

USAID

United
States
Agency for
International
Development

AFGE

American
Federation of
Government
Employees
Local 1534 (AFL-CIO)

**Negotiated
Collective Bargaining Agreement**

December 22, 2016



USAID
FROM THE AMERICAN PEOPLE



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PREAMBLE

The United States Agency for International Development (USAID or Agency) and the American Federation of Government Employees, Local 1534, AFL-CIO, (AFGE) affirm that the public purpose to which USAID is dedicated can be advanced through understanding and cooperation achieved through collective bargaining.

With the foregoing in mind, AFGE and USAID, in order to advance the Agency's objectives and the well-being of its employees, enter into this Agreement which shall constitute the Collective Bargaining Agreement (CBA) between USAID and AFGE.

ARTICLE 1

PARTIES TO THE AGREEMENT AND DEFINITION OF UNIT

This Agreement is made and entered into, by and between the U.S. Agency for International Development hereinafter referred to as "USAID" or the "Agency," and the American Federation of Government Employees, AFL-CIO, Local 1534, hereinafter referred to as "AFGE" or the "Union." Collectively, they are the "Parties," under authority of Title VII of The Civil Service Reform Act of 1978 (CSRA), referred to as "Title VII."

The Unit covered by this Agreement per ASLMR Case No. 22-2801 (RO) consists of all professional and nonprofessional general schedule and wage grade employees, Administratively determined (AD) employees and student aides employed by the U.S. Agency for International Development.

Excluded from the Unit are:

- (1) Any management officials or supervisors, Foreign Service employees and employees described in 5 U.S.C. 7112(b);
- (2) A confidential employee;
- (3) An employee engaged in personnel work in other than a purely clerical capacity;
- (4) An employee engaged in administering the provisions of [Chapter 71], Labor-Management Relations;
- (5) Any employee engaged intelligence, counterintelligence, investigative, or security work which directly affects national security; or
- (6) Any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by an agency whose duties directly affect the internal security of the agency, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

Also excluded are employees in the Immediate Office of the Inspector General, the Office of the Inspector General Office of Audit, the Office of the Inspector General Office of Investigations, the Office of Security, the Office of the Area Auditor General/Washington, pursuant to E.O. 12171 (November 1979).

ARTICLE 2

DURATION AND SCOPE OF AGREEMENT

Section 1.

The effective date of this Agreement shall be the date signed by the Parties, subject to the approval of the USAID Administrator, or his/her designee, or the 31st day after the date signed by the Parties, whichever comes sooner, in accordance with Section 7114 (c)(1)(2) and (3) of the Statute. Subject to Article 2, Section 2.b, this agreement shall remain in full force and effect for three (3) years from the effective date. Thereafter, the Agreement shall be automatically renewed for additional one year periods, unless either Party gives written notice to the other within 120 to 60 calendar days prior to the anniversary date of this Agreement of its intention to amend, supplement, or terminate this Agreement. In the event notice is given, the Parties shall begin negotiations no later than thirty (30) calendar days after the anniversary date. This Agreement will remain in place until a successor agreement or any changes become effective.

Section 2.

This Agreement shall be amended or supplemented as follows:

- a. The Parties shall amend and/or supplement this Agreement as required to reflect changes mandated by law. Such changes shall become controlling at the time the law becomes effective.
- b. Changes not mandated by law or executive order may be proposed by either Party at any time, but will only be negotiated and implemented if both Parties mutually agree. Written requests for such amendment(s) by either Party must include a written summary of the proposed amendment(s).

Section 3.

Amendments and supplemental Agreements shall become effective on the date signed by both Parties, subject to the approval of the USAID Administrator, or his/her designee, or on the 31st day after the date signed by the Parties (whichever comes sooner) in accordance with Section 7114(c)(1)(2) and (3) of the Statute. They shall remain effective concurrent with the CBA.

Section 4.

The Agency will make an electronic link of the Agreement available on the USAID internal and external website, and twenty five (25) printed copies will be furnished to the Union.

ARTICLE 3

EMPLOYEE RIGHTS AND RESPONSIBILITIES

Section 1. General

The Parties recognize that employees are responsible for performing their assignments in a professional, diligent, and efficient manner in order to promote the mission of the Agency. The Parties also affirm the right of all employees to be treated with dignity, respect, and fairness. It is also recognized that all employees treat each other with dignity, respect, and fairness.

Section 2. Statutory Rights

Each employee covered by this Agreement has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such rights. Except as otherwise provided in Title 5 of the United States Code Chapter 71 (the Statute), in accordance with Section 7102, such rights include the right: to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to the head of the Agency and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

Section 3. Freedom of Action

The Agency will not interfere, coerce, or discriminate against an employee for exercising any of the rights guaranteed by the Statute or encourage or discourage membership in a labor organization. Neither shall an employee be disciplined or otherwise discriminated against by the Parties because he/she has participated in a grievance, appeal, unfair labor practice complaint, or any other such proceeding brought under the provisions of the Statute.

The Parties also affirm the rights of employees to be free from employment discrimination based upon race, color, religion, sex, sexual orientation, gender identity, national origin, age, physical or mental disability, genetic information, or partisan political affiliation, as defined and prescribed including, but not limited to, 5 USC 7203, 5 USC 2302, 42 USC 2000e, 29 USC 621 and 633a, 29 USC 701, E.O. 11478, 29 CFR 1614, 5 CFR 720, E.O. 11246, 29 CFR 1635, and 42 USC 2000ff. The Agency will make every effort to assure equitable treatment for all employees.

Section 4. Employee Representational Rights

An employee has the right to request representation from the Union without fear of retaliation. Employees have a right to representation in the following situations:

1. Grievances filed under Article 21 of this Agreement;
2. An employee's oral response to a proposal for disciplinary, or adverse action;
3. Proceedings before the Merit Systems Protection Board (MSPB);
4. An Agency-initiated proceeding after the filing of an Equal Employment Opportunity (EEO) complaint by the employee.

Section 5. Right to Request Representation

Subject to the provisions of Article 5 Section 4, an employee has the right to request a Union representative in the following circumstances:

1. proposed disciplinary or adverse action meetings;
2. Pursuant to 5 USC 7114 (a)(2)(B), an employee has the right to Union representation at any examination by a representative of the Agency in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against the employee. Once the employee requests a Union representative in an examination, and the employee reasonably believes that the examination may result in disciplinary action against the employee, the Agency will not continue the examination or engage in any subsequent examination of the employee without providing the opportunity for the Union representative to be present. Pursuant to applicable law, the Agency has one of three options when an employee requests union representation: (1) grant the request; (2) discontinue the examination; or (3) offer the employee the option of continuing the examination without representation or having no examination at all.
3. USAID-initiated meetings to issue a Notice of Negative Determination denying a within-grade increase.
4. Investigations conducted by the Office of Security where the employee reasonably believes that the investigation may lead to disciplinary or adverse action and the employee requests representation. This excludes security background checks.

Section 6. Membership in AFGE

Each employee in the bargaining unit has the absolute right to join or refrain from joining AFGE and to act in the Union's behalf. However, nothing in this Agreement will require an employee to become or to remain a member of AFGE or to pay dues or other monies to AFGE except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deduction pursuant to Article 10 of this Agreement, or paying dues directly without payroll deduction.

Section 7. Matters of Personal Concern

This Agreement does not prevent any employee in the unit from bringing on his/her own initiative, individual concerns about personnel policies, practices, grievances, or any matters concerning conditions of employment to the attention of appropriate officials of the Agency without fear of penalty or reprisal. Normally, the employee should attempt to resolve their concerns at the lowest constructive level.

Section 8. Prohibited Personnel Practices

The Agency is committed to management of its personnel systems in accordance with 5 USC 2301 (Merit System Principles) and 2302 (Prohibited Personnel Practices). Employees who believe the Agency has violated these principles may file a formal complaint with the Office of Special Counsel. The following Agency resources are available for consultation prior to filing a complaint: Staff Care Services, EEO counselors or the Office of Civil Right and Diversity, the Office of Employee and Labor Relations, and Union officers and stewards.

Section 9. Attorney Representation

For matters raised under the Negotiated Grievance Procedure (Article 21) employees are entitled to representation by an outside attorney or his/her representative only when the representative has been designated in writing by the President of AFGE, or designee, as a Union representative. In other matters, such as MSPB or EEOC proceedings, employees may have the right to an attorney or other representative, as provided by law or regulation.

ARTICLE 4 UNION RIGHTS AND RESPONSIBILITIES

Section 1. Recognition and Representation

USAID recognizes AFGE as the exclusive representative of all employees in the bargaining unit and recognizes the Union's right to act for and negotiate agreements covering all employees in the unit. The Union will represent all employees in the unit without discrimination, and without regard to Union membership. If an employee selects AFGE to represent him/her, AFGE may at any time conclude that there is no merit in the employee's contentions and withdraw from the case.

Section 2. Formal Discussions

Pursuant to 5 USC 7114(a)(2)(A)(B), the Union will be given notice and the opportunity to be represented at formal discussions between one or more representatives of the Agency and one or more employees in the unit, concerning any grievance or any personnel policy or practice or other general conditions of employment, except as specified in Article 3, Section 7, "Matters of Personal Concern." Before initiating a formal discussion, the Agency will give reasonable advance notice to the Union. If the Union cannot be reached, the Agency will notify the Union President, or designee.

Section 3. New Employee Orientation

The Union will be given notice and opportunity to address the New Employee Orientation sessions when they are scheduled.

Section 4. No Work Stoppage

In accordance with 5 USC 7116(b)(7)(A) and (B), the Union will not call for, participate in, or condone a work stoppage, slowdown, picketing of the Agency, or strike.

Section 5. Changes in Bargaining Unit Status

When the Employee and Labor Relations Office proposes to change the bargaining unit status of a position, the Union will be notified of the change.

ARTICLE 5

MANAGEMENT RIGHTS AND RESPONSIBILITIES

Section 1. Laws and Regulations

In the administration of all matters covered by this Agreement, the Agency, employees, and the Union are governed by existing or future laws and the regulations of appropriate authorities, including: policies set forth in Code of Federal Regulations (5 CFR) and United States Code (5 USC); published Agency policies and regulations in existence at the time the Agreement was approved which do not conflict with this Agreement; and subsequently published Agency policies and regulations required by law or by the regulations of appropriate authorities.

Section 2. Statutory Authority

The supervisors and managers of the Agency have the responsibility to ensure that employees fulfill their performance obligations and adhere to applicable rules and regulations. The Parties recognize that consistent with law and regulations, it is the responsibility of supervisors to take appropriate action relating to the performance and conduct of the employees they supervise.

- A. The Agency retains all rights, as set forth in 5 USC 7106, subject to subsection B. of this section, including the right to:
 - (1) determine the mission, budget, organization, number or employees and internal security practices of the Agency, and
 - (2) in accordance with applicable laws and this agreement:
 - a. To hire, assign, direct, layoff, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - b. To assign work, to make determinations with respect to contracting out, and to determine the personnel by whom the Agency operations shall be conducted;
 - c. With respect to filling positions, to make selections for appointments from:
 - i. Among properly ranked and certified candidates for promotion, or
 - ii. Any other appropriate source; and

- d. To take whatever actions may be necessary to carry out the Agency mission during emergencies.
- B. Nothing in this section shall preclude the employer and the Union from negotiating:
- (1) At the election of the Agency, on numbers types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work,
 - (2) Procedures which Management officials of the Agency will observe in exercising any authority under this section; or
 - (3) Appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such Management officials.

In exercising the Agency's right to make reasonable rules and regulations relating to personnel policies, practices and procedures, and matters of general working conditions, the Agency will bargain in good faith with AFGE, pursuant to 5 USC 7114 (b).

Section 3. Authority of this Agreement

To the extent that the provisions of Automated Directives System (ADS) or Foreign Affairs Manual (FAM), which are in existence on the effective date of this agreement and are in conflict with this Agreement, the provisions of the contract prevail for this bargaining unit.

Section 4. Response to Representation Requests

The Agency recognizes that the employees have the right to request representation by the Union for meetings pursuant to Article 3, Section 5. The Parties recognize that not all employee requests pursuant to Article 3 Section 5 are binding on the Agency, and the Agency will grant such requests by employees consistent with the provisions of law.

Section 5. Last-Chance Agreements

At management's discretion, a "last chance" agreement may be offered in some instances, with the understanding the employee will be given an opportunity to accept or decline the agreement within three (3) calendar days.

ARTICLE 6

MID-TERM BARGAINING

Section 1. Notice to the Union

- a. The Parties agree that the Union shall be given the opportunity to negotiate, as appropriate, with respect to proposed changes in conditions of employment of bargaining unit employees.
- b. The Agency shall provide the AFGE President or designee written notice ten (10) working days in advance of all proposed change(s) in personnel policy, procedures, or other matters which affect working conditions of employees in the bargaining unit, unless operational conditions require a shorter notice period. Upon receipt of such written notice, AFGE shall have up to ten (10) working days, to request negotiations or clarification in writing to the Director of Employee and Labor Relations, or his/her designee, concerning the proposed change(s). If AFGE requests to negotiate, it must submit written proposals within ten (10) working days after receipt of the original notice of the change(s). If a request to negotiate or to clarify the proposed change(s) is not submitted, or if the Union requests to negotiate but fails to submit a written proposal within the prescribed ten (10) working days after receipt of the written notice, the Agency may implement the change(s) as proposed.
- c. If AFGE requests clarification of any proposed change(s) within ten (10) working days after receiving notice, the Agency shall provide AFGE with a written response to the request for clarification in a timely manner. After receipt of the Agency's written clarification, AFGE shall have ten (10) working days to submit written proposals concerning the proposed change(s).
- d. If the Union submits written proposals that meet the duty and scope of bargaining, the Parties shall meet at a mutually agreeable time and place to begin negotiations within ten (10) working days of receipt of the proposals. Management is precluded from implementing its proposed action, unless 1) such action is necessary for the functioning of the Agency to effectively and efficiently carry out its mission, 2) implementation of the proposed action may be necessary to carry out the Agency's mission during emergencies, or 3) there is otherwise no duty to

bargain over the proposed action prior to implementation in accordance with the Statute.

Section 2. Negotiability Disputes and Impasse Procedures

- a. Allegations of negotiability may be referred to the FLRA for resolution. If the services of the Federal Labor Relations Authority (FLRA) are invoked by AFGE, Management is precluded from implementing its proposed action until the FLRA resolves the negotiability issue, unless such action is necessary to carry out the Agency's mission during emergencies, or pursuant to applicable case law. However, the Agency may, by mutual agreement of the Parties, implement all agreed upon terms.
- b. If good faith negotiations result in an impasse either Party may request the Federal Service Impasses Panel (FSIP) to consider the impasse, or they may seek mediation of the matter. If AFGE fails to request FSIP assistance within seven (7) working days of its receipt of the Agency's notice of intent to implement its last offer, the Agency may implement its last offer. While the impasse is before the FSIP or a mediator, the Agency may not implement the proposed change except to the extent mutually agreed or to the extent implementation is necessary to carry out the Agency mission during emergencies pursuant to 5 USC 7106 (a)(2)(D), or pursuant to applicable case law.

Section 3. Union's Proposal

- a. The Union may request bargaining on personnel policies, practices, or matters affecting working conditions of unit employees during the term of this Agreement on matters not specifically covered by this Agreement, in accordance with the Statute. The Agency may submit written counter proposals within ten (10) working days of receipt of AFGE's request to bargain.
- b. If the Agency requests clarification of any proposed changes, AFGE shall address the request in a timely manner. The Agency shall have ten (10) working days from receipt of clarification to respond to the Union's proposal. The Parties shall meet at a mutually agreeable time and place to begin negotiations within ten (10) working days of receipt of the Agency's proposals.

Section 4. Extension of Time

Nothing herein shall preclude the Parties, by mutual consent, from extending any time limits imposed under this Article.

ARTICLE 7

LABOR MANAGEMENT FORUM

General

The Parties will participate in a joint Labor-Management Forum (LMF) for the purpose of reviewing and discussing their common interests in maintaining effective labor-management cooperation. The Parties will also identify problems and areas of mutual interest. After the Forum is established, the Parties agree to the following:

- a. Meetings will be held at least quarterly, and at other times as mutually agreed to by the Parties.
- b. Each Party will designate three (3) representatives and three (3) alternates to the Forum no later than thirty (30) days following the effective date of this Agreement. The representatives and the alternates will be capable of fully representing their organizations. The Parties recognize that resource persons may be necessary to assist in a specific matter scheduled for the discussion during the meeting. To the extent possible, the Parties will name such resource persons in advance.
- c. The Forum will establish its own procedures and methods of operation concerning agendas, meeting dates and locations. Agendas will be exchanged by the Parties ten (10) working days before the meetings. Matters not on the agenda may be added if either Party notifies the other no less than 24 hours before the meeting.
- d. Grievances properly related to Article 21, Negotiated Grievance Procedure, of this Agreement will not be discussed by the Parties during the LMF.
- e. Discussions on implementation of regulations dealing with conditions of employment or the contract will be a Forum function and may include investigations, studies, reports and recommendations. The consultation or informal discussions that take place during these meetings shall not prejudice either Party from exercising its bargaining rights should the consultation or informal discussion cover a mandatory subject of bargaining.

