

**Collective
Bargaining
Agreement between
the
American Federation of
Government Employees,
AFGE Local 1585
and
USDA, Rural Development/Montana
Bozeman, Montana**

**Effective Date: January 16, 2026
Duration: January 16, 2026 – July 16, 2027**

*Collective Bargaining Agreement between AFGE Local 1585
and USDA Rural Development - Montana*

Preamble

This Agreement is made in compliance with Title VII, Civil Service Reform Act of 1978, PL 95-454, and between Rural Development (State of Montana), United States Department of Agriculture, herein after referred to as the "Employer", and the American Federation of Government Employees (AFGE), Local 1585, hereinafter referred to as the "Union", for employees of the described Unit, hereinafter referred to as "Employees".

Witnesseth

In consideration of the mutual covenants herein set forth, the parties hereto intending to be bound hereby agree as follows:

Whereas Title VII of the Civil Service Reform Act of 1978, PL 95-454, states that:

1. Experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them:
 - A. Safeguards the public interest,
 - B. Contributes to the effective conduct of public business, and
 - C. Facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and
2. The public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

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

Now, therefore, the parties hereto agree as follows, with respect to this agreement and all amendments and supplements:

Article 1 – Legal Authorities

1.1 Authority: This agreement is made under authority contained in Title VII, and in accordance with a Certification of Representation dated July 8, 1971, from the Department of Labor.

1.2 Recognition and Unit Designation: Under authority contained in Title VII the Union is hereby recognized as the exclusive representative of all the employees in the unit described in Article 1.3. The Union recognizes its responsibility to represent the interest of all unit employees with respect to grievances, personnel policies, practices, and procedures, or other matters affecting their general working conditions, subject to the express limitations set forth herein:

1.1 UNIT: The bargaining unit for which AFGE Local 1585 is exclusive representative is described as follows:

Included: All professional and nonprofessional employees of the Montana Office of the State Director, Rural Development, U.S. Department of Agriculture.

Excluded: All supervisors; management officials; and employees described in 5 U.S.C. Section 7112(b)(2), (3), (4), (6), and (7).

1.2 OUTSIDE CONSULTATION: From time to time management may 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.

1.3 CONTROLLING AUTHORITIES: In the administration of all matters covered by the agreement, the Agency officials and the Union and the bargaining unit employees are governed by existing and future laws and government-wide regulations. The employer and all bargaining unit employees are governed by existing and future Agency regulations to the extent such regulations are not in conflict with this Agreement. The Employer, in prescribing Agency regulations relating to personnel policies, practices, procedures, and conditions of employment, will consult with the Union, and upon written request, will negotiate with the Union in accordance with the provisions of Article 27 "Negotiations". In the event that existing provisions of Agency regulations, including local regulations or procedures, are in conflict with this Agreement, the provisions of this Agreement shall govern.

1.4 REPRESENTATION: The Employer agrees that National Representatives of AFGE/and/or Local Representatives at 1585 will be permitted to meet and discuss matters pertaining to this agreement when necessary with Employer's representative (at times and places mutually agreeable).

ARTICLE 2 - EMPLOYEE RIGHTS AND RESPONSIBILITIES

2.1 EMPLOYEE: Each Employee shall have the right to form, join, or assist any labor organization, or to refrain from such activity, freely and with out fear of penalty or reprisal, and each Employee shall be protected in the exercise of such right. Except as otherwise provided, such rights include the right;

- A. To act for the Union in the capacity of a representative and the right, in that capacity, to present the views of the Union to heads of agencies and other officials of the Executive Branch of the Government, the Congress or other appropriate authorities; and
- B. To engage in collective bargaining with respect to conditions of employment through representatives chosen by Employees.

2.2 ACCOUNTABILITY: An Employee is accountable for the performance of official duties and compliance with standards of conduct for Federal employees. Employees shall have the right to engage in outside activities and employment of their own choosing, and otherwise conduct their private lives in accordance with 5 CFR 735; DPM 735

2.3 INFORMING EMPLOYEES: The employer shall take such action consistent with law or regulation, as may be required, in order to inform employees of their rights and obligations, as prescribed in the Civil Service Reform Act of 1978 and this agreement. 5 USC 7114 (A)(3) will be permanently posted on the bulletin boards in each office.

2.4 NONDISCRIMINATION: All Agency employees shall be treated fairly and equitably, and without discrimination in regard to their political affiliation, union activity or involvement, race, sex, color, religion, national origin, marital status, age or disability.

2.5 AGREEMENT: This agreement does not prevent any Employee from bringing matters of personal concern to the appropriate Officials in accordance with applicable laws, regulations, or agency policies.

2.6 MANAGEMENT: Management will not take reprisal actions against employees for the exercise of any appeal right granted by law, rule, regulation, or this agreement.

2.7 REPRESENTATION: Any bargaining unit employee shall be given the opportunity to have a Union representative present at any formal meeting involving the employee or at any examination of an employee in connection with an investigation if:

- A. The employee reasonably believes that the examination may result in disciplinary action against the employee;
- B. There are two or more management personnel in attendance at the meeting;
- C. The employee requests representation.

The Agency shall inform employees of their rights to this respect.

When a bargaining unit employee is notified that he or she is to be interviewed in any manner

where his or her rights under Section 2.7 of this Article are invoked by the employee, and the Union representative of the employee is not immediately available; the interview will be deferred for a reasonable period of time, to permit the presence of the Union representative.

An Employee may be represented by an attorney or representative other than the American Federation of Government Employees, of the Employees own choosing, in any appeal action not under the negotiated grievance procedure. The Employee may exercise grievance or appellate rights, which are established by law, rule, or regulation.

2.8 CONFIDENTIAL: Counseling of employees shall normally be done privately and considered a confidential matter.

ARTICLE 3 - UNION RIGHTS AND REPRESENTATION

3.1 **RECOGNITION:**

- A. The Employer recognizes AFGE Local 1585, its duly elected officers, appointed officials, and union representatives as the exclusive representatives of employees in the bargaining unit, and that the Local has the exclusive right to represent all employees in the unit in negotiations and joint meetings with the Employer with regard to matters affecting the conditions of employment.
- B. The Union President within the bargaining unit will be the primary person in all contacts with the Employer on matters involving personnel policies and/or practices or other general conditions of employment. The Union will provide the Employer a list in descending order of those officials who will carry out the provisions of this section in the absence of the Union President.

3.2 RIGHTS: The Union has the right to represent an employee or group of employees in presenting a grievance or other appeal, or when raising matters of concern or dissatisfaction with Management. The Union has exclusive right to represent employees under the negotiated grievance procedure in this Agreement. An employee or group of employees may present a grievance without representation by the Union, provided that the Union is a party to all discussions between the grievant and the appropriate deciding official. The adjustment must be consistent with the terms of this Agreement. For written grievances, the Union will have access to all written responses upon request. The Union will be given copies of all decisions.

3.3 FORMAL DISCUSSIONS: The Union has the right to be in attendance at any formal discussion between one or more representatives of the Employer and any member of the bargaining unit in connection with any personnel policy or practice or other general conditions of employment. The Union's request for a response during formal meetings will be honored. The agenda or subject matter will be provided to the Union in a reasonable amount of time prior to the meeting.

3.4 INVESTIGATION: The Union has the right to be represented at any examination of a bargaining unit employee by a representative of the Employer in connection with an investigation if the Employee reasonably believes that the examination may result in disciplinary action against the Employee and the Employee requests the Union to represent them.

3.5 NEGOTIATIONS: The Employer agrees to respect the rights of the Union and meet jointly and negotiate with the Union on all appropriate matters as defined in 5 USC Chapter 71 affecting the general conditions of employment, and further agrees to negotiate with the Union the impact and implementation of proposed new policy or changes in such policy affecting the

Employees or their general conditions of employment that are under the control of the Employer with the view of arriving at a mutually acceptable position.

3.6 CONSULTATIONS: It is recognized that the implementation and execution of the provisions of this Agreement requires appropriate machinery for effective discussions and communication. In addition, there are other matters concerning personnel policies, procedures and working conditions not covered by this Agreement, which may become a matter of interest to either party. In both situations, these matters may be subject to consultation between the Union and the Employer.

