

1 UNION - February 24, 2003

2

**Article 1**

3

**GOVERNING LAWS AND REGULATIONS**

4 **Section 1. Relationship to Laws and Government-Wide Rules and Regulations**

5 In the administration of all matters covered by this Agreement, officials and employees will be  
6 governed by existing or future laws and existing Government-wide rules and regulations as defined 5  
7 U.S.C. 71 and by subsequently enacted Government-wide rules and regulations implementing 5  
8 U.S.C. 2302.

9 **Section 2. Past Practices**

10 It is agreed and understand that any prior benefits and practices and understandings which were in  
11 effect on the effective date of this Agreement, and which are not specifically covered by this  
12 Agreement, and do not detract from it, will not be changed except in accordance with 5 U.S.C.71.

13

1  
2 **UNION – Final Offer Revised**

3 **Article 3**

4  
5 **EMPLOYEE RIGHTS**

6  
7  
8  
9 **Section 1. Right to Unionism**

10  
11 A. Each employee will have the right to join, or assist the Union, or to refrain  
12 such activity, freely and without fear of penalty or reprisal, and each employee  
13 will be protected in the exercise of such right. Except as otherwise provided  
14 under law, such right includes the right:

15  
16 - to act for the Union in the capacity of a representative, and the right, in that  
17 capacity, to present the views of the Union to heads of agencies and other officials  
18 of the executive branch of the Government, the Congress, or other appropriate  
19 authorities; and

20  
21 - to engage in collective bargaining with respect to conditions of employment  
22 through representatives.  
23

24 **Section 2. Whistle-Blower Protection**

25  
26 Employees will be protected against reprisal for the disclosure of information which the  
27 employee reasonably believes evidences a violation of any law, rule, or regulation, or  
28 gross mismanagement, a gross waste of funds, or an abuse of authority, or a substantial  
29 and specific danger to public health or safety, unless the disclosure is specifically  
30 prohibited by law, in accordance with 5 U.S.C. 2302(b)(8).  
31

32 **Section 3. Document and Property Loss/Theft**

33  
34 An employee is accountable for Government documents or property in their possession  
35 and/or custody. Employees exercising reasonable care will not be held responsible for  
36 documents or property damaged, lost, or stolen from their possession and/or custody.  
37

38  
39 **Section 4. Official Records and Files - Including those Maintained on Computer**

40  
41 A. Employee social security numbers (SSNs) will be kept confidential. The Agency  
42 agrees to maintain this confidentiality by taking the following actions.

- 43  
44 1. Earnings and Leave Statements” will be delivered to employees in a sealed,  
45 plain white envelope.  
46 2. SSNs on all printed travel documents, (i.e., both the employee and any file

1 copies) will be blacked out.

2  
3 B. No personnel record may be collected, maintained, retained, or disclosed except  
4 in accordance with law, Government-wide regulation, this Agreement, and the  
5 Privacy Act. All personnel records are confidential, will be known or viewed by  
6 officials only with a legitimate administrative need to know, and must be retained  
7 in a secure location.

8  
9 C. Individual employee personnel records include the Official Personnel Folder  
10 (OPF), the Employee Performance File (EPF), the Employee Medical Folder  
11 (EMF), as prescribed under 5 C.F.R. Part 293. Other individual person rds  
12 which may be collected, maintained and retained and are subject to the  
13 Act requirements are provided for in the Office of Personnel Management Privacy  
14 Act notice. They include general personnel records, records of adverse actions,  
15 performance based reduction in grade and removal actions, and  
16 resignation/termination of probationers, recruiting, examining, and placement  
17 records, applicant race, sex, national origin, and disability status records, and  
18 position classification appeal records.

19  
20 D. Employees and/or their authorized representatives, who have been so authorized  
21 in writing, have the right to examine any of their personnel records in the  
22 presence of a management official. The employee has the right to a reasonable  
23 amount of duty time to examine, prepare and enter into the record employment-  
24 related information, including a response to material placed in such records.

25  
26 E. Access to Personnel records of the employee by the employee and/or the  
27 authorized representative will normally be granted within two (2) working days of  
28 the request if such records are maintained on the premises in which the employee  
29 is located. If the records are not so maintained, the Agency will immediately  
30 initiate action to obtain the records from their location and will make them  
31 available to the employee as soon as possible. Grievance time limits will be  
32 stayed in the event of delay in the provision of relevant records.

33  
34 F. Other than records that are exempt, any records that have not been disclosed to an  
35 employee on a timely basis and placed in his/her supervisor work folder should  
36 not be used in any disciplinary, adverse, or performance based actions.

37  
38 **Section 5. Supervisor Work Folder**

39  
40 A. Except as specifically authorized by this Article, the supervisor work folder  
41 (SWF) is the only other authorized file for records that may be maintained on an  
42 employee.

43  
44 B. Individual managers may maintain a supervisory working file (also known as  
45 "supervisory working folder") on each of their employees. These files are subject  
46 to the same collection, maintenance, retention and disclosure requirements

1           pertaining to other individual employee records, including the provisions of the  
2 Privacy Act, 5 U.S. C. 552.

3  
4    C.    Supervisory working files are used by managers in carrying out personnel  
5 management responsibilities. As such, these files may include documents  
6 concerning individual employee development plans, recommendations for  
7 awards, training plans or history, discipline or performance, and other such  
8 records the manager determines to be appropriate for carrying out his/her ongoing  
9 personnel management responsibilities.

10  
11   D.    Supervisory working file should be kept in a secure location, e.g., a lock  
12 cabinet, etc., to ensure their security and confidentiality.

13  
14   E.    Employees shall be notified and given a photocopy of any documents placed in  
15 their supervisory working file within three working days after the document is  
16 placed in the file by the manager. Upon request, employees may review the  
17 documents contained in the supervisory working files in the presence of a  
18 designated management official.

19  
20   F.    The files will be screened and purged annually and outdated material will be  
21 removed. Material will be considered outdated if there is no recurrence of the  
22 incident of deficiency within a 12 month period.

