

- (iii) That the employee has not less than a 60-day period to bring performance to a satisfactory level;
  - (iv) How the supervisor will assist the employee in that effort;
  - (v) What the employee must do to bring performance to a satisfactory level during the period and what the required level of performance will be, and how the level of performance will be measured and evaluated, in detail, including an explanation of all sampling methods and/or statistical measurements that will be employed, if appropriate;
  - (vi) That the employee's performance will be reevaluated at the end of the period.
- (2) After the performance improvement period, if it is determined that the employee should be removed or reduced in grade, the employee is entitled to a 30 days advance written letter which:
- (i) Specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based;
  - (ii) Specifies the critical elements of the employee's position involved in each instance of unacceptable performance;
  - (iii) The right to be represented by an attorney or other representative of his/her choice; and
  - (iv) A reasonable time (at least 15 calendar days) to answer orally and/or in writing.
- (3) Should the proposal to remove or reduce in grade be sustained, the employee will receive a written decision.

#### ARTICLE 23 - REDUCTION IN FORCE

23.1 GENERAL: Reduction-In-Force will be accomplished in accordance with applicable laws, rules and regulations and this collective bargaining agreement.

23.2 NOTIFICATION: The Employer will notify the Union of a proposed RIF at least forty-five (45) days before the proposed effective date, and prior to any official notification to bargaining unit employees. This notification will include:

- (a) Type of action to be taken.
- (b) The reasons for the action.
- (c) The competitive areas.
- (d) The competitive levels of affected positions.
- (e) The approximate numbers, types, and grades of positions in the bargaining unit to be affected.
- (f) The expected or approximate date of such action/step.
- (g) A copy of any economic impact study made in conjunction with the action.
- (h) The measures being considered to reduce the adverse impact.

23.3 NEGOTIATIONS: The Employer, recognizing the Union's right and responsibility in protecting and representing bargaining unit employees, will give the Union an opportunity to request and complete negotiations on the impact and procedures to be used in a RIF.

23.4 EARLY RETIREMENT: The Employer agrees to request implementation of the early retirement provisions of Title 5 U.S. Code in order to minimize the impact of the RIF.

23.5 EMPLOYMENT FREEZE: The filling of any bargaining unit vacancy within the competitive area for which bargaining unit employees in that area who will be affected by RIF are eligible will be suspended from the date of the initial RIF notice to affected employees until the effective date of the RIF.

23.6 PERSONNEL FILES: The Union and the Employer will jointly encourage each employee to see that the employee's personnel file and SF-171 are up-to-date as soon as the RIF or transfer of function is announced. The Employer will add to the personnel file appropriate changes or amendments requested by the employee. The Agency may waive qualifications requirements in accordance with appropriate regulations for otherwise eligible employees.

23.7 DOCUMENTS: Retention registers and other transfer of function documents will be made available to affected employee(s) and/or employee representative. Upon request, the affected employee(s) and/or employee representative will be given the opportunity to review retention registers listing other employees that may be entitled to displace the employee and those the employee may be entitled to displace, and review registers for positions for which the employee is qualified and related records to the extent that these apply to the employee's situation.

23.8 MULTIPLE SKILLS: Employees possessing skills in more than one area will be considered for positions in such areas.

23.9 PRIORITY CONSIDERATION: All employees demoted or separated without personal cause, misconduct or inefficiency, will receive priority consideration for repromotion/rehire.

23.10 EXISTING VACANCIES: The Employer agrees to utilize existing vacancies to the maximum extent possible to place displaced bargaining unit employees.

23.11 REEMPLOYMENT PROGRAMS: The Employer will maintain a Displaced Employee Program consistent with OPM Regulations. The Employer will also provide a program of outplacement assistance. The primary aim of the program will be to assist in finding continuing Federal employment for affected employees. The Employer will establish and maintain a Reemployment Priority List for eligible employees. The Employer's program will go beyond entering affected employee names on various reemployment and priority placement lists. This effort will include employee counseling and contacts with other Federal agencies, State employment sources, as well as employers in the private sector.

23.12 REPROMOTION: When the position previously held by an employee demoted through RIF becomes vacant and is being filled, the demoted employee will be considered for repromotion noncompetitively to the position provided the employee has continued to work at an acceptable level. If more than one employee meets the above criteria, the employee with the highest retention standing when the RIF is affected will be considered first.

#### ARTICLE 24 - CONTRACTING OUT

24.1 GENERAL: The parties acknowledge that the right to contract out is a management right under 5 USC 7106. The Employer acknowledges its obligation to adhere to all applicable laws and regulations, and Agency policy in contracting out for work or services.

24.2 NEGOTIATIONS: The Union shall have the right to negotiate on the impact of a decision to contract out bargaining unit work, in accordance with ARTICLE 3 - Negotiations of this agreement.

24.3 NOTIFICATION: When the Agency anticipates contracting out work being performed by bargaining unit employees and an adverse impact will result, the Union will be notified prior to the request for proposals or the invitation for bids. The notice will include:

- (a) Information concerning the employees who may be adversely affected;
- (b) Copy of bid specifications; and
- (c) Copy of contract specifications.

24.4 PLACEMENT: The Employer will make a reasonable effort to place employees adversely affected by a decision to contract bargaining unit work, in accordance with the Reduction-in-Force article of this agreement.

#### ARTICLE 25 - DISTRIBUTION

25.1 COPIES: After review and approval of this agreement, in its entirety, by the Office of Personnel, U.S. Department of Agriculture, the Employer will provide all employees in the unit with a copy of the negotiated agreement and any supplements and amendments thereto and the Union fifty (50) copies of the negotiated agreement and any supplements and amendments thereto.

#### ARTICLE 26 - DUES DEDUCTIONS

26.1 ALLOTMENT: Voluntary allotment by employees, for the payment of dues to the Union, shall be authorized and processed in accordance with applicable regulations in accordance with the October 20, 1983, Memorandum of Understanding between the U.S. Department of Agriculture and National Federation of Federal Employees covering dues deductions. A copy of this Memorandum of Understanding is attached hereto as Exhibit A.

26.2 REVOCATION OF DUES: A member may voluntarily revoke his or her allotment for payment of dues by completing a Standard Form 1188, "Revocations of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues", and submitting it to the Employer.

The Employer will process a Standard Form 1188 in accordance with the Memorandum of Understanding between the Department of Agriculture and the National Federation of Federal Employees.

ARTICLE 27 - PUBLICITY

27.1 ORIENTATION: New employees, as part of the orientation process, will be advised of their right to join, or not to join, the Union and will be furnished a copy of the existing agreement.

ARTICLE 28 - DURATION OF THE AGREEMENT

28.1 EFFECTIVE DATE AND TERM: The effective date of this agreement and all supplements and amendments shall be the date of approval by the Director of Personnel, Office of the Secretary of Agriculture, or on the 31st day after the agreement is executed, whichever occurs first. It shall remain in effect for three (3) years. The Agreement will be automatically extended upon the expiration of the initial period for one year, and from year to year thereafter, unless either party gives written notice to the other of its desire to effect changes in the agreement at least sixty (60) calendar days and not more than 105 calendar days prior to anniversary date. The notice must be acknowledged within ten (10) days of receipt, and negotiations for an amended agreement shall begin at least twenty (20) days prior to the anniversary date. This Agreement shall remain in effect until a new Agreement becomes effective.

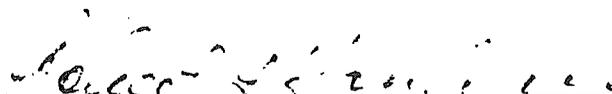
28.2 AMENDMENTS: The Parties may effect amendments or may add provisions to this agreement at times other than provided for above if such action is necessary to reflect legal or government wide rules or regulations for which a compelling need exists.

28.3 SUPPLEMENTAL AGREEMENTS: Supplemental agreements or memorandum of understanding pertaining to personnel practices, policies, and working conditions may be entered into when the employer initiates changes. A copy of such agreements or memorandum will be distributed by the Employer to all unit employees within 30 days after approval.

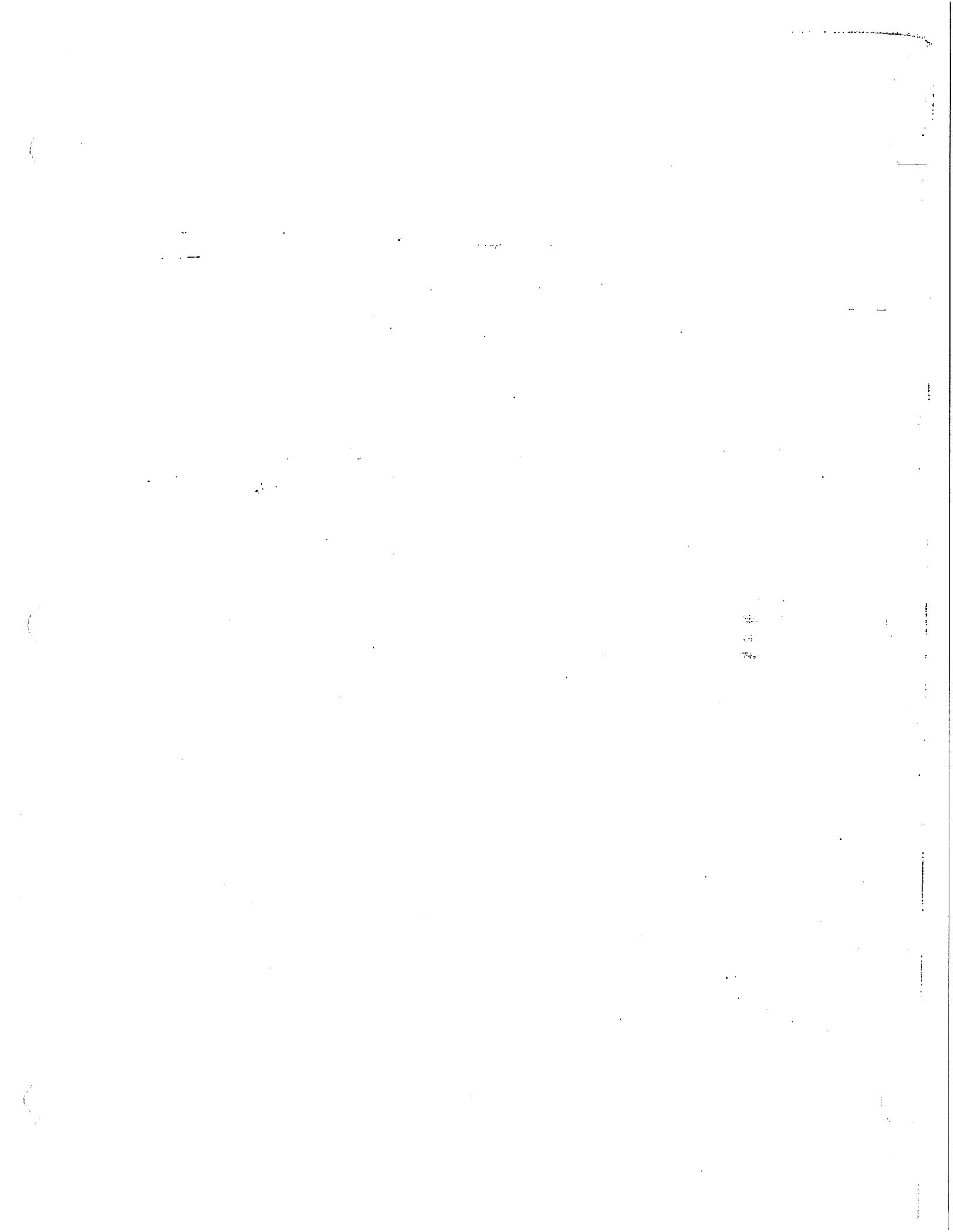
In witness thereof the parties hereto have caused this basic Labor-Management Relations Agreement to be executed on this 7<sup>th</sup> day of October, 1991.

For Farmers Home Administration  
Little Rock, Arkansas

For NFFE Local 108  
FmHA in Arkansas

  
\_\_\_\_\_  
State Director

  
\_\_\_\_\_  
President, Local 108



MEMORANDUM OF UNDERSTANDING  
BETWEEN  
DEPARTMENT OF AGRICULTURE  
AND  
NATIONAL FEDERATION OF FEDERAL EMPLOYEES

The parties to this memorandum, the National Federation of Federal Employees, hereinafter referred to as NFFE, and the U. S. Department of Agriculture, hereinafter referred to as USDA, enter into this agreement for the purpose of establishing a mutually beneficial dues withholding agreement.

1. This Memorandum of Understanding is subject to and governed by 5 USC 7115, by regulations issued by the Office of Personnel Management (5 CFR 550.301, 550.311, 550.312, 550.321 and 550.322), and will be modified as necessary by any future amendments to said rules, regulations and law. Reference is also made to DPM 550, Subchapter 3 for procedural guidance.

2. Any employee of the USDA who is included in a NFFE bargaining unit may make a voluntary allotment for the payment of dues to the NFFE. This memorandum of understanding shall be made a part of every current and future Local or National agreement and shall be the only authorized method for obtaining dues withholding.

3. The employee shall obtain SF-1187, "Request for Payroll Deductions for Labor Organization Dues", from NFFE and shall file the completed SF-1187 with the designated NFFE representative. The employee shall be instructed by NFFE to complete the top portion and Part B of the form. No number shall appear in block 2 of the form except the employee's Social Security number.

4. The President or other authorized official of the Local Union or the National Secretary-Treasurer will certify on each SF-1187 that the employee is a member in good standing of NFFE; insert the amount to be withheld, and the appropriate Local number; and submit the completed SF-1187 to the Servicing Personnel Office of the USDA Agency involved. The Servicing Personnel Office shall certify the employee's eligibility for dues withholding, insert the NFFE code (01) and, within five (5) work days after receipt, transmit the SF-1187 in duplicate to the National Finance Center (NFC).

5. The NFC will process the dues deduction effective as of the beginning of the first full pay period after NFC receives the SF-1187. The NFC will forward a copy of the SF-1187 to the NFFE National Treasurer at 1016 16th Street, N.W., Washington, D.C. 20036.

6. Deductions will be made each pay period by the NFC and remittances will be made promptly each pay period to the National Office of the NFFE. The NFC shall also promptly forward to NFFE, a listing of dues withheld. The listing shall be segregated by Local and shall show the name of each member employee from whose pay dues was withheld, the employee's Social Security number, the amount withheld, the code of the employing agency, and the number of the Local to which each employee belongs. Each Local listing shall be summarized to show the number of members for whom dues were withheld, total amount withheld, and amount due the Local. Each list will also include the name of each employee member for

that Local who previously made an allotment for whom no deduction was made that pay period, whether due to leave without pay or other cause. Such employees shall be designated with an appropriate explanatory term.

7. In lieu of the listings provided for in Section 6 of this Memorandum of Understanding, USDA agrees to provide the National Office of the NFFE a computer tape in a format to be agreed upon at such time as NFFE has the facilities to process tapes. USDA will be given two (2) months notice to implement this change.

8. The amount of dues certified on the SF-1187 by the authorized Union official (see Section 4) shall be the amount of regular dues, exclusive of initiation fees, assessment, 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 a change in the dues structure or amount, the authorized Union official shall notify the appropriate Servicing Personnel Office. If the change is the same for all members of the Local, a blanket authorization may be used which includes only the Local number and the new amount of dues to be withheld. If the change involves a varying dues structure, the notification must include the Local number, the name and Social Security number of each member, and the new amount of dues to be withheld for each member. The Servicing Personnel Office shall add the NFFE code (01) and promptly forward the certification to the NFC. The change shall be effected at the beginning of the first full pay period after the certification is received by the NFC. Only one such change may be made in any six month period for a given Local.

9. An employee may voluntarily revoke an allotment for the payment of dues by completing SF-1188, "Cancellation of Payroll Deductions for Labor Organization Dues", or by memorandum in duplicate and submitting it to the appropriate Servicing Personnel Office. The Servicing Personnel Office shall forward both copies of the revocation (SF-1188 or memorandum) to the NFC. The revocation will become effective as of the first full pay period after September 1 of each year provided that the revocation was received by the Servicing Personnel Office on or before August 15 of each year, and provided the employee verifies that he/she has had NFFE dues withheld for more than one year. The NFC shall forward to the NFFE National Office a copy of each revocation received as appropriate notification of the revocation.

10. The USDA will terminate an allotment:

(a) as of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn;

(b) at the end of the pay period during which an employee member is separated or assigned to a position not included in a NFFE bargaining unit;

(c) at the end of the pay period during which the Servicing Personnel Office receives a notice from the NFFE or a Local of NFFE that an employee member has ceased to be a member in good standing;

(d) annually during the first full pay period after September 1, after receipt of the employee member's written revocation of allotment (SF-1188 or memorandum in duplicate), provided that the revocation is received by the Servicing Personnel Office on or before August 15 of each year, and provided the employee verifies that he/she has had NFFE dues withheld for more than one year.

11. The Servicing Personnel Office and the employee members have a mutual responsibility to assure timely revocation of an employee's allotment for NFFE dues when the employee is promoted or assigned to a position not included in a bargaining unit represented by NFFE. If the dues allotments continue and the employee fails to notify his/her Servicing Personnel Office, the retroactive recovery of dues withheld from NFFE shall not be made, nor shall a refund be made to the employee.

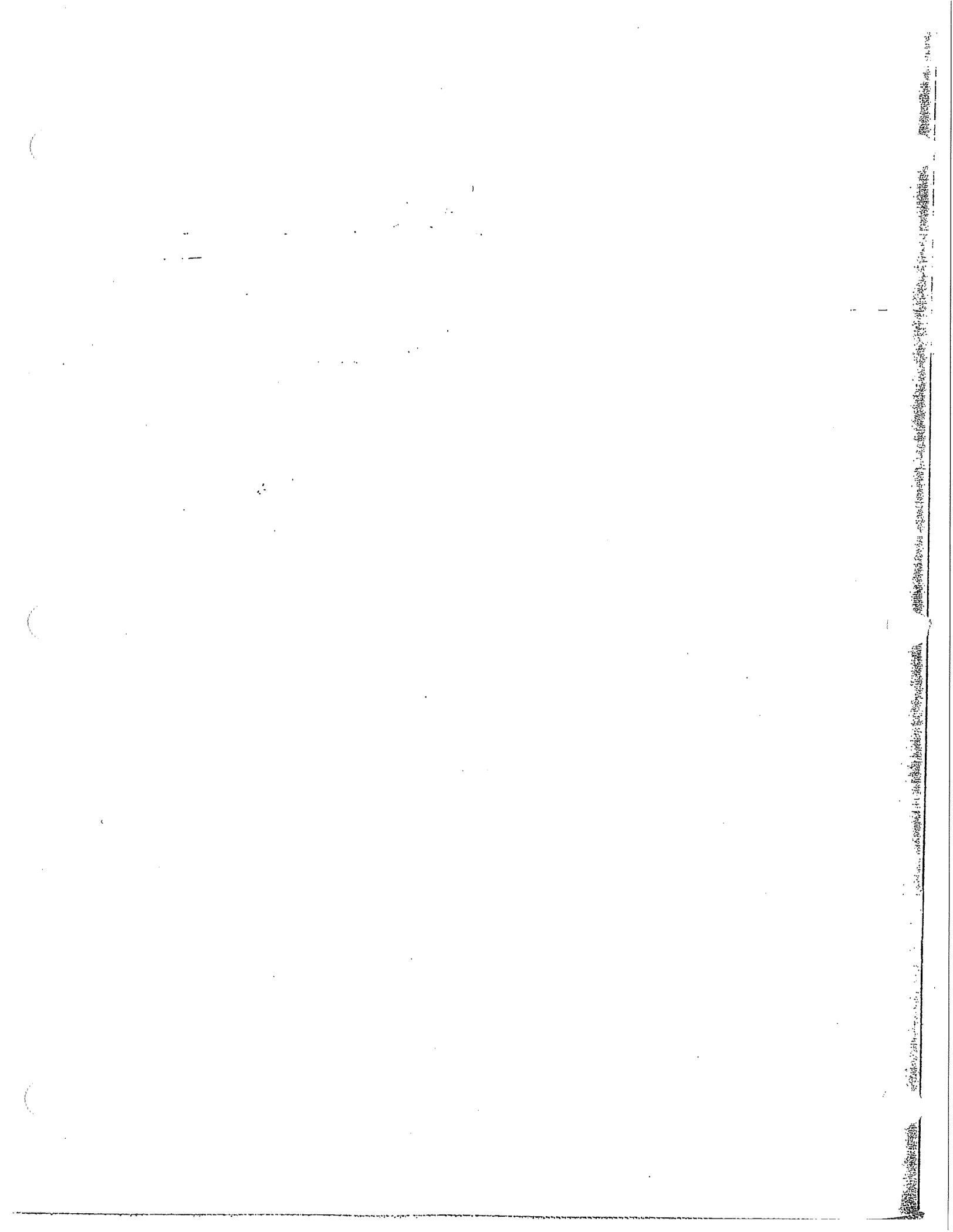
12. The parties to this agreement recognize that problems may occur in the administration of this agreement and the dues withholding program. The parties agree to exchange names, addresses and telephone number of responsible officials and/or technicians of NFFE and USDA to facilitate resolution of problems. These individuals shall cooperate fully in an effort to resolve any issue relating to dues withholding under the terms of this Memorandum of Understanding.