ARTICLE 8

UNION REPRESENTATION AND OFFICIAL TIME

Section 1. General

The Agency and AFGE recognize that time spent by Union representatives in the conduct of Union-management business contributes to constructive labor-management relations. Bargaining unit employees who are certified by the Union in accordance with this Article shall be recognized as employee representatives for bargaining unit employees and shall be entitled to use a reasonable amount of official time for representational duties under the provisions of this Agreement. There will be no travel time, travel expenses or per diem for Union designated representatives except as expressly stated in the Agreement.

Section 2. Certification of Union Representatives

The Union shall certify to the Director, Employee Labor Relations (ELR) in writing a complete list, including the name, title, Bureau or independent office, phone number, and immediate supervisor of each of the Union's representatives within two (2) weeks after the swearing in of new officers. These are the only individuals authorized to represent the Union in dealings with Agency officials. AFGE shall notify the Director of ELR of any changes.

Section 3. Representatives and Amount of Official Time

- a. AFGE recognizes its responsibility to insure that its representatives do not unduly absent themselves from their assigned work on official time. Representatives will make every effort to perform their Union duties in a proper and expeditious manner.

- b. Both Parties agree, if requested, to reopen this Article one (1) year after the effective date of the Agreement in order to reassess official time needs.

- c. The Agency authorizes the 1st Vice President of AFGE to work one hundred percent (100%) official time to represent all USAID bargaining unit employees. In the event that the 1st Vice President is not able to perform his/her duties, a designee can be appointed by the Union. The individual selected shall not be required to seek release from his/her supervisor. However, he/she shall

conform to all Agency policies regarding leave and attendance, and must record and validate time and attendance for approval by an HCTMofficial.

- d. The Parties agree that if the President or Chief Steward of AFGE is elected from USAID, official time will be provided for representational duties concerning bargaining unit employees in the other agencies represented by AFGE. To this end, the Parties will negotiate with respect to this matter.
- e. For Union representatives other than the representative designated for 100% official time, the Agency will authorize, upon request, a reasonable amount of official time for performing Union representational duties. Representatives will make every effort to perform their Union duties in a proper and expedition manner. Time representing non-bargaining unit employees, shall not be considered as Official time, unless authorized by Agency policy.
- f. Union representatives on official time may be authorized to telework with a valid telework agreement.

Section 4. Procedures for Official Time

- a. When it is necessary for a Union representative to use official time to perform representational functions, the employee shall first obtain approval by submitting a completed Request for Official Time Form to his/her immediate supervisor, or designee who has supervisory authority.
- b. Approval under this Section will be granted unless work situations demand otherwise.
- c. Upon conclusion of the representational activity, the representative will inform his/her supervisor, or designee, as soon as possible that the activity has been completed.
- d. All official time will be recorded as appropriate for time and attendance records;
- e. Where a supervisor reasonably believes a Union representative is not following these procedures or is exceeding the time allowed, the supervisor must report it

to Employee Labor Relations (HTCM/ELR). Then, the Director of ELR and the Union President will meet to resolve the issue.

Section 5. Performance Appraisals

Serving as a Union representative shall not diminish an employee's right to fair and equitable treatment with regard to performance appraisals and promotions. The Union representative performing 100% official time duties will receive a "Fully Successful" record of employee performance. The performance evaluation of an employee serving as a Union representative will be based solely on the employee's work duties. An employee serving as a Union representative is responsible for performing both his/her duties as an employee and his/her duties as a Union representative.

Section 6. Travel Time

When a Union representative is authorized official time and the activity is not conducted at the Union representative's immediate work site, travel time from the Union representative's work site to and from the site of the activity is official time as well. Bargaining unit employees are also entitled to travel to meet a Union representative to participate in representational matters.

Section 7. Training of Representatives

Official time may be granted to certified representatives to attend training when it can be demonstrated by AFGE that the training is of mutual benefit to both the Union and the Agency. The amount of time will only be for the time in class when the appropriate instruction is occurring. Internal solicitation of member dues, or other internal Union business will not be granted official time. A request for official time for training must include an agenda describing the training to be conducted, and must be received by the Director, ELR in writing for approval no less than ten (10) work days prior to the date the training is scheduled to commence. Requests for official time for training that are received in writing by HCTM/ELR at least ten (10) working days in advance will be acted upon within five (5) working days. The Union shall bear all costs associated with this training including any travel or attendance costs. Each Union representative may receive up to forty (40) hours of training on official time per calendar year.

ARTICLE 9

USE OF OFFICIAL FACILITIES AND SERVICES

Section 1. Space and Furniture

The Agency agrees to furnish available office space and office furniture for the use of AFGE. Upon request, the Agency will provide meeting space in accordance with Agency procedures, subject to availability.

Section 2. Telephones

The Agency agrees to furnish telephones in the office space provided for AFGE. AFGE may use Agency telephones in conducting its representational business for authorized/legitimate labor-management purposes. This provision includes use of the Agency telephone but does not include commercial toll calls. The Union is responsible for any long distance calls.

Section 3. Printing and Copying

The Agency will provide to AFGE a multifunctional device (MFD for copying/scanning/faxing/printing) at no cost to the Union. AFGE may use specified reproduction facilities, but AFGE will furnish all supplies and materials used in such reproduction.

Section 4. Mail

The Agency agrees to furnish AFGE with a mail drop to transmit routine correspondence between AFGE and individual employees through normal internal distribution facilities for conducting Union business. While prior review by the Agency is not required, material submitted by the Union may not violate any law, executive order, regulation for this Agreement; contain any scurrilous or libelous material; deal with partisan political matters; or falsely malign the character of any individual or motives of any organization.

Section 5. Bulletin Boards

The Agency agrees that reasonable space on Agency bulletin boards will be provided to AFGE for posting Union notices, announcements, bulletins and other appropriate materials, subject to federal laws and regulations. Such posting of any of the materials by AFGE representatives who are employees of the Agency shall be done only during off-duty hours.

Section 6. Electronic Mail Systems.

- a. The Agency will provide AFGE access to the Agency's unclassified electronic mail (e-mail) systems for representational purposes, such as scheduling meetings, obtaining employee input on issues affecting the bargaining unit, and communications among Union members and with management officials. Such e-mail usage shall not impede the normal and efficient operation of the Agency's automated computer systems.
- b. The e-mail system shall not be used for internal Union business, such as elections and membership efforts.
- c. The Agency will facilitate computer system installation and wiring of Union office space for access to the Agency's intranet and internet websites in accordance with Agency security regulations. The Agency can, upon request from the Union, provide links to the Union's website and server storage space as available and appropriate. The Union is responsible for providing its own desktop computer equipment and peripherals. Material submitted by the Union may not violate any law, executive order, regulation or this Agreement; contain any scurrilous or libelous material; deal with partisan political matters; or falsely malign the character of any individual any organization.

Section 7. Voicemail Messages

The Agency will allow use of the voicemail message service for broadcasting Union-related information and/or activities. The Union will obtain approval for use and content of message from the Employee and Labor Relations (ELR) prior to broadcast of messages.

ARTICLE 10 DUES WITHHOLDING

Section 1. General

Pursuant to Section 7115 of the Statute, the Agency agrees that payroll deductions for the payment of AFGE dues will be made from the pay of employees covered by this Agreement who voluntarily request such dues deduction. Any USAID employee included in the bargaining unit covered by this Agreement may make a voluntary allotment for the payment of dues to the Union. In implementing the dues deduction program, the Agency and AFGE will be governed by the provisions of this Article and applicable law.

Section 2. Supply of Forms

AFGE will be responsible for the distribution of Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues (SF-1187) prescribed by the Comptroller General for the use by an eligible member of AFGE who wishes to authorize the deduction of his/her dues. Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues (SF-1188) will be available through AFGE for employees who wish to revoke the allotment.

Section 3. Requesting Dues Withholding

The SF-1187 may be completed at any time certified by the President, 1st Vice President or Treasurer of AFGE, and forwarded to the Employee and Labor Relations (ELR) Office. Dues will be withheld within two (2) pay periods following receipt of the SF-1187. AFGE shall be responsible for the proper completion and certification of the SF-1187 and/or SF-1188 forms and transmitting them to ELR.

Section 4. Certifying Official for AFGE

The President, 1st Vice President, Treasurer of AFGE is authorized to certify:

- a) the amount of dues payable at the time of enrollment;
- b) the amount of dues payable at any other time; and
- c) on Standard Form 1187, the request for dues deduction by any bargaining unit employee.

Section 5. AFGE Members Not in Good Standing

AFGE will notify Employee and Labor Relations (ELR) promptly in writing when a

Union member ceases to be in good standing, so that the employee allotment can be terminated.

Section 6. Dues Withholding Fees and Accounts

Each bi-weekly pay period, the Agency will remit to the AFGE business account the net amount of dues withheld. A listing of names and amounts withheld will be furnished to the AFGE office bi-weekly.

Section 7. Change in Amount of Dues

When the amount of regular dues changes, AFGE will notify ELR in writing, at least four (4) pay periods prior to the requested effective date, and will certify as to the new rate/amount of dues to be deducted each pay period. New SF-1187 authorization forms will not be required.

Section 8. Revocation of Dues Withholding

Employees may not revoke their allotments for a period of one (1) year. After such time, employees may revoke any such assignment by submitting the SF-1188 to AFGE for processing. Pursuant to such requests, dues withholding allotments will be terminated not later than two (2) pay periods following the submission of the request.

Section 9. Automatic Termination of Dues Withholding

All allotments of AFGE dues withholding will be automatically terminated when: (1) in the event of loss of exclusive recognition, (2) when an employee ceases to be eligible for inclusion in the bargaining unit, (3) when the Agency is notified that an employee is no longer a member of the Union in good standing, or (4) at the end of the pay period during which an employee member is separated from USAID.

Section 10. BUS Code Status

AFGE and ELR will meet periodically to verify and reconcile the BUS Code status of bargaining unit members and dues paying members, unless changed by mutual agreement.

ARTICLE 11
ORIENTATION OF NEW EMPLOYEES AND
DISTRIBUTION OF NEGOTIATED AGREEMENT

Section 1. Copies of Agreement

The Agency shall provide each employee currently in the bargaining unit with an electronic copy of this Agreement and provide the Union with twenty-five (25) printed copies to meet its other needs. The printing costs for reproducing this Agreement shall be borne by USAID.

Section 2. New Employee Orientation Sessions

AFGE shall be advised of the schedule for orientation sessions for new USAID employees. AFGE will be provided a minimum of fifteen (15) minutes to address the employees during those sessions. A listing of employees for orientation showing their name, position, Bureau/Office, and previous job will be provided to the Union in advance of the sessions.

ARTICLE 12

STAFF CARE PROGRAM

Section 1. General

Staff Care is USAID's Employee Assistance Program. The Staff Care Program is designed to strengthen employees' personal and organizational resilience as they manage their day to day responsibilities and life events. The purpose of the Staff Care Program is to provide employees with the tools and services to manage their well being and work/life balance through a comprehensive holistic approach.

Section 2. Union and Agency Cooperation

USAID and AFGE will seek ways to jointly assist in program implementation such as in acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. AFGE and USAID recognize that the program aspires to deal forthrightly with problems at an early stage when the situation is more likely to be correctable.

Section 3. Employee and Agency Responsibility

Employee participation in any Staff Care Program, including, but not limited to, substance abuse, marital situation, interpersonal relationships, depression, children's school difficulties, or financial difficulties, shall be voluntary. The Agency shall comply with confidentiality requirements established by law and regulation.

Section 4. Use of Leave under Staff Care

Employees undergoing a prescribed program of treatments may be granted sick leave or other appropriate leave in accordance with Agency leave policies when absence from work is necessary.

Section 5. Publicity

The Agency will inform employees of the program and its services provided by Staff Care.

ARTICLE 13

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Section 1. Policy

The Agency and AFGE are jointly committed to the policies of providing equal employment opportunities to all employees and prohibiting discrimination against any employee, regardless of race, sex (including gender identity and pregnancy), color, religion, national origin, age (40 and over), disability (physical or mental, including failure to accommodate), genetic information, sexual orientation, reprisal for participating in and/or opposing protected equal employment opportunity activity, marital status, parental status, or political affiliation. The Parties jointly support a diverse workforce and an inclusive workplace, where all employees are valued and can contribute to their fullest potential.

Section 2. Establishing and Maintaining a Model EEO Program

The Agency is committed to positioning itself to attract, develop, and retain a top quality workforce that can deliver its mission and ensure our nation's continued growth and prosperity. Equal opportunity in the workplace is key to accomplishing this goal and a fundamental part of USAID's culture.

Accordingly, pursuant to the Equal Employment Opportunity Commission's (EEOC) Management Directive 715, the Agency will implement and maintain effective Title VII and Rehabilitation Act programs, measured by the following essential elements:

- Demonstrated commitment from Agency leadership;
- Integration of EEO into the Agency's strategic mission;
- Management and program accountability;
- Proactive prevention of unlawful discrimination;
- Efficiency; and
- Responsiveness and legal compliance.

Section 3. Publicity

The Agency will make available on the Agency's website information describing the Model EEO Program requirements and Agency workforce diversity demographic data, consistent with EEOC's Management Directives 110 and 715 requirements.

The Agency will also make available information about the EEO complaint process and

the names and telephone numbers of EEO counselors.

Section 4. Employee Rights

Any employee who seeks to file a complaint shall have the right to select a representative of his/her choosing, who may be a Union representative, provided that the representative does not present a conflict of interest as described in EEOC's Management Directive 110.

ARTICLE 14 MERIT PROMOTION

Section 1. Authority and Applicability

The Agency's Merit Promotion Program will be governed by applicable law, government wide rules and regulations, ADS 418, Merit Staffing Program for Civil Service (CS) Employees and by this Agreement. Agency promotions are effected under the authority contained in Title 5, CFR Part 335.

Section 2. Policy

The Agency will adhere to all Office of Personnel Management (OPM) merit principles and regulations, equal employment objectives, and USAID policy.

Section 3. Position Coverage

The Merit Promotion Program applies to all competitive positions in the general schedule, GS-1 through GS-15. Excepted service positions may also be filled through the use of the Merit Promotion Program at the discretion of the Agency.

Section 4. Noncompetitive Actions

Competitive procedures do not apply to the following types of actions:

- a. A temporary promotion, or detail of 120 days or less to a higher graded position or to a position with known promotion potential.
- b. Assignment of an employee to a grade level previously held in competitive service upon the exercise of reemployment rights.
- c. Promotion of an incumbent to a position that is upgraded, without significant change in duties and responsibilities, due to the issuance of a new OPM classification standard or to the correction of an initial classification error.
- d. Promotion of an incumbent when the addition of duties and responsibilities to a position results in a reclassification of the position to a higher-grade level (commonly referred to as "accretion of duties").

- e. A position change permitted by reduction-in-force procedures in 5 CFR, Part 351.
- f. A promotion without current competition of an employee who was appointed in the competitive service from a civil service register, by direct hire, by non-competitive appointment or noncompetitive conversion, or under competitive promotion procedures for an assignment intended to prepare the employee for the position being filled (the intent must be made a matter of record and career ladders must be documented in the promotion program).
- g. Promotion to a grade previously held on a permanent basis in the competitive service from which an employee was separated or demoted for reasons other than performance or conduct.
- h. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.
- i. Promotion of an employee upon exercise of reemployment rights after military service when the employee's record shows selection for promotion in absentia or where the employee's former position was reclassified during the period of absence.
- j. Promotion of an employee pursuant to a decision in or settlement of a Merit Systems Protection Board (MSPB) case, an Equal Employment Opportunity (EEO) case, or a grievance.

Section 5. Competitive Actions

Types of actions subject to competitive procedures:

- a. Time-limited promotion for more than 120 days to a higher position (prior service during the preceding 12 months under noncompetitive time limited promotions and noncompetitive details to higher graded positions counts toward the 120 day total)

- b. Details for more than 120 days to a higher-grade position or to a position with higher promotion potential.
- c. Selection for training, which is part of an authorized training agreement, part of a promotion program, or required before an employee may be considered for promotion as specified in section 410.306 of 5 CFR.
- d. Reassignment or demotion to a position with more promotion potential than a position previously held on a permanent basis in the competitive service (except as permitted by reduction-in-force regulations).
- e. Transfer to a position at a higher-grade or with more promotion potential than a position previously held on a permanent basis in the competitive service.
- f. Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service.

Section 6. Temporary Promotions

- a. A temporary promotion may be utilized in a situation when the temporary service of an employee is required in a position classified at a higher grade. It may be used, for example, when an employee has to perform the duties of a position during the extended absence of the incumbent, to fill a position which has become vacant until a permanent appointment is made, to satisfy temporary workload increase, or to participate in a special short term project.
- b. A temporary promotion is not appropriate primarily for training or evaluating an employee in a higher-graded position. In addition, a temporary promotion may not be used as a trial period for the purpose of determining a permanent promotion.
- c. Unless an employee previously served permanently in a position with equal or greater promotion potential or competed for the higher level position, competitive promotion procedures must be used when a temporary promotion will exceed 120 calendar days.

- d. A temporary promotion may be made permanent without further competition provided that (1) the temporary promotion was originally made under competitive procedures, and (2) the fact that it might lead to a permanent promotion was made known on the vacancy announcement.
- e. Temporary promotions are to be made for a specified period and may be extended in one year increments up to but not exceeding a total of five (5) years (5 CFR 335.102f).

