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IDnum 187 **Language** English **Country** United States **State** multi

Union National Council of Field Labor Locals, American Ferederation of Government Employees

Local

Occupations Represented
Occupational health and safety specialists and technicians
Economists and market and survey researchers
Claims adjusters, appraisers, examiners, and investigators

Bargaining Agency U.S. Department of Labor

Agency industrial classification (NAICS):

92 (Public Administration)

BeginYear 2002 **EndYear** 2006

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Notes

Contact

Full text contract begins on following page.

Agreement Between the United States Department of Labor and the National Council of Field Labor Locals, American Federation of Government Employees, AFL-CIO

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Statement of Purpose

This Agreement between the United States Department of Labor and the National Council of Field Labor Locals was achieved through a non-adversarial @ interest-based bargaining. @ Traditional styles of position-based bargaining and posturing were discarded in order to explore common interests and concerns. The parties began by acknowledging their mutual interest in and commitment to the accomplishment of the mission of DOL to foster, promote, and develop the well-being of America's workers.

Recognizing that the dedicated, professional, and concerned employees of the Department are the means for providing effective and ever improving service to America's workers, the parties seek, through this Agreement and the process of its achievement, to foster an attitude of cooperation in our workplaces, to improve the working conditions of our employees, to enhance the harmony between family and work life, and to create a productive and progressive labor relations process.

DOL Management and the NCFLL share a desire that the Department serve as a model employer for America. The parties also intend that the process of trust and mutual respect by which this Agreement was forged will set an example at every work site to promote a simple and just means for resolving disputes and misunderstandings and provide an effective mechanism for articulating employee concerns through their Union.

This Agreement is intended to promote a work environment which embraces new technology and the capacity it has to enhance work processes, to maintain a safe, healthy, and quality workplace, and to help create an atmosphere where the people of DOL are treated fairly and equitably, respect one another, and work together to fulfill the promise and accomplish the mission of the United States Department of Labor.

Article 1

Coverage and Recognition

Section 1 - Recognition

A. The NCFLL is recognized as the sole and exclusive representative for all bargaining unit employees as defined in Section 2 of this Article.

B. As the sole and exclusive representative, the NCFLL is entitled to act for and to negotiate agreements covering all employees in the bargaining unit. The NCFLL is responsible for representing the interests of all employees in the bargaining unit without discrimination.

C. Management agrees that in regard to the NCFLL bargaining unit, it will not enter into any other agreement, understanding, or contract with any other organization, association, or union that shall contravene or violate this Contract except as required by law, higher regulation, or Executive Order. Management agrees that in regard to the NCFLL bargaining unit, it will not do anything by

custom or practice that shall contravene or violate this Contract except as required by law, higher regulation, or Executive Order.

D. The NCFLL shall be given the opportunity to be present at formal discussions between Management and bargaining unit employees concerning grievances, personnel policies and practices, and other matters affecting general working conditions of the employees in the bargaining unit. The parties agree that if a formal discussion between one or more representatives of the Department and one or more employees within the bargaining unit consists of mere reiteration of existing personnel policies and practices and other matters affecting general working conditions, the NCFLL need not be given the opportunity to be present.

E. The following procedures will be used in providing notice to the NCFLL of a formal discussion and for the NCFLL to provide representation during any formal discussion.

1. The NCFLL will specify a designated representative(s) in each Region, who has been named by the NCFLL in accordance with Article 3, Section 2B., of the DOL-NCFLL Agreement, to be notified of a formal discussion initiated by the Department.
2. The Department's notification will state the DOL Agency and component, date, time, location of the formal discussion, and include a brief description of the subject to be discussed.
3. The designated NCFLL Representative(s) in 1. above will specify an NCFLL Representative (Steward, Regional Official, or National Official) normally from within the commuting area of the meeting site to attend any formal discussion for the purpose of representing the NCFLL and/or affected employee(s).

Section 2 - Coverage

A. The bargaining unit to which this Agreement is applicable consists of all employees stationed throughout the Nation in field duty stations of the Department outside the Washington, D.C. metropolitan area, except non-clerical employees of the Office of

Labor-Management Standards, employees serving in temporary appointments of less than one year's duration, or employees excluded under Section 3 of this Article. Employees of the Pension Welfare Benefits Administration and OSHA field offices in the Washington, D.C. metropolitan area are included.

B. Changes in the inclusions or exclusions of positions from the bargaining unit, including newly created positions, may be proposed by either party. If agreement cannot be reached, the matter may be referred to the Federal Labor Relations Authority as provided by Section 7105 of the Statute.

Section 3 - Exclusions from Coverage

The following employees are excluded from the bargaining unit covered by this Agreement in accordance with the Statute:

(A) All Management Officials as defined in the Statute;

(B) All supervisors as defined in the Statute;

(C) Employees who act in a confidential capacity with respect to an individual(s) who formulates or effectuates management policies in the field of labor-management relations;

(D) Employees engaged in personnel work in other than a purely clerical capacity; and

(E) Employees engaged in administering the provisions of the Statute.

Section 4 - Coverage of Agreement

Management and the NCFLL agree that the terms and conditions of this Agreement apply to all employees in the bargaining unit.

Section 5 - Employee Orientation

A. At formal orientation sessions of bargaining unit employees, a designated Union Representative will be permitted to make a presentation to the employees. Such presentation shall be part of the formal session with Management present, shall be approximately 15 minutes in length, and shall be limited to factual matters concerning employees' rights under the Collective Bargaining Agreement and the Federal Service Labor-Management Relations Statute. The presentation shall neither deal with internal Union matters nor be used for recruitment of Union membership.

B. "Formal orientation sessions" are those coordinated, sponsored, or put on by the Regional OASAMs or any other DOL Agency.

C. If the NCFLL Representative designated to attend the orientation session and make the presentation is not from the local commuting area of the orientation site, the provisions of Article 8 with respect to official time and travel expenses apply.

D. In regard to a new bargaining unit employee who does not participate in a formal orientation session, the designated office Steward and new employee will be provided 15 minutes on official time to meet privately soon after the new employee comes on board.

E. The NCFLL Regional Representative designated in accordance with Article 3, Section 2B., will be notified monthly, in accordance with Article 9, Section 7B., of all new hires, their Agency, and location.

Article 2

Governing Laws and Regulations

Section 1 - Precedence of Laws and Regulations

In the administration of all matters covered by this Agreement, officials and employees are governed by existing or future laws and regulations of appropriate authorities; by published Department and/or Agency policies and regulations in existence at the time this Agreement was approved; and by subsequently published Department and/or Agency policies and regulations required by law or by the regulations of appropriate authorities.

Section 2 - Prescribing Regulations

In prescribing Department and/or Agency regulations relating to personnel policies and practices and matters affecting working conditions, Management shall have due regard for the obligation to meet and confer with the NCFLL. The obligation, however, to meet and confer does not include matters with respect to the mission of the Department; its budget; its organization; the number of employees; or its internal security practices; and consistent with Article 11, Management Rights, the numbers, types, and grades of positions or employees assigned to an organizational unit, work project, or tour of duty; or the technology of performing its work. This does not preclude Management or the NCFLL from negotiating agreements providing appropriate arrangements for employees adversely affected by the exercise of any authority under this Section by Management.

Section 3 - Agreement Governs

Where existing provisions of Department and/or Agency regulations are in conflict with this Agreement, the provisions of this Agreement shall govern.

Section 4 - Mandated Changes of Agreement or Regulation

A. Management agrees to issue no regulation which alters the terms or conditions of this Agreement without being mandated by law, Executive Order, higher regulation, judicial decision by a court of appropriate jurisdiction, or other higher authority.

B. Amendment(s) to this Agreement or Departmental and/or Agency regulations may be required by mandated changes after the effective date of this Agreement. Amendment(s) to this Agreement or published Departmental and/or Agency regulations may be required by changes in applicable laws, Executive Orders, higher regulations, judicial decision by a court of appropriate jurisdiction, or other higher authority made after the effective date of this Agreement. The Department agrees to transmit to the NCFLL changes proposed during the term of the Agreement but not specifically covered by the Agreement which relate to conditions of employment of employees in the bargaining unit and/or which may adversely affect such conditions.

C. Management will notify the NCFLL after receipt of notice of a required change. Upon receipt of such notification from

Management, the NCFLL may, within 15 workdays, request negotiations concerning the amendment.

D. Upon timely request from the NCFLL, the parties shall meet and confer within 30 calendar days concerning any negotiable aspects of the required change and/or its impact on bargaining unit employees.

E. Any changes of regulations or amendments to this Agreement which are negotiated and agreed to pursuant to this Section will be duly executed by the parties and will become an integral part of this Agreement and subject to all of the terms and conditions of this Agreement.

Section 5 - Management Proposals for Change During the Term of the Agreement

A. Management agrees to transmit to the NCFLL proposed changes relating to personnel policies, practices, and matters affecting working conditions of bargaining unit employees, or which impact on them, proposed during the term of this Agreement and not covered by this Agreement, as far in advance as possible.

B. Upon receipt of such a proposed change from Management, the NCFLL may, within 15 working days, request negotiations concerning the proposed change.

C. Upon timely request from the NCFLL, the parties shall meet and confer within 30 calendar days concerning any negotiable aspects of the proposed change and/or its impact on bargaining unit employees.

D. Any changes of regulations or amendments to this Agreement which are negotiated and agreed to pursuant to this Section will be duly executed by the parties and will become an integral part of this Agreement and subject to all of the terms and conditions of this Agreement.

Section 6 - Past Practices

It is agreed and understood that any prior working conditions and practices and understandings which are not specifically covered by the Agreement or in conflict with it shall not be changed unless mutually agreed to by the parties.

Article 3

Labor-Management Relations Committees and Midterm Negotiations

Section 1 - Purpose and Function

The Union and Management, as evidenced in the Statement of Purpose to this Agreement, recognize that the participation of bargaining unit employees in the formulation and implementation of personnel policies and practices affects their well being and efficient administration of the Government. To this end, Union and Management mutually recognize and endorse the involvement of affected employees and their representatives as early as possible in the development of Departmental and Agency programs, policies, and practices. The parties further recognize that the entrance into a formal collective bargaining agreement with each other is but one act leading toward a constructive labor-management relationship and that the success of a labor-management relationship is further assured if a forum is available and used to communicate with each other. They, therefore, agree to establish a National Labor-Management Relations Committee, and also Regional Labor-Management Relations Committees for the purpose of exchanging information and for discussing matters of mutual concern or interest to each of them in the broad area of personnel policy and practices and other matters affecting working conditions. It is also agreed that midterm negotiations, requested in accordance with Article 2, Section 4 or Section 5 of the Agreement, may be conducted during Labor-Management Relations Committee meetings. In the event that circumstances dictate that midterm negotiations be conducted other than at meetings of the Labor-Management Relations Committees, the provisions of Sections 3A.4.(b) and 3B.4.(b) of this Article with regard to travel expenses and official time are applicable.

As used in this Section, "midterm negotiations" include all aspects of negotiations from preliminary meetings on ground rules, if any, through mediation and impasse resolution processes when needed.

Section 2 - Labor-Management Relations Committee Meetings

A. Frequency of LMR Committee Meetings

- 1. National Committee.** The National Labor-Management Relations Committee meetings shall be held quarterly.
- 2. Regional Committees.** The Regional Labor-Management Relations Committee meetings shall be held three times a year.
- 3. Committee Meetings.** National and Regional Labor-Management Relations Committee meetings may be held more frequently or deferred by mutual consent of the parties.

B. Regional Meetings

1. The NCFLL will designate in each DOL Region a Union Regional Collective Bargaining Committee (RCBC). The NCFLL will designate from among the members of the RCBC a Regional Chair for each of its ten RCBCs. The Department will recognize and communicate all Regional notices and obligations to the Regional Chair of the RCBC. The maximum number of representatives designated may be up to the number depicted in column (A) of the following table. The number in column (A) is the maximum number of persons who may be entitled to official time and travel expenses for midterm bargaining initiated by Management.
2. In those instances where Agencies have consolidated from two or more Regions into one Agency Region, the NCFLL will designate one NCFLL Regional Chair as the single point of contact for management for that consolidated Agency. The Department will recognize and communicate notices and obligations to the designated NCFLL Regional Chair with copies to the other affected NCFLL Regional Chairs.

3. In addition to the RCBC, additional persons may be designated by the Union and are entitled to official time and travel expenses to attend Regional meetings. The number of such persons is depicted in column (B) of the following table. During the Regional meetings, when an agenda item(s) pertains to a particular DOL Agency only, the Union may designate up to five representatives from among the total number present (as depicted in column [C]) to meet with the representatives from the DOL Agency. The Union may interchange the representatives from one Agency to another as long as no more than five meet with any one Agency.

4. For those agenda items which are Department-wide in nature and are not limited to a single DOL Agency, the total number of persons (column [C]) may meet with the representatives of the Department.

5. Department-wide agendas as well as individual Agency agendas shall be arranged for and scheduled in advance. The agendas and scheduled meetings should be for the purpose of discussing specific interests and concerns of the parties and for enhancing the labor-management relationship.

6. The NCFLL may have in attendance at a Regional meeting one NCFLL National Official from within the Region. This would be in addition to the number of persons in the following table.

7. For those Agencies which have consolidated, there will be one Regional Agency labor-management meeting in the city in which the Regional Agency Head is located. Management will communicate with the designated NCFLL Regional Chair identified in Subsection 2. above for purposes of these meetings. The RCBCs in the consolidated Regions will be permitted to have representatives travel to these meetings in accordance with the following table. The maximum number of representatives entitled to official time and travel for a meeting is depicted in column (C). The maximum number of trips by representatives entitled to official time and travel for these meetings in a one year period may not exceed three times the number in column (C). The number of NCFLL

Representatives sitting in on such an Agency meeting will be limited to the five specified in Subsection B.3. plus one additional representative for each additional RCBC involved. The NCFLL will determine the distribution of these representatives from among these RCBCs prior to the meeting.

8. Nothing in Subsection 7. above precludes the parties from mutually agreeing to alternative means (such as teleconferencing) to participate in the regional labor-management meetings.

ARTICLE 3 - REGIONAL LMR COMMITTEE MEETINGS; ALLOWABLE OFFICIAL TIME AND TRAVEL EXPENSES

(A) (B) (C)

NO. OF PERSONS NO. OF OTHER TOTAL NO. OF
WHO MAY BE EN- PERSONS WHO MAY PERSONS WHO MAY
TITLED TO OFF- BE ENTITLED TO BE ENTITLED TO
CIAL TIME AND OFFICIAL TIME OFFICIAL TIME
TRAVEL EXPENSE AND TRAVEL FOR AND TRAVEL
FOR REGIONAL REGIONAL LMR EXPENSE
COLLECTIVE BAR- COMMITTEE
GAINING COMMIT- MEETINGS
TEE (RCBC)

<u>REGION</u>
1 3 2 5
2 3 2 5
3 5 5 10
4 5 5 10
5 4 4 8
6 3 3 6
7 3 3 6
8 4 2 6
9 3 3 6
10 3 1 4
TOTAL
UNIT WIDE: 36 30 66

C. National Meetings

1. NCFLL membership on the National Labor-Management Relations Committee (NLMRC) shall normally consist of elected officials of the NCFLL, not to exceed a total of 11 persons.

1. The Department recognizes that the NCFLL may request an AFGE, AFL-CIO, National Representative to attend Labor- Management Relations Committee meetings from time to time.

D. Agenda for Labor-Management Relations

Committee Meetings

1. With respect to both National and Regional Committee meetings, the parties agree to furnish each other a written agenda, to be received by the other party no less than ten workdays prior to the scheduled date of the meeting.
2. For the National meeting, each party's respective agenda will be coordinated and shared between the NCFLL President (for the Union) and the Labor-Management Relations Center (for the Department).
3. For Regional meetings, each party's respective agenda will be coordinated and shared between the NCFLL Chair of the Regional Collective Bargaining Committee (for the Union) and the Office of the Regional Administrator-OASAM (for the Department). The NCFLL Regional Chair will be responsible for coordinating and submitting the Regional agenda(s). Reasonable official time for this purpose may be granted in accordance with Article 8 of the Agreement.
4. For the consolidated Regional Agency meetings, the agenda will be coordinated and shared between the designated NCFLL Regional Chair (see B.2. above) and the Regional Administrator-OASAM (for the Department) in the location where the Regional Agency Head is located.

E. Meeting Summaries

With respect to Regional Labor-Management Relations Committee meetings, the Department will provide the NCFLL Regional Chair of the RCBC a summary of the Regional LMRC meetings. Such summary will list the names and Agencies of attendees and reference conclusions and/or actions to be taken concerning agenda items discussed.

F. Travel Expenses

The Department agrees to pay the travel expenses for employee NCFLL Representatives who attend National and Regional Labor-Management Relations Committee meetings which are held in accordance with this Article. The number of such NCFLL representatives to be reimbursed shall not exceed the number specified in Sections 2B. and 2C. of this Article.

G. Official Time

Official time for NCFLL representatives participating in Labor-Management Relations Committee meetings is provided for in Article 8 of this Agreement.

Section 3 - Midterm Bargaining Procedures

A. National Bargaining

1. Notice of Change and Request to Bargain

- a. Midterm collective bargaining between the Department of Labor and the National Council of Field Labor Locals (NCFLL) is governed, in part, by the provisions of Article 2 of the DOL-NCFLL Agreement.
- b. Section 4 of Article 2 provides that the Department agrees to issue no regulation which alters the Agreement without being mandated by a change in law, Executive Order, Government-wide rules or regulations, judicial decision by a court of appropriate jurisdiction, or other high authority.
- c. Amendments to this Agreement or Departmental and/or Agency regulations may be required by mandated changes after the original effective date of the master labor Agreement. In Article 2, Section 5, the Department agrees to transmit to the NCFLL changes proposed during the term of the Agreement but not specifically covered by the Agreement which relate to conditions of employment of employees in the bargaining unit and/or which may adversely affect such conditions.
- d. In the circumstances described above, the parties agree that the NCFLL has 15 workdays from receipt of notice of a change in which to request bargaining concerning the proposed changes in the conditions of employment not specifically covered by the Agreement.

2. Scheduling Midterm Bargaining Sessions

The parties will meet to bargain within 30 calendar days of the Department's receipt of a timely NCFLL request to bargain or at such time as mutually agreed to by the parties.

3. Midterm Bargaining Forum

Midterm bargaining is normally conducted by the parties during National Labor-Management Relations Committee meetings, at a National Labor-Management Relations Committee subcommittee level, or in special midterm bargaining sessions established for that purpose by the parties.

4. Number of Members on Midterm Bargaining Teams

- a. NCFLL membership on the National Labor-Management Relations Committee (NLMRC) shall normally consist of elected officials of the NCFLL, not to exceed a total of 11

persons. The NLMRC subcommittee may consist of fewer bargaining team members.

- b. The number of employees representing the NCFLL at a special midterm bargaining session for whom official time and travel expenses are authorized shall not exceed the number of members designated by the Department on its bargaining team ([5 U.S.C. 7131 \[a\]](#)), unless otherwise agreed to by the parties.

1. Midterm Bargaining Proposals

Following the NCFLL initial bargaining request under Article 2, the NCFLL shall state in writing its specific concerns or interests with regard to the Management proposed change and/or provide the Department with a counterproposal in contract language format. The NCFLL will provide the Department with its specific concerns and/or counterproposals within ten workdays after the initial bargaining request.

6. Bargaining Site

Normally, the site for midterm bargaining between the Department and the NCFLL will be the Frances Perkins Building of the Department in Washington, D.C., unless specific agreement is reached on another site.

7. Other Services to the NCFLL

The Department will provide the NCFLL with the use of a caucus room, telephone, and, on an as-needed basis, the use of duplicating equipment.

B. Regional Bargaining

1. Notice of Change and Request to Bargain

- a. Within a Region, when the Department or a DOL Agency decides to change the manner in which it exercises its reserved rights under [5 U.S.C. 7106\(a\) or \(b\)](#) and where such change will impact upon working conditions, the Department, through the Office of the Regional Administrator-OASAM, will notify the NCFLL, through its Regional Chair, in writing of the proposed change. The Regional Chair will also be notified of any other proposed changes which may impact upon working conditions.
- b. In the circumstances described above, the parties agree that the NCFLL has 15 workdays from receipt of notice of a

change in which to request bargaining to the fullest extent allowable by law, rule, regulation, and this Agreement.

2. Scheduling Midterm Bargaining Sessions

The parties will meet to bargain within 30 calendar days of the Department's receipt of a timely NCFLL request to bargain or at such time as mutually agreed to by the parties.

3. Midterm Bargaining Forum

Regional midterm bargaining is normally conducted by the parties at its Regional Labor-Management Relations Committee (RLMRC) meeting, or at special midterm bargaining sessions established for that purpose by the parties.

4. Number of Members on Midterm Bargaining Teams

(a) The NCFLL will be represented at midterm bargaining by the Regional Collective Bargaining Committee(s) (RCBC). The number of NCFLL members on the RCBC is as depicted in the table in Section 2B. of this Article.

(b) The number of employees representing the NCFLL at a special midterm bargaining session for whom official time and travel expenses are authorized shall not exceed the number of members designated by the Department on its bargaining team ([5 U.S.C. 7131\[a\]](#)), unless otherwise agreed to by the parties.

5. Midterm Bargaining Proposals

Following the NCFLL initial bargaining request under Article 2, the NCFLL shall state in writing its specific concerns or interests with regard to the Management proposed change and/or provide the Department with a counterproposal in contract language format. The NCFLL will provide the Department with its specific concerns and/or counterproposals within ten workdays after the initial bargaining request.

6. Bargaining Site

Normally the site for Regional midterm bargaining will be in the Regional city, unless specific agreement is reached on another site.

Section 4. Review of Regional Relationship

The parties acknowledge that the Department of Labor has undergone fundamental change in its structure since the inception of the 1991 Collective Bargaining Agreement and this change is likely to continue. Therefore, the parties commit to ensuring that our internal labor-management relationship is conducted in the most efficient and effective way. While maintaining adequate responsiveness to local needs, we must continuously scrutinize our Regional Collective Bargaining Committee structure.

Article 4

LABOR-MANAGEMENT COOPERATION

In the spirit of labor-management cooperation, Union and Management mutually recognize and endorse the involvement of affected employees and their representatives as early as possible. To this end, the parties agree that forums or processes for Union or employee involvement in Management's deliberative processes which exist at the time this Collective Bargaining Agreement goes into effect may voluntarily continue. Such cooperative dealings remain voluntary to both Management and Labor and do not constitute past practices under this Agreement. At any time during the life of this Agreement, either party may unilaterally terminate such voluntary forums or processes and no bargaining obligation will incur. It is understood that the NCFLL, in agreeing to the continuation of such forums or processes, does not waive any statutory or contractual rights including, but not limited to, formal discussions, notifications of Management changes which impact on working conditions of bargaining unit employees, and the right to bargain, consistent with the Federal Service Labor-Management Relations Statute, in regard to the impact and implementation of such Management changes.

