ORAL ARGUMENT HELD ON SEPTEMBER 22, 2017

No. 16-1301

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF PRISONS, FEDERAL CORRECTIONAL COMPLEX,
COLEMAN, FLORIDA
Petitioner,

v.

FEDERAL LABOR RELATIONS AUTHORITY,
Respondent,

ON PETITION FOR REVIEW OF AN ORDER OF
THE FEDERAL LABOR RELATIONS AUTHORITY

SUPPLEMENTAL BRIEF FOR RESPONDENT FEDERAL LABOR RELATIONS AUTHORITY

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

A. Parties

Appearing below in the administrative proceeding before the Federal Labor Relations Authority ("Authority") were the U.S. Department of Justice, Federal Bureau of Prisons, Federal Correctional Complex, Coleman, Florida ("Agency") and the American Federation of Government Employees, Immigration and Customs Enforcement, Local 506 ("Union"). In this Court proceeding, the Agency is the petitioner and the Authority is the respondent.

B. Ruling Under Review

The Agency seeks review of the Authority's decision in *U.S. Department of Justice, Federal Bureau of Prisons, Federal Correctional Complex, Coleman, Florida and American Federation of Government Employees, Immigration & Customs Enforcement, Local 506*, 69 FLRA (No. 65) 447 (June 30, 2016).

C. Related Cases

This case was not previously before this Court or any other court. There are no related cases currently pending before this Court or any court of which counsel for Respondent is aware.

/s/ Fred B. Jacob
Fred B. Jacob
Solicitor
Federal Labor Relations Authority

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Cases:

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*Authorities on which the Authority primarily relies are marked with an asterisk.

SUPPLEMENTAL BRIEF FOR RESPONDENT FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority files this supplemental brief to answer the questions raised by the Court at argument and in its September 26, 2017 order. The central issue that the Court's order raises concerns mootness: Does the parties' agreement on a new collective bargaining contract in 2014 moot the Authority's order directing the Bureau of Prisons ("Agency") to remedy its prior bad faith bargaining? In *FLRA v. U.S. Department of the Air Force, Oklahoma City Logistics Center, Tinker Air Force Base*, under almost identical circumstances, this Court answered that question with a resounding "no." 735 F.2d 1513, 1516-17 (1984) ("*Air Force*"). Following its precedent in *Air Force,* the Court should confirm its Constitutional jurisdiction and deny the Agency's petition for review.

1. It is well-settled that the Court has an independent obligation to ensure that matters before it present a live case or controversy. *See Ass'n of Admin. Law Judges v. FLRA,* 397 F.3d 957, 960 n.* (D.C. Cir. 2005) (citing cases). The Court's order therefore asks the Authority to address whether, because the parties entered into the 2014 collective bargaining agreement or a potential new local supplemental agreement, this case is now moot, and, if the case still presents a live controversy, what relief, if any, this Court could provide to petitioner.

The Court need not tarry on those questions long. Applying well-settled Supreme Court precedent, *NLRB v. Mexia Textile Mills,* 339 U.S. 563, 567-68 (1950),

this Court has repeatedly recognized that a case and controversy exists when the Authority orders an agency to cease and desist from engaging in future unlawful acts and to post a remedial notice. *See Ass'n of Admin. Law Judges,* 397 F.3d at 960 n.*; *FLRA v. Soc. Sec. Admin.,* 753 F.2d 156, 162 (D.C. Cir. 1985); *Air Force,* 735 F.3d at 1516-17. The Authority's order here imposes those obligations on the Agency, and both would remain binding even if the parties negotiated a subsequent agreement that satisfied a different provision of the Authority's order.

In its decision, the Authority found that the Agency committed an unfair labor practice in the six months prior to the filing of the Union's charge in August 2012. (JA 29-30.) Specifically, during that time period, the Agency engaged in bad faith bargaining that the judge described as leading the Union on a "wild goose chase." (JA 32.) The Agency committed to negotiations over the sick-and-annual-relief roster, but repeatedly refused to set dates for bargaining at reasonable times and places and, then, without explanation, refused to bargain unless the Union withdrew all prior proposals to which the parties had previously agreed and started negotiations from scratch. (JA 30-31.) The judge found that the Agency's goal was to frustrate rather than to encourage bargaining despite its repeated expressions of intent to negotiate. (JA 32-33.) Although the Agency eventually claimed in its answer to the General Counsel's complaint that it had no obligation to bargain under the covered-by doctrine, it did not dispute before the Authority, and does not dispute before this Court, that its actions in 2012 violated the Statute if a bargaining obligation existed.

To remedy this violation, the Authority issued the standard order required by the Statute directing the Agency to cease and desist from the unlawful conduct and take appropriate affirmative action. 5 U.S.C. § 7118(a)(7)(1)-(2). Specifically, it ordered the Agency to cease and desist from refusing to bargain in good faith with the Union regarding the inter-institutional assignment of employees on the sick-and-annual-relief roster, and in any like or related manner, interfering with, restraining, or coercing bargaining-unit employees in the exercise of their rights under the Statute. (JA 8, Order at ¶¶ 1(a)-(b).) The Authority further ordered the Agency to bargain in good faith with the Union regarding the assignment of employees on the sick-and-annual-relief roster to different institutions and to post and email a notice to bargaining-unit employees informing them that it will not unreasonably delay, threaten to terminate, or place unreasonable restrictions on negotiations. (JA 8, Order at ¶¶ 2(a)-(c); JA 9, Notice.)

At argument and in its order, the Court asked whether the Authority's order would be moot if the parties satisfied their obligation to bargain over impact and implementation of the sick-and-annual-relief roster assignments by negotiating the 2014 agreement. As explained above, even assuming the parties negotiated over the sick-and-annual-relief roster in their 2014 agreement in satisfaction of ¶ 2(a) of the Authority's order, the Agency would still be required to comply with ¶¶ 1(a), 1(b), 2(b), (c), and (d) of the order – the cease and desist provisions, which impose a "continuing obligation [to prevent] violations of employees' rights," and the notice

posting provision informing the employees of the remedy. *Air Force*, 735 F.2d at 1516. As this Court has repeatedly held, the Agency's admitted refusal[1] to comply with those provisions of the order creates a live controversy. *Ass'n of Admin. Law Judges,* 397 F.3d at 960 n.* (holding that notice posting creates live issue for the Court's resolution); *Am. Fed'n of Gov't Emps., Local 3090 v. FLRA*, 777 F.2d 751, 754 n.13 (D.C. Cir. 1985) (same); *FLRA v. Soc. Sec. Admin.,* 753 F.2d 156, 162 (D.C. Cir. 1985) (finding that cease and desist order, along with notice posting requirement, precluded mootness); *Air Force*, 735 F.2d at 1516-17 (same).

Thus, if the Court granted the Agency's petition for review – which the Authority contends it should not, for all the reasons stated in its brief and at argument – the Court could provide the Agency relief from the order's cease and desist and notice posting provisions. And the Court could do so even if it believed that the 2014 agreement otherwise satisfied the requirements of the Authority's bargaining order. *See Air Force*, 735 F.2d at 1517 (noting that, even if parties had bargained over the substance of the unilateral change, the case was still live because the agency had "complied with only *one portion* of the Authority's order").

The Court's decision in the strikingly similar *Air Force* case is dispositive. There, as here, the Authority found that the agency unlawfully refused to bargain over

[1] Following the Authority's order, the Agency informed the Authority's Regional Director that, if it sought judicial review, that would signify that it did not intend to comply with the Authority's order. (Attachment 1.) To date, the Agency has not informed the Authority that it has complied with any aspect of the order.

a unilateral change in facial hair standards that occurred in the middle of a contract term and ordered the agency to cease and desist, bargain, and post a remedial notice. 735 F.2d at 1515. The agency argued to the Court that the case was moot because it purportedly bargained over and resolved the matter in a subsequent term agreement. *Id.* at 1514-15. The Court, however, rejected the agency's claim. In identifying a live controversy, as here, it recognized the continuing obligation imposed by the Authority's cease and desist order to protect "against future resumption of the unfair labor practice." *Id.* at 1516. It explained that, even if parties addressed the facial hair policy in their new contract, the Authority's bargaining order imposed "a continuing obligation to bargain before instituting a unilateral change in facial hair policy" that "remains throughout the parties' ongoing relationship." *Id.* The Court further observed that, "even if we concluded that the parties in fact bargained over the substance of the facial hair policy" as required by the Authority's order, the dispute was still live because, again like the case here, the agency had not complied with the other provisions, including the notice posting requirement. *Id.* at 1715. *Air Force* puts to rest any concern that bargaining over the 2014 contract would render the petition for review of the Authority's order moot before the Court.[2]

[2] The absence of a cross-application for enforcement does not distinguish this case from *Air Force* and this Court's other mootness precedent involving the Authority. The Authority's order imposes obligations on the Agency that remain in place unless the Court enters "a decree . . . setting aside in whole or in part the order of the Authority." 5 U.S.C. § 7123(c). Unless the Court grants the Agency's petition for review, it remains under an obligation to comply, even if the Authority has not sought

At argument, the Court voiced concerns whether the Authority's order was moot because it would require bargaining over the terms of a superseded contract. As Judge Pillard suggested, "[a] new day dawns, new agreement, it doesn't matter what is covered by the old agreement, because now . . . you all can be explicit" in the new contract. Recording of Oral Argument at 40:20. Judge Edwards echoed that point, questioning whether the case was moot because the order required bargaining "with respect to the terms of a preexisting contract." *Id.* at 39:06.

The unfair labor practice, however, is not a failure to bargain over the terms of a preexisting contract. Rather, the unfair labor practice is the Agency's bad-faith failure to bargain over the impact and implementation of a change in working conditions. Bargaining over that change was not required by the prior agreement, but by the Statute's requirements concerning mid-term bargaining over *new matters.* 5 U.S.C. § 7106(b); *U.S. Department of the Interior, Washington, D.C.*, 56 FLRA 45, 51 (2000). The prior contract was only relevant to the bargaining obligation because the Agency raised the "covered by" doctrine as an affirmative defense, *U.S. Department of the Treasury, Internal Revenue Serv.*, 63 FLRA 616, 617 n.2 (2009), and the Authority therefore considered whether the parties reasonably could have foreseen that the 1998 contract would foreclose negotiations over the impact of inter-institutional

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enforcement of its order. 5 U.S.C. § 7118(a)(7) (empowering the Authority to issue a remedial order when it determines that an unfair labor practice has been committed). The Court has applied case law from the enforcement context to decide mootness issues involving petitions for review. *See Ass'n of Admin. Law Judges,* 397 F.3d at 960 n.*; *Am. Fed'n of Gov't Emps., Local 3090,* 777 F.2d at 754 n.13.

assignments. Good faith negotiations, if the parties reached agreement, would have resulted in a side contract separate from the master, akin to what the parties produced when they bargained this issue in 2006. (JA 19.) Thus, the duty to bargain over the impact of the unilateral change, as the Court explained in *Air Force*, is separate and apart from the master agreement.

2. Whether the parties' bargaining for the 2014 master agreement implicitly satisfied the Agency's obligation to bargain in good faith under the Authority's order is a compliance matter for the Authority to address in the first instance. In a private-sector case where the employer claimed mootness due to bankruptcy, the Court refused to dismiss "[d]ue to the absence of record evidence supporting the[] bare assertions" of mootness. *Bolivar Tee's Mfg. Co. v. NLRB*, 61 F. App'x 711, 711 (D.C. Cir. 2003). Instead, it enforced the Board's order, "leaving it to the Board to determine through its compliance proceedings whether and how the order's provisions can be carried out." *Id.*

If the Court holds that the sick-and-annual-relief roster assignments across institutions were not inseparably bound up with the 1998 master agreement, the Authority is in the best position to determine whether the Agency's bargaining over the 2014 master agreement satisfied ¶ 2(a) of the Authority's order. To do so, the Authority's Regional Director may employ traditional compliance procedures to seek the parties' positions and, if necessary, issue a compliance specification, hold a hearing, and obtain a compliance decision from the Authority subject to judicial

review. *See* Compliance with Authority ULP Orders, *FLRA Unfair Labor Practice Casehandling Manual* at Ch. E(3)(c), p. 3, pdf p. 133 (2010), available at https://go.usa.gov/xnq5u; *cf.* Bargaining, *NLRB Casehandling Manual, Part III, Compliance Proceedings*, § 10528 (2015), available at https://go.usa.gov/xnqN8. And, to the extent future bargaining is required, this Court recognized in *Air Force* that the provisions in the Authority's order directing the Agency to bargain contemplate that future negotiations "will presumably have to take into consideration the terms of the [new] contract." 735 F.2d at 1517 n.9.

3. As explained above, the Authority's order imposes live obligations on the Agency to cease and desist from its bad faith bargaining behavior and post a remedial notice, and the Agency will have an opportunity on compliance to demonstrate that any 2014 bargaining satisfied the affirmative provisions of the Authority's order. Thus, the Authority contends that evidence surrounding the content and any relevant conduct or understandings related to the 2014 master agreement and local supplements is not relevant at this time.

Nevertheless, in an effort to address the Court's questions 1 and 4, the Authority provides the following information. Authority counsel has attached a copy of what he believes is the 2014 master agreement. (Attachment 2.) The relevant contract section, Article 18(g), has not been altered from the 1998 master agreement.

Compare JA 83-84, *with* Attachment 2 at 44-45.[3] On information and belief, the parties have yet to negotiate a local supplemental agreement at the Coleman complex.

Because the record in this case closed in 2013, Authority counsel is not in a position to proffer probative evidence of "relevant conduct and understandings that relate to the 2014 collective bargaining agreement or any new local supplemental agreement." Order Directing Supplemental Briefing at 1 (Sep. 26, 2017). As this Court previously held in *Air Force*, however, the Authority's order is enforceable in its entirety, even if the parties negotiated new master and local agreements that directly addressed the sick-and-annual-relief roster consolidation. *Air Force*, 735 F.2d at 1516-17. On compliance, the Authority will investigate whether the parties discussed this issue while negotiating their new master agreement; whether they discussed maintaining Article 18 untouched and reserved the issue for local negotiations; whether they deferred negotiations over inter-institutional assignments pending resolution of this case pursuant to Article 9(b)(5) of the new master agreement

[3] Authority administrative law judges have issued decisions in at least two cases involving the 2014 master agreement. Both confirm that the new master agreement was effective July 21, 2014. *See Fed. Bureau of Prisons, Fed. Corr. Inst., Bastrop, Tex.*, DA-CA-16-0386, 2017 WL 3476366, at *2 (July 28, 2017); *U.S. Dep't of Justice, Fed. Bureau of Prisons, Fed. Corr. Inst., Herlong, Cal.*, OALJ 16-39, 2016 WL 4492373, at *2 (Aug. 12, 2016).

(Attachment 2 at 23); or whether negotiations addressed another factual scenario altogether.[4]

CONCLUSION

The Authority respectfully requests the Court to deny the petition for review.

Respectfully submitted,

/s/Fred B. Jacob
FRED B. JACOB
Solicitor

/s/Zachary R. Henige
ZACHARY R. HENIGE
Deputy Solicitor

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October 2, 2017

[4] While the Authority strongly believes that no remand is required, if the Court believes that further development of the record is necessary to resolve its mootness concerns, it should allow the Authority to do so for the Court's subsequent review, particularly where the fact finding concerns complex matters such as bargaining history and parties' intent. Under 5 U.S.C. § 7123(c), the Court may direct the Authority to reopen the record and make additional findings for the Court's review. *Cf. Ciarpaglini v. Norwood*, 817 F.3d 541, 546 (7th Cir. 2016) (remanding to district court for limited fact findings on mootness question); *see also Southport Petroleum Co. v. NLRB*, 315 U.S. 100, 104 (1942) (commenting that remand is committed "to the sound judicial discretion of the court" under similar provisions of National Labor Relations Act).

FED. R. APP. P. RULE 32(a) CERTIFICATION

Pursuant to Fed. R. App. P. 32(a)(7)(B)(i), I hereby certify that this brief is double-spaced (except for extended quotations, headings, and footnotes) and is proportionally spaced, using Garamond font, 14 point type. In compliance with the Court's September 26, 2017 order, it does not exceed 10 pages in length.

/s/ Fred B. Jacob
Fred B. Jacob
Solicitor
Federal Labor Relations Authority

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of October, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system and by filing four paper copies. I also certify that the foregoing document is being served on counsel of record and that service will be accomplished by the CM/ECF system.