Section 7. Details and Reassignments

- a. Details:
 - 1. A detail to an established position at the same or lower grade level may be made without competition.
 - 2. A detail to an established position at a higher grade, or to one with greater promotion potential, may be made for up to 120 days without competition. Extensions beyond 120 days and temporary promotions of more than 120 days must be made through competition under the Merit Promotion Program.
 - 3. A detail to unclassified duties may be made without competition.
 - 4. Except for a brief period, an employee should not be detailed to perform work of a higher level unless there are compelling reasons for doing so. An employee may be given a temporary promotion instead of being detailed if the assignment to higher level work is for more than thirty (30) consecutive calendar days and the employee meets the qualification requirements for the position.
 - 5. Requests to detail an employee for thirty (30) calendar days or more to a different position, or to duties and responsibilities substantially different than the position occupied, must be accompanied by a memo to the Administrative Management Staff (AMS) personnel office, as well as a statement of duties or position description, prior to processing the detail request.
- b. Reassignments:
 - 1. A reassignment is the change of an employee from one position to another without promotion or change to lower grade. Reassignment includes movement to a position in a new occupational series, or to another position in

- the same series; assignment to a position that has been re-described due to the introduction of a new or revised classification or job grading standard; assignment to a position that has been re-described as a result of a position review; and movement to a different position at the same grade but with a change in salary that is the result of different local prevailing wage rates or a different locality payment.
2. Reassignments to positions with no greater promotion potential than that currently occupied need not be advertised through merit promotion procedures. However, employees eligible for selection priority under the CTAP program will be advised of vacant positions in accordance with 5 CFR 330 Subpart F.

Section 8. Responsibilities.

- a. The Agency shall administer the Merit Promotion Program and ensure that selecting officials and employees are aware of the applicable provisions of law, this agreement, and ADS 418. These responsibilities include:
 1. Advising and assisting employees interested in developing their skills for positions of greater responsibility.
 2. Preparing listings of all current vacancies and making these available to employees.
 3. Convening ranking panels when necessary, providing guidance to panel members and oversight to the panel process.
 4. Issuing certificates of eligibles to selecting officials.
 5. Arranging for release dates for those employees selected through merit promotion for assignment to other organizational units.
 6. Approving and finalizing personnel actions associated with merit promotion selections.
 7. Notifying in writing all unsuccessful applicants of their application status.
 8. Maintaining records of all merit promotion cases with sufficient information to allow reconstruction of the action, if necessary.
 9. Periodically reviewing and evaluating the Merit Promotion and Placement Program.
- b. Supervisors at all levels are responsible for:

1. Assigning to each employee in a career ladder position developmental work or projects of sufficient complexity and responsibility to allow the employee to demonstrate whether he/she is capable of performing satisfactorily at the next higher level in the career ladder.
 2. Making available members of their staff to serve on ranking panels when required.
 3. Requesting temporary promotions when appropriate.
- c. Employees are responsible for:
1. Keeping informed of the provisions of the Merit Promotion and Placement Program. They are encouraged to suggest improvements.
 2. Applying their skills in positions to which they are assigned, engaging in appropriate self development efforts whenever feasible, and participating in available training programs.
 3. Applying for specific vacancies by submitting an application or resume and any other material indicated in the vacancy announcement to the appropriate office, and ensuring applications are submitted within the timeframes specified in the announcement.
 4. Ensuring that applications or resumes and other material submitted under vacancy announcements are up to date and accurately reflect their qualifications for the position for which they applied.
 5. Serving on Agency ranking panels when requested and making objective evaluations of candidates.

Section 9. Priority Consideration

When a position becomes vacant, certain candidates are given priority consideration.

The applications of individuals entitled to priority consideration will be referred to the selecting official independently of those who respond to a vacancy announcement.

Priority consideration will be given under the following circumstances:

1. An employee changed to a lower grade within the Agency without personal cause and not at their request receives consideration as specified in 5 CFR 536.
2. An employee whose position has been identified for abolition receives consideration in accordance with the Agency's Priority Placement Program.

3. Former employees who have registered for the Reemployment Priority List receive consideration as specified in 5 CFR 330.
4. An applicant, who did not receive proper consideration under the Merit Promotion Program due to administrative error, will receive one priority consideration.
5. As specifically agreed to, or required by, the settlement of or decision on an EEO case, an MSPB case, or a grievance.

Section 10. Alleged Violations and Employee Complaints

a. Right to File a Grievance

Employees have the right to grieve a promotion action under Article 21. While the procedures used by the Agency to identify and rank qualified candidates are proper subjects for grievance, non-selection from among a group of properly ranked and certified candidates, rating criteria, and OPM qualifications standards/procedures are not appropriate bases for a grievance.

b. Investigating Alleged Violations

1. An employee who believes he/she has failed to receive proper consideration for promotion, or wishes to raise questions concerning a phase of the merit promotion and placement process, or is alleging a violation of the Merit Promotion Program should consult with their servicing personnel office. When a violation of the Merit Promotion Program is alleged, the Union President or designee may request in writing an examination of the promotion file within thirty (30) calendar days of the effective date of the action. Such requests need not specify the individual or individuals directly involved, but must specify the announcement number and type of records being requested.
2. The designated Union official, in the presence of a representative of the appropriate Human Capital and Talent Management (HCTM) office, will be given access to the working papers of the particular action. These working papers include the selection certificate, the applicant ratings and the application materials submitted by the applicants. Any information obtained from the official files will be safeguarded and treated in a confidential manner. All files will be reviewed in the HCTM office and no documents may be copied or removed.

c. Allegations of Prohibited Personnel Practices or Discrimination in Promotion

Procedures.

1. An allegation of prohibited personnel practices may be referred to the Office of the Special Counsel (OSC).
2. An allegation of discrimination may be filed pursuant to 29 CFR 1614 with the Agency's Office of Civil Rights and Diversity (OCRD).

Section 11. Merit Promotion Procedures

a. Recruitment Source

Before a vacancy is announced, the supervisory officials and HCTM staff will review the duties of the position to determine the most appropriate recruitment source, and the most important knowledge, skills, and abilities.

b. Current Vacancies

A listing of all current vacancies will be made available to all employees. This listing will include vacancy announcement number and closing date, the title, series, grade, number (if more than one) of the positions to be filled, the telephone number of the servicing HCTM staffing specialist, and information on how to apply. Ranking factors and their weights (if applicable), screen out elements, amount of travel (when required), and qualification requirements, including selective placement factors will be detailed on the individual vacancy announcement.

c. Employee Applications

Only those employees who apply for consideration under a specific announcement will be considered. However, a position may also be filled from other sources of candidates.

d. Area of Consideration and Notice Period

1. The area of consideration is the area in which the Agency makes an intensive search for eligible candidates for a specific position.
2. The area of consideration may be limited to USAID employees Agency-wide when the Agency expects to locate enough highly qualified candidates from within the Agency.
3. The area of consideration should not be limited to an Individual Bureau or Independent Office (B/IO) when the B/IO is undergoing reorganization or is under reduction-in-force procedures (Article 30).

4. The minimum open period for vacancy announcements is five (5) working days.

- e. Eligibility for Promotion

To be eligible for promotion, except for upward mobility, candidates must meet all qualification requirements as specified in OPM qualification standards, as well as any other legal or regulatory requirements (e.g., time-in-grade and time-after-competitive appointment), by the closing date of the announcement.

- f. Rating and Ranking Applications

The applications of candidates who meet regulatory and minimum qualifications requirements will be evaluated to determine the best qualified. Evaluation methods may include, but are not limited to, commercially available software or other automated processes, written tests, structured interviews, or rating panels.

The best qualified applicants will be determined by considering the gaps or break points between scores and the number of positions to be filled, and referred by HCTM for consideration. In limited circumstances, it may not be necessary to rate and rank the applicants when it can be determined that all qualified applicants are best qualified. All qualified non-competitive eligible applicants will be referred without rating and ranking.

1. When a rating panel is convened, the hiring office will identify panel members. The Union may recommend individuals for panel participation.
2. Panels will consist of at least two (2) members. An AMS member may act as advisor to the panel, providing advice and assistance as appropriate.
3. Individuals selected to serve on promotion panels should be knowledgeable in the occupational field of the vacancy or skilled in evaluating experience, education, and training at the level of the vacancy and must be at or above the grade level of the announced position.
4. Employees serving on panels will receive appropriate instructions prior evaluating applications.

5. The basic documents to be used by panel members in the evaluation process are the candidate's application or resume, any attachments specifically addressing ranking factors, and any other material solicited under the announcement or submitted by the applicant.
6. The evaluation method involves an analysis and appraisal of the candidate's previous education, training, performance, awards and experience as related to the ranking factors. Using the panel rating sheet, each panel member independently assigns point values for each ranking factor by comparison to the crediting plan level definitions.
7. The panel members will resolve any major discrepancies in scores prior to recording final totals. The final scores assigned by panel members will be averaged. The panel advisor will evaluate the scoring material to determine best-qualified applicants for referral to the selecting official.

g. Selection Certificates

1. A selection certificate is a list of best-qualified applicants to be referred for a particular vacancy. A separate selection certificate (or certificates if noncompetitive eligibles are referred) will be issued for each advertised grade level. Qualified non-competitive eligibles will be referred on a separate certificate(s). VRA eligible and/or eligible veterans who were not rated among the best qualified may be referred on a veterans' certificate.
2. HCTM will prepare and issue selection certificates. Merit promotion candidates will be listed alphabetically. Selection certificates will remain valid for forty-five (45) calendar days from the date of issuance, unless extended for just cause by the servicing personnel office. One extension may be requested not to exceed a total of thirty (30) additional days (75 days total from date of issuance). Additional vacancies not reflected in the announcement that occur in the element after the opening date of the vacancy announcement for position(s) identical (same grade, series and title) to the original vacancy may be filled from the selection certificate.
3. The selecting official must review application materials for all referred candidates.
4. Selecting officials must interview all available candidates whose names appear on the merit promotion certificate and who continue to indicate an

- interest in the position (unless the selecting official does not interview any candidates at a particular grade level or no selection is made from the certificate). Selections must be made on a fair and objective basis. Candidates on noncompetitive or veterans' referral lists may be interviewed at the option of the selecting official.
5. The selecting official will annotate the certificate with his/her selection, sign and date it, and return the certificate through the Administrative Management Office to HTCM/Human Capital Services Center (HCSC).
 6. For all Agency employees selected for promotion under this program, the release date will normally be at the end of the first full pay period following the date the release is requested. For reassignments, if a mutual date cannot be agreed upon between the losing and gaining bureau, the release date as stated above stands.

ARTICLE 15

TRAINING AND CAREER DEVELOPMENT

Section 1.

The Agency will provide individual training and development opportunities to assist employees, subject to the availability of financial resources, in developing their skills and knowledge for performance of official job-related duties and career development, when beneficial to the employee and the Agency.

- a. Employee Development: The Agency and Union agree that the training and development of employees within the unit is a matter of primary importance to the Parties. The Agency agrees to develop and maintain forward-looking effective policies and programs designed to achieve this purpose, consistent with its needs.

- b. Employee Initiative: The Agency and the Union recognize that each employee is responsible for applying reasonable effort, time, and initiative in increasing his or her potential value to the Agency through self-development and training. Employees are encouraged to take advantage of training and educational opportunities which will add to the skills and qualifications needed to increase their efficiency in the performance of their duties and for possible advancement in the Agency.

Section 2.

- a. Agency needs: The nomination of employees to participate in training and career development programs and courses shall be based on Agency needs and will be fair, equitable and free of personal favoritism.

- b. Schedule Variations: Employees may be granted variations within the normal workweek, including leave without pay, for educational purposes consistent with Agency needs.

- c. Individual Learning and Training Plan (ILTP): The Agency requires employees and supervisors to discuss the employee's career development goals and complete an ILTP annually. In developing this plan, employees may seek counseling and advice from the supervisor. The Agency agrees to provide

information on available Agency training. The ILTP is for developmental purposes only and will not be tied to the performance appraisal process.

- d. Training Related to Reassignments: The Agency agrees that, when an employee is reassigned to a new position, sufficient training as determined by the Agency will be given to the employee to enable him or her to perform the duties of the new position.

Section 3.

- a. Non-Agency Training: The Employer will pay authorized expenses for non-agency training at a facility, approved by the Employer when the following conditions have been met:
 1. The training has been applied for and approved in advance;
 2. Such training will enable the employee to increase his or her proficiency in the current position (i.e., the training is job-related);
 3. Existing training programs within the Agency will not adequately meet the training need;
 4. It is not feasible to establish a new training program to meet the need effectively;
 5. Reasonable inquiry has failed to disclose the availability of a suitable and adequate program elsewhere in government;
 6. Funds are available to pay for the training program;
 7. The course is not being taken solely for the purpose of obtaining a degree; and
 8. The approval of such training will not create undue interference with operational requirements or an imbalance in staffing patterns.
- b. Training Records: The Agency will maintain records for all employees who receive Agency training. The Agency will assign training for trainee level positions consistent with applicable policy and the needs of the Agency.
- c. Employee Notification: Upon submission of a written training request, employees will be notified prior to the start of training whether the training has been approved or disapproved. When a training request has been disapproved, an employee may request a written reason for the disapproval from his/her supervisor.

ARTICLE 16 AWARDS

Section 1. Policy

The Agency's recognition of employees and the application of the Agency awards programs shall be in accordance with ADS 491 Incentive Awards and this Agreement. The awards program recognizes and rewards employees, individually or as a member of a group, for their contributions to the quality, efficiency, or economy of government operations. Employees may receive an honor, recognition, time off from duty, and/or cash award.

Section 2. Eligibility

- a. All bargaining unit employees are eligible to participate in the awards program.
- b. Awards may be granted to former bargaining unit employees, or estates of former bargaining unit employees, if the recipient made a contribution while an employee of the USAID.
- c. The Union will be notified prior to any changes to the awards program policy.

Section 3. Responsibility

The Administrator (A/AID), or designee, is responsible for the overall direction of the USAID Incentive Awards Program. The Incentive Awards Program will be administered fairly and equitably.

Section 4. Nominations

The Agency agrees to notify employees of available awards and solicit for nominations for such awards ten (10) working days in advance of award issuance.

Section 5. Request for Information

Information regarding the Agency's awards program will be provided to the Union upon request.

Section 6. Payment of Awards

Awards may take the form of cash, recognition, or honor award. Cash awards are considered income and subject to withholding and other payroll taxes.

Section 7. Time-Off-From-Duty Award

The Time-Off-From-Duty Award recognizes special acts or other efforts that contribute to the quality, efficiency, or economy of U.S. Government operations. Time off from duty is granted without loss of pay or charge to leave.

- a. This award must be used within one year from award approval date, or the hours will be forfeited without restoration rights. The time can be used throughout the one-year period. If the employee becomes physically incapacitated while using time-off hours, sick leave may be granted for the period of incapacitation, at the request of the employee.
- b. Time off hours cannot be converted to cash payments nor transferred from one Federal agency to another, nor can they be transferred to approved leave recipients under the Agency's Voluntary Leave Transfer Program.

ARTICLE 17

JOB CLASSIFICATION AND POSITION DESCRIPTIONS

Section 1. General

All General Schedule (GS) positions in USAID will be classified in accordance with the requirements of the Classification Act of 1949, under chapter 51 of Title 5, and the classification standards established by the Office of Personnel Management (OPM). The principles of equal pay for substantially equal work will be followed and the impact of the incumbent upon his or her job will be duly recognized.

Section 2. Position Descriptions

An employee is entitled to have a copy of the official position description of record, i.e. that position which has been described and classified by the Agency.

- a. If an employee disagrees with the content of his/her position description, then both the employee and supervisor should have a discussion to resolve the concerns. Subject to 5 USC 7121(c)(5), if resolution is not reached through this process, then it may be addressed through the Negotiated Grievance Procedure.
- b. When significant changes in job duties occur, the position description will be amended or rewritten to reflect such changes after discussion with the employee. The Agency may invite employee or Union input when developing new or revised position descriptions.

Section 3. Appeal Rights

- a. A Civil Service employee may appeal the classification of his/her position in accordance with Agency and OPM regulation. The appellate body (Agency or OPM) is not limited in its review due to the fact that an employee has appealed only certain aspects of his or her position classification, and must provide a full classification determination.
- b. Appeal rights vary by the employee's position and type of appointment.
 - 1) Civil Service employees appointed to GS positions may appeal to the Agency, or to OPM, or through the Agency to OPM. If they appeal initially to the Agency and are dissatisfied with the decision, they may appeal to OPM.
 - 2) A desk audit will be conducted as part of fact-finding when another desk audit has been conducted in the preceding twelve (12) months, and may be

conducted in any other case where deemed necessary. When an appeal is made to the Agency, such an audit will be scheduled within sixty (60) working days from the date an appeal is received in the appropriate office. Such a work audit will be scheduled in advance with appropriate notice to the employee and his/her supervisor. This notice period will normally be at least three (3) workdays in advance of the desk audit being conducted. The employee may elect to have a representative present during the desk audit.

- 3) When an appeal is made to the Agency, the Agency will advise the employee of its decision in writing. The Agency will provide the employee with a copy of the evaluation statement regarding the classification of the position, and information regarding appeal rights to OPM.
- 4) An employee may appeal only the position to which he/she is assigned. An appeal is terminated if the employee vacates the position. An appeal will be terminated upon receipt of a written request from the employee to the appropriate Agency official.
- 5) Decisions based on classification appeals to the Agency will be effective no later than the first day of the fourth pay period after the date of decision and notice to the employee.
- 6) Appeals to OPM will be governed by the provisions of Title 5, Code of Federal Regulations.

Section 4. Definition

The parties agree that the position description phrase generally worded as "other duties as assigned" shall be interpreted to mean duties generally related to the grade level and job series of the position as classified.