No later than four months after the effective date of this Agreement, the parties will exchange information and compile a single definitive list of all such forums or processes at all levels of the Department which existed at the time the previous Agreement expired and which both Union and Management desire to continue. At any time during the life of the Agreement, when either party elects to terminate such arrangement, it will notify the other party through the existing channels of labor-management communication. The parties may by mutual agreement develop new arrangements of this type during the life of the Agreement. All such new arrangements must be approved by the Union and Management at the national level.

Article 5

Rights of Employees

Section 1 - General

Each employee of the Department has the right, freely and without fear of penalty or reprisal, to form, join, or assist the NCFLL or to refrain from any such activity. Employees shall be protected in the exercise of this right.

Section 2 - Employee Right to Participate

Except as otherwise expressly provided in this Agreement and in Title VII of the Civil Service Reform Act, as amended, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of views to officials to the Executive Branch, the Congress, or other appropriate authority.

Section 3 - Employee Concerns

Each employee shall have the right to bring matters of personal concern to the attention of appropriate officials of the Department and/or the NCFLL.

Section 4 - Employee Right to Grieve

The initiation of a grievance by an employee will not cause any reflection on his/her standing with his/her supervisor or on his/her loyalty or desirability to the Department. Employees and NCFLL Representatives who have relevant information concerning any matter for which remedial relief is available under this Agreement will, in seeking resolution of such matter, be assured freedom from restraint, interference, coercion, discrimination, intimidation, or reprisal. Management will not impose any restraint, interference, coercion, or discrimination against any employee in the exercise of his/her right to designate an NCFLL Representative for the purpose of representing to Management any matter or job related concern or of representing the employee to any Government agency or official of the Department. The extent to which official time is granted to employees and NCFLL Representatives is as provided in Article 8 of this Agreement.

Section 5 - Employee Membership

Nothing in this Agreement will require an employee to become or remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary written authorization by a member for payment of dues through payroll deductions or by voluntary cash payment by a member.

Section 6 - No Discrimination

Management and the NCFLL will not discriminate against any bargaining unit employee because of age, sex, race, religion, color, national origin, disability, sexual orientation, or because of veteran status.

Section 7 - Unit Employee Right to Representation

A. A meeting between an employee and his/her supervisor and/or any other Management Official, during which the principal topic of

discussion is to be discipline or potential discipline, will entitle the employee involved to request to be accompanied by his/her NCFLL Representative during the meeting. The employee will be informed in advance if discipline or potential discipline is to be the principal topic of discussion. If such request is made, the supervisor or other Management Official will honor the request. If the employee requests an NCFLL Representative, the meeting will be held or rescheduled when an NCFLL Representative can be present.

B. If during a meeting between an employee and his/her supervisor and/or any other Management Official, discipline or potential discipline enters into the discussion, the employee may request to be accompanied by his/her NCFLL Representative. If such a request is made, the supervisor or other Management Official will honor the request. The meeting will be suspended until an NCFLL Representative can be present.

C. The NCFLL shall be given the opportunity to be represented at any examination of an employee by a representative of the Department in connection with an investigation if:

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

(2) the employee requests representation.

D. Any employee who has been subject to an internal Departmental administrative investigation in which he/she was entitled to representation under Subsection C. of this Section shall be notified of the disposition of said investigation.

Article 6

NCFLL Stewards

Section 1 - Designation of Stewards

A. The NCFLL shall provide the Regional Administrator-OASAM, with a list of designated Stewards in each DOL Region. These designated Stewards shall be recognized as employee representatives for bargaining unit employees in the offices to which they are designated and shall be entitled to the use of official time under the provisions of this Agreement.

B. 1. Within the Regional or equivalent office, at least one and up to three Stewards may be designated for each of the following:

(a) W/H, OFCCP, and OWCP each;

(b) ETA (Including, Job Corps/BAT Regional Office employees);

- (c) BLS;
- (d) OSHA;
- (e) MSHA District Offices;
- (f) PWBA; and

(g) All other DOL Agencies as a group. If any Agency's office is located in a different commuting area, an additional Steward may be designated for that office.

1. One Steward may be designated if there are 1 to 75 bargaining unit employees in the Agency or combination of Agencies. Two Stewards may be designated if there are from 76 to 150 bargaining unit employees in the Agency or combination of Agencies. If there are more than 150 bargaining unit employees, a third Steward may be designated.

C. 1. Outside the Regional or MSHA District Office a Steward may be designated by the Union at each office where a supervisor is stationed, except for BAT, a Steward may be designated for each State. If two or more Agencies have offices located within the same commuting area, the Union may, at its discretion, designate a Steward for each of these offices or combine two or more of these offices to be served by one Steward.

2. Bargaining unit employees assigned to duty stations outside the Regional or MSHA District Offices will be represented by the Steward who is designated to represent the office which services that duty station.

D. The areas of representational responsibility for designated Stewards must be separate and not overlapping.

E. 1. Each Steward designated pursuant to Subsection B. above shall be a bargaining unit employee who is employed in the Agency or in one of the Agencies he/she is designated to represent.

2. Each Steward designated pursuant to Subsection C. above shall be a bargaining unit employee who is assigned to the office he/she is designated to represent or in one of the field duty stations serviced by that office. The Steward who is designated to represent BAT employees outside the Regional Office shall be a bargaining unit employee who is employed by BAT in the State for which he/she is designated as the representative.

F. Bargaining unit employees seeking assistance or representation from a Union Steward will receive such assistance or representation from the Steward(s) designated to represent his/her Agency or segment thereof.

Section 2 - Notification to Management and Posting

The NCFLL shall provide each Regional Administrator-OASAM with a complete list of Stewards for that Region and identify the Agency or segment thereof that each Steward is designated to represent. The lists of Stewards shall be posted on appropriate bulletin boards.

Article 7 Regional and National Union Officials

Section 1 - Regional NCFLL Officials

A. Within each Region, the NCFLL may designate up to three Regional Officials from each Local who shall be entitled to serve as the representative of bargaining unit employees within the Region on official time (if Departmental employees) under the provisions of this Agreement and consistent with the provisions of Article 8. Only one designated Regional NCFLL Official at a time may be entitled to official time in connection with a given representational matter (e.g., grievance, adverse action, disciplinary action, statutory appeal, EEO representation, etc.).

B. The NCFLL shall provide the Regional Administrator-OASAM with the names of the Regional NCFLL Officials in that Region who are designated pursuant to Subsection A. above.

Section 2 - National NCFLL Officials

A. The NCFLL may designate up to 11 National NCFLL Officials who shall be entitled to serve as representatives of bargaining unit employees on official time (if Departmental employees) under the provisions of this Agreement and consistent with the provisions of Article 8. Only one National Official may be designated at a time in connection with a given representational matter (e.g., grievance, adverse action, disciplinary action, statutory appeal, EEO representation, etc.).

B. The NCFLL shall provide the Labor-Management Relations Center with the names of its National Officials who are designated pursuant to Subsection A. above.

Article 8 Official Time and Travel Expenses

for Representational Activity

Section 1 - General

- A. Management recognizes that official time and travel expenses spent by bargaining unit employees in the conduct of labor-management business is spent as much in the interest of Management as that of the NCFLL and bargaining unit employees.
- B. Official duty time and travel expenses shall not be allowed for internal Union business.
- C. Official time and travel expenses for the conduct of labor-management relations business will be granted to NCFLL Stewards and Officials, and to affected employees as specified in this Article. Official time and travel expenses will be granted to NCFLL Stewards and Officials in accordance with their designation in Articles 6 and 7 of this Agreement.

Section 2 - Official Time for Stewards and NCFLL Officials

A. Grievances and Appeal

1. An NCFLL Steward or Regional NCFLL Official may utilize a reasonable amount of official time to confer with an affected bargaining unit employee(s) with respect to any matters for which remedial relief may be sought pursuant to the terms and conditions of this Agreement or pursuant to a statutory appeals procedure or labor-management relations appeals procedure, provided that only one representative at a time may be entitled to official time in connection with a given representational matter. An NCFLL Steward or Regional NCFLL Official may utilize a reasonable amount of official time to communicate with other Stewards or Officials in connection with a representational matter.
2. Subsection 1. above includes time to counsel a bargaining unit employee(s), to investigate a potential grievance, and to prepare and present a grievance at the Steps of the grievance procedure specified in Article 15, Grievance Procedure, of this Agreement. Also included is time to investigate, prepare, and present a reply to a notice of proposed adverse action or performance based action; an adverse action, performance based action, or RIF appeal; an EEO discrimination complaint; a request for reconsideration or an appeal of an acceptable level of competence determination; and a classification appeal. In addition, Subsection 1. above includes time to investigate,

prepare, and, if required, participate in an FLRA (ULP or Unit Clarification), FSIP, or OWCP proceeding.

B. Meetings with Management

An NCFLL Steward or Regional NCFLL Official may utilize a reasonable amount of official time to prepare for and be present at meetings with Management, including Safety and Health Committee meetings, Labor-Management Relations Committee meetings, etc., concerning personnel policies, practices, and other matters affecting working conditions of employees in the bargaining unit. Such meetings may be initiated by either the Union or Management. An NCFLL Steward or Regional NCFLL Official may utilize a reasonable amount of official time to communicate with other Stewards or Officials in connection with such meetings. The Department and the NCFLL encourage informal meetings to resolve potential problems at the work site and preclude, if at all possible, the need for formal dispute procedures to be initiated.

C. Preparing LM Forms

Union Officials (one per Local) may utilize up to four hours of official time annually to prepare the annual financial report which must be filed with the Department of Labor pursuant to [5 U.S.C. 7120](#), Standards of Conduct for Labor Organizations.

D. Formal Discussions

The NCFLL shall be given the opportunity on official time to be represented at any formal discussion, as prescribed in Article 1, Section 1D.

E. Midterm Bargaining

Union Representatives will be on official time for all midterm bargaining initiated by Management.

Section 3 - Official Time for Bargaining Unit Employees

A. Grievances and Appeals

A bargaining unit employee(s) may utilize a reasonable amount of official time to confer with a Steward, Regional NCFLL Official, or National NCFLL Official.

B. Meetings with Management and Third Party Proceedings

A bargaining unit employee(s) may utilize a reasonable amount of official time to attend meetings with Management and third party proceedings when he/she is the affected employee or a witness in a grievance or statutory appeal proceeding. If the parties cannot agree on necessary witnesses, the determination shall be made by the third party.

C. Representation of Multiple Grievants

If two or more bargaining unit employees file a group grievance, the following number of those employees will be granted official time to discuss the matter(s) with an NCFLL Steward or Official, and to

attend grievance meetings pursuant to Article 15, Grievance Procedure.

Number of Grievants Number of Grievants Entitled to Official Time

2 - 10 2

11 - 20 4

more than 20 6

This Section does not apply to persons who are no longer employed by the Department.

Section 4 - Definition of "Reasonable Amount of Time"

A. The determination of what constitutes a "reasonable amount of time" under this Article is a matter requiring mutual agreement between the employee and his/her supervisor prior to the employee's release under Section 5 of this Article, taking into account the need to balance the effective conduct of the Department's business with the rights of employees to be represented in matters relating to their employment.

B. A factor to be considered by the parties in determining what constitutes a "reasonable amount of time" is the amount of time that is necessary to accomplish the specific task for which time is requested.

C. If, during the transition period prescribed in Section 6 of this Article, there is a dispute between a newly elected or appointed National NCFLL Official and his/her supervisor concerning what constitutes a "reasonable amount of time," the matter will be referred to the Department's Labor-Management Relations Center and the NCFLL President for resolution.

Section 5 - Use of Official Time: Check-Out, Check-In

A. A bargaining unit employee(s) or the designated Union Representative who desires to use official time under this Article may be authorized a "reasonable amount of time" as follows:

(1) A designated Union Representative or employee(s) who wishes to use official time under this Article will request permission of his/her immediate supervisor. Such request should be made as early as possible, i.e., generally as soon as the need for the official time is known.

(2) A Union Representative or employee(s) who wishes to use official time under this Article in an organizational unit not under the direction of his/her own supervisor will

request permission of the supervisor of the organizational unit involved before engaging in such activity.

(3) Permission as described in Subsections (1) and (2) above will be granted unless compelling reasons require the presence of the Union Representative or employee(s) at Agency tasks which he/she is then performing. If such permission is denied, the manager or supervisor refusing such permission will give the reasons for refusal in writing, upon request, to the representative or employee(s) who was so denied.

(4) The Union Representative or employee(s) will report his/her return to work to his/her immediate supervisor upon conclusion of use of official time under this Article.

B. A designated Union Representative who is not an employee of the Department will follow the check-out and check-in procedures in this Section.

Section 6 - NCFLL National Officials

Due to the responsibilities of the NCFLL National Officials, they (not to exceed 11) will be on 100% official time. When employees are newly elected or appointed to National Office, the NCFLL will notify the Department and there will be a 90-day transition period from the date of receipt of such notice before the employee begins utilizing 100% official time. When an NCFLL National Official leaves office, he/she will normally have a right to return to the position of record. In any case, the Official will normally have a right to return to a position in the commuting area.

Section 7 - Travel Expenses

The Department and the NCFLL have a mutual commitment to contain travel expenses in connection with representation. Therefore, the parties agree to the following provisions.

A. Union Representatives

1. The Department and the NCFLL agree that, ordinarily, representation of employees or the Union on official time will be performed by Union Representatives from within the commuting area and, to the extent practicable, from within the same DOL Agency or in accordance with the Steward designations pursuant to Article 6.

2. If there is no Union Representative in the commuting area, the Department will pay appropriate travel expenses of the nearest representative. This includes representation at Steps 1 and 2 of the grievance procedure and for institutional grievances.

3. If the Union designates a representative from outside the commuting area when one exists within, the Department will have no obligation for the representative's travel expenses. Where there is no representative in the commuting area and the Union does not designate the nearest representative, the Department will pay constructive or comparable cost travel expenses. This includes representation at Steps 1 and 2 of the grievance procedure and for institutional grievances.

4. Exceptions to Subsections 2. and 3. above:

(a) The Department will pay travel expenses for the NCFLL Representative at an arbitration proceeding.

(b) The Department will pay travel expenses for the NCFLL Representative within a Region at other third party proceedings (as delineated in Section 2A.2. of this Article) when an employee has designated a Union Steward or Official as his/her personal representative.

(c) If any question arises over travel expenses concerning representation in connection with third party proceedings, it shall be referred to the NCFLL President and DOL Director of Labor-Management Relations Center for resolution.

5. The Department will pay travel expenses for NCFLL Representatives for midterm bargaining initiated by Management.

6. The Department will pay for travel to Labor-Management Relations Committee meetings.

B. Bargaining Unit Employees

Bargaining unit employees will be reimbursed for travel expenses in connection with meetings with Management, face-to-face oral responses to proposed disciplinary suspensions or adverse actions, or participation in grievances or arbitrations or other third party proceedings (as delineated in Section 2A.2. of this Article).

Article 9

Use of Official Facilities

Section 1 - Bulletin Boards

A. The Department agrees that the NCFLL will have the use of bulletin boards in DOL space.

B. Notices placed by the NCFLL on bulletin boards or distributed as provided in Section 2 of this Article may not contain material which would appear to identify it as the Department's material or that it is sponsored or endorsed by the Department; nor contain any scurrilous or libelous material.

Section 2 - Distribution

A. The NCFLL may distribute material on the Department's premises in work areas to individual employees before and after scheduled working hours subject to internal security requirements, or in the non-work areas during scheduled work hours, provided that both the employee distributing and the employee receiving such material are on their own time.

B. The Department agrees to distribute notices and circulars sponsored by the NCFLL to all designated employees in the bargaining unit, to be sent along with regular, Departmental distributions, provided they are:

- (1) delivered to Washington, D.C., or appropriate Regional Administrator-OASAM;
- (2) reasonable in size;
- (3) clearly identified as NCFLL material;
- (4) contain nothing that identifies the material as Department material or implies that the material is sponsored or endorsed by the Department;
- (5) limited to matters of direct concern to bargaining unit employees in relation to the NCFLL or the Department;

- (6) identify distribution desired, i.e., distribution to all employees, specific Agency, specific office, or bargaining unit employees only; and
- (7) not delivered at a frequency that would interfere or otherwise greatly delay the normal flow of mail delivery.

C. Notices and circulars which meet the standards set forth in Subsection B. above will be similarly distributed to all designated field bargaining unit employees in a particular Region provided a sufficient quantity is delivered by the NCFLL to the Regional Administrator-OASAM.

Section 3 - Meeting Rooms

A. Management, with an advance request from the NCFLL, will provide meeting space for meetings of bargaining unit employees before or after working hours or during lunch periods. The NCFLL agrees to comply with all security and housekeeping rules in effect at that time and place.

B. Management, with an advance request from the NCFLL, will provide a meeting room, equipped where practicable with a telephone if included in the request, for preparing or discussing a grievance and preparing for meetings with Management.

C. Management will provide the NCFLL Executive Committee Officials with a meeting room in the National Office when they are meeting with Management.

Section 4 - Telecommunications Equipment and Systems

A. NCFLL Officials and Stewards shall have access to the Departmental Telecommunications System and where this system is unavailable NCFLL Officials and Stewards shall have access to the commercial telephone system for the conduct of labor-management relations business, but not for internal Union business.

B. Management will provide National NCFLL Officials with access to the Departmental Telecommunications System for the conduct of labor-management business during the time they are meeting in the National Office.

C. NCFLL Officials and Stewards shall have access to Departmental facsimile facilities for the conduct of labor-management relations business, but not for internal Union business.

D. Consistent with Departmental security requirements, the NCFLL representatives will have access to the Department of Labor electronic mail system for the conduct of labor-management relations business, but not for internal Union business.

Section 5 - Use of Government Mail

NCFLL Officials and Stewards shall have use of Government mail for the conduct of labor-management relations business, but not for internal Union business.

Section 6 - Information for the NCFLL

Management agrees, in accordance with [5 U.S.C. 7114\(B\)\(4\)](#), to provide the NCFLL, or its designated representative, upon request and to the extent not prohibited by law, information which is normally maintained by the Department in the regular course of business and which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of bargaining; and which does not constitute guidance, advice, counsel, or training provided to Management Officials or supervisors relating to collective bargaining.

Section 7 - Bargaining Unit Employee Information for the NCFLL

A. Management will furnish annually to the NCFLL, during the month of February for its internal use only, a copy of the computer printout by Region of the names, position titles, grades, bargaining unit status, dues check-off status, title by Agency, and duty stations of all employees in the bargaining unit.

B. Management will furnish monthly to the NCFLL, for its internal use only, a copy of the computer printout by Region of the names, position titles, grades, and duty stations of all employees in the bargaining unit appointed, transferred, promoted, and separated during the preceding month.

C. Where information has been provided to the NCFLL in hard copy form in the past, the Department will move to providing this information electronically as it becomes available in that format.

Section 8 - Office Equipment

A. National Office

Management agrees to provide the NCFLL with the use of a lockable file cabinet in the National Office, conveniently located, for the use of the National NCFLL Executive Committee Officials, plus one in each National NCFLL Official's field office.

B. Regional Offices

Management agrees to provide the use of one lockable file cabinet in each Regional Office for the use of Regional Union Officials.

C. Use of Photocopying Equipment

NCFLL Officials and Stewards shall have access to Departmental photocopying equipment for the conduct of labor-management relations business but not for internal Union business.

D. Appropriate Use

The NCFLL's use of the Department's equipment for Labor Management business is considered official use and is not subject

to the appropriate use policy regarding personal use contained in [DLMS 9 Chapter 1208](#).

Section 9 - Telephone Listings

A. Subsequent publications of the Department of Labor telephone listing will include a list of the members of the NCFLL Executive Board, their addresses, and their telephone numbers. Additional information may be included by mutual agreement.

B. In subsequent publications of the Regional Department of Labor telephone listing the names, addresses, and telephone numbers of the Presidents of the Locals in that Region will be included. Additional information may be included by mutual agreement.

Section 10 - Office Space Privacy for NCFLL Executive Board Officials

A. The Department will make good faith efforts to obtain private space for Executive Board Officials who are not so situated. Ideally such efforts will result in the provision of an office but it is recognized that such facilities cannot be guaranteed.

B. In any case where a member of the Executive Board acquires or has acquired the use of space, any right to the use will cease when that official has relinquished the position on the Executive Board.

Section 11 - Identification of Equipment and New Technology

This Article identifies the use of facilities and equipment to which the parties have agreed. However, with the introduction of new technology into the Department's work environment, either party may initiate bargaining on the new technology.

Article 10 Dues Withholding

Section 1 - Eligibility

A. Bargaining unit employees, who are members of NCFLL locals may have their dues withheld through payroll deductions. Dues withholding is to be voluntary on the part of the individual employee. The NCFLL Locals will undertake to inform members of the voluntary nature of dues withholding and of the conditions governing a member's cancellation of dues withholding.

B. Any member of an NCFLL Local within the bargaining unit who is in good standing and who is currently employed on a regularly scheduled tour of duty by the Department of Labor may authorize dues withholding at any time during the life of this Agreement provided that his/her regular biweekly salary is sufficient to cover the amount of the deduction.

C. Dues are defined as the regular, periodic amount of money required to maintain the member in good standing in an NCFLL Local.

Section 2 - Designation

The NCFLL Local agrees to inform Management of changes in the following:

- (A) The title and address of the individual Local Union Treasurer responsible for certifying on each employee's authorization form the amount of dues to be withheld;
- (B) The title and address of the individual Local Union Treasurer to whom remittances are to be made; and
- (C) The payee(s) to which remittance checks should be made out (such as Local 0000, AFGE, AFL-CIO).

Section 3 - Procedure for Authorizing Dues Withholding

- A. All authorizations must be made on Standard Form 1187, Request and Authorization for a Voluntary Allotment of Compensation for Payment of Employee Organization Dues. The NCFLL Local is responsible for purchasing this Form, distributing it to its members, and instructing its members in its use.
- B. The individual Local Union Treasurer is responsible for certifying on each member's authorization form the amount of dues to be withheld each pay period prior to forwarding the Form to the Regional Administrator-OASAM (RA-OASAM).
- C. Deductions will be made beginning with the first full pay period after the form is received in the Office of the RA-OASAM. Deductions will continue to be made in each subsequent pay period until terminated as provided in this Article.