3.7 ACCESS TO RECORDS: The duty of the Employer and the Union to negotiate in good faith under the law shall include the obligation of the Employer to furnish the Union or its authorized representative upon request, and to the extent not prohibited by law, data which is normally maintained by the employer in the regular course of business; which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and which does not constitute guidance, advice, counsel, or training provided for Management Officials or supervisors, relating to collective bargaining. (See 5 USC 7114(b)(4)).

3.8 MEMBERSHIP DRIVES: Upon request and subject to normal security limitations, the Union shall be granted authority to conduct up to two membership drives, within a one (1) year period, up to thirty (30) days duration each, before and after duty hours, and at break periods and lunch periods, in non duty areas, the details of which will be worked out between the Union and Employer. Upon request, the Employer shall provide the Union with available reasonable space and equipment for use in such drives.

3.9 RECOGNITION OF AFGE NATIONAL REPRESENTATIVE: The Employer agrees to recognize any National Representative of AFGE.

3.10 RIGHT TO SUBMIT VIEWS TO AGENCY HEAD: Employer recognizes the rights of the union to submit proposals or views directly to the Agency head for consideration when changes in Agency procedures are proposed by the Agency.

3.11 RESTRAINT: There shall be no restraint, coercion, or discrimination against any Union official because of the performance of duties in consonance with this agreement and the Act, or against any employee for filing a grievance or acting as a witness under this agreement, the Act, or applicable regulations. Nor shall the performance of such representational duties adversely affect the performance appraisal of any representative who performs the representational duties in accordance with this Agreement.

Union representatives shall be free to exercise their respective responsibilities, as specified in this Agreement and/or law, to advance the best interests of and to represent the employees covered by this Agreement. They shall be permitted to engage in authorized activities on behalf of the Union; provided, however, that nothing herein shall be construed to authorize the performance of activities of internal Union business on official time.

ARTICLE 4 - MANAGEMENT RIGHTS AND RESPONSIBILITIES

GENERAL: The Agency retains the rights in accordance with Title 5 U.S.C. 7106.

<http://www4.law.cornell.edu/uscode/5/7106.html>

In recognition of management's reserved right to assign work, whenever language in this Agreement refers to specific duties or responsibilities of specific employees or management officials, it is intended only to provide a guide as to how a situation is to be handled. It is agreed that the Employer retains the sole discretion to assign work and to determine who will perform the function discussed.

ARTICLE 5 - ORIENTATION OF NEW EMPLOYEES

5.1 GENERAL: During orientation of new employees who are in the bargaining unit, the Employer should advise them of their right to form, join, or assist any labor organization, including AFGE Local 1585; freely and without fear of penalty or reprisal, or to refrain from any such activity, and that the employees are protected in the exercise of such right. The employee will also be informed of the location of the contract in the shared directory.

5.2 UNION BRIEFING: As part of the new employee orientation briefing, the local Union president, or designee, they so choose, will be introduced to the employee(s) and allotted up to 15 minutes to present an overview of the labor management relationship and functions of the union. This shall not normally be construed to authorize Union presence every time a new employee reports to duty. This is intended to address situations in which scheduled meetings are held with groups of new employees.

5.3 UNION INFORMATION: Employees shall be given the names and current work areas and phone numbers of the local union officers representing the employee, and the name of the steward along with the steward's phone number. The Union shall provide the above information, in writing, to the Employer on a current basis.

ARTICLE 6 - DUES WITHHOLDING

6.1 **GENERAL:** Voluntary allotments by employees for the payment of dues to the AFGE 1585 will be authorized and processed in accordance with this article.

6.2 Any Bargaining Unit Employee of the USDA who is included in AFGE Local 1585 may make a voluntary allotment for the payment of dues to AFGE Local 1585. This shall be the only authorized method for obtaining dues withholding.

6.3 The employee shall obtain SF-1187, "Request for Payroll Deductions for Labor Organization Dues", from AFGE Local 1585 and shall file the completed SF-1187 with the designated AFGE representative. The employee shall be instructed by AFGE on how to complete the form.

6.4 The President, Secretary/Treasurer, or other authorized official of the Local Union will certify on each SF-1187 the amount to be withheld, and the appropriate Local number and submit the completed SF-1187 to the Servicing Personnel Office of the USDA Agency involved. The Servicing Personnel Office shall certify the employee's eligibility for dues withholding after receipt and transmit the SF-1187 to the National Finance Center (NFC).

6.5 Management will make reasonable effort to process the dues deduction effective as of the beginning of the first full pay period after management receives the SF-1187.

6.6 The Agency and Union recognize that administrative coding errors occur. If dues deductions were inadvertently withheld from an employee's pay without authorization, the Union will promptly refund the appropriate amount. If dues were not deducted, for 2 pay periods or less, the Union will not seek action to collect back dues from the Agency. If dues were not collected the Union and bargaining unit employees will have the option to negotiate the method to collect the back dues owed. Some of these options are:

- A. The Union has the option to forgive the back dues;
- B. The employee will pay cash for the back dues; or
- C. The employer will collect no more than \$5 per pay period of additional dues until the correct amount is deducted and remitted to the Union.

6.7 Union members wishing to stop their dues allotment must submit an SF-1188 to the Union Treasurer for processing. Union members withdrawing from the Union may cancel dues withholding any time after their one-year anniversary date by submitting the appropriate designated form to the Union. The Union will then provide the SF-1188 dues cancellation form to the appropriate management official to process the dues deduction cancellation as soon as administratively feasible.

ARTICLE 7 - TRAINING

7.1 **RESPONSIBILITIES:**

- A. **MANAGEMENT RESPONSIBILITIES:** The Agency will formulate a State Training Plan based on the State Strategic Plan, training needs, and budget allocations. Priority will be given to employees enrolling in any training course to provide them with whatever training is necessary to develop the skills, knowledge, and abilities that will best qualify them to do their job. Agency merit promotion procedures must be followed in selecting employees for training that is primarily to prepare trainees for advancement and that is not directly related to improving performance in their current positions. Training shall be provided for employees without regard to race, religion, marital status, color, national origin, sex, disability, or other factors unrelated to the need for training.
- B. **SUPERVISORS:** Supervisors will work with employees to develop/review Individual Development Plans (IDPs) within 30 days of the beginning of the performance period. They will make recommendations for appropriate training for employees and ensure that new employees receive an appropriate orientation and training. During the first quarter of the fiscal year, the Supervisor will submit any Requests for Training to the Training Coordinator for review. Subsequent requests will be submitted to the Training Coordinator and approved on a case by case basis, taking into consideration budgetary constraints and the Agency goals and mission.
- C. **EMPLOYEES:** Employees are responsible to develop their potential by applying their own efforts, time, and resources together with the opportunities provided by the Agency. In consultation with their supervisors, employees will develop an Individual Development Plan requesting needed training that best meets needs in an economical manner. They will inform the Training Coordinator and supervisor if unable to attend scheduled training as soon as possible. Employees shall satisfactorily complete training and apply on-the-job knowledge and skills learned.

7.2 **TRAINING PROCESS:** All training requests must be submitted to the Training Coordinator. The Employer will record official training received in the Official Agency Records of the employee. An approved request is required for all training that is 8 hours or more, regardless of any costs involved. An approved request must also be used for any training, regardless of the number of hours, if there are any costs involved.

7.3 **EXAMINATIONS, LICENSES, AND CERTIFICATIONS:** When an Agency employee is required to take examinations, or obtain and maintain licenses and/or certifications necessary to perform the duties of his or her position, the Agency will reimburse the employee for the cost of those examinations, licenses, or certifications to include travel and per diem.

7.4 **PURCHASE OR RENTAL OF BOOKS, MATERIALS AND SUPPLIES:** If prior approval is obtained, the agency will pay for the purchase or rental of books, materials, and supplies associated with a training course, if such materials and/or supplies are required by the training, or are necessary in the performance of an individual's job duties.