ARTICLE 18

EMPLOYEE EVALUATION PROGRAM (CIVIL SERVICE)

Section 1. General

Regulations governing the Agency's employee evaluation program are contained in ADS 462; and 5 USC Chapters 43, 45 and 53; 5 CFR 430, Subpart B, 432, 451 and 531. ADS 462 has been negotiated with AFGE and is incorporated by reference into this Agreement. Any negotiable changes in these regulations will be negotiated with the Union. Each employee in the bargaining unit will be evaluated, normally by their first line supervisor (Rating Official), on a yearly basis under an employee evaluation program that includes written performance standards and critical elements that are significant in terms of title, series and grade. Such standards and critical elements shall be based on the employee's official position description, and link to the achievement of organization goals. Additional duties can be added outside of the position description if it reasonably relates to the employee's position and qualifications. Upon request, an employee shall be furnished a copy of his/her current position description.

Section 2. Objectives

The objectives of the Agency's employee evaluation program are to communicate and evaluate the accomplishment of organizational goals at both the individual and organizational levels. Specifically, the Bureau or Independent Office (B/IO) head is responsible for carrying out these objectives to ensure the success of the Agency's overall mission.

These objectives include:

1. providing accurate evaluation of employee performance on the basis of specific performance requirements and standards;
2. providing higher-level review and approval of performance standards and ratings to ensure that requirements are consistent and effective and that ratings are appropriate;
3. providing periodic reviews of employees' performance during the appraisal period based on established job requirements and performance standards;
4. requiring that employees are informed and participate in the formulation of job requirements and performance standards;
5. establishing a constructive dialogue between Rating Officials and employees throughout each appraisal period which helps both employees and supervisors

- recognize the strengths and weaknesses of employees and take steps to correct any weaknesses;
6. ensuring fair treatment of all employees in the performance appraisal process;
 7. prohibiting use of forced distribution of levels of ratings; and
 8. providing just and equitable basis for promotions; within-grade increases; quality step increases; reassignments; retention in Reduction-in-Force; satisfactory completion of probationary period; training; and removal or reduction in grade for unacceptable performance.

Section 3. Duration of Evaluation Period

- a. The evaluation period will normally be one year in length (Jan 1 - Dec 31) unless an exception is approved by the Office of Human Capital and Talent Management (HCTM). When such an exception has been approved, the evaluation period may be extended up to the end of the next rating cycle.
- b. A minimum evaluation period must be completed before a rating of record or interim rating can be given. Under the Agency-wide program, the minimum evaluation period is 90 days.
- c. When duties and responsibilities change during the evaluation period so as to impact performance standards and critical elements, the performance plan must be revised. A new minimum period of performance shall begin for the revised performance plan.

Section 4. Designation of Rating and Approving Officials

- a. Rating and Approving Officials must be designated at the beginning of the performance appraisal period.
- b. The Rating Official will be the rated employee's supervisor and the Approving Official will be the Rating Official's supervisor. To be familiar with the rated employee's performance, a Rating Official must have supervised the employee for a minimum period of ninety (90) days. Otherwise, the Approving Official will complete the rating provided that the Approving Official has served in that capacity for no less than ninety (90) days.

- c. The Bureau's Administrative Management Staff (AMS) Officer or designee shall make a recommendation to senior management if questions arise as to who shall perform the above functions. The circumstances shall be explained on the appraisal form and the relationships clearly described.
- d. The Appraisal Committee (AC) provides a higher-level review and approval of performance standards and ratings to ensure that requirements are consistent and effective and that ratings are appropriate. Any decisions made by the AC are final as they have approval authority. The ACs (and management officials) have the authority to seek guidance from HCTM regarding appropriate administrative action for any Rating and Approving Official who fails to adhere to the policies, procedures, and schedules of the Employee Evaluation Program.

Section 5. Establishment of Performance Plan

Employees will be given an opportunity to participate in their own evaluation, development, and establishment of the performance standards. A copy of the performance standards and critical elements that relate to their position will be provided at the beginning of the rating period, or when they are assigned to a new position. At that time, management will explain such standards and elements to employees and answer questions. Performance standards and critical elements shall be valid and job related, written at a "Fully Successful" level that can be measured (qualitatively and/or quantitatively) to permit objective and accurate evaluations of actual performance. Performance standards will be applied in a fair and equitable manner. Employees shall be given a copy of their evaluation.

The process is as follows:

- a. Within thirty (30) days of the beginning of each evaluation period, the Rating Official must establish a written performance plan in consultation with the employee and with concurrence of the Approving Official. Performance plans are established/reestablished within thirty (30) calendar days after:
 - 1. The beginning of the appraisal period; or
 - 2. The employee is initially assigned to the job; or
 - 3. There is a change in supervisor resulting in revised performance standards and critical elements before Oct. 4.

- b. Performance plans shall contain all written (or otherwise recorded) critical, and when used, non-critical performance elements and performance standards that set forth expected performance. Performance plans may include objectives, goals and program plans. Performance plans shall identify individual, and where applicable, team accountability for accomplishing organizational goals.
- c. Performance plans performance plans must be consistent with:
 - 1. assigned work and the duties covered in the rated employee's position description; and
 - 2. performance plans of other employees with similar duties and responsibilities in the operating unit.
- d. Performance plans must be reviewed and approved by an official at a higher level than the Rating Official (usually the Approving Official).
- e. If the Rating Official and the rated employee cannot agree on the performance plan, the Rating Official will establish the performance elements and performance standards, subject to the approval of the Approving Official and communicate the decision to the employee along with a copy of the performance plan.

Section 6. Performance Elements

- a. Performance elements are major work assignments and responsibilities assigned to the employee that are directed toward a specific goal or objective, which are clear, concise, and consistent with the objectives of the organization and the requirements established for other employees with similar responsibilities. Once the elements are established, they must be designated as critical or non-critical.
- b. A critical element measures individual performance and is used to assign a summary rating level. At least one performance element must be designated as critical. A critical element is a work assignment or responsibility so vital that unacceptable performance on the element would result in a determination that an employee's overall performance rating is "Unacceptable."
- c. A non-critical performance element measures individual, group/team or organizational performance. A non-critical element is not used to assign a

summary rating level. A non-critical element, while essential, cannot be used to take a performance-based action. Non-critical elements can be used for various purposes such as communicating work objectives, performance expectations for teams, groups or organizations, and providing feedback on individual performance, such as developmental assignments or details for less than the minimum appraisal period.

- d. The Rating Official will ensure that performance elements and performance standards define "Fully Successful" performance.
- e. Rating Officials will meet with their employees at the beginning of the rating period, or when the employee is initially assigned to the job, to discuss performance elements and performance standards.

Section 7. Performance Standards

- a. The purpose of performance standards is to give rated employees specific written guidance on what they are expected to do; provide a benchmark against which the Rating Official can make objective assessments of performance; and increase understanding between the Rating Official and rated employee of the basis on which the evaluation will be made.
- b. Performance standards must be developed at the "Fully Successful" level for each critical and non-critical performance element. Such standards should permit the accurate evaluation of an employee's performance in relation to the performance elements of the position. They should also be realistic and reasonable.
- c. In situations where a new Rating Official arrives during the rating period (e.g., before Oct. 4), a performance plan will be established between the rated employee and Rating Official with proper signatures, regardless of whether or not the performance elements and standards require adjustments or change.
- d. In situations where a Rating Official or employee leaves a position, an interim performance rating must be prepared prior to or within thirty (30) calendar days before he/she departs. The employee must have worked under written elements and performance standards for a minimum of 90 days to be rated.

Section 8. Periodic Progress Reviews and Performance Evaluation Discussions

- a. Rating Officials are required to hold at least one performance discussion with the employee during the evaluation period, usually at mid-point of the evaluation period. These discussions should include:
 1. Employee's performance elements and performance standards;
 2. Employee's progress toward accomplishing the element;
 3. Need for changes to the performance plan;
 4. Employee's strengths and weaknesses;
 5. Performance deficiencies and recommendations for improvement;
 6. Developmental training assignments; and
 7. Supervisory and employee's expectations for the remainder of the evaluation period.
- b. The primary intent of these discussions is to provide feedback to the employee regarding his/her performance. The employee should also be informed as to whether he/she is meeting the performance standards. Discussions between the Rating Official and rated employee should address specific areas of accomplishment and those areas in which the rated employee should work to improve.
- c. At least one progress review must be recorded on the performance plan. The employee may request the results of the meeting in writing.
- d. Information regarding an employee's performance, which is available to the Rating Official, should be conveyed to the employee throughout the evaluation period.

Section 9. Addressing Performance Deficiencies

When a Rating Official identifies deficient performance, they should discuss performance deficiencies with the employee. This involves counseling the employee on gap between expectations/performance standards and outcomes, to include offering suggestions/recommendations of actions the employee can take to close this gap, and providing notice that continued performance deficiencies might have potential disciplinary consequences. If deficient performance persists, counseling should generally be repeated depending on the degree of deficient performance.

- a. Minimally Successful Performance. This is defined as work performance that meets some, but not all, established critical elements and standards. When an employee's performance is at the "Minimally Successful" level any time during the evaluation period, the Rating Official will orally communicate the deficient performance to the employee as it occurs and continue to monitor performance for improvement to the "Fully Successful" level for ninety (90) days. If deficiencies continue after ninety (90) days of observing the employee's performance, the Rating Official will outline the deficiencies in the performance plan/evaluation form and in some form of a Counseling Letter. The Counseling Letter shall include: (1) performance elements and standards not met; (2) inadequacy of work performance, skill level of performance, and impact to work environment; and (3) requirements for improving performance. When an employee's performance is at the "Minimally Successful" level, a mandatory review by the Approving Official is required, invoking final approval of the evaluation. The review then becomes part of the official record.
- b. Unacceptable Performance. This is defined as work performance which fails to meet established performance standards in one or more critical elements of an employee's assigned position. If at any time during the evaluation period, a Rating Official determines that an employee's performance is at the "Unacceptable" level, the Rating Official will consult with HCTM. If it is then determined that the employee's performance is "Unacceptable," the Rating Official will communicate the deficiencies in the performance plan to the employee, to explain the "Unacceptable" rating. The Rating Official will also continue to consult with HCTM to develop a Performance Improvement Plan (PIP) for the employee. The maximum allowance for improvement to the "Minimally Successful" level or higher is ninety (90) calendar days.

An employee, at his/her request, may consult with a Union representative at any step in the procedure as set forth in this Article.

The Parties agree that emphasis will be placed on addressing performance deficiencies promptly. Supervisors will counsel and discuss any issue(s) with employees that could lead to a performance based action.

Performance Improvement Plan: Before a performance based action is taken

against an employee, the employee will be given an opportunity to improve his/her performance through the issuance of a written Performance Improvement Plan (PIP). The PIP will:

1. Identify which critical element(s) are Unacceptable;
 2. Explain the employee's deficiencies, citing specific examples;
 3. Communicate the specific assistance (e.g., formal training, counseling, closer supervision) that will be given to the employee to help improve his/her performance; and
 4. warn the employee of the possible consequences of an "Unacceptable" rating (e.g. reduction in grade or removal).
- c. If the employee's performance in one or more critical elements continues to be "Unacceptable" at the end of the Performance Improvement Period, the employee must be notified in writing by the supervisor of the proposed action to remove or demote the employee.
- d. Sudden declines in performance may indicate personal difficulties that may be beyond the supervisor's ability to resolve. In such cases, supervisors should seek assistance from HCTM.

In instances when an employee does not successfully complete the PIP, and there is a final determination of "Unacceptable" performance on one or more critical performance elements, the supervisor has the authority to take actions that may include removal, or reduction in grade. In unacceptable performance cases, the employee against whom removal or reduction in grade is proposed will be given thirty (30) calendar days advance written notice of the proposed action. The notice will be furnished to the employee either by email, personal delivery, or registered mail.

The advance written notice will include:

- a. specific instances of unacceptable performance;
- b. the critical elements of the employee's position involved in each instance of unacceptable performance;
- c. the name of the deciding official;
- d. the employee's right to respond to the proposal orally and/or in writing and to submit any documentation in support of his or her position;

- e. the employee's right to request copies of documentation supporting the proposal, or where such documentation may be reviewed, and the amount of official time allowed to do so;
- f. the employee's right to a representative; and
- g. the time by which any answer must be submitted.

An employee that is the subject of a proposed action based on unacceptable performance may respond orally or in writing within ten (10) working days of receipt of the proposed action. Extension of time may be granted if requested by the employee or his/her representative. The deciding official, or their designee, will carefully consider the employee's or their representative's response, along with any other relevant supporting documentation, before any further steps are taken.

Section 10. Written Evaluation of Performance

- a. At the end of the evaluation period (interim or final) the Rating Official must assess, in narrative form the rated employee's performance, based on a comparison of performance with the standards established for the evaluation period.
- b. The Rating Official must solicit the employee's performance during the rating period.
- c. Employees should provide the Rating Official with written comments that should include a summary list of his/her accomplishments, generally thirty (30) calendar days before the end of the evaluation period.
- d. Once the Rating Official and the Approving Official approve the evaluation form, the Rating Official must obtain the employee's signature on the appraisal report.
- e. The Rating Official and rated employee will discuss the employee's performance with respect to each performance element and the performance standards.
- f. The Rating Official will provide the final evaluation form including the performance elements, narrative(s) and summary level determinations to the employee.
- g. The employee has five (5) working days from the date of receipt of the final evaluation form to review and provide comments on the rating of record. During this period, the employee has the opportunity to discuss their rating of record with the Approving Official.

- h. Employee written comments may be included as part of the final rating of record or interim performance rating when they are documented by the employee on the evaluation form.
- i. The evaluation form will be considered final, unless one of the following occurs:
 - 1. The employee does not sign the evaluation form and it is subsequently forwarded to the Appraisal Committee (AC) for review;
 - 2. The employee requests AC review;
 - 3. The summary level determination is "Minimally Successful" or "Unacceptable."
- j. When a review by the AC is requested or required, the evaluation form is forwarded to the AC. The AC must review the rating to determine whether the employee's work has been measured in an objective and correct manner, that the basis for the rating is supported and is clearly documented on the evaluation form, and that the report is in compliance with applicable rules, regulations and procedures.
- k. The AC has the authority to approve, disapprove, or change the rating or content of the written narrative. When a rating is disapproved, the AC should discuss the rating with the Rating Official and the Approving Official before finalizing the rating.
- l. When disapproved, the changes required to the evaluation form must be made and documented in writing by the AC or Rating Official on the evaluation form.
- m. The employee's signature is an acknowledgement of receipt of the evaluation form and does not indicate agreement or disagreement with the contents of the report.
- n. No further changes may be made after the employee signs the report without informing the employee.
- o. When a rating of record cannot be prepared at the end of the rating period, the evaluation period will be extended in order to meet the minimum requirements.

Section 11. Rating Levels

- a. The Rating Official must assign a rating level for each critical and non-critical performance element (unless the employee has had no opportunity to

demonstrate performance on job elements, which must be noted on the evaluation form).

b. The Agency-wide program has five levels of performance, which are defined as:

1. Outstanding - The quantity and quality of the employee's work substantially exceeds the "Fully Successful" standards and rarely leaves room for improvement. The employee significantly improves the work processes and products for which he/she is responsible. There is thoughtful adherence to procedures and formats, as well as suggestions for improvement in these areas, which increase the employee's usefulness.
2. Exceeds Fully Successful – The quantity and quality of work under this element are consistently above average. The knowledge and skill the employee applies to this element are clearly above average, demonstrating problem-solving skill and insight into work methods and techniques. The employee follows required procedures and supervisory guidance so as to take full advantage of existing systems for accomplishing the organization's objectives.
3. Fully Successful – The quantity and quality of the employee's work are those of a fully competent employee. The employee's work products fully meet the requirements of the element. Incompleting work assignments, he/she adheres to procedures and format requirements and follows necessary instructions from supervisors.
4. Minimally Successful – The quantity and quality of the employee's work under this element are marginally acceptable for the position. Most of the following deficiencies are typical of the employee's work; often requires extra assistance or revision from supervisor or peers; occasionally fails to meet assigned deadlines; work assignments occasionally require major revisions or often require minor revisions; application of technical knowledge to complete the work assignments is not reliable in many cases; and occasionally fails to adhere to required procedures, instructions, and/or formats incompleting work assignments.

5. Unacceptable – The quantity and quality of the employee's work under this element are not adequate for the position. Most of the following deficiencies are typically, but not always, common characteristics of the employee's work: the work falls short of requirements of the element; the employee fails to apply adequate technical knowledge to complete the work assignments; either the knowledge applied cannot produce the needed products or it produces technically inadequate products or results; and the employee demonstrates a lack of adherence to required procedures or instructions.

Section 12. Summary Ratings

Each performance evaluation will include a summary rating level determination comparable to the following:

- a. Outstanding – The first element must be rated outstanding, and a majority of elements (critical and/or non-critical) have been rated "Outstanding" with the remainder being rated no lower than "Exceed Fully Successful."
- b. Exceeds Fully Successful (EFS) – The majority of elements (critical and/or non-critical) have been rated "EFS" or above, with the remainder being rated no lower than "Fully Successful."
- c. Fully Successful – All critical elements have been rated at least at the "Fully Successful" level. A rating of "Minimally Successful" or "Unacceptable" on a non-critical element would result in a summary level determination of "Fully Successful."
- d. Minimally Successful - The majority of critical performance elements are rated, "Minimally Successful," and none are below that level.
- e. Unacceptable – One or more critical elements have been rated "Unacceptable." Non-critical elements may be a mix of ratings.