Section 4 - Automatic Reinstatement of Dues Withholding

- A. The Department will automatically reinstate the dues withholding of bargaining unit employees returning to a bargaining unit position from a temporary reassignment or temporary promotion to a position outside the bargaining unit.
- B. The Department will automatically reinstate the dues withholding of bargaining unit employees returning to a pay status from a non-pay status (e.g., LWOP).

Section 5 - Revocation or Termination of Dues Withholding

- A. Members may revoke their authorization at any time by sending written notice or Form 1188 (Cancellation of Payroll Deduction for Labor Organization Dues) to the Office of the RA-OASAM. Revocations should be submitted in duplicate. Revocations will not become effective until the beginning of the first pay period which

starts after January 11, provided that the revocation has been received in the Office of the RA-OASAM by that date.

B. Authorizations will be automatically terminated if the member leaves the Department for any reason.

C. Any employee who is reassigned or promoted to a position outside the bargaining unit shall cease to be eligible for dues withholding. Deductions will be terminated at the beginning of the pay period in which the action becomes effective. The affected employees will be provided with the following notice:

NOTICE OF TERMINATION OF DUES WITHHOLDING

Regulations governing dues withholding to a labor organization require that dues withholding be automatically cancelled whenever an employee is reassigned or promoted to a position outside the bargaining unit.

You were recently subject to a reassignment or promotion which will automatically terminate your dues withholding. The final dues withholding will be made for the last pay period in your old position.

If you have any questions regarding the termination of your dues withholding, you may wish to contact an NCFLL Local. You may continue your membership by direct payment of dues.

D. The individual Local Union Treasurer will notify the RA-OASAM within five calendar days when a member of an NCFLL Local who has authorized dues withholding and is currently employed by the Department is expelled or ceases to be in good standing.

Deductions in this situation will be stopped at the beginning of the first full pay period after the notice is received.

Section 6 - Changes in Dues Structure

In the event of a change in the regular dues of the NCFLL Local, the deduction from the salaries of those members who have previously authorized dues withholding for the NCFLL Local will be adjusted upon certification of the dues change by the NCFLL Local Union to the RA-OASAM. This change will be made beginning with the first full pay period which starts after the certification is received. A change in deductions under this Section may not be made more frequently than once every 12 months.

Section 7 - Remittance to the NCFLL and Cost of Service

A. The Department will arrange for a payment to be sent to the individual Local Union Treasurer after each pay period for the remittance of dues withheld.

B. The Department will provide to the individual Local Union Treasurer a biweekly listing of the name and Agency of each member from whose salary dues have been withheld and the

amount withheld for each person listed. The biweekly listing will provide annotated explanations of cases in which dues are not withheld (such as no payment, cancellation, LWOP, separated, etc.). The Department will also send copies of revocation notices to the respective Local Unions as they are received.

C. There will be no cost to the NCFLL or individual Local Unions for dues deductions.

Section 8 - Correction of Errors

A. Administrative errors in remittance checks will be corrected and adjusted in the next remittance check to be issued to the individual Local Union Treasurer. If the individual Local Union Treasurer is not scheduled to receive a remittance check after discovery of the error, the individual Local Union Treasurer agrees to refund the amount of erroneous remittance as soon as practicable.

B. Management agrees that the total error in the amount of dues withheld from individual employees shall be adjusted as soon as practicable after Management has discovered or has received written notification from the individual Local Union Treasurer of an error.

C. Management will provide the employee with a written explanation as follows:

Dear _____:

Article 10 of the Agreement in effect between the Department of Labor and the National Council of Field Labor Locals provides that the Department shall withhold dues from the paychecks of those employees who voluntarily authorize such a withholding. In the exercise of this responsibility an error has been made. As a result, the Department will withhold _____ from your check for pay period _____ in addition to the amount normally withheld.

Section 9 - Duration of Dues Withholding Article

A. This Article will remain in effect after the termination of this Agreement and until completion of negotiations or until 30 calendar days beyond the completion of any third party procedure thereunder.

B. The parties to this Agreement may mutually agree in writing to extend this Article at any time.

C. Should the NCFLL, for any reason, lose its exclusive recognition status under the Statute, deductions for all members will be terminated at the beginning of the first full pay period following loss of such recognition.

Article 11

Management Rights

Section 1 - General

A. The Department retains the right to:

1. Determine the mission, budget, organization, number of employees, and internal security practices of the Department.

1. In accordance with applicable laws:

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

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

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

(d) to take whatever actions may be necessary to carry out the mission of the Department.

B. Nothing in this Section shall preclude the Department and the NCFLL from negotiating:

(1) at the election of the Department, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project,

or tour of duty, or on the technology, methods, and means of performing work;
(2) the procedures which Management Officials of the Department will observe in exercising any authority under this Section; or
(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this Section by such Management Officials.

Section 2 - Applications

The requirements of this Article shall apply to all supplemental agreements between the NCFLL and the Department.

Article 12 Performance Based Actions

Section 1 - General

A. This Article pertains to reduction in grade and removal based on unacceptable performance.

B. The Department will administer actions based solely on unacceptable performance in accordance with law, applicable Government-wide and DOL regulation, and this Article.

Section 2 - Initial Procedure

A. At any time during the performance appraisal cycle that an employee's performance becomes unacceptable in one or more critical elements, Management shall inform the employee as provided in Article 43 of this Agreement. Management should also inform the employee that unless his or her performance in the critical element(s) improves to and is sustained at an acceptable level, as defined in 5 CFR 432, the employee may be reduced in grade or removed.

B. The employee will be afforded a reasonable opportunity to demonstrate acceptable performance in accordance with Article 43 of this Agreement.

Section 3 - Notice of Proposed Action

An employee will be given written notice of a proposed reduction in grade or removal based on unacceptable performance at least 30 calendar days in advance of the action. The employee has a right to representation and will be given the opportunity to respond orally and/or in writing to the proposed action prior to a decision.

Section 4 - Notice of Decision

Management shall make its final decision within 30 days after expiration of the advance notice period and shall issue written notice of the decision to the employee. An employee against whom the action is taken will be informed of any applicable appeal rights.

Article 13 Disciplinary Actions

Section 1 - General

A. A disciplinary action, for the purposes of this Article, is defined as an oral admonishment confirmed in writing, a written reprimand, or a suspension for 14 calendar days or less. In order to ensure a common understanding of how the Department effects disciplinary actions, Regional Labor and Employee Relations Staff will be made available to conduct training at NCFLL Stewards training.

B. No bargaining unit employee will be the subject of a disciplinary action except for just and sufficient cause and for reasons which will promote the efficiency of the Department.

C. A meeting between an employee and his/her supervisor and/or any other Management Official, during which the principal topic of discussion is to be discipline or potential discipline, will entitle the employee involved to request to be accompanied by his/her NCFLL Representative during the meeting. The employee will be informed in advance if discipline or potential discipline is to be the principal topic of discussion. If such request is made, the supervisor or other Management Official will honor the request. If the employee requests an NCFLL Representative, the meeting will be held, or rescheduled, when an NCFLL Representative can be present. Nothing in this Article confers a right to representation during a counseling session.

D. A reasonable period of time should elapse between the date of receipt of the decision to suspend and the effective date of the suspension.

Section 2 - Procedures for Suspension

When Management proposes to suspend an employee for 14 calendar days or less, the following procedures will apply:

A. Management will provide the employee with ten workdays advance written notice of the proposed suspension.

(B) The notice must state reasons for the proposed discipline specifically and in detail, in order to allow

the employee to respond, and must clearly state the employee's right to make a response to the proposal and his/her right to be represented by the NCFLL. The employee will be given an original and one copy for referral to the Chairperson of the NCFLL Arbitration Committee, at the employee's option.

(C) The employee may file a written response and/or make an oral response to the notification prior to the end of the ten workday notice period.

(D) After receipt of the written and/or oral response or the termination of the notice period, Management will issue a final written decision to the employee which shall include a statement of the employee's grievance/arbitration rights, including a statement that any appeal is only to arbitration, which may be invoked only by the NCFLL within ten workdays from employee receipt of the final written decision, and the name, address, and telephone number of the Chairperson of the NCFLL Arbitration Committee. The employee will be given an original and one copy for referral to the Chairperson of the NCFLL Arbitration Committee, at the employee's option.

Section 3 - Grievance/Arbitration Rights

A. An employee who is dissatisfied with an oral admonishment confirmed in writing or with a written reprimand may file a grievance pursuant to Article 15 of this Agreement.

B. If the final written decision provided for in Section 2 of this Article involves a suspension for 14 calendar days or less, the matter may be appealed directly to arbitration, in accordance with Article 16 of this Agreement, by notifying Management within ten workdays from receipt of the final written decision. Such notification shall be by certified mail to the Director, Labor-Management Relations Center (LMRC), with a copy to the appropriate Regional Agency Head.

C. The arbitrator's decision will be in accordance with the provisions of Article 16.

Section 4 - Evidence

A. An employee will, in any disciplinary action, be furnished a copy of all material relied on by Management which formed the basis for the reasons and specifications.

B. If the discipline is based on an investigative report, the employee will be furnished all written documents from the investigation which are disclosable in accordance with applicable law, rule, or regulation.

C. The documentation specified in Subsections A. and B. above will be attached to the notice of proposed disciplinary action.

D. Evidence which Management is not permitted to divulge to an employee under applicable law, rule, or regulation will not be used against the employee.

Section 5 - Exception to Disciplinary Action Appeals

If a matter is pending before a court of law or the employee involved is under arrest or indictment, and the matter is otherwise appealable to arbitration under this Agreement, the arbitration will be postponed pending the conclusion of that legal process.

Article 14 Adverse Actions

Section 1 - General

A. An adverse action, for the purpose of this Article, is as defined in [5 CFR 752](#). In order to ensure a common understanding of how the Department effects adverse actions, Regional Labor and Employee Relations Staff will be made available to conduct training at NCFLL Stewards training.

B. This Article applies to bargaining unit employees who have completed their probationary or trial period.

C. No bargaining unit employee will be subject to an adverse action except for reasons which will promote the efficiency of the Department.

D. A meeting between an employee and his/her supervisor and/or any other Management Official, during which the principal topic of discussion is to be an adverse action or a potential adverse action, will entitle the employee involved to request to be accompanied by his/her NCFLL Representative during the meeting.

The employee will be informed in advance if an adverse action or a potential adverse action is to be the principal topic of discussion. If such request is made, the supervisor or other Management Official will honor the request. If the employee requests an NCFLL

Representative, the meeting will be held, or rescheduled, when an NCFLL Representative can be present.

Nothing in this Article confers a right to representation during a counseling session.

Section 2 - Written Notice

In all cases of proposed adverse action, the employee will be given written notice, which will state any and all reasons for the proposed action specifically and in detail, at least 30 calendar days in advance of the action, except when

there is reasonable cause to believe that an employee is guilty of a crime for which a sentence of imprisonment can be imposed. The employee will be given the opportunity to respond orally and/or in writing to the reasons for the action prior to a decision. The response may include written statements of persons having relevant information.

Section 3 - Evidence

- A. An employee will, in any adverse action, be furnished a copy of all material relied on by Management which formed the basis for the reasons and specifications.
- B. If the adverse action is based on an investigative report, the employee will be furnished all written documents from the investigation which are disclosable in accordance with applicable law, rule, or regulation.
- C. The documentation specified in Subsections A. and B. above will be attached to the notice of proposed adverse action.
- D. Evidence which Management is not permitted to divulge to an employee under applicable law, rule, or regulation will not be used against the employee.

Section 4 - Notice of Decision

- A. An official who sustains the proposed reasons against an employee in an adverse action will set forth his/her findings with respect to each reason and specification against the employee in his/her notice of decision.
- B. If the reasons are sustained in the notice of decision and an adverse action will be imposed, the decision notice shall include a statement of the employee's EEO complaint and MSPB appeal rights. Additionally, if the action is based solely on misconduct, the decision notice shall also include 1) a statement of the employee's grievance rights, and 2) a statement that the employee may appeal to the MSPB or may file a grievance, but not both. The notice of decision shall also include an explanation that any appeal to arbitration may be invoked only by the NCFLL within 30 calendar days from the effective date of the adverse action, and the name, address, and telephone number of the Chairperson of the NCFLL Arbitration Committee. The employee will be given an original and one copy of the notice for referral, at the employee's option, to the Chairperson of the NCFLL Arbitration Committee. If the NCFLL invokes arbitration, the grievance form signed by the employee will be provided to the Labor-Management Relations Center as an attachment to the written invocation of arbitration.

Section 5 - CFR Precedence

The parties agree that any arbitration decision which is issued concerning this Agreement or Article may not have the effect under any circumstances of

requiring Management to reverse or modify any adverse action taken if such decision is in violation of 5 CFR 752.

Article 15

Grievance Procedure

Section 1 - Purpose

The purpose of this Article is to provide a mutually acceptable method for prompt and equitable settlement of grievances. The parties have a mutual interest in resolving grievances at the lowest level in a timely manner. To promote conflict resolution, supervisors, stewards, and employees should deal with the issue(s) and not personalities. Efforts should be made to resolve disputes informally prior to filing a formal grievance. Education and training in dispute resolution is a means to achieve this interest. Interest-based problem solving should be utilized as much as possible to resolve disputes. Both managers and Union Representatives should become familiar with interest-based problem solving techniques.

Supervisors and NCFLL Stewards are encouraged to meet periodically to discuss matters of mutual concern. If informal discussions do not resolve the issue(s) and a grievance is filed, a face-to-face meeting at Step 1 may be unnecessary and can be waived by mutual agreement. At any step of the process, the use of a facilitator may be useful and agreed to mutually.

Nothing in this Agreement shall be construed as precluding discussion between a bargaining unit employee and/or his/her designated NCFLL Representative and his/her immediate supervisor about a matter of concern to either of them.

Once a matter has been made the subject of a grievance under this procedure, nothing in this Agreement shall preclude either party to this Agreement from attempting to resolve the grievance informally.

In addition to the foregoing, the parties remain committed to forging new alternative dispute resolution (ADR) procedures in lieu of the standard negotiated grievance procedure. Such ADR procedures could be utilized at any step of the negotiated procedure. The parties may agree to pilot or experiment with different ADR procedures in different organizational or geographical segments of the bargaining unit.

Section 2 - Coverage and Scope

A. Bargaining Unit Employee(s) Grievance

A grievance by a bargaining unit employee(s), including probationary employees, is a request for personal relief in any matter of concern or dissatisfaction to the employee or group of employees concerning the interpretation, application, and/or violation of this Agreement; or the interpretation or application of Departmental regulations, and the application of Government-wide regulations with respect to personnel policies, practices, and other

matters affecting working conditions. In the case of an employee electing to grieve a conduct-based adverse action, within 30 calendar days of the effective date of the decision, the employee shall file a signed grievance form with the Deciding Official, Steps 1 and 2 of the negotiated grievance procedure are automatically waived, and the Union may invoke arbitration. The time frame for the Union to invoke arbitration is the same time frame the employee has to file with the MSPB, namely 30 calendar days. Therefore, it is incumbent upon the affected employee to coordinate with the Union well in advance of the deadline.

B. NCFLL (Union) Grievance

A grievance by the NCFLL is a request for 1) institutional relief, or 2) personal relief on behalf of two or more bargaining unit employees over the interpretation or application of this Agreement or the interpretation or application of Departmental regulations, and the application of Government-wide regulations covering personnel policies and practices and other matters affecting working conditions. In the case of a Union grievance, the parties will waive Steps 1 and 2 of this negotiated procedure; however, the parties will make an informal effort to resolve the grievance at the level of dispute. If within seven workdays the matter cannot be resolved, it will be transmitted to the Department's Labor-Management Relations Center (LMRC) in Washington, D.C. The LMRC will issue a written decision within ten workdays. Upon receipt of the reply, the NCFLL, may, within 20 workdays, invoke arbitration as provided in Article 16 of this Agreement, with the Director, Labor-Management Relations Center. If no timely reply is issued, the NCFLL may, within 20 workdays from the date the decision was due, invoke arbitration.

C. Issue of Grievability

If Management declares a grievance non-grievable or non-arbitrable, the original grievance shall be considered amended to include this issue. Whenever the issue of grievability is raised before arbitration is invoked, the issue will be referred to the NCFLL Chair of the Arbitration Committee and the Department's Labor-Management Relations Center for resolution.

D. Matters Subject to Appeals Procedure

1. This Article does not apply to:

(a) a matter which is subject to a statutory appeal procedure (except as provided in Subsection 2. below) outside the Department under law or

the regulations of the
Office of Personnel
Management and/or
EEOC including but not
limited to the following:

Actions or Decisions Available Procedure

Reduction in Force [5 CFR 351](#)

EEO Discrimination [29 CFR 1614](#) Personnel Security [5 CFR 732](#)

& [736](#)

Classification [5 CFR 511](#)

Performance Based 5 CFR 432

and Removal Actions

(b) a binding decision
made by an authority
outside the Department;

(c) non-selection from a properly prepared Merit Starring Certificate;

(d) failure to recommend or disapproval of a recommended quality step increase, individual performance award, or other kind of honorary or other discretionary award;

(e) failure to adopt a suggestion submitted under the Incentive Awards Program;

(f) summary rating on appraisal of Highly Effective or Outstanding;

(g) termination and/or separation of probationary employees; and

(h) individual participation in a Flexiplace Program.

2. The Article does apply to coverage, status, and back pay claims under the Fair Labor Standards Act and to the denial of a within-grade increase. The parties agree to the following for denial of a within-grade increase:

In a grievance over a reconsideration official's decision to sustain a determination made by an employee's supervisor to withhold a within-grade increase, the parties will waive Steps 1 and 2 of the negotiated grievance procedure. The grievance may only be appealed directly to the Department's Labor-Management Relations Center within seven workdays after receipt by the employee of the reconsideration decision.

1. With regard to filling any position outside the bargaining unit, employees must utilize the Department's Administrative Grievance Procedure in this regard. (See [DPR 771](#))

E. Matters Subject to Pending EEO Complaint

In the event that an EEO complaint and a grievance are both filed concerning the same set of facts or on the same issue(s), the filing of an EEO complaint shall have the effect of terminating the grievance. In the event the Department dismisses the EEO complaint on a technicality or for a non-substantive reason, the

Union or the affected employee may resurrect the grievance in connection with any non-EEO issues within 30 calendar days of receipt of the Department's EEO complaint decision by notifying the appropriate Management Official at the last processed step of the grievance procedure.

F. Matters Subject to Other Statutory Appeals

If the Department determines that the issue(s) raised in a grievance under this negotiated procedure is subject to a statutory appeals procedure, and is therefore not grievable under this procedure, it shall immediately notify the grievant(s) and/or his designated NCFLL Representative.

Section 3 - Exclusive Procedure

This shall be the exclusive procedure available to unit employees for the resolution of grievances as defined in Section 2A. of this Article and for the Union as defined in Section 2B. of this Article. With respect to conduct-based adverse actions as defined by Article 14, if the Department's final decision is to effect an adverse action against a bargaining unit employee, the employee may elect either to appeal the decision to the Merit Systems Protection Board (MSPB) or to file a grievance as clarified in Article 14. Under no condition may an employee appeal an adverse action to the MSPB and file a grievance.

Section 4 - Representation

A. 1. Bargaining unit employee(s), filing a grievance under

this procedure, may be represented only by a designated NCFLL Steward, Regional NCFLL Official or National NCFLL Official, or a personal representative endorsed by the NCFLL.

2. Any bargaining unit employee or group of bargaining unit employees may present a grievance under this procedure without representation as long as the resolution is not inconsistent with the terms of this Agreement and the NCFLL is given an opportunity to be present at any discussion or attempts at resolution of the grievance with the grievant(s). Official time will be granted and travel expenses will be paid in accordance with Article 8.

B. At each step of the grievance procedure, one representative at a time shall be entitled to official time for purposes of preparation and presentation of the grievance. Travel expenses will be paid in accordance with Article 8.

C. Where the grievant(s) has designated an NCFLL Representative, all communications with regard to the grievance and attempts at resolution of the grievance shall be made through

the designated NCFLL Representative or simultaneously to the representative and the grievant(s).

D. The grievance meeting will be with the contractually designated Management Official and the employee with his/her designated Union Representative. The designated Management Official may have necessary staff support for a full and accurate discussion of the grievance.

Section 5 - Who May Initiate Grievance

A. Employee Grievance

A grievance under this Article may be initiated by unit employees either singly or jointly. Any such grievance must bear the signature(s) of all the aggrieved employee(s).

B. Union or Institutional Grievance

The NCFLL or its designee may initiate a grievance on its own behalf as defined in Section 2B. of this Article. Any such grievance must bear the signature of the grievant. The NCFLL will provide to the Director, LMRC, the names of all NCFLL Representatives authorized to file a Union grievance. In addition, an NCFLL Executive Board member may initiate a grievance on behalf of two or more employees.

Section 6 - Standard Form for Grievance

A. An employee grievance shall be presented on the negotiated standard grievance form. The filing of grievances can be done electronically. It shall be signed by the grievant(s), dated, and at a minimum shall contain:

- (1) date filed;
- (2) the names(s) of the grievant(s);
- (3) the name of the NCFLL Representative, if any;
- (4) specification of the Article(s), Section(s), and Subsection(s) of this Agreement or the Department regulations or working conditions which are alleged to have been violated;
- (5) the nature and facts of the grievance;
- (6) the remedy desired; and
- (7) signature(s) of grievant(s).

B. An appeal of a grievance to a higher Step of this procedure shall include a copy of the grievance form plus copies of all replies received at all previous Steps. In addition, the appeal shall specify any elements of the grievance which have been resolved at a lower Step.

C. Except by mutual consent of the parties, no allegations shall be raised in the appeal of a grievance which were not contained in the Step 1 grievance.

DOL/NCFLL GRIEVANCE FORM

Name of Grievant(s):	Region:
	Agency:
Name of NCFLL Representative (If Any):	Date of Alleged Violation:
Alleged Violation(s) - Contract Article(s), Section(s), Subsection(s), Regulation(s), or Working Condition(s):	
Nature and Facts of Grievance:	
Remedy Desired:	
Step 1 Grievance - Signature(s) of Grievant(s):	Date:
Step 2 Grievance - Signature(s) of Grievant(s) Or NCFLL Official:	Date:

Section 7 - Procedures, Employee Grievance

The parties to a grievance at either Step 1 or Step 2 may mutually agree to use a facilitator to assist them to resolve the grievance. With respect to a grievance concerning a performance appraisal, the parties may mutually agree, in writing, to waive Step 1 and/or Step 2 if the rating official or the reviewing official are the same officials in the grievance procedure.