7.5 **EMPLOYEES WITH DISABILITIES:** The employer must ensure that discrimination does not result from the use of facilities that deny access on other grounds, such as lack of "reasonable accommodation" of people with disabilities. They will make every practical effort to

ensure that training programs and meetings are accessible to participants with disabilities. The Agency may pay for individuals to accompany or aid employees with disabilities traveling on official business (including travel for training and/or meetings) within prescribed U.S. General Services Administration salary, travel, and per diem rates for Federal employees. The Agency will pay the cost of readers and interpreters for employees attending training and meetings. Prior notification is necessary to insure that appropriate arrangements can be made.

ARTICLE 8 - MERIT PROMOTION PLAN

The principle of merit promotion is to ensure that employees are given full and fair consideration for advancement and to ensure selection from among the best-qualified candidates. The Employer recognizes the value of promoting from within and in creating promotion opportunity for Rural Development Employees. When filling bargaining unit positions the Employer shall follow USDA and RD policies, applicable laws, rules, and regulations then in effect, and the following additions.

8.1 **General Provisions:** Merit Promotion Panels may be used for all merit promotion positions filled. Should the Agency opt to utilize Merit Promotion Panels, those panels will be in accordance to USDA DR 4030-335- 002. The employer will notify the union if the panel will be convened.

8.2 **Lateral Reassignment or Change to Lower Grade:** A bargaining unit employee may request reassignment without paid relocation expenses to a known vacant position of equivalent grade or lower. Bargaining unit employees shall be given priority consideration for a lateral transfer in accordance with applicable laws and regulations.

8.3 **Non-Selection:** Non-selectees may solicit from the selecting official information regarding the reason for their nonselection and how to improve the likelihood of being chosen in the future.

8.4 **Resolution of Disputes:** A grievance may be filed under the Negotiated Grievance Procedure of the Collective Bargaining Agreement when there is an alleged violation of relevant Merit Promotion law, rule, regulation, or the provisions of this Article.

8.5 **Career Ladder Positions:** The Employer (usually the immediate supervisor of the employee) and employees in career ladder positions are jointly responsible for developing a plan for the employee to attain the full performance level of the position. If the employee is not progressing satisfactorily, it is the responsibility of the Employer to counsel the employee, and the employee should take steps to correct any deficiencies.

An employee shall be eligible for promotion to the next higher grade in the career ladder beginning with the first pay period after 52 weeks or whatever lesser time period may be applicable, provided:

1. Applicable time in grade, qualification, quality of experience requirements, and other appropriate statutory and administrative requirements have been met; and
2. A rating or progress review of the employee's overall performance for the time in grade is satisfactory; and
3. The Employer determines that the employee is capable of performing the higher graded duties.

Pursuant to applicable regulations, an employee may not advance on the career ladder for his or her position for failing to satisfy the previously-mentioned eligibility requirements or because the work available at the next higher grade in the position is insufficient.

8.6 **Noncompetitive Promotion:** When the servicing personnel office determines that there has been an accretion of duties and responsibilities that warrants an increase in grade, the Employer shall notify the employee, supervisor, and Union representative and may promote the employee without competition if the employee is deemed qualified or may reassign the higher graded duties.

8.7 **Temporary Promotions:** In accordance with 5 CFR 335.103, the Employer shall temporarily promote employees detailed to higher graded duties for more than sixty (60) calendar days.

Selections for temporary promotions of 120 days or less shall normally be made from among well-qualified employees in accordance with 5 CFR 335.103. Where practicable, such promotions may be rotated among well-qualified employees.

ARTICLE 9 - WORK SCHEDULES

9.1 **GUIDELINES:** The employer agrees to administer hours of duty and flexible work schedules in accordance with RD Instruction 2051-F, or its successor if any exists, (<http://www.rurdev.usda.gov/regq/regq/pdf/2051f.pdf>), on matters not covered in this agreement. Flexible work schedules must be administered fairly and equitably to all bargaining unit employees in a work section.

9.2 **WORK SCHEDULES:** Employee work schedules will be established between the hours of 6:00 a.m. and 12:00 a.m. However, on a regular basis, the employee's scheduled work day will be completed by 6:00 p.m.

9.3 **FLEXIBLE WORK SCHEDULES (FWS):** Employees may apply for a FWS as provided in RD Instruction 2051-F. Such a schedule may be authorized if all the following criteria are met:

- A. service to the public cannot be diminished;
- B. productivity cannot be decreased;
- C. costs of operation must not increase.

If the supervisor denies a schedule they will provide the employee with a written explanation within 5 working days, with a copy to the Union.

9.4 **OFFICE CLOSURE:** An office will not be closed as the result of employees' Non Work Day (NWD) without the prior approval of the State Director or designee.

9.5 **OFFICE HOURS:** Offices will remain open and capable of providing customer service during the noon lunch break. Exceptions will require prior approval of the State Director or designee.

9.6 **REST PERIODS:** Employees shall be allowed two paid rest periods – one rest period during the middle of the first time period (a.m.) and one rest period during the middle of the second time period (p.m.) of each basic work day. These rest periods will be limited to 15 minutes each. Rest period cannot be accumulated or used as an extension of lunch and/or early dismissal. If an employee leaves the work area during their break, their supervisor or co-worker will be informed.

ARTICLE 10 - LEAVE

The Agency shall continue to apply to bargaining unit employees:

1. the provisions of the current RD Instruction 2066-A, "Leave", or its successor if any exists; and
2. the provisions of the current RD Instruction 2051-F, "Hours of Duty", or its successor if any exists; and
3. the statutory obligations of the Family and Medical Leave Act of 1993 ("FMLA") as it has been or may be amended; and
4. the statutory obligations of the Family Friendly Leave Act which became effective December 2, 1994, as it has been or may be amended.

ARTICLE 11 - POSITION DESCRIPTION AND CLASSIFICATION

11.1 Each employee is entitled to a position description which is accurate as to title, series, and grade and clearly states the principal/primary duties and responsibilities of the position which are reflected in performance elements. Upon the request of the employee, the position description shall be reviewed annually by the employee and work supervisor, within 30 days of the beginning of the rating period. This is the time when the employee is to ask what it takes to excel in their performance.

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A. Any employee who feels that he/she is performing duties outside the scope of the position description, or that it is inaccurate may request to the immediate supervisor that the position description be reviewed. The position description is to be reviewed and the findings presented to the employee within forty five (45) days. In conducting such reviews, the reviewer will consider the employee's written and oral comments. If the employee is not satisfied with the results of the review, they may grieve according to Article 28.

B. If an employee believes that his/her position is incorrectly classified as to series and/or grade, s/he may choose any or all of the three actions to pursue a classification appeal:

1. With the Rural Development Assistant Administrator for Human Resources;
2. With the USDA Office of Human Resources Management;
3. With the U.S. Office of Personnel Management.

State Office Human Resources staff will provide an employee with the necessary information to pursue any of these avenues. The employee may request Union representation during classification review.

C. Upgrades that are exempt from the merit promotion plan due to reclassification shall become effective the beginning of the first pay period after the position was classified at the higher level.

11.3 When a new position description has been approved and classified, the supervisor and the employee will review and discuss said position descriptions within 15 days of completion.

11.4 If a classification audit reveals that there has been an accretion of duties deserving of a higher grade, the employee will be promoted, unless the employer eliminates and/or redistributes the grade controlling duties.

11.5 When employees are assigned additional duties, which comprise 25% of their time, or are grade controlling, and are not reflected in their position description, the employer will revise the position description to reflect the change in accordance with Section 11.1 above.

11.6 DOWNGRADES: General Schedule employees in the unit whose positions have been downgraded may appeal to the Merit Systems Protection Board. Notices of such actions shall include an explanation of the employee's options for review and/or use the negotiated grievance process, including the address of the MSPB office. Saved grade and saved pay rights shall be afforded to those whose positions are downgraded in accordance with 5 CFR 536.

ARTICLE 12 - PERFORMANCE APPRAISAL

Bargaining unit employees of USDA Rural Development Montana are covered by the provisions of the current (or if applicable, any successor to) Departmental Regulation 4040-430 Employee Performance and Awards.