Ratings should reflect an employee's performance throughout the appraisal period.

Section 13. Interim Performance Evaluation Forms (refers to AIF)

- a. Interim performance ratings shall be prepared covering time periods of less than one year but not less than ninety (90) days (under the Agency-wide program) when:
 - 1. There is a change in Rating Official and the former Rating Official has observed the rated employee's performance for the minimum evaluation period.
 - 2. The rated employee is leaving a position and has worked under written or otherwise recorded performance elements and performance standards for the minimum appraisal period.
 - 3. There is significant change in a rated employee's duties (even if the rated employee continues to be supervised by the same Rating Official).
 - 4. The rated employee is serving on a detail or temporary promotion expected to last for the minimum appraisal period.
- b. If the rated employee has received one or more interim ratings during the annual rating period, the Rating Official is required to consider the interim ratings when preparing the rating of record in order to reflect work performance throughout the entire rating cycle. Supervisors should carefully consider the following factors:
 - 1. Relative difficulty of the performance elements and performance standards of both the current and previous interim rating periods;
 - 2. Performance of the employee during the interim rating period(s) and any recent improvement or deterioration in performance; and
 - 3. Length of time covered by the interim ratings.
- c. Interim ratings do not become a part of the employee's Official Performance Folder unless the rating becomes the rating of record.

Section 14. Inadmissible Comments

Inadmissible comments include, but are not limited to:

- a. Reference to race, color, religion, gender (except for titles of address, first names or personal pronouns), national origin, age, political affiliation, marital status, sexual orientation, or references to spouse or family;
- b. Mention the specific nature of a disability or medical condition;
- c. Mention of initiation of, involvement in, or participation in grievance or EEO proceedings.

- d. Comments on an employee's participation or non-participation in employee organizations or activities;
- e. Reference to previous performance ratings or events of performance outside the rating period;
- f. Absences, except as it relates to performance;
- g. Reluctance to work overtime; or
- h. Conduct-related issues/disciplinary action.

Section 15. Reconsideration and Grievances

- a. An employee who disagrees with his/her rating of record or interim performance rating must first discuss the problem with the Rating Official and then with the Approving Official.
- b. If the employee fails to obtain satisfaction from these discussions, he/she may then request reconsideration by the Appraisal Committee (AC).
- c. If the employee is dissatisfied with the final determination of the AC, he/she can seek redress through the Negotiated Grievance Procedure.

Section 16. Within-Grade Increase

- a. When an employee's work performance falls below the "Fully Successful" level, the employee's within grade increase (WGI) is denied. This determination must be based on a formal evaluation of the employee's performance during the within-grade waiting period for advancement to the next higher step and since the most recent rating of record. This determination may occur, for example, when:
 - 1. The most recent rating of record is at the "Minimally" or "Unacceptable" level and has not improved;
 - 2. Performance has deteriorated to a less than "Fully Successful" level since the most recent rating of record.
- b. Unacceptable Performance.

When an employee's most recent rating of record is "Unacceptable" and the supervisor determines that performance has improved to the "Fully Successful" level, a new rating must be prepared in order to support the determination to grant the employee's within-grade increase (this rating does not replace the rating of record). The new rating must be in place prior to the end of the within-

grade waiting period.

c. Deteriorated Performance.

When the performance of an employee with a rating of record of "Fully Successful" has deteriorated to the "Minimally" or "Unacceptable" level at the time of the within-grade increase determination, the supervisor should consult with HCTM. A performance evaluation must be prepared to support the negative determination, and be in place prior to the end of the waiting period in order to deny the within-grade increase, or a new minimum performance period will be extended to give the employee an opportunity to improve performance to the "Fully Successful" level.

1. A WGI denial must be directly related to performance and those not meeting this criteria (i.e., conduct problems, leave abuse, etc.) should be addressed through procedures appropriate to the problem.
2. A denial of a WGI should be issued in writing to the employee as soon as possible after completion of WGI waiting period.
3. Denials of WGIs should not be issued until the supervisor of record has consulted with HCTM on the performance deficiencies.
4. Employees may request reconsideration of a negative determination in writing to HCTM/ELR not more than fifteen (15) calendar days after receipt of the negative determination notice.
5. HCTM/ELR will provide a written final decision to the employee within 15-30 calendar days of receipt of the request for reconsideration.
6. If HCTM/ELR denies the employee's request for reconsideration, the employee may appeal to the Merit Systems Protection Board or file a Grievance, in accordance with Article 21 of this Agreement.
7. A within-grade increase may be granted when the Rating Official determines that the employee has demonstrated sustained performance at the "Fully Successful" level (at least thirty (30) calendar days).
8. A new performance evaluation must be prepared once the employee demonstrates sustained performance at the "Fully Successful" level.

Section 17. Details, Long-Term Training and Special Circumstances

- a. When it is anticipated that an employee will work on a detail or other temporary assignment, the minimum evaluation period required to be rated is ninety (90)

- days. The Rating Official will ensure the accuracy of the employee's performance plan.
- b. Changes to the employee's performance plan must be made and communicated to the employee by the Rating or Approving Official generally within thirty (30) calendar days after the beginning date of the assignment.
 - c. Employees serving on a detail or other temporary assignments are rated by their permanent Rating Official, with input from the supervising official of the detail or temporary assignment, at the end of the employee's assignment or evaluation period.
 - d. An employee's performance on a detail or temporary assignment will be taken into consideration when preparing the rating of record.

Section 18. Transfers, Reassignments and Separations

When an employee is transferred, reassigned, separated or resigns, a performance evaluation is prepared by the Rating Official and the evaluation form is forwarded to the employee's new Rating Official, as appropriate. When the employee transfers to another agency, the interim rating will be forwarded to the employee. As noted earlier, an interim performance rating does not become part of the employee's electronic Official Performance Folder unless the performance evaluation becomes the rating of record.

Section 19. Delinquent/Untimely Performance Evaluations

It is the Agency's responsibility to ensure timely issuance and completion of employees' performance evaluations in accordance with ADS 462. All evaluation forms submitted after the prescribed due dates must include a statement explaining the reason(s) for the lateness. HCTM will review these statements to determine whether the delays have been adequately explained. The HCTM Chief Human Capital Officer (CHCO), or designee may decide to issue a critical letter.

ARTICLE 19

ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

Section 1. General Provisions

The actions covered by the provisions of this article are reduction-in-grade and removal for unacceptable performance, to be taken in concert with the Agency's performance appraisal system for non-SES and GS employees as prescribed in ADS 462.

Section 2. Opportunity to Improve

- a. If at any time during the performance appraisal cycle, an employee's performance is determined to be "Unacceptable" in one or more critical elements, the employee's supervisor shall consult with HCTM prior to notifying the employee and annotating the Annual Evaluation Form (AEF) accordingly. The AEF must state the critical element(s) for which performance is "Unacceptable." The supervisor shall then issue the employee a Performance Improvement Plan (PIP) that provides a reasonable opportunity [at least forty-five (45) calendar days] to demonstrate acceptable performance before any proposal to remove or demote is initiated. The PIP will identify the employee's specific performance deficiencies, the acceptable level of performance, the action(s) that must be taken by the employee to improve to the acceptable level of performance, and the assistance that the supervisor will provide, such as regular meetings, and/or training. The PIP will also inform the employee that performance must improve to and be sustained for one (1) year at an acceptable level. This one (1) year period begins at the start date of the PIP, and applies to the elements identified in the PIP. If the performance is not sustained, management may remove or demote the employee.

- b. Should all remedial action fail and the employee's performance is determined to be unacceptable, the supervisor will consult with HCTM for assistance to properly notify the employee in writing that he/she has failed to achieve an acceptable level of competence, and issue a rating of "Unacceptable" performance to the employee. The supervisor will then propose removal or demotion.

- c. At any time during the PIP period, the supervisor may conclude that the employee's performance has improved to the acceptable level, and the PIP may be terminated. The supervisor will notify the employee in writing that he/she has achieved an acceptable level of competence, terminate the PIP, and document the employee as performing at an acceptable level. The employee must maintain an acceptable level of performance in the critical element(s) identified in the PIP for one (1) calendar year from the date the PIP was issued. After the one (1) calendar year, any entry or notation regarding "Unacceptable" performance will be removed from the employee's file.

Section 3. Proposal to Remove or Demote

- a. An employee who receives a proposal to remove or demote is entitled to a thirty (30) calendar day advance written notice from the proposing official. The notice will identify the specific instances of unacceptable performance and the critical elements involved in each.
- b. The advance notice shall also contain other information appropriate to the circumstances of the action, e.g.:
 1. the name of the deciding official;
 2. the employee's right to respond to the proposal orally and/or in writing and to submit any documentation in support of his or her position;
 3. copies of documentation supporting the proposal, or where such documentation may be reviewed, and the amount of official time allowed to do so;
 4. the employee's right to a representative; and
 5. the time by which any answer must be submitted.
- c. An employee who has received such an advance notice is entitled to ten (10) working days, from receipt of the notice, to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer. When timely requested, the deciding official may extend the time frame for response for a reasonable period of time. When making a response, an employee is entitled to be represented by an attorney or other representative.

Section 4. Decision to Remove or Demote

The employee will receive a written decision within forty-five (45) days of the date of the proposed action. A decision to effect a removal or reduction-in-grade will be based only on the critical elements that were identified in the PIP. In arriving at a decision, the

deciding official shall specify the instances of unacceptable performance and shall consider any answer of the employee and the employee's representative. The effective date of the decision will be no sooner than five (5) calendar days following notification to the employee.

Section 5. Appeal Rights

An employee may challenge an adverse decision under this Article by appealing through statutory procedures (i.e., MSPB, FLRA, and EEO) or through the grievance procedures provided in Article 21 of this Agreement, but not both.

ARTICLE 20

DISCIPLINE AND ADVERSE ACTIONS

Section 1. General Provisions

This article applies to General Schedule and Wage Grade employees in the bargaining unit.

- a. The regulations governing suspensions for fourteen (14) days or less, suspensions for more than fourteen (14) days, removals, reductions in grade or pay, or furloughs for thirty (30) calendar days or less for Wage Grade employees are contained in 5 CFR 752.
- b. The Agency shall determine when the need arises for disciplinary and adverse actions and shall carry out such actions as promptly as possible. An employee will be subject to disciplinary or adverse actions only for such cause as will promote the efficiency of the Federal Service.
- c. Discipline and adverse actions are designed to correct and promote positive employee conduct, rather than to punish an individual.
- d. The Parties recognize that discipline should be progressive in nature if it is to correct the conduct of an offending employee. It is understood, however, that progressive discipline need not follow any specific sequence of disciplinary actions and that major offenses may be cause for severe action, including removal, irrespective of whether previous disciplinary or adverse actions have been taken against the offending employee.
- e. Disciplinary action may be in addition to any penalty prescribed by law. If disciplinary or other remedial action is necessary, it will be taken and will be effected in consideration of this Agreement, applicable laws, and government regulations.

Section 2. Employee Responsibilities

It is the responsibility of each employee to know and be aware of the provisions of ADS 102, Mandatory Reference "Employee Responsibilities, Conduct, and Political Activity." Employees who violate the laws, rules, regulations, or standards of conduct will be disciplined in accordance with the gravity and frequency of the

offenses committed.

Section 3. Management Responsibilities

When taking disciplinary actions, the Agency will give due regard to the table of penalties and the principle that like penalties should be imposed for like offenses. However, it is understood that equality of treatment does not require uniformity of penalties.

Consequently, in taking disciplinary actions, the Agency will give due consideration to the existence of mitigating or aggravating circumstances, the grade or nature of the position occupied by the employee involved, the frequency and severity of the offense, and any other factors or circumstances bearing upon the incident or acts involved.

Section 4. Table of Penalties

The suggested Table of Penalties is contained in ADS 487, Additional Help. The range of possible penalties is intended to serve as a general guideline based on mitigating or aggravating factors. An attempt has been made to list every possible punishable offense. The fact that an offense is not listed does not mean that a penalty cannot be imposed if the offense is committed. The content of the Table of Penalties has not been subject to negotiation between the Parties. It is a guidance document.

Section 5. Representation and Employee Rights During a Security Interview

Employee rights in security interviews are contained in Article 3, Section 5.4 of this Agreement.

Section 6. Official Time

Upon receipt of a proposed disciplinary or adverse action, an employee is entitled to a reasonable amount of official time to prepare and present his or her position. Up to eight (8) hours will be considered to be reasonable to prepare the employee's response to a proposed action, but this time may be increased for good cause upon request of the employee.

Section 7. Oral and Written Admonishments (Letters of Warning)

Oral and Written Admonishments (Letters of Warning) are not formal disciplinary actions to which the procedures in this Article apply. Admonishments or Letters of Warning may

be used when an employee's conduct is less than acceptable and it is probable that the admonishment or warning will result in improvement. An admonishment or warning may be oral or written, and, in either case, is given to the employee by the immediate supervisor or by an appropriate management official. If the admonishment or the warning is in writing, a copy must be provided to the employee. Admonishments or warnings will not be filed in the employee's Official Personnel Folder (OPF), but will be maintained by the supervisor (or other management official) and may be used as a history for future disciplinary actions. Admonishments or Warnings are neither grievable nor appealable. The employee may present his or her views in writing to the issuing official. The employee views, if any, will be attached to the copy of the admonishment or warning letter retained by the issuing official.

Section 8. Disciplinary Actions

The disciplinary actions covered by the provisions of this section are written reprimands and suspensions of fourteen (14) calendar days or less.

a. Letters of Official Reprimand

A reprimand is a written letter to an employee for conduct of such a serious nature that it cannot be condoned or tolerated. The Letter of Reprimand must contain full particulars of the matter for which the employee is being reprimanded. A copy of the reprimand is retained by the issuing official and a copy is filed in the employee's Official Personnel Folder (OPF). The reprimand will stay in the OPF for one to two years. A request can be made to ELR for consideration to remove the reprimand from an employee's OPF after one (1) year. A Letter of Reprimand may be grieved under the provisions of Article 21 of this Agreement. The reprimand may be used as a history for future disciplinary actions.

b. Suspensions for 14 Calendar Days or Less

A suspension is effected for reasons to promote the efficiency of the service.

1. An employee against whom a suspension is proposed is entitled to an advance written notice stating the specific reasons for the proposed action. The proposal shall contain other information appropriate to the circumstances of the action, e.g.:
 - (a) the length of proposed suspension;
 - (b) the name of the deciding official;
 - (c) the right to respond to the proposal orally and/or in writing;

- (d) the right to request the documentation for which the proposal is based;
 - (e) the amount of official time allotted;
 - (f) the employee's right to representation; and
 - (g) the time by which any answer must be submitted.
2. An employee who has received such an advance notice is entitled to ten (10) working days to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer. A timely and justifiable request for an extension will be granted by the deciding official for a reasonable period of time. The deciding official or designee for the action will receive the employee's oral or written answer.
 3. The employee is entitled to a written decision at the earliest practicable date, containing the specific reasons for the decision. In arriving at a decision the deciding official shall consider only the reasons specified in the advance notice, and shall consider any answer of the employee and the employee's representative. The decision must be delivered at or before the time the action will be effective.
 4. Suspensions of fourteen (14) calendar days or less may be grieved by an employee under Article 21 of this Agreement.

Section 9. Adverse Actions

- a. The actions covered by the provisions of this Section are removals, suspensions for more than fourteen (14) calendar days, reductions-in-grade, reductions-in-pay, and furloughs of thirty (30) calendar days or less.
- b. An employee against whom an adverse action is proposed is entitled to thirty (30) calendar days advance notice which shall state:
 1. the proposed action;
 2. the name of the deciding official;
 3. the right to respond to the proposal orally and/or in writing;
 4. the right to request the documentation for which the proposal is based;
 5. the amount of official time allotted;
 6. the employee's right to representation; and
 7. the time by which any answer must be submitted.

- c. An employee who has received such an advance notice is entitled to ten (10) working days to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer. A timely and justifiable request for an extension will be granted by the deciding official for a reasonable period of time. The deciding official or designee for the action will receive the employee's oral or written answer.
- d. The employee is entitled to a written decision at the earliest practicable date, containing the specific reasons for the decision. In arriving at a decision, the deciding official shall consider only the reasons specified in the advance notice and shall consider any answer of the employee and the employee's representative. The decision must be delivered at or before the time the action will be effective. Effective date of decisions will be no sooner than five (5) calendar days following notification to the employee.
- e. An employee may appeal an adverse action by choosing one of the following: (1) the Merit Systems Protection Board (MSPB) within thirty (30) calendar days of the effective date of the action, (2) a grievance under Article 21 of this Agreement, or (3) through filing an EEO complaint.
- f. Exceptions to the thirty (30) calendar day advance notice rule for adverse actions:
 1. If there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, the proposed action may be effected less than thirty (30) calendar days from receipt of the advance written notice. The Agency may require the employee to furnish any answer to the proposed action and affidavits and other documentary evidence in support of the answer within seven (7) calendar days of receipt of the proposed action. When the circumstances require immediate action, the Agency may place the employee in a limited administrative leave status, as necessary to effect the action.
 2. The advance written notice and opportunity to answer are not necessary for furlough without pay due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.
 3. The thirty (30) calendar day advance written notice is not required for effecting a suspension during the notice period for a removal or an indefinite suspension

when the circumstances are such that retention of the employee in an active duty status during the notice period may be injurious to the employee, his or her fellow workers, or the general public, or may result in damage to government property.

