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PREAMBLE

This Agreement is made and entered into by the National Institute of Justice; the Bureau of Justice Statistics; the Office of Juvenile Justice and Delinquency Prevention; the Office of Justice Assistance, Research and Statistics and Local 2830 of the American Federation of State, County, and Municipal Employees, AFL-CIO.

This Agreement and such supplementary agreements as may be agreed upon as the result of negotiations required by law or higher authority, or negotiations undertaken with the consent of both Parties, constitute a collective bargaining agreement between the Employer and the Union pursuant to the Civil Service Reform Act of 1978, existing or future laws, and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual.

The Parties hereby agree 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 safeguards the public interest, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment.

The Parties hereby further agree that the public interest demands the highest standards of employee and manager performance and the continued development and implementation of humane work practices that facilitate and improve employee and manager performance and the efficient accomplishment of the operations of the Government.

ARTICLE 1 - RECOGNITION AND DEFINITION OF UNIT

Section 1. The Employer hereby recognizes Local 2830 of the American Federation of State, County and Municipal Employees, AFL-CIO, as the exclusive representative of all employees in the unit (as defined below). The Union recognizes the responsibilities of representing the interest of all such employees, without discrimination and without regard to Union membership, with respect to grievances, personnel policies, practices and procedures, or other matters affecting their general working conditions.

Section 2. The U.S. Department of Labor has certified the Union as the exclusive representative of the bargaining unit comprised of "all full-time and regularly scheduled part-time professional and non-professional employees and employees on temporary appointments exceeding 90 days and who have a reasonable expectancy of continued employment" in the Office of Justice Assistance, Research, and Statistics (OJARS), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS). Excluded: All summer employees, student aides, confidential employees, employees in Federal personnel work in other than a purely clerical capacity, management officials, guards, and supervisors as defined in the Civil Service Reform Act.

Section 3. This Agreement covers only those positions included in the bargaining unit. Where the term employee(s) is used it is understood that it means bargaining unit employee(s).

ARTICLE 2 - RIGHTS OF THE UNION

Section 1. The Union has the right and obligation to represent all employees in the unit without discrimination and without regard to Union membership and to present its views to the Employer on matters of concern either orally or in writing. The Union shall be given the opportunity to be represented at formal discussions between the Employer and employees concerning grievances, personnel policies and practices, and in other matters affecting general working conditions of employees in the unit.

Section 2. The Employer shall in no way restrain, interfere with, coerce, or discriminate against designated representatives of the Union in the responsible exercise of their duties as representatives for the purpose of collective bargaining, handling grievances and appeals, furthering effective labor-management relationships, or acting in accordance with applicable regulations and agreements on behalf of an employee or group of employees within the bargaining unit.

Section 3. The Employer agrees that once each month a listing consisting of each employee's name and organizational location will be provided to the Union. The Union will also receive a list of accessions, separations, transfers, conversions, details, reassignments, demotions, and promotions as frequently as such lists are prepared by management, but not less frequently than monthly.

Section 4. The Union has the right to be notified as soon as practicable (ordinarily one week), and management will consider its opinion, before the Employer places Union officers or stewards on special assignment and/or detail away from the work area within which they serve.

Section 5. The Union has the right to be informed when the Employer proposes to issue new regulations on matters affecting personnel policies, practices or working conditions, and shall have the right to negotiate such regulations when negotiation is required by the Civil Service Reform Act. The Employer shall implement no new personnel policies without meeting its obligation to negotiate or consult as required by the Act.

Section 6. The Employer shall notify the Union of changes in laws, rules and regulations of appropriate outside authority that will cause changes in personnel policies, practices, or other matters affecting working conditions. If the change leaves the Employer no discretion in the matter, the Union will be informed of the change at least thirty (30) working days prior to implementation, if possible, and given legible copies of such rules or regulations. When the laws or regulations leave administrative discretion to the Employer in the

implementation of the required changes, the Union will be given the opportunity to negotiate the implementation and impact of such changes, if such negotiation is required by the Act.

Section 7. The Employer shall deliver to the Union a legible copy of all Agency and Department of Justice personnel rules and regulations. The Employer agrees to give the Union access to the Agency copy of the FPM and shall allow the Union to copy necessary portions of it at the Agency's expense.

Section 8. The Union shall have the right to designate the number and identity of its representatives at all meetings between the Employer and the Union and shall be given, when possible, at least 48 hours notice of all such meetings. However, the number of Union representatives shall not exceed the number of Agency representatives, except by mutual agreement.

Section 9. The Union will have the right to be represented on committees that are not comprised exclusively of management officials that are concentrating on personnel policies, practices, and working conditions that directly affect bargaining unit employees as far as may be appropriate under applicable laws and regulations.

Section 10. The Union shall have the right to distribute its newsletter and other publications and notices within the premises occupied by the employer and to post them for as long as it wants on the bulletin boards provided exclusively for Union use.

Section 11. Local 2830 representatives shall have access to unit employees at reasonable times for representational purposes following appropriate notification to management and when consistent with the work needs of the employee's office.

Section 12. The Employer agrees to accommodate reasonable written requests by the Union for letters, memoranda, or other documents in the Employer's possession that are pertinent to the performance of the Union's representational function except where release would be inconsistent with Agency discretion provided by applicable laws or regulations.

Section 13. The Union shall provide the Employer with a brief, informational memorandum stating the Union's representational status and the names and phone numbers of Union officers and stewards which the Employer shall give to newly hired employees in the bargaining unit during initial processing. The Employer shall also distribute a copy of this agreement to all such employees at that same time.

Section 14. The Employer will notify the Union as soon as possible but no later than 10 days in advance of moves, alterations in working areas, or other changes in physical conditions of work areas. In the case of major alterations or alterations involving contractors, the Employer will notify the Union as soon as possible prior to undertaking the alteration or entering the contract. The Parties will, upon request, negotiate over the impact of such moves, alterations, or changes.

ARTICLE 3 - RIGHTS OF EMPLOYEES

Section 1. 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 by law, 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 the law (5 U.S.C. 7102). Employees shall not be encouraged nor discouraged by any supervisor or management official from exercising this right. (5 U.S.C. 7116(a)(2)).

Section 2. Any employee in the unit has the right individually and privately to bring matters of personal concern to the attention of appropriate management and/or Union officials in accordance with applicable laws, rules, regulations, or established policies and to choose a representative when appropriate. The Employer shall in no case question the employee concerning the nature or content of such discussions except in connection with an officially authorized administrative or criminal investigation.

Section 3. The parties agree that the private life of an employee is his or her own personal affair except insofar as such private conduct may violate the Department of Justice Standards of Conduct or provide grounds for disciplinary action in accordance with law or regulation of higher authority (e.g., 5 U.S.C. 7513).

Section 4. The Employer will not ask an employee to keep a record of any other employee's private life except when: (1) the Employer has reasonable suspicion to believe that the employee's private conduct violates the Department of Justice's Standards of Conduct or constitutes grounds for disciplinary action; and (2) the request is approved in writing by the Office of General Counsel.

Section 5. The Employer will ordinarily counsel employees about work-related problems of a cumulative nature prior to formal discipline in order to attempt to alleviate such problems short of discipline. The Employer will, subject to its lawful authority to withhold such files, give the employee at his or her request a copy of any formal file concerning the employee. It is the Employer's policy, subject to change, that supervisory notes and informal records that are agency records and are gathered in contemplation of disciplinary action will, if not utilized or made formal within one year, be destroyed. The Employer will consult the Union as soon as practicable before changing this policy.

Section 6. The Employer agrees not to take any still or moving photographic

pictures of an employee without that employee's knowledge and permission except in the course of an officially authorized administrative or criminal investigation.

Section 7. The Employer agrees not to open or enter any desk, cabinet, or personal work space regularly used by an employee unless such actions are officially authorized management activities.

Section 8. The Employer agrees to preserve the privacy rights of all employees as required by law and to make efforts to distinguish between official and personal correspondence whenever possible. However, in order to preclude the inadvertent opening of mail that is personal in nature, employees are urged to use a home address in personal correspondence.

Section 9. The Employer agrees not to require an employee to take a psychiatric examination except in accordance with applicable Federal Personnel Manual regulations and then only upon the written authorization of the Assistant Attorney General for Justice Assistance.

Section 10. The Employer agrees not to request information from an employee about his or her race, religion, national origin, political affiliation, age, or other physical or mental condition except as permitted by law or regulation of higher authority.

Section 11. The Parties recognize that each employee has the right under P.L. 95-454 to disclose any information that he or she reasonably believes evidences a violation of any law, rule, or regulation or is mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs. (5 U.S.C. 2302(b)(8)(A)).

The Employer shall not take or fail to take a personnel action with respect to any employee as a reprisal for the exercise of the above right. (5 U.S.C. 2302(b)(8)).

Section 12. Each employee and/or his or her properly authorized representative has the right upon request to inspect his or her Official Personnel Folder and its entire contents. The employee also has the right to inspect any portions of any official documents in the Employer's possession that pertain directly to the employee, subject to the Employer's lawful authority to withhold such files. Upon written request the Employer shall explain any exercise of this authority. Also, in accordance with applicable laws and regulations, the employee may, upon request, obtain without charge one copy of such documents and Official Personnel Folder contents.

Each employee shall have access, upon request, to statutes, regulations, rules, or orders pertaining to general Agency personnel policies or practices.

Section 13. The information contained in Official Personnel Folders shall be only that prescribed by the Federal Personnel Manual. The Employer may also place current position descriptions and related material in the OPF. No material of any derogatory nature will be placed in an employee's Official Personnel Folder without the employee being informed of this and being given

the opportunity to review the information and put on record any statement that she or he wishes to make about such material. Each employee has the right to challenge any information about himself or herself and if it is incorrect, have it removed from the Folder and destroyed insofar as law and regulations of higher authority permit. Employees have the right to update their Official Personnel Folders with relevant data concerning experience, education, training, and other matters bearing directly on their qualifications and skills. The Employer may not reveal any information about an employee to an outside party except in accordance with the Federal Personnel Manual or with the employee's express written permission.

Section 14. When feasible, official travel will be scheduled so as to take place during duty hours. If employees are required to perform official travel outside of duty time, they have the right to such overtime or compensatory time that is allowed by law and regulation of higher authority. To the extent permitted by DOJ and Treasury regulations, an employee will receive a travel advance prior to commencement of official travel. The Employer agrees to reimburse the employee for any approved official travel performed as soon as is possible.

Section 15. The Employer agrees to pay for membership dues in any association other than those recognized as prerequisites for remaining a member in good standing of the employee's profession when an employee is required to attend a meeting or conference of that association and membership is required for attendance.

Section 16. In the event of a dispute between an employee and another party or firm about an alleged debt or any financial obligation, when the debt is neither acknowledged by the employee nor reduced to a judgment, nor one imposed by law--such as Federal, state, or local taxes--the Employer will take no action that is directly or indirectly related to that debt other than to give the employee's location or other information specifically permitted under the Consumer Credit Protection Act (P.L. 95-109). The Employer shall immediately inform the employee concerned of any action taken under this Section.

Section 17. Employees have the right to either participate or not participate in any voluntary program sponsored by the U.S. Government or the Employer. Employees will not be coerced or discriminated against on account of such participation or nonparticipation.

Section 18. In addition to basic orientation, the Employer is responsible for furnishing full information to each employee upon request of the rights as well as the responsibilities of government service pertinent to his or her appointment. When appropriate, such rights and responsibilities shall include the differences in benefits and rights accruing to temporary, excepted, intermittent, part-time, career conditional, and career employees; the basic procedures of hiring, probation, promotion, termination, reduction-in-force, and rehiring under the Office of Personnel Management regulations, especially as these procedures apply to converting temporary, intermittent and excepted employees to career-conditional appointments; and employee rights concerning performance evaluations, adverse actions, disciplinary actions, terminations, employee grievances, and employee complaints of discrimination based on race, color, religion, sex, age, physical handicap, and national origin, including the rights to representation, appeal, and court action.

Section 19. Employees shall have the right to tastefully decorate their work area provided such decorations are in conformance with Federal and Employer guidelines regarding health, safety, and prohibitions against defacing building property and other applicable laws and regulations of higher authority.

Section 20. All employees have the right to be treated with respect and courtesy in their interactions with subordinates, peers, supervisors, and other coworkers during the discharge of their duties.*

Section 21. Each employee has the right to Union representation at any examination by the Employer in connection with an investigation if the Employer or employee reasonably believes that the examination may result in disciplinary action against the employee and the employee requests representation. The Employer will notify each employee of this right at least annually in writing and immediately prior to any examination that could result in a disciplinary action against the employee.

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*See also Article 4, Section 4 of this Agreement.

Section 22. Employees have the right to know the established supervisory channels in their office. Employees also have the right to request current office and employee workload priorities. In cases of doubt employees may ask to receive this information orally or in writing and the Employer shall respond orally or in writing.

Section 23. The Employer will not require any employee to submit to a lie detector test except as permitted by law. When the Employer makes such a request it will advise each employee in writing of his or her right to consult his or her union representative. It is the policy of the Employer, subject to change, to also advise each employee in writing of his or her right to refuse to take a lie detector test. It is also the policy of the Employer, subject to change, not to take any adverse action against an employee solely for refusing to take such a test.

The Employer will consult with the Union as soon as practicable before changing these policies.

When another agency conducts a work-related investigation of a unit employee at the Employer's behest, the Employer will, if possible and if permitted by law, notify the employee of his or her rights under this section of the Agreement (in writing if possible) prior to a lie detector test given on the Employer's premises or prior to the employee's departure from the Employer's premises for questioning.

This section shall not be interpreted as obligating the Employer to take any action that would jeopardize a legitimate law enforcement investigation, or that would in any way affect the investigative techniques of other agencies.

Section 24. The Employer's practice is not to monitor Agency telephones except when there is reasonable cause to believe that the telephone is being used contrary to law or regulation, or that illegal activity is being conducted or discussed over the phone. Such monitoring by managers must be authorized by the Office of General Counsel.

Section 25. Employees have the right to request and receive, subject to the exemptions available under the Privacy Act, the FOIA, and other applicable laws and regulations, a copy of any security investigation report on the employee compiled by the Federal government at the request of the Employer. The Employer will notify each employee and the Union of the completion of each requested security check or background investigation report when the Employer is so notified.

Section 26. The Employer will make reasonable efforts to provide an employee who so requests a working area substantially free of tobacco fumes. Smoking will be prohibited in elevators.

Section 27. Employees have the right to be free of sexual harassment. The Employer agrees that sexual harassment is unacceptable in the workplace and will not be condoned. Harassment on the basis of sex is a prohibited personnel practice and is a violation of Section 703 of Title VII of the Civil Rights Act of 1964. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(a) submission to such conduct is made either explicitly or implicitly a term or condition of work or of an employee's advancement, or

(b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting an individual, or

(c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

No employee shall be preferred or advanced in employment for providing sexual favors to a supervisor, nor shall any employee offer sexual favors to a supervisor as an inducement to preference or advancement in employment. Sexual activities offered or solicited between a supervisor and an employee in exchange for advancement are grounds for an adverse action against the culpable parties.

Violations of this section may be grieved under the grievance Article of this Agreement.

Section 28. Employees may contact the following offices or persons during working hours on personal work-related problems or health problems, as appropriate, if they notify their supervisor of their absence from the workplace:

(a) the Personnel Office;
(b) the EEO Office;
(c) a supervisor of higher rank than the employee's immediate supervisor;
(d) the Office of General Counsel:
(e) the agency or DOJ health unit; and
(f) Union representatives as governed by Article 2, Section 11 of this contract.

Normally such a contact will first be made by telephone. An employee is not required to describe the specific nature of the problem but must inform the supervisor either of the general nature of the problem or his or her destination. If the office workload precludes the employee's absence at the time of the request, the supervisor may deny the request but will tell the employee that he or she may leave as soon as the workload permits. The supervisor may require the employee to take annual or sick leave if appropriate.

ARTICLE 4 - RIGHTS OF THE EMPLOYER

Section 1. The Employer has the authority:

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

(b) In accordance with applicable laws and regulations--

(1) 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;

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

(3) with respect to filling positions, to make selections for appointment from (a) among properly ranked certified candidates for promotion; or (b) any other appropriate source; and

(4) to take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section 2. Nothing in this Article shall preclude the two Parties from negotiating:

(a) At the election of the Employer, on the numbers, types and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work.

(b) Procedures which management officials of the Employer will observe in exercising any authority under this Article.

(c) Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such management officials.

The parties note that, pursuant to the Civil Service Reform Act, the Employer has the rights set out in subsection 2(a) above as well as those set out in Section 1. While the law gives the Employer the discretion to negotiate those subsection 2(a) rights, the Employer intends to retain those rights unless it expressly waives them in this Agreement or in the future. The Employer's rights listed in Section 1 may not be waived.

Section 3. All supervisors and managers have the right to be treated with respect and courtesy in their interaction with subordinates and other coworkers.

Section 4. Employees have the obligation to carry out all lawful orders. If the employee has substantial reasons to believe the order is unlawful, the employee may seek guidance from the Office of General Counsel. A refusal to carry out a lawful order promptly may, however, subject the employee to a disciplinary action. A grievance may be filed if the employee believes the order violated the law or this Agreement.

Section 5. The Employer is authorized to exercise all other functions and perform all duties authorized by law.

ARTICLE 5 - OFFICIAL TIME AND UNION REPRESENTATION

Section 1. The Union shall be given the opportunity to be represented at formal discussions between the Employer and an employee or employee representative concerning grievances, personnel policies and practices, or matters affecting working conditions of employees. The Parties agree that Union attendance at labor-management meetings to resolve disputes will be limited to the attendees necessary to have a full and frank discussion of the matters involved and shall not exceed the number of persons that represent management except with management's permission.

In grievance discussions the Union will normally be represented by one person.

Section 2. The Employer agrees to recognize a Union President, a Union Vice-President, one Chief Steward, and an additional Steward designated by the Union. The Union President will inform the Employer of the names of those officials and any changes among those officials immediately upon such a change. If the bargaining unit exceeds 400 people, this Article will be reopened.