ARTICLE 13: EMPLOYEE RECOGNITION/AWARDS PROGRAM

The Union and the Employer acknowledge the importance of timely recognition of employees for high quality contributions to the Department and its mission. Recognition and encouragement by the Employer are important incentives that increase employee job satisfaction and contribute to the overall quality of work performance.

Management retains their right to exercise discretion to issue or to not issue employee awards. It is recognized by the Parties that there are no entitlements to awards, and all awards should be issued in the best interest of the Department, its employees and the American taxpayer. If the Agency issues awards to employees, it shall do so in a consistent and objective manner without discrimination, and in accordance with current Department policy, applicable laws, rules, and regulations.

ARTICLE 14 - DISCIPLINE AND ADVERSE ACTIONS

14.1 The parties agree that the objective of a disciplinary measure is to maintain an orderly, competent, and productive organization. Disciplinary/adverse actions against all Employees must be based on just cause, be consistent with applicable laws and regulations, and be fair and equitable. It is recognized by the Agency and Union that discipline is meant to be corrective in nature, not punitive. This Article applies to disciplinary actions, suspensions, removals, reduction in grade or pay, and furlough of thirty (30) days or less. The least degree of discipline likely to correct the problem shall normally be taken.

14.2 NON-DISCIPLINARY ACTIONS:

Actions such as counseling and oral admonishment are not disciplinary. When a supervisor counsels an employee on either a conduct or a performance issue, that discussion will be documented in writing. The employee will be provided a copy of the documentation and encouraged to initial for receipt.

For performance counseling, the documentation will be maintained until the end of the employee's performance appraisal cycle.

For counseling relating to conduct, documentation will be maintained for six (6) months.

14.3 DISCIPLINARY ACTIONS:

It is recognized that the Agency retains the right to discipline. However, it is also recognized that any disciplinary action demands the exercise of responsible judgment so that an employee will not be penalized out of proportion to the character of the offense. Therefore, the Agency agrees to utilize the Douglas Factors. It is further recognized that in order for disciplinary action to be effective, it must be initiated within a reasonable time of the incident or becoming aware of the incident precipitating the action.

14.4 An employee, upon request, will be permitted to review that material which is relied on to support the reasons for the action given in the notice referred to in Sections 6 and 7 below.

14.5 When an employee is subject to disciplinary action (for example, a letter of reprimand), the letter will inform the employee of the name of the Union President, address and telephone number and the employee's right to be represented by the Union in a grievance over the disciplinary action. Letters of reprimand will be removed from Official Personnel Folders after one year.

14.6 SUSPENSION OF FOURTEEN (14) CALENDAR DAYS OR LESS:

- A. An Employee against whom a suspension for fourteen (14) calendar days or less is proposed is entitled to:
1. A written notice stating the specific reasons for the proposed action;
 2. A reasonable time, normally seven (7) calendar days, to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer. A reasonable extension of time will be granted upon request based on valid reasons.
 3. Be represented in the process by the Local. The Local will inform management in writing if an attorney will represent the Local/Employee in the process.
 4. After investigating the incident and carefully considering the evidence and the Employee's response and any mitigating factors, the deciding official shall accomplish one of the following:
 - a. Institute the proposed action;
 - b. Institute a lesser action;
 - c. Withdraw the proposed action;
- B. After considering the Employee's response, the Employer will issue a written decision. If the decision is unfavorable to the Employee, the decision may be grieved through the negotiated grievance procedure. If the negotiated grievance procedure is used it will begin with the last step of the grievance procedure. The written decision will advise the Employee of this right.

14.7 REMOVAL, SUSPENSION FOR MORE THAN FOURTEEN (14) CALENDAR DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR THIRTY (30) DAYS OR LESS:

- A. An Employee against whom such an action is proposed is entitled to:

1. At least 30 days advance written notice, unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed or other reasons as stated by law, stating the specific reasons for the proposed action;
 2. A reasonable time, never less than 7 days, to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer;
 3. Be represented by an attorney or other representative of his/her choosing. The Agency agrees to notify the Union President or his/her designee when the employee chooses to be represented by other than the Union.
 4. A written decision and the specific reasons, therefore, at the earliest practicable date; and
- B. After considering the Employee's response, if made, the Employer will issue a written decision. If the decision is to effect an action specified in this section, it will specify the reason, the effective date, the action to be taken, and the applicable appeal rights. The Employee may have entitlement to appeal the decision to the Merit Systems Protection Board or, the Employee may file a written grievance under the terms of the Agreement, but not both. Any such grievance will be initiated at the last step of the negotiated grievance procedure. An Employee shall be deemed to have exhausted their option at such time as the Employee timely initiates an action under the statutory procedure or timely files a written grievance, whichever occurs first.

ARTICLE 15 - CONTRACTING OUT

15.1 GENERAL: The parties acknowledge that the right to contract out is a management right under 5 USC 7106. If the Agency determines whether to contract out commercial activities currently performed by the Agency, it will comply with the provisions of OMB Circular A-76. The Employer acknowledges its obligation to adhere to all applicable laws and regulations, and Agency policy in contracting out for work or services.

15.2 NEGOTIATIONS: The Union shall have the right to negotiate on the impact and implementation of a decision to contract out any bargaining unit work, up to and including Impasse Procedures.

15.3 NOTIFICATION: Within 10 working days of becoming aware of a requirement to do an A-76 study of bargaining unit positions, Rural Development Montana will notify the Union. The notice will include, but is not limited to:

- A. The names of the employee(s) who may be adversely affected.
- B. Type of action to be taken.
- C. The reason(s) for the action.
- D. The proposed competitive area(s).
- E. The competitive level(s) of affected position(s).
- F. The expected or approximate date of such action/step.

G. A copy of any study made in conjunction with the action.

H. The measures being considered to reduce the adverse impact.

The Union must advise the Agency, in writing, within ten (10) working days of the notification if it intends to negotiate the impact of the decision. The Union agrees to provide written proposals to the Agency fifteen (15) working days after the Union has been notified. If proposals are submitted, negotiations will begin within fifteen (15) working days after the Agency acknowledges receipt of the Union proposals.

Within fifteen (15) working days of Management becoming aware or upon the request of the Union President, Management will provide the Union with a copy of the FAIR Act Inventory and any subsequent revisions.

15.4 PLACEMENT: The Employer will make a reasonable effort to place all employees adversely affected by the decision to contract bargaining unit work, in accordance with the Reduction in Force article of this agreement and 5 CFR 351.

15.5 EARLY RETIREMENT: Rural Development Montana agrees to request to the National Office for implementation of the early retirement provisions of Title 5 U.S. Code, at least 120 days prior to the notification of bargaining unit employees, in order to minimize the impact of the RIF.

15.6 PERSONNEL FILES: The Union and the Agency will jointly encourage each employee to see that the employee's personnel file and OF-612 or resume are up-to-date as soon as the RIF is announced. At least 75 days prior to the RIF, the Agency will add to the personnel file appropriate changes or amendments requested by the employee. The Agency agrees to provide an advance notice of this section and Article to the Bargaining Unit Employees of their responsibility to update their work experience/resume. The Agency may waive qualification requirements for a period of time in accordance with appropriate regulations for otherwise ineligible employees.

15.7 The Union retains the right to bargain impact and implementation of a contracting out issue.

ARTICLE 16 REDUCTION IN FORCE AND TRANSFER OF FUNCTION

16.1 GENERAL RULES

The Employer and the Union recognize that employees may be seriously and adversely affected by a reduction-in-force and/or transfer of function. In the event of a reduction-in-force and/or transfer of function, the Employer shall notify the Union and fulfill its obligation to bargain consistent with 5 USC 71.

16.2 NOTIFICATION TO UNION

- A. When the Employer is anticipating a RIF or TOF, it shall provide the following to the Union thirty (30) days in advance of any official notice provided to the affected employees as required by 5 CFR 351:
1. The reason(s) why the actions may be taken.
 2. The approximate number of employees who may be affected.
 3. The types of positions anticipated to be affected; and
 4. The anticipated effective date that action will be taken.
- B. The Employer shall provide the Union, upon request, with information in accordance with 5 U.S.C. 7114(b)(4). C. All RIF(s) and TOF(s) shall be conducted in accordance with 5 CFR 351.