13. This Memorandum of Understanding shall remain in effect for as long as NFFE holds exclusive recognition in USDA, except that either party may propose amendments annually, before the anniversary date of the signing of this agreement.

Agreed to, signed at Washington, D.C. on October 20, 1983.

William J. Riley, Jr.  
Director of Personnel  
Department of Agriculture

James Lee Lewis  
National President  
National Federation of Federal  
Employees



# The Federal Service Labor-Management Relations Statute

(Chapter 71 of Title 5 of the U.S. Code and  
Related Amendments to 5 USC 5596(b)  
the Back Pay Act)

(Effective January 11, 1979)  
(As Amended Pursuant to the 96th Congress)

[Also known as TITLE VII of PUBLIC LAW 95-454  
(Civil Service Reform Act of 1978)]

Education and Training Branch  
National Federation of Federal Employees  
1016 16th Street, NW, Washington, D.C. 20036

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Sec. 701. So much of subpart F of part III of title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

"Subpart F--Labor-Management and Employee Relations

"CHAPTER 71--LABOR-MANAGEMENT RELATIONS

"SUBCHAPTER I--GENERAL PROVISIONS

"Sec.

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

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

"Sec.

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

"SUBCHAPTER III--GRIEVANCES, APPEALS AND REVIEW

"Sec.

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

"SUBCHAPTER IV--ADMINISTRATIVE AND OTHER PROVISIONS

"Sec.

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

"SUBCHAPTER I--GENERAL PROVISIONS

"§7101. Findings and purpose

"(a) The Congress finds that--

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

"(A) safeguards the public interest,

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

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

"(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.

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

"§7102. Employees' rights

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

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

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

"§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

/116 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Federal Labor Relations Authority; but does not include--

- "(i) an alien or noncitizen of the United States who occupies a position outside the United States;
- "(ii) a member of the uniformed services;
- "(iii) a supervisor or a management official;
- "(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the International Communications Agency, the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce; or
- "(v) any person who participates in a strike in violation of section 7311 of this title;

"(3) 'agency' means an Executive agency (including a non-appropriated 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

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

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

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

"(C) an organization sponsored by an agency; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions,

except that such term does not include policies, practices, and matters--

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

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

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

"(15) 'professional employee' means--

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

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

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

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

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

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

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

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

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

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter;

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

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

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

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

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

"(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 states and the District of Columbia, if the President determines that the suspension is necessary in the interest of national security. (Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 1192; amended Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2168.)

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

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

"(2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

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

"(e) The Authority shall make an annual report to the

President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

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

"(2) The General Counsel may--

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

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

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

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

"§7105. Powers and duties of the Authority

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

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

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

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

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

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

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

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

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

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

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

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

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

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

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

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

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

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

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

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice. The Authority may delegate to officers and employees appointed under subsection (d) authority to perform such duties and make such expenditures as may be necessary.

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

of--

"(1) the date of the action; or  
"(2) the date of the filing of any application under this subsection for review of the action; the action shall become the action of the Authority at the end of such 60-day period.

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

"(1) hold hearings  
"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and  
"(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

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

"(i) In the exercise of the function of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

#### "§7106. Management rights

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

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

"(2) in accordance with applicable laws--

"(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

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

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

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

"(ii) any other appropriate source; and

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

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

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

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

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

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

"§7111. Exclusive recognition of labor organizations

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

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

"(1) by any person alleging--

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

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

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

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

"(c) A labor organization which--

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

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

"(3) has submitted other evidence that it is the exclusive representative of the employees involved; may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

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

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

"(2) not to be represented by a labor organization. In any election which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

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

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

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

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

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

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

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

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

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

"§7112. Determination of appropriate units for labor organization

"(a)(1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.

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

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

"(2) a confidential employee;

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

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

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

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

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

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

"(1) which represents other individuals or indirectly with an organization which represents other individuals to whom such provision applies.

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

"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.

"§7113. National consultation rights

"(a)(1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issues relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

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

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

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

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

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

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

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

"§7114. Representation rights and duties

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

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

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

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

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

"(ii) the employee requests representation.

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

"(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

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

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

"(B) exercising grievance or appellate rights established by law, rule, or regulation; except in the case of grievance or appeal procedures negotiated under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### "§7115. Allotments to representatives

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

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

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

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

"(c)(1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the

Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose

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

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

"§7116. Unfair labor practices

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(3) informs employees of the Government's policy relating to labor-management relations and representation, shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by--

"(A) filing a petition with the Authority; and

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

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

"(A) file with the Authority a statement--

"(i) withdrawing the allegation; or

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

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

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

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

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

"(d)(1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government-wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such

consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

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

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

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

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

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

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

#### "§7118. Prevention of unfair labor practices

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

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

"(A) of the charge;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.

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

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

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

"§7119. Negotiation impasses; Federal Service Impasses Panel

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

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

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

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

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

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

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

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

"(5)(A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either--

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

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

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

"(i) hold hearings;

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

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

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

#### "§7120. Standards of conduct for labor organizations

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

"(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions

defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

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

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

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

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

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it had demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

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

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with an Assistant Secretary of Labor for Labor-Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

"(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in

this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"(f) In the case of any labor organization which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate finding by the Authority of such violation--

"(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

"(2) take any other appropriate disciplinary action.

### "SUBCHAPTER III--GRIEVANCES

#### "§7121. Grievance procedures

"(a)(1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d) 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 III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment;  
or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiated 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 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.

"§7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient--

"(1) because it is contrary to any law, rule, or regulation;

"(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

"§7123. Judicial review; enforcement

"(a) Any person aggrieved by any final order of the Authority other than an order under--

"(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

"(2) section 7112 of this title (involving an appropriate unit determination), may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of

title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designees, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

"SUBCHAPTER IV--ADMINISTRATIVE AND OTHER  
PROVISIONS

"§7131. Official time.

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

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

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section--

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

"§7132. Subpenas

"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may--

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

No subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.

"(b) In the case of contumacy or failure to obey a subpoena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the

person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"§7133. Compilation and publication of data

"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.

"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.

"§7134. Regulations

"The Authority, the General Counsel, the Federal Mediation and Conciliation Service, the Assistant Secretary of Labor for Labor Management Relations, and the Panel shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to each of them, respectively. Provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.

"§7135. Continuation of existing laws, recognitions, agreements, and procedures

"(a) Nothing contained in this chapter shall preclude--

"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or

"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.

"(b) Policies, regulations, and procedures established under and decisions issued under Executive Orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter."

BACKPAY IN CASE OF UNFAIR LABOR PRACTICE AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States Code is amended to read as follows:

"(b)(1) An employee or an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee--

"(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect--

"(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

"(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

"(B) for all purposes, is deemed to have performed service for the agency during that period, except that--

"(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the Office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

"(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(3) For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit."



United States  
Department of  
Agriculture

Farm Service  
Agency

State Executive  
Director

Arkansas  
State Office

Room 3416,  
Federal Building  
700 W. Capitol  
Little Rock, AR  
72201

January 17, 2002

**TO:** Program Directors  
District Directors  
Farm Loan Managers  
Bargaining Unit Employees

**FROM:** Len E. Blaylock, Jr.  
State Executive Director

**SUBJECT:** Amendment to Labor-Management Relations Agreement

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Attached is a copy of a Memorandum of Agreement between AFGE Local 108 and AR Farm Service Agency, along with a copy of a new Article 8, "Basic Workweek - Hours of Work - Overtime". You should review this amendment and include it in your copy of the Labor-Management Relations Agreement dated November 5, 1991.

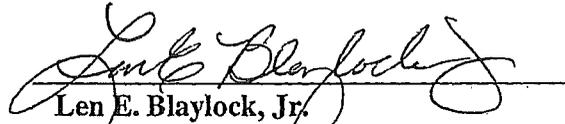
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Farm Service Agency

Memorandum of Agreement  
Between AFGE Local 108  
And USDA, AR Farm Service Agency  
October 11, 2001

This Memorandum of Agreement (MOA) is to replace Article 8 of the Labor-Management Agreement dated November 5, 1991, with the attached Agreement on Article 8 effective October 11, 2001 and to implement the use of attached Form FSA-956AR in requesting alternative work schedules.

  
\_\_\_\_\_  
Barbara Owens,  
President, AFGE Local 108

  
\_\_\_\_\_  
Len E. Blaylock, Jr.  
State Executive Director

AGREEMENT BETWEEN AFGE LOCAL 108 AND  
USDA, FARM SERVICE AGENCY, ARKANSAS  
ARTICLE 8, OF THE LABOR-RELATIONS  
MANAGEMENT AGREEMENT  
EFFECTIVE OCTOBER 11, 2001

ARTICLE 8 – BASIC WORKWEEK – HOURS OF WORK – OVERTIME

Section A. General

1. Employees and managers work to carry out the overall mission of the Agency, by providing professional, technical, and clerical services to internal and external customers. This article has been amended to give recognition to the mutual need for coverage and flexibility, and to address issues and concerns that have arisen and, to the extent foreseeable, will arise as employees and managers continue working together to accomplish the work of the Agency.
  - a. Employees may request authorization to work one of the three schedules established in this article. The variety of schedules provides for more flexibility than has previously been available to employees, but has the potential to require employees to increase their span of responsibility. Employees who want to establish or make a permanent change to an alternative work schedule, shall make the request by submitting the appropriate form to their supervisors no later than close of business on the Tuesday before the pay period for which they wish the schedule to be effective. An employee may make a permanent change up to four (4) times within a calendar year.
  - b. If two or more employees' work schedule requests conflict so that to approve both/all the requests would result in inadequate office coverage during the work day, or undue delays or interruptions to Agency business operations, or the failure, delay, or interruption in completing a critical mission of the Agency, the supervisor will meet with the affected employees and return the form to each employee with the request that the employees reach agreement among themselves, if possible. If the employees are unable to reach agreement by noon on the Thursday before the pay period in which the employees wish the requested schedules to be effective, the supervisor by close of business on Thursday will approve or disapprove the work schedules.
  - c. A supervisor may, after giving timely notice to affected employees, make a temporary change to an employee's work schedule (including scheduled days off) for any work-related exigency - - including, but not limited to, to ensure required attendance at meetings, training, travel; to alleviate inadequate office coverage during the established work day; to provide required services to internal or external customers; to compensate for temporary staffing shortages or changes; or to fulfill special needs of the Agency. Timely notice is defined to mean as soon

as practicable after the supervisor has determined a change is required. The parties understand that the amount of notice practicable in each instance will vary according to the circumstances. Supervisors shall consider the affected employees' need to make corresponding changes in their personal affairs to accommodate the Employer.

- d. An employee may request a temporary change to the work schedule (including scheduled days off) for personal reasons or for any work-related exigency—including, but not limited to, ensuring required attendance at meetings, training, travel; providing required services to internal or external customers; or fulfilling special needs of the Agency. Such request for change must be submitted on the appropriate form and approved by the supervisor in advance.
- e. For changes where an employee is required to work on his or her scheduled day(s) off the employee will be permitted to schedule alternative day(s) off during the pay period, be paid overtime or accrue compensatory time, or revert to the standard work schedule of ten eight (8) hour days for the pay period.
- f. A supervisor may temporarily cancel (90 days or less) an alternative work schedule for an employee, work unit, or part of a work unit when:
  1. an employee would be unable to complete the requirements of the position;
    - the office would have inadequate coverage during established Agency business hours;
    - the work unit's business operations would be unduly delayed or interrupted; or
    - a critical mission of the Agency would not be accomplished or would be unduly delayed or interrupted.

For Agency directed permanent work schedule changes, except in emergency situations, a change to an employee's schedule may not be implemented without first giving the employee and the Union at least 2 weeks notice prior to the change. In particular circumstances, the Union may waive its right to the 2-week notice period. A change made by the Agency will not count as one of the four changes allowed by the employee.

- g. Credit hours are credit for work performed by an employee on a Maxiflex schedule in excess of their scheduled tour of duty on any scheduled workday for work performed between 6:00 a.m. and 6:00 p.m. Monday through Friday in order to vary the length of a subsequent workday or workweek. Credit hours may be earned after 6:00 p.m. to 12:00 a.m. to attend voluntary night meetings with supervisory approval.
  - Work performed for credit hours is differentiated from overtime work, which is ordered or directed by the Employer. Work performed for credit hours will

not be converted to or compensated as, overtime work, nor is it subject to the rules and regulations of overtime work.

1. Employees on a Maxiflex schedule will be permitted to earn credit hours, subject to the following limitations:
  - (i) Working credit hours is at the employee's discretion; they cannot be ordered or directed by the supervisor.
  - (ii) Prior supervisory approval is required since the supervisor must determine that appropriate work is available.
  - (iii) There is no limit on the number of credit hours that may be earned in a workday so long as the total credit hours and regular tour of duty do not exceed 12 hours (exclusive of lunch period.)
  - (iv) Credit hours will not be earned on a non-workday.
  - (v) Credit hours can be earned and used in fifteen (15) minute increments.
  - (vi) Employees shall indicate their times worked for the credit hour period through applicable time and attendance procedures.
  - (vii) An employee cannot carry over from one pay period to the next more than twenty-four (24) unused credit hours.
  - (viii) Employees cannot be forced to use credit hours. Employees cannot be forced to earn credit hours. Employees approved to work overtime may elect to earn credit hours consistent with this article.
  - (ix) Employees who have earned credit hours may request time off during their regularly scheduled work hours. Use of credit hours shall be subject to advance supervisory approval, in the same manner as leave, and will be scheduled so as to avoid disruption to the work of the work unit and to minimize the number of employees in a work unit who are off on any given workday (e.g., Supervisors may take into account scheduled leave of other employees in the work unit and scheduled days off for employees in the work unit in considering an employee's request to use accumulated credit hours).
  - (x) Use of credit hours may be requested in combination with approved leave and/or compensatory time off. Credit hour use may be requested in fifteen (15) minute increments. Credit hours use will be requested on Form SF-71, Request for Leave or Approved Absence. Employees should check the "Other" block on the SF-71 and write in "Credit Hours."
  - (xi) Credit hours may not be earned for working during the lunch period. Use of credit hours may be requested to extend a lunch period.
  - (xii) Credit hours must be earned before they are used.
  - (xiii) Unused credit hours will be compensated at the applicable rate in effect at the time of separation of the employee from the Agency, for whatever reason, including retirement.
  - (xiv) Credit hours may not be used to create entitlement for a shift differential or other premium pay.

- (xv) Credit hours may not be earned on Saturday, Sunday, holidays, or any other nonworkday; during core hours; or while traveling, i.e., driving a car, but can be earned for work performed while in travel status per OPM regulation.

h. Holidays:

1. When a Federal holiday falls on an employee's scheduled workday, the employee is entitled to holiday leave according to the following:
  - (i) for employees on a Compressed Work Schedule, the total number of hours scheduled for that day. For example, if a holiday falls on Monday and the employee is scheduled to work nine (9) hours, the employee will be paid nine (9) hours for the holiday.
  - (ii) For employees on Maxiflex, Flexitour, or Standard Work Schedules, the employee is entitled to 8 hours holiday leave.
2. When a Federal holiday occurs on a full-time employee's scheduled day off or compressed day off, the employee is entitled to:
  - (i) holiday leave for the workday immediately preceding the holiday as their "in lieu of holiday";
  - (ii) holiday leave for the immediately succeeding Tuesday if the employee's scheduled day off is Monday and any of the following days fall on the preceding Sunday: January 1, July 4, November 11, or December 25.
3. When a federal holiday occurs on a day that a part-time employee is:
  - (i) not scheduled to work, the employee is not entitled to holiday leave;
  - (ii) scheduled to work, except that the part-time employee is entitled to the smaller of the number of hours scheduled for that day or 8 hours.
4. When an employee works on a holiday they will be entitled to:
  - (i) Maxiflex- a full-time employee who performs non-overtime work on a holiday (or a day designated as the "in lieu of" holiday) is entitled to their basic rate of pay plus premium pay for that holiday work. Holiday premium pay is limited to a maximum of 8 hours, regardless of the employee's scheduled tour for that day. A part-time employee is entitled to holiday premium pay only for work performed during their basic work requirement on a holiday (not to exceed 8 hours).
  - (ii) Flexitour- a full-time employee who performs non-overtime work on a holiday is entitled to their basic rate of pay plus premium pay for that holiday work. A part-time employee is entitled to holiday premium pay only for work performed during their basic work requirement on a holiday (not to exceed 8 hours)
  - (iii) Compressed Work Schedule- a full-time and part-time employee, for non-overtime work is limited to the number of hours normally

scheduled for that day. A part-time employee scheduled to work on a day designated as an "in lieu of" holiday for full-time employees is not entitled to holiday premium pay for work performed on that day.

i. Court/Military Leave

1. When an employee goes on court/military leave, the employee shall be paid for a standard 8-hour workday for each day for which court/military leave is required. For military leave purposes, employees will be charged military leave to the extent to which it is earned.
2. If an employee receives notification after starting the pay period that the employee is scheduled for military/court leave later during the same pay period, or if the military/court leave requirement is not for an entire pay period, the employee may request to use provisions of one of the available alternative work schedules to complete the pay period.

Section B: Definitions

1. Agency Business Hours: The official business hours of the Agency are 8:00 a.m. to 4:30 p.m. Monday through Friday.
2. Core Hours: The core hours are the designated hours (9:00 a.m. to 3:00 p.m.) during which all full-time employees must be present during their normal tour unless on approved leave, scheduled lunch period, or the tour of duty has been changed.
3. Regular Workday: Is established between the hours of 6:00 a.m. to 6:00 p.m.
  - a. Employees shall begin work each day no earlier than 6:00 a.m. but no later than 9:00 a.m. Employees must have completed their tour of duty no later than 6:00 p.m. Any time worked before 6:00 a.m. or after 6:00 p.m. must be approved overtime or compensatory time.
4. Lunch Break: A manager may not require an employee to work 6 hours or more without a lunch break. A 30, 45, or 60-minute lunch break may be requested by an employee within the lunch band.
5. Lunch Band: Is the band of time, between the hours of 11:30 a.m. to 1:30 p.m., that a lunch period may be scheduled.
6. Flexilunch: Employees on a Maxiflex Schedule may, with advance supervisory approval, expand their lunch break within the lunch band on any given day, provided arrival and/or departure times are adjusted an equivalent amount on that day.
7. Temporary Schedule Change: A temporary work schedule change, as used in this Article, means two pay periods or less time.