## 23 24 **Section 6. Memory Joggers**

25  
26   A.    Personal notes pertaining to an employee not qualifying as a system of records  
27 under the Privacy Act may only be kept and maintained by and for the personal  
28 use of the manager who wrote them. They will not be shown or circulated to  
29 anyone, even the manager's secretary or another manager of the same employee.  
30 Personal notes shown or circulated to anyone must be maintained in accordance  
31 with this Article. These personal notes or memory joggers will not be used to  
32 circumvent timely disclosure to an employee, nor may they be used to retain  
33 information that should properly be contained in a system of records such as the  
34 Supervisory Working File. The personal notes will be kept or destroyed as the  
35 manager who wrote them sees fit.

36  
37   B.    If a memory jogger is maintained in electronic form, such record will be secured  
38 and kept solely under the control of the manager who created it.

39  
40   C.    After 12 months, information contained in a memory jogger must be reduced to  
41 writing and put into a system of records or it cannot be used in an administrative  
42 action taken against an employee. This section does not change the intent of  
43 Section 4.G above.

## 44 45 **Section 7. Right to Union Representation**

46

1 A. If an employee wishes to discuss a representational matter with a Union  
2 representative, the employee will, upon request, have the right to contact and meet  
3 with the Union representative on duty time. If it is necessary for the employee to  
4 leave the building/work area to meet with the representative, the employee will be  
5 released from duties unless there is a pressing operational exigency.

6  
7 B. When a management official is aware that a meeting may lead to any  
8 performance/adverse/disciplinary action, the management official will inform the  
9 employee as early as possible of the general purpose of the meeting and will  
10 inform the employee of their right to have a Union representative present if he/she  
11 chooses.

12  
13 In addition, anytime an employee reasonably believes (either prior to or during  
14 the examination, discussion, or interview) that a meeting may result in a  
15 disciplinary action against him/her, he/she may request Union representation.  
16 Once an employee chooses to exercise this right by requesting representation, no  
17 further questioning or action will take place until the employee's representative is  
18 present, provided no unreasonable delay occurs. However, this does not apply to  
19 run-of-the-mill work conversations.

20  
21 C. The Agency retains its right to communicate with employees on matters not  
22 inconsistent with Chapter 71 of Title 5 of the U.S.C. Consistent with 5 U.S.C. 71,  
23 the Agency will not communicate with employees regarding changes in  
24 conditions of employment without sufficient advance notice to the Union and  
25 fulfillment of its statutory and contractual obligations to the Union.

26  
27 D. The Agency will provide the Union with reasonable advance written notice of  
28 written personnel surveys concerning conditions of employment that involve  
29 bargaining unit employees. The Agency will also provide the Union with an  
30 advance written copy of survey results as soon as possible. This section is not  
31 intended to terminate any Union involvement in such surveys that may exist in  
32 accordance with past practices or 5 U.S.C. 71. It is further understood that  
33 employee surveys will conform to the requirements of 5 U.S.C. 71.

34  
35 E. Consistent with 5 U.S.C. 7114(a)(2)(A), as the exclusive representative of  
36 bargaining unit employees, the Union will be given sufficient advance notice to  
37 be represented at any formal discussion between one or more representatives of  
38 the Agency and one or more employees or their representatives concerning any  
39 grievance, formal EEO complaint settlement discussions or any personnel policy  
40 or practices or other general condition of employment.

41  
42 F. The attendance of the designated Union representative will be acknowledged by  
43 the Agency at the start of such formal discussions. The Union's representative  
44 will be given the opportunity to ask questions on behalf of the employees and may  
45 make a brief statement as to the Union's position on the matter under discussion.  
46

1 G. In conducting investigations that may result in an adverse determination about an  
2 employee's rights, benefits, and privileges, the Parties are reminded that the  
3 Privacy Act requires that, to the greatest extent practicable, information should be  
4 collected directly from the subject employee.  
5

6 H. The Union has the right to be present during questioning of potential bargaining  
7 unit witnesses for any third party hearing.  
8  
9

#### 10 **Section 8. Last Chance Agreement**

- 11
- 12 1. Last Chance Agreements will only be considered after a disciplinary or adverse  
13 action has been proposed.
  - 14 2. The Union will be provided notice and the right to be present at meetings where  
15 last chance agreements are discussed.  
16
  - 17 3. All Last Chance Agreements must have a specific duration period.  
18  
19  
20

#### 21 **Section 9. Annual Confidential Financial Disclosure Reports (Form OGE-450 or** 22 **Equivalent)**

- 23
- 24 A. Determinations of who must submit an OGE-450 will be based upon the actual  
25 duties and responsibilities performed, or reasonably expected to be performed, by  
26 the employee during the reporting period.  
27
  - 28 B. Determinations of who must submit an OGE-450 will be made by a management  
29 official who is familiar with the actual duties performed by the employee. For  
30 employees determined to meet the requirements for submitting an OGE-450,  
31 management will determine whether or not an approved alternate procedure, if  
32 available, and as described in E. below, will suffice for a conflict of interest  
33 review.  
34
  - 35 C. Determinations of who must submit an OGE-450 will be in accordance with 5  
36 CFR, Part 2634, Subpart 1.  
37
  - 38 D. Employees who do not agree with a determination may request to discuss the  
39 determination with the management official who made the determination. If the  
40 issue is not resolved to the employee's satisfaction, the employee may file a  
41 complaint with the Agency head, or designee, in accordance with 5 CFR  
42 2634.906.  
43
  - 44 E. Within 60 days of the signing of this Agreement, the Agency will seek approval  
45 from the approving authority for the use of an alternate procedure as described in

1 5 CFR 2634.905(C), Example 3. The alternate procedure will be available for use  
2 upon approval.

3  
4 F. On an annual basis, employees required to file an OGE-450 (or alternate  
5 procedure) will be provided with a statement informing them where the relevant  
6 federal regulations, their rights and responsibilities, and the relevant provisions of  
7 the Master Agreement can be accessed electronically.