ARTICLE 17- EQUAL EMPLOYMENT OPPORTUNITY

17.1 GENERAL: The Employer and the Union agree that no individual will be a victim of discrimination on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, age (as defined by the Age Discrimination in Employment Act of 1967, as amended), disability, political affiliation, sexual orientation, labor organization affiliation or non-affiliation, marital status, parental status, genetic information (including family medical history), other non-merit based factor, or any other protected class covered by law, rule, or regulation; or retaliation for exercising rights with respect to the categories enumerated above, where retaliation rights are available. EEO complaints will be processed in accordance with applicable laws and regulations.

17.2 LEGAL AUTHORITIES that govern EEO can be found at www.eeoc.gov/laws.html

17.3 EEO ADVISORY COMMITTEE: Montana's Rural Development Equal Employment Opportunity Advisory Committee (EEOAC), established in accordance with RD Instruction 2045X, will be maintained. The Union shall have one representative on the EEOAC selected by the Union Executive Board. The functions of the Committee shall include reviewing and making recommendations of necessary changes in existing EEO Plans and Programs, as may be appropriate under the Civil Service Reform Act of 1978. The Union shall receive a copy of all minutes of the EEOAC meetings and any recommendations to management.

17.4 EEO COUNSELORS: The telephone number of the Equal Employment Opportunity Counselors will be posted on the EEOAC official bulletin board and the Montana Rural Development office phone listing.

17.5 EEO COMPLAINT PROCESS: An employee that perceives that they have been submitted to any form of work force discrimination has 45 calendar days to report the incident to an EEO Counselor. During the informal stage, the employee may request to remain anonymous while the EEO Counselor attempts to resolve the employee's complaint

17.6 UNION REPRESENTATION: An employee has the right to choose to be represented by the Union when discussing an allegation of discrimination with an EEO counselor or when

processing an EEO complaint. The employee will need to make the initial contact with the EEO Counselor. If the EEO complaint is at the formal stage and the employee chooses not to have Union representation, the Agency will provide the Union with a sanitized copy of the agreement, if any.

ARTICLE 18 - SEXUAL HARASSMENT

18.1 THE EMPLOYER AND THE UNION ACKNOWLEDGE: That sexual harassment undermines the integrity of the Federal Government and will not be condoned. Employees will be allowed to work in an environment free from sexual harassment. Further, sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as, the taking or refusing to take a personnel action, including promotion of employees who submit to sexual advance or refusal to promote employees who resist or protest sexual overtures.

18.2 SEXUAL HARASSMENT IS DEFINED AS, BUT NOT LIMITED TO:

Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.

18.3 NOTIFICATION: Federal employees have a responsibility to place any potential violator for sexual harassment on notice that the action must cease and desist. Once the alleged offender has been notified to cease and desist, and the behavior has continued, the employee has an obligation to report the violation to a management official having no involvement in the alleged violation. The employee may request Union representation for such notice and any subsequent reporting to management.

ARTICLE 19 - PROHIBITED PERSONNEL PRACTICES

19.1 GENERAL: Any Federal employee that believes that they have been affected by a Prohibited Personnel Practice violation may contact the Office of Special Counsel, a Union Representative, an EEO Counselor, and/or Agency management official.

19.2 DEFINITION: Twelve prohibited personnel practices, including reprisal for whistle blowing, are defined by law at 2302 of the Title 5 of the United States Code (U.S.C.). <http://www4.law.cornell.edu/uscode/5/2302.html>

19.3 WHISTLE BLOWER COMPLAINTS: The Office of Special Counsel also provides a safe channel through which current and former federal employees, and applicants for employment, may disclose information that they believe shows: a violation of law, rule or regulation, gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety.

19.4 JURISDICTION: Employees covered by a collective bargaining agreement must choose one of three avenues: an OSC complaint, an EEOC complaint, or a grievance under the collective bargaining agreement.

ARTICLE 20 –HEALTH AND SAFETY

20.1 EMPLOYER RESPONSIBILITIES: In accordance with 29 CFR, Part 1960 and Executive Order 12196, the Agency will provide and maintain a safe and healthy work environment for all employees. The Employer and the Union have a common interest in promoting safe working habits and healthy working conditions. The Employer has an obligation to provide safe working conditions and will comply with the following:

- A. Each building in which bargaining unit employees are stationed will have an Occupant Emergency Plan. The plan will be reviewed on an annual basis in conjunction with the annual office safety inspection.
- B. The Employer will provide first-aid kits at all Rural Development building locations. Supervisors will ensure kits are maintained and order replacement supplies when needed.
- C. Management will supply and maintain on a regular basis an adequate number of fire extinguishers with up-to-date inspections performed.

20.2 EMPLOYEE RESPONSIBILITIES: All employees are responsible for the prompt reporting of unsafe working conditions. The Employer and the Union recognize that observing safe work practices and wearing of prescribed protective equipment are primarily the responsibility of each employee. The Employer and the Union will cooperate in encouraging employees to work in a safe manner and to report promptly any unsafe or unhealthy conditions to appropriate supervisors.

20.3 SAFETY INSPECTIONS: Each office of the Employer will receive an annual Health and Safety inspection. If available, a union representative employee from that office from the appointed list, will be afforded an opportunity to accompany the Rural Development official making the annual safety inspection.

The Employer will forward a copy of any inspection reports when available to the Local President. All health and safety inspections will be conducted in accordance with this Agreement and applicable laws, rules, and regulations.

20.4 WORKING CONDITIONS: If an employee or union official notifies management of a health or safety issue, an inspection will be conducted if necessary within 10 working days. When an employee feels that he or she is subject to conditions so severe that even short-term exposure to such conditions would be dangerous to health or safety, he or she will report the circumstances to the immediate supervisor and, if they choose, a Union official. An employee has the right to decline to perform their tasks because of a reasonable belief that, under the circumstances, the task or work environment poses an immediate risk of death or serious bodily harm. The employee will be available for work under other conditions until the hazard is stopped. Once the hazard has been removed, the employee is required to return to work.

If the employee still believes the hazard exists, they will need to utilize the grievance procedures. The appropriate management official and the appointed Union Representative will inspect the work area to insure that it is safe before requiring the employee to carry out the work assignment. If any doubt regarding the safety of existing conditions is raised by the supervisor or the Union official, a ruling shall be obtained from the appropriate safety or environmental health official. No employee will be subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthy working condition.

20.5 IMMEDIATE DANGER: When an immediate dangerous situation is discovered, it will be brought to the attention of the supervisor, who will take prompt action to eliminate or reduce the hazard, if it is so determined that a hazard exists, or cease operations and withdraw exposed personnel until such action is taken.

20.6 SAFETY STANDARDS: When the employee has a reasonable belief that asbestos, mold, lead-based paint or other indoor air quality issues are present, the employer will conduct

applicable tests within 60 days in accordance with applicable OSHA and EPA regulations and take all the necessary steps to assure the health and safety of employees. The employer will provide adequate lighting and maintain minimum noise decibels to meet applicable safety standards. The employer will provide the Union with all test results and abatement plans.

20.7 ERGONOMICS: To the extent practicable and within available resources, management will provide an ergonomic working environment based on the guidelines issued by the American National Standards Institute (ANSI) and/or National Institute of Occupational Safety and Health (NIOSH) as appropriate. Upon request, bargaining unit employees will be provided adaptive devices such as padded wrist rests, mouse pads, document holders that have adjustable height and tilt, foot rests, keyboard trays and other appropriate adaptive devices designed to prevent repetitive strain injuries. Ergonomic-related injuries will be treated in accordance with OWCP procedures.

ARTICLE 21 - ON THE JOB ILLNESS OR INJURY

21.1 RESPONSIBILITIES: It shall be the responsibility of the employee, who suffers occupational illness or injury in the performance of duties, to report such illness or injury as soon as possible to the supervisor consistent with policies of the Office of Workman's Compensation Programs (OWCP), U.S. Department of Labor.

The employee's supervisor shall promptly forward to the State Office complete documentation required when an employee sustains an on-the-job injury or contracts an occupational disease. The State Office will take appropriate action, which includes reporting to OWCP.