A. Step 1

1. A grievance must be presented in writing on the negotiated grievance form within 30 calendar days of when the bargaining unit employee or NCFLL has learned or may reasonably be expected to have learned of its cause.
2. A grievance shall be discussed at a meeting, unless mutually agreed to otherwise between the grievant and the immediate supervisor (who prepares the aggrieved employee's performance evaluation) or with the manager whom it is alleged has violated this Agreement. The supervisor/manager shall have seven workdays in which to attempt to resolve the grievance with the aggrieved employee and/or designated NCFLL Representative and provide a written response addressing all the issues raised in the grievance. When and where technology becomes available, grievance decisions may be issued electronically.
3. If the grievance involves merit staffing procedures which prevent an applicant from being considered, the grievance shall be filed with the Regional Personnel Officer. The grievant will discuss the issue telephonically with the Regional Personnel Officer within 30 days of when the bargaining unit employee or NCFLL has learned of its cause. The Regional Personnel Officer will have seven workdays in which to respond telephonically to the grievance. The grievance may be filed at Step 2 with the Regional Personnel Officer on the negotiated grievance form within seven workdays of the response from the Regional Personnel Officer. The procedures set forth below for processing Step 2 grievances must be followed.

B. Step 2

1. A grievance may be appealed to Step 2 of this procedure within seven workdays of receipt of the written response to the aggrieved employee(s) at Step 1 or, if no timely reply is made at Step 1, within

14 workdays after the grievance was presented at Step 1.

The time limit requirement of this Section will be satisfied if the grievant does any of the following:

- (a) Delivers to the Step 2 Official by hand the Step 2 appeal within seven workdays or 14 workdays, as the case may be, of receipt of the Step 1 reply;
- (b) Mails by Government certified mail, to the Step 2 Official, an appeal within seven or 14 workdays, as the case may be, and the mailing envelope shows a postmark with a date indicating that the appeal was mailed within the seven or 14 workday period; or
- (c) Notifies the Step 2 Official by telephone within the seven or 14 day time period, as the case may be, that an appeal is being filed, followed immediately by a written appeal mailed to the Official.

2. The Step 2 grievance appeal shall be presented in writing on the negotiated standard grievance form, together with copies of all replies and other pertinent materials received at the previous Step, to the appropriate Agency Regional Administrator (or equivalent). The Regional Administrator (or equivalent) shall have seven workdays in which to discuss and resolve the grievance with the aggrieved employee and/or the designated NCFLL Representative and to issue a written reply. When and where technology becomes available, grievance decisions may be issued electronically. The discussion will be face to face unless mutually agreed to otherwise. Official time and travel expenses for the NCFLL Representative will be in accordance with Article 8.

3. Upon receipt of the reply of the Step 2 Official, the NCFLL may, within 60 calendar days, invoke arbitration as provided in Article 16 of this Agreement with the Director, LMRC.

4. If no timely reply is issued by the Step 2 Official, the NCFLL may, within 60 calendar days from the date that the Step 2 decision was due, invoke arbitration as provided in Article 16 of this Agreement with the Director, LMRC.

C. Statement of Grievability

Management agrees to furnish the NCFLL a final written statement of grievability/arbitrability of a grievance at the earliest Step possible but no later than 45 calendar days before the hearing.

Section 8 - Failure to Meet Requirements

A. Failure on the part of an aggrieved employee to prosecute his/her grievance within the stated time periods at any Step of this procedure will have the effect of nullifying the grievance unless the parties mutually agree otherwise.

B. Failure on the part of the NCFLL to prosecute a grievance, filed in its own behalf within the stated time periods at any Step of this procedure will have the effect of nullifying the grievance unless the parties mutually agree otherwise.

C. Failure on the part of Management to meet any of the time requirements of this procedure will permit the aggrieved employee or the NCFLL to move to the next Step.

Section 9 - Modification of Procedures

A. The time limits delineated in this Article may be extended by mutual written agreement of the parties at that Step.

B. The parties at any Step may mutually agree in writing to waive that Step of this procedure.

C. For expeditious processing of grievances, the parties, by mutual agreement, may consolidate grievances concerning similar issues into a single grievance.

Section 10 - Stays of Personnel Action

A. Except for adverse actions taken pursuant to 5 CFR 752, Subpart D, a pending or proposed personnel action which has been made the subject of a grievance or arbitration will be stayed upon receipt of written notice pending the final decision of the Department, except that such actions may be completed at the discretion of the appropriate Assistant Secretary or equivalent Agency Head where there is (1) a statutory provision for retroactive restoration of lost compensation in the event the action is reversed, or (2) the action is a promotion or appointment.

B. Should the Assistant Secretary or equivalent Agency Head decide to complete such an action, he/she will state his/her reasons in writing with copies to the aggrieved employee and his/her NCFLL Representative. When it is deemed appropriate, any personnel action not covered in Subsections A.(1) or (2) above may be effected upon written authority of the Secretary.

C. A "personnel action" as used in this Section is:

- (1) an action which requires the issuance of a formal document (DL-50) or form used in lieu thereof through which a change in the employment condition of an employee is recorded and documented;
- (2) a disciplinary action as defined in Article 13, Section 1.A.; and

(3) a detail of more than 30 days.

D. 1. (a) Personnel actions involving the filling of

vacancies are no longer "pending or proposed" when the candidate has been notified of his/her selection by the authorized Regional Personnel Office Official and has accepted the job. Management and the NCFLL agree that such offers and acceptances shall be made and received only by the authorized Regional Personnel Office Official.

(b) Notice to the designated NCFLL Official concerning the selection shall contain the date of selection, the date of the offer, and the date of acceptance.

2. Personnel actions not involving the filling of vacancies are no longer "pending or proposed" as of the effective date indicated on the DL-50 or the form used in lieu thereof recording the action.

Article 16

Arbitration

The invocation of a grievance to arbitration does not preclude the parties from mutually agreeing to achieve resolution through the use of mediation. This mediation does not have to stop the arbitration process from going forward and can occur at any time prior to the hearing.

Section 1 - Selection of Arbitrator

A. When arbitration is invoked by the NCFLL under any of the appropriate provisions of this Agreement, the parties shall, within five workdays from receipt of the request for arbitration, request the Federal Mediation and Conciliation Service (FMCS) to provide a list of five arbitrators with copies to each of the parties. If the request to FMCS is not initiated within five workdays, the NCFLL, after notifying the Department, may request the list of five arbitrators from the FMCS.

B. Within three workdays from receipt of the list from FMCS, the parties shall confer as appropriate to choose an arbitrator. If they cannot mutually agree on one name from the list, the parties will alternately strike one name from the list until only one name remains. The remaining name on the list shall be the duly selected arbitrator. The Federal Mediation and Conciliation Service shall be immediately notified of this selection.

C. The Federal Mediation and Conciliation Service shall be empowered to make a direct designation of an arbitrator to hear the case in the event:

- (1) Either party refuses to participate in the selection of an arbitrator; and/or
- (2) Upon inaction or unreasonable delay on the part of either party.

Section 2 - Cost of Arbitrator; Fees and Travel Expenses

The parties agree to share equally the cost of regular fees, including reasonable travel expenses and reasonable research expenses of an arbitrator selected and assigned to a case. The parties may wish to consult on the "reasonableness" of the arbitrator's charges.

Section 3 - Date and Site of Arbitration Hearing

A. Upon selection of the arbitrator, the respective representatives for the parties will jointly communicate with the arbitrator and each other in order to select a mutually agreeable date for the arbitration hearing.

B. The parties will schedule the hearing within 45 calendar days after the arbitrator is selected. If the arbitrator is unable to schedule the hearing within the time specified, the parties, in conjunction with the selected arbitrator, shall jointly agree to another date.

C. Arbitration hearings will normally be held on the Department's premises at a location where minimal travel expenses will be incurred by the parties.

D. Once an arbitration hearing has been scheduled in accordance with the provisions of this Article, there shall be no recess, postponement, or rescheduling of the hearing except by the express written mutual agreement of the parties to this Agreement.

Section 4 - Proceedings; Transcripts; Official Time and Expenses; Stipulations of Fact; Arbitrator's Award

A. Arbitration of Conduct Based Adverse Actions:

1. The parties agree to have a verbatim transcript of the arbitration hearing and share the cost equally.
2. Either party may file a brief. The parties and the arbitrator, at the conclusion of the hearing, will determine when such briefs will be due.

B. Arbitration of Non Adverse Actions:

1. Representatives of both parties will consult no later than 30 days before the beginning of the hearing regarding the desirability of transcripts and/or briefs.
2. The parties may, by mutual agreement, stipulate the facts of the case and argue their respective positions in briefs without a hearing.
3. Either party may request verbatim transcripts of the arbitration hearing. The requesting party will pay the cost of the transcripts for both parties and the arbitrator.
4. Unless mutually agreed to by the parties, briefs will not be filed. If the parties agree to file briefs, when such briefs will be due will be determined by the parties and the arbitrator at the conclusion of the hearing.

C. The grievant, his/her representative, and all employees who are called as witnesses, in accordance with Section 5 of this Article, will be excused from duty to the extent necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave. Travel expenses of the grievant or appellant, an NCFLL Representative if employed by the Department, and witnesses approved in accordance with Section 5 of this Article will be reimbursed in accordance with the provisions of Article 8 of this Agreement.

D. The Union will have one primary advocate and one technical assistant on official time at hearing. The travel expenses of the technical assistant will be the responsibility of the Union.

E. The parties shall endeavor, wherever possible, to stipulate the facts involved in a case prior to the opening of the arbitration hearing.

F. The arbitrator shall render and serve his written award on the parties to this Agreement within 30 calendar days of the close of the hearing.

Section 5 - Witnesses

A. At least ten workdays before the opening of the arbitration hearing, the parties shall exchange lists of witnesses whom they expect to have testify. The parties shall provide the selected arbitrator with a copy of the list at the same time they exchange lists. The lists shall contain a summary statement concerning the proposed testimony of each proposed witness.

B. If the parties cannot agree, it shall be the sole discretion of the arbitrator to determine who may testify. Upon request of either party, the arbitrator may be asked to make a ruling prior to the hearing, via a pre-hearing telephone conference, on disputes involving witnesses.

C. Except in unusual situations, the arbitrator will not have the authority to keep the record open in order to hear testimony of additional witnesses.

Section 6 - Authority of Arbitrator

A. Management and the NCFLL agree that the jurisdiction and authority of the chosen arbitrator and his/her opinions as expressed will be confined exclusively to the interpretation and application of the provision(s) of this Agreement and/or Departmental regulations. However, regulations and decisions of higher authorities may be introduced as evidence regarding the interpretation and application of the provision(s) of this Agreement and/or Departmental regulations.

B. The arbitrator will have no authority to add to, subtract from, alter, amend, or modify any provision of this Agreement.

C. The arbitrator will have the authority to make an aggrieved employee whole to the extent such remedy is not prohibited by statute, higher level regulations, or decisions of appropriate higher authority, or this Agreement.

D. The arbitrator's decisions will be final and binding. However, the parties reserve the right to take exceptions to any award to the Federal Labor Relations Authority in accordance with its rules and regulations or the U.S. Federal Circuit Court, as appropriate.

Section 7 - Grievability/Arbitrability Decisions

The arbitrator shall have the authority to make all grievability and/or arbitrability determinations. The arbitrator shall make grievability and/or arbitrability determinations prior to addressing the merits of the original grievance.

Section 8 - Extension of Time Limits

Time limits in this Article may be extended by mutual written consent of the parties.

Section 9 - Expedited Arbitration Process

The parties agree to establish a task force to develop an expedited arbitration process. This task force will meet within six months after the effective date of this Agreement. The procedures will be in place within one year from the effective date of this Agreement.

Article 17

GSA Vehicles or Leased Vehicles

Section 1 - Assignment of GSA Vehicles or Leased Vehicles; or Recall

A. Employees may be assigned GSA vehicles or leased vehicles in accordance with GSA usage objectives which for passenger carrying vehicles is a minimum of 3,000 miles per quarter or 12,000 miles per year, or the use of a vehicle is required on a daily or an almost daily basis to conduct Government business, provided, however, that Management is not required to buy, lease, or rent additional vehicles.

B. GSA or leased vehicles may be made available by the supervisor to those employees who do not wish to drive their POV and are required to travel on official business on a daily or almost daily basis and/or there is no public transportation available, or when an employee is required to carry heavy and/or bulky equipment for the performance of his/her job.

C. It is agreed and understood that no employee shall be required to provide a privately owned vehicle for use on Department business or to maintain a privately owned vehicle as a condition of employment.

D. In the event Management makes changes concerning the utilization of GSA or leased vehicles, Management will notify the Union and bargain with it on appropriate procedures and any adverse effect in accordance with Article 2 of the Agreement.

Section 2 - Use of GSA Vehicles

In accordance with GSA requirements that Government-owned or leased vehicles be used only for official purposes, vehicles assigned to employees on either a specific trip or regular basis may be parked at or near the employee's residence during non-duty hours only if the employee is required by his/her supervisor to travel to a temporary duty post in the morning or return home at night without first reporting to his/her duty station, and/or the supervisor has determined that it is more advantageous to the Government to do so. In such

event the supervisor will give the employee prior written approval to park the Government-owned or leased vehicle at or near his/her residence during non-duty hours. Where parking is provided for GOVs, employees may park their POVs in vacant Agency spaces, provided that such use is not prohibited by law, regulation, or lease.

Section 3 - Unsafe Vehicles

Any GSA vehicle or leased vehicle which is reported to be unsafe by the operator shall be returned immediately to GSA or the leasing company (or such facility contacted for instructions) for repair or replacement. If the vehicle cannot be repaired or replaced, the employee will, as soon as practicable (within an hour if possible), provide the supervisor with an estimate of the situation and obtain appropriate instructions.

Article 18 Equal Pay for Equal Work - Position Classification

Section 1 - Equal Pay for Equal Work

Management and the Union agree to the principle of equal pay for equal work.

Section 2 - Position Description

Management will maintain an accurate position description for each position, reflecting the significant duties of the employee filling the position.

Article 19 Equal Employment Opportunity

Section 1 - General

The Department and the NCFLL agree to cooperate in providing equal opportunity for all qualified persons to prohibit discrimination because of age, sex, race, religion, color, national origin, disability, or sexual orientation and to promote the full realization of equal employment opportunity through a positive and continuing effort.

Section 2 - No NCFLL Discrimination

It is agreed between the parties that in the policies and practices of the NCFLL there shall continue to be no discrimination against any employee on account of age, sex, race, religion, color, national origin, disability, or sexual orientation and the NCFLL invites all employees to share in the full benefits of Union membership and organization.

Section 3 - Exchange of Information

Through the procedures established for labor-management cooperation, each party agrees to advise the other of outstanding equal opportunity problems of which they are aware. The Department and the NCFLL will jointly seek solutions to such problems through personnel management procedures and programs provided in this Agreement and in Department regulations. This Section does not apply to individual complaints of discrimination.

Section 4 - EEO Committees

- A. In each Region, there may be a Regional EEO Committee whose membership shall include one representative from each NCFLL Local Union in the Region, who is a bargaining unit employee in that Region.
- B. The functions of these Committees shall include recommendation of necessary changes in new or revised EEO Plans; review of the effectiveness of applicable EEO Plans and Affirmative Action Programs in the Region; and recommendation of actions to remedy shortcomings in existing EEO Plans and Programs insofar as may be appropriate under the Civil Service Reform Act of 1978.

Section 5 - Special Emphasis Program Committees

Wherever Management meets with these Committees (for example, the Federal Women's Program, and Hispanic Employment Program Committees) concerning matters which affect personnel policy and practices and other matters affecting working conditions of employees in the bargaining unit, the NCFLL shall be informed in advance and shall have an opportunity to be present and participate at such meetings.

Section 6 - Meetings with Outside Groups on EEO Matters

- A. Management may from time to time meet with groups or associations other than the NCFLL (for example the NAACP, Urban League, LULAC, GI Forum, IMAGE, NOW, FEW, and SER) concerning EEO matters that affect personnel policy and practices and other matters affecting working conditions of employees in the bargaining unit. The NCFLL shall be informed in advance and shall have an opportunity to be present at such meetings.
- B. Management may from time to time engage in consultation or dealings with religious, social, fraternal, professional, or other lawful associations, not qualified as a labor organization, with respect to matters or policies which involve individual applicability to it or its members provided that such consultation or dealings shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy covering employees in the bargaining unit, or extend to areas where

recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.
C. This Section does not apply to meetings with individual employees concerning an individual complaint of discrimination.

Section 7 - EEO Counselors

- A. Management will appoint and train EEO Counselors selected from a list of nominees which shall include the names of any employees who have been nominated by the NCFLL.
- B. Counselors may not be NCFLL Stewards or Officers and may not be supervisors or Management Officials.

Section 8 - EEO Complaint Resolution

The NCFLL shall be notified of all proposed remedial or corrective actions, which impact on bargaining unit employees, to be taken as the result of informal or formal resolution of EEO complaints.

Article 20 Merit Staffing

Transition - the provisions of Article 20 of the February 1, 1997, National Agreement will remain in full force and effect until such time as the new Merit Staffing procedures can be implemented.

Section 1 - General

- A. 1. It is the policy of the Department and the NCFLL to fill all positions in the bargaining unit in the Competitive Service with the best qualified candidates for the positions to be filled and to assure that employees have an opportunity to develop and advance to their full potential according to their capabilities. It is the intent of the parties to follow the provisions of [DPR Chapter 335](#) unless modified or supplemented in this Article. The Department further agrees to issue a semi-annual reminder to employees of the procedures and desirability for filing advance applications. The Department will notify the NCFLL of its intent to modify DPR 335 during the life of the Agreement. The Union may exercise its right to bargain to the fullest extent of the law.
- 2. The parties agree that all positions in the bargaining unit shall be filled in accordance with procedures outlined in this negotiated Agreement and subject to court order, law, or regulation. The Department agrees that outside applicants selected for a vacancy must be better qualified than applicants within the bargaining unit in accordance with Subsection B.1. below.

B. The Department and the NCFLL agree to the following practices and principles applicable to all merit staffing actions filling competitive positions in the bargaining unit.

1. Based on the criteria and standards of the Merit Staffing Plan, selection will be made from a properly prepared Certificate. Selection will be based on the judgment of the selecting official as to who will best perform in the job to be filled in accordance with the announced requirements.
2. Bargaining unit employees may not file grievances based solely on non-selection.
3. Employees detailed to higher graded positions for longer than 30 days will have these details converted to temporary promotions after serving 30 days, or their detail will be terminated. Normally, when it is known in advance that a detail to a higher graded position for any employee will substantially exceed 30 days, a temporary promotion is a preferred alternative. Employees will be rotated, to the extent possible, to ensure fairness and equal promotional opportunities.
4. Repromotion to grades or positions from which demoted in the Department without personal cause and not at the employee's request may be made as an exception. This would not apply in the case of demotion following a temporary promotion. Special consideration for repromotion is consideration prior to the use of competitive merit staffing procedures for vacancies at the employee's former grade or at any intervening grades for positions for which he/she meets minimum qualification requirements.
5. Selection certificates are valid for a period of 60 calendar days beginning with the date the Certificate is issued. If no selection has been made within this 60 day period, the Certificate is canceled, unless an extension is mutually agreed to by the RA-OASAM and the RCBC Chair.
6. Details to positions at the same or lower grade levels with no "known promotional potential" are excepted from competitive merit staffing procedures. Employees will be rotated to the extent possible. Volunteers will be solicited for details of 60 calendar days or longer.
7. Employees who are temporarily absent in the military service, in public international organizations, in emergency agencies, or inter-governmental

personnel assignments, etc., must also file in the same manner should they wish to receive consideration for vacancies while absent.

8. A trainee who does not satisfactorily complete the training period is assigned to a different position or back to a former or similar position and grade level.

9. Vacancy announcements will be opened for a minimum of 10 calendar days.

10. Management will publish twice a year a list of all entrance level positions that Agencies anticipate filling within the following six months.

Section 2 - General Requirements

A. Equal Opportunity

Actions under a promotion plan, whether in identification, qualification, evaluation, or selection of candidates or any other phase of the promotion process shall be made without regard to political, religious, or labor organization affiliation or non-affiliation; marital status, race, color, sex, national origin, disability, or age, and shall not be based on any criteria that are not job related, including favoritism based on personal relationship, patronage, or nepotism.

B. Procedural Practices and Preferential Management Action

The Department will avoid preferential management practices which may lead employees to believe that a person was preselected for a vacancy or that selection was based on favoritism. These practices include actions taken by Management designed to give preference in promotion to a predetermined individual or group of individuals such as assigning an employee to serve as an understudy, without competition, singling out one or a group of employees for special training or assigning certain employees to more difficult duties with the intent of training them for higher grade work. These practices tend to undermine employee confidence in the system and give rise to complaints even though the selection was proper.

C. Special Assignments - Mine Inspection Work

Special assignments for mine inspection work such as but not limited to roof control, ventilation, special investigator, accident investigator, electrical investigator, health specialist, etc., will be posted within each Mine Safety and Health District so that those interested may apply. The Agency reserves the right to make the final selection.

Section 3 - Candidates to be Considered

In accordance with the provisions of this Agreement, all candidates considered under this article who are to be evaluated must be evaluated and certified by the

same criteria using the same methods and forms. All evaluation criteria must be job related.

Section 4 - Merit Staffing Reevaluations

A written request for reevaluation will be granted during the three workday period after the Certificate is issued and before the selection is made if a question regarding qualifications and/or the action of the Panel or Qualification Rating Examiner (QRE) has been raised by an employee who applied for the position and did not make the Certificate.

Section 5 - Selection

A. Action by the Selecting Official

The selecting official may make a selection no sooner than the fourth workday after the issue date of the Certificate unless a request for reevaluation has been received at which point the selection must be delayed until the reevaluation is completed and the Certificate revalidated.

B. Interviewing Candidates

1. The selecting official must interview each DOL bargaining unit candidate on the Certificate. The interview of bargaining unit candidates should be done face to face where practicable if the candidates are in the same Region. When the selecting official and the candidate are in the same commuting area, the interview will be face to face. If the candidates are not in the same commuting area, the interview may be conducted by telephone. Supervisors must release DOL employees for such interviews for the necessary length of time.
2. In the event that circumstances make the candidate unavailable within five workdays after notification of certification, the interview need not be conducted.