/s/ Fred B. Jacob
Fred B. Jacob
Solicitor
Federal Labor Relations Authority

ATTACHMENT 1

U. S. Department of Justice
Federal Bureau of Prisons

Employment Law Branch
400 State Avenue, Tower II, 8th Floor
Kansas City, KS 66101

Via Certified Mail

August 8, 2016

Richard S. Jones
Regional Director
Federal Labor Relations Authority
South Tower – Suite 1950
225 Peachtree Street, N.E.
Atlanta, GA 30303

Re: United States Department of Justice
Federal Bureau of Prisons
Federal Correctional Complex
and
American Federal of Government Employees,
Local 506, AFL-CIO
Coleman, Florida
Case No. AT-CA-12-0579

Dear Regional Director Jones:

This letter is written in response to your letter dated July 8, 2016, regarding the Decision and Order issued by the Federal Labor Relations Authority in the above-captioned matter. At this time, the Authority's decision is under review pending a possible appeal. If the Agency determines not to seek judicial review, it will comply with the terms of the Authority's Decision and Order.

Sincerely,

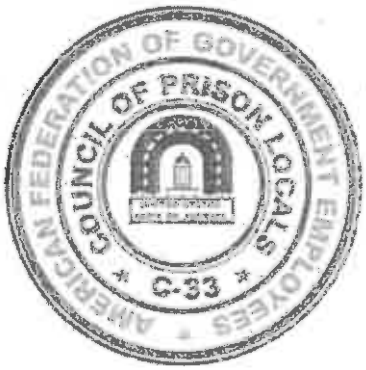
K. Tyson Shaw
Assistant General Counsel
Federal Bureau of Prisons

cc: Jose Rojas, Union Representative
AFGE, Local 506
P.O. Box 68
Sumterville, FL 33585

ATTACHMENT 2

MASTER

AGREEMENT



Federal Bureau of Prisons

and

Council of Prison Locals
American Federation of Government Employees

July 21, 2014 – July 20, 2017

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PREAMBLE

The Federal Bureau of Prisons acknowledges that the participation of its employees in providing input into the development of personnel policies, practices, and procedures which affect conditions of employment, and their assistance in the implementation of policies, practices, and procedures, contributes to the effective operation of Bureau facilities. The Bureau of Prisons will develop and maintain constructive and cooperative relationships with its employees, through their exclusive representative, where applicable, the Council of Prison Locals and the American Federation of Government Employees. The parties respect the rights granted to Management, employees, and the Council of Prison Locals by the Civil Service Reform Act of 1978, as amended.

The parties recognize that efficient and effective service is a paramount requirement and that public interest requires the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency.

Moreover, the parties recognize that the administration of an agreement depends on a good relationship. This relationship must be built on the ideals of mutual respect, trust, and commitment to the mission and the employees who carry it out. Therefore, the Federal Bureau of Prisons and Federal Prison Industries, Inc. hereinafter referred to as "the Employer" or "the Agency," and the Council of Prison Locals and the American Federation of Government Employees, hereinafter referred to as "the Union" or "exclusive representative," do hereby agree to:

(A) focus on problems and ways to deal with them;

(B) recognize the needs of the other party;

(C) consider collective bargaining as an opportunity to improve the relationship between the Agency and the Union; and

(D) recognize that the employees are the most valuable resource of the Agency, and are encouraged, and shall be reasonably assisted, to develop their potential as Bureau of Prisons employees to the fullest extent practicable.

This Agreement and such supplementary agreements and memorandums of understanding by both parties as may be agreed upon hereunder from time to time, together constitute a collective agreement between the Agency and the Union.

ARTICLE 1 – RECOGNITION

Section a. The Union is recognized as the sole and exclusive representative for all bargaining unit employees as defined in 5 United States Code (USC), Chapter 71.

Section b. The Employer recognizes the Union as the exclusive bargaining agent under the provisions of the Federal Service Labor Management Relations Statute, 5 USC, Chapter 71, 7101 et. seq., hereinafter referred to as "the Statute," and the Civil Service Reform Act of 1978, of all of the employees in the unit, as the recognized Union for bargaining purposes with respect to conditions of employment of employees represented by the Union. The Union has the full authority as provided by Statute to meet and confer with the Agency for the purpose of entering into negotiated agreements, concerning changes in conditions of employment covering bargaining unit employees, and to administer this Collective Bargaining Agreement.

Section c. The former Director, Bureau of Prisons, Commissioner, Federal Prison Industries, Inc., Myrl E. Alexander, in a letter dated January 17, 1968, said letter being issued in accordance with Executive Order 10988, did certify the Council of Prison Lodges (currently known as the "Council of Prison Locals") exclusive recognition as the representative of all employees employed by the Federal Bureau of Prisons, with the exception of the employees of the Central Office. Since March 31, 2006, the Council of Prison Locals became the exclusive representative for Central Office employees. The term "employee" as used in this Agreement means any employee of the Employer represented by the Union and as defined in 5 USC, Chapter 71.

Section d. The Union will have access, using predetermined entry procedures, to properly represent bargaining unit employees located in contract/privatized facilities, in accordance with this Agreement and applicable laws, rules, and regulations.

The Agency will provide a list of all bargaining unit employees working in a contract facility to the Council of Prison Locals President and appropriate Regional Vice President upon request, but no more frequently than every six (6) months.

ARTICLE 2 – JOINT LABOR MANAGEMENT RELATIONS MEETINGS

Section a. Representatives of the Employer and ten (10) representatives of the Union, or the number of Employer representatives, which ever is greater, shall meet in person at least four (4) times per year to resolve and/or negotiate, as applicable, on national issues of concern to either party, regarding general conditions of employment. These meetings will be held in Washington, D.C.

These meetings may be initiated by either party, but may only be dispensed by mutual consent.

The duration of these meetings will normally be two (2) days; however, by mutual agreement, they may be extended or shortened as determined by both parties. The expense of such meetings will be borne by the Employer.

Union representatives shall be on official time.

Section b. An agenda will be required for all meetings. Each party will exchange agenda items not less than twenty-one (21) calendar days prior to the scheduled meeting.

The Union may revise the number of their representatives, to achieve equal numbers with the Employer, if the number of agency representatives exceeds ten (10).

The party placing an item on the agenda shall describe the issue, concern, or problem in sufficient detail to allow others to understand the situation and prepare for discussion.

Section c. Generally, the issues for discussion will be limited to those placed on the agenda in a timely fashion. Exceptions may be made for pressing issues which arise after the agenda has been established and which should be discussed before the next meeting.

Section d. The Employer will prepare minutes (summary) of the items discussed, agreements reached, and/or suspense dates set for follow-up action. The minutes will be reviewed and approved by the parties upon conclusion of discussion of each issue. A final copy of the minutes will be reviewed and signed by the parties prior to the conclusion of the meeting, and a copy will be provided to each participant.

Section e. Management will provide the Union with updates on issues raised at these meetings in accordance with agreed upon time frames. Should the Union be asked to provide the Agency with an update on any issues raised at national meetings, the responding Union representative will

be afforded the use of that amount of official time that both parties at the meeting agree to be reasonable and necessary.

Section f. The parties at the national level endorse the concept of regular labor management meetings at the local level. It is recommended that such meetings occur at least monthly, that there be an established method of written minutes, and that there be suspense dates for responses or corrective action. The actual procedures for local labor management meetings will be negotiated locally.

ARTICLE 3 - GOVERNING REGULATIONS

Section a. Both parties mutually agree that this Agreement takes precedence over any Bureau policy, procedure, and/or regulation which is not derived from higher government-wide laws, rules, and regulations.

1. local supplemental agreements will take precedence over any Agency issuance derived or generated at the local level.

Section b. In the administration of all matters covered by this Agreement, Agency officials, Union officials, and employees are governed by existing and/or future laws, rules, and government-wide regulations in existence at the time this Agreement goes into effect.

Section c. The Union and Agency representatives, when notified by the other party, will meet and negotiate on any and all policies, practices, and procedures which impact conditions of employment, where required by 5 USC 7106, 7114, and 7117, and other applicable government-wide laws and regulations, prior to implementation of any policies, practices, and/or procedures.

Section d. All proposed national policy issuances, including policy manuals and program statements, will be provided to the Union. If the provisions contained in the proposed policy manual and/or program statement change or affect any personnel policies, practices, or conditions of employment, such policy issuances will be subject to negotiation with the Union, prior to issuance and implementation.

1. when national policy issuances are proposed, the Employer will ensure that the President, Council of Prisons Locals, each member of the Executive Board of the Council of Prisons Locals, and each Local President receives a copy of the proposed policy issuance by electronic message, reply requested. The Council President will provide email addresses for him/herself and the members of the Council Executive Board. Receipt will be assumed if no reply is received within three (3) business days. Delivery to Local Presidents will be to the Local's BOP Union Resource e-mail box.

   Council of Prison Locals 33 (CPL33) Executive Board (e-board) members will receive printed copies of Limited Official Use Only (LOUO) proposed national policy issuances in person, from the Chief, Labor Relations Office (LRO), or designee. Upon

receipt, each e-board member will sign for receipt of the proposed LOUO policy issuance and agree not to further reproduce and/or distribute it, except as may be mutually agreed otherwise between the President, CPL33, and Chief, LRO.

Local Union Presidents will be notified of LOUO proposed national policy issuances by e-mail, with instructions to obtain a printed copy from the Chief Executive Officer's office at their locations, after signing the same receipt and agreement (above) not to further reproduce and/or distribute it, and to return the copy once the policy is issued and implemented, except as may be mutually agreed otherwise between the President, CPL33, and Chief, LRO.

2. after the last Council of Prison Locals Executive Board member receives the proposed policy issuance, the Union, at the national level, will have thirty (30) calendar days to invoke negotiations regarding the proposed policy issuance.

3. should the Union invoke their right to negotiate the proposed policy issuance, absent an overriding exigency, the issuance and implementation of the policy will be postponed, pending the outcome of the negotiations;

4. should the Union, at the national level, fail to invoke the right to negotiate the proposed policy issuance within the time required above, the Agency may issue and implement the proposed policy issuance; and

5. when locally-proposed policy issuances are made, the local Union President will be notified as provided for above, and the manner in which local negotiations are conducted will parallel this article.

Section e. Negotiations under this section will take place within thirty (30) calendar days of the date that negotiations are invoked. Negotiations will take place at a location that is mutually agreeable to the parties, and the Agency will pay all expenses related to the negotiations.

ARTICLE 4 – RELATIONSHIP OF THIS AGREEMENT TO BUREAU POLICIES, REGULATIONS, AND PRACTICES

Section a. In prescribing regulations relating to personnel policies and practices and to conditions of employment, the Employer and the Union shall have due regard for the obligation imposed by 5 USC 7106, 7114, and 7117. The Employer further recognizes its responsibility for informing the Union of changes in working conditions at the local level.

Section b. On matters which are not covered in supplemental agreements at the local level, all written benefits, or practices and understandings between the parties implementing this Agreement, which are negotiable, shall not be changed unless agreed to in writing by the parties.

Section c. The Employer will provide expeditious notification of the changes to be implemented in working conditions at the local level. Such changes will be negotiated in accordance with the provisions of this Agreement.

ARTICLE 5 - RIGHTS OF THE EMPLOYER

Section a. Subject to Section b. of this article, nothing in this section shall affect the authority of any Management official of the Agency, in accordance with 5 USC, Section 7106:

1. to determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and

2. in accordance with applicable laws:

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

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

   c. with respect to filling positions, to make selections for appointment from:

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

      (2) any other appropriate source; and

   d. to take whatever actions may be necessary to carry out the Agency mission during emergencies.

Section b. Nothing in this section shall preclude any agency and any labor organization from negotiating:

1. at the election of the Agency, on the numbers, types, and grades of employees or positions assigned to any organizational sub-division, work project, or tour of duty, or the technology, methods, and means of performing work;

2. procedures which Management officials of the Agency will observe in exercising any authority under this Agreement; or

3. appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such Management officials.

Section c. The preferred practice whenever Bureau of Prisons positions are announced under Section a (2)(c). above is to select from within the Bureau from all qualified applicants. This shall not be construed as limiting the recruiting function or any other rights of the Employer.

In accordance with 5 Code of Federal Regulations (CFR) Section 335.103, while the procedures used by an agency to identify and rank qualified candidates may be proper subjects for formal complaints or grievances, nonselection from among a group of properly ranked and certified candidates is not an appropriate basis for a formal complaint or grievance.

ARTICLE 6 - RIGHTS OF THE EMPLOYEE

Section a. Each employee shall have the right to form, join, or assist a labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided by 5 USC, such right includes the right:

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

2. to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees in accordance with 5 USC.

Section b. The parties agree that there will be no restraint, harassment, intimidation, reprisal, or any coercion against any employee in the exercise of any employee rights provided for in this Agreement and any other applicable laws, rules, and regulations, including the right:

1. to bring any matters of personal concern to the attention of any Management official, any other officials of the executive branch of government, the Congress, and any other authorities. The parties endorse the concept that matters of personal concern should be addressed at the lowest possible level; however, this does not preclude the employee from exercising the above-stated rights;

2. to be treated fairly and equitably in all aspects of personnel management;

3. to be free from discrimination based on their political affiliation, race, color, religion, national origin, sex, marital status, age, disabling condition, genetic information, participation in protected activity, Union membership, or Union activity;

4. to direct and pursue their private lives without interference by the Employer or the Union, except in situations where there is a nexus between the employee's conduct and their position. This does not preclude a representative of the Employer or the Union from contacting bargaining unit staff

or legitimate work-related matters;

5. to become or remain a member of a labor organization; and

6. to have all provisions of the Collective Bargaining Agreement adhered to.

Section c. The Employer agrees to distribute to all employees its understanding of legal protection that can be furnished to employees. Updates will be provided as necessary. Distribution will be in handout form and provided to current employees upon the effective date of this Agreement, and to new employees at the time they are hired.

Section d. If an employee has a problem or situation which the employee desires to discuss with the Union during working hours, upon request to their supervisor in advance and workload permitting, the employee may report to the Union official as approved. If the employee cannot be made available at that time, the supervisor will inform the employee when he/she can be made available. Perceived abuse of this section will be discussed and resolved at the local level. Frequent and repeated requests by the same employee may not be approved if perceived as abusive. When this occurs, the local Union President or designee will be informed.

Section e. Preferences regarding hairstyle and facial hair are a matter of individual concern. Employees will maintain a neat appearance and dress, considering the correctional environment, and such appearance and dress will not interfere with the security or safe running of the institution. The wearing of jewelry is a gender neutral issue. In the event of disputes, and prior to an employee being required to change their dress or appearance, alternatives will be explored.

Section f. Unit employees, including probationary employees, have the right to a Union representative during any examination by, or prior to submission of any written report to, a representative of the Employer in connection with an investigation if:

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

2. the employee requests representation.

The Employer recognizes the Union's right to appoint and designate the Union representative of its choice.

Employees will be notified of their right to a Union representative by the Employer if an official examination authorized and/or

initiated by the Warden or higher authority of the Bureau of Prisons could potentially lead to disciplinary action of said employee. This notification will be given prior to examination or submission of any written report by the employee. This is not intended to interfere with the routine questions supervisors ask employees in the normal course of a workday nor the routine memorandums that employees are asked to submit. The failure of the Employer to so inform the employee shall not affect the Employer in taking administrative action against the employee.

Section g. The Employer recognizes its statutory duty to annually inform its employees of their rights under Section f. This requirement is found in Section 7114 of 5 USC.

Section h. If the employee requests a Union representative under Sections f. or g., no further questioning will take place until the representative is present, provided that if the representative is not available within a reasonable period of time, the questioning and/or submission of a written report may proceed without the representative being present. Questioning and/or submission of a written report without a Union representative may go forward only where urgent circumstances could interfere with the safe and orderly running of the institution. Such questioning may proceed only when these urgent circumstances are documented and presented to the employee and/or his representative.

Reasonable time is defined as that time necessary for the designated representative from the local Union to travel to the site of the examination. The Union will promptly designate its representative and make reasonable efforts to avoid delay.

For those locations which have no representatives (e.g., residential reentry offices, new BOP facilities, etc.), reasonable time is the time necessary for the Union designated representative to travel to the examination site.

Section i. Employees being questioned by representatives of the Employer will be informed of the identity of the investigator, unless already known by the employee, and the investigator will present their credentials to the employee being interviewed and their Union representative, if applicable, prior to the commencement of the face-to-face questioning.