8. **Permanent Schedule Change:** A permanent work schedule change, as used in this Article, means a time period that exceeds two pay periods. Employee is allowed to make a permanent change up to four (4) times during a calendar year.
9. **Credit Hours:** Hours worked in excess of the basic work requirement at the employee's election and with supervisory concurrence. They shorten the length of another workday or workweek. Employees do not receive overtime pay for these extra hours. There is no limit on the number of credit hours that may be earned in a workday so long as the credit hours and regular tour of duty for that day do not exceed 12 hours (exclusive of lunch period). Full-time employees may accumulate no more than 24 credit hours at any time. Part-time employees may accumulate credit hours on a pro-rata basis. Part-time employees may accumulate no more than  $\frac{1}{4}$  of the hours equal to their biweekly work requirement at any time. Employees on Standard, CWS or Flexitour may not earn credit hours.

**Article 8.1 BASIC WORK WEEK:** The basic workweek shall be forty (40) hours, consisting of eight (8) hours in each of the days, Monday through Friday, unless an employee is working under the provisions of Section 8.2 and Section 8.3.

**Article 8.2 FLEXIBLE WORK SCHEDULES (FWS):** Each employee is eligible for maxiflex or flexitour .

- a. **Maxiflex:** Employee must work an 80-hour pay period of ten (10) or fewer workdays per pay period (Monday – Friday). Workdays must be 6 hours to 10 hours in length exclusive of lunch period and must include all core hours on days scheduled to work except for the last day of the schedule once the 80-hour requirement has been met. Employee must complete form FSA-956AR, Field Office Work Schedule Request, to schedule hours of work and the supervisor must approve the FSA-956AR prior to the effective pay period. Employee may request to change the starting time each pay period choosing the time he/she will arrive each day, no earlier than 6:00 a.m. and no later than 9:00 a.m. Once a schedule is approved, employee must account for hours in the schedule except that arrival time may be flexed earlier or later up to 30 minutes on any given day, provided departure time is flexed an equivalent amount on that day, but not later than 6:00 p.m. Any other changes to the approved pay period schedule must be approved by the supervisor. Hours an employee works under Maxiflex schedule are to be recorded on a minute-to-minute basis using form FSA-958. Employees are eligible to earn credit hours.
- b. **Flexitour:** Employee is allowed to request daily starting and stopping times within the flexible hours between 6:00 a.m. and 6:00 p.m. Employees must work 8 hours a day, 5 days a week. Once selected the hours are fixed and do not flex.

Article 8.3: COMPRESSED WORK SCHEDULE: Employee works a fixed schedule which is established by the employee and approved by the supervisor. Employee must work an 80-hour pay period of fewer than 10 workdays per pay period (Monday- Friday). Workdays must begin no later than 9:00 a.m. and end no later than 6:00 p.m. Starting and ending times once established are fixed and do not change. Employees shall establish a schedule according to one of the following: The compressed work schedule program must operate in a manner, to ensure that offices and facilities are adequately staffed during business hours and at times required to fulfill the agency's mission. An office cannot be closed as a result of employees Non Work Day (NWD) without prior approval from the State Executive Director. Credit hours cannot be earned under CWS.

- a. 5/4/9: Employee establishes a schedule to work eight 9-hour days, one 8-hour day, and designates one (1) fixed compressed day off.
- b. 4/10: Employees established a schedule to work eight 10-hour days and designates two fixed compressed days off.
- c. Employees may request to participate in, make changes to, or cancel their participation in compressed work schedules using form FSA-956AR, up to four times per year. Temporary adjustments necessary in accordance with this Article are not considered a change for this purpose.

#### Work Schedules Available

##### Fixed Tour: Standard Work Schedule

Tour: 8:00 a.m. -4:30 p.m. daily  
Nonwork day: Ineligible  
Glide: Ineligible  
Credit Hours: Ineligible  
Flexilunch: Ineligible  
Holiday Pay; 8 hours

##### Fixed Tour: Compressed Work Schedule

Tour: 5/4/9 or 4/10 as established  
Nonwork day: 5/4/9: 1 day as established  
4/10: 2 days as established  
Glide: Ineligible  
Credit Hours: Ineligible  
Flexilunch: Ineligible  
Holiday Pay: 5/4/9: 8 hours on short day  
9 hours on long day  
4/10: 10 hours

Fixed Tour: Flexitour

Tour: 8 hours daily  
5 days a week with varying start and stop times  
Nonwork day: Ineligible  
Glide: Ineligible  
Credit Hours: Ineligible  
Flexilunch: Ineligible  
Holiday Pay: 8 hours

Flexible Tour: Maxiflex

Tour: As scheduled with 6- to 10-hour days  
Nonwork day: 1 or more as scheduled  
Glide: 30 minutes  
Credit Hours: Yes  
Flexilunch: Yes  
Holiday Pay: 8 hours

8.4 OVERTIME: Assignment of overtime is a management function. Overtime is not a right by reason of employment. Overtime work is authorized to meet agency needs. Employees will be expected to work overtime if requested; however, if an employee request to be excused from working overtime on a specific occasion, the supervisor will make an effort to accommodate the employee's request to be excused. Consistent with the paragraph, the Employer will assign overtime except emergency situations, among employees who have similar skills, abilities, and grad levels and are in the same organizational location. Time and attendance records showing the overtime distribution will be maintained. In no case will overtime work be assigned to any employee as a reward or punishment.

8.5 REST PERIODS: Employees shall be allowed two (2) paid rest periods; one rest period during the middle of the first time period, and one rest period during the middle of the second time period of each basic work day. Those rest periods will be limited to fifteen (15) minutes each. The approximate times of the rest period will be at the discretion of the Employer. Unless the work situation will not permit, these rest periods will be staggered so that all employees are not on rest periods at the same time, to enable the Employer to maintain continuous service to the public.

Reproduce Locally. Include form number and date on all reproductions.

FSA-956 - AR  
(10-19-99)

U.S. DEPARTMENT OF AGRICULTURE  
Farm Service Agency

PRIVACY ACT STATEMENT

Collection of your Social Security Number is authorized by Executive Order 13526 and will be used solely for the purpose of positive identification. Furnishing this information is voluntary.

FIELD OFFICE WORK SCHEDULE REQUEST

**PART A - GENERAL INFORMATION**

1. Employee's Name	2. Social Security Number	3. Field Office
4. Type of Requested Change? Permanent <input type="checkbox"/> Temporary <input type="checkbox"/>	5a. Effective Pay Period of Requested Change	5b. If Temporary, Enter PP to Return to Current Work Schedule
		6. Employment Status FT <input type="checkbox"/> PT <input type="checkbox"/>

**PART B - CURRENT WORK SCHEDULE**

7. WORK SCHEDULE TYPE <input type="checkbox"/> Maxiflex - Estimated arrival/departure with glide <input type="checkbox"/> CWS 5/4/9 - 80 hour pay period of eight 9-hour workdays plus one 8-hour workday - fixed arrival/departure. <input type="checkbox"/> Standard Flexitour - 40 hours per week and 10 workdays per pay period - fixed arrival/departure	8. WORK SCHEDULE DAYS (Enter "OFF" for nonworkdays)									
	WEEK ONE					WEEK TWO				
MON	TUE	WED	THU	FRI	MON	TUE	WED	THU	FRI	
Arrival Time →										
Depart. Time →										
Daily Hours →										

9. Current Work Schedule incorporates which of the following Lunch Breaks?  30 Minutes  45 Minutes  60 Minutes

**PART C - REQUESTED WORK SCHEDULE**

10a and 10b apply to Maxiflex only.	10a. Amount of Allowable Glide Time _____ Minutes	OR	10b. Time Frame _____ am - _____ am							
11. WORK SCHEDULE TYPE <input type="checkbox"/> Maxiflex - Estimated arrival/departure with glide <input type="checkbox"/> CWS 5/4/9 - 80 hour pay period of eight 9-hour workdays plus one 8-hour workday - fixed arrival/departure <input type="checkbox"/> Standard Flexitour - 40 hours per week and 10 workdays per pay period - fixed arrival/departure <input type="checkbox"/> CWS 4/10	12. WORK SCHEDULE DAYS (Enter "OFF" for nonworkdays)									
	WEEK ONE					WEEK TWO				
MON	TUE	WED	THU	FRI	MON	TUE	WED	THU	FRI	
Arrival Time →										
Depart. Time →										
Daily Hours →										

13. Requested Work Schedule incorporates which of the following Lunch Breaks?  30 Minutes  45 Minutes  60 Minutes

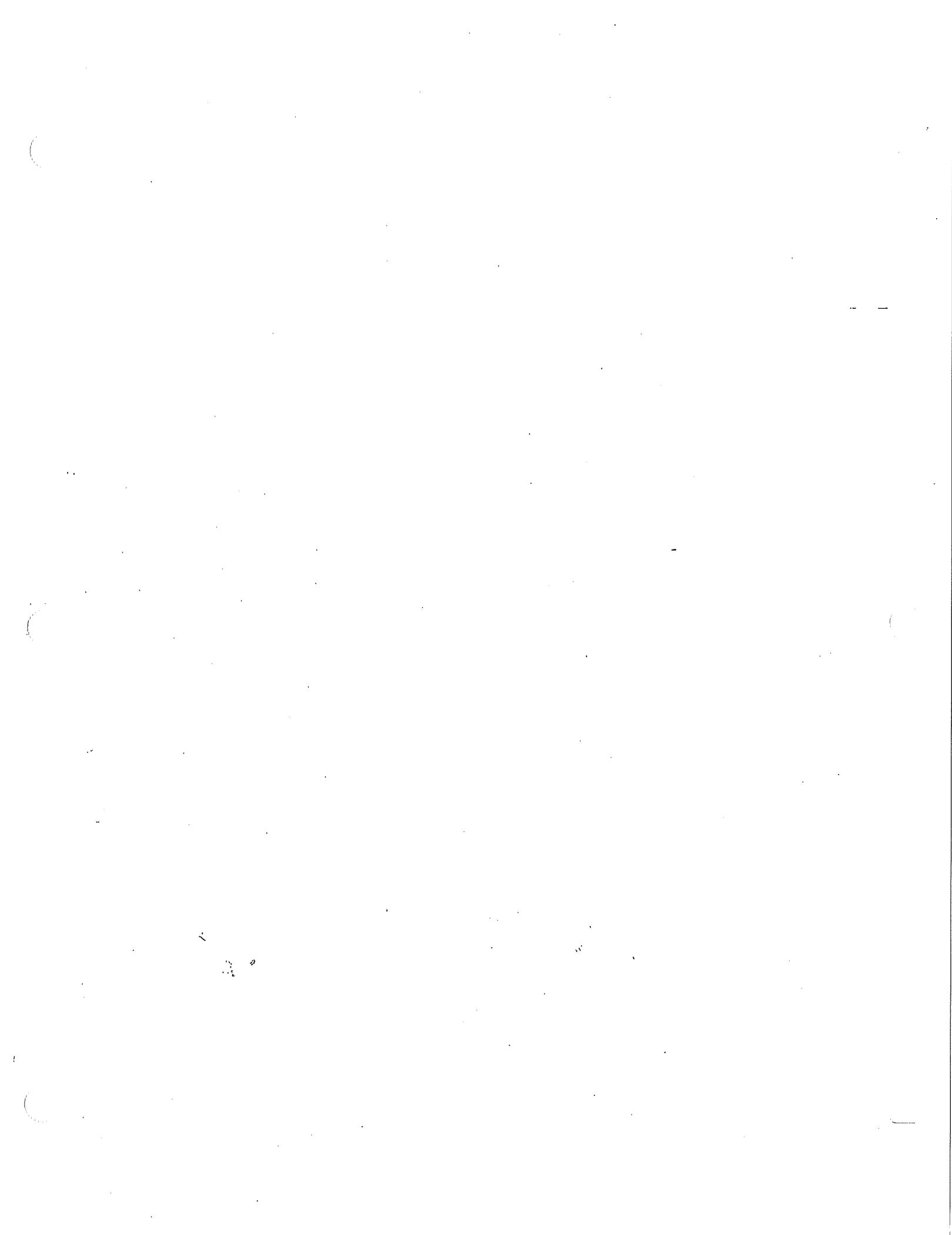
14. Employee's Signature	Date	15. Received by Timekeeper (Initials)	Date
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**PART D - APPROVAL/DISAPPROVAL**

16. This request is: APPROVED AS REQUESTED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> APPROVED AS REVISED <input type="checkbox"/>	17. Reason for Disapproving Request
18. Approving Official's Signature	
Date	

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 325-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-5410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

ORIGINAL - Timekeeper  COPY - Employee



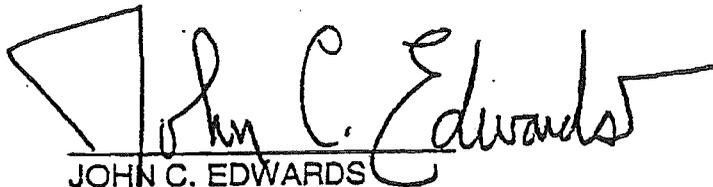
February 22, 2001

TRANSMITTAL

The attached Memorandum of Agreement (MOA) is the result of joint negotiations between AFGE Local 108 and management representatives of the Farm Service Agency and Rural Development in Arkansas.

It is agreed that the MOA will apply to all Arkansas Federal employees of these two agencies and will be implemented as part of the USA Merit Promotion Plan.

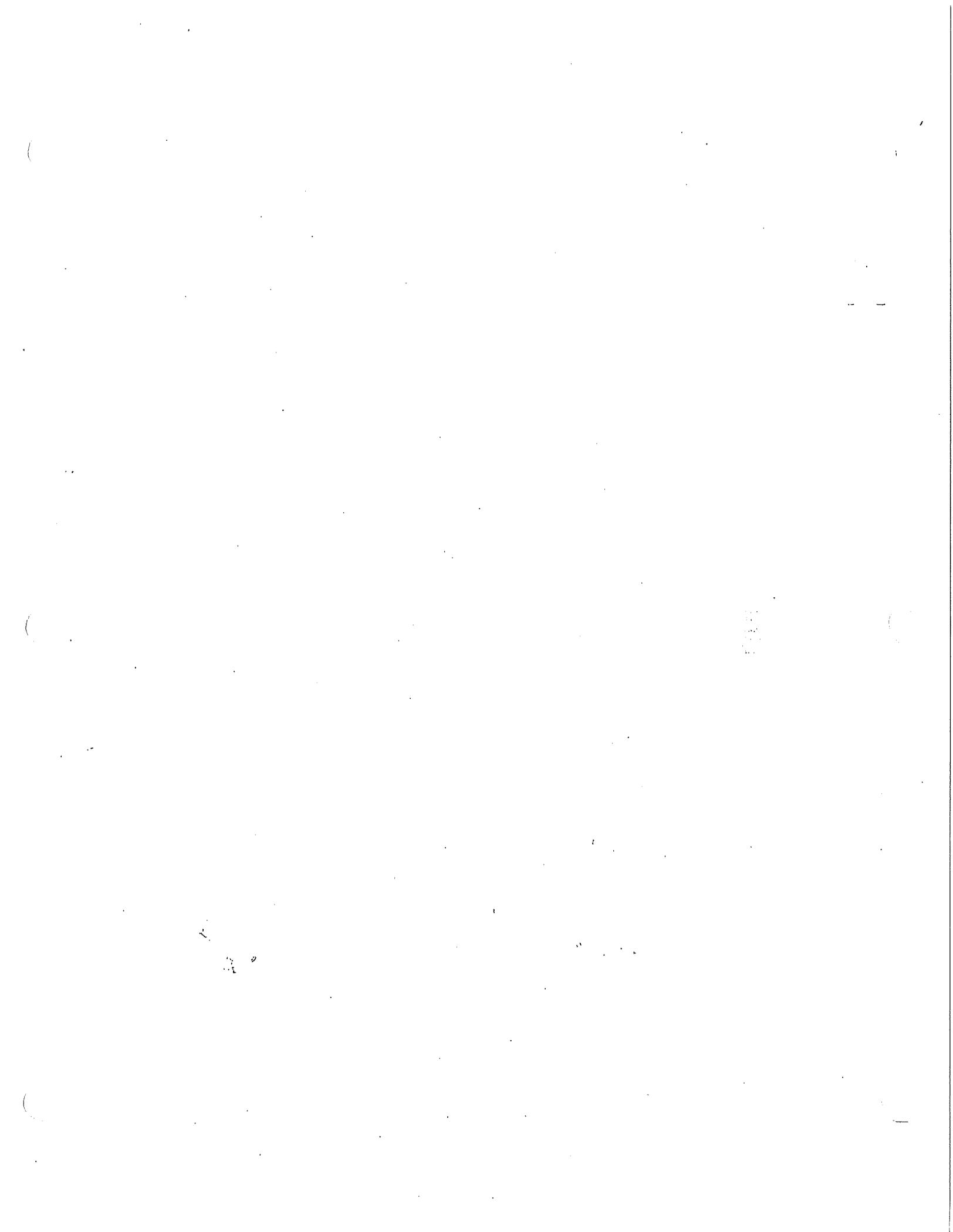
The MOA is to be filed in your Common Policy Manual, along with the current policies and MOA's on Performance Management and Employee Recognition.



JOHN C. EDWARDS  
State Director  
USDA, Rural Development



MICHAEL L. DUNAWAY  
State Executive Director  
USDA, Farm Service Agency



02/22/01

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is between the AFGE Local 108 and USDA Rural Development and USDA Farm Service Agency, Arkansas.

This agreement applies to the implementation of the USDA Merit Promotion Plan.

It is agreed that the terms of the current Arkansas Labor-Management Relations Agreements will supercede any conflicting terms in the USDA Merit Promotion Plan except FSA LMRA Article 17.4(a) will be amended to read, *For announcements which have five (5) or more basically qualified applicants, a panel will be convened...*

It is further agreed that AFGE Local 108 and USDA Rural Development and Farm Service Agency, Arkansas, will implement the USDA Merit Promotion Plan as written except for the following provisions.

Paragraph 9.B. 2 Minimum Area of Consideration will read *"Any single Agency, Service or Bureau, State/Field Office- Statewide."*

Paragraph 9. C. 1. Will be changed to read; *"Vacancy announcements will be open for a minimum of 20 calendar days. Announcements with the area of consideration limited to CTAP/ICTAP candidates may be open for 5 calendar days." Employees will receive vacancy announcements by the opening date of the announcement.*

Paragraph 9. C. 2. Will be changed to read *"Nationwide/Government wide will be posted for a minimum of 30 calendar days."*

Paragraph 9. C. 3. Will be changed to read *"Close of business in Field Offices will be determined by the appropriate official in each office with clock time included on the vacancy announcement."*

Paragraph 10. A. 2. Will be changed to read *"Non-competitive referral candidates are not required to submit KSA supplemental statements although they are strongly encouraged to do so in order to assist the selecting official to evaluate all appropriate candidates."*

Paragraph 10. E. Will be changed to read *"Voluntary applications outside and or within the Agency will not be accepted unless so stated on the vacancy announcement. The vacancy announcement will outline the method of considering candidates when applications are accepted."*

02/22/01

Paragraph 12. The first four paragraphs will be replaced to read "A Merit Promotion Panel will be used to rate and rank candidates when there are 5 or more qualified applicants for FSA positions and 3 or more qualified applicants for Rural Development positions.