The Human Resources Manager, or designee, will immediately counsel the employee as to his or her right to file for compensation benefits and procedures for filing claims, and the appropriate forms will be provided to the employee or his or her representative. The Employer will notify the Union when an employee files a claim with the Office of Worker's Compensation.

In case of an on-the-job injury or illness, the employee will complete documentation of injury or illness. If the employee is unable to complete the documentation, then an individual on behalf of the employee may do so.

In case of serious on-the-job injury, illness or death of an employee, the employee's supervisor shall notify the appropriate Union representative as soon as possible after notification of immediate family.

21.2 REPRESENTATION: An occupationally ill or injured employee shall have the right to representation of his or her choice. Any files maintained by the Employer relative to the employee's claim shall be available for review by the employee or his or her designated representative.

21.3 LEAVE COVERAGE: The affected employee may elect to be placed on accrued sick or

annual leave or leave without pay pending a decision on his or her compensation claim.

ARTICLE 22 - EMPLOYEE ASSISTANCE PROGRAM

22.1 GENERAL: The Employee Assistance Program (EAP) is a voluntary program that provides short-term counseling services for employees and members of their household who are having difficulty with relationships, finances, alcohol, drug use, work and job performance, stress, domestic violence, grief and loss, depression, anxiety and other personal problems.

22.2 MANAGEMENT RESPONSIBILITIES:

- A. Publicize the EAP through internal memos, newsletters, posters, etc.
- B. Encourage employee utilization of the EAP
- C. When an employee sincerely seeks treatment in order to maintain or regain acceptable performance or conduct, the Employer will provide assistance and create an atmosphere of understanding in the workplace.

22.3 CONFIDENTIALITY: The EAP provider will treat all information and client records in a confidential manner. An individual's participation in the EAP is not disclosed to local management/union without the employee's consent

ARTICLE 23 - LABOR RELATIONS TRAINING

23.1 UNION-SPONSORED TRAINING SESSIONS: Union-sponsored training sessions: The Employer will assess the training and make a determination if it serves the efficacy of the labor management relationship. If determined to assist in the labor management relationship, management may grant an appropriate time and attendance status to employees who are Union officers or representatives for the purpose of attending Union-sponsored and other training sessions, provided the training is of benefit to the employees and the employer. Union requests for this purpose will not exceed one hundred sixty (100) hours for the bargaining unit within a fiscal year (beginning October 1st of each year). A written request for training will be submitted as early as possible, but normally at least two (2) weeks in advance by the Union President to the Employer. The request will contain information about the duration, purpose, and nature of the training. If the supervisor determines that work requirements preclude release of the employee at that time, the employee will be provided the reason for denial.

ARTICLE 24 - TELEWORK AND REMOTE WORK

If a USDA telework Departmental Regulation is in place, telework and remote work shall be administered in accordance with the current Telework and Remote work Departmental Regulation.

ARTICLE 25 - OFFICIAL USE OF FACILITIES

25.1 SPACE: Upon request, the Employer will grant AFGE 1585 use of conference rooms or other suitable space, if available, for the purpose of holding meetings during non-duty hours. If the subject of the meeting is related to negotiations or grievances, meetings rooms may be reserved during duty hours.

25.2 TELEPHONE SERVICE: The Employer agrees to permit the Union to use the telephone for official Union duties relating to the administration of this agreement. The Union agrees it will be judicious in the use of the telephone and that it will not use the telephone for internal Union business.

25.3 COPIES OF AGREEMENT: A copy of this Agreement will be available electronically on the shared directory to each current Rural Development employee and to all new employees. Five copies of the Agreement will be furnished to the Union for its use. The cost of printing this agreement shall be borne by the Employer.

25.4 BULLETIN BOARDS: The Employer will designate reasonable space on bulletin boards in each Area and State office for Union use. The Union shall not post inappropriate information on those boards.

25.5 OFFICE MACHINES: Union representatives will be allowed reasonable use of office machines for representational duties within the Unit.

ARTICLE 26 - OFFICIAL TIME

26.1 AUTHORIZED OFFICIAL TIME: In accordance with 5 USC 7131, Union officers and representatives shall be permitted reasonable time during working hours without loss of leave or pay to represent employees. Official time is the time necessary to accomplish a labor relations task for which official time has been requested, including time to travel to and from the task location.

Official time includes:

The time authorized for the preparation and negotiations of the Labor/Management Agreement, including time to prepare and present matters to the Federal Mediation Conciliation Service and the Federal Service Impasse Panel;

- A. The time for receiving, investigating, preparing and presenting a complaint, grievance or appeal depending on the facts and circumstances of each case; and
- B. The time for preparation of information reports required under 5 USC 7120(c), including the amount of time granted to gather and complete financial reports and trusteeship reports.

26.2 RECORDING OFFICIAL TIME: The Union may require approximately one hour per bargaining unit employee per fiscal year in order to comply with their statutory union representational duties. At the beginning of each fiscal year, the parties may discuss any change in the above estimate.

The following are not included in the annual estimate of representational duties:

- A. The preparation and negotiation of labor management agreements;
- B. The participation in arbitration and legal proceedings; and
- C. The attendance of meetings initiated by management, including labor/management council meetings.

All official time shall be recorded on the time and attendance report with the appropriate coding. The Union will be provided a quarterly report of official time used. If any denial of official time will cause a delay of a contractual time limit, the union will be given an extension of time equal to the delay.

26.3 UNION REPRESENTATIVES: Each representative is required to obtain permission for official time from the immediate supervisor. Each union representative is responsible for notifying the supervisor as early as possible when official time is to be requested. The representative will provide an estimate of time that he/she believes may be necessary to complete the task, and, if applicable, a telephone number where he/she may be reached. If additional time is needed the supervisor will be notified.

The Union will take workload needs into consideration when assigning representational duties. When the workload does not permit the absence of the representative at that time, the supervisor will make a reasonable effort and attempt to permit the use of official time as soon as practical.

26.4 RELEASE OF EMPLOYEE: An employee who wishes to leave the employee's work area to contact a Union representative, concerning any matters addressed in 26.1 above, must first obtain permission from the immediate supervisor. Normally permission will be granted to employees requesting to leave their work area. If the supervisor determines that work requirements preclude release of the employee at that time, the employee will be provided the reason for the delay and an alternative time when it can be taken.

ARTICLE 27 - NEGOTIATIONS

27.1 MANNER: The Union and the Employer have the responsibility of conducting negotiations and other dealings in good faith and in such manner as will further the public interest and mission of the Agency. The parties agree to make every reasonable effort to resolve all differences that arise between them in connection with the administration of this agreement.

27.2 MANDATED CHANGES: If a future law, Executive Order, or judicial decision requires a change to this Agreement, the Employer will promptly notify the Union, in writing, of the proposed specific change. The Union shall, if it desires, negotiate any negotiable aspect of the change, notify the Employer, in writing, within fifteen (15) working days of receipt of the notification from the Employer. Such response by the Union shall include a specific proposal for negotiations. Neither the Union nor the Employer shall be permitted to propose changes unrelated to the mandate of the law, Executive Order, or judicial decision. However, for the purposes of carrying out the intent of this article, the Employer and the Union mutually recognize and agree that their respective proposals may be modified during the course of the negotiations to permit realistic good-faith bargaining on all aspects of the negotiable subject matter, including aspects not anticipated when the written proposals were exchanged.

27.3 NEGOTIATIONS OF CHANGES: For term negotiations, the Employer and Union shall meet in accordance with the Ground Rules outlined below. No negotiable change to this Agreement shall be effective prior to completion of negotiations, or in the event of impasse, prior to a decision by the Federal Services Impasses Panel or such other appropriate authority as may be called upon to resolve the differences.

27.4 CONFLICTING REGULATIONS: Nothing in this article shall be construed to relieve the Employer of the consequences stated in 5 USC, Section 7116(a)(7), Federal Labor-Management Relations Statute. That section provides that it shall be an unfair labor practice for the Employer to enforce any rule or regulation in conflict with this Agreement if the Agreement was in effect before the date of the rule or regulation.

