of the month preceding the anniversary date. Employees can secure SF-1188s in the personnel Office and in the Union Office. The employee should complete items 1, 2, 3, 5, 7 and 8 of the form prior to submission to the Union. Upon receipt of the completed SF-1188, the Union will (1) provide the employee with a receipt copy of the form; (2) verify the anniversary date for cancellation; (3) submit the completed form to the Personnel Office for processing not less than 3 workdays prior to beginning of the pay period in which the anniversary date falls.

Employees who are uncertain regarding the anniversary date of their dues allotment can contact the Union Office or the Labor Relations Staff of the Personnel Office for this information.

/s/ James C. Sparks  
JAMES C. SPARKS  
Personnel Officer

/s/ Steven M. Hollis  
STEVEN M. HOLLIS  
President  
AFGE Local 3354

9/26/88  
DATE

9/30/88  
DATE

### **7103. Definitions; application**

(a) For the purpose of this chapter—

- (1) "person" means an individual, labor organization, or agency;
- (2) "employee" means an individual—
  - (A) employed in an agency; or
  - (B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority;

but does not include—

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

- (ii) a member of the uniformed services;
- (iii) a supervisor or a management official;
- (iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the Agency for International Development, or the International Communication Agency;

or

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

(3) "agency" means an Executive agency (including a nonappropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include—

- (A) The General Accounting Office;
- (B) The Federal Bureau of Investigation;
- (C) The Central Intelligence Agency;
- (D) The National Security Agency;
- (E) The Tennessee Valley Authority;
- (F) The Federal Labor Relations Authority; or
- (G) The Federal Service Impasses Panel;
- (H) The National Imagery Office;

(4) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and

conditions of employment, but does not include—

- (A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or non-preferential civil service status, political affiliation, marital status, or handicapping condition;
  - (B) an organization which advocates the overthrow of the constitutional form of government of the United States;
  - (C) an organization sponsored by an agency;
  - or
  - (D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;
- (5) "dues" means dues, fees, and assessments;
- (6) "Authority" means the Federal Labor Relations Authority described in section 7104(a) or this title;
- (7) "Panel" means the Federal Service Impasses Panel described in section 7119(c) of this title;
- (8) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;
- (9) "grievance" means any complaint—
- (A) by any employee concerning any matter relating to the employment of the employee;
  - (B) by any labor organization concerning any matter relating to the employment of any employee; or (i)

the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or affecting conditions of employment;

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

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

(ii) law, rule or applicable regulation

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

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

(12) "collective bargaining" means the performance of the mutual obligation of the representative of an agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute if requested by either party, a written document incorporating any collective bargaining agreement

reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession;

- (13) "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;
- (14) "conditions of employment" means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—
  - (A) relating to political activities prohibited under subchapter III of chapter 73 of this title;
  - (B) relating to the classification of any position; or
  - (C) to the extent such matters are specifically provided for by Federal statute;
- (15) "professional employee" means—
  - (A) an employee engaged in the performance of work—
    - (i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);
    - (ii) requiring the consistent exercise of discretion and judgment in its performance;

- (iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and (iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or
  - (B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph(A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph(A) of this paragraph;
- (16) "exclusive representative" means any labor organization which—
  - (A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or
  - (B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit—
    - (i) on the basis of an election, or
    - (ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter.
- (17) "firefighter" means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and
- (18) "United States" means the 50 States, the District of

Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

- (b) (1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that—
  - (A) the agency or subdivision has a primary function intelligence, counterintelligence, investigative, or national security work, and
  - (B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.
- (2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 States and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security.

#### **7104. Federal Labor Relations Authority**

- (a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.
- (b). Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.
- (c)(1) One of the original members of the Authority shall be

### **Subchapter III— Grievances**

#### **7121. Grievance procedures**

- (a) (1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsection (d) and (e) of this section, the procedures shall be the exclusive procedures for resolving grievances which fall within its coverage.
- (2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.
- (b) Any negotiated grievance procedure referred to in subsection (a) of this section shall—
- (1) be fair and simple.
  - (2) provide for expeditious processing, and
  - (3) include procedures that—

- (A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;
- (B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and
- (C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

(c) The preceding subsections of this section shall not apply with respect to any grievance concerning—

- (1) any claimed violation of subchapter II of chapter 73 of this title (relating to prohibited political activities);
- (2) retirement, life insurance, or health insurance;
- (3) a suspension or removal under section 7532 of this title;
- (4) any examination, certification, or appointment; or
- (5) the classification of any position which does not result in the reduction in grade or pay of an employee.

(d) An aggrieved employee affected by a prohibited personnel practice under section 2301(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of

discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

(e) (1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters similar to those covered under sections 4303 and 7512 of this title which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.