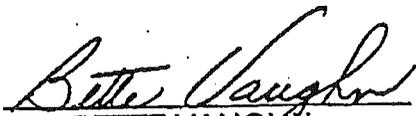
Paragraph 12. A. 1. Merit Promotion Panel. Add g. The union will be afforded the opportunity to have an observer present during this process.

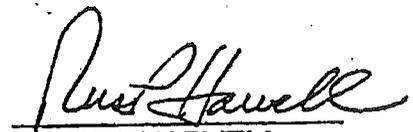
Paragraph 12. B. Delete. See Paragraph 13 Alternative Evaluation Method.

Paragraph 13.1. Will be changed to read, "This is an alternate approach for determining well qualified candidates when less than 5 applications for FSA positions or less than 3 applications for Rural Development positions, are received from basically qualified candidates who must compete.

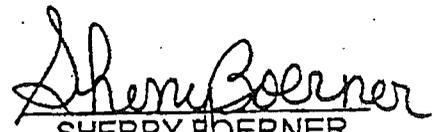
Paragraph 15 C. 2. Will be changed to read "The Merit Promotion Plan procedures or Labor Relations Management Agreement (LRMA) were not followed"

Attachment 1, Supervisor Responsibility, 3. Add at the end of the paragraph "or negotiated grievance procedures."

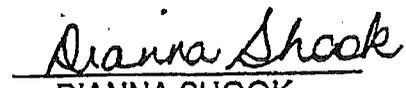
  
BETTE VAUGHN

  
RUSS HARVELL

  
SHERRY STEVENS

  
SHERRY BOERNER

  
TERESA BONADUCE

  
DIANNA SHOOK

  
SHIRLEY MOORE

# United States Department of Agriculture

National Offices, Services Centers, and Field Offices



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Service  
Agency

Foreign  
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Service

Natural Resources  
Conservation  
Service

Risk  
Management  
Agency

Rural  
Development

Support  
Services  
Bureau

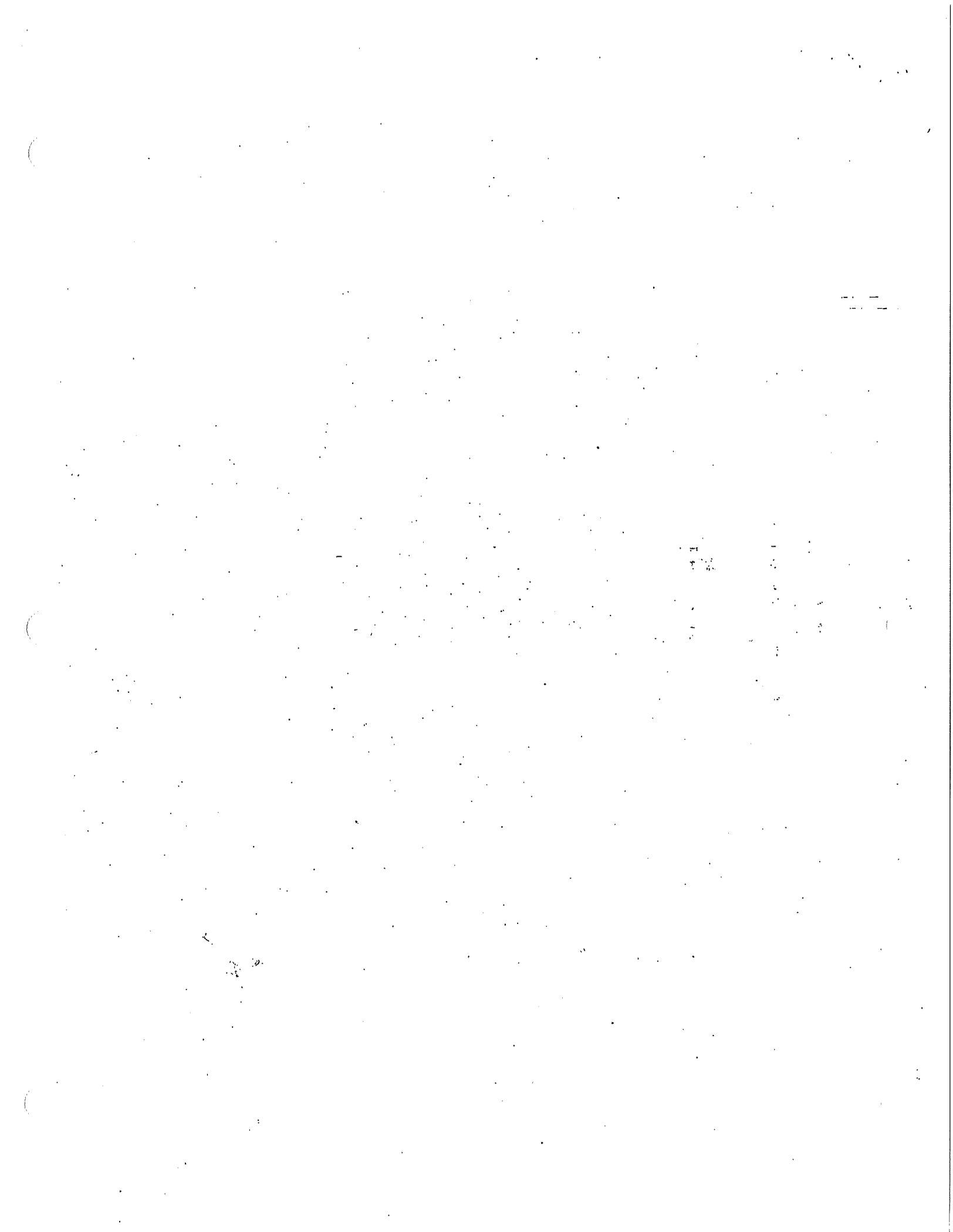
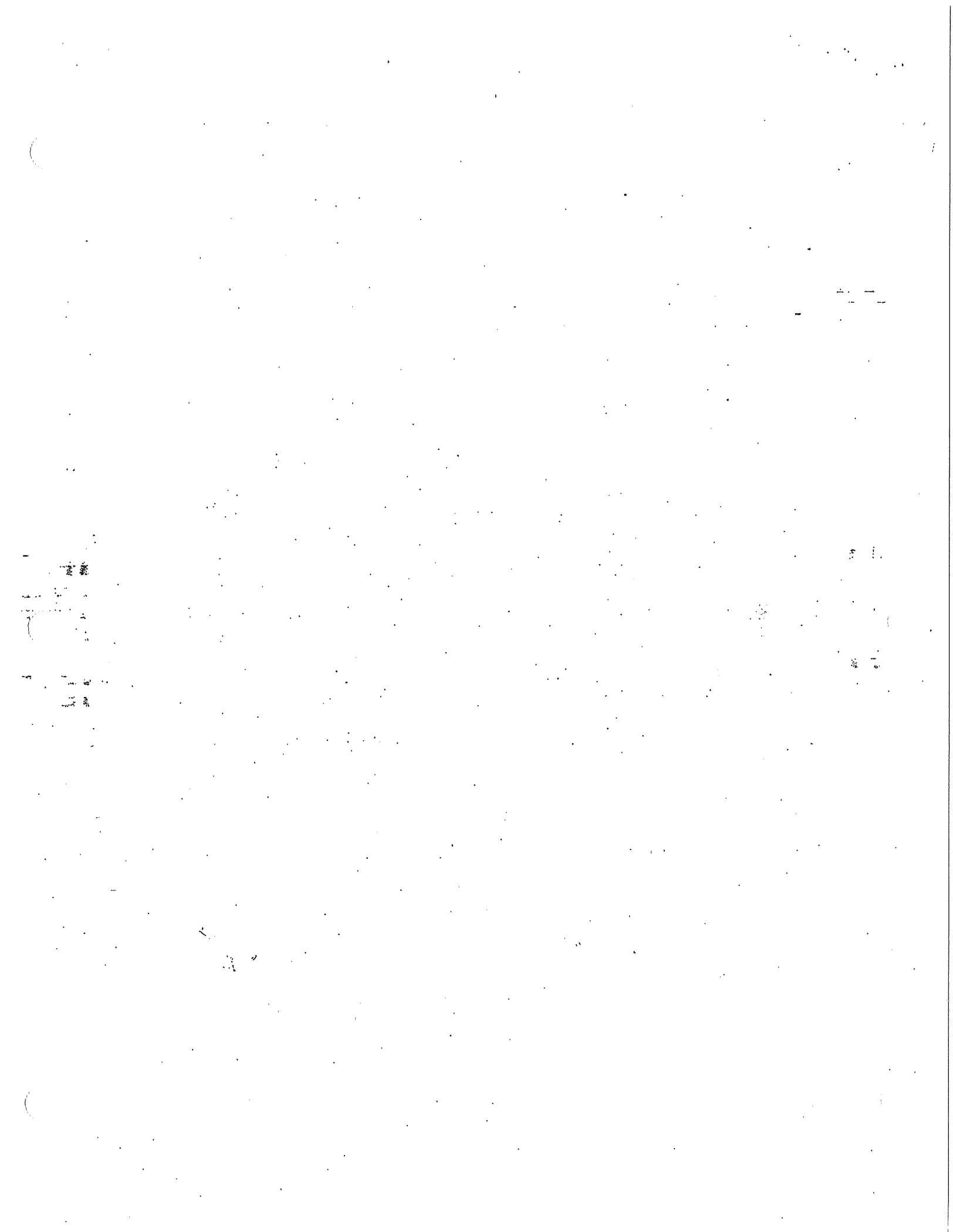


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**ATTACHMENTS:**

Employee, Supervisor and Human Resources Responsibility



## 1. BACKGROUND

This establishes the procedures for merit promotion and placement actions for positions in the National Offices, Service Centers, and other Field Offices of the Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, Natural Resources Conservation Service, (NRCS), Risk Management Agency, (RMA), Foreign Agricultural Service, (FAS), Farm Service Agency, (FSA), and the Support Services Bureau, (SSB). This document is in accordance with 5 CFR 335 and provides supplemental information to comply with these requirements.

## 2. POLICY

- A. In order to promote fair and equitable treatment for all employees, this plan defines how consideration will be given to all interested applicants.
- B. This Supplement does not guarantee promotion; nor does it require a vacancy be filled by promotion.
- C. Actions under this Merit Promotion Plan--whether in identification, qualification, evaluation, or selection of candidates, or any other phase of the promotion process--shall be made without discrimination for any nonmerit reason.
- D. This plan covers promotions in the competitive service through GS-15 and similar pay schedules, and to or from any prevailing rate schedule position.
- E. Any exception to this merit promotion policy must be approved by the head of the national Human Resources Office.

## 3. OBJECTIVES

- A. The objectives of this plan are to:
  - c narrow the number of candidates to a reasonable number and assure that selections are made from among the best qualified applicants;
  - c give employees an opportunity to receive fair, equitable, and appropriate consideration for higher level jobs;
  - c provide an incentive for employees to improve their performance and develop their knowledges, skills, and abilities, (KSAs);
  - c provide career opportunities for employees;
  - c bring the best qualified candidates to the attention of the selecting

- official; and,
- c enhance and support diversity in the workforce.

#### 4: COVERAGE

The following types of personnel actions are covered:

- A. Competitive promotion.
- B. Reassignment or demotion to a position with more promotion potential than the highest actual grade held by an employee on a permanent basis under a career or career-conditional appointment.
- C. Transfers to a higher-graded position or a position with higher promotion potential than the highest actual grade previously held by an employee on a permanent basis under a career or career-conditional appointment.
- D. Reinstatement to a higher-graded position or a position with higher promotion potential than the highest actual grade held by an employee on a permanent basis under a career or career-conditional appointment.
- E. Selections for details for more than 120 days to a higher-graded position or to a position with known promotion potential.
- F. Selection for training that is any one of the following:
  - c Part of an authorized training agreement.
  - c Part of a promotion program, although the promotion may not immediately follow the training.
  - c Required before an employee is qualified for reassignment to a different occupational series.
  - c Part of a Career Enhancement Program.
  - c Designed primarily to prepare employees for advancement or to fulfill specific qualification requirements for a position with known promotion potential.
- G. Time limited promotion for more than 120 days to a higher-graded position or a position with higher promotion potential, unless the selectee has held the grade previously on a permanent basis.

## 5. EXCEPTIONS

The following types of personnel actions are not covered:

- A. Competitive selection from an Office of Personnel Management (OPM) certificate or a certificate issued by an Agency with delegated examining authority.
- B. Promotions resulting from an employee's position being reclassified at a higher grade because of accretion of duties and responsibilities.
- C. Promotions resulting from upgrading a position, without significant changes in the duties or responsibilities, because of either the issuance of a new classification standard or the correction of an initial classification error.
- D. Career-ladder promotions when an employee was previously selected for an assignment intended to prepare him/her for the position being filled. Sources of selection may be:
  - c an Office of Personnel Management certificate
  - c a list of employees issued under delegated examining authority
  - c selection under competitive promotion procedures
  - c Special Placement Programs or
  - c any other direct hire authority.
- E. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service, provided the employee was not demoted or separated from that grade because of deficiencies in performance or "for cause" reasons.
- F. Details, not longer than 120 days, to a higher-graded position or to a position with no known promotion potential.
- G. Details at the same or lower grade.
- H. Actions taken as a remedy for failure to receive proper consideration in a competitive promotion action.
- I. Promoting an employee upon exercise of reemployment rights if the employee's former position was reclassified during his/her absence.

- J. Selection of a candidate from the Reemployment Priority List (RPL) for a position up to the highest grade previously held in the competitive service.
- K. Position changes permitted by Reduction-in-Force (RIF) regulations.
- L. Repromotion to a grade or position from which an employee was demoted as a result of RIF.
- M. Selection by reassignment to a position with the same or less promotion potential than a position previously held under a career or career-conditional appointment.
- N. A temporary promotion for 120 days or less to a higher-graded position or to a position with known promotion potential.
- O. Permanent promotion to a position held under temporary promotion when:
  - (1) the assignment was originally made under competitive procedures; and
  - (2) it was made known under competitive procedures to all competitors at the time that it might lead to a permanent promotion.
- P. Voluntary change to a lower grade with the same or less promotion potential than previously held under a career or career-conditional appointment.
- Q. A position change from a position having known promotion potential to a position at the same grade having no higher potential.
- R. Selection of an eligible CTAP or ICTAP candidate.

## 6. METHODS FOR FILLING VACANCIES

Vacancies may be filled by any appropriate method including special placement programs, new appointment, reassignment, transfer, reinstatement or promotion, etc.

## 7. PRIORITY PLACEMENT PROGRAMS

- A. When a position is announced with an area of consideration limited to all or some portion of the USDA workforce, the order of consideration for priority and other candidates is as follows:
  - 1. Agency CTAP eligibles

2. USDA CTAP eligibles
3. Agency/USDA repromotion eligibles
4. Agency priority consideration eligibles
5. All other applicants within the area of consideration, and
6. RPL registrants at the option of the selecting official.

B. When a position is announced with an area of consideration which exceeds the current USDA workforce (e.g., Government-wide or all sources), the order of consideration for priority and other candidates is as follows:

1. Agency CTAP eligibles
2. USDA CTAP eligibles
3. USDA RPL registrants
4. USDA ICTAP applicants
5. Agency/USDA repromotion eligibles
6. Agency priority consideration eligibles
7. ICTAP eligibles (other than those displaced from USDA) and
8. All other applicants.

C. **USDA REPROMOTION PLACEMENT PLAN**

Employees downgraded through no fault of their own are entitled to priority consideration for a period of 2 years from the effective date of the employee's downgrade.

D. **PRIORITY CONSIDERATION**

Employees are entitled to priority consideration whenever reconstruction of a promotion action shows that, except for some error, (i.e. wrong qualification determination, failure to consider, improper rating, failure to follow competitive procedures, etc. ), the employee would have appeared on a promotion certificate. The employee shall be entitled to one bonafide consideration for the type (same series, grade, up to the same promotion potential, and geographic area) of position previously applied for under competitive procedures. A priority consideration certificate will be forwarded to the selecting official prior to issuing a competitive certificate.

If no priority consideration candidate is selected, the selecting official must provide job-related justification for the non-selection.

#### 8. INITIATING THE VACANCY

- A. The supervisor of the vacancy will submit an SF-52, Request for Personnel Action, through appropriate channels. With the SF-52, the supervisor will attach a Position Description Cover Sheet and a current position description that accurately describes the position to be filled.
- B. No action will be taken to staff the vacant position until the position is classified.
- C. The selecting official will determine, in consultation with the Personnel Specialist, the best way to fill the vacancy (OPM register, transfer, reinstatement, merit promotion procedures, Special Placement Programs, etc.).

#### 9. PROCEDURES WHEN VACANCY IS ANNOUNCED

The following procedure will be followed for all merit promotion vacancies:

##### A. Identification of Selection Criteria.

- 1. Prior to posting the vacancy announcement, the Personnel Specialist determines:
  - a. That KSAs are established for the position. The Personnel Specialist will discuss and review with the selecting official the existing KSAs to determine if they are still appropriate; or
  - b. That KSAs are not established for the position. The Personnel Specialist will contact the selecting official to establish the KSA's.

##### B. Minimum Area of Consideration

The following is designated as the minimum area of consideration:

- 1. Any single Agency, Service, or Bureau, National/Headquarters Offices -commuting area
- 2. Any single Agency, Service, or Bureau, State/Field Offices -commuting area

A wider area of consideration may be initially established to obtain more

qualified candidates if it is anticipated that sufficient candidates will not be available.

C. Preparation and posting vacancy announcements.

1. Vacancy announcements will normally be posted for a minimum of 10 workdays. Announcements with the area of consideration limited to CTAP/ICTAP candidates may be open for 5 calendar days.
2. Nationwide/Government wide will be posted for a minimum of 21 calendar days.
3. Close of business in Field Offices will be determined by the appropriate official in each office.
4. Vacancies will be posted on the automated bulletin board systems prescribed by OPM. Offices will ensure announcements are posted to provide for adequate publicity to employees.

10. SUBMITTING APPLICATIONS

A. To be considered for posted vacancies, the following procedures must be followed:

1. Applicants must submit:

- c SF-171, Application for Federal Employment; or OF-612, Optional Application for Federal Employment; or resume; and
- c Supplemental statement that addresses each of the KSAs separately or other information included in the announcement; and
- c Current performance appraisal/rating, or a statement advising the performance appraisal/rating is unavailable. (This applies only to current Federal Employees).
- c Any other information as specified in the vacancy announcement.

2. Non-competitive referral candidates are not required to submit KSA supplemental statements although they are encouraged to do so.

**NOTE:**

- c Failure on the part of the applicant to submit the requested material will result in not being considered for the advertised position.

- C KSA supplemental statements may not be more than 2 single-spaced pages per KSA unless otherwise stated on the vacancy announcement.
  - C Additional materials, such as copies of position descriptions, publications, award certificates, will not be considered in the ranking process.
  - B. Applications must be received at the specified location by the close of business on the closing date of the vacancy announcement unless otherwise stated on the vacancy announcement. Exceptions to this requirement may be made by the servicing Human Resources Office for reasons such as extended power outages, severe weather, etc.
  - C. Applications submitted by facsimile or other electronic means as specified in the announcement will be accepted.
  - D. Employees who are on extended leave are responsible for notifying their supervisor if they want to be considered for promotional opportunities while they are on travel or leave. Employees shall leave a telephone number, e-mail address and/or facsimile number with their supervisor. The supervisor is responsible for contacting the employee to provide vacancy information.
  - E. Voluntary applications within the Agency will not be accepted unless so stated on the vacancy announcement. The vacancy announcement will outline the method of considering candidates when applications are accepted.
  - F. Applications will be accepted from candidates under special hiring authorities, i.e., VRA, 30% Disabled Veteran, Persons with Disabilities, etc. Qualified candidates will be placed on the Promotion Certificate as non-competitive referrals.
  - G. Section 765 of P.L. 105-277 states that permanent employees of FSA County Committees employed on or after October 1, 1998, shall be considered as having Federal Civil Service status for the purpose of applying for USDA Civil Service vacancies. Applications will be accepted from permanent FSA county committee employees who were employed on or after October 1, 1998, when the area of consideration includes FSA employees. FSA County Committee employees do not receive any priority consideration for Civil Service vacancies.
11. EVALUATION TO DETERMINE ELIGIBILITY, BASIC QUALIFICATIONS, AND NOTIFICATION TO CANDIDATES
- A. Qualifications of the applicants will be determined from the application package submitted and the applicant notified of the results.