1. investigations/examinations under Section f. above will not take place at the residence of the employee without the consent of the employee;

2. time spent in investigations/examinations will be compensated in accordance with applicable pay regulations; and

3. no employee will be required to sign statements or affidavits that the employee believes to be inaccurate or incorrect.

Section j. When the Employer interviews employees to ascertain necessary facts in preparation for action involving a third party hearing, the Employer will provide certain safeguards to protect the employee's rights under 5 USC.

1. the Employer must inform the employee who is to be questioned of the purpose for the questioning, assure the employee that no reprisal will take place if the employee refuses, and obtain the employee's participation on a voluntary basis;

2. the questioning will occur in a context which is not coercive in nature; and

3. the questions will not exceed the scope of the legitimate purpose of the inquiry or otherwise interfere with the employee's statutory rights.

Section k. Any follow-up interviews conducted under Section f. above will be subject to the same requirements as outlined in that section.

Section l. In the interest of respect for all staff, the parties agree that reprimands and counseling sessions will be handled in a private setting whenever possible. Both parties further agree that the Employer and its representatives have the responsibility to instruct, advise, direct, and correct employees in a work setting in a manner that promotes a good working relationship.

Section m. Procedures for serving warrants or subpoenas at the employee's work site/institution are negotiable at the local level. During local negotiations regarding the service of warrants or subpoenas by local authorities (sheriffs, etc.), the privacy concerns of employees are an important consideration.

Section n. There are occasions when it is necessary for the Employer to remove employees from their work site or facility for safety or security reasons. When such an escorted departure is necessary, efforts will be made wherever possible to ensure that such actions are handled in a discrete manner.

Section o. Any employee covered by this Agreement may, without fear of

penalty or reprisal, exercise their rights under the Whistleblower Protection Act, which includes the right to disclose gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. This act is codified in 5 USC, Section 1213.

Section p. Employees are required to receive their salary payment through electronic fund transfer as a condition of employment.

Those employees who do not receive salary payments by the established payday will, at the affected employee's request, receive an electronic payment. The payment will be for the employee's base salary, including premium, less normal withholdings.

Section q. The Employer and its employees bear a mutual responsibility to review documents related to pay and allowances in order to detect any overpayments/underpayments as soon as possible.

1. should the Employer detect that an employee has received an overpayment/underpayment, the Employer will notify the affected employee in writing;

2. should an employee realize that he/she has received an overpayment/underpayment, the employee will notify their first line supervisor in writing;

3. once it has been determined that an employee has received an overpayment, the Employer will inform the employee of the procedure for applying for a waiver of repayment of funds and, upon the employee's request, the Employer will assist the employee in completing and submitting the proper forms. All waivers are evaluated on a case-by-case basis in accordance with applicable laws, rules, and regulations;

4. the employee will not be required to make any payment on any overpayment of funds until the completion of the waiver process, if the waiver is denied;

5. if the waiver is denied, employees may avoid paying interest on the debt if full payment is made prior to the sixtieth day after the initial written notification; and

6. both parties agree that any repayment by the employee of a salary overpayment will be made with the assistance of the Employer in accordance with existing regulations. This

repayment may be made through payroll deductions or a cash payment for the full amount. This will be done to ensure that all adjustments, i.e., taxes, FICA, etc., are made in a timely fashion.

Section r. If a supervisor maintains an informal file about an employee, the employee shall be given an opportunity to see any notation as soon as practicable, and before the notation is used officially, but no later than fifteen (15) working days after the notation is made.

Section s. All contributions to charities, causes, and functions are to be a matter of personal concern and strictly voluntary in nature.

Section t. In matters relating to employee's indebtedness, the parties agree to abide by the provisions of 5 CFR, Section 2635.809, which states:

> "Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State, or local taxes that are imposed by law. For purposes of this section, a just financial obligation includes any financial obligation acknowledged by the employee or reduced to judgment by a court. In good faith means an honest intention to fulfill any just financial obligation in a timely manner. In the event of a dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt or to collect a debt on the alleged creditor's behalf."

ARTICLE 7 - RIGHTS OF THE UNION

Section a. There will be no restraint, interference, coercion, or discrimination against any employee in the statutory exercise of any right to organize and designate representatives of their own choosing for the purposes of collective bargaining, presentation of grievances, labor management related activity, representation of employees before the Employer, or upon duly designated Union representatives acting as an agent of the Union on behalf of an employee or group of employees in the bargaining unit.

Section b. In all matters relating to personnel policies, practices, and other conditions of employment, the Employer will adhere to the obligations imposed on it by the Statute and this Agreement. This includes, in accordance with applicable laws and this Agreement, the obligation to notify the Union of any changes in conditions of employment, and provide the Union the opportunity to negotiate concerning the procedures which Management will observe in exercising its authority in accordance with the Federal Labor Management Statute.

Section c. The Union will notify the Employer of the identity of its officers and representatives in writing. When additions/deletions to this list are made, the Union will notify the Employer at its earliest convenience.

Section d. Union representatives are authorized to perform and discharge the duties and responsibilities which are assigned to them by the Union in accordance with applicable laws, rules, regulations, this Agreement, and applicable supplemental agreements.

Section e. Union representatives will be permitted to leave their work sites to perform and discharge their representational responsibilities after being properly relieved. This will be done in accordance with the following:

1. local Union representatives desiring to perform and discharge their responsibilities must request the time from their supervisor prior to leaving the work site. When Management initiates the need for a representative, Management will coordinate with the affected supervisor and secure the representative's relief. If initiated by the Union, the representative will inform the supervisor of the anticipated time that the representative will be away from the work site, where the representative may be contacted, and the general nature of the function to be

performed (i.e., meeting, complaint, etc.). It is understood that specific individuals or problems will not be discussed;

2. for the purpose of representation (i.e., investigatory examinations, to assist an employee with a problem, disciplinary meetings, etc.), the supervisor will ensure that the designated representative is expeditiously relieved. If the representative is unable to be relieved, the function that the representative requested to be relieved for will be rescheduled to a time when the representative is able to attend.

   For the purpose of prescheduled meetings to which the Union has membership, the Employer will provide the Union with a list of scheduled meetings for the month. If the Union designates a representative for these meetings, the supervisor will ensure that the designated representative is relieved to attend the meeting; and

3. upon returning to the work site, representatives will notify their supervisor. The supervisor shall calculate the amount of time used and forward it to the timekeeper for the time and attendance record.

Section f. The Employer and the Union agree to the scheduling, at the local level, of at least one Union representative, designated by the Union, to daytime hours of work. Daytime hours of work is defined as those hours between 6:00 a.m. to 6:00 p.m., Monday through Friday. This will be done in accordance with the Employer's rotation policy, if applicable, provided that this does not adversely affect the Union's ability to provide representation.

Section g. Provided that there is no significant disruption of departmental operations, the work schedule of the local Union President and at least two other local Union officers will be adjusted, at the Union's request, to allow these individuals to attend Union meetings. The Union will coordinate the schedule change with the appropriate supervisor(s), and the Union will address any concerns of employees affected by the change.

Section h. Union representatives who are not employees of a specific local Bureau of Prisons managed facility who desire admission to the facility will be allowed access as follows:

1. employees of the Agency who are representatives of the Union will be allowed access to any Bureau of Prisons managed

facility in the same manner as any visiting employee;

2. Union representatives who are not employees of the Agency will be allowed access to Bureau of Prisons managed facilities in the same manner as other official visitors; and

3. it shall be the responsibility of the local Union to advise the Employer, in advance and in writing, when visits by Union officials described in (1) and (2) above are planned, whenever possible.

Section i. Council representatives, when scheduled to meet with representatives of the Employer in pre-arranged meetings, will have their work week adjusted, upon written request, if it conflicts with the scheduled meeting.

Section j. In accordance with 5 USC, 552a (Privacy Act):

1. the local President will be notified of any proposals or decisions regarding disciplinary or adverse action against bargaining unit staff, and such notification will include the charge(s) and the proposed/decided upon corrective action; and

2. in cases where a disciplinary action or adverse action has been proposed, but no grievance has been filed, the Union will be notified of the terms of the settlement between the Employer and the employee. This notice will include reference to the date the proposal was issued, but will not include individual identifiers, except as outlined in Section j (1). This will not affect the Union's entitlement to data pursuant to the Statute.

Section k. The Union and the Employer recognize the role of the Union at the local level. The Union's participation in local Institutional Familiarization Training may be a subject for local negotiation. Regardless of Union participation, the Agency will inform new employees at Institutional Familiarization Training of the specific local Union designation and identify the officers of the local Union.

Section l. The Union will be given the opportunity to be present at formal discussions and meetings between the Employer and employees covered by this Agreement concerning grievances, personnel policies and practices, and any other matter affecting general working conditions of employees covered by this Agreement.

The following procedures will be used in providing notice of a formal discussion/meeting to the Union:

1. whenever possible, the Employer will notify the local Union president, or his/her designee, at least twenty-four (24) hours prior to the scheduled discussion/meeting; and

2. notification will include the date, time, and location of the discussion/meeting. Whenever possible, the notification should also include a brief description of the topic(s) to be discussed.

The Union will inform the Employer of who will represent the Union at the discussion/meeting.

Relief for the Union representative will be accomplished in accordance with Section e. of this article.

Section m. The Union has the right to refer allegations of misconduct by any other employee, including representatives of the Employer, to the Office of Internal Affairs.

Section n. The parties agree that they and their representatives will not make statements or post notices in inmate access areas which would endanger staff or the security of the institution.

ARTICLE 8 - UNION DUES BY PAYROLL DEDUCTION

Section a. The Employer and the Union agree that unit employees who are Union members in good standing may have allotments deducted from their regular salary for the payment of Union dues for the term of this Agreement in accordance with applicable regulations. This article may be amended when required by any changes in such regulations.

Section b. Any such allotment shall be strictly voluntary on the part of each employee and nothing in this Agreement may be construed to require any employee to become or remain a member of a Union or to pay dues in any manner to a Union, except as required by 5 USC, Chapter 71, 7115 et. seq.

Section c. An eligible employee may only initiate an allotment for the payment of Union dues by the local Union submitting a properly completed SF-1187 to the servicing Human Resource Office. The Employer shall process the SF-1187 as a routine payroll allotment change unless the Employer questions the accuracy of the information submitted or the eligibility of the employee for dues allotment, in which case the Employer shall meet with the local President to resolve any questions.

The Employer will order and maintain a sufficient amount of SF-1187's and SF-1188's for distribution to the Union as needed, upon request.

Section d. The Union shall ensure that:

1. all SF-1187's submitted by employees correctly reflect the amount of dues to be deducted from the pay; and

2. all employees submitting SF-1187's are eligible for payroll allotments for the payment of Union dues.

Section e. A multilevel dues structure will be utilized. Dues will be withheld on a biweekly basis conforming to the regular pay period. Deductions will begin no later than the second full pay period following receipt of a properly completed SF-1187 by the Human Resource Office. Dues erroneously omitted, after receipt by the Employer of an SF-1187 or notification of dues increase pursuant to Section f. of this article, shall be retroactively deducted through written notification of the Employer. The Employer, through the NFC, shall take appropriate action to correct errors in dues deductions.

Section f. Any changes made in the amount of dues deducted on a national level will only be made pursuant to a written request from the

Secretary/Treasurer of the Council of Prison Locals. Changes affecting any specific local dues may be completed by the local Secretary/Treasurer by a written request to the institution HRM.

Section g. An employee may terminate a Union dues allotment in accordance with 5 USC 7115(a) by the local Union submitting a properly completed SF-1188 to the Human Resource Office at any time during a forty-five (45) day period following the employee's Union membership anniversary date. A Union official will verify the employee's anniversary date and note it on the SF-1188. The completed form must be received in the Human Resource Office within a forty-five (45) day period following the anniversary date. The request will be processed within two (2) pay periods of receipt.

For the purpose of this section, the anniversary date referenced above will be the anniversary date on the AFGE roster.

Whenever dues deductions are terminated by the Employer, the Union will be notified of the reasons for such actions.

Section h. The Employer will request that:

1. remittance of dues withheld will be electronically transferred direct to the banks of the AFGE National, biweekly; and

2. the payroll processing agent continue providing the tape listing of each remittance by local to the AFGE National Office.

Section i. Employees who meet the eligibility requirements for dues withholding and who have a current dues withholding agreement in effect on the date this Agreement is approved need not execute a new SF-1187 to come under the provisions of this Agreement provided that this Agreement does not necessitate any changes being made in their current allotment.

ARTICLE 9 - NEGOTIATIONS AT THE LOCAL LEVEL

The Employer and the Union agree that this Agreement will constitute the Master Collective Bargaining Agreement between the parties and will be applicable to all Bureau of Prisons managed facilities and employees included in the bargaining unit as defined in Article 1 - Recognition. This Master Agreement may be supplemented in local agreements in accordance with this article. In no case may local supplemental agreements conflict with, be inconsistent with, amend, modify, alter, paraphrase, detract from, or duplicate this Master Agreement except as expressly authorized herein.

Section a. One supplemental agreement may be negotiated at each institution/facility. Supplemental agreements covering shared/consolidated services will be negotiated at the local level by the concerned parties.

1. it is understood that local supplemental agreements will expire upon the same day as the Master Agreement, except as noted in a(2) below. If the Master Agreement's life is extended beyond the scheduled expiration date for any reason, local supplemental agreements will also be extended; and

2. provided that nothing in the local supplemental agreement is in conflict with the provisions of the Master Bargaining Agreement, or changes in any policies, regulations, or laws, the parties at the local level may mutually elect to execute new signatures and dates, if neither party desires to renegotiate the local supplemental agreement.

Section b. Notwithstanding the provisions of this article, the parties may negotiate locally and include in any supplemental agreement any matter which does not specifically conflict with this article and the Master Bargaining Agreement.

1. local supplemental agreements may be negotiated provided either party serves notice of intent to negotiate within sixty (60) days of receipt of the Master Agreement. The receipt date will be the date this Agreement is provided to the local Union President;

2. the sixty (60) day limitation will not apply to newly established locals of the Council of Prison Locals. The parties at the local level are encouraged to complete negotiations of the supplemental agreement within one (1) year;

3. the parties must begin meaningful and substantive negotiations within six (6) months of the notice of intent to negotiate;

4. a standard set of ground rules are contained in Appendix A to this Agreement. The local parties may negotiate their own ground rules; however, if they are unable to reach agreement on ground rules during the five (5) months following the date the notice of intent to negotiate is served, they must adopt the standard set of ground rules contained in Appendix A. In such cases, negotiations must commence within thirty (30) calendar days after the expiration of the five (5) month period, and specific proposals for negotiation must be exchanged at least fourteen (14) calendar days prior to the beginning of negotiations; and

5. any matter which the parties at the national level have presented to the Federal Labor Relations Authority (FLRA) or the Federal Service Impasses Panel (FSIP) may not be negotiated at the local level until such time as decisions are rendered and/or the parties at the national level have resolved the dispute.

Section c. Disputes as to whether a matter is improper for inclusion in a supplemental agreement will be resolved as follows:

1. matters rejected solely as violating the Master Agreement will be resolved through arbitration;

2. matters rejected solely as violating law or government-wide regulations will be submitted to the FLRA for resolution as a negotiability dispute; or

3. matters rejected as violating both the Master Agreement and law or government-wide regulations will first be submitted to arbitration to resolve contract issues. When the contract questions are resolved, any questions of negotiability under law or government-wide regulation shall be submitted to the FLRA for resolution.

If, during local negotiations, there is a dispute between the parties on whether a proposal is in conflict with the Master Agreement, they must seek guidance from their respective parties at the national level before referring to a third party. Such consultation with national officials will not serve to extend any

established time limits for referral to third parties.

Section d. Once an agreement has been reached at the local level, it will be reduced to writing within fifteen (15) calendar days from the conclusion of negotiations. The local will then have thirty (30) calendar days to complete the ratification process. If the contract is ratified as written, the parties will meet within seven (7) calendar days to sign and date the entire agreement.

If ratification fails, the parties will return to the table within fourteen (14) calendar days to reconsider those articles or provisions which blocked ratification. Once this process is completed, the local will then have thirty (30) calendar days to complete ratification. If ratified, the parties will meet within seven (7) calendar days to sign and date the entire agreement.