Section 3. The four officials cited in Section 2 shall be allowed a reasonable amount of official time to conduct the activities listed below:

(a) Assist employees in preparing and presenting a grievance under this Agreement or attempting to resolve a potential grievance.

(b) Participate in formal discussions or consultations pursuant to Section 1 of this Article.

(c) Prepare for and conduct collective bargaining negotiations with the Employer. (Time to negotiate and prepare for a new Agreement or a reopening of this Agreement (see Article 28, Section 5) may be established as agreed by the Parties at the time of such negotiations.)

(d) Serve on labor-management committees specified in this Agreement.

Section 4. Before leaving the work site for official time purposes specified in Section 3, Union representatives shall advise their supervisors of the following:

(a) Their destination.

(b) Which representational activity under Section 3 they will be undertaking.

(c) A reasonable estimate of the time that will be required. Permission to leave will be granted unless the Union official's presence is necessary to meet work requirements. In such a case, the Union may reassign the activity to another Union representative or request that the meeting be postponed until the original representative is available. Such a request will be granted unless the delay would adversely affect the Employer's work needs. The Union representative will return to his or her duties as soon as practical and will advise the supervisor upon his or her return.

Section 5. Official time shall not be used for internal Union business, such as the solicitation of dues deductions, the preparation of the Union newspaper, or discussions of internal Union business.

Section 6. Travel expenses for Union officials who are the Employer's employees and who are consulting and assisting in resolving labor-management disputes, and travel expenses for employees required to travel in connection with a grievance or other labor-management issues will be provided by the Employer only to the extent (1) such travel is required by management, (2) management determines payment would be in the Agency's best interests, (3) payment is required by law or regulation, or (4) payment is directed by the Federal Labor Relations Authority.

Section 7. International representatives, Union Council staff members, and other Union representatives will be permitted on the Employer's premises, consistent with the Employer's normal internal security procedures, for the purposes of:

(a) Attending Union meetings.

(b) Participating in meetings with the Employer.

(c) Participating in labor-management negotiations and other such activities.

Section 8. Each pay period in which a Union representative uses official time for representation purposes under Section 3 of this Article, he or she shall submit a report to the Employer providing legally required information concerning official time activities in a form that will enable the Employer to accurately complete legally required reports on such activities.

Section 9. The Employer will permit the Union up to one paid workday annually for each Union official cited in Section 2 to be used for training in employee representation, labor-management negotiations, and other noninternal Union business to be conducted when and where the Union determines and to be apportioned among the Union members as the Union determines. The Union will

conduct this training at times when the release of the employees will not harm the Employer's work needs.

ARTICLE 6 - USE OF OFFICIAL FACILITIES AND SERVICES

Section 1. The Employer will provide the Union with an office that locks, a telephone, a desk, chairs, a conference table, a safe that locks, and an operable electric typewriter.

This office will be used for all Union organizational purposes and all other business that concerns the Union's internal affairs. Except as provided in Section 2 it will also be the exclusive Employer office the Union uses when preparing its labor-management proposals, planning labor-management meetings, and preparing other labor-management activities. It shall also normally be the office the Union uses for representational and counseling purposes unless the use of another office is more appropriate and in no way interferes with the Employer's activities.

Section 2. The Employer shall promptly approve the Union use of space for meetings with employees in the unit if the space requested is available.

Section 3. The Union president, chief steward, and Union office location and telephone number will be listed in all Employer telephone directories.

Section 4. The Employer will provide a mail slot designated for the Union's mail in the mailroom.

Section 5. Bulletin board space of at least six square feet or half of a currently attached bulletin board shall be made available on each floor of occupied space where represented employees have office space. A copy of every notice posted shall be given to the Personnel Division by the time it is posted. No material shall be posted that is contrary to law or regulation of higher authority. The material shall not include anything that would imply official endorsement by the Employer. Union space will be clearly demarcated on the bulletin board. The Employer will not post any notices over Union notices.

Section 6. The Employer will provide a list of notaries public available in the Agency to employees.

Section 7. The Union President or designated Union stewards may make reasonable use of the Employer's photocopying facilities for reproducing grievance-related materials or labor-management contract proposals.

ARTICLE 7 - EQUAL EMPLOYMENT OPPORTUNITY

Section 1. The Employer will provide and assure equality of employment opportunity for all persons. The Employer and the Union agree that discrimination based on race, creed, color, sex, religion, national origin, age, nondisqualifying physical handicap, or marital status is prohibited in the employment relationship.

Section 2. Both Parties agree to adhere to all Federal laws and regulations that prohibit discrimination.

Section 3. Through positive and continuing efforts, the Parties will seek to realize full equal employment opportunity for all unit employees. The Parties agree that positive steps must continue to be taken to prohibit discrimination and to utilize to the fullest extent possible the job-related skills of all employees within the unit. The Employer will provide opportunities for employees to enhance their job-related skills.

The Union agrees to assist and cooperate with the Employer whenever feasible to assure full equal employment opportunity. The Union also agrees to advise the Employer of problems associated with equal employment opportunity of which it is aware.

The Union shall have the right to furnish a list of employees as nominees to be considered for appointment as EEO Counselors.

Section 4. Employees are encouraged to establish their own career goals, to seek information and advice about advancement, and to work toward fulfilling their career objectives through the Employer's EEO program.

Section 5. At such time as the Employer develops an EEO Plan, either at its own initiative or at the direction of the Department of Justice, but no later than 1 year after the effective date of this Agreement, the Employer will negotiate and consult with the Union about the Plan, as appropriate.

Section 6. The Parties will establish an EEO Committee to deal with issues concerning the employment of minorities by the agency. The Committee will make recommendations to the agency EEO officer for his or her consideration in:

(a) Formulating any Agency EEO Plan;

(b) Preparing EEO or affirmative action reports to the Assistant Attorney General;

(c) Implementing the objectives cited in Section 3 of this Article; and

(d) Coordinating the Employer's programs with other ongoing Federal EEO activities.

Section 7. The EEO Committee will consist of five persons, three named by the Employer and two by the Union. It shall meet semiannually.

Section 8. The Employer shall post the names, phone numbers, and Employer work locations of EEO staff and counselors on official bulletin boards in each bureau and on each floor and will update as appropriate.

Section 9. All employees are responsible for treating fellow employees with basic respect and dignity, and not practicing themselves, nor condoning in others, discriminatory behavior in employment based on race, color, religion, sex, or national origin.

Section 10. The Employer will post a copy of the EEO complaint procedure on each floor occupied by unit members and will provide the Union a copy of the procedure and any current Agency affirmative action program. The Employer will also post copies of relevant training announcements on each floor.

Section 11. The Employer will give the Union a written copy of any settlement in response to any EEO complaint filed by Unit employees unless any party to the settlement declines to authorize the release.

Section 12. The Employer shall provide information including but not limited to the following:

(a) Workforce composition (by bureau) by race, sex, and grade level.

(b) Composition of each major occupation (job series) by race, sex, and grade level.

(c) Upward mobility and entry level positions filled, by race, sex, and grade level through internal recruitment and through outside recruitment.

(d) The number and type of involuntary terminations of employment, by race, sex, and grade level.

(e) Numbers of disciplinary actions taken pursuant to EEO regulations by race, sex, and grade level.

(f) Numbers and types of discrimination complaints, by division or office.

Section 13. An employee has the right to request Union representation in any formal EEO proceedings conducted by the Agency. Complainants have the right to be accompanied, represented, and advised at any stage in the complaint procedures by a representative. An employee shall contact an EEO counselor within 30 days of the incident that is complained of. Continuing problems may be brought to a counselor's attention thereafter.

ARTICLE 8 - CAREER DEVELOPMENT AND TRAINING

Section 1. In accordance with DOJ Order 1410.3C, the Employer recognizes that the objective of employee development and training is to improve the efficiency and economy of its operations by (1) developing a well-trained work force, (2) assisting employees to achieve their highest potential consistent with Agency needs, and (3) motivating employees constructively to contribute to the success of the Agency's mission.

Section 2. The Employer recognizes its obligation to provide employees whatever training is necessary, within the limits of practicability, to perform their official duties. All employees will receive equal consideration for training without regard to race, color, religion, sex, national origin, age or other factors unrelated to the need for training.

Section 3. All employee training funded by the Employer must be approved in advance and be related to the employee's current duties or duties he or she can reasonably be expected to perform in the future in the Agency. The Employer will determine how training funds can best be utilized to maximize the usefulness of such training for the Agency.

Section 4. At the time a supervisor discusses performance requirements with an employee pursuant to Article 14, Section 3(a) of this Agreement, the supervisor will also discuss individual job-related training needs, career goals, and training and developmental opportunities to achieve those needs and goals. Training plans may be reduced to writing at any time at the request of an employee and may be revised later with the supervisor's concurrence. All employees selected for upward mobility positions pursuant to Article 9, Section 6 of this agreement will have written training plans.

Section 5. When the Employer requires an employee to attend training, the Employer will make reasonable efforts to provide the training during work hours. Employees subject to the Fair Labor Standards Act may be entitled to premium pay for time spent in required training outside of duty hours (See 5 C.F.R. 551.423).

Section 6. The Employer will post on the 1Oth floor bulletin board training notices that are of interest to a significant number of employees. The Employer will maintain and have available for use by employees, supervisors, and the Union a variety of training announcements, catalogues, and notices.

Section 7. Employees may discuss training needs or opportunities with their supervisor or a training specialist.

Section 8. Employees may submit written requests for training to their supervisors and request consideration for such training. When a supervisor has denied a written request for training contemplated in an employee's training plan, the supervisor will explain in writing the specific reasons for the denial.

Any requests for training that are not approved by the Personnel Office will be returned with a written explanation.

Section 9. When an employee is enrolled in an institution of higher education and seeks credit for on-the-job experience, the Employer will respond to requests by the institution for information pertaining to the employee's job experience in the Agency and provide the employee with a copy of the response.

Section 10. The Parties agree to encourage employees to seek advanced degrees and training. DOJ Order 1410.3C provides that it is the policy of the Congress that Government sponsored training should supplement and extend efforts currently being made by employees to acquire knowledge, skills, and abilities equipping them for the performance of official duties. In accordance with the Order, the Employer will inform the employees that, when approved in advance and subject to the availability of funds, they may receive assistance for job-related training under the Government Employees Training Act (5 U.S.C. 4101 et seq.) or other personnel authorities. The Employer will maintain records of all self-development efforts that are provided to them by employees and will recognize them in its personnel management activities.

Section 11. In accordance with DOJ Order 1410.3C, Section 15, an employee may, with limited exceptions listed in the Order, be required to agree to continue in the employment of the Agency for three times the training period when taking training funded by the Employer of 80 hours or more at a non-Governmental facility.

Section 12. Employees who do not satisfactorily complete training funded by the Employer may be required to reimburse the Employer for all costs incurred by the Employer in connection with the training. An unexcused absence from training during duty hours may be grounds for discipline.

Section 13. The Parties agree that when impact bargaining over new mechanical devices or systems is requested in accordance with Article 22, Section 6 of this Agreement, options for training employees in the proper usage of such equipment will, if appropriate and to the extent negotiable, be among the principal considerations in such bargaining.

ARTICLE 9 - UPWARD MOBILITY

Section 1. Upward mobility is a systematic management effort that focuses Federal personnel policy and practice on the development and implementation of specific career opportunities for lower level employees who are in positions or occupational series that do not enable them to realize their full work potential.

The Equal Employment Opportunity Act of 1972 requires Federal agencies to establish training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential. To implement this, the Employer will conduct an Upward Mobility Program for the purpose of developing and implementing specific career opportunities for employees (GS-l through GS-8 and wage grade) who are in one-grade increment job series.

Section 2. The goals of the Upward Mobility Program are to:

(a) Provide a vehicle through which employees with demonstrated potential may be competitively selected and thereafter trained for new career fields.

(b) Provide the opportunity for further career advancement in the chosen field, depending on work performance and capabilities.

(c) Provide a planned selection, training, and developmentprocess for employees who have demonstrated the talent and potential to move to a more technically advanced job to qualify them in the career area.

(d) Obtain a more effective utilization of the capabilities of employees.

(e) Provide employees with opportunities to enhance their qualifications in their career fields.

(f) Motivate employees and create a climate conducive to an increase in productivity.

(g) Prepare the trainee to function effectively in the target position and to utilize the skills of the employee while he or she is functioning in the trainee position.

(h) Provide a broader base for the selection of personnel for technical, administrative, and professional positions and thus diversify the employee population in those careers.

Section 3.

(a) Trainee Position is the position in a technical, professional, or administrative career area to which an Upward Mobility Program participant will be assigned when selected for the program. In this position the trainee will receive on-the-job and/or formal training necessary to achieve the skills, knowledge, and technical ability to successfully perform in the target position.

(b) Target Position is the position in a technical, professional, or administrative career area that a participant selected for a trainee position will normally be promoted to after the successful completion of training and/or an "apprenticeship" at intermediate grade levels.

Section 4. The Employer will be responsible for the:

(a) Overall design, implementation, and evaluation of the Upward Mobility Program, including the determination of appropriate grade levels for upward mobility positions.

(b) Provision and/or coordination of any necessary counseling for those involved in the program, including applicants, trainees, and supervisors.

(c) Identification of target positions.

(d) Preparation of annual reports as required.

Section 5.

(a) Following selection for an upward mobility position, the Employer will ensure that an employee assigned thereto upward mobility position will be provided such assistance as would normally be necessary to assure success in the position. Upon satisfactory completion of training and successful performance on the job, the employee will normally progress at a regular rate through job levels toward and into the target position. Ordinarily, the target position will be one or two grades higher than the trainee's present grade depending on whether the target position is normally classified at one or two grade intervals. This does not preclude the Employer from establishing a target position more than two grades higher than the trainee position. Additional development of program participants beyond the target position will follow normal Merit Promotion Plan procedures.

(b) As soon as possible after selection, the trainee will be reassigned to the appropriate office and begin the trainee program.

Section 6. At least 10 percent of the bargaining unit vacancies that are advertised at the grade of GS-9 or below shall be initially announced as upward mobility positions. Management will seek to achieve this rate on a regular, ongoing basis as vacancies or new positions arise. All qualified applicants within the unit must be given careful consideration for such positions. Nothing in this Article shall be construed to limit the Employer's right to fill positions from any appropriate source, including sources outside the bargaining unit. Employees shall have served for at

least one year as permanent, Career conditional employees in the JSIA agencies before becoming eligible for the upward mobility program. Evaluation methods for selecting candidates will conform to the negotiated Merit Staffing Article of this Agreement.

Section 7.

(a) The Employer will designate an employee responsible for upward mobility career counseling.

(b) Interested and eligible employees who wish to participate in the upward mobility program are responsible for:

(1) providing personal data requested for the program to the counselor,

(2) participating in the counseling segment and providing personal input on interests and goals; and

(3) giving full application to the successful completion of any requirements necessary to meet these goals.

(c) The Counselor will assist the employees by making an objective assessment of their potential capabilities and realistic employment goals in the agency.

(d) The Counselor will direct employees to suitable upward mobility positions identified in the needs survey and will assist them in determining what self-development programs will increase their ability to qualify for such positions. The counselor will also direct the employees to appropriate training programs.

Section 8. Ninety days from the effective date of this Agreement the Employer will complete an inventory of all employees to identify those eligible to participate in the Upward Mobility Program.

Section 9. Within 90 days of the effective date of this Agreement the Employer will undertake an analysis of its manpower needs to determine where vacancies are likely to occur and which vacancies are suitable for filling through an upward mobility position. Positions will be identified by analyzing information derived from an estimate of employee separations, new programs, and their impact on the organization. Agency supervisors and managers will identify positions likely to be available that are suitable for designation as career ladder upward mobility positions.

ARTICLE 10 - COMMITTEE ON EMPLOYEE WELFARE AND PRODUCTIVITY

Section 1. The Parties will establish a Committee on Employee Welfare and Productivity. The Assistant Attorney General will designate a non-voting Chair. The Employer and the Union will each select four representatives. Each representative shall have one vote.

Section 2. The Committee shall meet at least four times a year at a place in the Agency designated by the Employer and will perform the following activities:

(a) Make recommendations to improve employee and management productivity, efficiency, and welfare;

(b) Nominate the members of the Quality Service Awards Board established in Article 23 of the Agreement;

(c) Survey Agency employees pursuant to Article 22, Section 16 for the purpose of ascertaining the food and beverages employees desire to have dispensed in the lounge;

(d) Survey employees concerning their interest in placing their children in a day care facility and take other actions specified in Section 6 concerning day care; and

(e) Make recommendations to increase Employer and employee awareness of safety hazards and their elimination.

Section 3. At least thirty days before each meeting, the Committee will notify the head of the Office of Operations Support and the President of the Union of its intention to meet. These parties will submit suggested topics for discussion to the Committee Chair no later than 10 days before the meeting. The Committee's agenda will be established from those submitted topics that are accepted for discussion by a majority of the Committee.

Section 4. The Committee may organize itself into subcommittees to perform the functions listed in Section 2. Subject to the approval of the Chair, the subcommittees shall meet as often as is reasonably necessary to appropriately perform their assignments.

Section 5. Upon the approval of a majority of the Committee, the Committee may make recommendations to the Employer and the Union on established agenda topics. The Committee shall maintain minutes that will indicate the disposition of each such agenda matter. The Committee shall keep the minutes available for employee inspection.

Section 6. The Committee will provide a copy of the results of the survey cited in Section 2(d) of this Article to the Employer and the Union. Given sufficient employee interest, the Committee will develop and distribute a list of locally

available day care facilities and will investigate other alternatives for obtaining day care services for Agency employees.

ARTICLE 11- CONSULTANTS, EXPERTS, AND CONTRACTORS

Section 1. (a) The Employer will conform to all regulations in the FPM, OMB Circulars, Department of Justice and Agency orders, and the U.S. Code governing the use of consultants, experts, contractors, and volunteers. The current versions of documents applicable to this article are:

(1) FPM Chapter 304;
(2) OMB Circular No. A-76 (August 4, 1983);
(3) DOJ Order 1804 (with changes 1-3);
(4) LEAA Instruction I 1520.4A (October 4, 1976);
(5) 5 U.S.C. 3109, 42 U.S.C. 3789c(a), 42 U.S.C. 3789h, 42 U.S.C. 5612, and 42 U.S.C. 5613.