Section 6 - Keeping Employees and the NCFLL Informed

A. General Information on the Department of Labor Merit Staffing Plan

1. Copies of the Plan

Copies of this negotiated Merit Staffing Plan shall be maintained by each personnel office for consultation by employees upon request.

2. Periodic Issuances

Periodically, information on the Plan will be issued in the form of Spotlights, articles in internal publications, and booklets, including information on how employees may file for vacancies.

3. Information on Qualification Requirements

Summaries of the qualification requirements for vacancies are included in vacancy announcements. Complete qualification standards shall be available for employee review in personnel offices.

4. Career Planning and Counseling

Agencies are responsible for providing career planning and counseling for their employees. An employee should be informed of what jobs are in his/her career ladder; what he/she can do if he/she is in a job with limited promotion opportunities; what additional experience and education he/she needs to meet qualification requirements for higher-level positions; what education and training would be useful to him/her; and what he/she should do to improve his/her chances for promotion.

5. Information on Certificates

A copy of each Certificate from which selections may be made will be sent to the designated NCFLL Representative at the same time it is sent to the selecting official for positions in the bargaining unit.

B. Information on Selection - Informing the NCFLL Representatives

The designated NCFLL Representatives will be notified of the names of candidates selected for positions within the unit. Such notification will be made by the personnel office processing the personnel action as soon as a selection has been made, and it is determined that the selection meets requirements (with respect to procedural compliance and adherence to this Agreement as well as law and regulation) and the candidate is available. The NCFLL Representatives designated for the Region in which the vacancy exists will be notified of the selection in accordance with Article 15, Section 10D.1.(b).

C. Information on Specific Actions

1. Information Available to Employees

The following additional information about specific actions is available to employees, or their designated NCFLL Representative from the personnel office upon written request:

- (a) sources (defined in Section 5) used to consider candidates for a specific position;
- (b) in what areas, if any, the employees should improve to increase their chances for future

promotion or entrance into the occupation;

(c) if the vacancy was not filled, the reason it was not filled; and

(d) who was selected for promotion.

2. NCFLL Request for Specific Information

Where it is alleged that a specific violation, or concern, of the Merit Staffing Article has occurred, the designated NCFLL Representative shall notify the RA-OASAM in writing that a preliminary examination of record is being requested and cite the alleged violation. Such a request must specify the name of the individual or individuals directly involved. The representative designated by the NCFLL in writing, in the presence of a personnel office representative, shall be given access to the merit staffing records of the particular action, sanitized as appropriate.

3. NCFLL Orientation Material

The NCFLL will be afforded the opportunity to include appropriate material in new bargaining unit employee orientation packages.

Section 7 - Merit Staffing Reviews

A sanitized copy of the biannual Accountability Review conducted at Regional Human Resources Offices will be made available to the affected RCBC Chairs when finalized. In addition, the affected RCBC Chairs will be notified of any scheduled OPM reviews of Regional Human Resources Office operations

Section 8 - Corrective Actions

Violations of this Article shall be corrected in a manner appropriate to the nature of the violation and the circumstances surrounding it. Such corrective actions may include but are not necessarily limited to: program or procedural changes in the organization; removal of an erroneously promoted employee from the position; priority consideration of employees who were not given proper consideration because of the violation; and other remedies as stated in 5 CFR 335 or awarded by third party process and not in violation of the law, higher regulations, or the provisions of this Agreement. Corrective action will be taken as soon as possible but no later than two pay periods after a decision has been made.

Article 21 Personnel Records

Section 1 - Official Personnel Folders

A. The Department shall maintain the Official Personnel Folder of each unit employee, on behalf of the Office of Personnel Management in the appropriate Regional-OASAM or at the National Office. Official Personnel Folders are subject to the Privacy Act and Freedom of Information Act.

B. Material placed in the employee's Official Personnel Folder, as allowed by applicable law, rule, or regulation may be discussed with the employee. The employee will be given that copy designated as "Employee Copy" of the material placed in his/her Official Personnel Folder.

C. Unfavorable material placed in an employee's Official Personnel Folder shall be discussed with the employee to the extent disclosure of the material is required under applicable law, rule, or regulation.

D. Employees shall be advised of the length of time the Department intends to maintain unfavorable material in the Official Personnel Folder. If the Department reduces the time in which it maintains such material in the Official Personnel Folder, the employee shall be so notified.

Section 2 - Employee Performance Files

These files shall be maintained in personnel offices separately from Official Personnel Folders. They shall not be made available to persons who do not have an official need for them. Performance ratings will be disposed of in accordance with OPM requirements.

Section 3 - Working Files

A. Working files, if maintained by supervisors, shall be limited to dated documents and records of immediate concern to the supervisor and the employee. Such files are subject to the Privacy Act.

B. The working file maintained by a supervisor on an employee shall be made available at reasonable times upon request to that employee for review. Working files shall not be made available to Merit Staffing Panels or Qualification Rating Examiners.

C. Material will not be maintained in an employee's working file indefinitely. Working files should be reviewed at least once a year for disposal of non-current material. In the event material in the employee's working file is used as backup for a proposed adverse or performance-based action or is the subject of a grievance or other appeal, that material shall be placed in the appropriate official file and retained for the time required by Privacy Act regulations.

Section 4 - Employee's Review of Files

The right of the employee to review his/her Official Personnel Folder, at reasonable times and upon request to the appropriate official, is subject to the provisions in Section 1 of this Article.

Article 22 Training

Section 1 - General

The Department and the NCFLL agree that the training and development of employees within the bargaining unit is a matter of importance. The NCFLL and Department further agree that bargaining unit employees should benefit from lifelong training consistent with the policies of the Department and Secretary of Labor. Consistent with its needs, and in keeping with the principles of equal employment opportunity, Management agrees to develop and maintain forward-looking, effective policies and programs designed to:

- (A) aid employees in improving their performance in their current positions to provide an internal pool of qualified candidates for consideration for anticipated future vacancies in the Department; and
- (B) provide general career mobility opportunities within the Department.

The Department and the NCFLL further agree to use the Regional Labor-Management Relations Committee meetings with each Agency as the forum for Union and Management discussions regarding employee technical training needs and programs. General and cross-Agency employee training needs and programs may be discussed, as appropriate, at the meetings.

Section 2 - Official Time and Travel, Labor Relations Training

A. 1. During each year of this Agreement, up to 40 hours of official time and travel will be granted upon written request to all certified NCFLL Stewards, as described in Article 6, and Regional NCFLL Officials, as described in Article 7, for Steward training. Normally, this training will be held within the Region the Stewards are located, and in the commuting area in which there is a concentration of Stewards, unless mutually agreed otherwise by the NCFLL and DOL. Travel will be paid for one National NCFLL Official to attend each 40-hour training session.

- 2. It is agreed that containment of cost is a mutual concern to both the NCFLL and the DOL and, to the extent possible, the training will be held in cost effective locations. The parties further agree to establish a budget based on previous years= costs for Steward training and the Leadership Conference. Annually the budget will be adjusted to reflect

changes in travel costs. The NCFLL will be responsible for distributing the budget for Steward training.

3. Agendas for the Stewards= training will be developed and shared with the Department annually prior to the training. The NCFLL will develop a core curriculum for Stewards= training and share it and any subsequent changes with the Department.

B. Annually up to 40 hours of official time and travel will be granted upon written request of the President of the NCFLL to the Director of Labor-Management Relations Center for up to 35 NCFLL designated representatives to attend conferences designed primarily to deal with labor-management issues affecting the NCFLL and the DOL and to train the Union Representatives to be more effective leaders in administering the labor-management relationship for the Union.

Section 3 - Travel

NCFLL designated representatives may use the Government travel system at no cost to the Government to attend meetings and conferences which relate to the maintenance of an effective labor-management relationship.

Section 4 - DOL Paid Tuition

Where an employee pursues courses which meet the criteria under the appropriate organization's Employee Training and Development Plan, the costs of registration, tuition, books, and materials will be borne by the employee's Agency, subject to the availability of funds and prior approval by the necessary authority, subject to [5 U.S.C. 41](#) and [Executive Order 11348](#). Approval may be made retroactively if the request is submitted prior to the beginning of training.

Section 5 - Equipment and Time for Continuing Education

A. Bargaining unit employees may use the DOL's computers to enroll and take approved electronic courses, i.e., Learn2 University.

B. DOL will allow limited duty time to take course work that is in the best interest of the employee and the DOL. Employees may enter into an approved training plan with their supervisor and be granted duty time to pursue lifelong training courses and electronic courses. The plan will specify the number of regular duty time hours an employee can spend on course work. Employees who voluntarily take courses outside of regular duty time hours during their own time will receive no compensation for this time.

Section 6 - Ad-Hoc Training Advisory Groups

As the Department initiates new programs and services, ad-hoc advisory groups may be established to assist the Department in the design and implementation of these initiatives. These ad-hoc working groups will be composed of clerical,

supervisory, and Management employees of the Department. In those cases where the work of a group will impact upon bargaining unit employees, representatives of the NCFLL will be given the opportunity to be included on these committees.

Article 23

Space

The Department and the NCFLL agree that issues concerning employee work space should be dealt with at the office location between the affected employees and local Management to the fullest extent possible. When Management has determined that changes are necessary in employee work space (including relocations as well as renovations), the following should occur:

(A) Local Management should involve the affected employees and the designated office Steward as early in the planning process as possible to obtain employee and Union input.

(B) Local Management, through the Office of the Regional Administrator-OASAM, should notify the Chair of the Regional Collective Bargaining Committee as soon as it is known that a change in office space is necessary.

(C) It is desirable that issues concerning space be resolved informally through discussion among the affected employees, the office Steward, and local Management, with the understanding that any unresolved issues can always become the subject of formal midterm bargaining.

(D) The parties acknowledge that external constraints (GSA, lessors, etc.) must be taken into account in connection with such informal or formal attempts at resolution.

(E) The parties agree that when it is mutually desirable, midterm bargaining concerning space, pursuant to Article 3 of the Agreement, may be held at a site other than the Regional city.

Article 24

Official Travel

Section 1 - General

Management and the NCFLL recognize that the nature of the mission of the Department is such that occasionally bargaining unit employees will be required to travel from their official duty station.

Section 2 - Scheduling Official Travel

A. Management agrees, if administratively controllable, to schedule and arrange for travel of bargaining unit employees (for TDY jobs, meetings, conferences, seminars, audits, training sessions, etc.) to occur within each employee's standard workweek, to the extent practicable.

B. Insofar as practicable, travel during non-duty hours shall not be required of an employee. When it is essential that this be required and the employee may not be paid overtime under [Section 550.112\(e\) of Chapter 5, Code of Federal Regulations](#), the official shall record his reasons for ordering travel at those hours and shall, upon request, furnish a copy of his statement to the employee concerned.

When travel results from an event which cannot be scheduled or controlled administratively, such travel is hours of employment for pay purposes. The parties agree that disputes arising under this Section may be adjusted through the use of the grievance procedure provided in Article 15 of this Agreement.

C. The Agency shall avoid requiring employees to perform continuous automobile travel for more than eight hours in any workday.

D. MSHA employees will be allowed to submit a claim for travel expenses at the end of each trip, and they will be processed for payment.

E. Blanket travelers may submit a voucher whenever reimbursable expenses exceed \$300.00 provided that no more than two vouchers are submitted for any month.

F. The Department's policy is to pay travel vouchers within 20 workdays of submission by the traveler.

Section 3 - Notification of Temporary Duty

Employees who are assigned from their present official duty station for extended temporary duty elsewhere shall be notified at least two weeks in advance. In unusual circumstances, employees will be notified at the earliest possible time.

Section 4- Alternative Travel

When an employee on TDY voluntarily returns to the official duty station or place of abode for non-workdays, the maximum reimbursement for the round trip transportation and actual subsistence incurred enroute shall be limited to the actual subsistence and transportation expenses which would have been allowed had the employee remained at the TDY station. Such voluntary travel will be on the employee's own time.

Additional information regarding alternative travel is available in DLMS-7 which covers travel and transportation.

Article 25

Hours of Work

Section 1 - Workweek

A. Standard Workweek

For all Agencies, the basic workweek shall consist of five consecutive eight-hour days, Monday through Friday (with the same starting and finishing time each day) except for those employees with rescheduling authority as agreed upon by the NCFLL and Management, first 40-hour tour of duty, or flexitime. The function of these exceptions are to enhance the ability of the Agencies to carry out their missions and to address employee needs.

B. Rescheduling Authority

1. The basic workweek for rescheduling authority shall be five, eight-hour days, Monday through Friday of each calendar week. The eight hours of duty may be rescheduled daily according to work requirements by employees or their supervisors. This rescheduling may be subject to the mission needs of the Agency and will be consistent with applicable laws and regulations.
2. If an employee abuses his/her rescheduling authority, Management may withdraw this authority upon advance notice to the employee.

C. MSHA First 40-Hour Tour of Duty

The basic workweek for first 40-hour tour of duty for MSHA Authorized Representatives and Right of Entry employees shall be the first 40-hours worked within a period of five consecutive days in the Sunday through Saturday administrative workweek, beginning as early as Sunday but no later than Monday unless requested by the employee and approved by Management. An employee may vary the number of hours worked on a given workday within the week. This scheduling may be subject to the mission needs of the Agency and will be consistent with applicable laws and regulations. An exception to the above may be made for professional technical staff in district offices that elect to work a different schedule. Such election is subject to Management approval, Agency mission and must be in accordance with applicable law, regulation, and consistent with other provisions of this Agreement.

Section 2 - Reporting Hours Worked

All employees shall report and record all hours worked, including authorized and/or approved overtime hours in the Department's automated time and attendance system. It is understood by the parties that any Agency program time distribution tracking system is for purposes of tracking program activity and not for tracking employee time and attendance for pay purposes.

Section 3 - Changing Work Schedules

A. General Changes

Management agrees to notify the NCFLL at least three weeks in advance of any Management initiated proposal to make a general change in regularly scheduled hours of work.

B. Intermittent Changes

Management agrees that short-term changes in an employee's scheduled hours of duty shall be kept to the minimum necessary to accomplish the mission of an Agency. When Management has advance knowledge of the need for such changes, Management shall notify the designated NCFLL Official and the employee as soon as possible.

Section 4 - Split Shifts

Management will not schedule breaks of more than one hour in a workday, as provided in [DPR 610](#), Subchapter 1.

Section 5 - Rest Breaks

A. There will be a 15-minute rest break in the first half of an eight-hour day and a 15-minute rest break in the second half of an eight-hour day.

B. Breaks will be scheduled by the employee, subject to supervisory approval, so that the operations of the Department are not interrupted. Rest periods will not be continuations of lunch periods, and they may not be granted immediately after the beginning of the workday or immediately prior to quitting time, nor shall they be accumulated.

Section 6 - MSHA Cleanup Time

A. Mine inspection personnel on duty at mine sites, or upon returning to the office, will be granted time to cleanup, not to exceed 15 minutes, prior to the end of the workday, where facilities are available.

B. When MSHA requests new or additional space from GSA, shower facilities will be included in the request.

C. The MSHA Academy will provide a reasonable amount of time when necessary and limited to 15 minutes, consistent with the nature of the work performed, for employees to change clothes at

the beginning and end of the workday and to cleanup prior to the lunch period and at the end of the workday. In the same manner, a reasonable amount of time will be allowed for employees for the storage, cleanup, and protection of Government property, equipment, and tools prior to the end of the workday.

Article 26 Overtime

Section 1 - General

- A. Management, at its discretion, may require employees to work overtime.
- B. Employees shall have advance authorization from Management to work overtime.

Section 2 - Distribution of Overtime

Overtime will be distributed as equitably as possible among qualified employees. First consideration will be given to those employees who are permanently assigned to the job.

Section 3 - Overtime Compensation for Non-Exempt Employees

All employees who are non-exempt under the Fair Labor Standards Act will be compensated in accordance with applicable law and regulation for work performed: (1) in excess of eight hours in a day or 40 hours in a week that is ordered or approved, or (2) in excess of 40 hours in a week that is suffered or permitted.

Section 4 - Overtime Compensation for Exempt Employees

- A. All exempt employees who have been authorized in advance to work over eight hours per day or 40 hours per week will be compensated in accordance with applicable laws and regulations.
- B. An exception to the advance authorization requirement will be made when the exigencies of the situation require overtime work. In case of abuse, Management may withdraw this discretion of an employee to perform overtime work without advance approval.

Section 5 - Call-Back Overtime

Unscheduled, irregular, or occasional overtime performed on a day when work is not ordinarily scheduled, or for which the employee is required to return to his/her place of employment, is at least two hours in duration for pay purposes.

Article 27

Flexitime

Management and the NCFLL agree to support the application of flexitime plans within various organization segments of the Department. Both parties further agree that it is the mutual responsibility of Management and employees to effectively and efficiently accomplish the mission of the Department.

A. General

1. All Agency field organizations in the Department may be covered by the schedules as provided herein.
2. Any employee may continue working a standard schedule.
3. Part-time employees may not participate in flexitime schedules.
4. In the event of a conflict of flexitime scheduling among employees at a given organizational unit, length of Agency service will govern, in the absence of personal hardship or mission needs.
5. This Article and any supplemental agreements will be administered according to [Title 5 U.S. Code, Chapter 61, Subchapter 2](#), and [5 CFR 610, Subpart D](#).

B. Existing Schedules

All plans currently not in conformance with this Article will be brought into conformance, or will have no force/effect as of six months after the effective date of this Agreement.

C. Types of Schedules

1. Variable Week is a flexible schedule containing core time on each workday in the biweekly pay period in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period. An employee may vary the number of hours worked on a given workday or the number of hours each week, within the limits established for the organization. Credit hours are applicable to this schedule.
2. Flexitour is a flexible schedule containing core time on each workday in which an employee has a basic work requirement of eight hours per day and 40 hours per week and in which the employee, having once selected starting and stopping times within the flexible time band, continues to adhere to these times. Opportunities to select different starting and stopping times may subsequently be provided by the Agency. Modified Flexitour is the same as Flexitour except that the employee may modify his/her schedule with the prior approval of the supervisor. Credit hours are not applicable to this schedule.

3. Gliding Schedule is a flexible schedule containing core time on each workday in which a full-time employee has a basic work requirement of eight hours in each day and 40 hours in each week, and may select an arrival time each day and may change the arrival time daily as long as it is within the established flexible time band. Modified Gliding Schedule is the same as Gliding Schedule except employees must insure minimum coverage is maintained during customer service hours. Credit hours may be applicable to this schedule if negotiated at the Regional level.

4. Variable Day is a flexible schedule containing core time on each workday in the week and in which a full-time employee has a basic work requirement of 40 hours in each week. An employee may vary the number of hours worked on a given workday within the week, within the limits established for the organization. Credit hours are applicable to this schedule.

5. Flexible First 40 Tour of Duty is a flexible schedule for MSHA Right of Entry employees only in which a full-time employee has a basic work requirement of the first 40 hours worked during not more than five consecutive days in the Sunday through Saturday administrative workweek, beginning as early as Sunday but no later than Monday unless requested by the employee and approved by Management. An employee may vary the number of hours worked on a given workday within the week. This scheduling may be subject to the mission needs of the Agency and will be consistent with applicable laws and regulations. Credit hours are not applicable to this schedule. Overtime hours for employees on a flexible first 40-hour tour of duty are all hours in excess of the first 40-hour schedule that are approved in advance.

6. Compressed Schedule is an 80-hour biweekly basic work requirement which is scheduled for less than ten workdays. The Compressed Schedules used most often are the 5-4/9 and the four-day week. In the 5-4/9, full-time employees work eight nine-hour days and one eight-hour day in a pay period. Full-time employees work four, ten-hour days in the four-day week Compressed Schedule. Overtime hours in a Compressed Schedule are any hours of work,

approved in advance, in excess of those specified hours which constitute the Compressed Schedule.

D. Definitions

In the above schedules, the following definitions shall apply:

(1) Credit hours are applicable to Variable Week, Variable Day, and when negotiated at the Regional level may be applicable to Gliding Schedule and are earned for the time voluntarily worked in excess of an employee's basic work requirement. Employees may not "borrow" credit hours or use credit hours unless they have been accrued during a previous pay period. Employees may carry over up to 24 credit hours from pay period to pay period. Credit hours are earned and may be used in 15-minute increments. However, time spent in AWOL status will not count toward the basic work requirement for the purpose of accumulating credit hours.

(2) Core hours are those designated times and days during the biweekly pay period when an employee must be present for work. Core hours shall be 5-1/2 hours a day. Core hours will normally be 9:30 a.m. until 3:00 p.m., unless negotiated otherwise. With the supervisor's approval, an employee may use credit hours or leave during core hours.

(3) Overtime hours in flexible schedules (except Flexible First 40 Tour of Duty employees) are all hours in excess of eight hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours.

(4) Rest periods will not be continuations of lunch periods, and rest/lunch breaks may not be granted immediately after the beginning of the workday or immediately prior to quitting time, nor shall they be accumulated.

E. Timekeeping

1. Employees who work a Variable Week, Variable Day, or Gliding Schedule and who are assigned to office work or physically report to an office at the beginning and end of each day will use serial sign-in/sign-out sheets showing times of arrival and departure to record and report attendance. Under the serial sign-in/sign-out method, employees sign their name and record their time of arrival in order, one after the other. When departing from work at the end of the employee workday, employees again sign their name and record their time of departure in order, one after the other. The serial sign-in/sign-out sheet will be adjacent to a centrally located clock which will be used to determine the time recorded. For each pay period, employees will report and record all hours worked, in the Department's automated time and attendance system. For each week, total time will be rounded down to the nearest 15 minutes.

2. Employees who work a Variable Week, Variable Day, or Gliding Schedule and are not assigned to office work or do not physically report to an office at the beginning and end of each day will report and record all hours worked, in the Department's automated time and attendance system for each pay period. For each week, total time will be rounded down to the nearest 15 minutes. When these employees report to the office they will use the serial sign-in/sign-out sheets.

F. Hours of Work

1. Employees assigned to work in the office for the day may begin work as early as 6:00 a.m. and may work as late as 6:30 p.m., Monday through Friday. Each employee (except Compressed time or Flexible First 40 employees) will orally inform their supervisor of their plans to work more than eight hours or beyond the end of the official workday of their immediate supervisor. This notification shall be made no later than the end of the core hours of the day on which the hours are to be worked. Such notification will allow the supervisor to make or alter the employee's work assignment as needed.

2. An exception to the advance authorization requirement for an employee will be made when the exigencies of the situation prevent advance authorization of work. In case of abuse, Management may withdraw this discretion of an employee to work

more than eight hours in a day without advance approval.