1. once the supplemental agreement has been ratified, signed, and dated, the proposed agreement will be forwarded to the Labor Relations Office by local Management and another copy will be forwarded by the local Union to its Regional Vice President. Incomplete, unsigned, or undated agreements will be returned to the parties without action. The parties at the national level will have forty (40) calendar days from the date that the proposed agreement was signed to independently review the agreement and determine if the proposed agreement complies with the provisions of this Agreement and applicable laws and regulations; and

2. the parties at the national level will independently notify their counterparts at the local level of the results of their reviews before the expiration of the forty (40) day time limit. The reviewing parties at the national level will serve on each other copies of their reviews as they are sent to the local level. At the end of the forty (40) day review period, the local supplemental agreement will go into effect, except for those provisions which have been found by either party to be in conflict with this Agreement or applicable laws and regulations. Such conflicting provisions will be returned to the parties at the local level with explanations, at which time the local parties will do one of the following:

   a. implement the agreement as modified by the review;

   b. renegotiate the stricken provisions; or

c. contest the striking through appropriate appeal procedures, as outlined in Section c. of this article.

ARTICLE 10 - UNION REPRESENTATION ON COMMITTEES

Section a. The Union at the appropriate level will have membership on at least the following committees, where they exist, which are charged with making recommendations to the appropriate authorities on specific issues. These committees are:

1. Health and Safety, in accordance with Article 27;

2. Incentive Awards (to help oversee the system and review suggestions only);

3. Affirmative Action;

4. Staff Housing (whenever members of the unit have applied); and

5. Commissary.

When committees, work groups, or task forces are formed to make recommendations on matters directly affecting working conditions of bargaining unit employees, the Employer will fill a position on the committee, work group, or task force with a representative designated by the Union at the appropriate level. A Union representative selected to participate on these committees will be a working member with the same rights and responsibilities as other members. This includes an adequate opportunity to present their thoughts and ideas on whatever subject is being discussed. Each Union representative so selected will have a Union designated alternate to serve when the representative is unavailable.

Both parties recognize the Union will, on occasion, need to train some of its representatives on the operation and functions of committees, work groups, and task forces. With the Chief Executive Officer's approval and workload permitting, the Union will be permitted to have one (1) other representative attend the meeting in a training, nonparticipatory role. The Agency, at its option, may pay any expenses or grant official time for this second attendee.

Both the Union and Management agree that smaller committees, work groups, and task forces are preferred, in that they are generally more productive.

If the Union representative participating on the committee, work group, or task force so desires, the chairperson of the committee, work group, or task force, in preparing the final report, will accept and specifically include the Union representative's concerns that were voiced at the meeting. The Union representative will be provided a copy

of the final committee, work group, or task force report at the same time through the same applicable distribution procedures as other committee, work group, or task force members.

The Union at the appropriate level will be provided the same advance notification of the committee, work group, or task force meeting at the same time as any other member of the committee, work group, or task force. This notification will allow for sufficient travel time.

Section b. In order to avoid the payment of overtime to Union representatives as a consequence of local committee participation, one of these enumerated procedures will be followed:

1. (preferred) the committee will meet during the day shift on a week day that is also the Union representative's regular workday and time;

2. the meeting time may be shifted to outside the day shift to fit the Union representative's work schedule (e.g., if on the evening watch);

3. Union representatives, with supervisory approval, may shift work schedules to earlier or later hours in order to overlap part of the day shift; or

4. if none of the three (3) methods above is feasible, the Union will appoint an alternate representative, or the parties may formulate an arrangement that is appropriate at the local level and agreed to by the parties.

Section c. It is the expectation that participation of the Union on committees, work groups, or task forces will be beneficial to both parties. Participation on committees, work groups, or task forces entails a responsibility and obligation on all participants to hold in confidence matters discussed as requested by the chairperson. Confidentiality does not preclude national Union participants from discussing issues solely with national Union Executive Board members. Local work group participants may, if necessary, discuss the work group issues with local or national Council of Prison Locals executives.

Section d. If the Union representative participating on the committee, work group, or task force so desires, the chairperson of the committee, work group, or task force will accept and specifically include the Union representative's concerns that were voiced at the meeting, without change, and forward them to the appropriate authority (deciding official). The Union representative will be provided a copy of the final

committee, work group, or task force report at the same time through the same applicable distribution procedures as other committee, work group, or task force members.

Section e. For those locations where a local Union representative is not on site, the Union at the appropriate level will be contacted by Management to arrange for appropriate and expeditious representation on these committees, work groups, or task forces.

ARTICLE 11 - OFFICIAL TIME

Section a. Official time is defined as paid duty time used for various labor relations and representational obligations in accordance with laws, rules, regulations, and this Agreement.

1. reasonable official time will be granted to elected/appointed Union officers, designated stewards, and other representatives authorized by the Union, in accordance with this article and to the extent that official time falls within the duty hours of the Union officer, steward, and/or representative affected;

2. the Union and the Agency recognize that the granting of official time may ultimately lead to improved labor management relations. Such a relationship is in the interest of all parties, including the public; and

3. except when specifically agreed to in advance, travel-related expenses for the Union's use of official time will not be paid by the Employer.

Section b. The procedures for approval of official time will be:

1. for locals covering one institution/facility, procedures outlined in Article 6 and 7 will be followed;

2. for locals covering more than one institution/facility, approval must be obtained from the requester's supervisor, who will coordinate with affected Wardens and supervisors;

3. for other situations, such as performing Union activities at an institution/facility not within the same local and/or region, approval may only be granted by the Regional Director or designee. To initiate this process, the Union representative should submit his/her request through his/her supervisor, who will forward the request through the Warden for concurrence, to the Regional Director or designee; and

4. the above procedures will not apply to any Union representative utilizing 100% official time. For purposes of notification, the procedures set forth in Article 7, Section h. will be followed.

Section c. It is understood that official time for designated Union representatives can be granted using the procedures set forth in Article

6(h), 7 (e), and 11(b) of this Agreement for the following purposes:

1. for formal discussions, as outlined in Article 7, Section l., and any other meeting with Agency (Management) officials concerning personnel policies, practices, or other general conditions of employment or any other matter covered by 5 USC, Chapter 71;

2. for unfair labor practice charges (ULP's) or any other proceedings before the FLRA in accordance with Section 7131(c) of 5 USC;

3. when an employee elects to have a Union representative in the following circumstances:

   a. at oral responses for probationary bargaining unit employees when such responses are applicable;

   b. to present oral and/or written responses to disciplinary/adverse actions or unacceptable performance actions proposed against non-probationary bargaining unit employees;

   c. to present a response to the reviewing official after receiving notice from the rating official on a denial of a within-grade increase;

   d. to represent an employee at an appropriate third party hearing, as well as appeals (to include interviewing witnesses scheduled to testify); and

   e. in Weingarten (investigatory) meetings in accordance with Article 6, Section f. of this Agreement;

4. to participate in committee meetings and/or work groups as authorized under Article 10 of this Agreement;

5. to participate with representatives of Management in negotiations at all levels;

6. to present the views of the labor organization to heads of agencies and other officials of the executive branch of the government, the Congress, or other appropriate authorities, when such matters may affect conditions of employment of bargaining unit employees as defined by 5 USC, Section 7103;

7. to travel to and attend training that is mutually beneficial to the parties. The Agency at its option may pay any travel-related expenses;

8. to assist an employee in all steps of the grievance process;

9. to review and/or respond to memoranda, letters, new instructions, manuals, notices, etc. which affect personnel policies, practices, and/or conditions of employment;

10. to complete necessary reports and forms to meet requirements imposed by federal agencies upon the Union to disclose certain information about its operations;

11. to confer with national staff representatives of the Union in connection with a grievance, arbitration, and/or unfair labor practice charge; and

12. for any other purpose agreed to by the parties.

It is understood that preparation time can be granted for the circumstances stated above after proper approval as stated in this section.

Official time will not be used for internal Union business, as stated in 5 USC, 7131(b).

Section d. The Council of Prison Locals 33 Executive Board (one (1) Council President, one (1) National Secretary/Treasurer, one (1) National Fair Practices Coordinator, six (6) Regional Vice-Presidents, one (1) National Legislative Coordinator, and one (1) National Occupational Health and Safety/OWCP Representative), are on 100% official time.

Section e. Any Union representative not on 100% official time will be granted official time in accordance with Section c. of this article.

Section f. Those national representatives utilizing official time from the time bank will be assigned to the day shift, Monday through Friday, while using this time.

Section g. When an employee is elected or appointed to a national officer's position, there will normally be no delay in his/her ability to begin utilizing time from the time bank. Conversely, those representatives who are no longer in office, either through election or appointment, will be removed from this status as soon as practicable.

Section h. Employee Union representatives will be excused from

duty, workload permitting, to attend training which is designed to advise representatives on matters within the scope of 5 USC, and which is of mutual benefit to the Employer and the Union. The employee Union representative wishing to attend such training will present a vendor's written description of the course to the Employer which demonstrates which portion of the training is mutually beneficial. Union representatives attending training authorized under this section shall be assigned to the day shift, Monday through Friday, while attending training.

The parties agree that training under this section is generally of mutual benefit when it covers areas such as contract administration, grievance handling, and information related to federal personnel/labor relations laws, regulations, and procedures. Training is not mutually beneficial when it deals with matters related to internal Union business.

Each local will be entitled to eighty (80) hours per calendar year of official time for such training during the term of this Agreement.

Fifty-five hundred (5500) hours per calendar year will be authorized to the President, Council of Prison Locals, to meet additional training needs under this section. These hours will be automatically increased by an additional fifty (50) hours each time the Employer opens a new institution. For the purposes of accountability for this time, as such allocations are made, the Council President will notify the Chief, Labor Relations Office, and the respective institution Chief Executive Officer, in writing. The Chief, Labor Relations Office, will also be provided with a quarterly report upon request by the Council President itemizing the current use and balance of such training.

The President of the Council of Prison Locals will be allocated a one-time bank of 3,120 hours of official time to distribute as he/she sees fit to assist in the training of Union officials concerning this Agreement. As allocations are made by the Council President for this purpose, a report will be made to the Chief, Labor Relations Office.

Section i. Once the term of office of employees elected or appointed to full time Union representative positions expires, said employees will return to work in the position of record, or a comparable position determined by Management, at the same grade level and location as the position of record, whenever possible.

ARTICLE 12 - USE OF OFFICIAL FACILITIES

Section a. The Employer agrees to permit distribution of notices and circulars sponsored by the Union to all employees in the unit through regular internal distribution procedures provided that they:

1. are reasonable in size;

2. are signed by the local President or designee;

3. contain nothing that would seem to identify them as official Employer material or imply that they are sponsored or endorsed by the Employer;

4. are limited to matters of direct concern to employees in relation to the Union or the Employer, which will not endanger staff or the security of the institution; and

5. require no significant staff time.

Section b. The Employer agrees to provide available meeting facilities upon request. Such facilities may be used by the locals during non-duty hours for Union official business providing such facilities are left in a sanitary condition and do not interfere with any institution programs. This matter may be negotiated in detail at the local level.

Section c. The use of Employer bulletin boards, office space, and office equipment is negotiable at the local level. It is understood that such use of these items is expected to promote efficient labor management relations. Under no circumstances will Employer manpower or supplies be used in support of internal Union business. Internal Union business is defined as: any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues).

Section d. Copies of Office of Personnel Management (OPM), Federal Bureau of Prisons, Department of Justice, and institution issuances, will be made available from appropriate officials for reference during normal office hours. Any other requested information will be provided in accordance with 5 USC, Section 7114(b).

Section e. For national Council Union representatives [one (1) National President, six (6) Regional Vice Presidents, and one (1) Secretary/Treasurer, and one (1) National Fair Practices Coordinator], office space and access to currently available office equipment will be provided at the institution of the national officer, where possible. Should the local institution be unable

to provide the office space, the Council officer may establish an office off-site at no expense to the Employer. It is understood that office equipment at such off-site locations will not be provided by the Employer.

ARTICLE 13 - QUESTIONNAIRES

Section a. Unless required by appropriate higher authority, the administration of questionnaires among employees shall be subject to prior consultation, and copies will be made available for review by the Union, prior to their use. Nothing in this article shall limit the Employer's right, after consultation with the Union, to distribute questionnaires which are strictly voluntary and on duty time. However, in the event that the name or identity of an employee is required, the employee shall be so notified in advance. The parties agree that they and their representatives will not take reprisal actions against employees for their participation or non-participation in the completion of such questionnaires.

1. all questionnaires will be submitted to the President and Executive Board of the Council of Prison Locals at least two (2) weeks prior to distribution to the field. The President of the Council, or designee, will submit a response on behalf of the Council to the Chief, Labor Relations Office, prior to the distribution date; and

2. the Union will have the right to review the language of the questionnaires and make suggestions prior to distribution to the field.

Section b. A copy of all final reports received by the Employer using data gathered under Section a. above, which will impact bargaining unit employees, will be provided to the President of the Council of Prison Locals. In case of a dispute in the application or interpretation of this article, the President of the Council of Prison Locals and the Chief, Labor Relations Office, or their designees, will discuss the problem prior to the filing of a formal complaint.

ARTICLE 14 - EMPLOYEE PERFORMANCE AND RATINGS

Section a. The Employer's performance evaluation program as applied to bargaining unit employees is intended to increase the efficiency of operations, foster good employee morale, strengthen employee-Management relationships, and evaluate work performance based upon established elements and performance standards. These standards and elements will be developed and communicated to each employee, and as they are applied to an employee, will be fair and based upon objective criteria and job-relatedness. In the event that employees do not understand portions of their performance requirements, it is the employees' responsibility to bring those specific areas to the attention of their supervisors.

Section b. Bargaining unit employees shall have the right to appeal their performance ratings through the negotiated grievance procedure with or without the Union. It is understood that only the Union or the Agency can pursue the matter to arbitration.

Section c. The parties to this Agreement endorse the concept that evaluations should be completed by supervisors who have knowledge of an employee's performance. Where employees serve subject to multiple supervision, it is recommended that, where practicable, such employees' ratings be completed by the supervisors for whom they worked during the rating period. This endorsement is not intended to waive any rights employees may otherwise have to grieve their performance ratings.

1. the Employer and its representatives are committed to following Agency policy regarding the performance appraisal program. This policy will be available for the employee's review upon request. This policy states that the following time frames will be adhered to in relation to performance log entries:

   a. rating officials must record specific incidents in the performance log within fifteen (15) working days of becoming aware of the incident;

   b. after an entry has been made in the performance log, the employee will be given an opportunity to see the entry as soon as practicable and before the entry is used officially, but no later than fifteen (15) working

days after the entry is made; and

c. these time requirements may be adjusted, if necessary, because of the rating official's or employee's absence.

Section d. The Employer agrees to provide information requested by the Union regarding the performance evaluation program and distribution of ratings if a valid request is made under the provisions of 5 USC, Chapter 7114(b)(4).

ARTICLE 15 - OUTSIDE EMPLOYMENT

Section a. Outside employment, including self-employment, must not result in, or create the appearance of, a conflict of interest with official duties or tend to impair the employee's mental or physical capacity to perform official duties and responsibilities. Approval of such outside employment may only be denied or withdrawn in writing and for good cause. Probationary status alone shall not be considered good cause for denying approval.

Section b. Employees engaging in outside employment in accordance with this article must provide written notification to the CEO using the appropriate form.

1. an employee must obtain written approval before engaging in outside employment which involves the practice of law or a subject matter, policy or program that is in the Bureau's area of responsibility. This includes, but is not limited to, architects, attorneys, chaplains, physicians, psychologists, security guard positions which are armed or have police power, work in a law enforcement environment (i.e. firearms instructors, translators, administrative positions, etc.), court-appointed advocates, private investigators, judgment recovery, auxiliary law enforcement, to include state militia, sheriffs, search and rescue, and fish and game wardens.

2. all other outside employment notification must be provided to the CEO within 30 days from the date the outside employment begins.

3. if an employee's outside activity is disapproved, the employee may grieve the disapproval action, in accordance with the negotiated grievance procedure.

If an employee changes duty stations, the employee must again submit the forms as stated in 1 and 2 of this article.

Section c. Employees who perform voluntary service involving religious activities, employee's club, credit union, or union activities, which do not conflict with their official duties or with the mission of the Federal Bureau of Prisons, will be exempted from the requirement to request approval for these activities. Employees who have questions regarding such conflicts are encouraged to contact their Chief Executive Officer and/or the Bureau's Ethics Officer.

ARTICLE 16 - POSITION DESCRIPTION AND REVIEW

Section a. When an employee alleges inequities in his/her position classification, the Employer will provide information on statutory appeal rights and procedures set forth in applicable regulations. The employee may elect to be represented or assisted by a Union representative in discussing the matter with supervisory or Management officials.