8  
9 G. As a part of the annual reminder for filing, the Agency will fully advise  
10 employees of the various options for filing the OGE-450. Currently, employees  
11 must file via hard copy. This may be done via several options including  
12 downloading and printing a blank OGE-450 from the internet and then  
13 completing it by hand, completing the OGE-450 online via the internet and then  
14 printing it, obtaining a hard copy of the OGE-450 from the Agency and  
15 completing it and completing the OGE-450 via the CMS intranet and then  
16 printing it.

17  
18 The annual reminder will clearly explain that the CMS intranet option will mean  
19 that the employee has created an electronic file of the completed form for the  
20 Agency's use, even though the official submission must be via hard copy.

21  
22 **Section 10. Personal Rights**

23  
24 A. Employees and managers will be treated fairly and equitably in all aspects of  
25 personnel management without regard to political affiliation, race, color, religion,  
26 national origin, sex, sexual orientation, marital status, age or disabling condition,  
27 and with proper regard and protection of their privacy and constitutional rights.  
28 Such constitutional rights include the right to present their views to Congress, the  
29 Executive Branch, or other authorities and to otherwise exercise their First  
30 Amendment rights without fear of penalty or reprisal.

31  
32 B. The parties agree that in the interest of maintaining a congenial work  
33 environment, both employees and managers will deal with each other in a  
34 professional manner and with courtesy dignity, and respect. To that end, all  
35 Agency employees and managers should refrain from coercive, intimidating, loud  
36 or abusive behavior.

37  
38 C. The Agency agrees to annually inform all employees of their rights under 5  
39 U.S.C. 7114(a)(2)(B) electronically via Intranet/Internet. During his/her initial  
40 orientation, each employee will be provided with a copy of Weingarten rights in  
41 the orientation package.

42  
43 D. If an employee is to be served with a warrant or subpoena, it will be done in  
44 private to the extent it is within the Agency's control.  
45

1 E. No employee will be disciplined or retaliated against solely as a result of carrying  
2 out the lawful instructions of a manager or any other HHS management official  
3 with real or apparent authority. If there is a disagreement between the employee  
4 and the manager or other management official, the employee will comply with the  
5 instructions and, if desired, grieve the matter later. The refusal to obey an  
6 unlawful order will not subject the employee to disciplinary or adverse action.

7  
8 F. An employee's decision to resign or retire (if eligible for optional retirement) will  
9 be made freely and in accordance with prevailing regulations. Management will  
10 continue to offer retirement seminars to bargaining unit employees who are within  
11 five (5) years of retirement eligibility. The Agency will make available  
12 request, an information package regarding retirement to include:

- 13 1. All the information, instruction and necessary forms published by OPM.
- 14 2. Information regarding CMS' Trial Retirement program.
- 15 3. OPM's publication titled "Thinking About Retirement" (revised 1997) and any  
16 successor publication.
- 17 4. OPM's SF-2818, Federal Employees Group Life Insurance Program  
18 Continuation of Life Insurance Coverage as a Retiree or Compensation and  
19 related forms, information, and instructions.

20  
21  
22  
23  
24  
25 G. If an employee is facing removal or termination, the employee may resign, freely  
26 and in accordance with prevailing law and/or Government-wide regulations, any  
27 time prior to the effective date of the action. An employee may withdraw his/her  
28 resignation prior to the effective date.

29  
30 H. Complaints to management about an employee from members of the public or co-  
31 workers will be brought to the attention of the employee as soon as possible. Any  
32 observation or complaint regarding an employee's conduct or performance that  
33 may be used to propose discipline or a performance based action in accordance  
34 with Article 21 or Article 23 will be brought to the attention of the employee as  
35 soon as possible after the event.

36  
37 I. The Agency agrees to implement a Federal Student Loan Repayment Program as  
38 authorized by 5 U.S.C. 5379 in order to recruit and retain highly qualified  
39 personnel. The parties will bargain the provisions and implementations of the  
40 program within 60 days of the effective date of this agreement at the election of  
41 the Union.

42  
43 **Section 11. Employee Express**

44  
45 A. Employee Express is a fully automated system that allows employees to initiate  
46 the processing of certain discretionary personnel-payroll transactions



1 electronically. Rather than filling out paper forms or utilizing the personnel  
2 office, employees can quickly access Employee Express through the Internet or a  
3 touch-tone telephone 24 hours a day, 7 days a week from home, the office, or on  
4 the road.

5  
6 B. Employees may access the Employee Express via the toll-free telephone number,  
7 1-800-827-6281 or via the Agency's intranet or the internet at  
8 [www.employeeexpress.gov](http://www.employeeexpress.gov). While such means of access should always be  
9 available, the Agency agrees to continue to provide employees with technical  
10 assistance if employees encounter problems with PINs, delayed transactions, etc.

11  
12 C. All employees are required to use Employee Express to process his/her  
13 and personnel information. Employees who have physical impairments will  
14 receive assistance, upon request, in order to process his/her payroll and personnel  
15 information using Employee Express.

16  
17 **Section 12. Timely and Proper Compensation**

18  
19 A. All employees are entitled to timely receipt of all wages earned. Employees are  
20 responsible for reviewing their earnings and leave statements upon receipt and  
21 notifying their managers of any unexplained changes or irregularities. Employees  
22 are responsible for arranging for the timely repayment of overpayments. Where  
23 employees have been overpaid, the Agency will advise employees of the  
24 procedures available and provide the necessary forms for filing a request for  
25 waiver of all overpayment of pay received in good faith.

26  
27 B. All employees are required to use direct deposit for salary payment unless the  
28 employee meets the requirements for waiver under 31 C.F.R. §208.

29  
30 C. Employees who do not receive timely wages may request an emergency salary  
31 payment. An emergency salary payment will be issued not later than the Friday  
32 following the payday on which the salary was not received by the employee.

33  
34 D. Obtaining an emergency salary payment under false pretenses may serve as the  
35 basis for disciplinary action.