G. Pay Administration

Employees will be paid for the number of hours worked plus the amount of paid leave used. For pay purposes, credit hours will be treated as a type of leave.

H. Coverage of Mission Needs

1. Management is responsible for seeing that the mission of the Department is carried out. Management will determine mission need requirements after discussions with employees/representatives at the local level. Some examples of the Principal forms of coverage are:

- (a) answering phones;
- (b) Providing clerical, technical, and professional support;
- (c) providing office representation at essential meetings;
- (d) handling inquiries from the public; and
- (e) providing program needs based on business necessity.

2. Coverage requirements, once established by the supervisor in accordance with Subsection 1. above, will remain in full force and effect until altered, amended, or revised.

3. Employees assigned to training or any other temporary duty assignment with an established schedule will adhere to the established schedule of the temporary assignment for the duration of the assignment.

I. Abuse

1. If an employee abuses his/her flexitime schedule, Management may remove the employee from participation in the flexitime plan upon advance notification to the employee. Abuse is defined as including but not limited to:

- (a) Abuse of timekeeping system.
- (b) Continued failure to accurately record hours worked in serial and individual logs.
- (c) Failure to adhere to office coverage requirements.
- (d) Failure to arrange schedules so that work

hours, including approved absences and credit hour use, total to 80 hours of work per pay period.

(e) Falsification of time reporting records.

2. Removal from flexitime for abuse of its requirements is not a disciplinary action, but does not preclude other action by the employer within its authorities to effect disciplinary action including removal from employment.

3. Normally employees will be given notice before being removed from the plan.

J. Implementation

1. Preliminary discussions concerning applicability of flexitime schedules to local mission needs and responsibilities may be held between local Management and the local NCFLL Representative.

2. Normally there will be one flexitime plan per Agency organizational unit.

1. All proposed flexitime plans will be reduced to writing and submitted to the Regional Collective Bargaining Committee and Management for their review at the next Regional Labor-Management Relations Committee meeting.

1. All flexitime plans will be approved prior to implementation. Approval of written flexitime plans will be accomplished through mutual agreement of the Regional Collective Bargaining Committee and Regional Administrator-OASAM.
2. When flexitime plan disputes cannot be resolved at the Regional Labor-Management Relations Committee meeting the issue may be forwarded to the Federal Services Impasse Panel. This does not preclude discussions at the National level to attempt resolution.

Article 28 Flexiplace

Section 1 - Purpose

The NCFLL and the Department recognize circumstances where it is mutually beneficial for employees to perform work at sites other than the traditional office or at locations other than where typical field work is performed. Such circumstances include, but are not limited to, accommodation of special needs,

disabilities, energy or environmental conservation, savings in commuting costs, the need for an uninterrupted work environment, cost or space savings, or better geographic coverage for Agency mission. Employees and their supervisors may make Flexiplace arrangements for purposes of promoting the efficiency of the government and fostering a family friendly DOL. While Flexiplace is not intended to be a substitute for family care, it may enhance the quality of family life through savings in commuting time. Flexiplace must be voluntary and consistent with mission accomplishment and customer service.

Section 2 - Types of Arrangements

There are two basic types of Flexiplace arrangements:

- (A) Informal arrangements are episodic in nature, requiring agreement between employees and their supervisors; however, no written agreements are required.
- (B) Formal arrangements are more permanent in nature, and include Telecommuting Centers or home-office sites. These require a written agreement. Trial periods may be utilized to determine the practicality of long-term formal arrangements.

Section 3 - Eligibility and Application

Both parties anticipate that the predominant use of Flexiplace will be informal or episodic. When employees wish to participate in formal programs, they will apply to their respective supervisor(s) who will evaluate requests by considering aspects such as:

- \$ Whether the employee's work can be performed at an alternate work site.
- \$ Cost of such arrangement.
- \$ Technological and equipment needs.
- \$ Communication needs.

Employees are encouraged to seek guidance and advice from their designated Steward when requesting to participate in the formal Flexiplace program. The designated Steward shall be notified before a written agreement is finalized. Management will notify the NCFLL at the tri-annual meetings of the names of the individuals approved for formal Flexiplace arrangements and the effective dates. If the supervisor and employee agree to a formal program, the specifications of the agreement will be reduced to writing and signed by both. If consensus cannot be reached, the supervisor will explain the reason(s) for denial. Pre-existing Flexiplace arrangements should be brought into conformance with the requirements of this Article.

Section 4 - Recall

Employees participating in Flexiplace programs must be accessible and available for recall to their regular offices for a variety of reasons. Employees may be called back for emergencies or new work assignments.

A recall is not a termination of the Flexiplace arrangement.

Section 5 - Consideration for Formal Program

Supervisors shall consider aspects such as:

- (1) Whether the work can be performed at the proposed site and whether the arrangement would be consistent with the mission of the Agency.
- (2) Costs of such arrangements.
- (3) Existing performance, conduct, or leave restriction situations.
- (4) Technology requirements.
- (5) Office coverage, access to the customer, team involvement, and access to the supervisor.

Section 6 - Termination of Agreement

A. Supervisors may terminate agreements whenever:

- (1) The arrangement no longer supports the mission.
 - (2) Performance standards are not being met or conduct is unacceptable.
 - (3) Normal production and quality of work are not being maintained.
- (4) Costs of the agreement become impractical.
 - (5) Technology changes require return to the regular office.
- (6) Reassignment causes a change of work.
 - (7) Employees do not conform with the terms of their agreement.

B. Management will attempt to provide appropriate advance notice of the termination of an agreement to the extent practicable.

C. Employees may voluntarily terminate participation in Flexiplace arrangements at any time; however, employees may be expected to continue working at home offices or Telecommuting Centers for a reasonable period to allow Management time to arrange a work station.

D. Termination of agreements may necessitate shared work stations in the regular office or reassignment to another office.

Section 7 - Pay Status

A. Overtime and night pay differential agreements will conform to regulations and this contract. Employees will not perform overtime or night work at alternate work sites without prior approval.

B. Agreements will conform with time and attendance regulations and this Contract. Hours of work will be described in formal agreements. Agreements may conform to the flexitime plan for the office and will conform to the Contract.

Section 8 - Dispute Resolution

Supervisors and employees are expected to resolve disputes related to the Flexiplace program informally.

Disputes related to denial of participation, recall, or termination of agreements that cannot be resolved informally will be submitted in writing directly to the Regional Head of the Agency.

The Regional Head of the Agency will hold a face-to-face meeting with the employee and his/her Union Representative within five working days to hear the appeal of actions taken by Management.

The Regional Head of the Agency will make a written determination to all parties within two working days after the meeting.

Time extensions and alternatives for face-to-face meetings will be made by mutual consent of the Union and the Regional Head of the Agency.

The Regional Head of the Agency's decision is final and binding.

Nothing in Article 28, Section 8, will interfere with the Union's right to file an institutional grievance, as described in Article 15, Section 2B, seeking relief regarding the application of Article 28.

Article 29

Job Sharing

In today's labor market, the NCFLL and Management recognize that more flexible work schedules are necessary to attract and maintain a quality work force.

Job sharing is a way to permit employees to work part-time in positions where full-time coverage is required.

A. Definition

Job sharing is a form of part-time employment in which the tours of duty of two (or more) employees are arranged in such a way as to cover a single full-time position.

B. Status

Although they share the duties of a full-time position, job sharers are considered to be individual part-time employees for purposes of appointment, tour of duty, pay, classification, leave, holidays, benefits, position change, service credit, record keeping, reduction in force, adverse actions, grievances, and personnel ceilings.

C. Tour of Duty

Specific work schedules depend on the nature of the job and the needs of the office and the job sharing team. Almost any reasonable arrangement is possible if it meets the needs of the supervisor and the job sharers. Scheduling should take advantage of the fact two people rather than one are filling the job; these possibilities include overlapping time, split shifts, or working in different locations at the same time. Work schedules for job sharers

can be from 16 to 32 hours per week and can be varied in the same way as other part-time employees. The amount of scheduled overlap time depends on the needs of the particular position.

D. Other

A proposal can come from a full-time employee who wants to reduce work hours, from a team of job sharers, or from a supervisor who wants to consider filling a vacancy with job sharers. When an employee's request for part-time cannot be accommodated because of the need for full-time coverage, job sharing may well be an option. Any job sharing arrangement is subject to Management approval based on workload and mission requirements.

Article 30 Dependent Care

Section 1 - General Statement

Recognizing that balancing home and workplace needs is important to the well-being of employees and therefore the productivity of the Department, Management, and the NCFLL support DOL programs designed to assist employees in meeting their child and elder care needs. General programs and practices which serve to assist DOL employees in meeting these concerns and needs have been incorporated by the Department and the NCFLL into this Agreement in other Articles: Flexitime, Job Sharing, Maternity and Family Leave, and Flexiplace. The intent of this Article is to encourage development of innovative and cost effective approaches to providing additional assistance in meeting employee child and elder care needs. The Department, to the extent permitted by Government rules and regulations and budget, will support these programs.

Section 2 - Types of Programs

A. Dependent care assistance at the Regional/local level may include, but is not limited to the following:

- (1) Child care and elder care referral services;
- (2) Seminars, workshops, and exhibitions;
- (3) Periodic newsletters and brochures;
- (4) Family resource centers;
- (5) Consultants to assist employees with dependent care problems; and
- (6) DOL cooperation with other agencies regarding Dependent Care Programs, including Infant and Child Care Centers.

B. Employees are encouraged to take advantage of Dependent Care Programs. New employees should be informed about the availability of Dependent Care Programs during orientation.

Section 3 - NCFLI Involvement

The Department will keep the NCFLI advised of the status of Departmental Dependent Care Programs. The NCFLI will be afforded the opportunity to provide input on the operation of the Department's Dependent Care Programs and to participate in Regional task groups or committees involved in developing and formulating such programs as appropriate.

Article 31 Employee Assistance Program

Section 1 - General

Management and the NCFLI support the objective of assisting employees with personal problems that may or may not affect their job performance. This assistance includes finding treatment for employees, following up during their recovery, and helping them return to full productivity.

Given this common objective, Management and the NCFLI agree to work together to promote the DOL Employee Assistance Program (EAP), which is designed to assist employees and their families affected by problems including alcoholism, drug abuse, emotional illness, and other personal problems that may affect job performance.

Section 2 - NCFLI-Management Cooperation

The NCFLI agrees to cooperate fully with Management in an attempt to rehabilitate affected employees who accept assistance made available under the provisions of the Program.

Section 3 - Use of Leave Under the Program

Employees shall be allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session during the assessment/referral phase of rehabilitation, not to exceed six sessions. Administrative leave may be granted for this purpose subject to supervisory approval. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with leave regulations.

Section 4 - Employee Rights and Responsibilities

A. Employees may voluntarily seek counseling, referral, and information from the EAP on a confidential basis.

B. The confidentiality of medical/counseling records of all employees will be preserved in accordance with the Privacy Act and other applicable law and regulations.

Section 5 - Management Rights and Responsibilities

A. The NCFLL and Management recognize that the Program is designed to deal forthrightly with a range of problems at an early stage when the situation is more likely to be correctable. If an employee requests assistance under the Program and participates in the Program, the responsible supervisory official must weigh this fact in determining appropriate disciplinary and adverse action, should such action become necessary.

B. Managers and supervisors may refer employees to the EAP.

C. If employees attend EAP sessions during duty hours, supervisors may request information as to where and when the employee is going.

Section 6 - Program Training - Union Participation

A designated NCFLL Representative from the Regional Office city for each Region will be invited to attend Regional seminars, workshops, conferences, or training sessions designed to acquaint supervisors, managers, and employees with the Program and its operation.

Section 7 - Promoting the Program

A. At least once a year, Management will make employees aware of the Employee Assistance Program and the services it provides.

B. Newly hired employees will receive appropriate EAP materials at their DOL orientation.

C. Within 60 days of the change in any EAP contractor, or any change in the nature of services provided, all affected employees will be notified in writing.

Article 32 Reduction in Force or Transfer of Function

Section 1 - General

A. This Article governs (1) transfer of function, and (2) the separation, demotion, reassignment requiring displacement of another employee, or furlough for more than 30 calendar days of bargaining unit employee(s) by reduction in force from their respective levels.

B. This Article concerns the impact and implementation of the Government-wide regulations on reduction in force (RIF), which may occur during the life of the Agreement, with respect to employees in the NCFLL bargaining unit.

Reductions in force will be accomplished in accordance with statutory requirements, Civil Service rules and regulations, DOL regulations, and this Agreement.

C. Administrative assignment rights for excepted employees will, with respect to positions in the Excepted Service, be the same as the rights of competitive employees in the Competitive Service.

Section 2 - Notification

A. Preliminary Notification to NCFLL of Reduction in Force or Transfer of Function

1. When it is anticipated that transfer of function or reduction in force affecting bargaining unit employee(s) will be necessary, the NCFLL will be given preliminary notification in writing. This notification will be at least 120 calendar days in advance of the anticipated implementation date, unless circumstances dictate otherwise, and will include the following information:

- (a) The reason for the reduction in force or transfer of function;
- (b) The approximate number of employees who may be affected initially;
- (c) The competitive areas and levels that may be involved initially in a reduction in force; and
- (d) The anticipated effective date that action will be taken.

2. At the time the NCFLL receives its preliminary notification of an anticipated RIF, the Department will provide the NCFLL with a list of all employees covered by the notice whose current annual ratings of record are overdue.

B. Notice to Employees

1. The Department must give a minimum notice of 60 calendar days to an employee(s) involved in a transfer of function or a reduction in force, unless circumstances dictate otherwise.

2. When a general reduction-in-force notice is used, it will be supplemented by a specific notice. The Department will not release an employee from his or her competitive level until at least 15 calendar days after the employee's receipt of the specific notice.

3. The notice period begins the day after the employee receives the notice.

Section 3 - Retention Registers

A. At least two workdays before the issuance of initial specific notices, the NCFLL will be provided a copy of the annotated retention register(s) to be used to issue the specific notices. Amended or revised retention registers will be provided to the NCFLL as soon as possible.

B. The retention register will include: the employee's tenure group, competitive level, and original service credit date; the ratings of records used to compute credit for performance; the amount of credit for performance; and the adjusted service computation date.

C. Employees' performance ratings of record due before the issuance due date of specific RIF notices will be submitted to the servicing personnel office in sufficient time for retention standing to be determined. The due date would ordinarily be no more than 15 calendar days prior to the issuance date of specific notices.

D. When employees affected by RIF are in the same competitive level with the same length of service, as augmented by performance credit, and the same subgroup, ties will be broken in the following order: (a) total DOL service; then, if necessary, (b) by length of service in the DOL Agency; and then, (c) by time at the current grade level.

Section 4 - Department of Labor Employee Placement Assistance

A. Policy

In making staffing adjustments resulting from program and organizational changes, it is the objective of the Department that all employees affected by displacement be placed in continuing positions for which they are qualified, in their own DOL Agency, or other Agencies of the Department, or in suitable positions in other Federal agencies. Where appropriate, affected employees will be offered retraining to enable them to qualify for continuing positions.

B. Personal Interview: Special Problems

The Department will give each affected employee a personal interview and will treat each as an individual to the extent possible to resolve special problems and to give special assistance including assistance in locating other appropriate employment.

C. Coverage

The policy in this Section applies to all employees in the bargaining unit of the Department except those serving under indefinite appointment, temporary appointment, temporary appointment pending establishment of a register, status quo appointment, or any other non-status non-temporary appointment.

D. Displaced Employee Assistance

1. Employees displaced by reduction in force will be eligible for assistance in finding other appropriate positions. This includes employees who are unable to accept assignment to another commuting area.

Eligibility begins on the date the specific notice is issued and ends on the effective date of the reduction-in-force action.

2. The procedures for assisting displaced employees are as follows:

(a) An attempt to identify appropriate placement for affected employees will first be made within the employee's own Agency.

(b) If no placement is made within the affected employee's Agency, placement will be sought in other DOL Agencies.

(c) If no appropriate placement is made within other DOL Agencies of the Department, the matter will be referred to the DOL Placement Committee before the effective date of the action displacing the employee.

(d) The DOL Placement Committee will determine whether the employees can be appropriately placed in any Departmental vacancy. Decisions of the DOL Placement Committee are final and are not appealable or grievable.

(e) The NCFLL will be informed of the Placement Committee's decision(s).

Section 5 - Repromotion List

A. Career, career-conditional, and excepted employees not serving under time-limited appointment, will be entered on the Repromotion

List and given consideration for repromotion when a vacancy occurs which will be filled by merit staffing competitive procedures. The employee must be qualified for the vacancy and it must be in the competitive area where the demotion occurred and at the employee's former or an intervening grade.

B. Eligibility for referral begins on the effective date of the downgrade or when the employee's entitlement under the Displaced Employee Program ceases. It extends for a period not to exceed two years, or until the employee has reached his/her former or retained grade, whichever occurs first, unless the employee declines a reasonable offer of a position.

Section 6 - RIF Contract Coverage

During the term of the Contract, all RIFs will be conducted in accordance with this Contract. Nothing will waive the right of the NCFLL to negotiate on the impact or implementation of any individual RIF with respect to matters not specifically covered by this Contract.

Article 33 Interstation Transfer

Section 1 - General

A. Interstation transfer may be used by the Department but will not be used or threatened as a form of discipline or reprisal.

B. An employee whose interstation transfer is directed for reasons related to his/her performance may request review of the action through the grievance procedure.

C. Reimbursement for travel and transportation expenses incurred in an interstation transfer which is in the interest of the Government shall be provided in accordance with applicable laws and regulations.

Section 2 - Procedures

A. Filling of a Vacancy by Interstation Transfer

1. Any bargaining unit employee who wants to be transferred to another duty station may file a request for transfer with the Regional Personnel Office(s) that services the duty station(s) to which the employee wants to be transferred. Such a request must include:
 - (a) the employee's current Region, Agency, duty station, grade, and position; and

(b) the Agency, duty station(s), and position(s) for which the employee would like to be considered.

2. Requests for transfer will be kept on file by the Regional Personnel Office for a period of six months from receipt.

3. In the event that Management elects to fill a vacancy by transfer, Management will first give consideration to the employees who have filed a request for transfer, with the personnel office that services the vacant position, in accordance with Subsection 1. above.

B. Selection for Transfer

Management will consider volunteers from among employees for the position to be filled and for which the volunteer is qualified and meets any special requirements.

Section 3 - Return to Previously Abolished Position

A. Management agrees that where an employee has been transferred due to abolishment of his/her position, or the employee is transferred from an overstaffed office, and the position is reestablished within one year, or Management decides to re-staff the office from which the employee was transferred the employee(s) will be notified in writing and will be returned to that position if the employee applies for the position within 30 workdays of such notification. In instances where no PCS monies have been expended, the return right will be a three-year period.

B. If there are two or more applicants for the reestablished position, the employee with the greater length of service in the Department shall have preference.

Section 4 - Interstation Transfer for Employee Convenience

Management will consider the request of an employee who, for personal convenience, asks to be transferred at his/her own expense to fill a vacant position within his/her Agency for which he/she is qualified and meets any special requirements.

Section 5 - Notice to NCFLL

The NCFLL Regional Chair as prescribed in Article 3 will be notified of all proposed intraregion transfers of bargaining unit employees at least two weeks in advance. For interregion transfers, the Chairs in both the gaining and losing Regions will be notified.

Article 34

Safety and Health

Section 1 - General Statement

The Department will, to the extent of its authority, provide and maintain safe and healthful working conditions for all employees. Management will designate a collateral duty safety and health representative for each duty station responsible for reporting any unhealthful, hazardous, or unsafe conditions to the Regional Safety and Health Manager. Pursuant to [29 CFR 1960.25\(a\)](#) personnel responsible for conducting inspections under the Department's Safety and Health Program shall have both the requisite equipment and expertise in the recognition and abatement of hazards. The Department of Labor's Occupational Safety and Health Program will comply with the requirements of Executive Order and [DLMS 4, Chapter 800](#), and other applicable State and local laws. The Department is committed to operate the Department of Labor Safety and Health Program in accordance with 29 CFR 1960.

Section 2 - Correcting Conditions

The Department agrees that its Occupational Safety and Health Program will provide prompt abatement of unsafe or unhealthful working conditions. Procedures for abatement of unsafe or unhealthful working conditions as required by [29 CFR 1960](#) are described in [DLMS 4, Chapter 800](#). Where the unsafe conditions are immediately dangerous to life and limb and the repairs necessary to correct the unsafe conditions are of such an extensive nature that immediate repairs cannot be made to render the area safe, the employees shall not be exposed to the hazard and alternate accommodations shall be found until the area is made safe.

Section 3 - Committees

The Department agrees to establish Safety and Health Committees as defined by Executive Order, and by 29 CFR 1960, and [DLMS 4, Chapter 800](#). They are established to monitor and assist in the development and operation of the Department of Labor's Safety and Health Programs and established committees and to carry out the following functions defined in 29 CFR 1960: reports of inspections, internal and external evaluation reports, Agency safety and health training programs, proposed Agency standards, Agency plans for hazard abatement, responses to reports of hazardous conditions, Safety and Health Program deficiencies, and allegations of reprisal. As required in [29 CFR 1960, Section 37\(e\)](#) the establishment committees shall meet four times annually. The NCFLL's participation in these Committees is defined in the Secretary's Order on Safety and Health.

Section 4 - Employee Rights/Responsibilities

A. The detection of unsafe and unhealthful working conditions at the earliest possible time and the prompt correction of related

hazards at the lowest possible working level are essential elements of the Department's Safety and Health Program. Any employee in the bargaining unit who is assigned duties which he/she reasonably believes could possibly endanger his/her health or well-being shall notify the supervisor of the situation and file a report of unsafe or unhealthful working conditions. If the supervisor cannot solve the problem and agrees with the employee, the supervisor shall delay the assignment and refer the matter through the proper channels for appropriate action. Specific procedures are described in DLMS 4, Chapter 800.

B. The Department shall assure that no employee is subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of unsafe or unhealthful working conditions or other participation in Agency Occupational Safety and Health Program activities. An employee who believes she or he has been subject to acts of reprisal for participation in the Department's Safety and Health Program activities has the right to seek redress through established grievance procedures.

C. An employee has the right to decline to perform his or her assigned task because of the reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm, coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures.

D. Employees or Union Representatives are entitled to official time to participate in the Department's Safety and Health Program.

E. Employees or Union Representatives have the right to advise Management concerning safety and health problems.

F. Employees or Union Representatives have the right to be involved in inspection activity. Employees and Union Representative should be interviewed during Regional Safety and Health Program evaluations.