Section 10. Copies of the Decision Letter

In actions under this Article where the employee does not request Union representation, the Agency will provide the Union with sanitized copies of the decision letters.

ARTICLE 21

NEGOTIATED GRIEVANCE PROCEDURE

Section 1. Purpose

The Agency and the Union recognize the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner. The purpose of this Article is to provide a mutually acceptable process for the expeditious and equitable resolution of grievances at the lowest level possible.

Section 2. Scope

- a. A grievance may be filed under this procedure by any bargaining unit employee, group of employees, the Union, or the Agency concerning conditions of employment consistent with the Civil Service Reform Act of 1978. Grievances under this procedure shall include any complaint concerning the following:
 1. Any matter regarding the effect, misinterpretation, misapplication or claimed violation of this Agreement;
 2. Any claimed violation, misinterpretation, or misapplication of law, rule, regulation, or Agency policy related to conditions of employment;
 3. Final Rating of Record; or
 4. Letters of reprimand, suspensions, and removals.
- b. The following matters are not grievable, and must be pursued through appropriate alternate procedures:
 1. alleged violations of the Hatch Act (5 USC, Chapter 73);
 2. any matter related to retirement, life insurance or health insurance;
 3. suspension or removal for reasons relating to national security matters under 5 USC 7532 or issuance, suspension, or revocation of a security clearance;
 4. any examination, certification or appointment (Title 5 USC 7121(c)(4));
 5. the classification of any position which does not result in the reduction-in-grade or pay of any employee;
 6. non-selection for an award or non-adoption of an employee suggestion;
 7. termination of a probationary employee;
 8. non-selection under promotion procedures from a properly ranked and certified list of candidates;

9. any claimed violation of subchapter III of Chapter 73, Title 5 USC (relating to prohibited political activities);
10. filling of a position outside the bargaining unit; and
11. admonishments.

Section 3. Union Rights

An employee or group of employees may present grievances on their own behalf, without the assistance of the Union, provided the Union is given the opportunity to be present at any formal discussion concerning the grievance with the employee. The Union shall promptly receive copies of written grievance decisions upon request. The right of the employee does not include the right of taking the matter to arbitration unless the Union agrees to do so.

Section 4. Employee Rights

- a. Many grievances arise from misunderstandings or disputes, which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. The Agency and the Union agree that every effort will be made by management and the aggrieved party(s) to settle grievances at the lowest possible level. An aggrieved employee shall have the option of utilizing this grievance procedure or any other procedure available in law or regulation, but not both.
- b. Each employee is entitled to file and seek resolution of grievances under the negotiated grievance procedure without fear of interference, coercion, or reprisal for exercising rights under this Article. This principle applies equally to any employee taking part in the presentation or adjudication of a grievance.

Section 5. Grievance Procedures

An employee grievance is a complaint by an employee seeking personal relief to the employee. Employee grievances shall be processed as follows:

Informal Step:

An employee or the Union shall, within twenty (20) working days of the alleged violation, or from the date the employee became aware of the violation, present the grievance orally/informally to the immediate supervisor/responsible official. A Union representative may be present at all

discussions relating to the grievance.

Formal Steps:

Step 1. If the grievance is not satisfactorily settled informally within ten (10) working days of the response from the supervisor/responsible official, the employee or the Union will reduce the grievance to writing. The supervisor/responsible official will provide a written decision within ten (10) working days of receipt of the written grievance. The decision will include the name and title of the Agency official to whom the employee may address a Step 2 grievance.

Step 2. Within ten (10) working days of receipt of the Step 1 decision, the employee or Union may file a grievance in writing to the next-level supervisor/responsible official. This submission will include a plain statement of the alleged violation(s) and the relief requested. Within ten (10) working days of receipt of the grievance, the Agency representative will provide a written decision to the employee. The decision will include the name and title of the Agency official to whom the employee may address a Step 3 grievance.

Grievances concerning the Merit Promotion Plan or Article 14 of this Agreement will be presented at Step 2 of the grievance process.

Step 3. Within twenty (20) working days of receipt of the Step 2 decision, the employee or Union may file a grievance in writing to the Director, ELR. This submission will include the written material exchanged at the previous steps. The Director, ELR, or designee, will review the record of the case, investigate if deemed necessary, meet with the aggrieved employee and/or Union representative, and will provide a written decision within twenty (20) working days after receipt of the grievance.

Section 6. Union/Management Grievances

- a. Union grievances will be submitted in writing to the Agency at Step 3 to the Director of ELR within twenty (20) working days of the event or the date the Union became aware of the violation. In any charge by the Union that the Agency violated 5 USC Chapter 71, the Union may submit the matter for

consideration under this negotiated grievance procedure or as an Unfair Labor Practice, but not both.

- b. Agency grievances will be submitted in writing at Step 3 to the President of the Union within twenty (20) working days of the event giving rise to the grievance or from the date that the Agency should reasonably have been expected to be aware of the event.
- c. The responding Party shall answer the grievance in writing within twenty (20) working days following the date the grievance was received. If the moving Party desires for the matter to be submitted to arbitration, they shall so advise the respondent within twenty (20) working days following the receipt of the respondent's answer or the date the answer was due. Arbitration shall be conducted as described in Article 22.

Section 7. Time Limits

- a. A grievance on a continuing condition may be filed at any time during the existence of that condition.
- b. All specified time limits in this Article may be extended by mutual consent of the Parties.
- c. Failure of the respondent Agency to observe the time limits at any step entitles the grieving employee or Union to proceed to the next step.
- d. Failure of the grieving employee or Union to proceed to the next step within the established time limits will constitute resolution of the grievance on the basis of the respondent Agency's/Union's last position.

Section 8. Alternative Dispute Resolution

- a. Prior to filing a written grievance or at any stage of the grievance process prior to arbitration, employees and management may mutually elect to use the Agency's Alternative Dispute Resolution (ADR) program to facilitate settlement of a dispute. It is agreed that ADR is not appropriate for disputes involving contract interpretation issues, or where a settlement may result in a change in personnel policy, practices, or general conditions of employment. Using this ADR process

does not exclude the right to file a grievance under the negotiated grievance procedure or to file a statutory appeal.

- b. Employees and management who wish to pursue ADR should notify ELR, who will ensure that the dispute is appropriate for ADR. If an employee elects ADR, the parties involved will determine the time frame for attempting resolution. At that point, the time limits for filing a Step 1 grievance will also be determined. ELR will then arrange for mediation or other appropriate ADR techniques.
- c. The ADR process is voluntary and confidential.
- d. In instances where notable progress has been made, the Parties may mutually agree to extend the time limits as provided for in this Article.

Section 9. Waiver of Grievance Steps

All steps in the negotiated grievance procedure may be waived by mutual agreement. Grievances challenging disciplinary or adverse actions may appropriately begin with Step 3. Requests for waivers of steps must be made within twenty (20) work days, consistent with the Step 1 procedures.

ARTICLE 22 ARBITRATION

Section 1. Right to Arbitration

A Grievance may be referred to arbitration only by the Agency or the Union, and only after exhausting the procedures outlined in Article 21, Negotiated Grievance Procedure.

Section 2. Requesting an Arbitrator

Within twenty (20) working days after the Agency or the Union has issued its Step 3 written response, either Party may request arbitration in writing and request the services of the Federal Mediation and Conciliation Service (FMCS). A copy of the request to arbitrate shall be sent to the other Party. If an unresolved grievance is not referred for arbitration within this time limit, it shall be deemed satisfied or denied.

Section 3. Selection of Arbitrator

If the Parties cannot mutually agree on an arbitrator, the Parties will request a list of seven (7) arbitrators from FMCS. Within ten (10) working days after receipt of the list from FMCS, the Parties will meet to select an arbitrator. If they cannot agree on one of the arbitrators on the list, the Agency and the Union will each alternately strike one name from the list until only one arbitrator's name remains. The remaining name shall be the only and duly selected arbitrator. A flip of the coin will determine which party strikes the first name.

Section 4. Fees and Expenses

The arbitrator's fees and all expenses in connection with an arbitration inquiry shall be borne equally by the Parties. Travel and/or per diem costs shall not exceed those authorized by applicable Agency regulations. When a transcript is ordered and/or used by both Parties, the cost shall be borne equally by both Parties.

Section 5. Question of Arbitrability

Questions that cannot be resolved by the Parties as to whether a Grievance is based on a matter subject to the Negotiated Grievance Procedure, including issues of timeliness, will be referred to an arbitrator for decision prior to any presentation on the merits. If the threshold question of arbitrability is answered in the affirmative, usually the Parties will refer the merits of the case to the same arbitrator for decision. By mutual consent, the Parties may decide to use a different arbitrator.

Section 6. Arbitration Process

- a. Normally, the arbitration process will consist of a hearing convened and conducted by the arbitrator, at which time the facts relevant to the issue are developed and established.
- b. In place of a hearing, the Parties may mutually agree that the arbitrator will use one of the following processes:
 1. A "stipulation of facts," when the Parties agree on the facts of the issue. In this case, all data and documentation are jointly submitted to the arbitrator; or
 2. An "arbitral inquiry," in which the arbitrator makes such inquiries as he or she deems necessary (e.g., inspecting work sites, taking statements, etc.).
- c. The arbitration hearing or inquiry will be held on the Agency's premises or other mutually agreed upon site. Hearings will be held during regular work hours of the basic work week.
- d. An employee of the unit covered by this Agreement serving as the Grievant's representative, the Grievant, and any employee witnesses who are otherwise on duty shall be excused from duty as necessary to participate in the arbitration proceedings without loss of pay or charge to annual leave. Employee participants on nightshift will be temporarily placed on the regular day shift for the day(s) of the proceedings in which they are involved.

Section 7. Time Limit

The arbitrator will be requested to render his/her decision and proposed remedy to the Agency and the Union as quickly as possible, but in any event, no later than thirty (30) calendar days after the conclusion of the hearing, unless the Parties agree otherwise.

Section 8. Arbitrator's Authority

The arbitrator's decision will be final and binding, except as provided in 5 USC 7122.

Section 9. Arbitrator's Authority in Disputes Over the Agreement

The arbitrator shall have the authority to interpret and define the explicit terms of this Agreement as necessary to render a decision as set forth. He or she shall have no authority to add or to modify any terms of this Agreement.

ARTICLE 23

HOURS OF DUTY AND OVERTIME

Section 1. General

In applying the laws and regulations of higher authority concerning hours of work and compensation, USAID will use its delegated authority to meet the complex requirements of its mission with efficiency and equity. Employees are responsible for adhering to their work schedules, including arriving and departing at scheduled times and dedicating the time and effort necessary to complete assignments efficiently.

Section 2. Hours of Duty

- a. Hours of duty shall be scheduled in accordance with 5 CFR 610 and ADS 479, Hours of Duty.
- b. Managers may give an employee a ten (10) minute grace period at the beginning of the workday, provided it is not abused.
- c. Each daily tour of duty must include a lunch period, during which the employee will be excused from duty. Normally, the lunch period will not be taken immediately after the employee's start time, nor immediately preceding the employee's end of duty.
- d. Each employee will be provided with a fifteen (15) minute break twice during each daily tour of duty, normally one in the first half and one in the second half of the work day. The fifteen (15) minute break cannot be taken immediately after an employee's start time nor immediately preceding the employee's end of duty.

Section 3. Overtime

- a. It is understood that Management has the right to make overtime assignments to employees when work circumstances warrant. As much advance notice as possible will be given whenever an emergency work schedule or overtime duty appears necessary.
- b. Overtime shall be assigned fairly and equitably among qualified employees in accordance with their skills and familiarity with the work. Whenever an employee believes that overtime is not being fairly assigned, he or she may request an AFGE representative to consult with the supervisor or designee to seek an equitable adjustment.

- c. Consistent with work requirements, the Agency will establish work schedules which may, subject to the criteria set out in 5 CFR 610 and 610.121 (a), include different beginning and ending times within the basic workweek.

ARTICLE 24

ALTERNATIVE WORK SCHEDULES

Section 1. General

The Alternative Work Schedules Program (AWS) is designed to provide advantages to both the Agency and the employees. The Agency and the employees must share responsibility for the success of the program equally. The Agency's AWS program is established in accordance with 5 USC 6120-6132 and ADS 479. The Agency will provide notice and an opportunity to negotiate to AFGE before effecting any revisions to the AWS program. The Agency and the Union agree to support the use of AWS.

Section 2. Objectives

- a. To provide improved employee morale by permitting employees to adjust their work hours to meet the needs of their personal lives;
- b. To facilitate the use of alternative forms of transportation (including car pools, mass transit, etc.); and
- c. To facilitate improvements in office productivity.

Section 3. Procedures

Participation in the program is voluntary. An employee who wishes to participate in AWS must submit a written request to his or her immediate supervisor. The supervisor will make a reasonable effort to approve the preferred AWS. When the supervisor determines that AWS impacts, or would impact, adversely on Agency costs, productivity, service to the public, or efficiency in carrying out its mission, the request may be denied. An employee's AWS may be terminated due to a decrease in performance, failure to follow time and attendance rules, and/or abuse of official leave policies.

ARTICLE 25 LEAVE

Section 1. General

In the administration of all matters relating to leave covered by this Article, the Parties are governed by existing and future regulations as specifically outlined in the Agency's ADS 480, Leave, unless they are in conflict with any applicable law.

Section 2. Annual Leave

a. General

Supervisors will attempt to schedule work to allow employees an annual vacation leave period of at least two (2) weeks and to guard against any loss of leave because of ceiling carryover limitations. Reasonable efforts will be made to accommodate employees who desire leave for special occasions such as religious and other holidays, birthdays, attendance at funerals, and other personal needs or desires.

b. Scheduling Annual Leave in Advance

As a rule, annual leave is requested and scheduled in advance. Annual leave will be granted equitably and the supervisor will make a reasonable attempt to satisfy employees' leave requests. To assist in making fair and equitable decisions, supervisors will circulate a schedule and respond to requests for annual leave in a timely manner. Conflicts in scheduling annual leave will generally be resolved in favor of the employee with the most seniority based on the date of entry in the federal service. In considering requests for extended vacation leave, the supervisor will assess the impact of granting one employee's extended leave request on other employees and office work requirements.

c. Approval of Annual Leave

A supervisor's decision to approve or deny non-emergency annual leave will be based on work requirements. When an employee requests annual leave through WebTA (or USAID approved system), the supervisor is expected to approve or deny the request expeditiously, normally within three (3) work days. All requests for annual leave of one (1) week or more will be approved or denied no later than seven (7) work days prior to the requested start date of leave.

d. Cancellation of Annual Leave

The supervisor will make every effort to honor approved annual leave requests, except when an unexpected and exigent circumstance exists that cannot otherwise be addressed. The supervisor will discuss the situation with the employee and reschedule the leave as soon as feasible.

e. Emergency Annual Leave

To request emergency leave, the employee must speak directly with his/her supervisor (or the supervisor's designee) as soon as possible. If neither the supervisor nor the designated representative is available to approve the leave request, the employee must leave a message. When possible, the employee should continue efforts to contact the supervisor. Normally, requests for emergency annual leave will be approved or disapproved at the time the employee and the supervisor (or supervisor's designee) discuss the request. If the supervisor defers the decision in order to investigate the circumstances surrounding the request, he/she will inform the employee at the time the leave request is discussed. If the supervisor defers or denies the request, he/she will inform the employee of the reason for the deferral or denial.

Section 3. Restoration or Forfeiture of Annual Leave.

On an annual basis, the Agency shall notify all employees of the leave restoration/forfeiture procedures. Instructions to request restoration of forfeited annual leave are found in the Agency notice and in ADS 480.

Section 4. Sick Leave

a. General

Supervisors shall grant accrued sick leave for the following reasons, so long as the employee follows proper procedures for requesting leave and provides documentation required by ADS 480 or this Agreement:

1. When the employee is incapacitated because of illness, injury, or pregnancy-related incapacity or childbirth;
2. When a member of the employee's immediate family is incapacitated by a medical, mental, dental, or optical condition and requires the employee's care and attention;
3. When, per a health authority or health care provider, because of exposure to a contagious disease, the employee's presence at work would

- jeopardize the health of others;
4. Make arrangements necessitated by the death of a family member or attends the funeral of afamily member;
 5. Receives medical, dental or optical examinations or treatment;
 6. As provided in5 CFR 630.401; and/or;
 7. As provided inADS 480.

Requests for sick leave for non-emergency medical, dental, or optical examination or treatment should be submitted to the supervisor in advance. When requested in advance in WebTA, an employee's own certification is generally acceptable for an absence of three (3) workdays or less. For periods of sick leave in excess of three (3) workdays, supervisors may require employees to submit medical documentation.

b. Medical Certificate

A medical certificate is defined as a written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination or treatment, or to the period of disability while the patient was receiving professional treatment. To be acceptable, the certification must provide the nature and time period of the incapacitation for duty for which sick leave is requested.

c. Improper Use of SickLeave

If a supervisor has reason to believe that an employee is improperly using sick leave, the supervisor should express his or her concern to the employee and give the employee an opportunity to explain the absence(s) in question. The supervisor should explain the leave requirements and how and when sick leave is to be taken. If a pattern of sick leave usage or requests continues, the supervisor must consult with the Office of Human Capital and Talent Management, Employee and Labor Relations (HCTM/ELR).