36  
37 **Section 13. Voluntary Activities**

38  
39 The Parties agree that employee participation in the Combined Federal Campaign, Blood  
40 Donor Drives, Bond Campaigns or other worthy projects will be on a voluntary basis.  
41 This does not preclude giving general publicity and encouragement to employees to  
42 participate. Participation or non-participation will not advantage or disadvantage  
43 employees.

44  
45 **Section 14. Employee's Activities Association (EAA)**

1 A. Sufficient space outside the CO cafeteria may be used by the EAA for temporary  
2 activities and displays. Advance written notice will be provided to the Agency.

3

4 B. The Agency will provide at least the level of support now provided to the EAA to  
5 assure the continuation of the valuable services afforded employees.

6

7 **Section 15. Proper Attire**

8

9 Employees are expected to dress neatly, professionally and in a manner that is  
10 appropriate for their assigned duties.

11

12 **Section 16. Statutory Requirements**

13

14 The following references are appendices to Article 3: 5 U.S.C. 2301, Merit System  
15 Principles and 5 U.S.C. 2302, Prohibited Personnel Practices.

### Errata - Article 3

As a result of the last round of discussions, the union agrees with the following management sections:

Section 1 – Right to Unionism

Section 2 – Whistleblower protection

Section 3 - Individual Employee Personnel Records: A., B., C., and D.

Section 4 – Supervisory Working Files A. B. C. D.

The following are modifications to the union sections:

Section 7 – Right to Union Representation The union dropped C. and D. regarding criminal investigation and K. (OIG investigations) from the proposal submitted to the FSIP.

Section 10 - Personal Rights The union dropped the next to last sentence in section 10G from the proposal submitted to the FSIP (The employees personnel record will only reflect the resignation.)

Section 14 (prior) - Communications Systems Monitoring. The union amended and moved to Article 35.

Section 14 (new) - Employees Activities Association. The union dropped "C" from the proposal submitted to the FSIP.

Section 16 (prior) – Labor Recognition Week. The union dropped in its entirety.

1  
2  
3 **Appendix I to Article 3**  
4 **Merit System Principles (5 U.S.C. 2301)**

5 Federal Personnel Management should be implemented consistent with the following merit system  
6 principles:

- 7
- 8 A. Recruitment should be from qualified individuals from appropriate sources in an endeavor to  
9 achieve a workforce from all segments of society, and selection and advancement should be  
10 determined solely on the basis of relative ability, knowledge, and skills, after fair and open  
11 competition which assures that all receive equal opportunity.
- 12
- 13 B. All employees and applicants for employment should receive fair and equitable treatment in all  
14 aspects of personnel management without regard to political affiliation, race, religion,  
15 national origin, sex, marital status, age or handicapping condition, and with proper regard for  
16 their privacy and constitutional rights.
- 17
- 18 C. Equal pay should be provided for work of equal value, with appropriate consideration of both  
19 national and local rates paid by employers in the private sector, and appropriate incentives and  
20 recognition should be provided for excellence in performance.
- 21
- 22 D. All employees should maintain high standards of integrity, conduct, and concern for the public  
23 interest.
- 24
- 25 E. The Federal workforce should be used efficiently and effectively.
- 26
- 27 F. Employees should be retained on the basis of the adequacy of their performance, inadequate  
28 performance should be corrected, and employees should be separated who cannot or will not  
29 improve their performance to meet required standards.
- 30
- 31 G. Employees should be provided effective education and training in cases in which such  
32 education and training would result in better organizational and individual performance.
- 33
- 34 H. Employees should be protected against arbitrary action, personal favoritism, or coercion for  
35 partisan political purposes, and prohibited from using their official authority or influence for  
36 the purpose of interfering with or affecting the result of an election or a nomination for  
37 election. Employees should be protected against reprisal for the lawful disclosure of  
38 information which the employees reasonably believe evidences a violation of any law, rule, or  
39 regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial  
40 and specific danger to public health and safety.
- 41

1           **Appendix II to Article 3**

2  
3                           **Prohibited Personnel Practice (5 U.S.C. 2302)**

4  
5 Any employee who has the authority to take, direct others to take, recommend, or approve any  
6 personnel action, will not, with respect to such authority:

- 7  
8 A.     Discriminate for or against any employee or applicant for employment:
- 9
- 10 1.     on the basis of race, color, religion, sex or national origin as prohibited under Section 717 of  
11 the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);
- 12
- 13 2.     on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in  
14 Employment Act of 1967 (29 U.S.C. 631, 633a);
- 15
- 16 3.     on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938  
17 (29 U.S.C. 206(d));
- 18
- 19 4.     on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation  
20 Act of 1973 (29 U.S.C. 791); or
- 21
- 22 5.     on the basis of martial status or political affiliation, as prohibited under any law, rule, or  
23 regulation.
- 24
- 25 B.     Solicit or consider any recommendation or statement, oral or written, with respect to any  
26 individual who requests, or is under consideration for, any personnel action unless such  
27 recommendation or statement is based on the personal knowledge or records of the person  
28 furnishing it and consists of an evaluation of the work performance, ability, aptitude, or  
29 general qualifications of such individual or an evaluation of the character, loyalty, or suitability  
30 of such individual;
- 31
- 32 C.     Coerce the political activity of any person (including the providing of any political  
33 contribution or service) or take any action against any employee or applicant for employment  
34 as a reprisal for the refusal of any person to engage in such political activity;
- 35
- 36 D.     Deceive or willfully obstruct any person with respect to such person's right to compete for  
37 employment;
- 38
- 39 L.     Influence any person to withdraw from competition for any position for the purpose of  
40 improving or injuring the prospects of any other person for employment;
- 41
- 42 F.     Grant any preference or advantage not authorized by law, rule, or regulation to any employee  
43 or applicant for employment (including defining the scope or manner of competition or the  
44 requirements for any position) for the purpose of improving or injuring the prospects of any  
45 particular person for employment;
- 46
- 47 G.     Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or  
48 advancement, in or to a civilian position any individual who is a relative as defined in 5  
49 U.S.C. 3110(a)(3) of such employee if such position is in the Agency in which the employee is  
50 serving as a public official (as defined in 5 U.S.C. 3110(a)(2)) or over which such employee