- B. Minimum qualification standards used for placements are standards approved by the Office of Personnel Management and may be found in OPM Handbook, Qualification Standards for General Schedule Positions and the X-118C, Internal Qualifications Guide for Trade and Labor Jobs. The Personnel Specialist will assure that all of the following requirements are met:
1. Time-in-grade restrictions.
  2. Qualification Standards for General Schedule Positions or the X-118C standards.
  3. 90-day after competitive appointment restriction.
  4. Any other requirements such as selective placement factors (e.g., ability to communicate in a foreign language).
  5. Summary performance rating of fully successful or results achieved.
- C. Applicants must meet all of the above requirements by the closing date of the announcement.
- D. Submission of additional information after the closing date will not be accepted.

## 12. RATING AND RANKING PROCEDURES

Either a Merit Promotion Panel or a Personnel Specialist/Subject Matter Expert may be used to rate and rank candidates.

A panel may be used for any vacancy regardless of the number of competitive candidates.

A Personnel Specialist/Subject Matter Expert may be used if there are 10 or less competitive candidates for any particular advertised grade level.

The same method will be used for any position(s) advertised at multiple grade levels.

### A. Merit Promotion Panel Method

#### 1. Merit Promotion Panel Composition

- a. The Personnel Specialist will assemble a Merit Promotion panel consisting of at least two members who occupy positions at a grade level not lower than the full performance level of the position being filled. The selecting official may recommend members to serve on the panel subject to the approval of the Personnel Specialist.
- b. The Personnel Specialist will serve as a facilitator with responsibility for assuring the requirements of merit promotion procedures are followed and to assist in expediting the process.
- c. Neither the supervisor, the selecting official, nor the approving official of the

vacancy may be a member of the panel. They may, however, be asked to appear before the panel to answer any questions regarding the vacancy or the crediting plan.

- d. Merit Promotion Panels should include minority group members and/or women.
- e. Members of the panel will protect the confidentiality of all information received or reviewed during the committee process.
- f. There may be an EEO observer present during this process.

2. Merit Promotion Panel Delegated Responsibility

The Merit Promotion Panel has the final responsibility for determining best qualified candidates based on valid, job-related criteria and employees application package. They are accountable for defending their final decision to any regulatory or investigative agency.

3. Merit Promotion Panel's Rating of the Candidates

A. The Merit Promotion Panel will use the following rating instruments to determine a candidate's possession of each identified KSA and the level of proficiency attained.

C Rating Instrument - application, KSAs, performance appraisal, related awards, training and self development.

NOTE: These factors may be considered in the evaluation process only to the extent that they are clearly related to one or more of the skills and knowledges important to successful performance in the job to be filled.

B. A rating scale will be developed for each KSA against which an applicant's possession of that KSA will be measured. The point range is 5 - 0.

Superior - (5 points will be assigned)

Satisfactory - (3 points will be assigned)

Minimally acceptable - (1 point will be assigned)

No evidence - (0 point will be assigned)

B. Personnel Specialist/Subject Matter Expert Ranking Method

1. If there are 10 or fewer qualified competitive applicants at each particular grade level for

a vacancy, a Personnel Specialist may be used to determine the best qualified.

2. The Personnel Specialist or a subject matter expert will apply the same rating criteria used by a merit promotion panel as described above in paragraph 12 (3).

C. Determining the Best Qualified

1. Each basically qualified competitive candidate is evaluated against criteria developed from the job analysis process which was developed prior to rating. Each candidate is given a score based on their experience, education, related awards, training, and self development. These scores are then combined and recorded on the master score sheet.
2. Up to 10 candidates may be certified for each grade level if meaningful distinctions cannot be made among a smaller number.
3. Where distinctions simply cannot be made, if a tie occurs for the 10th position, all names with that score will be referred.
4. If more than 1 position is to be filled, three additional names may be certified for each additional vacancy.
5. If insufficient candidates, (three or less) are best qualified, the selecting official may make a selection or request that the area of consideration be extended.
6. There is no provision allowing the selecting official to request and make a selection from candidates who have not been rated best qualified.

13. ALTERNATIVE EVALUATION METHOD

1. This is an alternate approach for determining well qualified candidates when 10 or fewer applications are received from basically qualified candidates who must compete.
2. The Personnel Specialist reviews application materials to determine that an applicant meets basic qualifications and any selective factors identified for the position. A further review is conducted to distinguish well qualified candidates from those who only meet minimum requirements.
3. If a Personnel Specialist is not familiar with the requirements of the position to determine whether experience, education, or training relates to the evaluation criteria, then a subject matter expert may perform the evaluation or his/her technical advice may be obtained.
4. Applicants who meet all these requirements are referred to the selecting official as well qualified candidates for consideration by the selecting official.

5. Any basically qualified candidates for lateral reassignment and those eligible for consideration under special hiring authorities or for reinstatement will be referred to the selecting official without being evaluated by any of these methods.

#### 14. SELECTION PROCESS

- A. The names of the best qualified candidates will be listed on the Promotion Certificate by grade level in alphabetical order.
- B. The selecting official may be provided with all Best Qualified candidates' KSA supplemental statements, applications and any other related material.
- C. The selecting official has the option to either interview or not to interview the best qualified candidates on a promotion certificate. If one best qualified candidate is interviewed, then all best qualified candidates must be interviewed. Non-competitive referrals need not be interviewed, nor must the selecting official interview all non-competitive referrals if they interview one.
- D. The selecting official is entitled to make a selection from any of the candidates listed on a promotion certificate based on his/her judgment of how well the candidate will perform in the particular job being filled.
- E. The selecting official will make his/her selection, forward it through appropriate approving officials. Each candidate will be notified of the selection.
- F. The promotion certificate should be returned within 30 days. If the selecting official is unable to make the selection, extensions may be granted up to 90 days from the date the certificate was originally issued. In the event a like (same Agency, official title, series, grade, and geographic location) vacancy occurs within the original area of consideration during the 90 day period, the same certificate may be used to fill the subsequent vacancy(s) without re-advertising.
- G. The selecting official is not required to make a selection from the promotion certificate but may select from any other appropriate source.
- H. A selected candidate will normally be released to enter on duty in the new position no later than 1 full pay period after selection. Extensions beyond the normal 1 pay period will be negotiated between the supervisors involved by the Personnel Specialist.

## 15. PROMOTION RECORDS AND INFORMATION

- A. The Human Resources office will establish and maintain an official promotion case file for 2 years.
- B. The following information will be provided to any employee upon request:
1. Explanations and supporting regulations concerning the Merit Promotion Plan.
  2. The qualifications required for a position.
  3. If the employee was considered and basically qualified.
  4. Whether the employee was among the best qualified and how the employee was evaluated by the Merit Promotion Panel or Personnel Specialist.
  5. Cut-off score for best qualified.
  6. Scores of other candidates (not identified by name).
  7. Number of qualified candidates.
  8. Number of candidates certified as Best Qualified.
  9. Who was selected.
- C. Employee Complaints: An employee has the right to file a grievance or complaint if he or she feels:
1. There has been an improper application of governing rules and regulations.
  2. The Merit Promotion Plan procedures were not followed.
- Individual judgments used in merit promotion process or non-selection from a group of properly ranked or certified candidates are not subject to the formal administrative grievance process.
- D. All employees are encouraged to discuss plans and opportunities for advancement with their supervisor and request information and/or assistance from the servicing office on specifics of the Merit Promotion Plan, qualification standards, etc.

**16. PROGRAM REVIEW**

This plan will be reviewed and reported on periodically in conjunction with managers, supervisors and employees to ensure that:

- A. The plan is effective and useful to employees and management;
- B. Promotion actions and employee complaints are handled promptly and properly;
- C. Promotions are used to encourage competent employees to investigate new careers and to make the best use of their knowledge and skills; and
- D. Employees, supervisors and managers have a full understanding of the merit promotion process.

## ATTACHMENT 1

### EMPLOYEE, SUPERVISOR AND PERSONNEL RESPONSIBILITIES

#### Employee Responsibility:

1. Review announcements under the Merit Promotion Program.
2. Review announcements and, if they feel they meet specific experience and training requirements for the position, properly complete and forward all required application material by the closing date for each position for which they wish to be considered, keeping in mind that the Promotion Certificate can be used for another like (same Agency, official title, series, grade, and geographic location) vacancy that occurs within 90 calendar days.
3. Keep supervisors informed of career interests. Before departure on temporary duty, scheduled leave, and other absences, provide supervisor with a telephone number, e-mail address and/or facsimile number at which they may be contacted.
4. Take advantage of self-development and training opportunities, both on and off the job.
5. Demonstrate competence and readiness for advancement by diligent and effective performance in current assignment.
6. When requested, participate in applying OPM regulations to establish reasonable job-related evaluation criteria (KSAs), and participate on promotion panels for determining best qualified candidates.
7. Assure that official personnel records reflect all experience, education and training.
8. Keep informed of the provisions of this Plan.

#### Supervisor Responsibility:

1. Maintain a current copy of this plan, make it available to their employees, and exert every effort to ensure that employees fully understand the plan.
2. Inform new employees where position vacancy announcements are posted.
3. Periodically inform employees, either orally or in writing, that questions about the Plan or specific promotion actions should be referred to the servicing Personnel office for informal handling; that formal means for resolving promotion complaints are available through Agency Grievance Procedures.
4. Anticipate personnel vacancies and initiate action in a timely manner so that sufficient qualified applicants can be found to facilitate the best selection.

5. Participate in applying OPM regulations to establish reasonable job-related evaluation criteria (KSAs).
6. Participate in or make employees available for rating panels.
7. Give fair, equitable, and full consideration to all candidates referred and make a final selection from the list without discrimination for any nonmerit reason and without favoritism based on personal relationship or patronage.
8. Under the provisions of this plan, release a selected employee for assignment to his or her new job.
9. On a fair and equitable basis, guide and assist employees in developing skills and abilities through cross-training, special assignments, and formal education, as needed. Encourage and advise employees regarding self-development needs and opportunities, and on areas where improvement should be made to increase chances for future promotion.

Human Resources Responsibility:

1. Develop and administer the Merit Promotion Plan.
2. Ensure the quality and effectiveness of the merit promotion program and management/employee understanding and acceptance.
3. Through job-analysis, develop and administer selective placement factors for basic eligibility and identification of job-related criteria.
4. Determine and/or develop appropriate evaluation methods and instruments to be included in crediting plans.
5. Provide technical advice and assistance to panel members responsible for rating candidates.
6. Publicize the program to keep management and employees well informed.
7. Furnish advice and assistance to employees interested in advancing or transferring to new career fields.
8. Evaluate program effectiveness to include initiation of improvements or necessary changes.
9. Maintain records in accordance with OPM and USDA requirements.
10. Give new employees general information on the program as a part of employee orientation.
11. Advise of methods and procedures for filling all vacancies.
12. Advise candidates who apply for promotion whether they meet basic eligibility requirements and inform them of action taken on their applications.
13. Ensure that position vacancy announcements are published.



United States  
Department of  
Agriculture

Farm  
Service  
Agency

Arkansas State FSA Office  
Room 5416, 700 W. Capitol Ave.  
Little Rock, Arkansas 72201-3225  
(501)324-5220/FAX(501)324-5895

August 27, 1997

TO : Program Directors  
District Directors  
Ag Credit Managers  
Bargaining Unit Employees

SUBJECT: Amendment to Current Labor-Management Relations Agreement  
(New Article 23 - Reduction in Force)

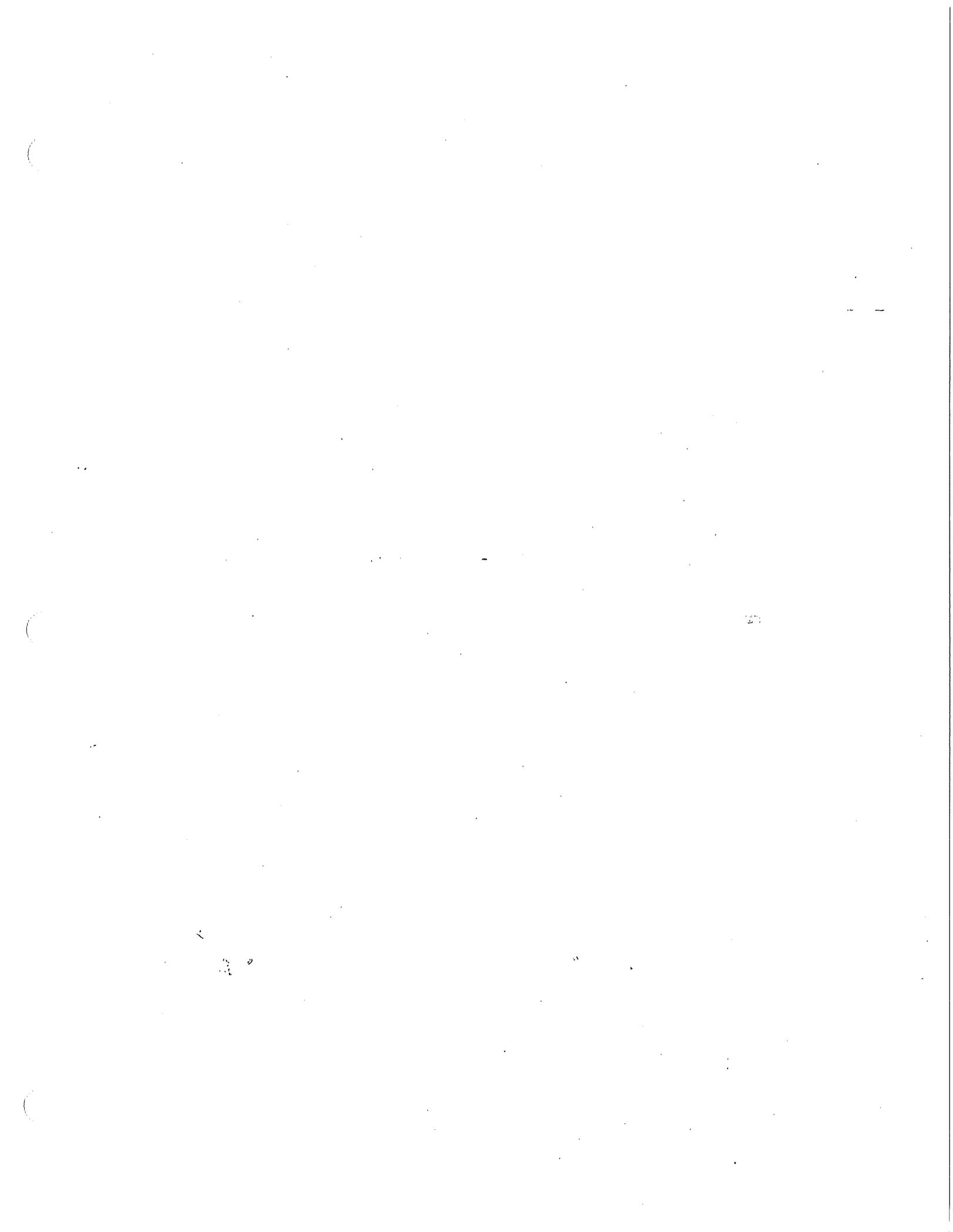
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Attached is a copy of the new Article 23, Reduction in Force. You should review this amendment and include it in your current Labor-Management Relations Agreement.

---

Wayne Perryman  
State Executive Director

Attachment



AGREEMENT BETWEEN LABOR (AFGE LOCAL 108)  
AND MANAGEMENT  
Article 23 - Reduction in Force

**23.1 General:** This article governs (a) a transfer of function (TOF), and (b) the release of a competing Employee by furlough for more than thirty (30) days; by separation; by demotion; or by reassignment requiring displacement, because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization, the exercise of re-employment rights or restoration rights; or reclassification of an Employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force (RIF) in the Employee's competitive area and when the RIF will take effect within one hundred eighty (180) days. The RIF/TOF will be in accordance with statutory requirements, Government-wide rules and regulations and this Agreement. Management will also utilize its authorities to take action to minimize the need for RIF in accordance with law, regulation and this Agreement. The Employer will make every reasonable effort to minimize hardship on bargaining unit Employees who are adversely affected.

**23.2 Notification:**

(a) Preliminary Notification to the Union: When it is anticipated that a TOF or RIF affecting bargaining unit Employee will be necessary, the Employer will notify the union in writing at least 30 calendar days, where possible, and in any case will notify the Union prior to any notification to bargaining unit employees. This notification will include the following information;

1. The type of action to be taken.
2. The reasons for the RIF or TOF.
3. The competitive areas.
4. The competitive levels of affected positions.
5. The approximate numbers, types and grades of positions in the bargaining unit to be affected.
6. The expected or approximate date of such action/step.
7. A copy of any economic impact study or any other study made in conjunction with the action.

8. Positions that have been identified as essential and must be retained.
9. Specific function to be transferred and identification of Employees assigned to this function.
10. The manner in which Employer anticipates exercising its description under 5 CFR 351, if known.
11. The employer will provide the union, upon request, with information in accordance with 5 USC 7114(b)4.
12. Information obtained about possible resignations, retirement, and other separation actions, and determinations made as to the extent to which the work force is likely to be reduced through normal attrition.

(b) When RIF is caused by circumstances not reasonably foreseeable, the Agency may request approval from OPM for a shortened notice period of less than 60 days. This shortened period must cover at least 30 full days before the effective date of release. The Union will be provided a copy of the request to OPM, which specifies:

1. The specific RIF
2. The number of days by which the period will be shortened.
3. The reasons for the request.
4. Any other material requested by OPM.

A copy of OPM's response will be provided to the union upon receipt by Management.

(c) Notice to Employees: The employer will notify an employee sixty (60) calendar days prior to the effective date of a RIF and provide the Union a copy. The specific notices will include the following information:

1. A general statement of reasons the RIF is being conducted.
2. A statement of the specific action to be taken: separation, demotion, furlough or reassignment.
3. The effective date of the action.
4. The employee's competitive area, competitive level, subgroup, service date, and three most recent annual performance ratings of record received during the last four (4) year period prior to the date of issuance of RIF notice.
5. The place where the employee may inspect the regulations and records pertinent to his/her case.

6. If applicable, the reasons for retaining a lower standing employee.
7. If applicable, a statement that employees are being separated under liquidation procedures without regard to standing within the subgroup, and the date the liquidation will be complete.
8. The employee's appeal or grievance rights, time limits and appropriate procedures.
9. If applicable, the employee's rights, entitlements, and responsibilities with respect to the out-placement programs.
10. Notice to the employee of the right to re-employment placement and all programs and benefits available from OPM.
11. Information on applying for un-employment compensation.
12. Information on the employee's eligibility to continue health and life insurance benefits after RIF separation.
13. Notice to the employee of the entitlement to a copy of OPM's retention regulations in 5 CFR Part 351.
14. Employee's entitlement to grade, and/or pay retention.