With the concurrence of ELR, the employee may be issued a memo of leave restriction explaining the reasons for the restriction and requiring that, until the general leave situation improves, all future requests for sick leave be accompanied by acceptable medical documentation. In situations when the employee has not requested Union representation, a copy of the leave restriction memo, sanitized In accordance with the Privacy Act, will be provided to AFGE. An initial period of leave restriction will not exceed one year. If after this initial period the reasons for the leave

restriction persist, the supervisor may extend the leave restriction past one year, after obtaining the concurrence of ELR. Conversely, an employee whose record has improved remarkably since the restriction was imposed may request that the supervisor review the record and remove the restriction after six (6) months has elapsed.

d. Privacy

When an employee is required to present a medical certificate or otherwise state the reasons for which sick leave is requested, and the employee is uncomfortable discussing the nature or his or her illness or injury with the supervisor, the employee may request that the certificate be reviewed by ELR. ELR will only communicate to the supervisor whether the certificate meets the Agency's requirements for approving leave and will not discuss the details of the employee's injury or illness with the supervisor.

Section 5. Leave Without Pay (LWOP)

a. General

LWOP is an authorized or approved absence in a temporary non-pay status, which may be granted by the Agency upon an employee's request. LWOP is granted only for specific reasons and for definite periods of time. An employee's request for LWOP should be submitted in advance.

b. 30 days or less

Consistent with the policies and requirements stated in ADS 480, 2nd level supervisors having the authority to approve annual or sick leave may approve requests for LWOP for thirty (30) calendar days or less whenever work permits, and it is deemed advisable and in the interest of the Agency.

c. 30 - 90 Days

Consistent with the policies and requirements in ADS 480, the head of office or Assistant Administrator (AA) may approve requests for LWOP over thirty (30) calendar days and any subsequent extensions up to ninety (90) calendar days with advance notification to HCTM/HCSC or HCTM/FSC

d. Over 90 Days

Bureau/Independent Office (B/IO) concurrence is required before HCTM/HCSC or HCTM/FSC can approve.

Section 6. Leave for Pregnancy and Maternity Purposes Family and Medical Leave Act (FMLA)

General - Under the Family and Medical Leave Act (FMLA) of 1993 most Federal employees are entitled to a total of up to twelve (12) workweeks of unpaid leave during any twelve (12) month period for the following purposes:

- The birth of a son or daughter of the employee and the care of such son or daughter;
- The placement of a son or daughter with the employee for adoption or foster care;
- The care of spouse, son, daughter, or parent of the employee who has a serious health condition;
- A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position;
- Any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed forces.

The Agency recognizes the principles and requirements of the Pregnancy Discrimination Act of 1978, which prohibits discrimination on the basis of "pregnancy, childbirth or related medical conditions." Pregnant workers or workers returning from childbirth who are unable to perform their regular jobs shall be given the same options of doing other work as other workers medically restricted for health reasons, and sick leave shall be granted as with other medical conditions.

An employee may seek a period of leave without pay for preparing for and recovering from the pregnancy and for other responsibilities in connection with childbirth. Supervisors and managers are encouraged to accommodate such requests.

Section 7. Leave for Other Family Reasons

a. Definition

For purposes of this Section, "family member" means: a spouse or spouse's parents; children (including an adopted child) and the spouses thereof; parents; brothers and sisters, and the spouses thereof; and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

b. General

In recognition of the need for a flexible and compassionate policy to assist employees in integrating work and family responsibilities, supervisors will consider all reasonable and timely leave requests from employees. This includes:

1. an employee's absence to aid, assist, or care for incapacitated family members,
2. an absence associated with adoption of a child, and
3. an absence due to paternal or parental responsibilities.

In such instances, the supervisor may grant annual leave or sick leave where permitted by law, or if annual leave is exhausted, advance annual leave or leave without pay, if workload permits.

Section 8. Court Leave

Court leave is the authorized absence of an employee without charge to annual leave or loss of pay, to appear in a judicial proceeding when "summoned" as a witness or juror on behalf of a State or local government, the Federal government, or the government of the District of Columbia. Court leave is not available when the service is strictly on behalf of a private party- it must be on behalf of a government. The employee must submit, in advance, a true copy of the summons for jury or witness service to his or her supervisor and must also, after jury duty or witness service has been performed, submit a statement from the court accounting for the days of duty or service.

Section 9. Military Leave

An employee's eligibility for Military Leave is described in detail in ADS 480. Employees are charged military leave in accordance with the military orders presented to the supervisor. Military leave is limited to a maximum of fifteen (15) calendar days during each calendar year, regardless of the number of training periods in the year. An employee's non-work days falling within a period of absence on military training duty are charged against the fifteen (15) calendar days of military leave allowed during the year. An employee may request annual leave or leave without pay to cover absences exceeding the maximum of fifteen (15) calendar days during a calendar year.

Section 10. Excused Absence (Administrative Leave)

General

An excused absence (often called administrative leave) is an absence from duty

administratively authorized without loss of pay or charge to leave. The supervisor must approve an excused absence. Three of the more common excused absences are described below.

a. 1. Blood Donation

With the advance approval of the supervisor, an employee who does not receive pay for donated blood may be granted up to four continuous hours of time off without charge to leave to donate blood and recuperate from adverse effects of donating blood to the American Red Cross or similar organization, or to donate blood to any Agency employee needing a blood transfusion. Any approved absence in excess of four hours will be charged to sick leave, annual leave, or leave without pay. If the employee is not accepted as a blood donor, only the time spent at the blood center and going to and from the center are allowed as an excused absence without charge to leave.

b. 2. Voting

With the exception of those instances when the polls are open for three hours before or after the employee's scheduled tour of duty, an employee who desires to vote may be granted administrative leave for that purpose. An employee who desires to register to vote may be authorized up to two hours to do so if registration in the employee's particular political subdivision is not conducted during the employee's non-workhours or days.

c. 3. Unavoidable Absence

Unavoidable or necessary absence from duty or tardiness not in excess of one hour may be excused by the supervisor for adequate reasons, such as extraordinary weather or public transportation failures. If this privilege is abused or if the reasons for absence or tardiness are not adequate, the absence may be charged against annual leave or recorded as Absence Without Leave (AWOL).

Section 11. Voluntary Annual Leave Transfer Program

a. The Agency will maintain a voluntary annual leave transfer program in accordance with Title 5 USC 63, Subchapter III. Authority to approve or disapprove requests to participate in the Voluntary Annual Leave Transfer Program rests with HCTM/HCSC. Once the employee provides the necessary documentation, such requests will be approved or disapproved within ten (10)

- calendar days.
- b. Denials of leave transfer requests by HCTM/HCSC may be grieved under Article 21 of this Agreement.

Section 12 Religious Observance

Any employee whose personal religious beliefs require him or her to be absent from work may be granted annual leave, unless his or her services are essential.

ARTICLE 26

WORK SPACE

Section 1. General

The Agency will provide appropriate workspace to bargaining unit employees. The Agency recognizes that the quality of the work space can have a significant impact on the efficiency of Agency operations. The Agency will take into account existing Federal regulations and the Agency's needs when assigning adequate space to employees to do their jobs. Space occupied by bargaining unit employees shall be arranged and maintained so as to ensure a quality work space. The Agency and AFGE recognize and agree that the General Services Administration (GSA) or tenant restrictions may impose limitations on space options.

Section 2. Hot or Cold Working Conditions

Employees, who state they are affected by the levels of temperature at work to the extent that they are incapacitated for duty, or that continuance on duty would adversely affect their health, may be granted annual or sick leave.

Section 3. Maintenance of Sanitary Facilities

The Agency shall make every reasonable effort to ensure that all work spaces, toilets, washrooms and locker areas are maintained in a safe and healthful condition. AFGE agrees that full employee cooperation is essential for maintaining satisfactory sanitary facilities.

ARTICLE 27

SAFETY AND HEALTH

Section 1. General

The Agency shall comply with all applicable federal regulations associated with occupational safety and health, including but not limited to:

- a. The Occupational Safety and Health Act of 1970 (OSHA);
- b. Executive Order 12196, Occupational Safety and Health General Industrial Standards and Interpretations (29 CFR 1910, and 29 CFR 1926)
- c. ADS 529, Safety Program

Section 2. Safety and Health

The Safety/Health and Environmental Management (SHEM) Program is designed to protect and conserve Agency resources and protect operational continuity. This is accomplished through proper management and the elimination and control of hazardous conditions, which can result in physical harm, injury or illness, death, property loss, or environmental damage.

The Agency agrees to consult at least once every 6 months, with representatives of bargaining unit employees. These consultations shall include discussions of the following:

- a. The Agency's safety and health program, including proposed changes.
- b. Findings and reports of workplace inspections to ensure that appropriate corrective measures are implemented, and internal and external evaluation reports concerning the Agency's safety and health program.
- c. Plans to abate hazards.
- d. Reviewing responses to reports concerned with allegations of hazardous conditions or alleged safety and health program deficiencies. If the representatives are not substantially satisfied with the response, they may request an appropriate investigation to be conducted by OSHA.

Section 3. Employee Responsibility

Each employee must comply with the regulations prescribed for personal safety and health practices. They must also advise supervisors of any unsafe or unhealthy working conditions. If satisfactory corrections are not made after reporting a hazard to a supervisor, the employee should report the hazard in writing to the USAID Safety and

Health Office, which will investigate and ensure appropriate action is taken.

Section 4. Inspections

The Agency agrees that its occupational safety and health program provides for the following:

- a. General safety and health inspections in each Agency location at least annually with reports of such inspections provided to AFGE.
- b. Prompt abatement of unsafe or unhealthful working conditions. When this cannot be accomplished, the Agency agrees to develop an abatement plan setting forth a timetable for abatement and a summary of interim steps to protect employees. Employees exposed to the conditions will be informed of the abatement plan. When the hazard cannot be abated without the assistance of the General Services Administration (GSA) or other lessor, the Agency agrees to act with GSA and/or the lessor to abate the hazard.
- c. An investigation within 24 hours and notification to the official in charge of the affected employees, upon report of imminent dangerous working conditions. Management will inform the Department of Labor of any imminent danger that cannot be promptly and completely abated. Reports of potentially serious working conditions will be investigated within three (3) working days and for other conditions within twenty (20) working days.
- d. Authorization to any employee or steward to request an inspection of the workplace when he or she believes an unsafe or unhealthful condition exists. The request will be investigated by the appropriate USAID Safety and Health Office. The Agency assures anonymity of those employees or stewards who make the reports.
- e. The authority for an AFGE representative to participate in any safety and health inspection when, in the judgement of the management representative, the conditions allow.
- f. Assurance that no employee is subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful

working condition or other participation in the Agency's occupational safety and health program activities.

- g. AFGE stewards will cooperate in the Agency safety program by reporting unsafe working conditions to the appropriate USAID Safety and Health Office designated for the building/location or operation.

Section 5. Reports

- a. The Agency will provide AFGE with a copy of its report on accident statistics submitted to the Department of Labor annually.
- b. The Agency agrees to consider AFGE's comments regarding the safety data sheets, supplies and materials used by the Agency. The USAID Safety and Health Office is the point of contact for records review and comments.
- c. Employees may request information concerning work materials, including the name and address of manufacturers or suppliers. If the requested information is not available, the Agency will identify other federal or state organizations that may be of assistance.
- d. Written reports of inspection activities including notices of unsafe or unhealthful working conditions (and abatement thereof) will be given to the official in charge of the workplace and AFGE, as appropriate, pursuant to 29 CFR, part 1960, Subpart D.

Section 6. Training

- a. The Agency agrees to provide appropriate safety and health training for employees responsible for conducting safety and health inspections, including AFGE designated representatives, and other employees as necessary.
- b. The Agency agrees to instruct, train, and protect employees who work in hazardous conditions.

Section 7. Limited Duty Assignments

When an employee is injured on the job and/or they become medically disqualified from their current position as a result of an on-the-job injury or illness, the Agency will assign

the employee limited duties on a temporary basis where it has been determined that the employee can satisfactorily perform such duties and when such duties are available. If the medical disqualification is of a permanent nature, disability retirement, reassignment, or retraining options in accordance with applicable regulations may be considered.

Section 8. Personal Protective Equipment and Safeguard

Employees will not be permitted to work in violation of applicable safety rules and regulations, or required to work under conditions which may be unsafe or hazardous to their health without proper precautions, protective equipment and safety devices. Protective devices and equipment, when required, shall be furnished by the Agency and used by employees. AFGE will support the Agency in the use of protective equipment, safety devices, and the enforcement of applicable regulations.

Section 9. Occupant Emergency Planning

In case of a declared emergency, employees are directed to immediately evacuate the building. In doing so, employees must follow instructions and procedures outlined by USAID Safety and Health Office and in the occupant emergency plan for their area. Each office should have the following information posted and distributed to each employee:

- a. A floor diagram, showing emergency exits from the building;
- b. List of evacuation procedures to be followed by all employees;
- c. Name of the Principal Area Officer for the Bureau; and the
- d. USAID Safety and Health Office and/or fire wardens.

Section 10. First Aid/Emergency Treatment

Employee injuries are handled as follows:

- a. Emergencies:
For all emergencies that require immediate critical attention, CALL 9-911 and the building guards.
- b. Routine Employee Injuries:
All on the job injuries should be reported to the USAID Safety and Health Office. Medical attention can be obtained by visiting the Medical Health Unit. The Medical Unit can perform a medical assessment and required treatment of an on the job injury and illness due to occupational accident/exposures within its capacity as a

medical unit and/or refer the employee to other medical facilities. Claim forms can be obtained from the Medical Health Unit during the initial visit.

Section 11. Procedures for Workers' Compensation Claims

- a. Employees should report any traumatic injury or occupational disease to their supervisors, who in turn, will ensure that AID 352-3 is completed.
- b. The appropriate Administrative Management Staff (AMS) Officer and the Office of Human Capital and Talent Management (HCTM) are available to advise employees on procedures for filing a compensation claim (Office of Workers' Compensation Program (OWCP) Form CA-1 or CA-2) and on their entitlement to any compensation benefits, and to assist employees in the filing of a claim.
- c. Compensation benefits can be used in lieu of sick or annual leave when approved by the Workers' Compensation Program.
- d. Employees shall be permitted to review documents relating to their claims with the OWCP.

ARTICLE 28

NEW TECHNOLOGY

Section 1.

Whenever the Agency proposes to acquire, develop or implement new technology or systems that may potentially impact conditions of employment for bargaining unit employees, the Agency will provide an overview briefing to the Union on the status of the Agency's modernization effort and provide the Union with relevant documentation that details the proposed project(s) prior to implementation. This information should, at a minimum, describe the rationale and business requirements for the proposed system and its potential impact on employees.

Section 2.

The Union understands that adoption of such devices or systems is a management right. 5 USC 7106(b) permits, but does not require, an agency to negotiate over the "technology, methods and means of performing work." However, the Agency maintains the obligation to negotiate with the Union over impact and implementation of the exercise of management rights.

Section 3.

If the adoption of new technology has the effect of replacing tasks that are currently performed by bargaining unit employees, appropriate retraining (within the limits of budget resources, relevant law and regulations and the extent to which employees can, or are willing to be, retrained), will be among the principle considerations as part of such bargaining.

Section 4.

Employees separated or downgraded as a result of new technology shall be notified of their right to apply for vacant positions and given the fullest consideration for other options that law and regulation provide.

Section 5.

Nothing in this Article shall be construed as a waiver of any Union or Agency right.

ARTICLE 29 CONTRACTING OUT

Section 1. Definition

Contracting out is the process by which the Agency acquires property and services by means of procurement from private sources rather than from in-house use of Agency facilities and personnel. Contracting out includes contracting out for individual and/or group activities.

Section 2. Providing Information

The Union may request copies of any relevant and pertinent data in connection with the implementation of activities under the provision of the Office of Management and Budget (OMB) Circular A-76. The Agency will provide relevant and pertinent information, upon request, as appropriate under law and other controlling government-wide regulations.

Section 3. Notice and Consultation

- a. If the Agency determines that work currently performed by bargaining unit employees will be contracted out, it will notify the Union in writing of the decision and will provide pertinent information regarding the positions and employees to be affected, if any, and other impacts on the bargaining unit, to the extent that it is known at that time.

- b. The Parties recognize that the decision to contract out is a management right. The Union may make proposals for appropriate arrangements for employees who performed any work that is contracted out, and the Agency, upon request, will bargain in good faith, providing adequate opportunity to bargain to the full extent required by law.

Section 4. Rights of Affected Employees

- a. The Agency agrees to follow the reduction-in-force (RIF) procedures provided in this Agreement and applicable RIF regulations when contracting out results in the requirement to separate employees from service.

- b. Employees may grieve RIF procedures and other actions relating to the interpretation or application of this agreement under the procedures of the Negotiated Grievance Procedure, Article 21.

ARTICLE 30 REDUCTION-IN-FORCE

Section 1. General

- a. This Article applies to Reduction-in-Force and Transfer of Function procedures pursuant to 5 CFR 351, ADS 452 Reduction in Force, and other applicable laws and regulations.
- b. Reduction-in-Force (RIF) means the release of an employee from their competitive level by furlough for more than thirty (30) calendar days, separation, demotion, or reassignment requiring displacement, when the release is required due to lack of work, shortage of funds, insufficient personnel ceiling, and/or a reorganization. RIFs are also conducted in cases of reclassification of an employee's position due to:
 1. a change in duties,
 2. the need to replace a person exercising reemployment,
 3. restoration rights requires the Agency to release the employee, or
 4. actions that will take effect after the Agency has formally announced a RIF in the employee's competitive area when the RIF will take effect within 180 calendar days.
- c. RIF procedures do not apply to the return of an employee to his or her regular position following a temporary promotion, to the release of a reemployed annuitant, or to reduction in grade due to the application of new classification standards or the correction of a classification error.