Section b. The Union at the local level shall be notified in advance when a position action is to be taken that will have an adverse effect on the unit employee's pay or status.

Section c. In regard to the phrase "other duties as assigned," or its equivalent, as used in position descriptions, it is understood that it will not be used to regularly assign work to an employee that is not reasonably related to the employee's basic job description. This does not preclude the Employer from detailing employees to other assignments in accordance with applicable laws. In the assignment of any work, the Employer will comply with applicable laws, including 5 USC and the decisions of the Federal Labor Relations Authority.

ARTICLE 17 - EMPLOYEE PERSONNEL FILES

Section a. No derogatory material of any nature which might reflect adversely upon the employee's character or career will be placed in any official personnel file, written or electronically maintained, without the employee's knowledge. This excludes investigative files and those matters for which disclosure is prohibited by applicable laws and regulations. Disciplinary and adverse action files are not considered investigative files.

Section b. Personnel records will be made available to the employee upon request, or to the employee's representative if authorized by the employee in writing, except for those matters prohibited by applicable laws and regulations. At the request of the employee or his/her representative, the Employer will copy any and all files pertaining to the employee as discussed in this section.

The official Personnel File, however, may be retrieved electronically by the employees, using the Employer's intranet.

ARTICLE 18 - HOURS OF WORK

Section a. The basic workweek will consist of five (5) consecutive workdays. The standard workday will consist of eight (8) hours with an additional thirty (30) minute non-paid, duty-free lunch break. However, there are shifts and posts for which the normal workday is eight (8) consecutive hours without a non-paid, duty-free lunch break.

Employees on shifts which have a non-paid, duty-free lunch break will ordinarily be scheduled to take their break no earlier than three (3) hours and no later than five (5) hours after the start of the shift. It is the responsibility of the Employer to schedule the employee's break, taking into consideration any request of the employee. The Employer will notify the affected employee of the specific anticipated time that the employee will be relieved for his/her lunch break. Any employee entitled to a non-paid, duty-free lunch break who is either required to perform work or is not relieved during this period will be compensated in accordance with applicable laws, rules, and regulations. The Employer will take the affected employee's preference into consideration in determining the manner of compensation (i.e., overtime versus compensatory time or early departure), except in cases where compensation is at the election of the employee. Management will not, without good reason, fail to relieve employees for a duty-free lunch break.

There will be no restraint exercised against any employee who desires to depart the institution/facility while the employee is on a non-paid, duty-free lunch break. For the purposes of accountability, the employee leaving the institution/facility will leave word with his/her supervisor.

Section b. The parties at the national level agree that requests for flexible and/or compressed work schedules may be negotiated at the local level, in accordance with 5 USC.

1. any agreement reached by the local parties will be forwarded to the Office of General Counsel in the Central Office who will coordinate a technical and legal review. A copy of this agreement will also be forwarded to the President of the Council of Prison Locals for review. These reviews will be completed within thirty (30) calendar days from the date the agreement is signed;

2. if the review at the national level reveals that the agreement is insufficient from a technical and/or legal standpoint, the Agency will provide a written response to the parties

involved, explaining the adverse impact the schedule had or would have upon the Agency. The parties at the local level may elect to renegotiate the schedule and/or exercise their statutory appeal rights; and

3. any agreement that is renegotiated will be reviewed in accordance with the procedures outlined in this section.

Section c. Every reasonable effort will be made by the Employer:

1. to ensure that all administratively controllable travel is performed in a paid duty status;

2. should an employee be required to travel outside of his/her regularly scheduled workday and/or workweek, such employee will be compensated to the extent allowable by applicable laws, rules, and regulations; and

3. to ensure that authorized travel and extensions to authorized travel will be made sufficiently in advance to ensure that the affected employee can receive advance travel funds, should the employee desire.

Section d. Quarterly rosters for Correctional Services employees will be prepared in accordance with the below-listed procedures.

1. a roster committee will be formed which will consist of representative(s) of Management and the Union. The Union will be entitled to two (2) representatives. Management will determine its number of representatives.

2. seven (7) weeks prior to the upcoming quarter, the Employer will ensure that a blank roster for the upcoming quarter will be posted in an area that is accessible to all correctional staff, for the purpose of giving those employees advance notice of assignments, days off, and shifts that are available for which they will be given the opportunity to submit their preference requests. Normally, there will be no changes to the blank roster after it is posted;

   a. employees may submit preference requests for assignment, shift, and days off, or any combination thereof, up to the day before the roster committee meets. Those who do not submit a preference request will

be considered to have no preference. Preference requests will be made on the Employee Preference Request form in Appendix B or in any other manner agreed to by the parties at the local level. The Employer will ensure that sufficient amounts of forms are maintained to meet the needs of the employees;

b. employee preference requests will be signed and dated by the employee and submitted to the Captain or designee. Requests that are illegible, incomplete, or incorrect will be returned to the employee. In order to facilitate Union representation on the roster committee, the employee is also encouraged to submit a copy of this request to the local Union President or designee;

c. if multiple preference requests are submitted by an employee, the request with the most recent date will be the only request considered; and

d. the roster committee will consider preference requests in order of seniority and will make reasonable efforts to grant such requests. Reasonable efforts means that Management will not arbitrarily deny such requests. (Seniority is defined in Article 19).

3. the roster committee will meet and formulate the roster assignments no later than five (5) weeks prior to the effective date of the quarter change;

4. the committee's roster will be posted and accessible to all Correctional Services employees no later than the Friday following the roster committee meeting;

5. once the completed roster is posted, all Correctional Officers will have one (1) week to submit any complaints or concerns. Correctional Officers will submit their complaints or concerns in writing to the Captain or designee. The employee may also submit a copy to the local President or designee. No later than the following Wednesday, Management and the Union will meet to discuss the complaints or concerns

received, and make any adjustments as needed;

6. the roster will be forwarded to the Warden for final approval;

7. the completed roster will be posted three (3) weeks prior to the effective date of the quarter change. Copies of the roster will be given to the local President or designee at the time of posting; and

8. the Employer will make every reasonable effort, at the time of the quarter change, to ensure that no employee is required to work sixteen (16) consecutive hours against the employee's wishes.

Section e. Nothing in this article is intended to limit an employee from requesting and remaining on a preferred shift for up to one (1) year. In this regard, no employee may exceed one (1) continuous year on a particular shift, and all officers are expected to rotate through all three (3) primary shifts during a four (4) year period.

Section f. Roster committees outside the Correctional Services department will be formed to develop a roster unless mutually waived by the department head and the Union. It is recommended that the procedures in Section d. be utilized. These rosters will be posted three (3) weeks prior to implementation. Copies will be given to the local President or designee at the time of posting.

Section g. Sick and annual relief procedures will be handled in accordance with the following:

1. when there are insufficient requests by employees for assignment to the sick and annual relief shift, the roster committee will assign employees to this shift by chronological order based upon the last quarter the employee worked the sick and annual relief shift;

2. assignment to the sick and annual roster satisfies the requirement for rotation through the three (3) primary shifts;

3. no employee will be assigned to sick and annual relief for subsequent quarters until all employees in the department have been assigned to sick and annual relief, unless an employee specifically requests subsequent assignments to sick and annual relief;

4. employees assigned to sick and annual relief will be notified at least eight (8) hours prior to any change in their shift; and

5. reasonable efforts will be made to keep sick and annual relief officers assigned within a single shift during the quarter.

Section h. Ordinarily, the minimum time off between shifts will be seven and one-half (7½) hours, and the minimum elapsed time off on "days off" will be fifty-six (56) hours, except when the employee requests the change.

Section i. Employees, while serving on federal, state, or local jury duty, shall be considered as being assigned to the day shift with Saturdays and Sundays off until the completion of such duties. The change in work schedule shall be for the weeks during which such duties are performed.

Section j. No employee will be required to stand roll calls except on duty time. Where roll calls are not used, the Employer will provide other means of alerting oncoming employees to unusual or dangerous situations of which the employees should be made aware.

Section k. If a change in a job assignment involving a change from an inside position to an outside position or vice versa is necessary, and the employee has not been properly advised in advance, and adverse weather or conditions of the assignment warrant, the employee will be given an opportunity to obtain and change into appropriate clothing while on duty status. Other options may be explored, including the assigning of another employee to the position.

Section l. The Employer is committed to its responsibility regarding the health of all employees. Toward that end, the Employer may require that the health condition of employees requesting assignment changes for medical reasons be reviewed by the Chief Medical Officer. If employees wish, medical evidence from their private physicians may be provided to the Chief Medical Officer, who will fully consider this information before making reports to the supervisors with appropriate recommendations.

1. employees suffering from health conditions or recuperating from illnesses or injuries, and temporarily unable to perform assigned duties, may voluntarily submit written requests to their supervisors for temporary assignment to other duties. Such employees will continue to be considered for promotional opportunities for which they are otherwise qualified;

2. the Employer will continue to accommodate employees who suffer a disability in accordance

with applicable laws, rules, and regulations; and

3. employees must report any planned or anticipated requests for leave due to medical or psychiatric hospitalization, treatment, or recuperation as early as possible so that necessary staffing adjustments may be planned.

Section m. Employees may request to exchange work assignments, days off, and/or shift hours with one another. Supervisory decisions on such requests will take into account such factors as security and staffing requirements and will ensure that no overtime cost will be incurred.

Section n. The Employer agrees to consider the circumstances surrounding an employee's request against reassignment when a reassignment is necessary.

Section o. Employees shall be given at least twenty-four (24) hours notice when it is necessary to make shift changes, except for employees assigned to the sick and annual leave roster [as specified in Section g (4).], or when the requirement for prior notice would cause the vacating of a post. For the purpose of this Agreement, a shift change means a change in the starting and quitting time of more than two (2) hours. Work assignments on the same shift may be changed without advance notice.

Section p. Specific procedures regarding overtime assignments may be negotiated locally.

1. when Management determines that it is necessary to pay overtime for positions/assignments normally filled by bargaining unit employees, qualified employees in the bargaining unit will receive first consideration for these overtime assignments, which will be distributed and rotated equitably among bargaining unit employees; and

2. overtime records, including sign-up lists, offers made by the Employer for overtime, and overtime assignments, will be monitored by the Employer and the Union to determine the effectiveness of the overtime assignment system and ensure equitable distribution of overtime assignments to members of the unit. Records will be retained by the Employer for two (2) years from the date of said record.

Section q. The Employer retains the right to order a qualified bargaining unit employee to work overtime after making a reasonable effort to obtain a

volunteer, in accordance with Section p. above.

Section r. Normally, nonprobationary employees, other than those assigned to sick and annual relief, will remain on the shift/assignment designated by the quarterly roster for the entire roster period. When circumstances require a temporary [less than five (5) working days] change of shift or assignment, the Employer will make reasonable efforts to assure that the affected employee's days off remain as designated by the roster.

Section s. Notification of shift or assignment changes for employees not assigned to sick and annual relief will be confirmed in writing and signed by the Employer, with a copy to the employee.

Section t. Ordinarily, scheduled sick and annual relief assignments will be posted at least two (2) weeks in advance.

Section u. Except as defined in Section d. of this article, the words ordinarily or reasonable efforts as used in this article shall mean: the presumption is for the procedure stated and shall not be implemented otherwise without good reason.

ARTICLE 19 - ANNUAL LEAVE

Section a. The Employer and the Union agree that annual leave is the right of the employee and not a privilege, and should be used by employees. All employees will be allowed utilization of their annual leave at least to the extent that annual leave carry-over will not exceed the statutory limitation for each individual. Any employee who wishes to accumulate up to the maximum, statutory carry-over will be allowed to do so. Annual leave will be scheduled as requested by employees in accordance with the provisions of this article insofar as it does not decrease the safety, security, or mission accomplishments of the organization.

Section b. All departments will use total-leave year scheduling.

1. all departments will apply the features outlined in Section 1. of this article in scheduling annual leave for all bargaining unit employees unless mutually waived by the department head and the Union; and

2. in leave scheduling, both parties agree that an employee's annual leave will, whenever possible and to the greatest extent possible, begin on the first day of their workweek and end on the last day of their workweek. Both parties agree there will be times when this practice will not be feasible; however, the Employer will not arbitrarily deviate from the above practice.

Section c. Employee requests for unscheduled leave will be handled in accordance with applicable laws, rules, and regulations, including the Family and Medical Leave Act and the Family Friendly Leave Act.

1. requests for annual leave, sick leave, and/or leave without pay, for the purposes of adopting a child, will be handled in accordance with applicable laws, rules, and regulations.

Section d. Annual leave/sick leave, whichever is appropriate, should be granted to an employee in the case of death in the employee's family. A family member is defined as a spouse or spouse's parents, son and daughter, including adopted sons or daughters and their spouses, parents, brothers and sisters and their spouses, and any individual related by blood or affinity whose close association is the equivalent of a family relationship. Annual leave may be granted to an employee to attend the funeral of a law enforcement/firefighter killed in the line of duty. Annual leave may be granted to an employee to attend the funeral of a co-worker.

Section e. In the event of a conflict between unit members as to the choice of vacation periods, individual seniority for each group of employees will be applied. Seniority in the Federal Bureau of Prisons is defined as total length of service in the Federal Bureau of Prisons. Seniority for Public Health Service (PHS) employees will be defined as the entrance date for the PHS employee being assigned to a Federal Bureau of Prisons facility. It is understood that, as the Bureau of Prisons absorbed the U.S. Public Health Service facilities located at Lexington, Kentucky and Fort Worth, Texas, agreements were made to give those PHS staff seniority for leave purposes based on their entire PHS career.

Section f. In accordance with applicable laws, rules, and regulations, the Employer may grant administrative leave or other appropriate leave during emergency situations in the local area for affected employees. These may include, but are not limited to, extreme weather conditions, serious interruptions in public transportation, and disasters such as fire, flood, or other natural phenomena. In metropolitan areas, the heads of Federal Executive Boards are responsible for the development and dissemination of special adverse weather leave notices and procedures for their locales. In areas not covered by Federal Executive Boards, the Chief Executive Officer will consider information from local, county, and/or state law enforcement officials, Department of Transportation officials, and weather services, who often disseminate information concerning hazardous traveling conditions in various localities. This information will be used in the decision process as to whether or not to grant appropriate forms of leave.

Section g. Leave must not be denied for arbitrary or capricious reasons. Denial or cancellation of leave should be based on work-related reasons. When cancellation appears to be necessary, the Employer agrees to notify the employee as far in advance as possible that his/her approved scheduled annual leave is to be canceled. The employee will be allowed to express any personal concerns. In making the decision, the Employer will consider potential disruption to the employee's family or personal financial loss.

Section h. The Employer recognizes that participation in internal Union business is a legitimate use of annual leave. The Employer will make every reasonable effort to grant leave to employees engaged in such activities.

Section i. Employees within the same department may request to trade approved annual leave periods. After an employee has been selected for transfer from his/her department/facility, such requests will

not be allowed except when the employee is subject to losing annual leave at year's end. Vacated leave periods will be offered in accordance with the provisions of this article.

Section j. When annual leave periods become available by virtue of employee transfers, retirements, resignations, or other causes, these leave period(s) will be posted for interested employees in accordance with the provisions of this article.

Section k. Employees may request cancellation of scheduled annual leave. Requests for such cancellation shall be made in writing as soon as possible.

Section l. Total leave-year scheduling procedures may be negotiated locally provided that:

1. a leave committee of at least one (1) supervisor and at least one (1) Union representative, the number to be negotiated locally, will be responsible for implementing the seniority requirements of this article regarding total leave-year scheduling; and

2. after considering the views and input of the Union, the Employer will determine the maximum number of employees that may be on scheduled annual leave during each one (1) week [seven (7) consecutive days] period, and when scheduled annual leave will be curtailed because of training and/or other causes such as military leave. To the extent possible, such determination will be made and announced prior to setting up the annual leave schedule.

Section m. Total leave-year scheduling does not prohibit employees from requesting leave for various lengths and reasons throughout the leave year. The Employer will consider the employee's needs for an expeditious response, and such leave requests will normally be approved or denied within twenty-four (24) hours of the request.