**23.3 Negotiations:** Upon receipt of preliminary written notification of an anticipated RIF or TOF affecting the bargaining unit employees, the Union may, request and complete negotiations concerning the impact and implementation to be used in the RIF or TOF.

**23.4 Early Retirement:** The Employer agrees to request implementation of the early retirement provisions of Title 5 U.S. Code in order to minimize the impact of the RIF.

**23.5 Employment Freeze:** The filling of any bargaining Unit vacancy within the competitive area for which bargaining unit employees in that area who will be affected by RIF are eligible will be suspended from the date of the initial RIF notice to affected employees until the effective date of the RIF.

**23.6 Personnel Files:** The Union and the Employer will jointly encourage each employee to see that the employee's personnel file and SF-171 are up-to-date as soon as the RIF or transfer of function is announced. The employer will add to the personnel file appropriate changes or amendments requested by the employee. The Agency may waive qualifications requirements in accordance with appropriate regulations for otherwise eligible employees. Employees will be allowed official time to review and update official personnel file.

**23.7 Documents:** Retention registers and other transfer of function documents will be made available to affected employee(s) and/or employee representative. Upon request, the affected

employee(s) and/or employee representative will be given the opportunity to review retention registers listing other employees that may be entitled to displace the employee and those the employee may be entitled to displace, and review registers for positions for which the employee is qualified and related records to the extent that these apply to the employee's situation.

**23.8 Multiple Skills:** Employees possessing skills in more than one area will be considered for positions in such areas.

**23.9 Priority Consideration:** All employees demoted or separated without personal cause, misconduct or inefficiency, will receive priority consideration for re-promotion/re-hire.

**23.10 Existing Vacancies:** The employer will utilize existing vacancies to place displaced bargaining unit employees.

**23.11 Re-employment Programs:** The Employer will maintain a Displaced Employee Program consistent with OPM Regulations. The Employer will also provide a program of outplacement assistance. The primary aim of the program will be to assist in finding continuing Federal employment for affected employees. The Employer will establish and maintain a Reemployment Priority List for eligible employees. The Employer's program will go beyond entering affected employee names on various reemployment and priority placement lists. This effort will include employee counseling and contacts with other Federal agencies, State employment sources, as well as employers in the private sector. Employees being separated because of RIF will be given a reasonable amount of time off without charge to leave to participate in job interviews with other Federal or private sector employers. Reasonable amounts of time off without charge to leave also will be made available to employees seeking career counseling or Employee Assistance Program Services. Reasonable being defined to take into consideration all related factors such as the commuting distance, set appointment or first come first seen basis, etc., this is not an all inclusive listing. Employees will be allowed to use Government equipment and official time to prepare resumes and job applications.

**23.12 Re-promotion:** When the position previously held by an employee demoted through RIF becomes vacant and is being filled, the demoted employee will be considered for re-promotion noncompetitively to the position provided the employee has continued to work at an acceptable level. If more than one employee meets the above criteria, the employee with the highest retention standing when the RIF is affected will be considered first.

**23.13 Training:** It shall be the responsibility of the Employer to develop and execute a plan for the maximum retraining of adversely affected bargaining unit Employees in the positions to which they will be assigned.

**23.14 Union Representation Under TOF and RIF:** Union representatives who are Employees of the Employer will be entitled to reasonable official time to assist Employees adversely affected by RIF actions in accordance with article 5, section 5.2 of this agreement and as mutually agreed by the parties. Such time will include but is not limited to:

1. Preparation time for and necessary official time for Union representative to attend each meeting or briefing conducted by the Employer in connection with RIF/TOF.
2. Official time to review retention records and other RIF/TOF records.

**23.15 Relocation:** Employees who are relocated by the Employer to a different geographic area after having been notified of their involuntary separation incident to RIF/TOF actions covered by this article will be authorized relocation expenses and a reasonable amount of relocation leave for pre-moving and post-moving arrangements (including a house hunting trip when appropriate) in accordance with laws and applicable regulations.

**23.16 Use of Performance Appraisals in RIF/TOF:** Annual performance appraisals will be frozen as of the date the specific RIF notices are issued in accordance with Government-wide rules and regulations.

1. Except for Employees who are re-rated after a period allowed for improvement of performance at the unacceptable level as provided in 5 CFR 432, an employees current approved annual performance appraisal as of the date of issuance of a specific RIF notice, in addition to annual evaluations of the two previous years, if available, will be used to determine eligibility for additional credit towards an employees service computation date.
2. An Employee's assignment rights will be determined in accordance with Government-wide rules and regulations.
3. If an Employee has not received three (3) annual ratings during the three year period, credit will be given for assumed ratings of "Fully Successful" to bring the Employee's total ratings considered up to three. If an employee has not received any annual ratings at the time the specific RIF notices are issued, additional service credit will be based on three assumed ratings of "Fully Successful" regardless of the length of the Employee's Government service.
4. Should a performance appraisal rating be pending in grievance/arbitration proceedings at the time an Employee's retention standing is determined for RIF purposes, and such rating is ultimately changed by the Employer or as a result of a determination by a third party, the Employer will reconstruct the credit for performance due to the Employee as a result of the modified rating to determine what impact, if any, the change would have had on the Employee's retention standing. If the Employer discovers an error in such determination, it will correct the error and adjust any erroneous RIF action retroactive to the effective date as provided in 5 CFR 351.506(c).

AGREEMENT BETWEEN LABOR (AFGE LOCAL 108) AND MANAGEMENT  
(FSA) - Article 23 - Reduction in Force

Bette A. Vaughn  
Bette A. Vaughn

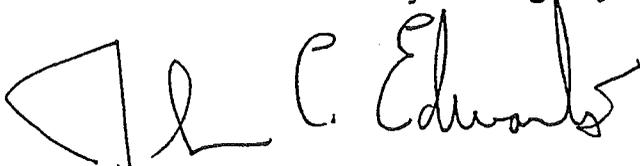
4-30-97  
Date

Wayne Ferryman  
Wayne Ferryman

05/23/97  
Date

## TRANSMITTAL

The attached Memorandum of Understanding (MOU) is the result of joint negotiations between union and management representatives of the Farm Service Agency and Rural Development in Arkansas. It was agreed that the MOU would apply to all Arkansas federal employees of these two agencies and will be implemented as part of the Employee Recognition Directive, published in Service Center Agency Directive (SCAD) 4130-01. The MOU and the SCAD 4130-01 are to be filed in your SSBD Policy Manual, which should be maintained by each agency in each USDA Service Center.



JOHN C. EDWARDS  
State Director  
USDA, Rural Development

Date:

17 Sept 1999



MICHAEL L. DUNAWAY  
State Executive Director  
USDA, Farm Service Agency

Date: 9/17/99

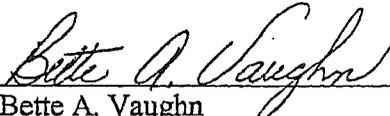


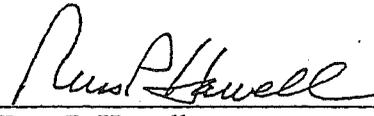
Memorandum of Understanding  
Between AFGE Local 108  
USDA - Rural Development and  
USDA - Farm Service Agency  
September 9, 1999

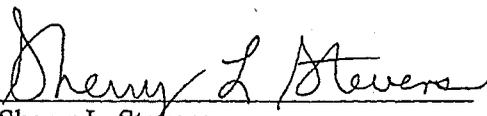
The parties to this memorandum, the American Federation of Government Employees Local 108, Arkansas, hereinafter referred to as AFGE, and the U.S. Department of Agriculture, Rural Development, hereinafter referred to as USDA-RD, and the U.S. Department of Agriculture, Farm Service Agency, hereinafter referred to as USDA-FSA enter into this agreement for the purpose of establishing a mutually beneficial agreement concerning Employee Recognition Program as published in Service Center Agency Directive (SCAD) 4130-01.

1. The Approval Official will submit Form SCA-4130 (Exhibit 3 of the SCAD 4130-01) to the funds controller within 5 working days of receipt. The funds controller will notify the Approval Official of funds availability by dating and initialing Form SCA - 4130 within 5 working days of receipt. The Approval Official will approve the award within 5 working days of notification of availability of funds. After approval, awards will be submitted to the Administrative Support Unit (ASU) for processing within 5 working days of the approval date and the recipient employee notified in writing that award has been approved. The ASU will process the award within 5 working days of receipt. If award is denied the recipient employee will be notified in writing by the Approval Official within 5 working days informing employee of recommendation and denial for an award and state the reason for denial.
2. Employee Recognition Directive, SCAD 4130-01, 9 d. (1) page 5, which refers to Employee Recognition Delegation Worksheet (Exhibit 2) will change to refer to Attachment 1 of this MOU.
3. Initiate an agreement between the three service center agencies incorporating appropriate terms of this MOU to ensure consistency in the administration of the Employee Recognition Common Policy.
4. Any award denied can be grieved under the appropriate grievance procedures.
5. Awards/Employee Recognition Program will be conducted in accordance with this MOU which supplements Article 20 of Labor Management Agreements dated January 7, 1998 for USDA-RD and dated November 5, 1991 for USDA-FSA.

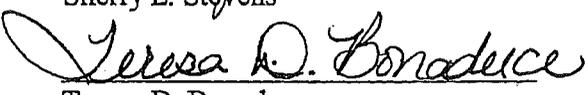
6. All information pertaining to an employee award recommendation should be mailed confidentially to be opened by addressee only.
7. In accordance with Employee Recognition Directive, SCAD-4130-01, 9 i. (1) & (2), page 9, and concurrence of the AR Board of Directors, an Employee Recognition Committee will be established. Membership of this committee will include a diverse cross section of employees, Associations, and Union representation. The committee will meet annually or as needed.
8. Distribution of SCAD 4130-01, this MOU and Attachments will be provided to all employees.

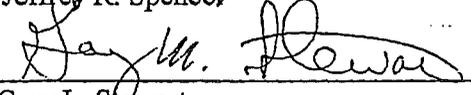
  
Bette A. Vaughn

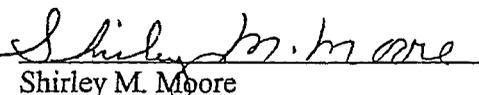
  
Russ P. Harvell

  
Sherry L. Stevens

  
Jeffrey R. Spencer

  
Teresa D. Bonaduce

  
Gary L. Stewart

  
Shirley M. Moore

  
Dianna K. Shook

**Attachment 1 to MOU dated September 9, 1999, Employee Recognition Program**

The Following Information represents Exhibit 2 of SCAD-4130-01, Employee Recognition Delegation.

**EMPLOYEE RECOGNITION**

**I. MODERATE CONTRIBUTION LEVEL**

A. Recognition for a specific accomplishment, project of a short duration, or special mission.

Award:	Reviewer/Approval Official
* \$100 Cash/Gift Certificate/Keepsake	Nominating Employee
\$200 Savings Bond	Nominating Employee
10 hours TOA	Recipient's Supervisor
*\$250 cash /Keepsake	Recipient's Supervisor

B. Recognition for specific accomplishments, special missions, or multiple projects.

Award:	Reviewer/Approval Official
\$250 Keepsake	Nominating Employee
\$500 Savings Bond	Nominating Employee
11 to 24 hours TOA	Recipient's 2nd Level Supervisor
\$500 Cash	Recipient's Supervisor

\*The employees may be awarded one or a combination of these awards as long as the total value does not exceed the amount of award.

**II. SUBSTANTIAL CONTRIBUTION LEVEL**

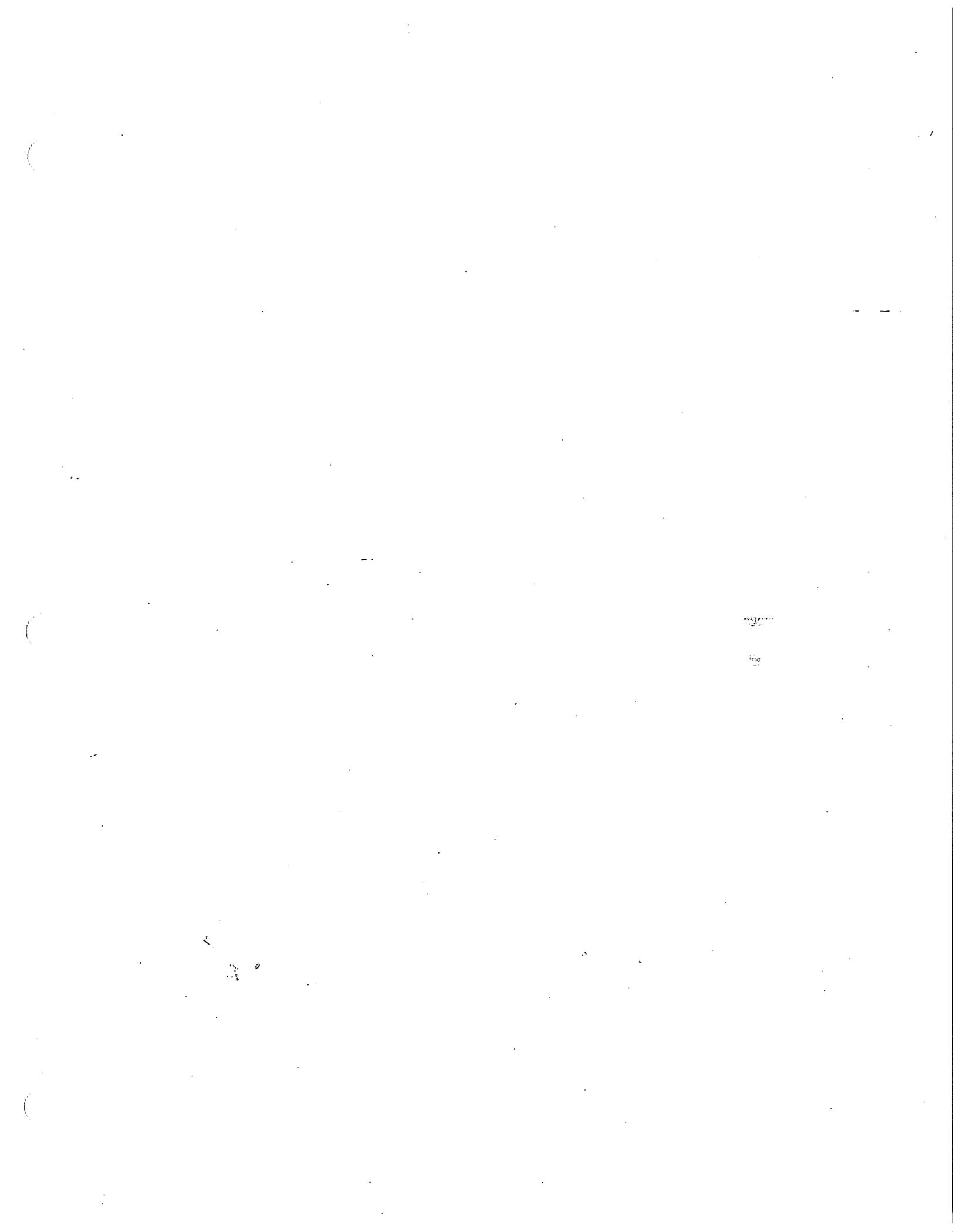
A. Recognition for major substantial changes or modifications that impact several offices, the state or several divisions. May be used in cases where an employee has reached step 10 of his/her grade, in lieu of QSI.

Award:	Reviewer/Approval Official
\$1500 Cash	Recipient's 2nd Level Supervisor or State Leader
40 hours TOA	Recipient's 2nd Level Supervisor or State Leader

**III. HIGH CONTRIBUTION LEVEL**

A. Major improvement, which affect numerous states, regions, or divisions.

Award:	Reviewer/Approval Official
10% of Employees Salary up to \$3,500	Recipient's 2nd Level Supervisor
40 hour TOA	Recipient's 2nd Level Supervisor





USDA Service Center Agencies  
Farm Services Agency  
Natural Resources Conservation Service  
Rural Development

SERVICE CENTER AGENCIES DIRECTIVE TRANSMITTAL

SCAD-4130-01

Classification: 4100, Employee Development, Performance, and Utilization

Subject: EMPLOYEE RECOGNITION

Attached is the new employee recognition policy for the Service Center Agencies. The effective date of this policy is April 1, 1999 for non-bargaining unit employees. For bargaining unit employees, negotiations with the appropriate union local must be completed before this policy can be implemented.

Distribution Instructions. Distribution is being made to all servicing human resources offices. As appropriate, servicing human resources offices should make further distribution.

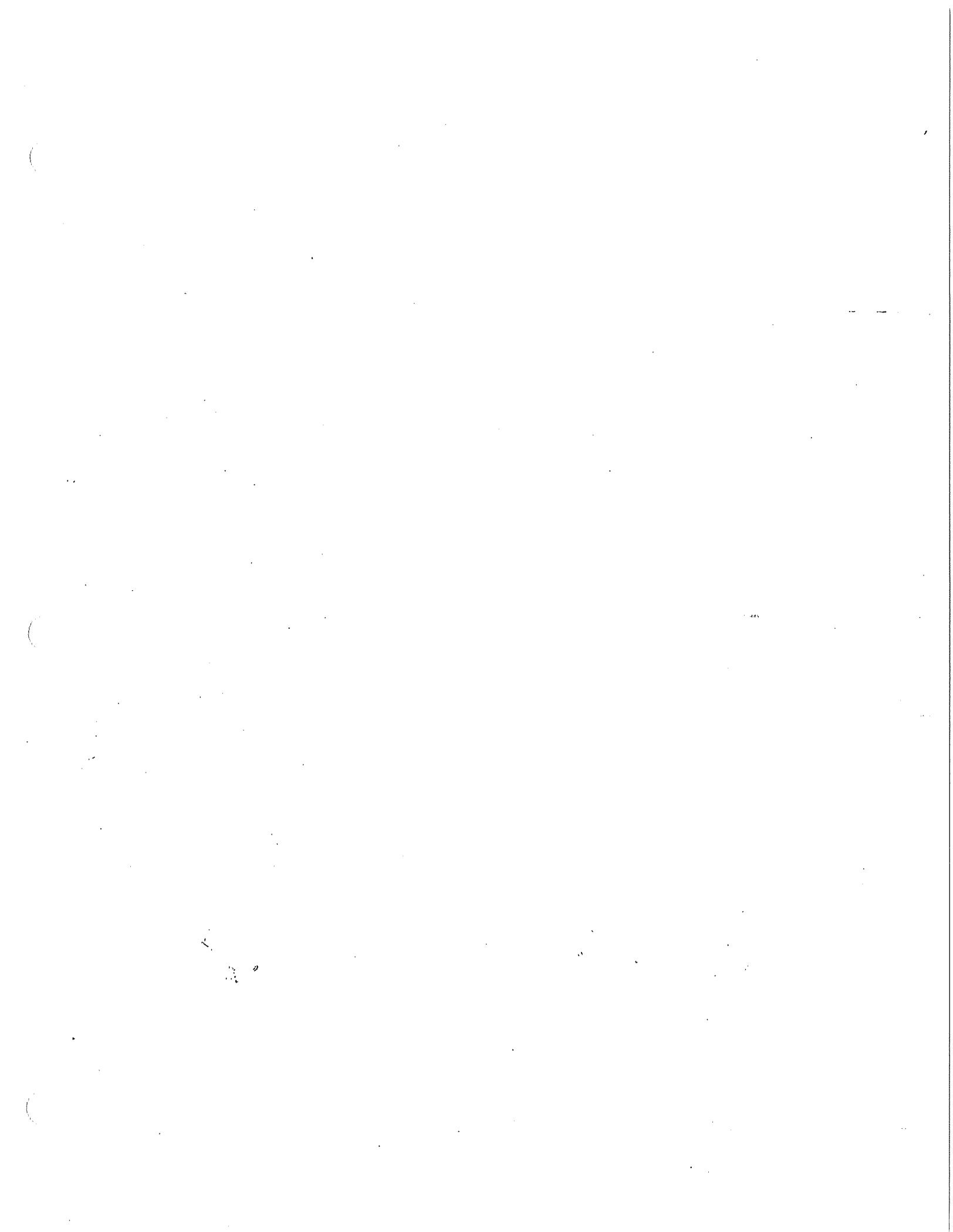
Filing Instructions: This directive is to be filed in the SCA Directives Manual under the 4130 series. Insert SCAD-4130-01