27.5 CHANGES IN PERSONNEL POLICIES, PRACTICES, AND CONDITIONS OF EMPLOYMENT:

- A. **Employee Notification:** Before implementing a change in a personnel policy, practice, procedure, or condition of employment applicable to employees in the bargaining unit, the Employer will notify

the Union in accordance with the provisions of this Article.

- B. **Definition:** For the purpose of this Article, the term "consult" shall be construed to mean the exchange of views, either orally or in writing. The term "negotiate" means the act of meeting at reasonable times and bargaining in good faith on specific proposals in an effort to reach mutual agreement.
- C. **Notification Procedure:** Notification of proposed changes as described above, may include a final date for the Union to request negotiation with respect to the proposed change. When a final date for the Union to request negotiations is specified, such final date shall be reasonable so as to allow the Union adequate time to prepare a request for negotiations, but in no case shall such final date be less than fifteen (15) working days from the date of receipt of the notification of the proposed change. The parties recognize that either party may be unavoidably absent, and in such cases, by mutual consent, extending of the time limits shall not be unreasonably withheld.
- D. **Union Requests for Negotiations:** When the Union desires to negotiate with respect to a proposed change, it shall notify the Agency official from whom the notification was received of such desire, in writing, and within the specified time period, if any, or within the standard time period. Such notice shall state the specific proposal the Union wishes to offer for negotiation, including specific language for a written agreement. The Union's notice shall also state the identity of the Union Chief Negotiator, and the names Union Negotiating Team authorized to participate in the negotiations.
- E. **Limitations:** No agreement negotiated in accordance with this Article shall operate in any way which is in conflict with or inconsistent with any provision of or the whole of this Agreement.

27.6 NONNEGOTIABILITY: When Management believes that a matter is non-negotiable, within ten (10) calendar days, it will provide in writing the specific reasons and rationale to the Union, citing the specific references. The Union may, within fifteen (15) work days of receipt of the Management statement, file an appeal with the Federal Labor Relations Authority (FLRA) in accordance with the period of review, will not implement or proceed with the issue under dispute until resolved by Chapter 71 of 5 USC, to determine whether the issue is negotiable or not.

27.7 GROUND RULES:

- A. Each party will identify their Chief Negotiator, and members of their negotiating team.
- B. The Chief Negotiators, or their designees will arrange for the negotiations at a mutually agreed upon location.
- C. Negotiations will commence on an agreed upon time and date(s), and if necessary on consecutive days. If additional time is needed to conclude negotiations, the time and date will be agreed upon by the Chief Negotiators.
- D. Proposals will be exchanged no less than fifteen workdays prior to the commencement of the negotiations, unless mutually agreed upon by the Chief Negotiators. Issues that are not covered in the current negotiated agreement will be identified as new articles.
- E. If either party needs to postpone or cancel negotiation sessions, the Chief Negotiator of the party will notify the Chief Negotiator of the opposing party as soon as possible, but not later than two (2) business days before the scheduled negotiation. The parties, by mutual agreement, may reschedule, adjust the schedule, or cancel the negotiation session.
- F. Members of the Union negotiating team will be granted official time to prepare for negotiations.

- G. The negotiating teams will be assigned equal numbers on official time for representation, not to exceed three (3), including the Chief Negotiators.
- H. Negotiators may be replaced by alternates who will have the same rights to speak for and bind their principals as the members they replaced. The Chief Negotiators will give, in advance, notice of a substitute so as to allow appropriate relief, if possible.
- I. The Chief Negotiators may designate any members of their team to make appropriate presentations.
- J. Either party may call a caucus. The party calling a caucus will leave the negotiating room and will meet in another suitable location.
- K. Articles for negotiations will be considered in numerical order. Either party may move to table an article, or any part of an article, but the tabling of an article will only be done by the mutual consent of the parties. Any article, or part of an article, that is tabled will be brought from the table prior to the conclusion of the negotiations. Either party may move to bring an article, or part of an article, from the table; however, the bringing of an article or part of an article will only be done by mutual consent while other articles are still pending, in numerical order. When all articles have been initially addressed, and the parties cannot agree as to bringing which tabled articles from the table, tabled articles will again be addressed in numerical order.
- L. Copies of needed laws, rules, regulations, or policies will be made available to the Union, by the Agency, upon request.
- M. As proposals are agreed upon, the Chief Negotiators for each party will initial and date the final language.
- N. Either party may request the services of the Federal Mediation and Conciliation Service (FMCS). Should the parties to this agreement fail to resolve the impasse after intervention by the FMCS, then either party or both shall seek the services of the Federal Service Impasse Panel.
- O. The Union Negotiating Team has the authority to speak for the local membership; however, the local supplemental agreement will not be signed by the Union unless it is ratified by the membership, or alternatively, the Union elects to forego ratification.
- P. The Employer will forward one copy of the signed agreement for review pursuant to the provisions of 5 USC 7114.

ARTICLE 28 - GRIEVANCE PROCEDURE

28.1 COMMON GOAL:

It is the intent of the Employer and Union to have open discussions about disagreements in the workplace, to treat such matters seriously, and to cooperate in the spirit of mutual problem-solving to resolve disputes. Since grievances often arise from misunderstandings that can be settled promptly and satisfactorily on an informal basis, the Employer and Union shall encourage potential grievants to discuss their complaints with the responsible Management or Union officials at the lowest level before filing a written grievance. The Union, if requested by the employee, has the right to participate either personally or telephonically in such discussions with management officials. However, informal efforts may not lead to resolution.

The Employer shall not construe the filing of grievances as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization, nor shall the Union or employees file grievances in order to affect adversely the perception of the person or reputation of any representative of the Employer.

28.2 SCOPE:

This grievance procedure applies to applicable matters of concern or dissatisfaction by bargaining unit employees, the Union or the Agency regarding the interpretation, application or violation of law, regulation, or this Agreement. This grievance procedure does not apply to:

- A. Any claimed violation relating to prohibited political activities;
- B. Retirement, life insurance or health insurance;
- C. A suspension or removal for national security reasons;
- D. Any examination, certification or appointment;
- E. Classification of position which does not result in reduction in pay or grade for the employee;
- F. Termination of temporary or probationary employees;
- G. Actions taken as the result of a reduction in force;
- H. Matters concerning or involving non-bargaining unit positions;
- I. Proposed adverse/disciplinary actions;
- J. Issues over which the Agency has no obligation to bargain;
- K. Issues which may be subject to the jurisdiction of the Equal Employment Opportunity Commission;
- L. Issues regarding non-selection for promotion, temporary promotion, detail, or reassignment;
- M. Progress reviews, counseling sessions, or notices of an opportunity to improve (OTI) / performance improvement plan (PIP)/ Demonstration Opportunity (DO);
- N. Position descriptions or performance work plan elements and /or standards;
- O. Issues involving salary offset or garnishment;
- P. Issues involving veterans' preference;
- Q. Issues involving oral warning, cautions, or admonishments;
- R. The assignment of ratings of record;
- S. The issuance, or non-issuance of an award of any form of incentive pay, including cash awards; or recruitment, retention, or relocation payments; and
- T. Any matter that may be raised under a statutory appeal procedure.

Complaints concerning an alleged prohibited personnel practice under 5 U.S.C. §2302(b)(1) subject to the jurisdiction of the Equal Employment Opportunity Commission, or concerning a matter covered by 5 U.S.C. §4303 and §7512 subject to the jurisdiction of the Merit Systems Protection Board shall be appealed under the respective appropriate statutory procedures. The Federal Service Labor-Management Relations Statute shall be the basis of resolving any issues not addressed by this Agreement.

28.3 REPRESENTATION:

Employee(s) utilizing the Negotiated Grievance Procedure shall have the right to seek representation and/or advice from the Union. In addition, an employee and or group of employees have the right to present or process a grievance under this procedure on their own behalf. In such cases, the Union shall be afforded the opportunity to participate in the formal discussion between the Employer and the grievant(s) relating to the grievance filed.

28.4 EMPLOYEE GRIEVANCE PROCEDURES:

A. Step 1: Employees who believe they have a grievance shall present it in writing to their immediate supervisor or other management official who initiated the action which resulted in the grievance within fifteen (15) calendar days after the incident or event or the date the employee first became aware or should have become aware of the action.