(b) These documents are subject to change. Employees may review copies of the currently applicable documents in the Personnel Office or the Office of General Counsel. The Union may request, in writing, the Personnel Office and the Office of General Counsel to interpret particular provisions of these documents. Either office shall, when so requested, respond in writing.

Section 2. As part of the listing of employees to be provided to the Union pursuant to Article 2, Section 3 of this Agreement, the Employer will provide the Union the name and location of each expert and consultant occupying Agency office space. The Employer will upon written request give the Union the names and locations of contractors occupying Agency office space.

Section 3. The parties note, for informational purposes, that the Comptroller General has stated that the general understanding of the term "consultant" is that it denotes one who serves in an advisory capacity to the Government but who does not supervise the performance of an agency's operating functions. The Comptroller General cautioned that an employee's status as a "consultant" is one of fact rather than law. The Union may request clarification of a consultant's authority under current law and regulations from the Office of General Counsel.

Section 4. The Employer agrees that should the hiring of consultants or experts result in reduced employment in the bargaining unit or any other adverse impact on Unit employees, the Employer will bargain with the Union over the impact of such actions subject to the other provisions of the Agreement.

Section 5. (a) Immediately following any decision to contract any Employer service to an outside party, the Employer will notify the Union of that decision. When any employees in the unit will be adversely affected by such a decision, the Employer will negotiate with the Union over methods to ameliorate the adverse effect. The Employer will follow the requirements of OMB Circular A-76

(Supplement pp. I-18-19) (August 1983) with respect to adversely affected employees.

(b) In accordance with OMB Circular A-76 (Supplement, I-12) (August 1983), when the Employer prepares an in-house cost estimate to use in comparing the in-house cost of performing an operation with the cost of contracting out the operation, the Employer will solicit the suggestions of the employees in the activity under review about economical methods that might be used to reduce in-house costs.

Section 6. It is agreed that under current regulations it would normally be inappropriate for a consultant, contractor, or expert to supervise Government employees. However, to the extent that the Employer grants such authority to such a person, the Employer will promptly inform the Union of such a decision and offer to negotiate over the impact on unit employees.

Section 7. Employees may grieve alleged violations of this Article.

ARTICLE 12 - MERIT STAFFING

Section 1. All bargaining unit positions will be filled only on the basis of merit and except where otherwise provided by law without regard to an employee's color, race, religion, national origin, politics, marital status, membership or nonmembership in an employee organization, nondisqualifying physical handicap, age, sex, or on the basis of personal favoritism.

Section 2. The Employer shall make every effort to utilize to the maximum extent possible the skills and talents of its current employees. Careful consideration will be given to filling vacant positions through the utilization of present employees.

Section 3. The competitive procedures of this Article cover all promotions to positions in the competitive service in the bargaining unit and to the following placement actions in the bargaining unit unless one of the exceptions in Section 4 applies:

(a) Transfer to a higher grade position.

(b) Reinstatement to a permanent or temporary position at a higher grade than the last grade held in a nontemporary position in the competitive service.

(c) A reassignment, demotion, or change to a lower-graded position with more promotion potential than the position last held (except as permitted in reduction-in-force regulations).

(d) A selection for a detail of more than 120 days to a higher graded position or to a position with known promotion potential.

(e) A selection for training required for promotion. When training is required to be eligible for advancement, competitive procedures are used unless training is available to all qualified employees.

(f) A selection for temporary promotion for more than 120 days.

Section 4. The competitive procedures in this Article are not applicable to the following actions:

(a) The filling of vacant positions not within the bargaining unit (but see Section 6(a) of this Article for advertising certain positions outside the bargaining unit).

(b) Presidential appointments, excepted appointments, and temporary appointments.

(c) Appointments from a civil service register or through OPM-delegated direct hire authority. However, such appointments shall be subject to the procedures provided in Section 4(o) below.

(d) Conversions from excepted appointments to career or career-conditional appointments under the Cooperative Education Program, the VRA Program, the Handicapped Program, and similar special employee programs.

(e) Selections of candidates from the Department of Justice's Priority Placement and Referral List to any Agency position in an occupation series for which the displaced employee is registered, including positions with more promotion potential or at a higher grade level.

(f) Transfers or reinstatements of former permanent employees at the same grade as or lower grade than the one held in their last position in the Federal service where there is no greater promotion potential in the new position. The candidate's last position is defined as the current position in the case of a transfer and as the last position held under a nontemporary Federal appointment in the case of a reinstatement.

(g) Reassignment, lateral transfer, or voluntary demotion of a status candidate into a position with no known promotion potential (or a position having no higher promotion potential than the existing or most recent nontemporary position in the competitive service).

(h) Career promotions of employees in positions with known promotion potentials as described in (1) through (7) below:

(1) Career-ladder position.

A career promotion, if competition was held at an earlier stage, of employees up to the full performance level in the career ladder, if the employee is one of a group in which all employees are given grade-building experience and are promoted as they demonstrate ability to perform at the next higher level, and if there is enough work at the full performance level for all employees in the group. At grades above the full performance level, positions are filled under competitive promotion procedures.

(2) Trainee Positions.

Career promotion, if competition was held at an earlier stage, of individuals occupying trainee positions to the higher grade positions for which they are being trained, upon satisfactory completion of the training period, provided that the training program is well-defined, is of a definite duration, and participants have assigned tasks on a rotating or nonrotating basis which are performed under close guidance and instruction with promotion scheduled upon satisfactory completion of the training.

(3) Understudy Positions.

Career promotions, if competition was held at an earlier stage, of individuals in understudy positions to the target position when it is vacated. An understudy is an employee selected for the purpose of being trained to assume the duties of a position

scheduled to be vacated in a definite period of time, normally one year or less.

(4) Positions At or Below the Established or Anticipated Grade.

Career promotions, if competition was held at an earlier stage, of employees in positions that were filled at a grade below the advertised, established, or anticipated grade. (Positions may not be filled at a lower grade than the advertised grade unless the vacancy announcement carries the notation that the position may be filled at a lower grade.)

(5) Employees Under a Training or Executive Development Agreement.

Career promotions made under training agreements or executive development agreements when the employees satisfactorily complete training under an OPM approved training agreement or executive development agreement, if the agreement specifically provides for this promotion, and if the employees were chosen under competitive promotion procedures or from a civil service register.

(6) Employees Detailed for Training or Evaluation.

Career promotions of employees detailed for training or evaluation to a higher grade position or to a position with known promotion potential, if the selection for the detail was made under competitive promotion procedures and the fact that the detail could lead to promotion without further competition was made known to all potential candidates.

(7) Reclassification.

A career promotion of an employee whose position is reclassified at a higher grade because of a nondeliberate accretion of additional duties and responsibilities.

(i) Making permanent a temporary or term promotion provided the action was originally made under competitive procedures and it was made known to all competitors at the time that it might lead to a permanent assignment.

(j) Repromotions. Special consideration for repromotion is extended to an employee who has been demoted in the unit without personal cause (that is, without misconduct or performance failure and not at the employee's request). Such consideration is extended for three years following the effective date of the demotion.

The Parties agree to reopen negotiations on Section 4(j) if the FLRA rules that one or both of the proposals the Union has made concerning this Section are negotiable.

(k) A corrective action taken as a remedy for a failure to receive proper consideration in a competitive promotion action.

(l) Details of 120 days or less to a higher graded position or temporary promotions of 120 days or less.

(m) Details of employees to positions at the same grade level as their regular position or to an unallocated set of duties.

(n) A promotion resulting from the upgrading of an employee's position because of the issuance of new position classification standards or to correct a classification error when the employee meets the legal and qualification requirements.

(o) All selections for appointments from any OPM or other legal certificate or register or appointments by use of the Employer's special direct hire authority or any selection from among transfer, or change of appointing office candidates to bargaining unit positions. However, the exercise of such authority to such appointments shall be subject to the following procedures:

(1) Prior to the exercise of said authority, the Employer shall carefully consider all qualified persons in the bargaining unit.

(2) The Union shall be notified if the vacancy is in the bargaining unit.

(3) Where certificates or registers are used, candidates shall not be selected unless and until they have been referred from an appropriate examining office.

(4) Where certificates or registers are used, the Employer shall not interview, voucher, or give consideration to any such candidate until after the candidate has been certified or otherwise legally referred by the appropriate examining office.

(5) If the Employer decides to fill any bargaining unit position through any such authority at the GS-5 level or higher that is not to be filled through the standing register cited in Section 6(f) of this Article, the Employer will post a statement of vacancy for as long as possible without delaying the action, but not to exceed two weeks. Thereafter the selecting official will give consideration to the bargaining unit applicants equal to that given to the outside candidates.

(6) The Employer shall keep for at least two years or for as long as such persons remain employed by the Employer, whichever is shorter, records considered by the selecting official or used to establish the qualifications of outside job applicants.

(p) Appointments pursuant to any Equal Employment Opportunity, Affirmative Action, or Upward Mobility program. The latter, however, shall be governed by the Upward Mobility Article of this Agreement.

(q) A selection from OPM's Displaced Employee Program for a position, including one with a greater promotion

potential, at or below the grade of the position from which the employee was or will be displaced.

Section 5. The minimum area of consideration is the area in which enough high-quality candidates can be expected to be located for a particular position or group of positions announced under competitive procedures. The Employer agrees to attempt to find candidates within the minimum area of consideration but may expand the area of consideration if the minimum area of consideration does not produce enough high quality candidates or the Agency finds it is necessary to make a broader search. The Employer agrees to notify the Union that it intends to extend the area of consideration before it is in fact extended.

The Employer will make every reasonable effort to obtain identical information on nonunit candidates as is obtained for unit candidates. Nonunit candidates shall be evaluated as nearly as possible by the same criteria used to evaluate unit candidates. The minimum area of consideration for unit vacancies will be:

(a) The Department of Justice nationwide for positions at the GS-14 level and above.

(b) The JSIA Agencies for all positions lower than GS-14.

Section 6. Vacancy announcements shall be posted and distributed throughout the JSIA Agencies prior to filling any bargaining unit positions, first-level supervisory positions, or any nonsupervisory nonmanagerial positions excluded from the unit which are to be filled by competitive procedures.

(a) Announcements shall be posted for at least two weeks on a bulletin board on each floor of space occupied by a JSIA agency. Advertising periods may be longer than two weeks and may be extended as warranted by a poor response or other legal considerations. Vacancy announcements will, as a minimum, contain the following information:

(1) The title, series, and grade of the position, as well as the number of vacant positions expected to be filled, the announcement date, the announcement number, and the career ladder(s) for the position(s), if any.

(2) The office and geographic location of the position.

(3) The area of consideration, including any restriction or limitation on the acceptance of applications.

(4) The duties of the position.

(5) The minimum qualifications required, all selective placement factors, if any, and all positive education requirements, if any.

(6) The pertinent knowledges, skills, and abilities to be evaluated.

(7) Other quality ranking factors, if any.

(8) A statement of whether or not the position has promotion potential, and if so to what grade, and, if applicable, that the position is a trainee or understudy position.

(9) An equal employment opportunity statement.

(10) A statement of the evaluation methods not cited above that will be used, if any.

(11) The closing date of the announcement.

(12) What to file (the type of application form, etc.)

(13) Where to file.

(14) Whom to contact for additional information.

(b) The employer will give one copy of each vacancy announcement to the Union.

(c) The employer will ensure that all employees who are absent for legitimate reasons, for example, on detail, on leave, at training courses, in the military service, or serving in public international organizations or on Intergovernmental Personnel Act assignments,receive appropriate consideration for promotion.

(d) All candidates who apply for vacancies must submit a current SF-171 and an employee appraisal form from the employee's immediate supervisor to the address indicated on the vacancy announcement. Position, grade, and announcement number for which applying must be indicated on the application. Except as provided below for standing registers, a separate SF-171 must be filed for each vacancy announcement for which the applicant wishes to be considered. An employee may withdraw an application for a position at any time. The fact that an employee did not or does not accept an offer of a position or of a promotion will not be the cause for removal from any other best qualified list. Employees are responsible for insuring that information in their personnel files and in applications submitted for consideration is current and accurate. No appraisals shall be sought or accepted that are not made a part of the MSC record and seen and initialed by the employee. An appraisal cannot be altered or changed in any way without the employee's knowledge.

(e) To ensure consideration, applications must be received in the Personnel Division by the closing date of the vacancy announcement. Extensions based on extenuating circumstances will be considered on an ad hoc basis. Employees will be notified in writing if they are not eligible for consideration for the position being announced. The Employer will attempt to notify such employees as early as possible.

(f) The Employer may maintain standing registers for clerical, administrative, and secretarial positions at the GS-7 level and below.

(1) The Employer will announce the establishment of such registers and will thereafter announce their existence at least annually, keeping said announcement permanently posted in a conspicuous place in or near the Personnel Office. To be placed on such a register an applicant must submit the materials cited above. New SF-171s need not be submitted for each vacancy. However, applicants may submit updated SF-171s at any time to replace outdated ones, which shall be removed from the register files.

(2) The register shall be reconstituted at any time there are more than four unranked eligibles qualified for a given position but in any event at least once a year. Each time the register is constituted the Merit Staffing Committee will rank qualified applicants on the register as specified in Section 7 of this Article.

(3) Upon the request of a selecting official for a register the Personnel Office will transmit a list not more than five of the highest ranked candidates to the selecting official. If any candidate on the list is unavailable or unwilling to be considered for the position, the selecting official may request the Personnel Office to provide the name of the next highest ranked person on the register. The establishment of a standing register does not bar the Employer from filling a position from any other legal source.

(4) Employees must fully satisfy the time-in-grade and time-after-competitive appointment requirements as well as qualification requirements for the position at the time of any consideration for selection.

(g) To be considered for announced positions other than those on a standing register employees must fully satisfy the time-in-grade and time-after-competitive appointment requirements as well as qualification requirements for the position at the time of the closing date of the announcement.

Section 7. Evaluation and ranking will be conducted as follows:

(a) Qualification standards established and maintained by the OPM in Handbook X-118 and valid selective placement factors will be used to determine a candidate's basic eligibility for the position. The qualification standards will not be modified after the vacancy has been announced. If an inappropriate standard was used or if the OPM issues a revised standard, the vacancy will be readvertised.

(b) The supervisor and/or office head of the position to be filled has the responsibility for preparing the rating criteria. The Personnel Office will review the rating criteria for reasonableness and appropriateness. The Personnel Office has final approval authority.

(c) The qualifications of the candidates will be evaluated based upon their performance appraisals and upon their experience, education, training, and awards to the extent that they are relevant to the position to be filled. The Personnel Office will assign point values to the criteria included on the vacancy announcement. If these criteria have to be changed, the vacancy announcement will be reissued. The break-point for the best qualified list shall be established by the MSC and shall be based upon the total numerical rating.

(d) A Merit Staffing Committee (MSC) will be used to evaluate and rank candidates. It shall process each job action covered by the competitive procedures in this Article unless otherwise so stated. Each MSC shall ensure that there is an impartial, equitable, and comprehensive evaluation of all promotion candidates for any job action. The Employer shall name two MSC members. The Union shall name the third. All MSC members shall be in the competitive service and shall have the same grade or a higher grade as the position to be filled. None of the MSC members shall be the supervisor of the position to be filled or the selecting or recommending official. The MSC members will be knowledgeable about the duties of the position and the skills and knowledge required to perform those duties. All MSC members shall have the expertise, competence, and experience necessary for their duties. The Parties agree to seek in good faith a significant participation of minorities and women on Merit Staffing Committees. A Personnel Office representative will serve on all MSCs as a nonvoting executive secretary and will provide technical assistance to assure compliance with this Agreement and with merit promotion principles and procedures. The Parties agree that MSC members shall be made aware of their responsibilities under this Agreement both by the Employer and by the Union. The MSC shall by majority vote elect from among the members a Chairperson to preside over MSC meetings. The executive secretary shall recommend a schedule and an agenda and shall determine what preparation is necessary to enable the MSC members to make an informed evaluation of the candidates. The MSC will rate

and rank the qualified candidates and will determine the logical breakpoint that separates the best qualified candidates from the other qualified candidates in accordance with (c) above. It is agreed that personal information about the candidates is confidential and that the dissemination and or discussion of such information outside the evaluation meetings by any person attending the meetings is not allowed except where permitted by law. The disclosure of information concerning these deliberations is subject to the sanctions of the Privacy Act and the Employer's authority to withhold materials under the Freedom of Information Act. If a member of the MSC believes that an irregularity has occurred during the deliberations that has not been appropriately resolved during the proceedings, that MSC member may bring the matter to the executive secretary. If the matter is not satisfactorily resolved the member may then bring the matter to the attention of an appropriate official of either of the Parties. The MSC will identify the Best Qualified candidates to be referred to the selecting official in alphabetical order.

(1) The MSC shall interview the candidates insofar as this is necessary to determine the Best Qualified candidates.

(2) The MSC may refer qualified nonstatus candidates consistent with other provisions of this Article.

The Employer shall provide the MSC with the staff support that is necessary for the MSC to accomplish its objectives.

The MSC shall make summary records of all deliberations and decisions sufficient to allow a reconstruction of the promotion action, including a documentation on how candidates were rated and ranked.

It is agreed that all MSC deliberations shall be impartial and in no way influenced by any nonmerit considerations. If an employee feels that an MSC member will not be able to fulfill these obligations, he or she shall bring the specific reasons for this belief to the attention of the Personnel Director. The Personnel Director shall make a final determination on the matter, and shall document his or her determination. The Personnel Director shall approve all MSC members. If a Union designee is disqualified the Union may designate additional persons until the Personnel Director determines one to be qualified.

(e) The MSC may be waived if the Personnel Director certifies that all requirements of this Article have been met and if there are no more than five qualified Agency candidates for the position, all of whose applications will be sent to the selecting official as qualified for the position.

Section 8. Employees selected to fill vacancies under this Article shall be chosen according to the following procedures:

(a) The recommending and/or selecting official may offer an interview to the best qualified candidates. If the official interviews one candidate he or she shall interview them all. The interview shall be sufficient to provide the applicant an opportunity to inform the official of any

qualifications not apparent from the written record.