*Temporary Modification to Policy: Due to tax implications, approval to issue gift certificates and savings bonds to Federal employees and FSA Non-Federal County employees is suspended. Approval will be given to issue gift certificates and savings bonds as soon as the USDA National Finance Center has had the opportunity to update the personnel payroll system. Servicing Human Resources Offices will be notified when nature of action codes have been developed. Gift certificates may still be used to recognize accomplishments of private citizens (including volunteers, Conservation District employees, and other mission-related partners.)*

Distribution: All Servicing Human Resources Offices

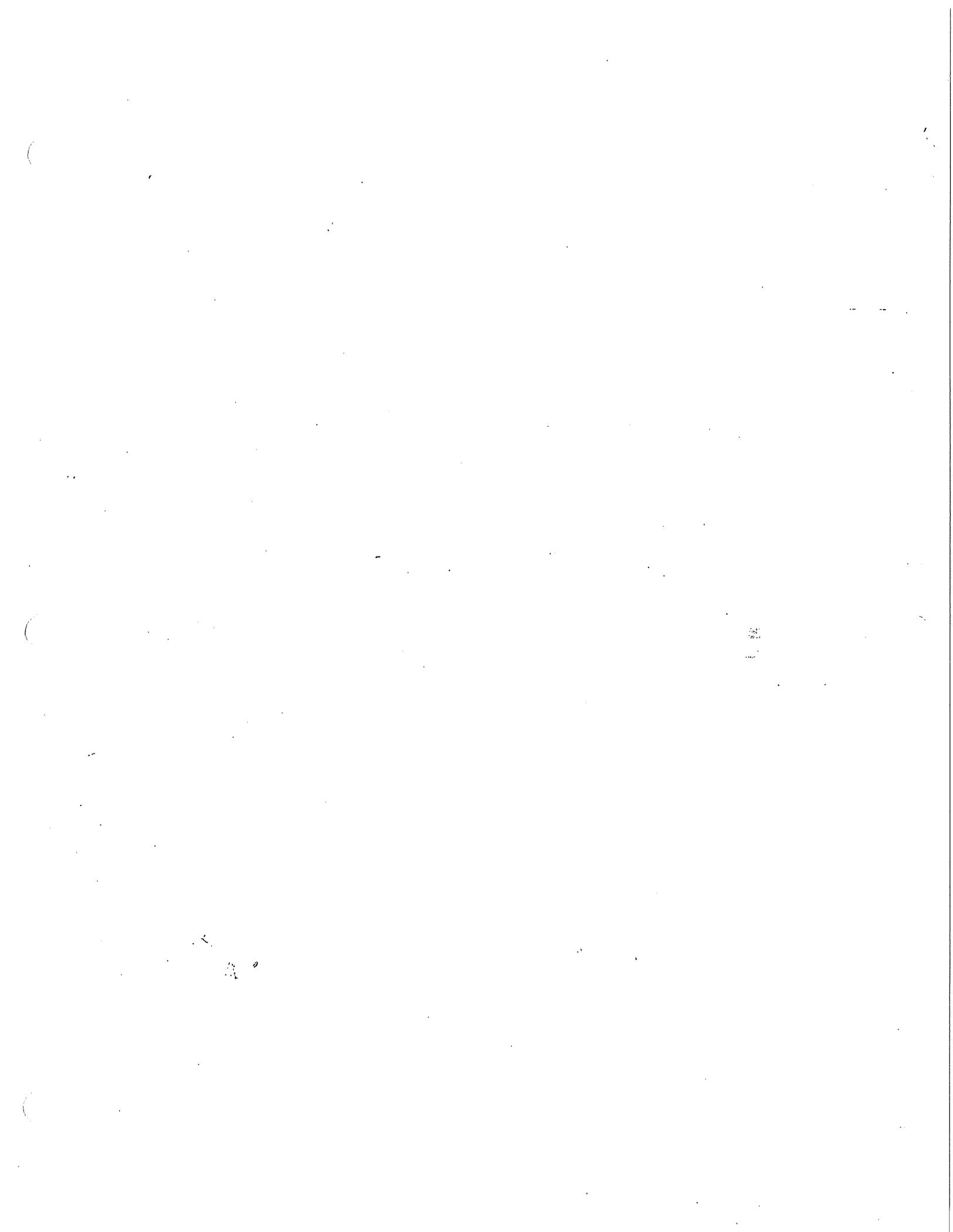
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AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER



**EMPLOYEE RECOGNITION  
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## EMPLOYEE RECOGNITION

### 1. PURPOSE

The Service Center Agency employee recognition program is designed to fairly and equitably recognize and reward individuals and groups for excellence in service. The program acknowledges contributions that lead to achievement of organizational, team, and individual results. Timely recognition provides a source of motivation for continued excellence.

### 2. BACKGROUND

Consistency is the basic principle of the employee recognition program. The issuance of awards at all organizational levels must be carried out with consistent application of the appropriate guidelines and policy. The following guiding principles promote an effective employee recognition program:

- Funding of the employee recognition program should be consistent among each of the Service Center Agencies.
- Issuance of employee recognition should be based on consistently applied guidelines.
- Approval authorities should be consistently delegated to the lowest practical levels.
- Outstanding accomplishments should be consistently recognized in a timely manner.
- Approved employee recognition should be consistently publicized to a wide audience.

This policy emphasizes immediate recognition of teams and individuals for noteworthy contributions and/or achievements.

### 3. LEGAL AUTHORITIES THAT GOVERN EMPLOYEE RECOGNITION

- Chapter 45, Title 5, United States Code (U.S.C.) provides authority to establish an employee recognition program (5 U.S.C. 4503); and Title 5 Code of Federal Regulations (CFR) Part 451.
- The Federal Employees Pay Comparability Act of 1990 (FEPCA), Public Law 101-509, provides Federal agencies authority to grant employees time-off from duty, without loss of pay or charge to leave, as employee recognition.
- Regulatory requirements for Quality Step Increases for General Schedule (GS) employees are found in 5 CFR Part 531.
- Regulatory requirements for Senior Executive Service Recognition are found in 5 U.S.C. 5384, 5 U.S.C. 4502 through 4503 and 5 U.S.C. 4507.

Distribution: All Servicing Human Resources Offices

#### 4. EFFECTIVE DATE

The effective date for this policy is April 1, 1999.

#### 5. DEFINITIONS

- a Designated Approving Official – An individual that has been delegated the authority to review and approve recognition.
- b National Board of Directors – The Farm Service Agency's Administrator, Natural Resources Conservation Service's Chief, the Deputy Under Secretary for Operations and Management for Rural Development, and other officials as designated.
- c Nominating Official – Any Service Center Agency or Support Services Bureau employee.
- d Private Citizens – With the exception of FSA Non-Federal County Employees, any non-federal individual. Conservation District employees, volunteers, state agency employees, and other mission related partners are considered private citizens.
- e Rating Official – An employee's first line supervisor or other person designated with responsibility for issuing ratings of record.
- f Service Center Agencies – The Farm Service Agency, Natural Resources Conservation Service, and the mission areas of Rural Development.
- g State Board of Directors – The three Service Center Agency leaders in a state.
- h Support Service Bureau – The converged administrative staff for the Service Center Agencies.

#### 6. ACRONYMS AND ABBREVIATIONS

- SCA – Service Center Agencies
- SSB – Support Services Bureau
- CFR. – Code of Federal Regulations
- U.S.C. – United States Code
- SES – Senior Executive Service

## 7. COVERAGE

This program covers all employees of the Service Center Agencies, including Farm Service Agency Non-Federal County employees and the employees in the Support Services Bureau.

Excluded from coverage are political appointees at the GS-13 level and above (e.g., Executive Schedule). Current Administration policy (as of January 1999) precludes Schedule "C" and non-career Senior Executive Service (SES) employees from receiving cash awards.

## 8. RESPONSIBILITIES

a The Agency Heads are responsible for:

- (1) Ensuring that the program supports the Department's mission, goals, and objectives.
- (2) Ensuring equity in the distribution of recognition.
- (3) Ensuring that employees are informed of recognition policies and procedures.
- (4) Providing periodic training on the effective use of the recognition program.
- (5) Conducting annual reviews to ensure the effective use of the program.
- (6) Emphasizing the importance of teamwork through recognition of groups.
- (7) Incorporating funding for recognition into agency budget planning.
- (8) Ensuring that employee recognition is publicized.
- (9) Delegating recognition program authority and funding to the lowest level consistent with the Secretary's policies and guidelines.
- (10) Eliminating unnecessary levels of review to ensure timely processing of recognition.
- (11) Encouraging innovative recognition at the local level.

b The Servicing Human Resources Office is responsible for:

- (1) Providing technical and operational support and advice.
- (2) Ensuring the employee recognition program is administered in a manner consistent with applicable laws, rules, and regulations.
- (3) Processing personnel actions related to recognition.
- (4) Ensuring that employee recognition records are maintained in the Servicing Human Resources Office in accordance with requirements in 5 CFR Parts 430 and 432.
- (5) Providing training on the employee recognition program.

c Supervisors and Managers are responsible for:

- (1) Recognizing employees for specific achievements.
- (2) Ensuring equity in the distribution of recognition.

- (3) Considering input as appropriate from co-workers, customers, or other sources such as unions and employee organizations when making recognition decisions.
- (4) Recognizing contributions in a timely manner.
- (5) Emphasizing the importance of teamwork through recognition of groups.
- (6) Promoting the recognition program by encouraging employee participation, arranging for appropriate presentation, and publicizing recognition.
- (7) Allowing those recognized to choose the type of recognition, when appropriate.
- (8) Reviewing nominations to ensure that recognition is linked to the contribution and the amount accurately reflects the value of the contribution rather than grade level or other non-merit factors.

d Designated Approving Officials are responsible for:

- (1) Providing support to employees, supervisors, and managers.
- (2) Reviewing employee-initiated awards for compliance to stated criteria and certifying funds availability.

e Nominating Officials are responsible for:

- (1) Actively seeking out exceptional achievements worthy of recognition.
- (2) Developing employee recognition nominations in a nondiscriminatory manner.
- (3) Accurately documenting the exceptional achievements of others and ensuring the appropriate guidelines are applied to all nominations.

## 9. POLICY

a Overview

There are many different types of employee recognition available. Recognition may be given for a specific outstanding accomplishment such as a superior contribution on a short-term assignment or project, an act of heroism, scientific achievement, major discovery or significant cost savings. The following types of recognition are covered by this policy:

- Cash
- Certificates – Merit & Appreciation
- Gift Certificates
- Keepsakes Items
- Letters of Commendation
- Quality Step Increase
- Thank You Cards & Letters
- Time Off
- U.S. Savings Bonds
- Length of Service
- Agency Honorary Awards
- Department Honor Awards
- Federal Honor Awards
- External Awards

Exhibit I describes each of the recognition categories in detail.

b Delegation of Authority for Employee Recognition

- (1) Exhibit II, Employee Recognition Delegation Worksheet, describes the employee recognition approval limitations, as authorized by USDA. The National and State Boards of Directors and equivalent positions are required to jointly discuss and, whenever possible, establish appropriate, consistent delegations of authority for their service area.
- (2) Further limitation of authority for employee recognition approval is within the area of responsibility of the National and State Boards of Directors and equivalent positions. Delegating authority and responsibility to the lowest level is encouraged. Exhibit 2, Employee Recognition Delegation Worksheet, should be used in assigning delegations of authority within the appropriate area of responsibility.

c Program Funding

The National and State Boards of Directors and equivalent positions are required to jointly discuss and, whenever possible, establish appropriate, consistent awards budgets within delegated budgetary authority. Consistency of funding levels among the Service Center Agencies will promote equity and teamwork between employees.

d Recommendation and Approval of Recognition

- (1) All Service Center Agency employees should be considered for recognition based on work accomplishments, without regard to grade level, or other non-merit factors. Review and approval requirements are determined by the National and State Boards of Directors and equivalent positions, as documented in the local Employee Recognition Delegation Worksheet (Exhibit 2).

Designated approving officials are responsible for ensuring funding is available.

- (2) Except for Quality Step Increases (QSI's), employees may develop award nominations involving co-workers or employees from any of the Service Center Agencies, including the Support Service Bureau. Subordinates cannot approve an award for their immediate supervisor or higher level official.
- (3) When recognition is nominated from outside an Agency, the approving official must be from the Agency benefiting from the service. The approving Agency is responsible for funding the recognition.

For example:

- (a) If an NRCS employee nominates an FSA employee for work that benefited NRCS, the approving official must be from NRCS and NRCS is responsible for funding the award.
  - (b) If a Rural Development employee nominates a team that consisted of employees from Rural Development, FSA, and NRCS for work that benefited all three agencies, approval must be obtained from each of the agencies. Funding of the award would be shared by all three agencies.
  - (c) If an FSA employee nominates a Rural Development employee for work that benefited only Rural Development, the FSA employee would need to work with approving officials within Rural Development to obtain funding and approval.
- (4) In determining appropriate levels of recognition, nominators should determine if the contribution can be measured in terms of time saved, money saved or expenditures avoided. The measurable benefits scale will help nominators determine the appropriate level of recognition. If the contribution cannot be precisely measured, the Nonmeasurable Benefits Scale criteria should be applied.

**Measurable Benefits Scale**

Savings to Government	Award Amount
Up to \$10,000	10 percent of the benefits
\$10,001 – \$100,000	\$1,000 for the first \$10,000 in benefits, plus 3 percent of benefits over \$10,000
\$100,001 or more	\$3,700 for the first \$100,000 in benefits plus .005 of benefits over \$100,000. Award amount should not exceed recipient's annual salary

**Nonmeasurable Benefits Scale**

<b>Contribution Level</b>	<b>Definition</b>	<b>Amounts</b>
<b>Moderate</b>	Moderate change or modification of operating procedures meeting minimum standard for cash award, simple modification of methods, or limited service to the public, which affect the functions, mission, or employees of a specific work unit (e.g., easing a backlog or completing a project of short duration).	Certificate, or up to \$500, or 1 to 24 hours of time off.
<b>Substantial</b>	Substantial change or modification of an operating procedure. An important improvement to value of a product, activity, program, or service to the public, which affect an entire state, or several divisions, offices, or counties.	\$501 - \$2,500, or 25 to 40 hours of time off
<b>High</b>	Major improvement, usually affecting major problems; major changes in methods, or procedures, which affect numerous states, regions, or divisions.	\$2,501 - \$5,500
<b>Exceptional</b>	Initiation of a new principle or major program. Superior improvement to the quality of a critical activity, program, or service to the public, which affect more than one agency, is Department-wide, or is in the public interest throughout the United States.	\$5,501 - \$10,000

- (5) Rating officials are the only persons authorized to nominate their employees for QSI's. Approval must be obtained as defined in Exhibit 2.
- (6) Employees may be allowed to choose the type of recognition they receive.

e Documentation

- (1) Nomination and approval of recognition may be documented on form SCA-4130, "USDA Service Center Employee Recognition Nomination and Approval" (Exhibit II) or on form AD-287-2, Recommendation and Approval of Awards. Documentation may also be in the form of a letter or a memo containing all the necessary criteria outlined on Form SCA-4130.
- (2) When the value of the recognition is \$500 or less, or time off is 10 hours or less, only a brief description of the accomplishment is necessary.

- (3) For recognition greater than \$500, or time off greater than 10 hours, a written justification is required. Exhibit IV outlines helpful hints for preparing a justification.
- (4) Nominating and approving officials are responsible for ensuring that dual recognition for the same accomplishment does not occur. However, the combination of two forms of recognition (e.g., a plaque may be given in conjunction with cash) cannot exceed the total value of the approved award.

f Team Recognition

- (1) Employees working as a team may be recognized when team contributions and results exceed expectations. In addition to the guidelines and delegations of authority, the following guidelines apply to teams:
  - (a) Team recognition may be issued only when a strong interdependence exists among team member tasks and team outcomes.
  - (b) Clear goals for the team were established in advance of team performance and evaluation of accomplishments.
  - (c) Team recognition should be distributed to individual team members equitably (i.e., based on individual performance within the team) rather than equally (i.e., all team members receive equal amounts).
- (2) Teams of interagency employees may be nominated for recognition. Nominations requiring a higher level approval must be jointly reviewed and approved by appropriate personnel from each agency involved. Team members that are private citizens may be included in the team recognition; however, they may only receive keepsakes, letters of commendation, certificates of appreciation, certificates of merit, or thank you letters/cards.

g Recognition of Private Citizens

- (1) Private citizens who contribute to the mission of the Service Center Agency or USDA's mission as a whole may receive recognition for those efforts. Conservation District employees, volunteers, state agency employees, and other mission-related partners are eligible on the same basis as other private citizens.
- (2) Private citizens (including volunteers, Conservation District employees, etc.) may receive thank you letters/notes, letters of commendation, certificates of appreciation, certificates of merit, gift certificates, or keepsakes. They are not eligible to receive other types of recognition.

h      Publicity

- (1)    Publicizing exceptional accomplishments establishes performance benchmarks for the workforce and promotes accountability in the utilization of agency resources.
- (2)    Public recognition and communication of exceptional contributions is encouraged. The announcement should describe the accomplishment and the recognition issued.
- (3)    Local newspapers and similar sources may be contacted when recognition warrants this level of publicity.

i      Employee Recognition Committee

- (1)    The National and State Boards of Directors and equivalent positions may consider establishing an Employee Recognition Committee. Membership of this committee should include a diverse cross-section of employees, Associations, and Union representation in locations with Bargaining Units.
- (2)    Following are examples of the roles of the Committee:
  - (a)    Ensuring consistency in funding of the employee recognition program among each of the Service Center Agencies.
  - (b)    Ensuring that employee recognition is based on consistently applied guidelines.
  - (c)    Ensuring nondiscriminatory employee recognition distribution.
  - (d)    Ensuring recognition is issued in a timely manner.
- (3)    The committee should not be used for routine approval of individual or team award nominations. However, to support employee involvement in the employee recognition decision process, the Committee may be used as a source of input for high-level or large dollar value nominations.

## RECOGNITION CATEGORIES

Exhibit 1

### a Cash

- (1) All Federal employees and Farm Service Agency Non-Federal County Employees are eligible to receive cash awards.
- (2) Cash awards may range from \$50 to \$10,000, depending on the contribution level. Awards may not exceed 10% of an employee's annual salary.

Cash awards less than \$500 will be issued immediately and taxes will be added to the award amount. When an employee reaches the threshold of \$500 during the preceding twelve (12) months, taxes cannot be added to the award. The award must be processed through the NFC system for payment and taxes must be deducted from the award.

### b Certificates, Letters of Commendation, and Thank You Notes

- (1) All Federal employees and nonfederal individuals and organizations are eligible to receive certificates of appreciation, certificates of merit, letters of commendation, and thank you notes.
- (2) All employees are encouraged to write letters of thanks, appreciation, and commendation for individuals when they believe a contribution to be noteworthy. When a contribution warrants additional recognition, a letter of commendation from a higher organizational level may be requested.