- 1 exercises jurisdiction or control as such an official;  
2
- 3 H. Take or fail to take a personnel action with respect to any employee or applicant for  
4 employment as a reprisal for:  
5
- 6 1. A disclosure of information by an employee or applicant which the employee or applicant  
7 reasonably believes evidences a violation of any law, rule, or regulation, or mismanagement, a  
8 gross waste of funds, an abuse of authority, or a substantial and specific danger to public health  
9 and safety if such disclosure is not specifically prohibited by law and if such information is not  
10 specifically required by Executive Order to be kept secret in the interest of national defense or  
11 the conduct of foreign affairs;  
12
- 13 2. Any disclosure to the Special Council of the Merit Systems Protection Board or to the  
14 Inspector General of an Agency or another employee designated by the head of the Agency to  
15 receive such disclosures of information which the employee or applicant reasonably believes  
16 evidences a violation of any law, rule, or regulation, or mismanagement, a gross waste of  
17 funds, an abuse of authority, or a substantial and specific danger to public health and safety;  
18
- 19 3. The exercise of any appeal right granted by a law, rule, or regulation;  
20
- 21 J. Discriminate for or against any employee or applicant for employment on the basis of conduct  
22 which does not adversely affect the performance of the employee or applicant or the  
23 performance of others, except that nothing in this paragraph will prohibit an Agency from  
24 taking into account in determining suitability or fitness any conviction of the employee or  
25 applicant for any crime under the laws of any State, of the District of Columbia, or of the  
26 United States; or  
27
- 28 K. Take or fail to take any other personnel action if the taking of or failure to take such action  
29 violates any law, rule, or regulation implementing or directly concerning the merit system  
30 principles contained in 5 U.S.C. 2301 or elsewhere in Title 5 of the United States Code.  
31

2  
3 Article 4

4  
5 **NEGOTIATIONS DURING THE TERM OF THE AGREEMENT**

6  
7 **Section 1. Agreement to Bargain**

8  
9 The Agency and the Union, through appropriate representatives, will meet and negotiate in  
10 good faith for the purposes of collective bargaining as required by law and this Master Labor  
11 Agreement.

12  
13 It is recognized that the Master Labor Agreement does not cover all aspects of subjects  
14 addressed, and that the ongoing relationship between the parties has used mid-term  
15 bargaining to effectuate changes in working conditions. To that end, this agreement should  
16 not be construed to contain any implicit waiver of either parties rights. However, matters  
17 that are excluded from mid-term bargaining will be identified within each Article.

18  
19 **Section 2. Changes in Conditions of Employment**

20  
21 A. Management-initiated Changes

- 22  
23 1. Except as otherwise provided for in this Agreement, the Agency will provide the designated  
24 AFGE Local 1923 representative reasonable advance written notice of intended changes in  
25 terms and conditions of employment. The Union will, within ten (10) workdays of receipt of  
26 the notice, submit to the Labor Management Relations Staff (LMRS) a request to bargain.  
27  
28 2. The advance written notice will include the following:  
29 a. A brief description of the desired change;  
30 b. A brief explanation of how this change will be implemented;  
31 c. An explanation of why the proposed change is necessary; and  
32 d. The proposed implementation date.

33  
34 Absent good cause, if the Union does not exercise its option to request bargaining as stated  
35 in 2.A.1. above the Agency may implement the changes on the proposed date.

36  
37 B. Union-initiated Changes

38  
39 The union may initiate mid-term changes by submitting a request to bargain to the LMRS.  
40 Ground rules will be negotiated on a case-by-case basis.

41  
42 **Section 3. Bargaining Levels**

43  
44 A. National Agency-wide Level (Level 1)

- 45  
46 1. The Parties agree that notice of proposed Agency-wide changes, (i.e., CO and one or more  
47 ROs) will be dealt with by the Parties at the National level.  
48  
49 2. When bargaining is requested, official time will be authorized for three (3) Union  
50 negotiators, or a larger number if needed to achieve parity with the number of individuals

1 designated as representing the Agency. For such purposes, official time allowances will be  
2 consistent with 5 U.S.C. 7131(a) and this Agreement.  
3

4 3. The Agency will pay travel expenses and per diem for up to two (2) employee Union  
5 negotiators. Should the Agency use more than three (3) negotiators, the Union will be entitled  
6 to travel expenses and per diem for one (1) additional employee negotiator for each individual  
7 over three (3) used by management as a negotiator. Employee Union negotiators for bargaining  
8 at this National Agency level need not be drawn from any particular component to be entitled  
9 to travel expenses and per diem. Payment of travel expenses and per diem will be governed by  
10 applicable law, government-wide rule, and regulation.  
11

12 4. Bargaining will take place at the Baltimore, MD Headquarters or other mutually agreed to  
13 site.  
14

15 B. Multi-Regional Level (Level 2)  
16

- 17 1. The Parties agree that notice of proposed changes that affect more than one Regional Office  
18 will be dealt with by the Parties at the Multi-Regional level. The designated management  
19 representative will provide the designated AFGE Local 1923 representative with timely written  
20 notice and one (1) copy of the proposed multi-regional management initiated changes.  
21
- 22 2. When bargaining is requested, official time will be authorized for two (2) Union negotiators, or  
23 a larger number if needed to achieve parity with the number of individuals designated as  
24 representing the Agency. For such purposes, official time allowances will be consistent with 5  
25 U.S.C. 7131(a) and this Agreement.  
26
- 27 3. The Agency will pay travel expenses and per diem for two (2) employee Union negotiators.  
28 Should the Agency use more than two (2) negotiators, the Union will be entitled to travel  
29 expenses and per diem for one (1) additional employee Union negotiator for each individual  
30 over two (2) used by management as a negotiator. Employee Union negotiators for bargaining  
31 at the Multi-Regional level need not be drawn from any particular component to be entitled to  
32 travel expenses and per diem. Payment of travel expenses and per diem will be governed by  
33 applicable law, rule and regulation.  
34
- 35 4. Bargaining will take place at the Baltimore, MD Headquarters for Central Office changes, or at  
36 the affected Regional Office for a regional change, or at another mutually agreed upon site.  
37