(b) The selecting official is not required to select a candidate referred by the MSC and may select from any other appropriate source. If after considering the MSC list the selecting official decides not to fill the position or to fill it from another source, the Union will be notified in writing.

(c) If the selecting official does not take action within thirty days after receiving the list of best qualified candidates, the merit promotion roster will be cancelled. Exceptions may be granted by the Personnel Director in extenuating circumstances, in which case the Union will be notified of the status of the vacancy within two working days.

(d) Employees selected for promotion under this Article will normally be released within 15 calendar days after notification of selection by the Personnel Office. Under unusual circumstances, the release date may be extended beyond this fifteen-day period if agreeable to both the selecting and releasing officials but may not be extended beyond thirty days.

Section 9. A promotion folder will be established in the Personnel Office for each specific promotion or other placement action filled under the competitive procedures of this Article. It will be kept for two years or until a formal OPM evaluation of the program, whichever time period is shorter and absent any grievance concerning such an action. The folder will contain the following information:

(a) A copy of the vacancy announcement.

(b) A copy of the position description.

(c) Selective factors used (if any).

(d) Any quality ranking factors that are not clearly and obviously tied to the position description.

(e) A list of all eligible candidates and their SF-171s.

(f) A list of and identification of breakpoints of Best Qualified candidates.

(g) All rating and ranking factors used.

(h) The name of the applicant selected and the selecting official.

(i) Official rating sheet on each qualified candidate.

(j) All correspondence pertinent to all recommendations for selection.

(k) All MSC records as defined in Section 7(d)(9) above.

Section 10.

(a) An employee may request information concerning the

procedures and operation of this Article.

(b) Upon a specific request to the Personnel Division an employee who has applied for or who was considered for a position will be given the following:

(1) The minimum qualifications for the position, including selective placement factors, if any, and quality ranking factors, if any.

(2) All factors used in the evaluation process and how they were applied.

(3) The procedures used for ranking candidates.

(4) Whether or not the employee was rated Best Qualified and as specifically as is possible how the rating was arrived at.

(5) Any other records that pertain specifically to the inquiring employee.

Section 11.

(a) An employee who feels that he or she has been denied a promotion because of a violation of this Article may grieve through the grievance procedures of this Agreement. However, a nonselection from a group of properly ranked and certified individuals is not by itself a basis for a grievance.

(b) In the processing of complaints or grievances concerning actions taken under this Article the Union will, upon request, be furnished with copies of all records, subject only to the Agency's authority to withhold such records under applicable laws and regulations, that pertain to the subject action.

Section 12. The Union will be informed of all selections for promotions and new appointments including the name of the person selected, the new position, and its location in the organization in accordance with Article 2, Section 3.

Section 13. During the period of this Agreement the Union may present its views to the Employer concerning promotion potentials and career ladders for bargaining unit positions. The Employer will take these views into consideration when making decisions about promotion potentials and career ladders.

Section 14. When an employee is detailed to a higher graded position in excess of 120 days, the employee will be temporarily promoted to the higher level position commencing on or before the 121st day if he or she is eligible for such a promotion.

ARTICLE 13 - POSITION CLASSIFICATION

Section 1. The FPM states that the General Schedule classification system is a comprehensive, orderly system for classifying positions by occupational group, series, class, and grade according to similarities and differences in duties, responsibilities, and qualification requirements. It evolves from chapter 51 of title 5, United States Code. Underlying this occupational cataloging system are:

(1) The need to identify positions with appropriate qualification standards;

(2) The principle of equal pay for substantially equal work; and

(3) The principle that variations in ranges of basic pay for different employees should be in proportion to substantial differences in the difficulty, responsibility, and qualification requirements of the work performed.

Section 2. Each employee in the unit will be provided with an accurate description of his or her duties and responsibilities in the form of a position description. Position descriptions will be prepared by the Employer and will contain the principal duties and responsibilities of the position, supervision received, and organizational location of the supervisor. The Parties acknowledge that the Employer is solely responsible for establishing and changing position descriptions and assigned duties in accordance with law and regulation.

Section 3. Should an employee find inaccuracies in his or her position description or be dissatisfied with the classification, the employee has the right to discuss the problem with the supervisor. The employee may thereafter discuss the matter with the Personnel Office. At the employee's request, a Union representative may attend such a discussion with the Personnel Office. An employee dissatisfied with his or her position classification after a review by the Personnel Office may appeal the class or grade of his position or the coverage of his position under the General Schedule to the Office of Personnel Management. The classification of a position is grievable under the Grievance Article of this Agreement only if it results in a reduction in pay or grade (5 U.S.C. 7121).

Section 4. When, as a result of a classification audit or survey, it is determined that a position is improperly classified, the Employer agrees to take corrective action. Should it become necessary to demote an employee because it has been determined that the position has been erroneously classified at a higher grade level, the Employer shall notify the Union of the misclassification. The Employer agrees to meet with a designated Union representative to discuss employee concerns at least thirty days prior to the effective date of the downgrade. The Employer will consider reasonable alternatives to demoting an employee whose position has been erroneously classified.

Section 5. The Employer agrees that phrases such as "other related duties" or "other duties as assigned" normally means assignments reasonably related to the employee's grade, position, and qualifications. Consistent with the FPM and position classification standards, the temporary

assignment of lower level responsibilities will not ordinarily affect the grade of the employee to whom the additional duties have been assigned.

Section 6. When the Employer conducts an overall review of Agency position descriptions it will notify the Union one week in advance.

Section 7. The Employer will provide timely notice to an employee in the bargaining unit prior to a desk audit. Such an employee may consult with a Union representative about such an audit.

ARTICLE 14 - PERFORMANCE RATING AND STANDARDS

Section 1. Performance appraisals will be made in accordance with applicable law and government-wide regulation and except as indicated below, with Departmental order. This Article applies only to permanent, non-merit pay, non-probationary, bargaining unit employees.

The Employer may make performance ratings of a temporary or probationary employee who has worked for the same supervisor for over 180 days and has requested such a rating. However, the remainder of this Article does not apply to such employees.

Each employee shall be given an official rating each year. It is the Employer's policy that the rating levels will be designated outstanding, excellent, meets standards, below average, or unsatisfactory each year. Such ratings will follow the definitions for similar performance levels set out in DOJ Order 1430.3 or any successor regulation. Only such records, forms, and documentation as permitted by law or regulation of higher authority shall be executed in connection with this annual rating.

Section 2. Performance ratings shall be based on established performance standards and job elements and shall be reasonable and achievable.

(a) Performance standard means a statement of the expectations or requirements established by the Employer for a critical or noncritical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.

(b) Critical element means a component of a job consisting of one or more duties and responsibilities that contribute toward accomplishing organizational goals and objectives and is of such importance that acceptable performance of the element is necessary for acceptable performance in the position.

Section 3. Establishing standards and critical elements shall be done as follows:

(a) The Employer shall meet with employees, individually or as a group, once a year to discuss the critical elements and performance standards of their positions or at such time during the year as job changes might require a change in standards or elements. At these meetings employees may make suggestions concerning appropriate critical elements and standards and raise other performance-related concerns to the Employer. The Employer will consider all such

suggestions and recommendations prior to implementing employees' critical elements and performance standards. Thereafter, the Employer will discuss these performance requirements with the employees. Such meetings shall be conducted in a manner designed to encourage the free exchange of ideas and suggestions. The Union has the right to attend any such group meeting that is a formal discussion under the Act.

(b) The standards and critical elements will become official after having been signed by the supervisor and received by the employee. The same procedure shall apply to any new critical element or to the standards and elements of any new position the employee takes. If the employee does not agree with some aspects of the standards or critical elements, he or she may submit written comments to be attached to the standards and critical elements and to any rating form that uses them.

(c) An employee may request that his or her standards or critical elements be reconsidered if an employee's duties have been modified or if it can be shown that the standards or critical elements are unrealistic or are not pertinent to the position's duties.

Section 4. Performance ratings shall be made as follows:

(a) The annual performance rating under this Article shall cover the period between April 1 and the following March 31. However, the rating of an employee who has not served 120 days* in the same position, under the same performance standards and critical elements, and under the same supervisor he or she has as at the end of the rating period shall be deferred until these conditions are met, unless a supplemental appraisal is secured from the employee's previous immediate supervisor or the rating is accomplished by the second-level supervisor, provided that the second-level supervisor shall have served as such for at least 120 days.

(b) Additional ratings will be made for employees who have been detailed for 60 days or more and shall be placed in his or her performance appraisal file and/or considered in developing the official annual evaluation. When an employee serves on a detail outside the bargaining unit or outside the JSIA agencies during the rating year for a period in excess of 60 days the Employer will request a rating from the outside agency. These ratings will be considered in developing the official annual rating.

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*90 days if subsequently required by proposed OPM regulations.

(c) The annual rating shall be made after each element of the employee's job is considered and the employee's performance is judged in a fair, reasonable, and equitable manner by comparing it with the standards for that element.

(d) The Employer agrees that to insure there are no misunderstandings between the rating official and the employee during the rating period there will be at least one formal progress review. Two such reviews are, however, recommended: the first, four months into the rating period; and the second, eight months into the rating period. Such discussions shall be conducted in a courteous manner to encourage a full exchange of information between the employee and the supervisor. Such a discussion has the specific purpose of reviewing and, when appropriate, improving the employee's performance, conduct, or knowledge of a subject relevant to his or her employment. As such, the discussion is attended only by the rating supervisor and the employee. It is further agreed that other matters, such as promotion opportunities, training plans, and the accuracy of a position description, performance standards, or critical elements are appropriate subjects for discussion in these meetings. A single meeting can meet more than one administrative purpose.

(e) In all performance ratings, the employee will have the opportunity to make written comments on the rating form that will be retained in an official file. The employee's signature on a rating will be requested at the time the official rating is presented. The signature in all cases indicates only that the evaluation discussion and review process took place, and does not constitute an employee's agreement with the rating or indicate that the employee might not ask for a formal or informal review of the rating in accordance with the procedures set forth in this Article.

Section 5. Unsatisfactory Performance

(a) The Employer may, at any time during the rating year, determine that an employee is unsatisfactorily performing in one or more critical elements. Continued unacceptable performance in one or more critical elements requires (in accordance with 5 U.S.C. Section 4302) that a remedial action be taken. These actions are:

1. Reassignment;

2. Reduction-in-grade; or

3. Removal.

When unacceptable performance is found the following steps must be taken:

(b) If during the rating year a supervisor notes failures by an employee that might lead to a rating of unsatisfactory in one or more critical elements or overall, the supervisor shall bring all such failures to the employee's attention in an expeditious manner.

(c) Before giving an employee an unsatisfactory rating or taking a remedial action a supervisor must counsel an employee and give an employee at least 30 days to correct his or her performance. At the start of the period the employee must:

1) Be notified of the 30 day period;

2) Be told what job elements are not being properly performed;

3) Be told what he or she must do to bring his or her performance up to an acceptable level; and

4) Be told which action or actions (listed in (a) above) is likely to result from a failure to do so.

(d) When a supervisor believes reassignment, reduction-in-grade, or removal are unnecessary and is convinced that the problem can be corrected through counseling and/or training, the supervisor may provide such counseling and/or training and such a period as necessary in excess of 30 days for such counseling and training to take effect.

(e) If during this 30-day period or the 30-day period in (g) below, an employee's performance is sufficiently improved so as to no longer warrant any action taken under (a) above and if an acceptable level of performance is maintained for a period of one year, any entry or other notation of unacceptable performance will be removed from any Agency record relating to the employee.

(f) If at the close of the corrective period the employee is still performing at an unsatisfactory level the employee will be so notified. A supervisor must thereafter either immediately reassign the employee or propose removal or a reduction-in-grade.

(g) An employee who has received notice that he or she is still performing at an unsatisfactory level and whose reduction in grade or removal is proposed for unsatisfactory performance is entitled, in accordance with 5 U.S.C. Section 4303, to:

(1) 30 days advance written notice of the proposed action which identifies:

(A) Specific instances of unacceptable performance by the employee on which the proposed action is based; and

(B) The critical elements of the employee's position involved in each instance of unacceptable performance.

(2) Be represented by an attorney or other representative.

(3) A reasonable time (which shall not be less than ten days) to answer orally and in writing.

(4) A written decision which:

(A) Specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based, and

(B) Unless proposed by the Attorney General, has been concurred in by an employee who is in a higher position than the employee who proposed the action.

A decision on what action will be taken shall be made within 30 days of the close of the above notice period.

Section 6.* If the employee's official rating is Below Average or Unsatisfactory, he or she may file a grievance under Article 24 of the Agreement. If the employee's official rating is Meets Standards or Excellent and the employee wishes to contest that rating, the employee may do so only by obtaining an impartial review by the Employer's Performance Rating Review Committee. A request for such an impartial review must be made within 15 days after the employee receives his or her annual official performance rating.

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*If OPM regulations require other procedures, those procedures will be followed by the parties.

Section 7. The Employer's Performance Rating Review Committee shall consist of three persons. In each case the Employer shall nominate four objective persons, none of whom participated in making or approving the contested rating, and the appellant shall have the right to strike one without question.

Section 8. The Committee will be briefed in full as to its complete role in the appeal process and the employee's rights. The Union shall be invited to observe such briefings if they are oral, or shall be provided with a copy of the briefing material if written.

Section 9. The appealing employee shall have the right to submit evidence in writing and/or in person and shall have the right to be represented by his or her representative. The employee shall have the burden of proving the rating is incorrect.

Section 10. The Committee shall determine the employee's appropriate rating. The appropriate agency head may, within 15 days, overrule the Committee's

determination. OPM regulations permitting, if the Agency head overrules the Committee's determination, the employee may grieve the agency head's decision pursuant to Article 24 of this Agreement.

Section 11. Should the Office of Personnel Management during the course of this Agreement change the Government regulations controlling performance evaluations or performance ratings so as to be in substantial conflict with this Article, this Article will be reopened to reflect the changes and to negotiate their impact. Such negotiations shall commence within thirty (30) days after the effective date of the new OPM regulations.

ARTICLE 15 - WITHIN-GRADE DETERMINATIONS

Section 1. Bargaining unit employees are eligible for within-grade pay increases and additional step increases as provided in 5 U.S.C. 5335 and 5336 as implemented by the Federal Personnel Manual, Department of Justice Orders, and this Agreement.

Section 2. In order to be eligible for a within-grade increase, an employee must be below step 10 of his or her grade level and meet the following requirements:

(a) The employee must be performing at or above an acceptable level of competence. An "acceptable level of competence" is defined by DOJ Order to mean a level of performance of assigned work of at least "meets standards" (fully successful) as defined in the employee's performance standard. This level must be achieved both overall and in each critical element of the job;

(b) The employee must have completed the required waiting period for advancement to the next higher step of the grade of his or her position; and

(c) The employee must not have received an equivalent increase during the waiting period.

Section 3. An employee whose last annual performance evaluation or last formal progress review evaluation was "meets standards" or better in summary and in all critical elements will normally be deemed to be performing at an acceptable level of competence for the purpose of granting a within-grade increase. However, when a supervisor becomes aware of changes in the employee's performance that would clearly warrant a denial of a within-grade increase, the supervisor will provide the employee, in writing, at least sixty days before the employee becomes eligible for the within-grade increase, the following:

(a) A statement of those aspects of the performance in which the employee's service falls below the acceptable level of competence;

(b) A statement of the acceptable level of competence expected of the employee in each of these work aspects (which may be taken directly from the employee's performance standards);

(c) A statement as to what the employee must do to bring his or her performance up to the acceptable level;

(d) A statement that the employee has a period of at least sixty days within which to bring performance up to the acceptable level.

A failure to provide such notice shall not be a reason for granting the within-grade increase. It would, however, entitle the employee to a proper notice and another sixty-day period within which to demonstrate an acceptable level of competence. An employee who demonstrates sustained performance at an acceptable level of competence will be granted the within-grade increase.

Section 4. An employee whose last annual performance evaluation or last formal progress review evaluation was less than "meets standards" in summary or in any critical element shall be given the written notice specified in Section 3 at least 60 days before the employee becomes eligible for a within-grade increase unless the employee was given this notice or a notice of unsatisfactory performance at the time of his or her last performance appraisal or progress review evaluation for the position the employee currently holds. A failure to provide such notice shall not be a reason for granting the within-grade increase. It would, however, entitle the employee to a proper notice and another sixty-day period within which to demonstrate an acceptable level of competence. When a supervisor becomes aware that the employee is demonstrating a sustained performance at an acceptable level of competence, the supervisor will approve the within-grade increase.

Section 5.

(a) A within-grade increase shall be effective on the first day of the first pay period following completion of the required waiting period and in compliance with the conditions of eligibility. When, due to administrative error, oversight, or delay, a positive determination is made after the waiting period is completed, the effective date of the within-grade increase shall be retroactive to the original due date. Likewise, when a negative determination is reversed on reconsideration or appeal, the increase is retroactive to the date it was originally due.

(b) When an acceptable level of competence is achieved at some time after a negative determination of within-grade eligibility, the effective date is the first day of the first pay period after the acceptable determination has been made. A new waiting period for the next within-grade increase commences on the effective date of the within-grade increase.

Section 6. If, at the end of the waiting period, the employee's performance has not improved to an acceptable level of competence, the supervisor shall give the employee a notice in writing denying the increase. This notice will tell the employee why the increase is being denied. This may be accomplished by reference to the notice given in Section 3 or 4. The notice will tell the employee that he or she may request an administrative reconsideration of the denial from a higher level supervisor in the organization who took no part in the denial, provided such request is submitted within fifteen (15) days after receipt of the notice. The Employer shall extend the 15-day limitation when it finds that the

employee was not notified of the time limit and was not otherwise aware of it, or was prevented from requesting reconsideration within the time limit due to circumstances beyond his or her control. The Employer shall maintain a written file of the reconsideration in accordance with Chapter 531 of the Federal Personnel Manual.

Section 7. The Agency, in processing the reconsideration, shall ensure that:

(a) A prompt decision is made in writing by a higher level supervisor in the organization (e.g., the second level supervisor) who took no part in the original decision.