ARTICLE 20 - SICK LEAVE

Section a. Employees will accrue and be granted sick leave in accordance with applicable regulations, including:

1. sick leave may be used when an employee receives medical, dental, or optical examinations or treatment; is incapacitated for the performance of duties by sickness, injury, or pregnancy and confinement; is required to give care and attendance to a member of his/her immediate family who is afflicted with a contagious disease (as defined by applicable regulations); or would jeopardize the health of others by his/her presence at his/her post of duty because of exposure to a contagious disease;

   Additionally, if appropriate, sick leave requests will be handled in accordance with the provisions of the Family Friendly Leave Act, and the employee may also elect leave under the Family and Medical Leave Act;

2. the Employer may require the employees to submit requests for, or substantiate, sick leave on Standard Form 71, Application for Leave. The Employer will make the SF-71 available for completion and signature by employees;

3. except in an emergency situation, any employee who will be or is absent due to illness or injury will notify the supervisor, prior to the start of the employee's shift or as soon as possible, of the inability to report for duty and the expected length of absence. The actual granting of sick leave, however, will be pursuant to a personal request by the employee to the immediate supervisor, unless the employee is too ill or injured to do so, for each day the employee is absent, up to three (3) days, provided the supervisor has not approved other arrangements. If the supervisor is unavailable, the employee will contact the next available supervisor in the chain of command to request sick leave;

4. employees returning from sick leave will so notify their supervisors as far in advance of the start of their shifts as possible. In the case of an extended illness of more than three (3) days, employees will periodically update their supervisors as to their ability to return to work; and

5. the Employer may require the employee to submit a medical certificate or other administratively acceptable evidence, i.e., written statement, of the reason for an absence for family care purposes. The requirements for documentation will be the same as that required in Section c. of this article.

Section b. Employees will not be required to furnish a medical slip to substantiate sick leave for three (3) days or less. However, in cases of questionable sick leave usage of any length, the employee will be given advance notice, in writing, that all future absences due to sickness must be substantiated by a medical certificate. This requirement will be reviewed every three (3) months by the Employer and the determination of whether to continue will be forwarded to the employee in writing. When the decision to require or continue to require a medical certificate is discussed with the employee, the Employer will notify and give the Union the opportunity to be present. Sick leave records will be provided to the Union in accordance with Section e. of this article.

Section c. In those instances where an employee was on sick leave in excess of three (3) days and did not require medical attention, the Employer may accept a written statement from the employee in lieu of a medical certificate.

Section d. When required by the exigencies of the situation and when the employee can be expected to return to duty, sick leave, up to a total of thirty (30) days, may be advanced for disability or ailment. Advance sick leave because of pregnancy may be granted for medical reasons. The Chief Executive Officer may grant the advance sick leave as requested or may modify or deny the request. Denials will be forwarded to the employee in writing.

Section e. Upon request of the employee concerned, sick leave records will be made available to the employee and/or the employee's representative.

ARTICLE 21 - TRAINING

Section a. The Employer and the Union agree that the training and development of employees within the unit is a matter of primary importance to the parties and that through the procedures established for employment-Management cooperation the parties will seek the maximum training and development of employees.

Section b. The Union will be afforded membership on the training committee and will be entitled to express its views, make recommendations, and otherwise participate, except in the selection of participants for training, determining the content of training, and determining how the training budget will be spent.

Section c. Requests for annual leave for education and training purposes will be handled in accordance with the provisions of Article 19.

Section d. Mandatory training at the institution level will be conducted while the employee is on duty, during the employee's duty hours. This training is distinguished from training which the employee initiates and/or elects on his/her own in which to participate.

1. if the Employer requires employees to obtain licenses or certification for basic job requirements beyond those required to meet the basic requirements for appointment in their position (specialized technical training), the Employer will pay for any training that may be required for such licenses or certification, which will normally take place while the employee is in a duty status;

2. whenever possible, appropriate training will be conducted prior to certification testing which is required by the Employer; and

3. when assignments change or if new technology or equipment is introduced, and the employee requests training, the Employer will provide such training to the maximum extent feasible, provided the Employer determines that training is needed for affected employees.

Section e. The Employer will provide copies of locally generated training announcements to the Union as they are posted.

Section f. A record of the employee's detail to other departments will be documented and placed in his/her personnel file to be used as a reference for qualification for future job openings.

Section g. The Union may request to participate in Annual Refresher Training at the local level.

ARTICLE 22 – EQUAL EMPLOYMENT OPPORTUNITY

Section a. The Employer and the Union agree to cooperate in providing equal opportunity for all qualified persons; to prohibit unlawful discrimination in accordance with federal anti-discrimination laws and executive orders; and to promote full realization of equal opportunity through a positive and continuing effort. The Union agrees to become a positive force in this endeavor and to become a partner with the Employer in the exploration and implementation of ideas and programs whereby equal employment opportunities will be achieved.

Section b. The Employer and the Union will continue to cooperate in supporting all affirmative action programs.

In order to fulfill the goals in Sections a. and b. of this article, the Council of Prison Locals will be entitled to send one (1) representative to nationally approved special emphasis program conferences attended by the Employer, provided the Employer is not responsible for any of the costs associated with this attendance. The Employer will grant official time for this attendance.

Section c. Each institution will establish an Affirmative Action Committee consisting of membership from the Employer and the Union. These committees normally will meet monthly for the purpose of advising Management on the status of the EEO program and serving as a sounding board for determining attitudes of and toward minorities and women at the facility. These committees will participate in the development and implementation of the Employer's local Affirmative Action Plan and Federal Equal Employment Opportunity Recruitment Plan. Further, these committees will give program guidance and support for the special emphasis programs and will monitor activities such as the Upward Mobility Program, recruitment, hiring, retention, and other employment programs to ensure that no prohibited barriers to equal employment exist.

Section d. The committee will have access to all records and documents necessary to discharge its responsibilities.

Section e. EEO counselors will inform employees of their right to representation during the EEO process.

ARTICLE 23 – UPWARD MOBILITY

Section a. Each institution will have an Upward Mobility Program designed to allow employees to successfully cross over from low skill occupations with limited potential to higher skill occupations offering greater opportunities for growth and development.

Section b. Vacancies which are to be filled under the Upward Mobility Program will be identified as such on the vacancy announcement and employees wishing to be considered for the vacancy must make application in accordance with the merit promotion plan in order to receive consideration.

Section c. Shortly after a selection is made, the employee and the supervisor should jointly develop a career development plan which clearly outlines the training, both formal and on the job, that the employee will receive.

Section d. If the employee selected for an upward mobility position fails to successfully perform the technical responsibilities of his/her position, every reasonable effort will be made to return unsuccessful participants to their former position, grade, and pay or to other positions of similar duties and grades. Such placements do not ensure return to any geographic location. The employee so moved will be entitled to a pay rate in accordance with all applicable laws, rules, and regulations.

Section e. If a report on the Upward Mobility Program is required by a higher authority or is otherwise generated by the Employer, the President of the Council of Prison Locals will be provided a copy within fifteen (15) calendar days of the submission of the report. This information will be provided in compliance with the provisions of the Privacy Act.

ARTICLE 24 – EMPLOYMENT OF RELATIVES

Section a. There will be no prohibitions to the employment of a relative (including spouse) of an employee provided that:

1. there is no evidence of advocacy of employment, either orally or in writing, by the relative (including spouse) already employed; and

2. there is no situation created in which one relative is in the supervisory chain of command over the other.

Section b. For purposes of this article, the definition of "relative" includes the specific relationships stated in 5 CFR, Section 310.102 (i.e., father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in -law, sister-in-law, brother-in-law, stepfather, stepmother, stepdaughter, stepson, stepbrother, stepsister, half-brother, or half-sister).

Section c. If employees are selected or designated for reassignment or promotion to a new duty station, relatives, including spouses, may be considered for possible selection by the Employer for a position at the same new duty station subject to the restrictions of Section a., above.

ARTICLE 25 - REDUCTION IN FORCE, TRANSFER OF FUNCTION, AND REORGANIZATION

Section a. The Agency and the Union jointly recognize that occasions may arise where adjustments of the workforce may be necessary either by reduction in force, transfer of function, or reorganization.

Section b. Definitions:

1. reduction in force procedures are invoked when a competing employee is released from his/her competitive level by furlough for more than thirty (30) days, separation, demotion, or reassignment requiring displacement, when the release is required because of lack of work, shortage of funds, insufficient personnel ceiling, reorganization, the exercise of reemployment rights or restoration rights, or reclassification of an employee's position due to erosion of duties when such action will take effect after an agency has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within one hundred and eighty (180) days;

2. transfer of function means the transfer of the performance of a continuing function from one (1) competitive area and its addition to one (1) 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; and

3. for the purposes of this article, reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

Section c. Prior to the effective date of any reduction in force or transfer of function within the control of the Bureau of Prisons, the Union will receive at least nine (9) months advance general notice. This notice, in writing, will include the reasons for the action, the approximate number and types of positions affected, and the approximate date of the action. Both the President of the Council of Prison Locals and the concerned local President will receive this notice. This notice will also include an invitation to the local Union to attend a meeting with local Management to discuss the planned action and answer relevant questions. The Union will be kept informed should any changes

occur in this planned activity; however, informing the Union of such changes will not trigger a new notice period to the Union.

After the notification to the Union, affected employees will be advised of the impending organizational change. Employees will be notified of the pertinent details and their rights related to the planned activity.

Section d. The Employer, to the extent feasible, will avoid invoking reduction in force procedures. This may involve achieving the reductions through attrition or other alternatives. The Employer will adhere to all applicable laws, rules, and regulations in regard to reduction in force, transfer of function, and reorganization.

Section e. The Employer agrees to provide affected employees at least ninety (90) calendar days notice before the effective date of release under reduction in force procedures. All such notices will contain any information required by regulation, to include appeal rights, and any other information agreed to by the parties at the national level.

Employees whose positions are affected by a transfer of function will be provided sixty (60) calendar days notice before the effective date of the transfer of function. Employees will have ten (10) calendar days to respond regarding their intention to accept or decline to move with the transfer of function.

Section f. Reorganizations, as defined in Section b(3)., which affect the working conditions of bargaining unit employees, are subject to bargaining, as appropriate.

Section g. In accordance with regulations, the Employer will maintain the records needed to determine the retention standing of employees affected by reduction in force procedures. Employees may inspect the retention registers and related records to the extent that the registers and records have a bearing on a specific action taken, or to be taken, against the employee. Affected employees will have the right to the assistance of the Union when reviewing this information.

Section h. The parties agree that technological changes such as automation and reengineering are desirable for the efficient operation of the Agency. The parties will negotiate the impact of technological changes with the Union.

ARTICLE 26 – RETIREMENT AND RESIGNATION

Section a. Retirement information can be obtained upon request from the Human Resource Services Center (HRSC). Contact information can be provided from the local servicing Human Resource Office or Employer's intranet. Approximate computations of annuities shall be provided by the HRSC upon request, normally no more frequently than every six (6) months, and only when the employee is nearing retirement eligibility. All requests for retirement information shall be kept confidential if the employee so requests.

Section b. Employees are free to resign at any time, to set the effective date of the resignation, and to have the reasons for resigning entered into their official records. The Employer may decline a request to withdraw a resignation before its effective date only when the Employer has a valid reason and explains that reason to the employee. A resignation may not be withdrawn after its effective date.

Section c. The Employer will provide an informational package for employees nearing retirement upon request, which will deal with general retirement issues and special retirement considerations of employees retiring. This information will be provided at no cost to the employee.

The training committee at each institution will review the retirement assistance needs of its employees and seek to obtain such training either through in - house, OPM, nearby federal agencies, or other sources (such as, but not limited to, adult education courses).

ARTICLE 27 - HEALTH AND SAFETY

Section a. There are essentially two (2) distinct areas of concern regarding the safety and health of employees in the Federal Bureau of Prisons:

1. the first, which affects the safety and well-being of employees, involves the inherent hazards of a correctional environment; and

2. the second, which affects the safety and health of employees, involves the inherent hazards associated with the normal industrial operations found throughout the Federal Bureau of Prisons.

With respect to the first, the Employer agrees to lower those inherent hazards to the lowest possible level, without relinquishing its rights under 5 USC 7106. The Union recognizes that by the very nature of the duties associated with supervising and controlling inmates, these hazards can never be completely eliminated.

With respect to the second, the Employer agrees to furnish to employees places and conditions of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm, in accordance with all applicable federal laws, standards, codes, regulations, and executive orders.

Section b. The parties agree that participation in and monitoring of safety programs by the Union is essential to the success of these programs. The Union recognizes that the Employer employs Safety and Health Specialists whose primary function is to oversee the safety and health programs at each institution.

1. it is understood by the parties that the Employer has the responsibility for providing information and training on health and safety issues. The Union at the appropriate level will have the opportunity to provide input into any safety programs or policy development; and

2. although the Employer employs Health and Safety Specialists whose primary function is to oversee the health and safety programs at each facility, representatives of the Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Centers for Disease Control (CDC), and other regulatory and enforcement agencies that have a primary function of administering the laws, rules,

regulations, codes, standards, and executive orders related to health and safety matters are the recognized authorities when issues involving health and safety are raised.

Section c. The Employer will establish a safety and health committee at each institution. The committee will serve in an advisory capacity to the Chief Executive Officer and be composed of equal numbers of representatives of the Employer and the Union. The primary duties of the safety and health committee shall be to:

1. develop and recommend specific goals and objectives designed to reduce the number and severity of on-the-job accidents and occupational illnesses;

2. review reports of on-the-job accidents, injuries and occupational illnesses, to identify specific hazards and adverse trends, and to formulate specific recommendations to prevent recurrences;

3. review findings of inspections, audits, and program reviews to assist in the formulation of recommendations for corrective action; and

4. review plans for abating hazards. Safety and health committees will meet quarterly. More frequent meetings may be held at the discretion of the Chief Executive Officer. Written minutes of each meeting will be maintained and made available to all committee members. All information necessary for the effective conduct of the safety and health committee will be made available to the committee.

Section d. Official time will be granted to the Union representative(s) to attend the safety and health committee meetings and to participate in any health and safety activity under laws, rules, regulations, executive orders, and this Agreement.

Any costs incurred to participate in any local area meetings or activities referenced in this article will be reimbursed by the Employer in accordance with the Federal Travel Regulations.

Section e. Unsafe and unhealthful conditions reported to the Employer by the Union or employees will be promptly investigated. Any findings from said investigations relating to safety and health conditions will be provided to the Union, in writing, upon request. No employee will be subject to restraint, interference, coercion, discrimination, or reprisal

for making a report and/or complaint to any outside health/safety organization and/or the Agency.

Section f. When a safety and health inspection is being conducted by an outside agency such as OSHA, the National Institution for Occupational Safety and Health (NIOSH), or a private contractor, the Union will be invited and encouraged to have a local representative participate.

Section g. Material Safety Data Sheets for all hazardous materials in use will be maintained in the Safety Office.

Section h. If an employee is injured in the performance of duty, the employee will be informed of the procedures to be followed for filing a claim for benefits under the Federal Employees' Compensation Act. The employee will be informed of the leave options available, including sick leave, annual leave, leave without pay, etc.

1. when an employee is injured, the Employer will provide him/her with the appropriate forms for filing for benefits under the Federal Employees Compensation Act;

2. at the employee's request, a representative of the Employer will assist the employee with filing for benefits under the Federal Employees Compensation Act; and

3. when an employee files a claim under the Federal Employees Compensation Act, the Employer will review the forms to ensure that they are properly completed and will file these forms, as appropriate, in a timely manner [no later than ten (10) working days after receipt, in accordance with 20 CFR 10.102].

Section i. Employees will be provided:

1. emergency diagnosis and first aid treatment of injury or illness, as necessary, that occurs or is aggravated during working hours and that are within the competence of the professional staff and facilities of the health services unit;

2. administration of treatment and medications, furnished by the employees and prescribed in writing for them by their personal physicians, at the discretion of the Chief Medical Officer; and

3. preventive services within the competence of the professional health staff at their discretion.

Section j. Repetitive requests by employees for medical records may be denied unless the file has changed since the last request.

Section k. When an employee receives a hepatitis B vaccination, the Employer will test the employee to determine if the vaccination had the desired effect. If the desired effect was not achieved, the employee will be treated again, at the employee's request.

ARTICLE 28 - UNIFORM CLOTHING

Section a. For uniformed employees, adequate foul weather gear and/or clothing will be provided and worn if the employee is required to work an outside assignment or post in inclement weather. This foul weather gear will be issued to employees for the duration of the assignment to the outside post or for the duration of the foul weather season, whichever is more practical, and will then be returned to the Employer to be cleaned, if necessary, prior to reissuance. (Duration of assignment means: the employee's quarterly, weekly, or daily assignment.) The type of foul weather gear and/or clothing may be negotiated locally.