G. Employees are expected to follow safety and health directives and practices, including the wearing and use of protective equipment.

Section 5 - Personal Protective Equipment and Clothing

The Department will provide personal protective equipment and clothing to protect employees from safety and health hazards. The Department of Labor shall comply with 29 CFR 1960; DLMS 4, Chapter 800; and 29 CFR 1910.132(a). It was agreed that Management would consider Union input on equipment selection and purchase. These discussions could occur at Safety and Health Committee meetings, LMR meetings, and at the local office level. The parties agree that decisions on weather related equipment be made by Management based on local conditions. It was agreed that insulated coveralls would be provided where needed based on a case-by-case situation.

Department of Labor employees operating or riding in Government owned, rented, or privately owned vehicles on official business are to use safety belts (both seat and shoulder) if available.

Section 6 - Safety and Health Inspections

The Department of Labor Safety and Health Program includes the following types of workplace inspection activities:

- (A) Day-To-Day Inspections;
- (B) Annual Inspections;
- (C) Unannounced Inspections; and
- (D) Pre-Occupancy Inspections.

These inspections are described in DLMS 4, Chapter 800.

The exclusive representative of NCFLLE employees shall be given an opportunity to participate in these inspections. During the course of an inspection any employee shall be afforded the opportunity to bring to the attention of the inspector any unsafe or unhealthful working condition which the employee has reason to believe exists in the workplace.

In addition to the inspections described herein above, half of the members of record of any established committee may request the Secretary or his/her designated representative to conduct an inspection if they are not satisfied with any Agency's response to a report of hazardous working conditions in accordance with the provisions of 29 CFR 1960.31(a)(2) and [1960.40\(b\)\(10\)](#).

Section 7 - Exposure to Hazardous Materials

It is the policy of the Department of Labor to protect employees from exposure to hazardous materials through the use of personal protective equipment and the Department's Hazard Communication Program (DLMS 4, Chapter 800).

Employees who are accidentally exposed to carcinogenic or similar hazardous material will be offered an opportunity to take a physical examination provided by the Department. Any recommended subsequent periodic examinations will be voluntary.

The Department will provide a means by which employees may document any exposure to chemical hazards contacted on the job by utilizing Office of Workers' Compensation CA Forms.

Section 8 - Ergonomic Hazards

A. General

The Department agrees that employees should be provided information about ergonomic hazards and how to prevent ergonomic related injuries. This information could be provided by Spotlights, OSHA Safety and Health Guidelines, and available literature. The Department agrees to the maximum extent possible to provide equipment (chairs, tables, workstations, etc.) which meets ergonomic design criteria. It is also agreed to the extent possible when equipment is purchased, that training should be

provided by the vendor on how to safely and properly operate the equipment.

B. Computers

The policy of the Department is to provide safe and healthful workplaces for all DOL employees. In keeping with the policy, the Department acknowledges that there are certain ergonomic and environmental factors that can contribute to the health and comfort of computer users.

These factors involve the proper design of workstations and the education of managers, supervisors, and employees to the ergonomic, job design, and organizational solution to computer problems as recommended in various studies published by the National Institute for Occupational Safety and Health (NIOSH).

The Department will achieve this policy by:

- (a) Acquiring computers and accessory equipment that, to the maximum practical extent, provide comfort to the user and keyboards, worktables, and chairs that are height adjustable and provide proper back support;
- (b) Providing for the laying out of workspaces that are properly illuminated to reduce glare and ensure visual comfort to computer users while providing adequate lighting for traditional clerical tasks;
- (c) Seeking and acquiring information and technical assistance, as needed, from appropriate resources on methods for most effectively designing computer workstation layouts; and
- (d) Educating employees about the proper and safe operation of computers, including the value of interspersing prolonged periods of computer use with other work tasks requiring less intensive visual concentration.

Section 9 - Establishment of Labor-Management Task Group

The parties mutually agree to establish a Labor-Management Task Group to review the Department's Safety and Health Program as it affects field bargaining unit employees with an emphasis on the functioning of establishment committees. This Task Group shall be comprised of three representatives of Management and three representatives appointed by the NCFLL.

Section 10 - Article Reopener

Either party may request that bargaining on this Article be reopened. Such request can only be made during the 30-day period immediately after one year from the effective date of this Contract.

Article 35

Employee Wellness

Section 1 - General Statement

The Department and the NCFLL agree that the well-being of Department of Labor employees is a mutual interest of fundamental importance. Accordingly, they are mutually committed to maintaining a healthy, quality working environment for those employees and to promoting and fostering programs which will enhance their well-being. The Department, within budgetary limitations, operates a health services program and wellness/physical fitness programs. To the extent of its authority and resources, the Department is committed to providing a quality work environment for its employees. In addition to Department sponsored programs, DOL Agencies are encouraged to initiate their own wellness/fitness programs. The Department and the NCFLL recognize that some of the activities envisioned in this Article may involve voluntary employee financial contributions, in part or whole. While the Department and the NCFLL are committed to these activities as positive contributions to employees' well-being, job performance, and productivity, they agree that employee wellness is ultimately the individual responsibility of each employee.

Section 2 - Health Services Program

A. The Department has established, within budgetary limitations, a Health Services Program according to guidelines and procedures specified in DLMS 4, Chapter 800. Various health services may be provided to the Department's employees through the Program including periodic medical screening for early detection of potential health problems such as diabetes, visual defects, glaucoma, hearing defects, etc.; immunizations; periodic medical examinations for employees whose work is a source of health risk; and biennial health maintenance examinations.

B. Biennial employee health maintenance examinations will be offered to employees age 40 and over, within budgetary limitations. Priority will be given to those employees applying for the first time. After this, priority will be given to employees on a first come, first serve basis. Employee participation will be voluntary. Results of the examination will be furnished only to the employee and/or to a private physician designated by the employee in writing.

C. The RA-OASAM will advise employees within the Region periodically of the availability of such periodic medical screening and health maintenance examinations so that those eligible

employees who are interested may apply. At least two weeks will be allowed for employees to respond to notices for health maintenance exams.

Section 3 - Wellness/Fitness Programs

A. The Department and the NCFLL are mutually committed to the concept of wellness and fitness programs as a valuable means of enhancing the well-being, and thereby, the performance and productivity of the Department's employees. In addition to the more traditional medical services provided by the Department, wellness programs can provide counseling and assistance to employees on health issues such as life style, nutrition, avoidance of harmful substances, positive mental health, etc. Fitness programs are developed as one component of the Department's overall commitment to employee wellness.

B. The NCFLL will work cooperatively with the Department in developing wellness/fitness programs for the Department's field employees. The Department will share with the NCFLL at least annually reports on the current status of its wellness/fitness programs. The NCFLL will participate with the Department in identifying employee wellness/fitness needs and developing the programs which will address those needs. The Department will notify the NCFLL prior to implementing any field programs according to their normal notification procedure.

C. Because of the decentralized distribution of employees throughout the field, various physical fitness/wellness program models will be developed to meet employee needs. These models may, within budgetary limitations, include the following:

- (1) Coordinate with other local Federal agencies to establish a joint program.
- (2) Establish a program for DOL employees only.
 - (3) Obtain a group contract with a commercial facility.
 - (4) Negotiate a corporate rate for employees with a commercial facility.
 - (5) Provide financial assistance for employees with personal memberships at commercial facilities.

To the extent possible, these programs will be tailored to the unique conditions within each duty station or commuting area.

D. The Department is committed to equitable distribution of wellness/fitness funding to participating field employees. The Department and the NCFLL agree that the costs for wellness/fitness programs will normally be shared by participating employees with the Department. The Department's funding formula which sets a limit per participating employee for the Department's

share, will apply both to start-up costs for new programs and recurring costs for established programs. As the amount of Federal funds available to support Federal fitness/wellness programs is limited; it is agreed that the Department will periodically review the formula for determining the amount of funds available for this purpose. The reason for periodically reviewing the formula is to ensure that the Department will share with participating employees the costs associated with establishing and maintaining viable physical fitness/wellness programs. The funding review will also provide data to help ensure that available funding is distributed on an equitable participant basis.

E. Employees are encouraged to take advantage of fitness/wellness programs. New employees should be informed about the availability of fitness/wellness programs during orientation.

Section 4 - Quality Work Environment

A. The general environmental quality of the Department's workplaces is an important mutual interest of the Department and the NCFLL. Accordingly, the parties are committed to policies and practices which will enhance that general quality.

B. General ventilation and quality of the air in Departmental workspaces will, to the extent of the Department's authority, be maintained at levels conducive to good health and employee well-being. To the extent practicable the Department commits to maintaining sanitary conditions in ventilation systems servicing Departmental workspaces and to the availability of adequate fresh air for those workspaces. Unless previously provided for in accordance with the OSHA rule on Indoor Air Quality, smoking is prohibited in Department of Labor space as well as hallways and lobbies adjacent to DOL-occupied space. Smoking is prohibited in any office space, including private offices.

C. Recognizing its risk to their health and well-being, the Department and the NCFLL mutually support and encourage all efforts by employees to quit smoking. In this regard, the Department will sponsor and provide appropriate time and bear the cost of employee participation in DOL smoking cessation classes, clinics, or other such activities. Recognizing it is the individual choice of each employee as to whether they will smoke, participation in a smoking cessation program will be voluntary.

D. Employees who desire to leave their work areas to go to outside smoking areas may break up their morning and afternoon rest breaks into short smoking breaks.

Article 36

Annual Leave

Section 1 - General

Annual leave is a right of the employee and not a privilege. Consistent with the needs of the Department, annual leave which is requested in advance will be approved. It will be the responsibility of the supervisor in consultation with the employee, to schedule annual leave to insure that annual leave is scheduled for use so as to prevent any unintended loss at the end of the year.

Section 2 - Consecutive Vacation Time

For vacation purposes, supervisors will schedule work loads and annual leave in a manner which permits each employee, if he/she wishes, to take at least two consecutive weeks in each year.

Section 3 - Resolving Conflict

In the event of a conflict of annual leave scheduling among employees at a given duty station, length of Agency service will govern, in the absence of personal hardship.

Section 4 - Leave Usage Increments

Annual leave may be used in increments of 15 minutes (1/4 hours).

Article 37

Administrative Leave

Section 1 - Registration and Voting

Management agrees that when the voting polls are not open at least three hours either before or after an employee's regular hours of work, he/she will be granted an amount of excused leave to vote or to register to vote, which will permit him/her to report to work three hours after the polls open or leave work three hours before the polls close, whichever requires the lesser amount of time. Under unusual circumstances, an employee can be excused up to a full day.

Section 2 - Inclement Weather or Emergency Conditions

A. Management agrees that when, in its judgment it becomes necessary to close any duty station because of inclement weather or any other emergency condition and to grant administrative leave, reasonable efforts will be made to inform all affected bargaining unit employees by private or public media.

B. If an emergency condition exists which prevents a bargaining unit employee from getting to work but the duty station is not closed, Management will adopt a liberal annual leave policy.

C. When a duty station is open, but inclement weather or other emergency condition affecting travel prevents a bargaining unit employee from getting to work on time, the employee's tardiness may be excused by the supervisor without charge to leave when it can be determined that the employee made every effort to get to work on time. The criteria for making such a determination are: the distance between the employee's residence and place of work; the modes of transportation available; the efforts made by the employee to get to work; and the success of other employees traveling under similar circumstances in getting to work on time.

Section 3 - Vehicle Breakdown While on Official Business

When a vehicle used on official Government business breaks down or is otherwise inoperative, administrative leave will be granted in connection with emergency repairs to the vehicle if the breakdown occurs while the employee is in official travel status. In such situations, the employee will, as soon as practicable (within an hour if possible), provide the supervisor with an estimate of the situation and obtain appropriate instructions. Administrative leave will be granted upon presentation by the employee to the supervisor of a reasonably acceptable explanation and/or documentation relating to the emergency.

Article 38 Court Leave

An employee will be authorized absence from work status without charge to leave or loss of pay for jury duty, or for attending judicial proceedings in a non-official capacity as a witness in which the Federal Government or a State or local Government is a party.

Article 39 Maternity and Family Leave

In recognition of the need for a flexible and compassionate leave policy to assist employees to blend their worklife and their family responsibilities, and to promote a harmonious relationship among their needs, Management will consider all reasonable and timely requests from employees that meet the criteria established for leave as provided for in the following Sections. These Sections are to be read in tandem with the Family and Medical Leave Act (FMLA) and the Federal Employee Family Friendly Leave Act (FEFFLA).

Section 1 - Maternity Leave

A. Sick leave may be used for those periods of absence related to incapacitation due to pregnancy and confinement. Annual leave or LWOP may be used when sick leave is not sufficient to cover this period. Absences which are not medically certified as due to incapacitation for the performance of duty may not be charged to sick leave; such absences must be charged to annual leave or leave without pay. An employee may choose in what order a maternity absence will be recorded: sick leave, annual leave, or leave without pay (to the extent the employee has available annual and/or sick leave).

B. After delivery and recuperation, the employee may desire a period of adjustment or need time to make arrangements for the care of the child. Such additional leave requirements may be taken care of by the use of available approved annual leave or leave without pay.

C. Management may request a medical certificate from the employee if there is a question as to the employee's physical fitness to continue work before delivery or return to work after delivery.

Section 2 - Family Leave

A. An employee may be absent on annual leave or leave without pay for purposes of aiding, assisting, or caring for family members.

B. An employee requesting extended annual leave or leave without pay shall provide Management a reasonable advance notice which is commensurate with the extended period of absence. All leave will be granted subject to mission requirements of the Agency.

C. In the case of extended periods of absence Management will attempt to return the employee to the same job and location.

Employees on extended approved absences may be recalled subject to the needs of the Agency mission.

D. In an emergency situation, Management will grant the leave requested commensurate with the emergency.

Section 3 - Adoptive Leave

Annual leave, leave without pay, or sick leave can be used by an employee for those absences associated with their adoption of children.

Article 40 Sick Leave

Section 1 - General

Employees will earn sick leave in accordance with applicable statutes and regulations.

Section 2 - Approval and Notice

A. Approval of sick leave will be granted to an employee who is incapacitated to do his/her job or for any related reason, such as dental, optical or medical examinations and treatment; presence of contagious disease in an employee's immediate family; and exposure to contagious disease that could endanger co-workers.

B. An employee who becomes ill is responsible for notifying his/her supervisor normally within two hours after normal reporting time. If the degree of illness or injury or the employee's remote duty station prohibits compliance with the two-hour limit, the employee will report his/her absence as soon as possible. An employee on Flexitime should normally notify his/her supervisor no later than 10:00 a.m.

Section 3 - Proof

Employees will not be required to furnish proof of illness of a sick leave period of less than four consecutive workdays unless Management has given written notice of abuse to an employee that for a stated period (not to exceed six months) he/she must furnish a certificate for each absence from work which he/she desires to charge to sick leave.

Section 4 - Advance of Sick Leave

An employee who is ill or injured without sick leave to his/her credit should normally be advanced a maximum of 30 days sick leave provided the employee substantiates the request with medical evidence and the employee is expected to return to duty after the period of illness or injury.

Section 5 - Charge to Annual Leave

An approved absence which would otherwise be chargeable to sick leave may be charged to annual leave if requested by the employee and approved by Management.

Section 6 - Leave Usage Increments

Sick leave may be used in increments of 15 minutes (1/4 hours).

Article 41

Educational Development/Community Service Opportunities

Section 1 - Purposes

Extended leave without pay (LWOP) for personal development and/or community service may be granted for a period not to exceed one year when one of the following benefits would result:

(A) For educational purposes when the course of study or research is in line with a type of work performed by the Agency and would contribute to the mission of the Agency;

(B) Furtherance of a program of interest to the Government (e.g., Peace Corps); or

(C) For temporary service to non-Federal public or private enterprise and when one or both of the following will result:

(1) The service to be performed will contribute to the public welfare;

and/or

(2) The experience to be gained by the employee will serve the interests of the employing Agency.

Section 2 - Approval

As a condition for Management's approval of extended leave without pay (LWOP) there should be a reasonable expectation that the employee will return to duty at the end of the LWOP and that the absence will not adversely impact the Agency's mission, and that the employee will submit an advance request commensurate with the length of absence being requested.

Section 3 - Recall to Work

Extended absences of leave may be terminated by Management upon a 30-day written notice to the employee. Terminations will be based upon mission needs.

Article 42

Work Schedules for Religious Observances

Section 1 - Modifications to Work Schedules

An employee whose personal religious beliefs require the abstention from work during certain periods of the workday or workweek may elect to make up time for time lost for meeting those religious requirements.

Section 2 - Compensatory Overtime/Time Off

To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the Agency's mission, the Agency shall afford the employee the opportunity to work compensatory time and shall grant compensatory time off to an employee requesting such time.

Section 3 - Granting and Repaying Compensatory Time Off

The employee may work such compensatory time before or after the grant of compensatory time off. A grant of advance compensatory time off should be repaid by the appropriate amount of compensatory time worked within a reasonable amount of time. Compensatory time shall be credited to an employee on an hour for hour basis or authorized fractions thereof. Appropriate records will be kept of compensatory time earned and used.

Section 4 - Non-Applicability of Premium Pay

The premium pay provisions for overtime work do not apply to compensatory time worked by an employee for this purpose.

ARTICLE 43 Performance Management System

Section 1 - Coverage

The Article concerns the impact and implementation of the Government-wide regulations on the Performance Management System (PMS), and the DOL regulation ([DPR 430](#), Appendix B). These regulations, as appropriate, apply to employees in the NCFLL bargaining unit except as provided herein.

The Government-wide regulations and the Department's implementing regulation are applicable to employees in the bargaining unit, except where non-mandatory provisions of the regulations are in conflict with this Article. In such cases, the parties agree that Article 43 is controlling.

Section 2 - Procedures for Developing Elements and Performance Standards

- A. Consistent with Management's right to assign work, the performance elements should be consistent with the duties and responsibilities contained in an employee's position description.
- B. In establishing standards, due consideration will be given to employee input.
- C. Employees are entitled to an explanation of the rationale for their elements and standards.
- D. Due consideration will be given the employee as to the resources available and the authority delegated necessary to meet the identified standards and elements.

Section 3 - Performance Standards

A performance standard will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question for each employee or position under the System.

After receiving proposed elements and standards from the supervisor, the employee will have the opportunity to meet and discuss these standards with the supervisor, and to provide his or her written comments.

When performance standards are developed which have more than one criterion, employees will be advised as to the relative importance of the criteria contained within the standards.

A performance standard may be in the form of meeting less than all the criteria under a performance standard or of meeting all the criteria under a performance standard.

Upon request, supervisors will inform employees orally on what is expected in order to exceed a standard.

Section 4 - Annual Rating of Record

- A. The rating may be completed 30 days prior to the due date but not later than 30 days after the due date.

- B. Progress reviews will include a discussion on any proposed training (which may be on-the-job training) and development of the employee. At this time, employees in career ladder positions may ask their supervisors to advise them of their progress towards promotion to the next grade level.

- C. The rating official must confer with the reviewing official and secure the approval of the reviewing official of the tentative rating for the employee before discussing the tentative rating with the employee. The supervisor will discuss the rating of record with the employee to avoid misunderstandings and possible inaccuracies. The rating official will confer with the employee to review accomplishments, problems, and general performance during the appraisal period and will discuss the tentative conclusions regarding the rating with the employee. The discussion will be face to face to the extent practicable but may be by telephone.

- D. The employee will have an opportunity to present his/her assessment of work accomplishments, as well as to respond in writing to the rating official on the rating. Employees have up to ten working days in which to review, sign, or prepare comments to the rater or reviewing official, as appropriate, on their ratings. Any written comments will be forwarded to the reviewing official(s) along with the tentative rating. After the rating has been reviewed and approved, it will be discussed with the employee by the rating official if any changes have been made in the tentative rating. Such written response is to be considered by the rater or reviewing official, as appropriate, and attached to the performance appraisal and will be maintained in the employee performance file.

Section 5 - Improving Unsatisfactory Performance

A. Any employee not meeting the performance standards of one or more critical elements will be promptly notified.

B. Informal efforts by the supervisor will include guidance to the employee regarding specific actions which should be taken to improve performance.

Section 6 - Performance Improvement Plan

A. When informal efforts discussed in Section 6A. and B. above do not result in improved performance, a Performance Improvement Plan will be developed with the participation of the employee. The Plan will be discussed between the immediate supervisor and the employee and put into writing. This Plan will be geared toward efforts which must be initiated by both employee and immediate supervisor and which are designed to result in overall job performance at the effective level or above.

At a minimum, this Plan will include the following:

(1) an explanation of the critical elements and the related performance standards in which the employee's performance fails to meet the standard;

(2) specific goals in terms of time and results expected for levels of progress against each performance standard where performance improvement is needed; also, advice about what the employee must do to bring his or her performance up to the effective level, as well as periodic counseling and reassessment by the supervisor during this period; and

(3) training, if appropriate.

B. No performance-based action ([5 CFR 432](#)) will be proposed unless the employee is given at least a 90-day period of time in which to correct any deficiencies noted and a detailed explanation of the work to be accomplished in the 90-day period to correct performance deficiencies. To this end, the Performance Improvement Plan will be utilized.

Section 7 - Special Circumstances

Performance appraisals must take into account: authorized absences, including Union representation, during the course of working hours.

Section 8 - Initiation of an Appraisal Period

A. At the bargaining unit employee's request, when assigned a new supervisor, the new supervisor will discuss the bargaining unit employee's performance plan.

B. After receiving the tentative elements and standards from the supervisor, the employee will have a period not to exceed ten working days within which to examine and consider this material and to meet with the supervisor to discuss these elements and standards. During this period, the employee, upon request, will be granted a reasonable amount of official time to consult with the Union Steward concerning the elements and performance standards.

Section 9 - Removal of "Unacceptable" and "Minimally Satisfactory" Performance Information in

Personnel Files

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

Section 10 - Information Sharing

Management agrees to share Agency prototype elements and standards for similar or common positions within the bargaining unit with the NCFL.

Section 11 - Grievability and Arbitrability of Job

Elements and Performance Standards

Performance Standards may only be grieved when they are applied in a rating of record.

Article 44

Performance Awards

Section 1 - General

A. The current rating of record will be used as a basis for decisions to grant performance-based awards under the Department's Performance Management System (See [DPR 430, Appendix B](#)). In addition to performance bonuses based on a rating of record, managers and supervisors are encouraged to utilize all award categories to reward deserving employee performance in a timely manner throughout the rating cycle. Examples of award categories are special act or service award, instant good job award, time off award, honorary award, and non-monetary award. To this end the parties have agreed that managers can utilize the instant good job award to make awards of up to \$300 net.