The grievance must contain, but is not limited to, the following information:

1. The name of the grievant;
2. Specific nature of the grievance;
3. The law, rule, regulation, policy, procedure, or contract language the Agency allegedly violated;
4. A copy of documents related to the grievance;
5. List of dates and times of any prior attempt to resolve the issue, if applicable;
6. Details of the alleged violation (who, what, when, where, why, and how);
7. The specific relief / remedy requested; and
8. The name of the grievant's Union representative, if any.

If the grievance is filed at a higher level than appropriate, the receiving office shall return the grievance to the employee with instructions as to the level at which it should be filed. The employee must then re-file the grievance within seven (7) calendar days from receiving the notice of error. To protect the rights of individuals and the integrity of the grievance process, individual grievance issues are to remain strictly confidential between the parties involved.

Within ten (14) calendar days of receipt of a properly filed written grievance, the supervisor or other management official shall review the matter being grieved and will schedule and hold a discussion with the grievant to discuss the issues. The supervisor or other official shall issue a written response within fifteen (15) calendar days of the close of the meeting. The response shall inform the employee of the options available if the employee is unsatisfied with the decision. If the responding official does not have the authority to provide the requested relief, that official shall so inform the grievant in the written decision.

B. Step 2: If the grievant or the Union is not satisfied with the Step One response, the grievant or Union may, in writing or electronically, send the grievance to the State Director or designee within ten (10) calendar days after the decision was rendered or should have been rendered. The submission to the State Director must include a copy of the original grievance and Step One response, an explanation of why the decision in Step One is unacceptable and any remaining requested relief.

Upon request of the grievant and/or Union, the State Director or designee shall discuss with the employee and/or Union representative within fifteen (15) calendar days of receipt of the grievance at Step 2. Within thirty-five (35) calendar days of receipt of the grievance, the State Director or designee shall issue a decision in writing. This ends the grievance process and the Union may invoke arbitration in accordance with Article 29, Arbitration.

C. As an alternative to Section 28.4 B above, the parties may jointly agree to voluntarily pursue an alternative resolution process. In this alternative process, the parties shall use the services of an independent neutral third party. This party shall function in the role of a mediator. Meeting jointly and separately with the parties, the mediator shall attempt to move the parties to resolution of the issue(s). This process shall take no more than eight (8) hours. The cost for the mediator, if any, shall be paid by the Employer. If the matter has still not been resolved, the grievant may choose to return to the formal grievance process to pursue resolution but must indicate the choice in writing within fourteen (14) calendar days after the mediation effort.

28.5 TIME LIMITS:

Time limits specified in this Article may be modified by mutual agreement of both parties. In the event of an emergency (i.e. Government furlough/shutdown) the time limits shall be tolled until the situation ends and Agency operations resume. Failure of the grieving party to comply with time limits shall result in abandonment of the grievance. Failure of the party against which a grievance was filed to comply with time limits shall allow the grieving party to advance the grievance to the next step of the process.

28.6 GRIEVABILITY/ARBITRABILITY DETERMINATIONS: The arbitrator shall have the authority to make all grievability and/or arbitrability determinations. Threshold questions of arbitrability shall be heard by the arbitrator on the same hearing date as the hearing on the merits of the case, unless otherwise agreed by the parties.

28.7 SOLICITATION: The Union and the Employer shall not solicit complaints or grievances.

28.8 EMPLOYER/UNION GRIEVANCE: If the Employer or the Union files a grievance, it shall do so by electronically filing the grievance directly with the other party for resolution within thirty (30) calendar days of the date that the Employer or the Union became aware or should have become aware of the act or occurrence or anytime if the act or occurrence is of a continuing nature. The submission of Union grievances shall be through the State Director or designee. The submission of Employer grievances shall be through the Union President or designee.

The grievance must contain, but is not limited to, the following information:

1. Specific nature of the grievance;
2. The law, rule, regulation, policy, procedure, or contract language the Agency or Union allegedly violated;
3. A copy of documents related to the grievance;
4. Dates and times of any prior attempt to resolve the issue, if applicable;
5. Details of the violation (who, what, when, where, why, and how);
6. The specific relief / remedy requested;
7. The name of the Union's/Agency's representative; and
8. The signature of the representative.

The Parties shall attempt to resolve the grievance within twenty-one (21) calendar days of receipt of the grievance. If the matter is not resolved, a written decision shall be issued to the grievant within twenty-one (21) calendar days of the close of the discussion.

28.9 REQUESTING MEDIATION: Because mediation using the services of disinterested third parties to assist in negotiating mutually acceptable resolutions may be an efficient, effective and economical method of resolving disputes:

- A. Mediation may be requested within fourteen (14) calendar days of the final written response by the Employer as to an employee or Union-initiated grievance or by the Union as to a grievance initiated by the Employer.
- B. Such mediation shall be completed as soon as practicable. A party's request for mediation shall toll the time limit for invoking arbitration. If a time limit is not extended and the grievance is not resolved, the running of the time limit resumes on the thirty-first day after mediation or notice to the opposite party that mediation is no longer desired.
- C. Mediation shall occur only when agreed to by both parties and Federal Mediation and Conciliation Service or other mutually agreeable low-cost/no-cost mediators are available.

ARTICLE 29 - ARBITRATION

29.1 CONDITIONS FOR INVOKING ARBITRATION: The Union or the Employer may invoke arbitration in writing within 30 work days after receipt of the final decision under Article 28.

29.2 SELECTING AN ARBITRATOR: The party invoking arbitration will request the FMCS to provide the parties a list of impartial persons qualified to act as arbitrators. Such a list will be requested within 30 work days of the decision to proceed to arbitration. If the Union decides not to proceed to arbitration, the union will notify the Agency in writing and the Agency will reimburse the local for the cost of the list. If a list is not requested during this timeframe, the process is complete and the grievance is closed. An informational copy of the request will be sent to the other party. The State Director and the Union will jointly decide within ten work days of receipt of the list which of the arbitrators on the list they will use. If they cannot agree, they will each strike one name from the list and continue until one name remains. The party striking first will be decided by a flip of the coin.

29.3 FEES AND EXPENSES:

- A. The arbitrator's fees and expenses shall be borne by the losing party, except that in any decision not clearly favoring one party's position over the other, the arbitrator may specify that cost be split proportionate to the arbitrator's decision.
- B. If clarification of an arbitrator's decision is necessary, the requesting party will pay the additional fees and expenses. If jointly requested, the parties will split the additional cost equally.

29.4 PROCEDURE: Both parties must mutually agree to any procedure other than a full arbitration hearing.

29.5 SCOPE OF ARBITRATOR'S AUTHORITY: The arbitrator shall have the authority to interpret and define this agreement, Agency and higher level instructions and regulations, and applicable laws. The arbitrator shall have no authority to add to, subtract from, alter, or modify any terms of this agreement or higher level instructions, regulations, or applicable law. The arbitrator shall accept that applicable FLRA, MSPB, and judicial precedent will be considered. His/her decision shall be binding on the parties, unless either party files exceptions with FLRA under regulations prescribed by them.

29.6 TIME LIMIT: The arbitrator will be requested to render a decision and remedy as quickly as possible, but in any event no later than thirty (30) calendar days after the conclusion of the hearing unless the parties otherwise agree.

ARTICLE 30 - DURATION OF CONTRACT

30.1 TERM: This Agreement shall take effect upon execution by both parties and approval in accordance with 5 U.S.C. 7114(c).

30.2 RENEGOTIATION: After this Agreement has been in effect for 18 months and every 18 months thereafter, either party may serve the other party with written notice, not more than 60 calendar days nor less than 30 calendar days prior to the start of the 18th full month that the Agreement has been in effect, of its desire to modify, or renegotiate up to three (3) existing or new Articles. If this provision is exercised, negotiations will be commenced within 30 calendar days after such notice or as may be otherwise mutually agreed by the parties. The parties agree that all conditions set forth in the Agreement shall remain in effect during the renegotiation of the Agreement.