1. uniformed employees who are not assigned to an outside post but who occasionally are assigned outside in inclement weather in the performance of their duties, and for which no Employer-owned foul weather gear is available for issuance, may wear their personal foul weather clothing provided it complies with the provisions of Article 6, Section e., is distinguishable from that issued to inmates, and is in compliance with the policy on employee uniforms and allowances [except as modified in Section a(3). below];

2. non-uniformed employees assigned on a temporary or emergency basis to a post that is outside or when the weather is inclement may wear their personal foul weather clothing provided it complies with provisions of Article 6, Section e., is distinguishable from that issued to inmates, and no adequate Employer-owned foul weather gear is available for issuance; and

3. the wearing of personal foul weather clothing sold by Bureau of Prisons related organizations is at the discretion of the Chief Executive Officer. All employee organizations, including the Union, will be treated the same in this regard. Furthermore, any such items may display no more than the employee's name, name/logo of the organization, identifies the Bureau of Prisons, and/or the official name of the institution.

Section b. The Employer will ensure that adequate supplies of security and safety equipment are available for issue to and/or use by employees during the routine performance of their duties. This includes, but is not limited to, whistles, key chains, key clips, belts for equipment, disposable resuscitation masks and rubber gloves, handcuffs, two-way radios,

body alarms, flashlights, hand-held metal detectors, weapons, ammunition, etc. Cases or holders, whichever is appropriate, to carry such equipment will also be available for these particular items of equipment normally using such cases or holders. Employees receiving such items will be accountable for them until they are returned to the Employer.

Section c. The Employer will provide additional equipment or clothing for safety and health reasons when necessary due to the nature of the assignment and as prescribed by the Safety Officer. The Safety Officer will consider input from the safety committee as appropriate. This equipment or clothing will be in a size identified by the employee and will not be charged to the employee's uniform allowance.

Section d. On armed posts, if the wearing of a bullet-proof vest is mandated or requested, there will be a sufficient supply of such vests provided by the Employer. The Employer will ensure that adequate numbers and sizes of such vests are available, including vests sized for female employees. The cleaning of these vests may be negotiated locally.

Section e. If any equipment issued to an employee becomes unserviceable, it is his/her responsibility to inform the Employer so that the item can be repaired or replaced, as appropriate.

Section f. The Employer will pay an allowance each year to each employee who is required by policy to wear a uniform in the performance of their official duties. The allowance for each prescribed uniform will be no less than $600.00 per year, per uniformed employee.

1. employees who are entitled to a uniform allowance will be paid the allowance each year, which will be provided to the employee on or before the anniversary of his/her entry on duty with the Bureau of Prisons;

2. new employees covered by this section will be issued an allowance within the first week of employment; and

3. employees who transfer or are reassigned from a non-uniformed position to a uniformed position will receive an allowance, in the full amount, within the first week of assuming uniformed duties.

Section g. Safety-toed footwear for uniformed and non-uniformed employees (when such employees work in a designated foot hazard area) will be shoes or boots at the discretion of the individual employee. The cost

and quality of said footwear will be negotiated locally.

1. safety shoes will be worn by all employees who work in areas designated as foot hazard areas by the institution supplement; and

2. each eligible employee is entitled to two (2) pairs of shoes and/or boots on initial issue and one (1) pair every nine (9) months thereafter.

Section h. Uniforms for all staff will be in accordance with policy, and only those staff occupying positions outlined in policy will be eligible for a uniform allowance. Policy will not be changed or implemented until negotiated with the Union.

Section i. Any additional uniform items, when appropriate for health and safety reasons, will be negotiated at the local level.

1. the dress uniform will be worn on specified posts agreed to by the parties at the local level. On all other uniformed posts, ties will be worn with the long-sleeved shirt, sweater, or blazer. Employees will have the option of wearing a tie when wearing the short-sleeved shirt; and

2. for posts where the uniform/personal clothing may become excessively soiled, additional uniform/clothing items may be negotiated at the local level.

Section j. The Employer agrees that uniformed employees will be allowed to wear the following adornments on official uniforms:

1. one (1) official Council of Prison Locals lapel pin, approximately the size of a dime; and

2. a pocket protector imprinted with the Union logo.

Section k. The Union may attempt to locate additional suppliers of uniform clothing. If such suppliers are located and can certify that they are able to supply uniform items which meet all specifications applicable to the authorized uniform, they will be added to the list of approved suppliers. Any additions must be approved by the Employer.

Section l. No employee will be required to have his/her first name on his/her official Bureau of Prisons name tag.

ARTICLE 29 - WORK SITE CONDITIONS

Section a. Vehicles will be maintained in a roadworthy condition with all safety equipment in good operating condition.

Section b. Employees will be provided with clean and sanitary toilet facilities which are readily accessible and which are separate from those used by inmates. Specific toilet facilities for taking of inmate urinalysis testing will be negotiated locally.

1. all toilet facilities will be capable of being locked by the employee while the employee is utilizing them;

2. employees who are assigned to perimeter patrols will be provided access to toilet facilities. Recognizing that institutions vary in size and layout, relief will be provided in an expedient manner. Normally, this will take place within ten (10) minutes; and

3. all toilet facilities will be equipped with a toilet and sink.

Section c. The Employer agrees to provide, at a minimum, all permanent, active institution towers with the following items:

1. suitable armchairs for observation;

2. heaters/air conditioning;

3. permanent type toilet;

4. sink; and

5. other items may be negotiated locally.

Provisions for those towers constructed temporarily for construction supervision, recreation supervision, etc. will be negotiated locally.

Section d. Shelter for outside posts for use of employees during inclement weather will be negotiated locally.

Section e. The Employer agrees to provide, maintain, or repair all equipment for staff to fulfill their duties.

ARTICLE 30 - DISCIPLINARY AND ADVERSE ACTIONS

Section a. The provisions of this article apply to disciplinary and adverse actions which will be taken only for just and sufficient cause and to promote the efficiency of the service, and nexus will apply.

1. in exceptional circumstances, the President, Council of Prison Locals, may immediately request that the appropriate Regional Director or designated official consider a stay of a removal or suspension in excess of fourteen (14) days until a decision is rendered by an arbitrator under Article 32, or an initial decision of the Merit Systems Protection Board is issued. Such requests must be made prior to the effective date of the contested action. Stay of actions will not apply to:

    a. probationary actions; or

    b. actions taken under 5 USC 7513, where there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed.

Section b. Disciplinary actions are defined as written reprimands or suspensions of fourteen (14) days or less.

Adverse actions are defined as removals, suspensions of more than fourteen (14) days, reductions in grade or pay, or furloughs of thirty (30) days or less.

Section c. The parties endorse the concept of progressive discipline designed primarily to correct and improve employee behavior, except that the parties recognize that there are offenses so egregious as to warrant severe sanctions for the first offense up to and including removal.

Section d. Recognizing that the circumstances and complexities of individual cases will vary, the parties endorse the concept of timely disposition of investigations and disciplinary/adverse actions.

1. when an investigation takes place on an employee's alleged misconduct, any disciplinary or adverse action a rising from the investigation will not be proposed until the investigation has been completed and reviewed by the Chief Executive Officer or designee; and

2. employees who are the subject of an investigation where no

disciplinary or adverse action will be proposed will be notified of this decision within seven (7) working days after the review of the investigation by the Chief Executive Officer or designee. This period of time may be adjusted to account for periods of leave.

Section e. When formal disciplinary or adverse actions are proposed, the proposal letter will inform the affected employee of both the charges and specifications, and rights which accrue under 5 USC or other applicable laws, rules, or regulations.

Any notice of proposed disciplinary or adverse action will advise the employee of his/her right to receive the material which is relied upon to support the reasons for the action given in the notice.

Section f. Employee representational rights are addressed in Article 6.

Section g. The Employer retains the right to respond to an alleged offense by an employee which may adversely affect the Employer's confidence in the employee or the security or orderly operation of the institution. The Employer may elect to reassign the employee to another job within the institution or remove the employee from the institution pending investigation and resolution of the matter, in accordance with applicable laws, rules, and regulations.

Section h. When an employee exercises his/her right to orally respond to a proposed disciplinary or adverse action, the reply official will allow ample time for the employee to respond at this meeting. Although the reply official may ask follow-up questions, nothing requires the employee to answer such questions during this meeting.

Section i. Supervisors are not required to annotate oral counseling sessions in an employee's performance log.

Section j. When disciplinary action is proposed against an employee, the employee will have ten (10) working days to respond orally or in writing. When adverse action is proposed, he/she will have fifteen (15) working days to respond orally or in writing. Approval or denial of extension requests must be provided within two (2) working days. These time frames do not apply to probationary employees or actions taken under the crime provision.

Section k. Employees making false complaints and/or statements against other staff may be subject to disciplinary action.

ARTICLE 31 - GRIEVANCE PROCEDURE

Section a. The purpose of this article is to provide employees with a fair and expeditious procedure covering all grievances properly grievable under 5 USC 7121.

Section b. The parties strongly endorse the concept that grievances should be resolved informally and will always attempt informal resolution at the lowest appropriate level before filing a formal grievance. A reasonable and concerted effort must be made by both parties toward informal resolution.

Section c. Any employee has the right to file a formal grievance with or without the assistance of the Union.

1. after the formal grievance is filed, the Union has the right to be present at any discussions or adjustments of the grievance between the grievant and representatives of the Employer. Although the Union has the right to be present at these discussions, it also has the right to elect not to participate;

2. if an employee files a grievance without the assistance of the Union, the Union will be given a copy of the grievance within two (2) working days after it is filed. After the Employer gives a written response to the employee, the Employer will provide a copy to the Union within two (2) working days. All responses to grievances will be in writing;

3. the Union has the right to be notified and given an opportunity to be present during any settlement or adjustment of any grievance; and

4. the Union has the right to file a grievance on behalf of any employee or group of employees.

Section d. Grievances must be filed within forty (40) calendar days of the date of the alleged grievable occurrence. If needed, both parties will devote up to ten (10) days of the forty (40) to the informal resolution process. If a party becomes aware of an alleged grievable event more than forty (40) calendar days after its occurrence, the grievance must be filed within forty (40) calendar days from the date the party filing the grievance can reasonably be expected to have become aware of the occurrence. A grievance can be filed for violations within the life of this contract, however, where the statutes provide for a longer filing period, then the statutory period would control.

If a matter is informally resolved, and either party repeats the same violation within twelve (12) months after the informal resolution, the party engaging in the alleged violation will have five (5) days to correct the problem. If not corrected, a formal grievance may be filed at that time.

Section e. If a grievance is filed after the applicable deadline, the arbitrator will decide timeliness if raised as a threshold issue.

Section f. Formal grievances must be filed on Bureau of Prisons "Formal Grievance" forms and must be signed by the grievant or the Union. The local Union President is responsible for estimating the number of forms needed and informing the local HRM in a timely manner of this number. The HRM, through the Employer's forms ordering procedures, will ensure that sufficient numbers of forms are ordered and provided to the Union. Sufficient time must be allowed for the ordering and shipping of these forms.

1. when filing a grievance, the grievance will be filed with the Chief Executive Officer of the institution/facility, if the grievance pertains to the action of an individual for which the Chief Executive Officer of the institution/facility has disciplinary authority over;

2. when filing a grievance against the Chief Executive Officer of an institution/facility, or when filing a grievance against the actions of any manager or supervisor who is not employed at the grievant's institution/facility, the grievance will be filed with the appropriate Regional Director;

3. when filing a grievance against the actions of an employee, supervisor, or manager supervised by a specific BOP division, the grievance will be filed with the Assistant Director of that division;

4. when filing a grievance against a Regional Director, the grievance will be filed with the Director of the Bureau of Prisons, or designee;

5. in cases of violations occurring at the national level, only the President of the Council of Prison Locals or designee may file such a grievance. This grievance must be filed with the Chief, Labor Relations Office; and

6. grievances filed by the Employer must be filed with a corresponding Union official.

Section g. After a formal grievance is filed, the party receiving the grievance will have thirty (30) calendar days to respond to the grievance.

1. if the final response is not satisfactory to the grieving party and that party desires to proceed to arbitration, the grieving party may submit the grievance to arbitration under Article 32 of this Agreement within thirty (30) calendar days from receipt of the final response; and

2. a grievance may only be pursued to arbitration by the Employer or the Union.

Section h. Unless as provided in number two (2) below, the deciding official's decision on disciplinary/adverse actions will be considered as the final response in the grievance procedure. The parties are then free to contest the action in one (1) of two (2) ways:

1. by going directly to arbitration if the grieving party agrees that the sole issue to be decided by the arbitrator is, "Was the disciplinary/adverse action taken for just and sufficient cause, or if not, what shall be the remedy?"; or

2. through the conventional grievance procedures outlined in Article 31 and 32, where the grieving party wishes to have the arbitrator decide other issues.

Section i. The employee and his/her representative will be allowed a reasonable amount of official time in accordance with Article 11 to assist an employee in the grievance process.

ARTICLE 32 - ARBITRATION

Section a. In order to invoke arbitration, the party seeking to have an issue submitted to arbitration must notify the other party in writing of this intent prior to expiration of any applicable time limit. The notification must include a statement of the issues involved, the alleged violations, and the requested remedy. If the parties fail to agree on joint submission of the issue for arbitration, each party shall submit a separate submission and the arbitrator shall determine the issue or issues to be heard. However, the issues, the alleged violations, and the remedy requested in the written grievance may be modified only by mutual agreement.

Section b. When arbitration is invoked, the parties (or the grieving party) shall, within three (3) working days, request the Federal Mediation and Conciliation Service (FMCS) to submit a list of seven (7) arbitrators.

1. a list of arbitrators will be requested utilizing the FMCS Form R 43;

2. the parties shall list on the request any special requirements/qualifications, such as specialized experience or geographical restrictions;

3. the parties shall, within five (5) workdays after the receipt of the list, attempt to agree on an arbitrator. If for any reason either party does not like the first list of arbitrators, they may request a second panel;

4. if they do not agree upon one of the listed arbitrators from the second panel, then the parties must alternately strike one (1) name from this list until one (1) name remains; and

5. the arbitrator selected shall be instructed to offer five (5) dates for a hearing.

Section c. The grieving party will be able to unilaterally select an arbitrator if the other party refuses to participate, only if the grieving party:

1. gives written notification to the HRM of its intent to unilaterally select an arbitrator; and

2. allows a time period of two (2) workdays for the HRM to participate in the selection after the written notification.

Section d. The arbitrator's fees and all expenses of the arbitration, except as noted below, shall be borne equally by the Employer and the Union.

1. the Employer will pay travel and per diem expenses for:

   a. employee witnesses who have been transferred away from the location where the grievance arose;

   b. employee witnesses who were temporarily assigned to the location where the grievable action occurred; and

   c. employee witnesses where the parties mutually agree to hold the hearing at a site outside the commuting area;

2. the Employer will determine the location of the arbitration hearing; however, in the event that the Union, in good faith, advises the Employer that the designated location is unacceptable, the hearing will then be held at a mutually agreed upon neutral site; and

3. in Council-level grievances, the Employer will determine the location of the hearing. The Employer will pay the travel and per diem expenses for the Union witnesses and one (1) Council representative. The Employer will not be responsible for the travel and per diem expenses of more than five (5) Union witnesses unless mutually agreeable to the parties or ordered by the arbitrator.

Section e. The arbitration hearing will be held during regular day shift hours, Monday through Friday. Grievant(s), witnesses, and representatives will be on official time when attending the hearing. When necessary to accomplish this procedure, these individuals will be temporarily assigned to the regular day shift hours. No days off adjustments will be made for any Union witnesses unless Management adjusts the days off for any of their witnesses.

1. the Union is entitled to the same number of representatives as the Agency during the arbitration hearing. If any of these representatives are Bureau of Prisons employees, they will be on official time;

2. the Union is entitled to have one (1) observer in attendance at the hearing. If Management has an observer, the Union's observer will be on official time.

Section f. The Union and the Agency will exchange initial witness lists no later than seven (7) days prior to the

arbitration hearing. Revised witness lists can be exchanged between the Union and the Agency up to the day prior to the arbitration.

Section g. The arbitrator shall be requested to render a decision as quickly as possible, but in any event no later than thirty (30) calendar days after the conclusion of the hearing, unless the parties mutually agree to extend the time limit. The arbitrator shall forward copies of the award to addresses provided at the hearing by the parties.

Section h. The arbitrator's award shall be binding on the parties. However, either party, through its headquarters, may file exceptions to an award as allowed by the Statute. The arbitrator shall have no power to add to, subtract from, disregard, alter, or modify any of the terms of:

1. this Agreement; or

2. published Federal Bureau of Prisons policies and regulations.