38 C. Central Office or One (1) Regional Office (Level 3)  
39

- 40 1. The Parties agree that notice of proposed changes which affect the Central Office only or one  
41 (1) Regional Office will be dealt with at the Central Office or the affected Regional Office.  
42 The designated management representative will provide the designated AFGE Local 1923  
43 representative with timely written notice and one (1) copy of the proposed multi-regional  
44 management initiated changes.  
45
- 46 2. When bargaining is requested, official time will be authorized for two (2) employee Union  
47 negotiators, or a larger number if needed to achieve parity with the number of individuals  
48 designated as representing the Agency. For such purposes official time allowances will be  
49 consistent with 5 U.S.C. 7131(a) and this Agreement.  
50



- 1 3. The Agency will not be subject to travel expenses and per diem for any of the two (2)  
2 employee Union negotiators. Should the Agency use more than two (2) negotiators, the Union  
3 will be entitled to one (1) additional employee Union negotiator for each individual over three  
4 (3) used by management as a negotiator.  
5
- 6 4. Bargaining will take place at the Baltimore, MD Headquarters for Central Office changes, or at  
7 the affected Regional Office for a regional change, or at another mutually agreed upon site.  
8

9 **Section 4. Bargaining Routine**

10  
11 The following bargaining process will be utilized during the term of this Agreement:

- 12  
13 A. Negotiations will commence as soon as possible but no later than (10) days from the date of  
14 the Union's request to bargain.  
15
- 16 B. Either Party may request a consultation/briefing session to identify the major issues to be  
17 bargained and to facilitate the bargaining process. Such session will be held on the first day of  
18 negotiations. The Parties may agree to use Picture-tel, teleconference, e-mail, and/or fax  
19 capabilities provided by the Agency for such consultation session.  
20
- 21 C. The Agency will provide a meeting room for negotiations/caucuses and reasonable equipment.  
22
- 23 D. Alternates may substitute for bargaining team members. Such alternates will be entrusted with  
24 the right to speak for and to bind the members for whom they substitute.  
25
- 26 E. Each party will be represented at the negotiations at all times by one duly authorized chief  
27 negotiator / chief spokesperson who is prepared and authorized to discuss and negotiate on  
28 matters subject to negotiations and to sign-off on agreements for their respective party.  
29
- 30 F. There will be no limit on the number of caucuses that may be held during negotiations, but the  
31 Parties will make every effort to restrict the number and length of caucuses. The Parties agree  
32 that caucuses will not be used to delay the negotiations.  
33
- 34 G. The designated Union negotiators will be in duty status during actual negotiations, caucuses,  
35 and time spent before the Federal Mediation and Conciliation Service (FMCS) and the Federal  
36 Services Impasses Panel (FSIP), if they otherwise would be. The Union will be permitted to  
37 have negotiators who are not employees of the Agency. If the Union chooses to exercise this  
38 option, it agrees to pay any and all costs incurred by these negotiators.  
39
- 40 H. If any proposal is claimed to be non-negotiable by either Party and subsequently determined to  
41 be negotiable, or the declaring Party withdraws its allegations of non-negotiability, the  
42 proposal will, upon request, be reopened within 30 calendar days. Nothing in this provision  
43 will preclude the right of judicial appeal.  
44
- 45 I. Any provisions disapproved by the Agency head review, under 5 U.S.C. 7114©, may be  
46 referred to the Federal Labor Relations Authority (FLRA) by the Union. Any provision held  
47 negotiable will be incorporated into the Agreement. The Parties will commence negotiations  
48 within a reasonable period after receipt of an FLRA decision sustaining the Agency head  
49 determination for non-negotiability.  
50

1 J. The negotiations completion date will be the date upon which the parties dispose of all  
2 outstanding issues, as signified by the signatures of the chief negotiators. The Agency head  
3 review will be completed within the 30-day statutory limit from the negotiations completion  
4 date.  
5

6 **Section 5. Execution of Agreement**  
7

8 All written agreements or memoranda of understanding reached under the provisions of this  
9 Agreement will be duly executed and incorporated into and, to the extent not inconsistent with this  
10 Agreement, will be subject to all the terms and conditions of this Agreement.  
11

12 **Section 6. Restriction on Waivers**  
13

14 It is understood that no waivers of either Party's rights at any level are authorized l agent except  
15 as specifically and expressly stated by the Agency and the Union in a written authorization relating to  
16 a specific situation.  
17

2  
3 Article 6

4  
5 DUES WITHHOLDING

6  
7 Section 1. Payroll Deductions

8  
9 Any bargaining unit employee(s) may have regular and periodic dues, fees and assessments  
10 withheld through payroll deductions if the employee voluntarily completes SF-1187,  
11 Request and Payroll Deduction for Labor Organization Dues, or its equivalent and has  
12 sufficient compensation to cover the amount of the allotment.

13  
14 Section 2. Union Responsibilities

- 15  
16 A. The Union will undertake to inform members of the voluntary nature of dues withholding and  
17 of the conditions governing a member's cancellation of dues withholding.  
18  
19 B. The Union will forward any SF-1187 or its equivalent timely and any SF-1188 or equivalent  
20 memorandum within five (5) calendar days to the Agency personnel office when such forms or  
21 equivalent memoranda are submitted to the Union.  
22  
23 C. The Union will inform the Agency personnel office of any participating employee on dues  
24 check-off who has been expelled or ceases to be a member in good standing of the Union as  
25 soon as possible.  
26  
27 D. The Union agrees to inform the Agency personnel office of changes in the following:  
28  
29 1. The title and address of the individual local Union official responsible for certifying on each  
30 employee's authorization form the amount of dues to be withheld.  
31  
32 2. The title and address and/or payee of the individual local Union official to whom remittances  
33 are to be made.  
34  
35 3. Changes in dues amounts in either single or multi-level dues structures. Changes in the  
36 amount of allotments over which the Union has control may not be made more than once  
37 during a calendar year. Changes in the amount of allotments over which the Union does not  
38 have control may be made when required by an outside Party.  
39  
40 4. The name of any employee on dues withholding who transfers from one local to another within  
41 the bargaining unit, any change in the local to receive dues deducted, and any change in the  
42 amount to be deducted based on the transfer to a new local.  
43  
44 E. The Union will purchase and distribute SF-1187's or their equivalent that includes the  
45 following language:  
46  
47 Dues withholding may be revoked by submitting an SF-1188 or its equivalent within the  
48 fifteen (15) calendar day period prior to the anniversary date of signing the SF-1187 or its  
49 equivalent.  
50