(b) The employee has a right to a Union representative in presenting his or her request.

(c) The employee shall be given a copy of all pertinent documents in the reconsideration file concerning the appraisals to use in preparing the reconsideration request.

(d) The employee has the opportunity to contest, personally and in writing, the basis for the negative determination;

(e) The employee and his or her representative shall be free from restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of the request;

(f) The employee and his or her representative shall have a reasonable amount of official time to present the request.

Section 8. A denial of a within-grade increase shall not be used as a substitute for disciplinary action. An alleged deficiency that is not related to work performance shall not be the basis for withholding a within-grade increase.

Section 9.

(a) When a reconsideration sustains the original unfavorable decision, an employee who has been denied a within-grade increase may request a review of the denial by the head of his or her bureau. If the bureau head sustains the denial, appeal is limited to the Union taking the matter directly to arbitration under Article 25 of this Agreement.

(b) A supervisor may at any time after a denial reconsider the matter and grant the within-grade increase if the supervisor is satisfied that the employee is performing at an acceptable level of competence. If a within-grade increase is not granted, however, a new formal within-grade determination must be made within 52 weeks after the original due date of the within-grade increase. Another denial at this time will be subject to reconsideration pursuant to

Section 7 of this Article and may also be submitted to arbitration by the Union.

Section 10. An acceptable level of competence determination must be delayed when both of the following apply:

(1) An employee has not had 120 days to demonstrate acceptable performance because he or she has not been informed of the specific requirements for performance at an acceptable level of competence in his or her current position; and

(2) The employee has not been given a performance rating in any position within 90 days before the end of the waiting period. When an acceptable level of competence determination has been delayed under this subpart, the employee shall be informed that his or her determination is postponed and of the specific requirements for performance at an acceptable level of competence. The determination shall be based on a performance rating completed at the end of the minimum appraisal period established by the Agency performance appraisal plan.

Section 11. An acceptable level of competence determination shall be waived and a within-grade increase granted when an employee has not served in any position for the minimum appraisal period under an applicable Agency performance appraisal system during the final 52 calendar weeks of the waiting period for one or more of the following reasons:

(1) Absences that are creditable service in the computation of a waiting period or periods under 5 C.F.R. Chapter 531;

(2) Because of paid leave;

(3) Because the employee received service credit under the back pay provisions of subpart II of 5 C.F.R. Chapter 550;

(4) Because of details to another agency or employer; or

(5) Because of long-term training.

In such a situation there shall be a presumption that the employee would have performed at an acceptable level of competence had the employee performed the duties of his or her position of record for the minimum appraisal period under Article 14 of this Agreement.

Section 12. Should OPM regulations change subsequent to the signing of this Agreement so as to be in conflict with substantive provisions of this Article, this Article will be reopened to reflect the changes and to negotiate their impact.

ARTICLE 16 - REASSIGNMENT

Section 1. The Agency may reassign employees for such reasons as to assure the better utilization of employee skills or abilities, make the best use of current staff, provide employees with opportunities to broaden their qualifications and experiences in the work performed by the Agency, resolve work-related problems, or comply with employee requests for personal or other reasons.

Section 2. Reassignments that offer training or experience that will lead to promotion will be made in accordance with the other Articles of this Agreement.

Section 3. When an employee is reassigned to a new position, no performance-based adverse action may be taken on the basis of a failure to learn new skills and abilities until after the employee has been given a reasonably sufficient orientation period and/or such training as may be necessary to perform the new function.

Section 4. When a reassignment is required, the Employer will notify the employee of the effective date of the reassignment at least 10 working days prior to the effective date, whenever possible, and will provide the employee the details of the new assignment as soon as possible. Any employee who feels a hardship will be caused by the reassignment may consult the Union with regard to what recourse is available. The employee will upon request be granted a prompt meeting with his or her supervisor, who will give consideration to the employee's concern. If so requested in writing by an employee, the Employer will explain the reason for a reassignment or reassignment denial in writing.

ARTICLE 17 - DETAILS

Section 1. The Employer is responsible for assuring that details do not compromise the open and competitive principles of the merit system and this Agreement. The Employer will keep details as brief as possible consistent with the needs of the Agency. The Parties agree that details are a normal part of the day-to-day functioning of the Agency and that management has the protected right to detail employees in conformity with the law, the FPM, DOJ regulations, and this Agreement.

Section 2. Details will be confined to an initial period of 120 days. This period may be extended for additional periods as specified in OPM regulations after consultation with the Union.

Section 3. Section 2 does not apply when the Employer details an employee for up to 120 days to a position of the same grade, series code, and basic duties as his or her regular position. However, the Union will be consulted before such details are extended beyond 240 days.

Section 4. Details of thirty days or more will be recorded and maintained as a permanent record in the employee's personnel folder except when a career or career conditional employee is being assigned to perform duties of a position which is either an identical additional position or a position of the same grade, series code, and basic duties as the position to which the employee is regularly assigned. Such details will be recorded in the personnel folder if they exceed 120 days.

Section 5. Details of more than 120 days to a higher graded position or to a position with known potential will be made under the competitive merit promotion procedures of this Agreement.

Section 6. In those cases where competitive promotion procedures are not utilized but the detail could reasonably be viewed as advantageous to the person selected (i.e., detail to a higher grade position for 120 days or less, detail to a different career field that might improve promotion opportunities or both) the selecting official shall give fair consideration to all employees similarly situated before reaching a decision as to whom to detail.

Section 7. An employee detailed for thirty days or more will be provided a position description when one exists. When an employee is assigned to an unclassified set of duties for more than ninety days, the Agency will provide a written statement of duties.

Section 8. In detailing employees the Employer shall give due consideration to the desires and qualifications of the employees as well as to management needs. Employees will not be detailed as a disciplinary procedure or as a form of harassment.

Section 9. An employee will ordinarily be notified as soon as possible after another supervisor makes a written or formal request for an employee's services on detail.

Section 10. Qualified employees will be given fair consideration for details outside the bargaining unit.

ARTICLE 18 - REDUCTION IN FORCE

Section 1. A reduction-in-force (RIF) is, as defined by FPM Chapter 351, when the Employer releases one or more employees from their competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement, when lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising reemployment or restoration rights requires the Employer to release the employee or employees.*

Section 2. When conducting a RIF, the Employer will fulfill all requirements of the law, Government-wide regulations, and Department of Justice regulations. RIF's will not be used to discipline an employee or group of employees nor for the purpose of circumventing merit promotion procedures.

Section 3. The Employer, recognizing the adverse impact a RIF can have on the Agency's morale, agrees as a matter of policy to carefully consider alternatives to a RIF to minimize as much as possible the number of positions affected by a RIF. This will include reducing the number of positions through attrition, hiring freezes, transfers, retraining, details to other agencies, and the like insofar as such actions are practicable. The Employer retains its statutory right to determine when a RIF will be conducted and what positions will be affected.

Section 4. The Employer agrees to notify the Union of any RIF as soon as is practicable after a decision to conduct a RIF has been made and agrees to notify the Union at least 60 days in advance where practicable but no later than 45 days before abolishing four or more positions in the unit. The notice will state, insofar as they are known at this time or as soon thereafter as possible, the competitive levels that will initially be affected, the number of positions, the names of the employees to be affected in the first round of competition, the proposed effective date, and a statement of the reason(s) for the RIF.

Section 5. The Employer will, upon request, notify the Union of its efforts to minimize the adverse effects of the RIF on employees and will consult on the means to assure a smooth and cooperative basis for assisting affected employees. Nothing in this Section shall be construed to modify the rights guaranteed to either of the Parties by the Civil Service Reform Act.

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*Demotions due to reclassification are governed by Article 13. For reassignments see Article 16, transfers of function Article 19, and reorganizations Article 20.

Section 6. The Employer agrees that in any RIF action it will establish competitive levels that are consistent with the appropriate regulations.

Section 7. At least 30 days before the RIF's effective date the Employer shall notify each affected employee in writing of the following:

(a) The specific RIF action to be taken and its effective date.

(b) The affected employees' appointment status, competitive area, competitive level, subgroup, and service date.

(c) The place where an employee may inspect the regulations and records pertinent to his or her case.

(d) The reasons for retaining a lower standing employee in the same competitive level because of a continuing or temporary exception and the basis for the exception.

(e) Employee appeal and grievance rights (as well as representation rights in connection with such proceedings) under this Agreement.

(f) Grade and pay retention rights as well as severance pay information if applicable.

Section 8. An employee shall be given fifteen calendar days in which to accept or reject any reassignment offer made in accordance with his or her rights under the regulations or this Agreement.

Section 9. If the Employer determines that a furlough of one or more employees for less than 30 days may be used instead of releasing employees from their positions, it will notify the Union of this decision and state its readiness to bargain over the furlough procedures. Negotiations under this section shall not delay such a furlough.

Section 10. If an employee who has been affected by a RIF is not placed according to RIF regulations at his or her current grade level in another position for which he or she is qualified, he or she will be considered in accordance with OPM regulations for other positions for which he or she may qualify.

Section 11. When an employee has been given a specific RIF notice, the employee and/or his or her representative shall have the right to review pertinent records to the extent permitted by law, subject only to the Employer's lawful authority to withhold information under the Privacy Act or other laws or Governmentwide regulations. If any information is withheld, the requestor, upon written request, will receive a description or list of the withheld items.

Section 12. An employee who has been adversely affected by a RIF may submit a grievance under Article 24 of this Agreement if he or she believes any law, rule, regulation, or this Agreement has not been followed. The arbitration of such a case will be governed by the standards of review mandated by the CSRA, including the harmful error standard.

Section 13. If a RIF occurs, the Employer shall:

(a) Insure that all affected employees are given an opportunity to apply for vacant positions for which they qualify that management decides to fill using merit promotion procedures and insure that if they apply they receive careful consideration for those positions.

(b) Give the affected employees requested assistance in obtaining other employment to the extent practicable.

(c) Give careful consideration to providing affected employees retraining for Employer positions to avoid separations during RIF's insofar as resources, law, and regulations of higher authority permit.

Section 14. At such time as employees are notified pursuant to Section 7, the Employer will maintain a current list of available jobs in the Department of Justice, other Federal agencies, and the private sector for which affected employees may qualify. The Employer will make available a typewriter or word processor, a telephone, and photocopying equipment for outplacement purposes. In a RIF of ten or more employees the Employer will maintain an office where affected employees can obtain outplacement assistance.

Section 15. The Parties agree that if the sentence on selection of RIF'd employees proposed by the Union in Article 12, Section 4(j) for negotiation and currently before the FLRA is found negotiable, any language agreed to in renegotiating that sentence in Article 12, Section 4(j) will be referenced here.

Section 16. The Employer will inform all employees affected by a RIF of the Department of Justice Priority Placement and Referral System and will assist employees in obtaining the program's benefits. In addition, the Employer will give affected employees priority consideration for JSIA vacancies. Employees will be considered for all vacancies for which they apply and are qualified that are at the same or a higher grade than the position they currently hold. The assistance will consist, as a minimum, of the following:

(a) Repromotion. Following the RIF the Employer to the extent practicable will assist downgraded employees in finding positions in the Agency at the grade they held before the downgrade. Suchpositions will be filled consistent with the procedures provided in this Agreement. JSIA employees are entitled to special consideration for repromotion for a period of 3 years pursuant to Article 12, Section 4(j).

(b) Qualification waivers. Before a vacancy in the Agency is advertised, the Personnel Office will contact the manager to determine if he or she will consider downgraded employees who are not currently qualified for the position but can become so with training and/or on-the-job experience. If the manager agrees, the Personnel Officer will provide a list of such employees for his consideration.

(c) The Committee on Employee Welfare and Productivity will work with each of the bureaus to identify possible positions and developmental assignments within their respective organizations for the downgraded employees.

Section 17. For information purposes the Parties note that 5 U.S.C. 4103(b) provides that the Attorney General may, in his discretion, train any employee of the Agency to prepare that employee for placement in another agency if he or she determines that the employee will otherwise be separated under conditions which would entitle the employee to severance pay under 5 U.S.C. 5595. Before undertaking any such training, the Attorney General must obtain verification from the Office of Personnel Management that a reasonable expectation of placement exists in another agency. In selecting an employee for training under 5 U.S.C. 4103(b), the Attorney General must consider:

(a) The extent to which the current skills, knowledge, and ability of the employee may be utilized in the new position.

(b) The employee's capability to learn the skills and acquire the knowledge and abilities needed in the new position, and

(c) The benefits to the Government that would result from retraining the employee in the Federal service.

The Employer agrees to recommend to the Attorney General that qualified employees who the Employer believes warrant it be given the training cited in the statute.

Section 18. The Employer agrees to make every effort to minimize RIFs resulting from the introduction of new equipment or processes.

ARTICLE 19 - TRANSFERS OF FUNCTION AND REORGANIZATIONS

Section 1. Definitions:

(a) "Transfer of function" means:

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

(2) The movement of the competitive area in which the function is performed to another commuting area.

(b) "Reorganization" means the elimination, addition, or redistribution of functions or duties in an organization.

Section 2. The Employer will:

(a) Not transfer any bargaining unit function or work or implement any reorganization without prior notification and consultation with the Union.

(b) Fully inform employees and the Union as soon as possible of plans for the transfer of functions or reorganizations.

(c) Notify the employee(s) and the Union in writing of the proposed action at least thirty days prior to a proposed transfer or reorganization.

(d) Negotiate with the Union about appropriate arrangements for employees adversely affected by transfers of functions or reorganizations, such as any efforts to be made by the Employer to provide placement assistance and retirement and severance pay counseling to adversely affected employees.

(e) Furnish the Union with all planned changes in the organizational structure.

ARTICLE 20 - OVERTIME

Section 1. Whenever workloads and priorities require the scheduling of overtime, every qualified employee within the applicable organizational unit will be considered for participation in such work assignments consistent with the work needs of the office. Supervisors will attempt to provide notice of nonemergency overtime assignments at least one workday in advance. The personal preferences of a supervisor shall not be a consideration in assigning overtime.

Section 2.

(a) When the Employer permits or suffers an employee not FLSA-exempt to work overtime, it will, when the employee is required to stay more than 15 minutes after his or her departure time, seek to assure that at least 1 hour of overtime work is offered to the employee.

(b) When requested, and where sufficient work exists, the Employer will seek to assure at least two hours of overtime work to an employee who is required to return to the office after duty hours or on weekends for overtime work.

ARTICLE 21 - LEAVE

Section 1.

(a) The taking of annual leave is a right of the employee contingent upon the right of supervisors to establish the time when leave may be taken. Therefore, leave schedules shall be arranged so that each employee has an opportunity to use annual leave with full consideration for his or her wishes, subject to the right of the official having authority to approve annual leave to fix the time at which leave may be taken. Except in emergencies, employees will be required to obtain prior approval of annual leave. Annual leave requests of short duration will be approved absent overriding Employer needs. In the event a supervisor must deny an annual leave request, the supervisor will work with the employee to arrive at a mutually acceptable alternative time for the use of such leave.

(b) The Employer will make reasonable efforts to accommodate employee requests to take one extended vacation of two weeks or more during the year. An employee desiring to take such an extended vacation must request it sufficiently well in advance to permit a supervisor the opportunity to accommodate the request and meet office requirements.

(c) In the event of a conflict of scheduling annual leave that cannot be resolved by the usual informal "give-and take" efforts of the supervisor and the concerned employees, the supervisor will give prime consideration to the work needs of the office and secondary consideration to whether one of the employees was afforded an opportunity to take leave during the period(s) in question during the previous year. In the event of similar past usage records, length of government service will be considered.

Section 2. Sick leave is authorized in the following circumstances:

(a) When an employee is incapacitated by sickness, injury, or pregnancy, and confinement.

(b) For medical, dental, or optical examination.

© Prior to disability retirement.

(d) When a member of the immediate family is ill with a contagious disease and requires the care and attendance of the employee, or the presence of the employee on the job would jeopardize fellow employees because of his or her exposure to contagious disease. In determining whether an employee shall be granted sick leave because a member of his or her family is ill with a contagious disease and requires his or her care, consideration shall be given to the following:

(1) Nearness of the relationship between the employee and the family member.

(2) Whether the employee and family member occupy the same living quarters.

(3) The efforts made by the employee to obtain adequate care for the member of the family.

The employee shall be required to furnish a statement from health authorities or other qualified medical practitioner having jurisdiction over the employee's place of residence that the disease is quarantinable or requires isolation or restriction of movement.

Sick leave is to be used only for the reasons specified in this paragraph. It may not be used merely for rest or in lieu of, or to supplement, annual leave.

Section 3. Supervisors shall not approve sick leave for any use other than permitted by Section 2. Supervisors may require a medical certificate or other administratively acceptable evidence for use of sick leave in excess of three days. Administratively acceptable evidence as to the reason for the absence may be considered regardless of the duration of the absence. However, a supervisor may require additional evidence on certain requests for sick leave when, in his or her judgment, the employee's leave record, or circumstances of the leave request, justify it. This would include a requirement for a medical certificate for absences of three days or less when an employee is a chronic user of short periods of sick leave, when there is reasonable doubt as to the validity of the claim, and in other special circumstances.

Section 4.

(a) An absence for pregnancy and confinement shall be treated in the same manner as is any other medically certified disability. Available sick leave will be granted to cover the time required for physical examinations and the period of incapacitation.

(b) After delivery and recuperation the employee may request annual leave and leave without pay for maternity purposes. Employee requests for a reasonable amount of such leave, i.e., up to six months, should be granted unless such an absence would impair the efficiency of the Service. The employee should make known her intent to request leave for maternity reasons as early as possible including the type of leave, approximate dates, and anticipated duration, to allow the Employer to prepare for any staffing adjustments that may be necessary.

(c) A male employee may request annual leave or leave without pay for a reasonable period of time (i.e., up to three months) for the purpose of assisting the mother of his child to recuperate from childbirth and for providing paternal care to his newborn and other minor children.

(d) If work conditions allow, longer periods of time may be granted in (b) and (c) above.