Section i. A verbatim transcript of the arbitration will be made when requested by either party, the expense of which shall be borne by the requesting party. If the arbitrator requests a copy, the cost of the arbitrator's copy will be borne equally by both parties. If both parties request a transcript, the cost shall be shared equally including the cost of the arbitrator's copy.

ARTICLE 33 – MERIT PROMOTION

The Merit Promotion plan is herein incorporated as part of this Agreement. These procedures will not be changed, to the extent they are negotiable, for the life of this Agreement except in writing and in accordance with Article 42.

ARTICLE 34 - EMPLOYEE ASSISTANCE PROGRAM

Section a. The parties recognize alcohol, drug abuse, and emotional problems as treatable illnesses which may impair an employee's attendance and/or job performance. Accordingly, the Employer agrees to provide, on a confidential basis, a counselor for employees who voluntarily acknowledge alcohol, drug abuse, and/or emotional problems and seek counseling or referral assistance. The Employer further agrees that:

1. employees having an alcohol, drug abuse, and/or emotional problem will receive the same consideration and offer of assistance that is extended to employees having any other illness;

2. records of employees with alcohol, drug abuse, and/or emotional problems will be maintained confidentially as are other medical records;

3. sick leave may be granted for the purpose of treatment or rehabilitation as in any other illness;

4. alcoholism and/or drug dependency may be considered under certain circumstances to be treatable illnesses and/or disabling conditions in accordance with applicable laws, rules, regulations, and case cites. The Employee Assistance Program (EAP) is a confidential program available to all Bureau employees. Immediate families of employees who have alcohol, drug, or emotional problems, and employees with immediate family members with alcohol, drug, or emotional problems, are also eligible for this program. Employees who are concerned that they or a family member may have an alcohol, drug, or emotional problem which has an adverse effect on their performance and personal well-being are encouraged to voluntarily seek assistance, referral, and/or information on a confidential basis; and

5. an employee can request protection under safe harbor provisions of the Drug-Free Workplace Program. To participate in this program, an employee must:

   a. voluntarily identify himself/herself as a user of illegal drugs prior to being identified through other means;

   b. obtain counseling or rehabilitation through an

Employee Assistance Program; and

c. thereafter refrain from using illegal drugs. This self-referral option allows an employee to step forward and identify himself/herself as a user of illegal drugs for the purpose of obtaining counseling or rehabilitation. Employees who make false statements about illegal drug use during background investigations will not be eligible for safe harbor protections.

Section b. A request for counseling and/or referral services will not, in itself, jeopardize an employee's job security or promotion opportunities. However, it is understood that the presence of a treatable disorder and willingness to accept counseling does not prevent the Employer, except as limited by law, case law (firm choice), rule, or regulation, from taking appropriate administrative action on misconduct unrelated to the disorder or on misconduct which is influenced by the disorder. It is the intent of the parties to provide an opportunity for employees to resolve their personal problems.

Section c. The President of the Council of Prison Locals or designee will be notified of and have the right to participate in the national EAP meetings, when held.

Section d. Management and the Union share a commitment to the safety of employees through the identification and prevention of workplace violence.

ARTICLE 35 – PRIORITY PLACEMENT PROGRAM

Section a. A Priority Placement Listing (PPL) will be maintained for the purpose of giving priority consideration in filling positions to Federal Bureau of Prisons employees who have been assigned to lower-graded positions through reduction in force procedures, or correction of classification error actions. Additionally, the PPL will be used to give the same consideration to employees who are granted such priority consideration rights as a result of grievance decisions and settlements or other complaint decisions and settlements.

Section b. In order to be placed on the PPL, eligible employees must make application on the prescribed forms for those positions for which they wish to be considered and for which they are eligible.

Section c. Employees normally will be maintained on the PPL until they are selected for a position such as they requested or until they have been on the PPL for three (3) years, whichever comes first. However, employees placed on the PPL as the result of grievance or complaint decisions or settlements will receive the number of priority considerations required under the terms of decisions or settlements, not to exceed three (3) years on the PPL.

Section d. The PPL will be consulted prior to the filling of a unit position, and all qualified employees on the listing for that position will be considered. If an employee on the PPL is considered but not selected for a vacancy, the selecting official will justify the non-selection in writing. Copies of the written justification will be placed in the promotion file and forwarded to the employee concerned.

ARTICLE 36 – HUMAN RESOURCE MANAGEMENT

The Union and the Employer endorse the philosophy that people are the most valuable resource of the Federal Bureau of Prisons. We believe that every reasonable consideration must be made by the Union and the Employer to fulfill the mission of the organization. This will be achieved in a manner that fosters good communication among all staff, emphasizing concern and sensitivity in working relationships. Respect for the individual will be foremost, whether in the daily routine, or during extraordinary conditions. In a spirit of mutual cooperation, the Union and the Employer commit to these principles.

ARTICLE 37 – SEXUAL HARASSMENT

The Union and the Employer recognize that a positive working environment is conducive to fostering good employee morale and serves to promote staff efficiency and productivity. Both parties endorse the prevention of sexual harassment in accordance with all laws, rules, and regulations.

ARTICLE 38 - QUALIFIED DISABLED EMPLOYEES

The Employer agrees to abide by all laws, rules, and regulations regarding the employment of individuals with disabilities. In this regard, the Employer will reasonably accommodate qualified employees with disabilities.

ARTICLE 39 - FURLOUGHS

Section a. This article sets forth procedures to be followed if the Employer determines it to be necessary to furlough bargaining unit employees for thirty (30) days or less due to a lack of work, funds, or operating authority. These procedures will be carried out in accordance with laws, rules, and regulations.

The procedures to be followed for furloughs of more than thirty (30) days are contained in applicable portions of 5 USC, 5 CFR, and in Article 25 of this Agreement.

Section b. Unless unforeseeable circumstances present themselves, such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities, Management will notify the Union at the appropriate level, in advance and in writing, of the need to furlough employees. This notice will contain:

1. the reason(s) for the furlough;

2. the organizational segment(s) affected by the furlough; and

3. the estimated number of employees to be furloughed.

Section c. When a furlough is necessary, and Management decides to furlough some, but not all, employees:

1. the Agency will determine the number and types of positions which will be vacated in consideration of the workload and staffing levels needed to perform essential functions;

2. employees who wish to be furloughed will be given priority, provided they fall within a group of employees scheduled for furlough. If there are an insufficient number of volunteers, and Management has no legitimate work-related reason to retain some employees in the group and furlough others, employees in the group will be selected for furlough in an equitable manner; and

3. employees who will be furloughed on less than a full-time basis will be allowed to submit a preference for furlough days, and will have those preferences considered in developing the roster of furloughed employees.

Section d. An employee who is to be furloughed for thirty (30) days or less is entitled to at least thirty (30) days advance written notice. This advance notice is not required if unforeseeable circumstances arise as discussed in

Section b. and in applicable laws, rules, and regulations.

Section e. If a furlough is necessary due to lapse in appropriations, and the regulations allow, employees will be permitted to request placement in a furlough status for an absence that was previously approved as annual leave or sick leave. Employee requests to be placed in furlough status will be considered insofar as they do not decrease the safety, security, or mission accomplishment of the organization, and as long as the approval would be in line with appropriate regulations.

Section f. When appropriations allow, employees who were furloughed, or who were required to work during the furlough, will be compensated.

Section g. In accordance with laws, rules, and regulations, health benefits will continue during a furlough period for those employees who opt for continued coverage, and basic life insurance will continue for the time periods specified in applicable laws, rules, and regulations.

ARTICLE 40 – ASBESTOS

Section a. The Agency will continue to conduct asbestos containing material (ACM) surveys of targeted facilities to determine the presence of asbestos and/or lead-based paint, as funding is available.

1. these surveys will be conducted by a qualified professional contractor;

2. when conducting the survey, the Union will be invited and encouraged to have a local representative participate in accordance with Article 27; and

3. the Union will have the opportunity to receive or review copies of the final report or survey completed for ACM/lead-based paint by the Agency in accordance with Article 27.

Section b. Qualified staff will only work with asbestos during emergencies, clean-up/repair, renovation, and maintenance to include encapsulation. The area or quantity allowed for those operations will not exceed one (1) glove bag.

Section c. Where it has been determined that asbestos exists in a facility, the Employer will ensure that the staff exposures are controlled in accordance with the action levels set forth in 29 CFR 1926.1101.

Section d. The Employer recognizes its responsibilities involving staff notification of suspected or asbestos contained material. This notification will be given yearly at annual refresher training with initial notification during Institution Familiarization.

Section e. When all of the conditions as specified in applicable laws, rules, and regulations are met for hazardous duty pay or environmental differential pay, employees will be compensated as required.

Section f. Asbestos containing material will be stored, labeled, and disposed of in accordance with EPA and state regulatory agency guidelines, as appropriate.

Section g. The Employer will initiate a maintenance program in all facilities that contain asbestos. Such maintenance programs will include, but not be limited to:

1. periodic examinations of asbestos containing materials to detect deterioration;

2. written procedures for handling asbestos containing materials;

3. written procedures for asbestos disposal; and

4. written procedures for dealing with asbestos-related emergencies.

Section h. In areas where asbestos is being abated, warning signs will be displayed which clearly detail the danger of asbestos and the restrictive entry procedures to anyone except qualified workers, and will also denote the requirements for the use of proper protective equipment. These signs will be in a location to alert personnel so that proper protective steps can be taken before staff proceed into a restricted area.

Section i. Protective clothing and equipment will be issued to all employees required to work with asbestos in accordance with 29 CFR 1926.1101.

Section j. In accordance with 29 CFR 1926.1101, the Employer shall institute a program for all employees who, for a combined total of thirty (30) or more days per year, are engaged in Class I, II, or III work or are exposed at or above the permissible exposure limit for a combined thirty (30) days or more per year.

When the employee is assigned to an area where exposure to asbestos may be at or above the permissible exposure limit for thirty (30) or more days per year, or engage in Class I, II, or III work for a combined total of thirty (30) or more days per year, a medical examination must be given within ten (10) working days following the thirtieth (30th) day of exposure.

ARTICLE 41 – PUBLICATION AND DISTRIBUTION OF THIS AGREEMENT

Section a. This Agreement will be published by the Employer, at no cost to the Union or any bargaining unit employees.

Section b. The Agreement will be printed in an 8½" x 11" format.

Section c. This Agreement will be published and distributed as soon as possible, but within seventy-five (75) days of the completion of the ratification process and Agency head review.

Section d. The Employer will provide a copy of this Agreement to all current employees at each institution/facility within the time frame set in Section c. above. New employees will receive copies of the Agreement during their orientation. The Employer will maintain a supply of this Agreement at each facility and will honor replacement requests from employees.

Section e. Should any revision of this Agreement be necessary, all expenses related to revising this Agreement will be borne by the Employer. Distribution will be made in accordance with Section d., above.

Section f. The Employer will provide the President of the Council of Prison Locals six hundred (600) copies of this Agreement. If this Agreement is revised, six hundred (600) copies of the revised Agreement will be provided to the Council of Prison Locals President.

ARTICLE 42 - EFFECTIVE DATE AND DURATION OF THIS AGREEMENT

Section a. This Agreement will take effect upon completion of the Union ratification and Agency head review process in accordance with 5 USC, Section 7114(c).

Section b. This Agreement will be in full force and effective for three (3) years from the effective date, but may be extended in one (1) year increments thereafter by mutual consent of the parties. Written notice may be given by either party to the other not less than sixty (60) days but not more than ninety (90) days prior to the expiration date that it desires to amend the Agreement. In the event notice is given, the parties will begin negotiating within thirty (30) days. If negotiations are not completed by the expiration date, the Agreement will be automatically extended until a new Agreement is mutually agreed upon/approved.

Section c. If neither party desires to renegotiate this Agreement, the parties will execute new signatures and date.

Section d. Amendments to this Agreement may be negotiated at any time by mutual agreement of the parties. The Agreement will be reopened upon the request of either party to revise or amend as required by new laws or regulations of appropriate higher authorities.

At the end of the eighteenth month following enactment of this Agreement, either party may request to reopen the Agreement at which time each party may select no more than two (2) articles for renegotiation. Any revisions or amendments will remain in force for the remainder of the Agreement. Local supplemental agreements may be reopened by mutual agreement of the parties at the local level.

APPENDIX A

GROUND RULES FOR NEGOTIATION OF SUPPLEMENTAL AGREEMENTS

1. Contract negotiations will take place at a mutually agreed upon site.

2. Negotiations will commence on an agreed upon Monday morning and continue, on consecutive days, through Friday, if necessary. If additional time is needed to conclude negotiations, the same Monday through Friday schedule will be used for consecutive weeks. Proposals will be exchanged no less than fourteen (14) days prior to commencement of negotiations.

3. Negotiations will be conducted during the regular day shift hours (typically 7:30 am - 4:00 pm).

4. Members of the Union negotiating team will be assigned to day shift hours, with a Monday through Friday schedule, for the duration of actual negotiations.

5. Union negotiators will be on official time during the course of negotiations, to exclude mutually agreed upon breaks.

6. Shift changes and up to eighty (80) hours of official time will be granted to the Union to prepare for negotiations.

7. Management will notify the Union at least fourteen (14) calendar days prior to the beginning of negotiations of the number of negotiators assigned to the Management team. The Union will be entitled to a minimum of five (5) negotiators on official time or the number of Management negotiators, whichever is greater.

8. Negotiators may be replaced by alternates who will have the same rights to speak for and bind their principals as the members they replace. The chief negotiators will give advance notice of a substitution so as to allow for appropriate reliefs, if possible.

9. The chief negotiators may designate any members of their teams to make appropriate presentations.

10. Articles for negotiation will be considered in numerical order. Either party may move to table an article, or any part of an article, but the tabling of an article will only be done by the mutual consent of the parties. Any article, or part of an article, that is tabled will be brought from the table prior to the conclusion of the negotiations. Either party may move to bring an article, or part of an article, from the table; however, the bringing of an article or part of an article will only be done by mutual consent while other articles are still pending, in numerical order. When all articles have been initially addressed, and the parties cannot agree as to bringing which tabled articles from the table, tabled articles will again be addressed in numerical order.

11. Either party may call a caucus. The party calling the caucus will leave the negotiating room and will meet in another suitable location.

12. Copies of needed laws, rules, regulations, or policies will be made available to the Union by the Agency upon request.

13. As proposals are agreed upon, the chief negotiator for each party will initial the final language, thereby certifying the agreement.

14. Either party may request the services of the Federal Mediation and Conciliation Service.

15. The Union negotiating team has the authority to speak for the local membership; however, the local supplemental agreement will not be binding upon the Union unless ratified by the membership.

16. Review of the local supplement will be conducted in accordance with Article 9, Section d. of the Master Agreement.

17. By mutual agreement, any provisions of the ground rules may be altered or modified at any time.

APPENDIX B

QUARTERLY EMPLOYEE PREFERENCE REQUEST FORM

Article 18, Section d(2)(d): The roster committee will consider preference requests in order of seniority and will make reasonable efforts to grant such requests. Reasonable efforts means that Management will not arbitrarily deny such requests. (Seniority is defined in Article 19).

DATE OF REQUEST _____

NAME OF EMPLOYEE _____ **POSITION** _____

DEPARTMENT _____ **E.O.D.** _____

SIGNATURE OF EMPLOYEE _____

Article 18, Section d(2)(a): Employees may submit preference requests for assignment, shift, and days off, or any combination thereof,...

My first choice request is:

Shift_____ Days off_____ Assignment_____

My second choice request is:
Shift_____ Days off_____ Assignment_____

My third choice request is:
Shift_____ Days off_____ Assignment_____

----------to be completed by the Roster Committee----------

Action by the Committee:

Shift _____

Days off _____

Assignment _____

SENIORITY NUMBER _____

cc: Union, Employee

INDEX

Executed this 29th day of May 2014.

For the Council of Prison Locals.
AFGE:

Clifton J. Buchanan

Philip W. Glover

Michael Meserve

Sandra Parr

Roger Payne

Dwayne Person

Michael Rufe

Robert Swanson

For the Federal Bureau of Prisons:

C. Eichenlaub

L. Cristina Griffith

Dan Joslin

Sheila Kiernan

Paul W. Layer

J. L. Norwood

Frank Strada

Christopher Wade

Eric O. Young
President, CPL-33

Thomas R. Kane
Deputy Director
Federal Bureau of Prisons

Charles E. Samuels, Jr.
Director
Federal Bureau of Prisons