1 If a request for revocation is not submitted within the time frame cited above, the authorization  
2 will recycle for additional one (1) year periods on each anniversary of the date the SF-1187 or  
3 its equivalent was signed.  
4

### 5 **Section 3. Agency Responsibilities**

6  
7 It is the responsibility of the Agency to:

- 8  
9 A. Ensure that bargaining unit employees who are transferred, reassigned, or otherwise relocated  
10 within the bargaining unit remain on dues withholding.  
11  
12 B. Process voluntary allotments of dues in accordance with this Article. Dues changes and  
13 SF-1187's or equivalent forms will be processed on a timely basis. Input errors will be  
14 corrected and re-input at the earliest practicable time.  
15  
16 C. Withhold employee dues on a biweekly basis.  
17  
18 D. Transmit remittance checks to the local allottee designated by the Union in accordance with  
19 this Article, together with the following information:  
20  
21 1. The name of each unit employee for whom a deduction is made during that pay period and the  
22 amount withheld.  
23  
24 2. Identification of unit employee(s) for whom allotments have been temporarily or permanently  
25 stopped and the reason(s) therefore.  
26  
27 E. Upon request from an employee, furnish and process SF-1188's or equivalent forms in  
28 accordance with the terms and conditions specified on SF-1187's or equivalent forms and this  
29 Agreement. The Agency will return SF-1188's or equivalent forms not timely filed.  
30  
31 F. The Agency will forward to the designated Union representative(s) copies of processed 1188's  
32 or equivalent forms received directly from members.  
33  
34 G. The Agency will furnish the designated Union official(s) with copies of all forms HHS-610.  
35  
36 H. The Parties agree to jointly explore the feasibility of implementing a computerized record-  
37 keeping system of Union dues information suitable to the Union's customary needs as well as  
38 electronic transfer of dues withheld.  
39  
40

1 **Section 4--Effective Dates**

2

3 Effective dates for dues withholding actions will be as follows:

4

<b>Action</b>	<b>Effective Dates</b>
1. Starting dues withholding	Beginning of the first pay period after computer acceptance of HHS-610(s) based on a properly executed form SF-1187(s).
2. Revocation of allotment	Revocation will be effective on the first pay period following the employee's anniversary date after computer acceptance of HHS-610(s) based on a properly executed form SF-1188 which must be submitted no earlier than 15 days prior to an employee's anniversary management does not have the employee's original form SF-1187 to establish the-anniversary date, the Union will provide a copy from their files. If the Union does not have a copy, the employee's anniversary date will be the first pay period that dues were actually withheld as shown by Central Payroll.  Any form SF-1188 or equivalent received outside the 15-day timeframe will be returned. Forms SF-1187 must clearly indicate to the employee that the authorization will recycle on each anniversary date unless timely revocation is received.
3. Termination due to loss of membership in good standing.	Beginning of the first pay period after computer acceptance of notification.
4. Termination due to separation or movement outside unit of recognition.	Beginning the first full pay period after computer acceptance of information. Absent employee objection, Union dues will be automatically considered as voluntary allotments. If the employee objects for any reason to the voluntary allotment, Union dues will terminate beginning the first full pay period of such notification. Union dues will be withheld beginning the first full pay period that the employee returns to the bargaining unit.
5. Changes in dues amounts.	First full pay period after computer acceptance of the change unless a later date is specified by the Union.
6. Transmittal of remittance checks to Union.	Normally, ten (10) working days from payday.

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3  
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7  
8  
9  
10

**Section 5. Disputed Eligibility**

When the Agency believes a position subject to dues withholding is no longer eligible for such deduction, the Union will be notified in writing prior to the revocation of an employee's dues. When a dispute arises concerning the bargaining unit status of that position's dues withholding, dues withholding will continue until the matter is resolved.

2  
3 **Article 7**

4  
5 **DURATION OF AGREEMENT**

6  
7  
8 **Section 1. Effective Date**

9  
10 This Agreement will be implemented and become effective when it has been signed by the  
11 Parties, including review pursuant to 7114(c) of 5 U.S.C. 71.

12  
13 For purpose of duration, the effective date of the Master Labor Agreement will be <sup>4<sup>th</sup> - 21<sup>st</sup></sup>  
14 day after the signature of the Chief Negotiators in accordance with Article 4, Sect

15  
16 **Section 2. Duration of Agreement**

17  
18 This Agreement will remain in full force and effect for a period of three (3) years after its  
19 effective date. At the expiration of three years from its effective date, the Agreement will  
20 automatically renew for one-year periods unless either the Agency or the Union requests to  
21 renegotiate the Agreement.