B. Absent budget constraints, Management will fully utilize the awards budget to reward deserving employee performance. The NCFLL will be notified if an awards budget is not fully utilized.

C. When Management uses bargaining unit employees= special skills, Management is encouraged to reward these employees using all available award categories.

Section 2 - Effect of Summary Ratings

A. Within each performance award decision unit, awards granted to employees in the same grade with a particular rating should be more in terms of dollars (including any Quality Step Increase) than awards received by employees in the same grade with a lower rating.

B. Pursuant to DOL regulations, if an employee does not have a rating of record when performance awards are granted, the employee may be granted an award when he/she is assigned a rating of record.

C. Management will consider retroactive awards for employees whose ratings change after the distribution of payouts.

D. Suggested Amounts of Performance Awards. The following amounts are suggested for consideration in determining performance awards:

Suggested Percent of

Rating Employees' Rate of Basic Pay

Outstanding

(or equivalent) Up to 10%

Highly Effective

(or equivalent) Up to 7%

Fully Successful

(or equivalent) Up to 4%

Section 3 - Information Sharing

The NCFLL will be provided an annual breakdown by Pay Deciding Unit of funding, performance ratings of record, and performance awards within 60 days after the awards payouts.

Article 45

**Acceptable Level of Competence
for Within-Grade Increase**

Section 1 - General

Pursuant to [5 U.S.C. 5335](#), an employee is entitled to receive a within-grade increase subject to completion of the appropriate waiting period and a determination that the employee's work is of an acceptable level of

competence (AFully Successful@). Such determination must be made upon completion of the waiting period.

Section 2 - Definition of Acceptable Level of Competence

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

Section 3 - Procedures

A. When the supervisor's evaluation leads to a conclusion that the employee's work is not at AFully Successful@ level the supervisor shall initiate a Performance Improvement Plan as outlined in DOL-NCFL Agreement, Article 43 and DPR Chapter 430.

B. 1. No within-grade increase will be authorized unless there has been an official determination that the employee's performance is at an AFully Successful@ level or better level. Failure to inform an employee of a negative official determination is not a basis for changing that negative official determination.

2. If the Performance Improvement Plan was not given at least 90 days prior to the end of the waiting period, the Performance Improvement Plan will extend for the necessary time to provide the full 90 days. If the summary performance rating is the at least AFully Successful@, the within-grade increase will be effective retroactive to the original due date.

Section 4 - Reconsideration Rights

A. When a determination is made that an employee's work is not of an acceptable level of competence (negative determination), the employee will be notified in writing of:

(1) the basis for this negative determination;

(2) the employee's right to file a written request for reconsideration within 15 calendar days from receipt of the official determination;

(3) the name and address of the Management Official who will reconsider the official determination and with whom the request for reconsideration should be filed (who shall have taken no part, formally or informally in the original determination);

(4) the right of the employee to have representation according to terms of the DOL-NCFLA Agreement;

(5) the right of the employee to contest, personally and/or in writing, the basis for the negative determination; and

(6) the right of the employee and his/her representative to have a reasonable amount of time to present the request.

B. 1. When a request for reconsideration is received, the personnel office shall establish an employee reconsideration file which shall contain all pertinent documents relating to the negative determination, including copies of the written determination and the basis therefore, the employee's written request for reconsideration, the report of investigation if an investigation was made, the decision of the reconsideration official, and any other documents the employee may have submitted regarding the determination.

2. The reconsideration file shall not contain any document that has not been made available to the employee and/or his/her representative with an opportunity to submit a written exception, including any exception the employee may have had to the written summary of his/her personal presentation.

C. The time limit for submitting a request for reconsideration shall be extended when: (1) the employee was not notified of the time limit in accordance with Section 4A.(2) and was not otherwise aware of it, or (2) the employee was prevented by circumstances beyond his/her control from requesting reconsideration within the time limit.

Section 5 - Reconsideration Process

A. The Management Official to whom a timely request for reconsideration has been filed will give the employee and his/her representative an opportunity to explain, personally, why he/she believes the negative determination is erroneous.

B. The Management Official shall reconsider the official determination of the supervisor, taking into consideration any personal and/or written response from the employee and/or his/her representative.

C. The Management Official, after reconsideration, will issue a decision in writing on the negative determination, within 15 calendar days after meeting with the employee and his/her representative. If this decision sustains the initial negative determination, the decision letter shall notify the employee of his/her right to grieve that decision.

D. A copy of the decision of the Management Official will be sent promptly to the Regional Personnel Office.

E. An employee has the right to request and be given a separate reconsideration for each negative official determination.

Section 6 - Appeal of Reconsideration Decision

A. In a grievance over a reconsideration official's decision to sustain a determination made by an employee's supervisor to withhold a within-grade increase, the parties will waive Steps 1 and 2 of the negotiated grievance procedure. The grievance may only be appealed directly to the Department's LMRC within seven workdays after receipt by the employee of the reconsideration decision.

B. When a grievance is filed as a result of the withholding of a within-grade increase and the withholding is subsequently overruled by competent authority, the effective date of the within-grade increase shall be retroactive to the original due date.

Article 46

Honor Awards Committee

Management agrees to recognize a representative designated by the NCFLL on the Secretary of Labor's Honor Awards Committee and that this member should meet with the Committee whenever it meets to consider

award recommendations which involve bargaining unit employees. This Committee, as defined in appropriate issuances, is responsible to the Secretary for review of award recommendations and for evaluating the operation of the Employee Recognition Program.

Article 47

Leaves of Absence (Union Officials)

Section 1 - AFGE Officer or Representative

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

Section 2 - Period of Leave of Absence

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

Section 3 - Conditions and Return Rights

A. The NCFLL agrees that all of the leaves of absence granted or approved in accordance with this Article are subject to the following conditions in addition to such other conditions as may be imposed by law or higher regulation:

(1) without pay; and

(2) access to Departmental premises by such employees will be in accordance with the terms of this Agreement or Department regulations whichever is applicable.

B. Management, to the extent of its authority, will attempt to accomplish the following:

(1) place an employee returning from leave of absence in the position held at the time that the leave of absence began; failing this,

(2) an effort will be made to place the employee in a like position in the Region; or failing either of the foregoing,

(3) the employee will be placed in a like position somewhere in the Agency.

Article 48

Directed Membership and Participation in Professional Associations

The Department agrees to pay for membership dues in professional associations whenever an employee is directed to join such an organization by an appropriate level of Management in connection with the performance of his/her official duties. Such memberships must be in the name of the Department. The Department also agrees to pay the expenses of employees (consistent with budget limitations and accounting regulations) selected by an appropriate level of Management in advance for attendance at professional meetings.

Article 49

Contracting Out

Section 1 B Notification of Contracting Out

A. Management will inform the NCFLL when it exercises its discretion to contract out work which is, or was within the previous 12 months, performed by bargaining unit employees.

B. When Management has decided to contract out work as specified in Subsection A above it will immediately notify the NCFLL and provide to the NCFLL that information concerning the decision which is disclosable under the Freedom of Information Act. This information will include feasibility and cost studies, authorized manpower levels, number of position vacancies, their grade and description, indirect costs and, where applicable and available, that information required by OMB Circular A-76 (Revised 1999), i.e., Items 8 and 9; and The Federal Activities Inventory Reform (FAIR) Act of 1998, Public Law 105-270, i.e. Section 2(d)-(e).

Section 2 B Negotiations With NCFLL Regarding Adverse Impact

A. Upon receipt of notification of Management's decision to contract out work which is, or was within the previous 12 months, being performed by bargaining unit employees, the NCFLL may, within 15 workdays, request negotiations concerning the impact on bargaining unit employees of the decision to contract out.

B. Upon timely request from the NCFLL, the parties shall meet and confer within 30 calendar days the impact on bargaining unit employees of the decision to contract out.

Section 3 B Supervision

While the parties recognize that the issue of supervision is non-negotiable, it is the intent of the Department that a bargaining unit employee will be supervised by supervisory personnel of the Department and not from personnel of a contractor.

Section 4 B A-76: Competitive Sourcing/Commercial Activity Process

A. The Department will provide the NCFLL the (annual) lists of government activities not inherently governmental in nature at the time such lists are provided to the public in accordance with Section 2(c)(1)(a) of the Federal Activities Inventory Reform Act of 1998, Public Law 105-270.

B. The Department agrees to involve the NCFLL, consistent with law, rule, or regulation, in the A-76 process regarding the performance of commercial activities and implementation of the statutory requirements of the Federal Activities Inventory Reform Act of 1998, Public Law 105-270.

C. The NCFLL will have the opportunity to designate a representative to participate in an advisory capacity on appropriate work groups and teams convened in the A-76 process where Union involvement could be beneficial. Such teams will include, but are not limited to, those described in Item 9 of OMB Circular A-76: the Cost Comparison Study Team, the Most Efficient Organization (MEO) Team, the Performance Work Statements (PWS/SOW) Team, etc.

Section 5 B Privatization

A. The Department will notify the NCFLL as soon as it identifies bargaining unit functions that it intends to privatize.

B. The Department agrees to involve the NCFLL, consistent with law, rule, or regulation, in the A-76 process regarding the performance of commercial activities and implementation of the statutory requirements of the Federal Activities Inventory Reform Act of 1998, Public Law 105-270.

Section 6 B Displaced Employees Personnel Considerations

A. Provisions contained in Article 32, Section 5, also cover displaced employees. The training referenced in Article 32 should include, but is not limited to, courses available through ALearn 2 University@, web-based courses such as AWord@, AExcel@, etc. Displaced employees will also receive counseling, to include a discussion concerning the value of IDPs.

B. Adversely-affected employees are those identified for release from their competitive level by an Agency, in accordance with 5 CFR Part 351 and [Chapter 35 of Title 5, United States Code](#), as a direct result of a decision to convert to contract, Inter-Service Support Agreement (ISSA) performance, or the Agency's Most Efficient Organization (MEO).

C. Federal employees adversely affected by a decision to convert to contract or ISSA performance have the Right-of-First-Refusal for jobs for which they are qualified that are created by the award of conversion.

1. A standard clause is included in direct conversion and A-76 cost comparison solicitations notifying potential contractors of this requirement (see Federal Acquisition Regulations [FAR] 52.207-3). The Right-of-First-Refusal is afforded to all Federal employees adversely affected by the decision to convert to contract performance.

2. [Executive Order 12933](#), A Non-Displacement of Qualified Workers Under Certain Contracts, dated October 20, 1994, also provides the Right-of-First-Refusal to contract employees (see FAR 7.305 [c]). As a matter of policy, the Right-of-First-Refusal offered at FAR 52.207-3 is superior.

3. Personnel officers should work with the contracting officer and employees to implement these provisions.

D. Agencies should exert maximum efforts to find available positions for Federal employees adversely affected by conversion decisions, including:

1. Giving priority consideration for available positions within the Agency;

2. Establishing a Reemployment Priority List and an effective placement program;

3. Paying reasonable costs for training and relocation that contribute directly to placement; and

4. Coordinating with the Office of Personnel Management (OPM) to ensure employees have access to placement programs, including the OPM-operated Displaced Employee Program (DEP) and the Interagency Placement Assistance Program (IPAP).

E. Agencies should notify the employees affected as soon as possible of an impending cost comparison and keep them informed of its progress at every major milestone of the process.

Article 50

Technology

Technology is dramatically impacting work processes throughout business and Government nationwide. While innovations in technology are occurring so rapidly it is impossible to anticipate them, the Department and the NCFLL embrace the opportunities created to improve work processes and employee skills. The parties recognize that to take advantage of the opportunities technology presents, new ways must be found to work together to ensure that employees understand new technologies and that they are provided the necessary equipment, training, and systems to carry out their duties and responsibilities. To that end, the parties are committed to exploring ways to share information about new technology, while respecting each other's statutory rights.

Section 1 - Information Technology Committee

A. The NCFLL and the Department recognize that it is mutually beneficial for employees to understand management plans for introducing new technology and to have a forum for the NCFLL to discuss issues related to technology. To that end the parties establish a joint Information Technology Committee where broad Department-wide or cross-Agency Technology Issues can be discussed.

B. The Information Technology Committee will meet up to four times a year with at least two of the meetings held face to face. The Committee will be made up of at least three Union members and three Management members, but there will be no more than five Union and Management members in attendance.

Section 2 - Hardware and Software Utilization

Where available, the Department will provide online access to electronic documentation, such as manuals and procedures for the equipment, hardware, and software that employees are required to utilize. A point-of-contact phone number and e-mail address will be provided to employees by their respective Agencies to answer questions and trouble shoot computer problems.

Section 3 - Training on New Technology

A. The Department commits to ensuring that all employees are equipped to perform the duties and responsibilities of their positions. Employees interested in increasing their information and technology skills are encouraged to pursue additional advanced training.

B. As the Department introduces new technology, appropriate training (e.g. on-line instruction, desk-aids, Ahelp lines, @ mentors, and/or classroom sessions) will be made available to employees affected by the introduction of new procedures and technology. Additional training will be provided for employees who demonstrate difficulty. If individual employees cannot adjust to the changes caused by the introduction of new technology or if the introduction results in the abolishment of some positions and the establishment of others, the Department of Labor, consistent with applicable regulations, will make every effort to utilize the skills and abilities of those employees adversely affected by the changes.

Section 4 - Pilot Programs

A. An Agency and the NCFLL may, by mutual agreement, establish a joint Information Technology (IT) Task Group comprised of three Union and three Management Representatives. The IT Task Group will provide a forum for Management to share anticipated technology changes and the Union to share and discuss concerns and interests of bargaining unit employees related to these changes. Each IT Task Group will meet as mutually agreed to by the parties. While face-to-face meetings may be appropriate in some instances, it is expected that the Task Group will maximize use of telephonic and other electronic communication to minimize travel costs.

B. Any IT Task Group established under this Section will remain in operation for a minimum of one year unless the parties mutually decide to dissolve it sooner. At the end of the one year period, the Task Group may be renewed on an annual basis by mutual agreement.

C. By agreeing to participate in a pilot IT Task Group, the NCFLL agrees that it will address its impact and implementation concerns in that forum and will not request formal bargaining.

Article 51

Child Care Subsidy

A. The Department of Labor Child Care Subsidy Program, conditional upon and in accordance with authorizing legislation, is intended to foster a quality work place for employees through the use of licensed child care by subsidizing costs for low family income employees while at the same time improving recruitment efforts, improving retention, reducing absenteeism, and improving morale. The DOL Program will provide assistance to lower income working families in their efforts to obtain quality, licensed day care for dependent children through age 13 and disabled children through age 18. Qualified participants must be utilizing licensed child care, meet income level definitions, and maintain a full-time or part-time permanent position status.

B. The Department of Labor Child Care Subsidy Program will be administered in such a manner that is cost efficient, manageable, accessible, and will serve to support valid performance data that will provide for meaningful program review and enhancement of the program.

C. This agreement is made pursuant to the government-wide regulations of the Office of Personnel Management. Appropriated funds, otherwise available for salaries, will be utilized to fund the program.

The subsidy payment plan is as follows:

Total Percentage of Monthly

**Family
Actual Child
Not To**

D. Any annual subsidy received in excess of \$5,000 (\$2,500 in the case of a separate return by a married individual) must be included as part of gross income for tax purposes, in accordance with 26 USC 129.

E. Employees already participating in the program need not reapply. However, their records will be reviewed annually in January for subsidy adjustment based upon the foregoing formula. Employees not currently participating in the pilot program may apply at any time after the effective date of this Agreement. Applications received and approved will be effective the beginning of the month in which approved.

F. The parties will make every effort to ensure overall employee awareness of the provisions of the Department of Labor Program for Use of Appropriated Funds for Child Care Costs for Lower Income Employees. Mechanisms to be used to support this effort, although not all inclusive will include the NCFLL Courier, LaborNet, Labor Exchange, and Spotlight publications.

G. The DOL will collaborate with the NCFLL in the development of any required report to Congress that is due pursuant to the legislation. The Department, in the administration of this program, will collect information and share such information with the NCFLL. The information will be in regard to matters such as employee participation in connection with their duty station, total family income, amount of subsidy, eligibility/ineligibility of applicants, and number and age of children coming under the program.

H. The Department may reduce or suspend the child care subsidy for all bargaining unit employees when it deems funding to be insufficient. When DOL has FY 2002 and ensuing years= final budget, the dollars will be examined to ascertain if sufficient funds for child care subsidies exist. The NCFLL will be provided the opportunity to consult with respect to the possibility of an adverse determination. The Department will subsequently notify the NCFLL of any determination that child care subsidies must be discontinued for all or any part of the fiscal year. Any such determination(s) by Management that child care subsidies are no longer viable within its budgetary limitations may be contested by the Union by invoking arbitration with the Department's Labor-Management Relations Center within 20 workdays of notification to the Union.

Article 52

Mass Transit Subsidy

A. Within budgetary limitations, all bargaining unit users of eligible mass transit or eligible commuter highway vehicles (CHVs) will be provided a subsidy of up to \$100.00 per month via an administrative Acheck@ in accordance with procedures to be established with local mass transit system(s).

- B. All bargaining unit employees who convert from commuting solely by privately operated vehicles (POVs) to eligible mass transit or eligible CHVs for all or part of their commute will receive an additional \$5.00 per month for six months.
- C. An employee's monthly subsidy cannot exceed the employee's actual cost of commuting by eligible mass transit or CHV.
- D. If an employee's mass transit provider does not utilize an administrative Acheck, @ the Department will attempt to establish with the provider an equivalent arrangement.
- E. Employee participants must certify each month that they use eligible mass transit or eligible CHV as their regular and recurring means of commuting.
- F. A Mass Transit Check @ or equivalent is not transferable.
- G. The Department may reduce or suspend the transit subsidy for all bargaining unit employees when it deems funding to be insufficient. When DOL has FY 2002 and ensuing years= final budget, the dollars will be examined to ascertain if sufficient funds for transit subsidies exist. The NCFLL will be provided the opportunity to consult with respect to the possibility of an adverse determination. The Department will subsequently notify the NCFLL of any determination that transit subsidies must be discontinued for all or any part of the fiscal year. Any such determination(s) by Management that transit subsidies are no longer viable within its budgetary limitations may be contested by the Union by invoking arbitration with the Department's Labor-Management Relations Center within 20 workdays of notification to the Union.
- H. The parties= National or Regional Labor-Management Relations Committees will jointly oversee/monitor the program to deal with systemic problems or issues as they arise.

Article 53

Reemployment Opportunities After Retirement

Section 1 - Eligibility

All employees in the bargaining unit who retire optionally from the Department will be considered, upon request, for reemployment.

Section 2 - Selection and Approval

A. Eligible retirees will be considered for reemployment in any vacant position for which they apply and for which they meet the minimum qualification requirements.

B. If a retired former employee wishes to be considered for reemployment, he/she should apply to the personnel office that services the Region where he/she wishes to be reemployed.

Section 3 - Reemployment

Rights and benefits of reemployed annuitants are outlined on Fact Sheet: Reemployed Annuitants, which is available through the servicing personnel offices.

Article 54 Concerted Activity

Section 1 - No Strike

The NCFLL agrees that during the life of this Agreement it will not encourage, initiate, participate, or condone any strike, work stoppage, or slowdown on the part of a bargaining unit employee or group of bargaining unit employees which would harm or adversely affect the operations or missions of the Department and that it will not condone any such activity by failing to take affirmative action to prevent or stop it.

Section 2 - No Lockout

Management agrees that it will not lock out any bargaining unit employees.

Article 55 Copies of Agreement

Section 1 - Copies

Booklet copies of this Agreement shall be provided by the Department to each employee in the unit. The NCFLL shall be furnished a reasonable number of copies to meet its needs.

Section 2 - Expenses

The expenses for printing and distribution of this Agreement shall be borne by the Department.

Article 56 Supplemental Agreements

Section 1 - Authority of Master Agreement

The Department and the NCFLL agree that this Agreement is a master Agreement and that any supplemental agreements shall not delete, modify, or otherwise nullify any provision, policy, or procedure in this Agreement; nor shall any provision in a supplemental agreement be in conflict with or duplicate any provision of this Agreement, statute, or regulation of the Department or higher authority. All supplemental agreements shall be a part of and subject to the terms and control of this Agreement and shall simultaneously terminate with this Agreement.

The following listed National Memoranda of Understanding remain in effect as of the effective date of this Agreement:

OSHA Temporary Relocation Long Island

(Item X only) 10/15/82

Section 2 - Appropriate Matters for Regional Negotiations

Matters appropriate for negotiations at the Regional level are those within the scope of bargaining under the Statute. These matters do not include:

- A. subject matter already contained in this Agreement;

- B. interpretation and application of this Agreement; or
- C. subject matter that has been the subject of bargaining at the National level.

Section 3 - Resolution of Regional Negotiation Disputes

Disputes between the local parties over whether agreement proposals or counterproposals are subject to Regional negotiations will be referred to the Department and the NCFLL Executive Committee. When a dispute has been submitted to the Department and the NCFLL, negotiations will be suspended on the issue pending final determination of the dispute. If the Department and NCFLL cannot resolve the dispute, either party may submit the matter to the appropriate authority in accordance with its rules and regulations.

Section 4 - Ratification and Approval of Regional Agreements

All Regional supplemental agreements are subject to ratification by the NCFLL and approval by the Department.

Article 57 Duration and Termination

Section 1 - Length of Agreement

- A. This Agreement shall take effect on July 1, 2002, and shall remain in effect through June 30, 2006, unless extended through mutual agreement. It will remain in effect for yearly periods thereafter unless either party serves the other party with written notice, any time during the month of March prior to the expiration date, of its desire to terminate or modify this Agreement.
- B. Upon receipt by either party of notice from the other party of its desire to terminate or modify this Agreement, both parties shall meet within 30 calendar days in an effort to reach agreement with respect to ground rules for negotiating a new Agreement.

Section 2 - Limited, One Time Reopener

- A. Either party may reopen Article 20, Merit Staffing, or Article 34, Safety and Health, by serving the other party with written notice during the month of July 2003, of its desire to modify the provision.
- B. Either party may reopen Article 44, Performance Awards, by serving the other party with written notice during the month of

January 2004, of its desire. Article 44 may only be opened for the limited purpose of bargaining over the composition of Pay Deciding Units.

Section 3 - Supplemental Agreements or Amendments

Any supplementary agreements or amendments to this Agreement that are entered into by the parties shall become a part of and shall terminate at the same time as this Agreement unless otherwise expressly agreed to in writing by the parties.