Section 5. Annual and sick leave may be approved only by the immediate supervisor or an employee authorized to act in the absence of the immediate supervisor. Emergency leave shall not
be denied solely on the basis that there is no one present with the authority to approve it.

Section 6. Employees shall be granted necessary time off without charge to leave or loss of pay for required jury duty or for appearing in court as a summoned witness when the U.S., D.C., state, or local government is a party. All court leave must be in agreement with OPM rules, regulations, and guidelines.

Section 7. Excused absence to register and/or vote will be granted in accordance with applicable OPM rules, regulations, and guidelines.

Section 8. Unavoidable or necessary absence from duty of less than one hour may be handled administratively in one of the following ways:

(a) By excusing the employee for adequate reasons.

(b) By requiring work time equivalent to the period of absence.

(c) By charging (in 15-minute units) against any leave time the employee may have to his or her credit.

Section 9.

(a) While an isolated instance of an unapproved absence of short duration (e.g., tardiness) should normally be handled as provided in section 8, unapproved absences that are repeated or lengthy or have had a particularly adverse impact on the work situation may be charged as absence without leave.

(b) Unapproved absences, even of short duration, may be a basis for disciplinary action if such absences are repeated or if circumstances are such that the unapproved absences have had a particularly adverse impact on the work situation.

Section 10. The Employer shall follow a liberal annual leave policy for all employees who may wish to celebrate Dr. Martin Luther King, Jr.'s birthday.

Section 11. Employees may request to work compensatory overtime for the purpose of taking off without charge to leave when personal religious beliefs require absence from work during certain periods of the workday or workweek. Any employee who works compensatory overtime for this purpose shall be granted an equal amount of compensatory time off from his or her scheduled tour of duty. The employee may work such compensatory overtime before or after the granting of compensatory time off. While normally such requests will be approved, the Employer reserves the right to disapprove requests which would require it to make more than a reasonable accommodation of its operations.

Section 12. Leave records will not be publicized by posting or unnecessary distribution. Balances per se of properly used and approved leave (that is, as distinct from patterns of abuse) will not be a cause for discipline. Additionally, such balances will only be a factor in consideration for promotion insofar as they are clearly job related and are discussed with the employee concerned.

Section 13. The Employer will make every effort to accommodate employee leave requests when leave is requested for a short duration as a result of a death or critical illness in the employee's immediate family or household.

Section 14. Advanced sick leave of up to 30 days may be granted to an employee who has, as a result of a serious illness or disability, exhausted his or her sick leave balance. Part-time employees working on a regular schedule shall not be advanced more than 15 days. Advanced sick leave will,

however, not be granted when:

(a) an employee is absent to care for a family member;

(b) an employee has filed or indicated an intent to file for disability retirement or to resign; or

(c) when it is otherwise unlikely that an employee will accumulate sufficient future sick leave to repay the advance.

All such applications for sick leave must be in writing and supported by a medical certificate from a practicing physician.

ARTICLE 22 - HEALTH, SAFETY, FACILITIES, AND SERVICES

Section 1. The Employer recognizes the importance of health and safety and agrees to:

(a) Provide first-aid kits on every floor within any building where employees are located.

(b) Provide training for an adequate number of employees to administer first-aid.

(c) Notify employees within ten days of the effective date of this Agreement and every six months thereafter of the location of the first-aid kits and the names of the qualified employees.

(d) Provide clean restrooms in which normal supplies shall be available at all times, including hot water during work hours. The Employer shall work with GSA and the lessor to insure that the restrooms are cleaned on a daily basis and that all equipment is in working order.

(e) Post "No Smoking" signs in each elevator.

Section 2. The Employer also agrees to work with the appropriate Department of Justice, General Services Administration, and other Federal agency officials to:

(a) Provide employees with a safe, healthful work environment in accordance with GSA and OSHA guidelines and Executive Order 12196.

(b) Abate unsafe or unhealthy working conditions in order to keep the workplace free from recognized hazards that are likely to cause physical harm.

(c) Provide and maintain fire and disaster plans and equipment, including an alarm system audible to all employees. The Employer will work with the Department of Justice and GSA to have installed adequate smoke detection devices and exit signs on each floor that are visible during power failures. Employee or Union reports of dangerous conditions shall be responded to in accordance with Executive Order 12196.

(d) Seek adherence to GSA guidelines on temperature, humidity, and oxygen levels. All floors and stairways will be monitored on a regular basis to assure that they are safe. The Employer will work with the lessor or GSA, as appropriate, to have safe electrical equipment, adequate ventilation in all work areas, and an environment free of roaches and rodents maintained in the building. The Employer will provide OSHA inspectors access to the premises at reasonable times when requested.

Section 3. If an employee is assigned duties that he or she reasonably believes could possibly endanger his or her health or jeopardize his or her personal safety or well-being, the employee will notify the supervisor of the situation. If the supervisor cannot resolve the problem and agrees with the employee, the supervisor will, under normal circumstances, delay the assignment and refer the matter through the proper channels for appropriate

action, unless the delay would unduly interfere with agency operations. Where the supervisor does not agree with the employee's concerns, the employee has the right to consult with the union and with the Office of General Counsel over such a matter. The provisions of Article 4, Section 4 are applicable to these circumstances.

An employee may elect not to perform his or her assigned tasks only because of a reasonable apprehension of death or serious injury coupled with a reasonable belief that no less drastic action is available. If an employee believes he or she is threatened by an accident, industrial or social dispute, or civil disorder in or about his or her work area, the employee will notify the supervisor of the situation. If the Employer knows of any hazardous condition that could affect employees, the Employer shall advise the Union and the involved employees as soon as possible as to what actions they should take. Supervisors will take such legitimate concerns into consideration when making work assignments or giving advice for avoiding possible dangers.

Section 4. If an employee is requested or expected to work outside his or her normal duty hours after dark the Employer shall make every effort to assure the employee's security. A supervisor working with an employee at such times will make efforts to see that the employee has access to transportation.

Section 5. Should an employee become disabled by a job-related injury or illness and he or she is unable to perform his or her duties, the Employer, upon the employee's request and with appropriate medical documentation, shall attempt to reassign the employee to a position of equal pay where his or her injury or illness will not interfere with his or her duties. If the disability is temporary and documented and is expected to continue for less than 120 days, the Employer consistent with its needs will attempt to detail the employee to another position with duties he or she is able to perform.

Section 6. When the Employer decides to introduce new mechanical equipment into the work place, the Employer will diligently seek to obtain information on potential health hazards created by the machinery and will inform the Union of its findings. The Union may, thereafter, request impact bargaining over efforts to be made to ameliorate any hazards.

Section 7. The two Parties agree that alcoholism and drug abuse are health problems and that employees who suffer from them should be encouraged to seek treatment and given a reasonable opportunity to recover, as are employees with physical problems. In the event the Employer believes an employee has such a problem, the Employer will advise the employee of the counseling and other rehabilitative services that are available and under what terms the employee will avail himself or herself of these services. The Employer recognizes that certain emotional difficulties are treatable in the same manner.

If the employee participates in the counseling or rehabilitation program the Employer shall take such cooperation into consideration in determining whether discipline or adverse action based on performance is appropriate. The Union agrees to help those employees who request its assistance in such matters and will work with the Employer in finding resolutions to problems arising under this section. However, this shall not be construed as relinquishing the Union's responsibility to represent the employee upon his or her request in personnel actions arising from alleged alcoholism, drug

abuse, emotional illness, or other personal problems.

Section 8. The Employer agrees to:

(a) Inform all employees of the health services available through the Department of Justice (e.g., immunizations, examinations, counseling, etc.) and to make every effort to permit full participation in such programs.

(b) Make available emergency first aid service.

(c) Make arrangements for a suitable number of employees to obtain training in CPR and retraining so as to maintain CPR certifications and to distribute the names and locations of employees so trained.

(d) Provide a bed or sofa to be located in the Union office or, space permitting, another appropriate place. The Employer will permit an employee feeling temporarily ill and needing a place to lie down for short duration (i.e., under an hour) to request his or her supervisor to allow him or her to rest in the designated office. When an employee is incapacitated for a period in excess of an hour the employee should either obtain approval to go to the Health Unit at Main Justice or request sick leave and go home. Any time spent resting may be charged to sick leave, if appropriate.

The Employer also agrees to work with the Department of Justice and any other appropriate agency to have the following services for employees maintained at no employee expense:

(a) Immunization against influenza and tetanus and any other inoculations and medications normally given by the Public Health Service.

(b) Based on an annual survey of the employees, comprehensive physical examinations each year for employees who wish to participate.

(c) Visual screening and eye examinations.

(d) Hearing examinations and participation in a comprehensive hearing conservation program as provided for by the Public Health Service.

Section 9. GSA regulations permitting, the Employer agrees to reimburse employees for taxicab fares to the Department of Justice health unit if a work-related medical problem necessitates the taxi ride. Employees shall obtain a written statement from the health unit nurse or doctor that the employee's health would have been jeopardized by walking to the health unit.

Section 10. The Employer agrees to provide bicycle racks at the Indiana Building.

Section 11. The Employer will make every effort to follow GSA regulations in providing facilities appropriate and adequate for the needs of disabled employees.

Section 12. When an employee is injured on the job the employee shall notify

his or her supervisor and report the injury on the appropriate forms. The employee shall be promptly informed as to his or her rights to file for compensation benefits. The employee shall also be advised as soon as possible if compensation benefits can be used in lieu of sick or annual leave.

Section 13. An employee who makes a request for an office relocation or a reassignment for health reasons will have the request promptly considered.

Section 14. The Employer agrees to notify each employee at least annually of JSIA and DOJ counseling and support services. New employees shall be notified at the time of their orientation.

Section 15. The employer will permit all employees to use Department of Justice counseling services. Employees will be placed in such leave status as is appropriate when utilizing these services. The release of employees for counseling and inquiries into the specifics of the problems for which counseling is sought is governed by Article 3, Section 28. The Employer may inquire further into the specifics of the problems for which counseling has been sought only to the extent necessary to validate leave requests or to assure that efforts are being made to resolve a performance or disciplinary problem through counseling.

Section 16. The Employer shall provide a lounge in the Indiana Building where employees can eat their lunch. It shall be sufficiently large so that employees seeking to use it can normally be seated comfortably at the same time. No later than sixty days after the effective date of this Agreement the Parties shall conduct a survey of Agency employees to determine what foods and beverages the employees desire to have dispensed. The Employer will work with the contractor and other appropriate officials to obtain the most desired foods and drinks. The lounge will be repainted pursuant to the schedule established by GSA and the lessor and shall thereafter be maintained in an attractive fashion.

ARTICLE 23 - INCENTIVE AWARDS PROGRAM

Section 1. The Parties agree that an Incentive Awards Program is a necessary and useful mechanism through which employees' accomplishments shall be recognized. The Employer shall maintain an Incentive Awards Program that ensures consistency and equity in the application of standards and criteria established for awards.

Section 2. Authority. ~~Subject to the final approval of the Assistant Attorney General for Justice Assistance~~† The Director or the Administrator of the respective JSIA agency shall have the authority to make incentive awards up to **$1,000**.* ~~the amounts set our in Sections 3 and 4 of this Article~~†

All monetary awards **in excess of $1,000 but not exceeding $5,000*** must be approved by the Assistant Attorney General. The Attorney General retains the authority to approve awards of more than $5,000. In accordance with DOJ Order 1451.1, awards of $10,000 or more can only be recommended by the Attorney General with the approval of the Office of Personnel Management. Awards in excess of $25,000 can only be conferred by the President.

Section 3. Quality Service Awards (Non-Performance-Based)

(a) Structure.

(1) The Employer will establish a Quality Service Awards Board whose responsibility will be to make recommendations for the Assistant Attorney General /Director Awards, review nominations for external awards, (such as National Civil Service League, Career Service & Special Achievement Awards, William A. Jump Memorial Award, Federal Paperwork Management Award, President's Award for Distinguished Federal Civilian Service, Rockefeller Public Service Awards, Federal Woman's Award, Arthur S. Flemming Award, Presidential Management Improvement Award, Association of Government Accountants Annual Distinguished Leadership Award); receive and investigate any complaints or concerns regarding non-performance awards and make recommendations to the Directors or Administrators for resolving such complaints; and process all other than performance awards.

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† Amended on September 9, 1992, by agreement between the two Parties.

* Added on September 9, 1992, by agreement between the two Parties.

(2) The Quality Service Awards Board shall consist of five members. The Employer shall select the board from a list of nine nominees selected by the Standing Committee established in Article 10 of this agreement. Board members will serve for three years except for the members of the first Board, whose terms shall be staggered so as to be as least conterminous as possible. The Board will elect a member to serve as chairperson.

(3) A Quality Service Awards Administrator will be appointed who has the responsibility for preparing reports on the quality service awards program and ensuring that all award nominations are properly documented and meet established criteria. The Quality Service Awards

Administrator also has the responsibility to publicize and promote the non-performance awards program and for keeping both employees and supervisors aware of the criteria and regulations governing the program.

(b) Procedures:

(1) The Employer shall make available information about awards for which Federal employees are eligible.

(2) An employee, supervisor, or manager may nominate any other employee for an award under this section by submitting his name and a written justification to the Board.

(3) The Employer will prepare an annual report, available to all employees, which provides data on all awards by grade-level categories, by offices, by divisions, and by job categories that were made under this section during the preceding year.

(c) Honorary Awards: Honorary awards may be granted either apart from or in addition to cash awards. These are letters of commendation, certificates of merit, and similar marks of recognition. These may be given throughout the year as warranted.

(d) Assistant Attorney General's Award: An Assistant Attorney General's Award or Awards will be presented once a year.

(e) Suggestion Awards:

(1) Definition. Suggestion awards are made to employees in recognition of idea-type contributions which directly contribute to productivity, economy, efficiency, or directly increase effectiveness in carrying out Government programs or missions. Contributions should be outside the employee's responsibilities. In rare cases, contributions within the employee's job responsibilities may be awarded if they are so superior or meritorious as to warrant this special recognition.

(2) Tangible Benefits. To be eligible for a monetary award, the benefit to the Government in terms of direct contributions to efficiency or economy must be equivalent to a savings of $250 in order to qualify for a cash award. Suggestion evaluators should determine benefits by a reasonable estimate of the net savings of the suggestion during the first full year of operation following adoption. See DOJ Order 1451.1A (Appendix 1, Scale 2) for guidance on setting the award amount.

(3) Intangible Benefits. To determine what, if any, monetary award should be made for a suggestion resulting in intangible benefit to the Government, see DOJ Order 1451.1A (Appendix 1, Scale 3). If an adopted suggestion cannot meet the minimum criteria for either intangible or tangible benefits, a noncash award such as a letter of appreciation or a suggestion certificate may be made.

Section 4. Performance Awards

(a) Structure: Pursuant to Section 2, the Director or Administrator of

the respective JSIA agency shall make performance awards based on employee performance and as recommended by subordinate supervisors. The type of performance contributions that will warrant award consideration will include (but will not be limited to):

(1) Performance that has involved overcoming unusual difficulties.

(2) Creative efforts that make important contributions to program operations, scientific knowledge, or research accomplishments.

(3) The performance of assigned duties in which there has been special efforts or special innovations that resulted in significant economies or other highly desirable benefits to the Government or the public.

(4) The performance of assigned tasks that results in significantly exceeding one or more critical elements.

(5) The exemplary or courageous handling of an emergency situation related to official employment. Only an employee who has received a rating of above,satisfactory or greater may be considered for a Special Achievement Award for Sustained Superior Performance.

(b) Procedures: The documentation for performance awards shall:

(1) Be brief.

(2) Be factual.

(3) Emphasize the results achieved that are beyond job requirements.

(4) Be limited to one page unless the position is particularly complex or under other unusual circumstances.

(c) Honorary Awards: Honorary awards may be granted either apart from or in addition to cash awards. These are letters of commendation, certificates of merit, and similar marks of recognition. These may be given throughout the year as warranted.

(d) Quality Step Increases (QSI)

(1) A QSI may be awarded for sustained high quality performance at a level that substantially exceeds an acceptable level of competence for a period of time sufficient to conclude that such a level is characteristic of the employee's performance and is expected to continue in the future. In addition, at a minimum:

(A) the recommendation must be supported by the employee's most recent performance appraisal;

(B) viewed as a whole, the employee's performance must be at a high level of quality and performance on all critical elements must be at least fully satisfactory;

(C) the employee must not have received a QSI during the past 52 weeks; and

(D) the employee must be below the top rate of the pay schedule for his grade.

(2) Quality step increases are in addition to the regular within-grade increases and are not considered to be "equivalent increases" in pay. That is, an employee who receives a quality step increase does not start a new waiting period to meet the time requirements for a regular within-grade increase.

(e) Special Achievement Awards

Special Achievement Awards are lump-sum cash awards granted in recognition of either an employee's sustained superior performance of assigned tasks for a period of at least six months or specific acts or services connected with or related to official employment.

(1) Special Achievement Award for Sustained Superior Performance

A cash award for sustained superior performance may be granted to an individual employee for job performance that exceeds normal requirements in one or more of the most important job elements which is sustained over a period of at least six months. In addition, the employee's total performance must be sufficient to warrant a regular within-grade increase. In order to provide managers with flexibility, the range of permissible awards for all employees shall be $150 to 15% of their basic salary, but the full amount (15% of base salary) can be granted only once in any 52 week period.

(2) Special Achievement Award for Special Act or Service

This is an award granted in recognition of special act or service-type contributions of a one-time, nonrecurring nature, connected with or related to official employment such as: performance which has involved overcoming unusual difficulties; creative efforts that make important contributions to science or research; performance of assigned duties with special effort or innovation that results in increased productivity, economy, or other highly desirable benefits or exemplary or courageous handling of an emergency situation related to official employment.

(A) For a special act or service resulting in a tangible benefit to the Government exceeding $250, see DOJ Order 1451.1A (Appendix 1, Scale 2) for guidance on setting the award amount.

(B) For a special act or service resulting in an intangible benefit to the Government, see DOJ Order 1451.1A (Appendix 1, Scale 3).

(C) For tangible benefits below $250 and intangible benefits not meeting the scale criteria, a noncash award

such as a letter of appreciation or a suggestion certificate may be made.