### c Gift Certificates

- (1) All Service Center Agency employees and private citizens (including volunteers and other mission-related partners) are eligible to receive gift certificates. Gift Certificates may not exceed \$100.
- (2) Gift certificates are items that can be redeemed for merchandise or services at a particular place of business, a group of businesses, or a retail location (this includes chain stores, restaurants, and shopping centers).
- (3) The Internal Revenue Service considers gift certificates to be taxable fringe benefits that must be taxed on the fair market value. The face value of the gift certificate is the fair market value. At the time the personnel action recording the recognition is processed, the amount will be adjusted to include the taxes due. The total of the gift certificate plus taxes will be reflected on the employee's Leave and Earning Statement.
- (4) A gift certificate cannot be converted to a cash payment.

d Keepsakes

- (1) All Service Center Agency employees are eligible to receive keepsakes. Private citizens who contribute to the mission of USDA or the Federal government as a whole may also receive keepsakes. Non-Federal County office employees, Conservation District employees, state agencies, and other mission-related partners are eligible on the same basis as other private citizens. When appropriate, concurrence from the non-Federal employer should be gained prior to issuing recognition.

For recognition of Volunteers, refer to respective Agency guidelines for additional direction.

- (2) Keepsake items emphasize symbolic recognition of significant contributions and public recognition. Items presented as honorary awards must meet all the following criteria:

- Be something that the recipient could reasonably be expected to value, but not something that conveys a sense of monetary value;
- Have a lasting trophy value;
- Symbolize the Agency – recipient relationship in some fashion;
- Take an appropriate form to be purchased with public funds and be used in the public sector.

- (3) Keepsakes can include such items as paperweights, key chains, clocks, plaques, jackets, T-shirts, coffee mugs, pen and pencil sets, etc. Presenters of awards should be particularly sensitive to public perceptions that could arise from granting expensive, keepsake items. Offices are cautioned not to give "personal gifts" to employees. Keepsake awards should normally meet the following criteria:

- be of an honorary nature;
- be able to be worn, displayed, or used in the recipient's work environment; and
- at a minimum, include the Department seal or logo. The Department name, or logo, should be clearly visible on the keepsake and must be permanently affixed. A peel-off sticker is not adequate.

- (4) No more than \$250 may be spent on any one item. The cost of customizing the item must be included in the total cost.

e Quality Step Increases

- (1) Service Center Agency employees, except wage grade employees, may receive one Quality Step Increase (QSI) in a 52-week period.
- (2) A QSI is an additional within-grade increase which may be granted for sustained, high quality performance significantly above that expected at the "results achieved" level. It must be supported by a "results achieved" rating. The supervisor must provide documentation that specifically describes:
  - the actual results(s) achieved and their linkage to established targets;
  - how the employee substantially exceeded the performance standards and expected work results communicated to the employee by the supervisor; and
  - how the employee's performance has been sustained at such a high level throughout the performance appraisal period.
- (3) Quality increases are not appropriate when it is known an employee is in step 10 of the pay range or when it is known that the employee is about to receive a promotion or vacate a position within 60 days. A QSI may be appropriate if the employee is moving to a similar position at the same grade level and performance is expected to continue at the same level of effectiveness.
- (4) Since quality increases are in addition to within grade increases, an employee who receives a quality increase does not start a new waiting period to meet the time requirements for a regular within grade increase. The time the employee served in the previous pay step (before the quality increase was effective) will count toward the total waiting period for the next within grade increase.

When the QSI places the employee into a step at which the waiting period becomes longer (e.g., at step 4 the waiting period becomes 104 weeks, and at step 7 the waiting period becomes 156 weeks), the waiting period for the next within-grade increase is extended by 52 weeks; however, the employee receives the benefit of the quality increase during this period.

f Time Off Awards

- (1) All Service Center Agency employees are eligible for time off awards.
- (2) A full-time employee may be granted up to 80 hours of time off during a leave year. A part-time employee or an employee with an uncommon tour of duty may be granted up to the average number of hours worked in a pay period or the employee's scheduled tour of duty. Awards are in full-hour increments.
- (3) The amount of time off that can be granted for a single contribution is one-half the maximum that may be granted during the leave year.

- (4) A time off award must be scheduled and used within 1 year after the effective date of the award; any unused time off is forfeited. The award is effective the first full pay period following approval. Before using any time off, the supervisor must concur with the requested dates.
- (5) A time off award will not convert to a cash payment under any circumstances.

g U.S. Savings Bonds

- (1) All Service Center Agency employees are eligible to receive Savings Bonds.
- (2) U.S. Savings Bonds must be purchased in the employee's name.
- (3) The amount of the award should be equal to the purchase price of the bond.
- (4) The Internal Revenue Service considers U.S. Savings bonds to be taxable fringe benefits that must be taxed on their fair market value. The fair market value of a savings bond generally is the purchase price of the bond. For example, if a \$200 bond is purchased for \$100, tax withholding must be based on \$100. At the time the personnel action recording the recognition is processed, the amount will be adjusted to include the taxes due. The total of the fair market value plus taxes will be reflected on the employee's Leave and Earning Statement.

h Length of Service Awards

Length of Service Awards are given to recognize an employee's federal and FSA County service. Employees should be recognized at 5 years of service and each 5-year increment thereafter. In computing eligibility, employees shall receive credit for total federal and FSA County service, including civilian and all honorable military service. Recognition should be timely, as close to the anniversary date as possible. Keepsakes may also accompany Length of Service certificates. Keepsakes should be appropriate, of nominal value (not exceeding \$100) and be commensurate with the length of service.

i Agency Honorary Awards

Each agency may establish honor awards and criteria as appropriate.

j Department Honor Awards

Departmental Honor Awards provide recognition to employees of the Department and our partners. Honor awards are the most prestigious recognition that can be granted by the Department for career accomplishments, exceptional support of the departmental mission, or for heroism.

k Other Federal and External Honor Awards

These awards are sponsored by other federal agencies or organizations or are co-sponsored with the Department. These awards may include, but are not limited to, the GEICO Public Service Award, the Roger W. Jones Award, the William T. Pecora Award, and the WISE (Women in Science and Engineering) Award. The Department will disseminate award criteria including the sponsor, the due dates, and other pertinent information, through Agency Human Resources Management Divisions, when awards are announced.

## EMPLOYEE RECOGNITION DELEGATION WORKSHEET

Exhibit 2

This chart describes approval limitations as authorized by USDA and provides a worksheet to define the delegations within their area of responsibility. Delegations for each area of responsibilities must be defined.

RECOGNITION CATEGORY	MAXIMUM AUTHORITY ALLOWED BY USDA POLICY	Approval with No higher level review required.	Approval with One Higher Level Review (Manager, Supervisor or Equivalent)																
<b>Example:</b> Cash		<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Title*</td> <td style="width: 50%;">Value</td> </tr> <tr> <td><i>All emp</i></td> <td>≤\$100</td> </tr> <tr> <td><i>DC, CED, CDM, &amp; above</i></td> <td>≤\$500</td> </tr> </table>	Title*	Value	<i>All emp</i>	≤\$100	<i>DC, CED, CDM, &amp; above</i>	≤\$500	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Title*</td> <td style="width: 50%;">Value</td> </tr> <tr> <td><i>All emp</i></td> <td>\$101 - 500</td> </tr> <tr> <td><i>CED, DC, CDM</i></td> <td>\$501-999</td> </tr> <tr> <td><i>AC, RDM, DD</i></td> <td>\$501-2,000</td> </tr> <tr> <td><i>State Ldr</i></td> <td>≤\$10,000</td> </tr> </table>	Title*	Value	<i>All emp</i>	\$101 - 500	<i>CED, DC, CDM</i>	\$501-999	<i>AC, RDM, DD</i>	\$501-2,000	<i>State Ldr</i>	≤\$10,000
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<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Cash Up to \$500</td> <td style="width: 50%;">Nomination and approval by all employees (no higher level review is required)</td> </tr> <tr> <td>\$501 to \$10,000</td> <td>Approval with one higher level of review</td> </tr> </table>	Cash Up to \$500	Nomination and approval by all employees (no higher level review is required)	\$501 to \$10,000	Approval with one higher level of review		<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Title*</td> <td style="width: 50%;">Value</td> </tr> <tr> <td></td> <td></td> </tr> </table>	Title*	Value			<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Title*</td> <td style="width: 50%;">Value</td> </tr> <tr> <td></td> <td></td> </tr> </table>	Title*	Value						
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Title*	Value																		
Title*	Value																		
Quality Step Increase	Rating officials nominate; one higher level of review is required																		
Thank-you Card or Letter & Certificates	Nomination and approval by all employees (no higher level review required)																		
Savings Bonds Up to \$250 Purchase Price	Nomination and approval by all employees (no higher level review required)																		
Keepsake Items Up to \$250	Nomination and approval by all employees (no higher level review required)																		
Gift Certificates Up to \$100	Nomination and approval by all employees (no higher level review required).																		
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Time-Off Up to 10 Hours</td> <td style="width: 50%;">Nomination and approval by a manager or supervisor (no higher level review required)**</td> </tr> <tr> <td>11-40 hours</td> <td>Approval with one higher level of review**</td> </tr> </table>	Time-Off Up to 10 Hours	Nomination and approval by a manager or supervisor (no higher level review required)**	11-40 hours	Approval with one higher level of review**															
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11-40 hours	Approval with one higher level of review**																		

\*At a minimum designated approving officials must be identified by title. Approval indicates funding is available.

\*\* Further limitations apply to part-time and intermittent employees.

Effective: \_\_\_\_\_ Area of Coverage: \_\_\_\_\_  
 Authorized Official: \_\_\_\_\_

00/00/00

SCAD-4130-01

**USDA Service Center  
Employee Recognition Nomination and Approval**

**Exhibit 3**

Recipient's Name: _____ Social Security Number: _____  Title, Series and Grade: _____ Duty Station: _____  Employer (specify agency): _____	
Recipient's Contribution: _____ Time Period of Contribution: _____ to _____	
<b>Award Type:</b>  Cash: \$ _____ .00 Gift Certificate: \$ _____ .00 Keepsake: (Description of recognition item): _____ _____ QSI: _____ New Grade and Step: _____ / _____ Time Off: _____ hours U. S. Savings Bond: \$ _____ .00 Funding Code: _____	<b>Human Resources Use Only</b>  NOA: _____ Auth: _____ Eff Date: _____  Recognition during previous 12 months: _____
<b>Nominating Employee: (Name)</b>  Signature: _____ Date: _____	
<b>If Required, Reviewing Official: (Name)</b>  Signature: _____ Date: _____	
<b>Approving Official: (Name)</b> Approved: ( ) Yes ( ) No  Signature: _____ Date: _____	

Filing Instructions: Cash, QSI, Time-off, Savings Bonds, Gift Certificates – Employee Performance File and Official Personnel Folder (optional, left hand side ); Keepsakes – Attach to procurement and/or payment document.

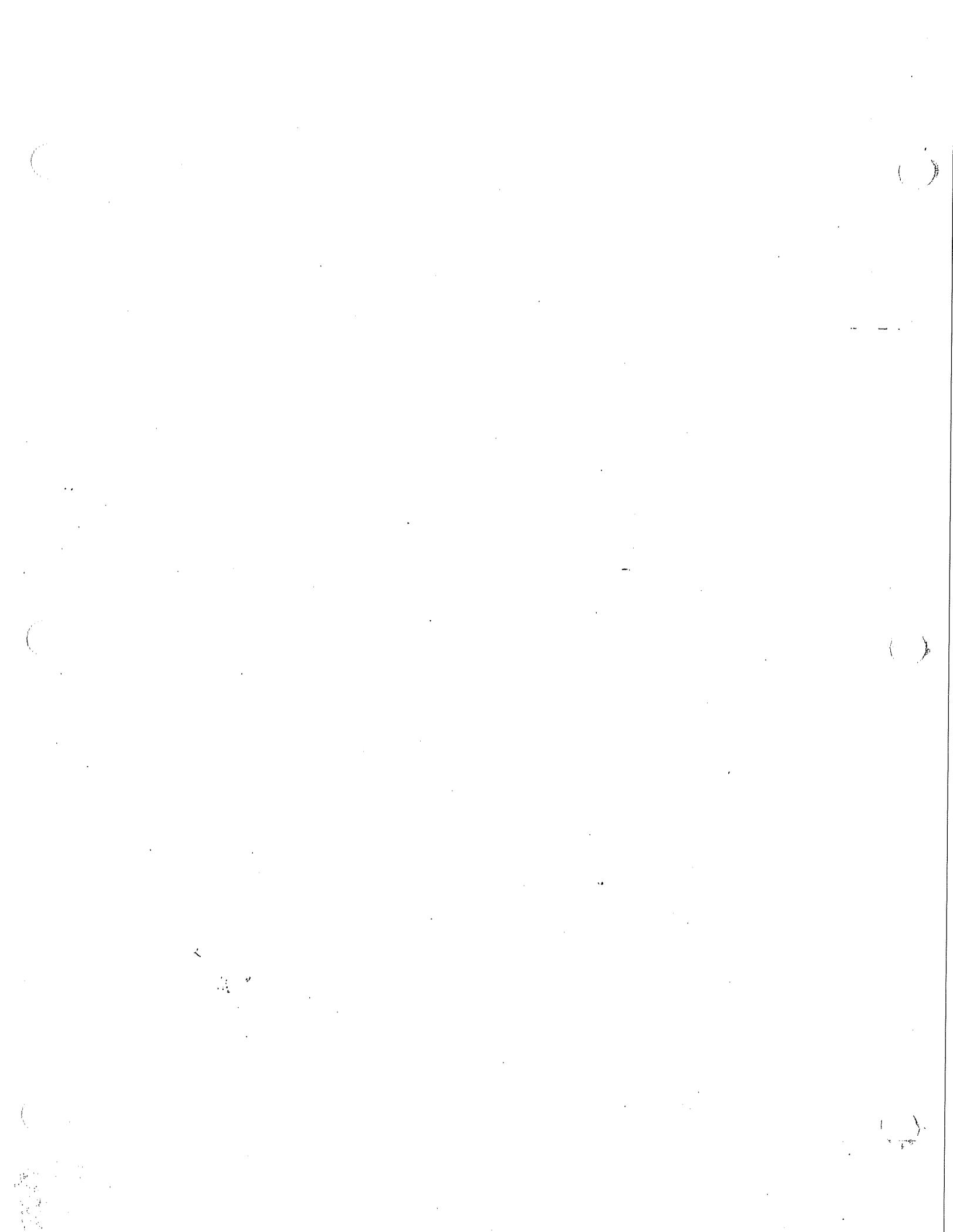
SCA-4130

## JUSTIFICATION OUTLINE

Exhibit 4

Following is a step-by-step outline that describes the sections and verbiage to justify an award.

- I. During the period of (give time of performance), (give name of individual or group), (give explanation of accomplishment).
- II. This exceeded expectations as identified in the current position description by:
  - a Improving quality.
  - b Timely completion of the project.
  - c Increasing productivity.
  - d Overcoming adverse obstacles or working under unusual circumstances.
  - e Using unusual creativity.
  - f Saving the Government time and/or money.
  - g Increasing program effectiveness.
- III. As a result:
  - a Project acceptance.
  - b Savings in time, money, and/or material.
  - c More efficiency.
  - d Effectiveness.
  - e Technological advancement.
  - f Productivity increase.
  - g Improved levels of cooperation that will result in . . .
- IV. Therefore, we propose an award of (amount/hours).



**MEMORANDUM OF AGREEMENT**  
BETWEEN THE  
**UNITED STATES**  
**DEPARTMENT OF AGRICULTURE**  
**FARM SERVICE AGENCY - ARKANSAS**  
AND THE  
**AMERICAN FEDERATION**  
OF  
**GOVERNMENT EMPLOYEES**  
**LOCAL 108**

REGARDING

**EMERGENCY FURLOUGHS – LAPSE OF APPROPRIATIONS**

As soon as reasonably possible, the Union will be sent written notification of an emergency furlough along with a list of bargaining unit employees, who are not subject to furlough and the reasons why the determination was made (e.g. employee occupies a critical position, etc.).

After the Union has been notified, employees will receive a notification as soon as reasonably possible.

Furlough notices distributed to employees will contain all of the information required by Statute or regulation including an explanation as to why the employee is being furloughed, if there are employees in his/her competitive level and competitive area who are not being furloughed.

In the event that an emergency furlough due to a lapse in appropriations allows furlough hours to be other than consecutive, the Agency will consider input from the bargaining unit employees who will be furloughed.

During the period of the emergency furlough, full-time employees on compressed work schedules (CWS), alternative work schedules (AWS), and part-time will be deemed to be furloughed on the days and for the number of hours of each day in accordance with their last approved work schedule.

An employee on furlough will receive annual and sick leave accruals unless he/she is in a furloughed status for a full consecutive 80 hours.

When an emergency furlough is required, employees on approved annual leave or approved sick leave on the effective date of the furlough will have their leave canceled and they will be permitted to remain absent from work for the duration of the furlough.

Employees who have had annual leave canceled due to a furlough will be given an opportunity to reschedule that leave.

Upon expiration of the furlough, employees who were on approved sick leave the effective date of the furlough will report to duty, unless their medical status precludes them from doing so.

If an employee's medical status precludes him/her from reporting to work upon the expiration of the furlough, the employee must request sick leave in accordance with applicable procedures.

Furlough shall not be used to punish or disadvantage any employee. Furlough will not be used in lieu of another adverse or disciplinary action.

Furlough days do not count against Family Medical Leave absences or entitlements.

Emergency furloughs of 30 days or less do not count against the employee in calculation of Service Compensation Date for leave or retirement calculation.

Employees in continuation of pay (COP) status will remain in COP status in accordance with Department of Labor regulations during a period of furlough.

Employees may accept outside employment during furlough days, as long as the work complies with Agency rules for prior approval. In the event the agency requires employees to seek approval for outside employment, management shall grant or deny approval within 2 work days of receipt of the request.

Bargaining unit employees, who are furloughed due to lapse in appropriations, will be retroactively compensated for loss salary, if subsequently, funds are specifically allocated for that purpose in the approved appropriations and if the allocation is permitted by law and regulation.

Absence without charge to leave or loss in pay equal to the time lost shall be retroactively granted barring statutory prohibition, or actions that would be in violation of the Anti-Deficiency Act, 31 U.S.C. Para 665 (1976), or statements of congressional intent to the contrary.

If appropriate, performance expectations shall be adjusted to take into account the effect of being away from the workplace on furlough.

In accordance with OPM regulations and pursuant to OMB guidance to agencies on furloughs, the impact on employees of time spent on furlough on a non-pay status is limited in the following ways:

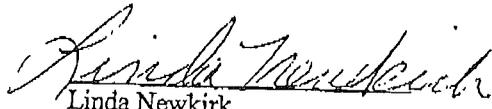
Time in non-pay status -

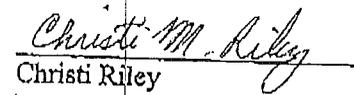
- 1) Aggregate non-pay status not to exceed 22 workdays will count toward the completion of the probationary period.
- 2) Furlough days count toward time in grade.
- 3) Within-grade increases will not be stopped solely due to budgetary shortfalls, and time in non-pay status will be credited up to an aggregate of:

For GS employees:

- (a) 80 hours for employees in Steps 1, 2, and 3
- (b) 160 hours for employees in Steps 4, 5, and 6
- (c) 240 hours for employees in Steps 7, 8, and 9

Health and Life Insurance - Health insurance continues for 365 days in a non-pay status at normal cost to the employee; life insurance continues for 12 consecutive months without cost, 5 CFR Part 890, 5 CFR Part 870.

  
Linda Newkirk  
State Director  
USDA, Farm Service Agency  
Arkansas State Office

  
Christi Riley  
President  
AFGE, Local 108

4-8-2011  
Date

April 08, 2011  
Date