Section 2. Policy

It is the Agency's policy to minimize the impact of budget shortfalls on the lives and careers of its employees. The Agency will inform all employees as soon as possible of plans or requirements for RIF or transfer of function, consider ideas of the Union to avoid and/or mitigate the impact of a RIF, and provide assistance to employees adversely affected by a RIF.

Section 3. Alternatives to Reduction-in-Force

- a. Consideration of Alternatives

Prior to effecting a RIF or transfer of function, the Agency will, whenever possible, consider accomplishing the goals otherwise achieved by a RIF through attrition and cost reduction efforts before abolishing positions. The Agency may also consider alternative means of effecting budgetary reductions, including: transferring work from purchase order vendors to bargaining unit employees, furloughs, and job sharing.

b. Career Transition Assistance Plan (CTAP)

In accordance with guidelines contained in ADS 452 RIF & 418 Merit Staffing Program, the Agency will furnish career transition assistance to all displaced and surplus employees who are or may be separated through RIF procedures. This assistance includes special selection priority for eligible well-qualified employees who apply for vacancies within the Agency, as well as operating a Reemployment Priority List, which accords rehiring priority to eligible separated employees.

Section 4. Actions to Reduce the Impact of a RIF

When the need to conduct a RIF is evident (normally when notice is given to the Union), the Agency will make a reasonable effort to:

- a. Utilize existing vacancies consistent with the needs of the service, to place employees adversely affected by the RIF.
 1. Within the affected competitive area, freeze the filling of vacant positions in the Bureau or equivalent organizational element where the RIF is planned until a decision is made as to whether an adversely affected employee can be placed in the position under RIF procedures. If no adversely affected employees can be placed, filling of vacancies may proceed.
 2. If more than one Bureau is affected, the Agency may freeze the filling of vacancies for the entire competitive area. In no case will a RIF in one competitive area require a freeze on filling vacancies in another competitive area. A competitive area may consist all or part of the Agency. The minimum competitive area is a subdivision of the Agency within the commuting area.

3. The Agency will not fill a vacant bargaining unit position within the organizational unit affected by the RIF or transfer of function until it has compared the qualifications of the employees to be displaced against the requirements of the position.
 - b. Reassign an employee, consistent with the needs of the service, without regard to the Office of Personnel Management (OPM) qualification standards for the position if:
 1. the employee meets any minimum education requirement for the position; and
 2. the Agency determines that the employee has the ability to perform satisfactorily the duties and responsibilities of the position within ninety (90) calendar days of the date of the specific notice.
- All waivers of qualification must be properly documented; this documentation will be available to the Union upon request.
- c. Freeze performance appraisals for employees affected by the RIF upon the issuance of general or specific RIF notices, or if no general notices are issued upon issuance of specific notices.
 - d. Inform employees who have received a general or specific RIF notice that they are eligible for placement with CTAP guidelines.
 - e. Offer retraining to impacted employees within the limits of Agency budgetary resources, Federal training regulations, and the authority of the Agency to waive qualification requirements. The Agency will do so to the extent that the needs of the service can be met and the employee is capable of acquiring new skills.
 - f. Consider requesting early retirement authority from OPM.

- g. Where applicable, the Office of Human Capital and Talent Management (HCTM) will provide employees with information concerning early retirement with a discontinued service annuity.

Section 5. Notification

a. Preliminary Notification to Union

When it is anticipated that transfer of function out of the competitive area or RIF affecting bargaining unit employees will be necessary, AFGE will be given preliminary notification. This notification will be at least sixty (60) calendar days in advance of the anticipated implementation date, unless circumstances dictate otherwise, and will include the following information:

1. The reason for the reduction in force or transfer of function;
 2. The approximate number of employees who may be initially impacted;
 3. The competitive areas and levels that may initially be involved in a reduction in force; and
 4. The anticipated effective date of the action.
-
- b. At least fifteen (15) calendar days prior to issuing the specific notice to employees of a RIF or transfer of function, the Agency shall, upon request, furnish the Union any relevant and available documents or information concerning the RIF or transfer of function, including a list of all vacant bargaining unit positions in the affected competitive area(s) which the Agency is actively recruiting to fill, identified by grade, pay status and title.
 - c. Prior to the issuance of specific notices, the Agency will grant official time to mutually agreed upon Union representatives for the purpose of RIF training. When possible the Agency will brief such representatives on RIF procedures.

d. General Notices to Employees

The Agency may issue a general notice of a RIF to an employee when there is reason to believe that a RIF will occur but no determination has been made to take a specific action. If issued, general notices shall not be issued less than sixty (60) calendar days or more than ninety (90) calendar days prior to the effective date of the planned RIF. Such notices shall contain all information required by OPM Regulations and this Agreement. General notices shall inform employees:

1. a RIF may be necessary but that the Agency has determined no specific action in this case;
2. as soon as the Agency determines what action, if any, will be taken under RIF procedures, specific notices of such action will be issued to affected employees;
3. the date on which the notice will expire unless renewed by supplemental general or specific notice.

e. Specific Notice to Employees

The Agency shall provide a specific written notice to each employee affected by a RIF or transfer of function at least sixty (60) calendar days prior to the effective date except for circumstances not reasonably foreseeable as referenced in 5 CFR Part 351.801 (b). This notice shall state:

- (1) The action to be taken, the reasons for the action, and its effective date;
- (2) The employee's competitive area, competitive level, subgroup, service and three most recent ratings of record received during the last 4 years;
- (3) The place where the employee may inspect the regulations and record pertinent to this case;
- (4) The reasons for retaining a lower-standing employee in the same competitive level under § 351.607 or § 351.608;
- (5) Information on reemployment rights, except as permitted by § 351.803(a); and information on priority placement and the employee's reemployment rights. The notice period begins the day after the employee receives the notice.
- (6) The employee's right, as applicable, to appeal to the Merit Systems Protection Board, or under the provisions of a negotiated grievance procedure. The Agency shall also comply with § 1201.21.
- (7) Information on grade and pay retention. When an agency issues an employee a notice the agency must, upon the employee's request provide the employee a copy of OPM's retention regulations found in 5 CFR § 351.

Section 6. Offer of Position

- a. When possible, an offer of a reasonable change of position and the effective date of the change will be included in the notice to the employee. Every effort will be made to reassign an affected employee to the best position for which he or she qualifies. If the position offered is at a lower grade than that of the employee, the notice will advise the employee of his or her entitlement to grade and pay retention. If the

position offered is outside the competitive area, the notice will advise the employee of his or her entitlement to a reasonable amount of official time for relocation.

- b. The employee must respond in writing to the offer of a position within fifteen (15) calendar days. Failure to respond within this time will be considered an acceptance of the offer.
- c. Documentation of all written offers of position under this Section will be available to the Union.

Section 7. Competitive Areas

In the Washington, D.C. commuting area, separate competitive areas are established for each bureau or equivalent organization. These competitive areas include those field office activities located in the Washington, D.C. commuting area that report to them.

Section 8. Competitive Levels and Retention Registers

- a. The Agency shall establish competitive levels and retention registers in accordance with applicable OPM regulations, and in accordance with ADS 452.
- b. All records and information pertaining to a RIF shall be maintained by the servicing Personnel Office for at least one year following the effective date of the RIF.
- c. At least five (5) working days before the issuance of initial specific notices, the Union 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 Union as soon as possible.
- d. Retention registers will include:
 1. employee's tenure group, competitive level, and original service computation date;
 2. ratings of record used to compute credit for performance;
 3. amount of credit years for performance; and
 4. adjusted service computation date.

- e. Employees and/or their designated representatives will be permitted to review the retention register so that the employee may consider how the competitive level was constructed and how the relative standing of the employee was determined. This includes the right to review the complete retention registers for other positions that could affect the composition of the employee's competitive level and the determination of the employee's assignment rights.

Section 9. Release From Competitive Level

- a. Exceptions to Order of Release

Exceptions to the order of release may be made in accordance with OPM regulations. Such exceptions will be clearly documented, and documentation will be available to the Union for review.

- b. Union Representatives

On the recommendation of the President of AFGE, and consistent with law and Government-wide rules and regulations, the Agency may temporarily exempt from the RIF order of release for up to ninety (90) days Union representatives designated under Article 8 this Agreement who are scheduled for separation due to a RIF.

- c. For all actions under this Article, bump and retreat rights shall be provided for employees in each group and subgroup.

Section 10. Assistance for Displaced Employees

- a. Reemployment Priority List (RPL)

The Agency will establish and maintain a reemployment priority list for a two-year period for career status employees and for a one-year period for career conditional employees separated under the provisions of this Article. When the Agency decides to fill vacancies, it will hire first from this list before seeking outside candidates for appropriate positions coming open during or after the RIF. Employees on the list may refuse offers of temporary or lower-graded positions for which they meet the minimum qualifications without relinquishing the right to further consideration for positions at their current grade level. However, refusal of an offer to a position equal to the grade from which the employee was separated terminates RPL eligibility.

- b. Employment Counseling

The Agency, through various components such as the Office of Human Capital Talent

Management, will work to provide career transition assistance to displaced and surplus employees to ensure they are equipped with the tools and resources necessary to locate other jobs. Registration guidance for career transition services will be provided to all eligible employees. The Agency will ensure that eligible employees have access to a list of Government-wide vacancies. Reasonable steps will be taken to ensure that eligible employees are notified of Agency vacancies. Employees are entitled to discuss displacement issues with a personal representative and/or career transition assistance staff member.

c. Consistent with the Privacy Act.

The Agency will provide information to OPM and to appropriate State employment and benefits agencies. Employees will be afforded the opportunity to waive Privacy Act rights to facilitate transfer of this information.

d. Referral to OPM

The Agency will refer Group I or II displaced employees to OPM for consideration under its Displaced Employee Program.

e. Relocation

Where applicable, the Agency may agree to grant official time and pay relocation expenses as required by appropriate regulation.

f. Official Time

Except as provided in ADS 452, an employee who is scheduled to be separated from the service and who will not be offered another position as a right under 5 CFR 351, Subpart G, Assignment Rights (Bump and Retreat), and who has not been assigned to another position under a priority placement or other reassignment procedure shall be eligible to participate in the full job search program as set forth in ADS 452, while in a paid status on a basis equal to that provided for an employee of the Foreign Service without regard to eligibility to retirement.

ARTICLE 31

TRANSFER OF FUNCTION

Section 1.

A transfer of function, as defined in 5 CFR 351.203, is "the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is virtually identical to functions already being performed in the other competitive area(s) affected; or the movement of the competitive area in which the function is performed to another commuting area."

Section 2.

Administrative reassessments under this Article shall be made in accordance with ADS 452, 5 CFR 351.203, and this Agreement. When a transfer of function becomes necessary, the Agency agrees to:

- a. Notify AFGE and affected employees as fully and as soon as possible concerning anticipated timing and such other aspects as are known of plans to implement such transfers;
- b. Provide information to affected employees as soon as possible to help them understand the need for such transfer of function, how they may be affected, and advise them of governing regulations;
- c. Make every effort to place affected employees in vacant positions for which they qualify;
- d. Notify affected employees, in writing, of the reassignment in accordance with applicable regulations, of the impact of the transfer of function on them, and of their rights and benefits;
- e. Counsel affected employees in seeking other employment opportunities; and
- f. Counsel employees on individual rights relating to such matters as retirement and severance pay.

Section 3.

Employees occupying positions to be transferred in a transfer of function to another agency shall have the opportunity to be considered for reassignment to a vacant position in the employee's own Agency for which he/she is qualified and meets suitability requirements.

ARTICLE 32 FURLOUGH

Section 1. General Rules

- a. A furlough is a non-disciplinary action placing of an employee in a temporary non-duty, non-pay status. In accordance with 5 USC 7511(a)(5), employees may be furloughed due to a shortage of funds, temporary lack of work, or other non-disciplinary reasons.
- b. This Article applies to furloughs up to twenty-two (22) workdays, either consecutively or intermittently in any given fiscal year (5 CFR 752), to save money (non-emergency) furlough, emergency (shutdown) or lapse of appropriation (authorization) furlough. Furloughs in excess of twenty-two (22) workdays will be conducted in accordance with reduction-in-force provisions 5 CFR 351, ADS 452, and this Agreement.
- c. Part-time employees will be furloughed in proportion to their schedule.
- d. Employees' rights and entitlements will be protected during periods of furlough to the extent permitted by statute and regulation and as stated in Section 3.
- e. A reasonable effort will be made to accommodate expressed personal preferences of employees (e.g., a desire to have some income every pay period) in scheduling any furloughs to the extent they are consistent with work and budgetary requirements.
- f. Consistent with the Office of Personnel Management (OPM) and applicable collective bargaining agreements, employees shall be released based on their tenure of employment, veteran preference, length of service, and performance.

Section 2. Procedures

- a. Appropriate management officials will make the final decision on using furlough and on the extent and duration of furloughs as a means of responding to a shortage of funds, temporary lack of work, or for other non-disciplinary reasons.
- b. Employees to be furloughed will be given sixty (60) calendar days' written notice prior to the effective date of the furlough stating the specific reasons for the furlough and its duration. The advanced notice of a proposed furlough shall include, but is not limited to:
 1. Reason for the furlough;
 2. Estimated length of the furlough, the specific dates and length of the furlough will be included if known at the time;
 3. The reason(s) for selecting a particular employee for furlough if not all employees in his or her competitive level are being furloughed;

4. Notice as to the place where regulations and records pertinent to the action may be inspected;
 5. Right of employees to respond within ten (10) workdays to the proposed furlough;
 6. Entitlement to a reasonable amount of official time to prepare response; and
 7. Entitlement to representation;
- c. However, in accordance with 5 CFR 752.404(d)(2), the advance written notice and opportunity to answer are not required for furlough without pay due to unforeseeable circumstances, such as lapses of appropriations, sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities. In such cases, employees shall be given as much notice as feasible.
- d. Except in the event of unforeseeable circumstances, employees who wish to respond to the notice of proposed furlough have up to ten (10) workdays to do so either orally or in writing to the Chief Human Capital Officer (CHCO), HCTM with documentary evidence in support of their answer, if necessary. When an employee gives an oral response, the Agency will maintain a summary of the conversation and provide a copy to the employee.
- e. The Agency's decision will be submitted in writing as soon as reasonably possible. The notice of decision to furlough shall include but is not limited to:
1. Decision;
 2. Estimated length of furlough, the specific dates and length of the furlough will be included if known at the time;
 3. Invitation to employees to submit for Management's consideration their preferences as to the specific day(s) on which they would prefer to have their furlough scheduled;
 4. Prohibition on unpaid voluntary services;
 5. General information on entitlements; and
 6. Unemployment compensation guidelines.
- f. Employees who have received the Agency's notice of intent to furlough are entitled to a reasonable amount (normally up to four (4) hours) of official time to prepare their response.

Employee representatives also shall be entitled to such a reasonable amount of official

time to assist employees in their responses.

Section 3. Rights and Entitlements During Periods of Furlough

- a. The Agency cannot accept the voluntary services of employees in furlough status. Employees cannot be required to perform work while in a furlough status.
- b. Employees on detail or other assignments whose salaries are not paid out of the Agency's Salaries and Expenses account are not subject to furlough when the reason for the furlough is a shortage of Agency funds
- c. Employees may engage in outside employment during periods of furlough in accordance with the guidelines in ADS 452 and 5 CFR 2365.802/803.
- d. Employees who perform court duty during periods of furlough may retain the court pay.
- e. In cases of furloughs resulting from a lapse of appropriation, employees granted (prior to the lapse) accrued leave to begin prior to or after the lapse may be permitted to use such leave. No employee, however, may be in a paid status during a furlough.
- f. Employee will not be furloughed on holidays.
- g. Enrollment in health plans continues during furlough but employees are liable for payment of their share of the enrollment costs during such periods. Enrollment continues for 365 days with the government continuing its contribution and employee's share of enrollment costs will be deducted from any remaining biweekly pay. If such pay is insufficient to pay these costs, employees may pay the costs during or after returning from furlough status by personal check or payroll deduction.
- h. Life insurance coverage remains in effect for twelve (12) consecutive months without cost to the employees while in furlough status.
- i. Retirement contributions during periods of furlough, an aggregate non-pay status of six (6) months in any calendar year, is creditable service in proportion to the basic pay of the employee.
- j. When a full-time employee accumulates eighty (80) hours in non-pay status, including furlough in a leave year, his or her annual and sick leave balances are reduced by the number of hours earned in a pay period.
- k. For entitlement to within grade increases, an aggregate of two (2) work weeks in a non-pay/furlough status extends the waiting period for steps 2, 3, and 4 of the General Schedule by a like amount; an aggregate of four (4) workweeks extends the waiting period for steps 5, 6, and 7 by a like amount; and an amount of six (6) workweeks extends the waiting period for steps 8, 9, and 10

by a like amount. For prevailing rate employees (WG, WL, and WS schedules), an aggregate of one (1) workweek in a non-pay/furlough status for step 2, three (3) weeks for step 3, and four (4) weeks for steps 4 and 5 extends the waiting period by like amounts. Time in excess of these amounts shall extend a waiting period by the excess amount.

- I. Time spent in furlough status will count as creditable service for time-in-grade (and time-after-competitive appointment) requirements.