Section 5. The Employer will solicit suggestions for improvements through the use of an easily accessible suggestion box in the Office of Operations Support. The Union will have access to all suggestions retained by the Employer.

ARTICLE 24 - GRIEVANCE PROCEDURES

Section 1. An individual, a group of individuals, the Employer, and/or the Union may file a grievance under this Article. A grievance is any complaint about any matter concerning employment or any complaint concerning the effect or interpretation of this Agreement or a claim of a breach of this Agreement or a breach, violation, misinterpretation, or misapplication of any applicable law, rule, or regulation, including Title I of the Civil Service Reform Act of 1978.

Section 2. The following matters are specifically excluded:

(a) Any claimed violation concerning prohibited political activities; retirement, life insurance, or health insurance; a suspension or removal under the national security laws; any examination, certification, or appointment; or the classification of any position that does not result in the reduction in grade or pay of an employee.

(b) The termination of probationary and temporary employees.

(c) The nonselection for promotion, reassignment, or detail from a group of properly ranked and certified candidates.

(d) The nonadoption of a suggestion; disapprovals of quality step increases, performance awards, or other kinds of honorary or discretionary awards.

(e) Appeals of performance evaluations, except as provided in Article 14.

Section 3. Pursuant to the Civil Service Reform Act of 1978, 5 U.S.C. 7121(d) and (e), an aggrieved employee affected by discrimination, a removal, or a reduction in grade based on unacceptable performance, or an adverse action may at his or her option raise the matter under the appropriate statutory procedure or this negotiated grievance procedure, but not both.

Section 4. All Parties agree that any employee, the Union, or the Employer has a right to file a grievance and that this right shall not be abridged in any way. All Parties agree that no employee shall be in any manner harassed, penalized, or adversely affected for initiating a grievance. Nor shall any employee's loyalty to the Employer in any way be questioned for having initiated a grievance.

Section 5. This procedure shall be the exclusive procedure available to employees in the unit for resolving grievances, except as specified in Section 3 above. An employee presenting a grievance under this article must be represented by the Union or represent himself or herself. In the event that an employee presents his or her grievance without representation, the Union will be given an opportunity to be present at the time of adjustment. The adjustment must be consistent with the terms of this Agreement.

Section 6. The Employer and the Union shall make all reasonable efforts to settle all grievances at the earliest stage of discussion. The Employer agrees to make available the responsible management officials to meet with the grievant and his or her representative as often as is productive to

settle disputed matters.

Section 7. The grievant shall be granted official time to handle the grievance in accordance with Article on "Union and Representation and Official Time."

Section 8. Employee Grievance Procedure.

Step 1. Within thirty (30) calendar days after the occurrence or after the date the employee becomes aware of the occurrence of the event leading to the alleged grievance, the employee and Union representative, if any, shall ordinarily present the grievance orally or in writing to the lowest-ranking management official with the authority to grant or effectively recommend to the Administration the resolution proposed in the grievance.

Step 2. If the grievant feels that he or she has not received a satisfactory adjustment or remedy, he or she at any time subsequent to, but no later than thirty (30) calendar days after the grievance's initiation, may present the grievance to the Head of OJARS, LEAA, NIJ, OJJDP, or BJS or his/her designee(s)* in writing. The written grievance shall cite the specific concern, the date and place of the grieved action or event, who took the action (if known), the applicable section or sections of this Agreement (if known), and the specific remedy sought. The deciding official shall render a grievance decision within thirty (30) calendar days after receiving the written grievance. The deciding official's response shall decide all of the grievant's requests and shall answer each grievable issue raised by the grievant. At any time subsequent to the deciding official's response the grievant may request a clarification of the response. However, such request for clarification will not extend the time limit established in Step 3.

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*Assistant Attorney General if the JSIA is amended to grant such authority.

Step 3. If the employee is dissatisfied with the decision rendered in Step 2, the Union may, within thirty (30) calendar days of the receipt of the final Agency decision, refer the matter to arbitration as provided in Article 25, Arbitration.

Section 9. Upon initiating a formal grievance, the grievant, upon request, shall receive two (2) complete copies of all papers, statements, notes, records, and other evidence of any kind that are necessary to the presentation of his or her grievance. The Agency may, however, withhold those documents it is legally authorized to withhold.

Section 10. Union grievances may be submitted in writing by the Union President directly to the Head of OJARS, LEAA, NIJ or BJS or his/her designee(s).* The Head of OJARS, LEAA, NIJ, OJJDP, or BJS, or his/her designee(s),* and the Union President, or his/her designees, shall meet as soon as possible but, in all cases within ten (10) workdays after receipt to discuss the grievance. A written response will be issued within ten (10) workdays after this meeting. Management grievances may be submitted by the Assistant Attorney General directly to the Union President. The Assistant Attorney General or his/her designee, shall meet as soon as possible but in all cases within ten (10) workdays after receipt to discuss the grievance. The Union President shall issue a written response within ten (10) workdays after this meeting. If a grievance submitted under this section is not settled by the above methods, the Union or Management, as appropriate, may invoke the arbitration procedures of this Agreement within thirty (30) calendar days [of the response deadline.] (Added per agreement with the Office of General Counsel on April 22, 1987.)

Section 11. All time limits herein may be extended by mutual agreement of the Union representative and the Employer. Failure of the Employer to observe the time limits for any step in the grievance procedures shall result in the authority to advance to the next step. Failure of the employee or his/her Union representative to observe the time limits for any step shall be grounds for denial of the grievance.

ARTICLE 25 - ARBITRATION

Section 1. Any grievance or issue processed under Article 24, the Grievance Procedure of this Agreement, if unresolved, shall upon written request be submitted to binding arbitration. The request for arbitration must be made within thirty (30) calendar days after receipt of the final decision.

Section 2. Within five (5) workdays from the date of the request for arbitration the Parties shall jointly request from the Federal Mediation and Conciliation Service a list of five impartial persons qualified to act as arbitrators.

Section 3. The Parties shall confer within ten (10) workdays after receiving the list of names from the Federal Mediation and Conciliation Service and select one of the listed arbitrators. If they cannot mutually agree upon a selection, the Parties will alternately eliminate one name from the list until one name remains. This shall be the duly selected arbitrator.

Section 4. The arbitrator's fee and all expenses shall be borne by the losing party to the arbitrator's decision. In "split decisions" or other ambiguous circumstances, the arbitrator shall decide who is the "losing party" for purposes of this section. The arbitration hearing shall be held, if possible, on the Employer's premises during regular business hours--Monday through Friday.

Section 5. The Union or the Employer shall have the right to a public hearing. Any employee determined by the arbitrator to be a necessary witness will be excused from duty to the extent necessary to participate in the official proceedings. However, in emergency situations, where the witness cannot be excused from duty, the hearing will be rescheduled.

Section 6. The arbitrator will be requested to render the decision as quickly as possible, but in any event not later than thirty (30) days after the conclusion of the hearing, unless the parties mutually agree to extend this time limit. The arbitrator shall submit all findings in writing, and this report shall decide all issues raised by any Party, including arbitrability. The arbitrator shall have no power to add to, subtract from, or modify the terms of this Agreement.

Section 7. The arbitrator's findings and award shall be binding upon all Parties. However, either Party may file exceptions to an award with the Federal Labor Relations Authority or the appropriate court under regulations prescribed by the Civil Service Reform Act or the Authority.

ARTICLE 26 - RETIREMENT

Section 1. The Employer will publicize the availability of preretirement counseling to employees annually, including their rights and obligations under the provisions of the civil service retirement, health benefits, and life insurance programs.

Section 2. The Employer will maintain a file of retired Agency employees who wish to be reconsidered for reemployment after retirement. When reemployed, reemployment shall be as a reemployed annuitant. Upon reemployment, the reemployed annuitant's salary will be as determined by law, regulation, and the position to which reemployed.

ARTICLE 27 - DISCIPLINARY AND ADVERSE ACTIONS

Section 1.

(a) A disciplinary action for the purpose of this Article is defined as a written warning, a letter of reprimand, or a suspension of 14 calendar days or less.

(b) An adverse action for the purpose of this Article is defined as a suspension for more than 14 days, removal, furlough of 30 days or less, reduction in grade, or reduction in pay.

(c) Employees serving on temporary appointments of one year or less or who have not completed a probationary or trial period are not covered by the procedural requirements of this Article.

(d) Removals or reductions in grade for unacceptable performance in one or more critical job elements as specified in the Civil Service Reform Act and OPM regulations are not covered by this Article but are governed by Article 14 of this Agreement. For other actions excluded by law or regulation from the provisions of this Article, see FPM Chapter 752, Subchapter 2, paragraph 2-1a(l) and Subchapter 3, paragraph 3-1b.

(e) Disciplinary and adverse actions may only be taken for such reasons as will promote the efficiency of the Service.

Section 2. The Employer recognizes that normally a progression of disciplinary measures should be applied in an effort to correct an employee before a decision is made to discharge. Discharge actions should normally have been preceded by progressive disciplinary measures such as an oral admonishment, a written reprimand, and a suspension, unless the misconduct is so serious or the violations of rules or regulations are so flagrant that a suspension or a discharge is clearly warranted.

Section 3. In processing disciplinary or adverse actions the Employer will comply with all procedural requirements prescribed by the Civil Service Reform Act of 1978.

Section 4. In those cases in which the Employer has decided to separate an employee in an adverse action, and the Union has agreed to take the employee's grievance over such action to arbitration, the employee may ask the Employer to permit him or her to remain on duty pending a final decision by the arbitrator. The Employer will give prompt consideration to such a request.

Section 5.

(a) The notice of a proposed disciplinary action or adverse action will advise the employee of his or her right to review and copy the material that is relied on to support the reasons for the proposed action. The Union may request such materials pursuant to Article 2, Section 12 of this Agreement.

(b) If a disciplinary or adverse action is based on a investigation, all written documents in the custody of the Employer which were generated in the course of that investigation which are favorable to the employee will be furnished to the employee. If such an action is referred to an arbitrator, and if the Union alleges that favorable information provided for above has not been furnished by the Employer, all such information will ordinarily be

furnished to the arbitrator for an "in camera" inspection.

> The Employer may withhold such information from the employee or the arbitrator pursuant to its authority under the Privacy Act or the Freedom of Information Act. Ordinarily, such information will be withheld only for law enforcement purposes. Material provided that is determined by the arbitrator to be favorable and which was not previously furnished to the Union will be furnished to it.

Section 6. Final decisions on disciplinary actions are subject to the Grievance and Arbitration procedure of this Agreement. Final decisions on adverse actions may be appealed to the Merit Systems Protection Board or under the provisions of the Grievance Article, but not both. In accordance with the Civil Service Reform Act (5 U.S.C. Sections 7121(e)(2) and 7701(c)) the arbitration of such cases is governed by the rules governing similar cases brought before the Merit Systems Protection Board including the "harmful error" rule.

Section 7. An Employee against whom a disciplinary or adverse action is proposed is entitled to Union representation during an examination that meets the conditions of Article 3, Section 21 and to respond to proposed disciplinary and adverse actions.

ARTICLE 28 - DURATION AND SCOPE OF AGREEMENT

Section 1. This Agreement supersedes all written agreements between the Parties signed prior to the effective date of this Agreement. This Agreement shall remain in effect until June 1, 1987. Unless either Party gives written notice to the other Party at least sixty days but not more than 100 days prior to this date of the Party's desire to negotiate or modify the Agreement, it will automatically be renewed annually.

Section 2. In the event notice is given by either Party, negotiations shall commence within sixty days from the date of the receipt of the proposed changes.

Section 3. Failing the automatic annual approval or the approval of a new Agreement by the expiration date of this Agreement, this Agreement shall be extended in full force and effect until the effective date of the new Agreement. In the event there are any Department of Justice or Agency regulations issued during the term of this Agreement that were not operative in the bargaining unit during such term, such regulations may be implemented following the expiration date of this Agreement after negotiations over all negotiable matters concerning the regulations and all procedures that management officials will observe in exercising any authority under such regulations. In the event Government-wide regulations are issued during the term of this Agreement, the Employer may implement them after the renewal date following written notification to the Union and consultations with it as to the negotiability of any issues. The implementation of such Government-wide regulations shall be subject to negotiations over all negotiable matters concerning the regulations and all procedures that management officials will observe in exercising any authority under such regulations.

Section 4. Except as otherwise herein provided, it is agreed that during the term of this Agreement any Article in this Agreement may be reopened only with the consent of both Parties.

Section 5. During any negotiations following a midterm reopening of this Agreement, Union officials shall be authorized official time for negotiations and preparation as agreed to by the Parties. The number of Union officials for whom official time is authorized shall equal the number of individuals designated as representing the Employer for such negotiations.

Section 6. Except as provided elsewhere in this Agreement, to the extent the provisions of Department of Justice Orders or the Employer's Instructions issued subsequent to the effective date of this Agreement conflict with the Agreement, the provisions of this Agreement shall govern.

Section 7. This Article shall not be construed as a waiver of Management rights under 5 U.S.C. 7106(b)(l) or of Union rights to negotiate with respect to the exercise of such rights pursuant to 5 U.S.C. 7106(b)(2) and (3). Any change in past practice shall be negotiated as required by law.

ARTICLE 29 - WITHHOLDING OF UNION DUES

Section 1. The Employer agrees to withhold the dues of Union members as specified below on a biweekly basis through payroll deductions, subject to applicable laws, rules, and regulations. This Article is applicable to all employees:

(a) Who are members of the bargaining unit, and

(b) Who voluntarily complete SF-1187 (Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues), and

(c) Who receive compensation sufficient to cover the total amount of the allotment.

Section 2. The Union agrees to:

(a) Notify the Personnel Officer, Office of Operations Support, in writing of:

(1) The names and titles of officials authorized to make the necessary certifications of SF-1187, and name and address of the person or party to whom the check shall be payable.

(2) Any change in the amount of membership dues.

(b) Forward properly executed and certified SF-1187's to the Personnel Office on a timely basis.

(c) Promptly, within one pay period of receipt, forward an employee's revocation or memorandum for revocation to the Personnel Office when such is submitted to the Union.

(d) Provide the Employer with the name of any employee who has been expelled or ceases to be member in good standing of the Union within 10 days of such determination.

(e) Notify the Personnel Office of the Union's current dues schedule and any changes thereto. The Union agrees that such changes shall not occur more often then once a year.

Section 3. The Employer, at no cost to the Union, agrees to:

(a) Permit and process the allotment of dues.

(b) Withhold dues on a bi-weekly basis.

(c) Withhold new accounts of dues upon the receipt by the Department of Justice payroll office of the employee's certified and correctly completed SF-1187.

Section 4. The Employer agrees to work with the Department of Justice to:

(a) Increase the dues withheld to the correct amount promptly following an employee's promotion, within-grade increase, or other salary increase as long as Union dues are percentages of salary.

(b) Within seven work days after pay day remit the amount due to the Union to the payee designated by the Union.

Section 5. The Employer shall remit a statement to the Union providing the

following information:

(a) The names of the Union members in alphabetical order for whom deductions were made and the amount of each deduction.

(b) The total number of members for whom dues were withheld.

(c) The total amount of dues withheld.

Section 6. The Employer will give the Union an explanation of each SF-1187 that is not processed and will send the Union a copy of each written revocation it receives from any employee.

Section 7. The effective dates of action under this Article are the following:

(a) Revocation--January 1 through January 7 of each year following the receipt of the revocation notice. However, a revocation received on or before the first anniversary of the date the employee authorized withholding will be effective the last pay period that begins on or before the anniversary date.

(b) Termination due to separation or moving to a position outside the bargaining unit or expulsion from the Union will automatically be at the end of the pay period in which the separation, transfer, promotion, or expulsion is effective.

(c) Should the Employer erroneously continue deducting an employee's dues after such deductions should have been terminated, any excess payment to the Union will be subtracted from the next payment to the Union after the error is detected but only if the Union has been provided with a written statement explaining the reasons the error occurred.

ARTICLE 30 - COPIES OF THE AGREEMENT

The Employer agrees to print this Agreement without charge to the Union and to give a copy to each present and future employee. In addition, the Union will be given forty copies of the Agreement. The Agreement will be published in booklet form and will contain the room number of the Personnel Office and the Union Office and the Personnel Office's and Union President's phone numbers.

ARTICLE 31 - FLEXIBLE AND COMPRESSED WORK SCHEDULES

Section 1. The Parties agree that flexitime and compressed workweek schedules contribute to a positive work relationship, improved employee morale, and good labor-management relations. However, each employee's work schedule shall ensure that the duties and requirements of the employee's position are fulfilled and the Employer is able to perform its functions efficiently, productively, and economically. Agency work needs are paramount.

Section 2. The Employer will administer a Flexible and Compressed Work Schedules program in accordance with the provisions established in this Article and the Federal Employees Flexible and Compressed Work Schedules Act of 1982. If the Act expires during the course of this Agreement, this Article will also expire. If a replacement act is passed, this Article will be reinstated or renegotiated if this is required by the terms of the new statute. No work schedule may be approved that exceeds the limitations of the Act.

(a) The basic Agency work week shall normally consist of five work days of eight hours each (plus the lunch period), Monday through Friday. The normal duty hours are 9 a.m. through 5:30 p.m. The core hours shall be from 9:30 a.m. through 3:30 p.m.

(1) Flexible starting hours shall be set at fifteen-minute intervals from 7 a.m. to 9:30 a.m.

(2) Flexible finishing hours shall be from 3:30 p.m. to 6 p.m.

(3) Supervisors may restrict the starting hour of a particular position to no earlier than 7:30 a.m. and the leaving hour of a particular position to no later than 5:30 p.m. for a work-related reason. Prior to imposing such a restriction, the supervisor must notify the Union in writing of that reason. Supervisors may also permit employees on approved compressed time schedules to work until 6:30 p.m.

(4) If an employee can demonstrate to the satisfaction of his or her office head that the range of permissible working hours should be expanded to alleviate a hardship (for example, child care needs, medical needs, an absence of transportation), the office head may agree to modify the flexible bands provided this does not adversely affect office operations.

(5) The lunch period will normally begin no earlier than 11 a.m. and end no later than 2 p.m. Supervisors may, however, approve other lunch starting and ending times that do not conflict with office needs. With a supervisor's approval, employees on a flexible or compressed schedule may extend their lunch period within the above range by up to one hour if the time is made up during the flexible bands the same day.

(b) Core periods are those periods during which all employees are required to work, and flexible periods are those periods during which employees are allowed to work. Credit hours mean any hours within a flexitime, variable flex, or other noncompressed work schedule that are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday.

Section 3. Employee work schedules in effect on the effective date of this Agreement shall remain in effect unless changed by an office head or an employee in accordance with the provisions set forth below:

(a) Supervisors may require employees who are working compressed work week schedules to change their days off if problems of office coverage exist that would be eliminated by such a change.

(b) If an office head decides to review office work schedules in order to determine whether schedule changes would increase the office's efficiency, productivity, or coverage, the office head may request each employee in the office to submit a proposed schedule for the forthcoming year in writing after notifying the Union. When so requested, employees will submit their proposed schedules within one week. If schedules are to be changed, prior employee work schedules will remain in effect until the new schedules are established. The office head will approve the work schedules unless he makes a determination under section 3(c), 3(d), or lO(a).

(c) If an office head determines that an employee's current or proposed schedule prevents him or her from fulfilling his or her duties or job requirements or prevents adequate office staffing at particular times that are necessary to the office's requirements or reduces the office's productivity or diminishes its level of services, the office head will inform the employee of the available schedule options and will work with the employee to establish a new schedule that is compatible with the work requirements of the office and the employee's wishes.

(d) When coverage needs exist and it is impossible to accommodate all employees' requests for specific starting times, leaving times, or days off, the office head will first review what, if any, specific skills and abilities are needed for the coverage of the office's work needs. When all requesting employees could satisfy the office's work needs, the office head will attempt to work out a compromise over schedules, for example, by having the employees take turns working the preferred schedules. If such compromises cannot be reached, the office head will determine which employees shall be given priority by drawing lots or by any other acceptable random selection method among the priority candidates, that is, those who achieved fully satisfactory or better on their last formal performance appraisal.

(e) Any employee or group of employees may request a formal discussion with the office head about any changes in their work schedules pursuant to 5 U.S.C. 7114(a)(2) subject to the Employer's right to decline such a request.

(f) A supervisor or other Agency official entitled to do so may require an employee to work certain hours pursuant to the procedures established in this section. No employee, supervisor or other Agency official will directly or indirectly intimidate, threaten, or coerce or attempt to coerce any employee for the purpose of interfering with an employee's rights under Section 6122 through 6126 of the Federal Employees Flexible and Compressed Work Schedules Act of 1982 to elect a time of arrival or departure [pursuant to section 4], to work or not

work credit hours [pursuant to section 5], or to request or not request compensatory time off in lieu of payment for overtime hours or to exercise any rights conveyed by this Agreement.

Section 4. Subject to the work needs of the Agency and the provisions established in Section 3 of this Article, an employee may elect one of the work schedules hereinafter described and may change that schedule with the supervisor's approval once each quarter, although an employee working a compressed work schedule may change his or her scheduled nonwork day with the supervisor's approval at any time. Employees on a flexible or compressed work schedule may vary their starting and leaving times with their supervisor's prior approval. The following work schedules are available in the Agency under the conditions specified in this Article:

(a) Flexitime. An employee working flexitime reports to work daily at an established time during the morning flexible band, is present during the core hours, and works an eight-hour day or whatever is appropriate for a part-time employee.

(b) Variable Flex. An employee working under a variable flex schedule reports to work according to a fixed variable schedule, that is, the hours of work on a flexible band need not be the same each day of the week. The schedule must, however, be the same from week to week. An example of such a schedule would be 9 a.m. to 5:30 p.m. three days a week and 8:30 a.m. to 5 p.m. the other two days.

(c) Five-four-nine. An employee working hereunder works an established schedule of eight nine-hour days and one eight-hour day each pay period and has a scheduled day off during the pay period.

(d) The Parties recognize that other work schedules may prove advantageous to certain employees and the Agency. Such employees may, therefore, request such a schedule in writing from their office head who will make a recommendation to the bureau head.* If the proposed schedule is in the Agency's interest and does not conflict with existing laws, regulations, or other provisions of this Agreement it will be approved. Permissible schedules include but are not limited to:

(1) Four-Ten. An employee works an established schedule of eight ten-hour days each pay period and has two scheduled nonwork days during the pay period.

(2) Maxiflex. An employee works an eight-hour day and a five-day week Monday through Friday. Reporting and departure times may vary from day to day within the flexible bands with such notice to the supervisor as is agreed to in establishing the schedule. A supervisor retains the right to reject a specific schedule for any given day when that schedule would conflict with that day's work needs.

Section 5. Credit hours may be earned and used in thirty-minute increments with the supervisor's prior approval. Credit hours may not be borrowed in advance between pay periods, but an employee may carry over up to ten credit hours to the succeeding pay period. For part-time employees, carryover hours must not exceed one-fourth of the employee's basic biweekly work requirement.

Section 6. The following provisions shall govern holiday pay for employees on flexible and compressed work schedules:

(a) Flexitime: Pursuant to 5 U.S.C. 6124, full-time employees are entitled to 8 hours pay for those Federal holidays on which they are relieved or prevented from working. Part-time employees are entitled to be paid for

those hours that they were regularly scheduled to work on a holiday (see 5 C.F.R. 610.405).

(b) Compressed work schedules: Pursuant to 5 C.F.R. 610.406, employees on compressed schedules are entitled to basic pay for any hours they were regularly scheduled to work on any day designated as a Federal holiday when they are relieved or prevented from working. When a Federal holiday falls on the nonwork day of the employee who is working a compressed work schedule, the employee may elect to take off any other work day during the pay period in lieu of the holiday, with supervisory approval of the particular day selected. When a holiday falls on a nonworkday of a part-time employee, he or she is not entitled to an "in-lieu-of-day" for that holiday.

Section 7. Employees working flexitime or compressed work week schedules may be required to have their work hours recorded by sign-in/sign-out sheets. Employees who are found by their supervisors to be abusing their work schedules during unsupervised time may be placed on the regular Agency work week and may also be subject to discipline if appropriate. Employees who have received a less than fully satisfactory rating on their last formal performance appraisal may be required to change their work schedules if such changes can be expected to facilitate improvements in their performance.

Section 8. In the event an office experiences temporary adverse conditions (such as staff shortages due to absences, training, details, position vacancies, attrition, or increased work demands), an office head may curtail specific flexible or compressed work schedules for a period of up to sixty days following notification to the Union. The Employer will not curtail an individual employee's flexible or compressed work schedule for more than ninety days within any one year without invoking the provisions of Section 3 of this Article.

Section 9. The Parties agree that the Employer has the right to take whatever actions may be necessary to carry out the Agency's mission during emergencies pursuant to 5 U.S.C. 7106(a)(2)(D).

Section 10. Modifications or a termination of the provisions of this Article will be made only as follows:

(a) If the Employer determines that a particular position covered by this Article is of such a nature that it has to be removed from the Flexible and Compressed Work Schedules program because of an adverse impact on office operations it will notify the Union in writing as soon as such a decision is made, and, if requested, give the reasons for the decision. If requested, the Employer will thereafter discuss with the Union reasonable steps to ameliorate the adverse impact, if any, of the decision. Such decisions will be kept to the minimum required to meet operational requirements.

(b) If a bureau head* determines that the participation of an office within his or her bureau in a flexible or compressed work schedule program substantially disrupts the office's ability to carry out its functions or results in substantially increased costs, the bureau head* will ask the office head to attempt to work out a modified flexible or compressed work schedule that rectifies the problem. If a mutually acceptable work schedule cannot be agreed to the bureau head* may, following discussions with the Union:

(1) restrict office employees' choice of arrival and/or departure times, or

(2) restrict office employees' use of credit hours where

applicable.

(c) If a bureau head* determines under 5 U.S.C. 6131(a)(2) that a particular flexible or compressed work schedule in force under the provisions of this Article has had an adverse impact on his or her bureau in that it (1) reduced the bureau's productivity, (2) diminished the bureau's services to the public, or (3) substantially increased the bureau's operating costs, the bureau may reopen this Article and seek a termination of the schedule involved through negotiations with the Union. If the two Parties reach impasse in these negotiations, the issue shall be presented to the Federal Services Impasses Panel for resolution pursuant to 5 U.S.C. 6131(c)(3)(C). No work schedules in effect shall be altered or terminated until a new agreement is reached between the two Parties or until a final decision of the FSIP resolving the matter takes effect.

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*Assistant Attorney General for Justice Assistance if the Justice System Improvement Act is amended to grant the AAG this authority.

Section 11. No supervisor may take any action under this Article solely on the basis of his or her personal convenience or for reasons that do not fulfill Agency work requirements.

Section 12. Except as expressly provided, nothing in this Article shall be

construed to modify the rights guaranteed to either of the Parties by the Civil Service Reform Act or the Federal Employees Flexible and Compressed Work Schedules Act of 1982.

Section 13. The Parties agree that when an employee is detailed to another agency, the employee is outside the purview of this Agreement and not subject to the provisions of this Article. When an employee is assigned to training or is in a travel status, the employee is expected to modify his or her schedule if necessary to accommodate the situation.

SUPPLEMENTAL AGREEMENT
TO THE NEGOTIATED AGREEMENT DATED MAY 1984

In addition to the rights that employees have to Union representation that are specifically cited in the Negotiated Agreement dated May 1984 --

IT IS THE EMPLOYER'S POLICY to permit Union representation for employees in bargaining unit positions, at their request, at the following types of meetings called by or agreed to by the Employer:

a. Informal grievances.

b. Termination meetings for probationary employees as well as permanent employees.

c. Meetings involving incipient disciplinary problems where the employee has a reasonable belief that discipline may result from the meeting.

d. Confidential meetings concerning work-related health problems or the accommodation of a handicap.

THE PARTIES AGREE that these meetings do not include:

d. Confidential meetings concerning performance ratings or appraisals.

e. Supervisory counseling meetings.

f. Conduct improvement meetings.

The Employer may, at its discretion, upon employee request, permit Union representation at meetings described in d, e, and f above and other Employer-employee meetings when not prohibited by law. The Employer shall make such determinations on a case-by-case basis.

This policy is binding only on the Employer and Local 2830 of the American Federation of State, County and Municipal Employees, AFL-CIO.

AGREED to this 26th day of December 1991.

SUPPLEMENTAL AGREEMENT
TO THE NEGOTIATED AGREEMENT DATED MAY 1984

1. It is the Employer's policy that all investigations of employee misconduct will be conducted in conformity with Department of Justice Order 1752.1A, Discipline and Adverse Actions, April 27, 1981; the Inspector General Act of 1978, (the IG Act), 5 U.S.C. Appendix 3, as amended (October 18, 1988); and the Negotiated Agreement (May 1984).

2. The Employer will notify the Union at least thirty days before implementing any change in this policy and commence immediate negotiations over the implementation and impact of such a policy change.

3. Nothing in this Agreement shall affect the right of management, pursuant to 5 U.S.C. 7106(a)(2) (B), and Article 4, Section 1(b)(2), of the Negotiated Agreement dated May 1984, to make determinations with respect to contracting out in accordance with applicable laws and regulations.

This policy is binding only on the Employer and Local 2830 of the American Federation of State, County and Municipal Employees, AFL-CIO.

Agreed to on this 19th day of December 1991.

UNITED STATES
DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

Instruction [Box]

Subject: LABOR-MANAGEMENT PARTNERSHIP

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1. PURPOSE. This Instruction implements an Understanding negotiated and agreed to pursuant to the Federal Service Labor-Management Relations Statute (FSLMRS, 5 U.S.C. 7114 et seq.) by the Employer, hereinafter known as the Office of Justice Programs or OJP, and the American Federation of State, County and Municipal Employees' (AFSCME) Capital Area Council of Federal Employees, AFL-CIO, hereinafter referred to as the Union, which is the Exclusive Representative of the OJP Bargaining Unit employees.

2. SCOPE. The procedures and responsibilities described in this Partnership pertain to all employees of OJP and its affiliated organizations, that is, the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime, as well as AFSCME Local 2830, a member of the AFSCME Council.

3. AUTHORITY. This Partnership is created pursuant to Executive Order 12871, "Labor Management Partnerships," October 1, 1993, Section 2 of which provides: "The head of each agency subject to the provision of chapter 71 of title 5, United States Code shall . . . create labor-management partnerships by forming labor-management committees or councils. . . ."

4. PARTNERSHIP COUNCIL. There is hereby established an OJP Labor-Management Partnership Council. The Council shall consist of an equal number of Union and Management representatives, who shall all be OJP employees. The Council shall be headed by Management and Union Co-Chairs.

5. DUTIES. The Council shall exercise the following duties, responsibilities, and functions:

a. Identify problems and devise solutions to better serve the Agency's employees, external customers, and mission.

b. Assure the provision of training of appropriate Agency employees (including managers, supervisors, and Union representatives) in a variety of subjects, including but not limited to, labor-management relations, alternative dispute resolution techniques, and interest-based bargaining approaches.

c. Participate in the Agency's decisionmaking process in those areas mandated by the Executive Order and this Article, including negotiating all matters cited in 5 U.S.C. 7106(b)(1), that is "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." To accomplish this task the Employer and the Union will share information at the earliest planning stage that concerns significant personnel policies, practices and conditions of employment, including, but not limited to, all administrative budgets, personnel rosters, FTE data, temporary personnel hiring, equipment and technology programs, parking, training, salary, benefits, awards and other matters concerning working conditions.

d. Promote the implementation of mid-contract changes in policies, practices, and conditions of employment without the need to employ traditional collective bargaining procedures. Nothing herein shall be construed to bar or discourage the Council's discussion of any matter that concerns the interest of either of the Two Parties.

f. Conduct annual evaluations of the effectiveness of the Council's activities.

6. AGENCY SUPPORT. The Employer shall arrange for Council support staff and facilities and shall certify the Council's activities as official Agency business.

7. PROCEDURES. The Council shall perform its duties and responsibilities in the following manner:

a. The Council shall develop rules and procedures to carry out its activities insofar as they are not inconsistent with this Instruction.

b. The Council shall meet at least twelve times a year and at such other times as are required to fulfill its responsibilities. Its meetings will ordinarily start at 10 a.m. on the first Wednesday of each month, unless the Co-Chairs agree that a different schedule is required. The Co-Chairs shall alternate as the Presiding Officer for each meeting.

c. The Council may establish subcommittees to work on specific projects. They and the Council shall keep written records of all their recommendations and decisions. Council records shall be available to the Two Parties and all employees during regular business hours.

d. Absent an agreement between the Co-Chairs providing otherwise, the Council shall discuss only those items appearing on each meeting's written agenda. Either Co-Chair may place items on the agenda as late as three workdays before the meeting after notifying the other Co-Chair. The Presiding Officer shall be responsible for the preparation of the agenda of the meeting over which he or she shall preside.

e. The Union's Co-Chair and Alternate Co-Chair shall be respectively the OJP Chapter President and Vice President, AFSCME Local 2830. The Employer's Co-Chair and Alternate Co-Chair shall be ..... The Two Parties shall each designate three additional representatives, who shall serve at the pleasure of the Party they represent.

8. DURATION. This Instruction shall remain in full force and effect until the effective date of any new Instruction on the same subject negotiated by the Two Parties pursuant to FSLMRS.

FOR THE UNION:	FOR MANAGEMENT:
----------	----------President
Assistant Attorney General	
----------	----------Vice
President	Director, Bureau of Justice Assistance

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	Director, Bureau of Justice Statistics
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Director, National	Institute of Justice
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Administrator, Office of	Juvenile Justice and Delinquency Prevention
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	Director, Office for Victims of Crime

AGREED to this 12th day of July 1994.

Agreement Between the U.S. Department of Justice and AFSCME Local 2830 Concerning the Metropolitan Transit Subsidy

This is an agreement between the U.S. Department of Justice and Local 2830 of the American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter known as the parties, establishing the Metropolitan Transit Subsidy Program within the Office of Justice Programs (OJP).

I. The parties agree to a transit subsidy of $21 per month per capita for eligible OJP employees in the bargaining Unit.

II. The parties agree that the definition of an "eligible OJP employee" is as follows:

> An OJP employee is eligible to receive a transit benefit if he or she uses mass transportation or a commuter highway vehicle for regular daily commuting and does not receive other commuting benefits from any Federal agency. "Other commuting benefits" include: 1) a subsidized parking space that is provided to an employee either on an individual basis or to a carpool/vanpool in which the employee participates; or, 2) the use of a Government vehicle for authorized home-to-work transportation.
>
> The term "mass transportation" includes the use of any conveyance authorized by Washington Metropolitan Area Transit Authority (WMATA) that provides volume transportation to the general public on a regularly scheduled basis.
>
> A "commuter highway vehicle" is one authorized by WMATA that transports people for compensation or hire, that seats at least six adults (not including the driver), and in which at least 80 percent of the mileage can reasonably be expected to be for the purpose of transporting employees between their residences and work places on trips during which the number of employees transported for this purpose is at least one-half of the adult seating capacity of such a vehicle (not including the driver).

III. OJP and AFSCME Local 2830 will enter into negotiations regarding the implementation of the mass transit subsidy program in OJP. These negotiations will incorporate this agreement as a portion of their final agreement.

IV. Either party may reopen negotiations on any negotiable aspects of the mass transit subsidy program in OJP. However, the parties agree not to reopen negotiations over any such matter until the mass transit subsidy program in OJP has been in operation for nine months in order to collect sufficient data for evaluation purposes. The window for requesting reopening of negotiations shall extend for 60 days after the completion of the nine-month period or March 1, 1996, whichever is later. By mutual agreement the parties may reopen negotiations at any earlier time.

V. Termination of the authority for the Mass Transit Subsidy Program by the Congress of the United States, or the failure of Congressional approval of the reprogramming of Department of Justice funds to pay for the program will terminate the Program in the Department of Justice.

This agreement is effective on March 1, 1995.

FOR MANAGEMENT

FOR AFSCME LOCAL 2830