22  
23  
24 **Section 3. Term Negotiations**

- 25  
26 A. The Agency or the Union may request to renegotiate the Agreement by submitting a notice in  
27 writing to the other party at least 60 days, but not more than 120 days, prior to the expiration  
28 date. Once the Agency or the Union submits a request to renegotiate under this Article, the  
29 entire Agreement is subject to renegotiation.  
30  
31 B. When notice of intent to renegotiate is given, the Parties will meet to negotiate ground rules.  
32 This meeting will occur not later than 45 days prior to the expiration date.  
33  
34 C. If the Agency or the Union timely requests to renegotiate the Agreement, the Agreement will  
35 automatically be extended until negotiations are completed.  
36  
37 D. Additions, modifications, or amendments during the term of this Agreement may only be  
38 implemented by mutual consent of the parties.  
39

2  
3 **Article 9**

4  
5 **HEALTH AND SAFETY**

6  
7 **Section 1. General**

- 8  
9 A. The Agency will provide a comprehensive and operational health and safety program that  
10 addresses: physical structure, technology, environment, service to employees, training, safety,  
11 and emergencies. The Agency will also provide for participation of all Parties (management,  
12 employees and their representatives) and for full disclosure of problems, abatement plans  
13 and/or corrective actions.  
14  
15 B. The Agency will provide a safe and healthy work environment in accordance with Executive  
16 Order 12196, the Department of Labor implementing regulations (such as, but not limited to,  
17 29 CFR, parts 1910, 1926, and 1960), and all other applicable Government-wide rules and/or  
18 regulations.  
19  
20 C. The Agency will furnish each employee a place of employment that is free from recognized  
21 hazards that cause or are likely to cause death or physical harm.  
22  
23 D. The Agency will assure that no employee is subject to restraint, interference, coercion,  
24 discrimination, or reprisal for filing a report of an unsafe or unhealthy working condition, or  
25 for otherwise participating in Agency occupational safety and health program activities.  
26  
27 E. The Agency will designate health and safety officials with authority to act on behalf of the  
28 Agency. The Agency will conspicuously post the positions and telephone numbers of these  
29 designated officials.  
30  
31 F. The Agency is responsible for maintaining the cleanliness of the work environment.  
32 Employees have a similar responsibility. Such employee responsibility excludes routine  
33 contract cleaning services such as vacuuming, emptying of trash from waste baskets, etc.  
34 Employees should follow the Agency's existing policy for bringing personal plants and other  
35 personal items into the workplace. The policy will be made available via the Agency's  
36 Intranet/Internet.  
37  
38 G. In all matters pertaining to health and safety, the Parties' first concern is the employee.  
39  
40 H. The Agency will annually provide all incident and accident figures required by HHS and  
41 OSHA to the Union. These figures will be at the regional office and headquarters component  
42 levels. The Agency will also make available upon request, raw data (incident reports,  
43 workers' compensation claims, etc.) at the regional office and headquarters component levels.  
44

45 **Section 2. Reporting Unsafe or Unhealthy Conditions**

- 46  
47 A. Employees may report unsafe or unhealthy conditions to any of the following locations or  
48 individuals:  
49  
50 Employees in central office should report unsafe or unhealthy conditions to the designated



1 health and safety official, a central office health and safety committee (HSC) member, or any  
2 central office Union representatives.

3  
4 Employees in a regional office should report unsafe or unhealthy conditions to the designated  
5 regional health and safety official, the administrative officer, a regional office health and safety  
6 committee member, or any regional office Union representative.

7  
8 If requested, the employee's anonymity will be protected.

- 9  
10 B. When the Agency receives a report or identifies that a dangerous, unhealthful or potentially  
11 dangerous or unhealthful condition is present at a particular worksite, the Agency will notify  
12 the Chairperson of the HSC or their designee. The Agency will promptly notify the HSC of  
13 hazards of imminent danger or potentially serious conditions. For all other conditions, the  
14 Agency will notify the HSC within 20 working days, and provide timely information to the  
15 HSC in order to give the HSC an opportunity to accompany the inspection.
- 16  
17 C. If there is an emergency situation in an office, the first concern is for the employees and the  
18 public. Should it become necessary to evacuate a building, management will take appropriate  
19 precautions to guarantee the safety of employees and visitors to the facility. Individuals  
20 ordinarily will not be readmitted until it is determined in conjunction with whatever expert  
21 resources have been called in depending on the circumstances, that there is no longer danger to  
22 the evacuated personnel. "Expert resources" may include, local fire departments, appropriate  
23 health authorities, etc. The Union health and safety committee members or a Union health and  
24 safety representative will be notified as soon as possible regarding the emergency situation.
- 25  
26 D. If an employee reasonably believes that a serious, unsafe, or unhealthy hazard exists that  
27 requires an immediate solution, the employee may leave his or her work area, so notify the  
28 manager, and hold himself or herself available for work.

29  
30 **Section 3. Abatement of Unsafe or Unhealthful Conditions**

- 31  
32 A. The Agency will take the necessary steps to promptly abate unsafe or unhealthy working  
33 conditions.
- 34  
35 B. When a hazard cannot be abated without assistance of the General Services Agency or other  
36 Federal lessor agency, the Agency will act with the lessor agency in its attempts to secure  
37 abatement.
- 38  
39 C. The Agency will respond to employee reports of hazardous conditions and conduct inspections  
40 for imminent dangers and potentially serious conditions, promptly, and within 20 working days  
41 for all other conditions.
- 42  
43 D. An abatement plan will be prepared if the abatement of an unsafe or unhealthy working  
44 condition will not be possible within 30 calendar days. The HSC will be involved in the  
45 Agency's development of the abatement plan. Such plan will contain an explanation of the  
46 circumstances of the delay in abatement, a proposed timetable for the abatement, and a  
47 summary of steps being taken in the interim to protect employees from being injured as a result  
48 of the unsafe or unhealthy working conditions. Affected employees will be informed of the  
49 provisions of the abatement plan.
- 50

- 1 E. When an abatement impacts working conditions, the Agency will provide notice, and upon  
2 request, bargain with the Union to the extent required by law and in accordance with the mid-  
3 term bargaining provisions of this Agreement.  
4

5 **Section 4. Inspections**  
6

7 Health and safety committees will be empowered to develop or review procedures which  
8 will be considered for application in appropriate facilities to cover issues such as bomb  
9 threats, possible shootings, temperature conditions, conditions of evacuation and similar  
10 office health and safety problems.  
11

12 The Agency will:  
13

- 14 A. Assure that designated Union representative accompany all inspections of ag . rk places.  
15 B. Assure response to employee reports of hazardous conditions and require inspections within  
16 twenty-four (24) hours for imminent dangers, three (3) working days for potentially serious  
17 conditions, and normally twenty (20) working days for other conditions; assure the anonymity  
18 of those making reports. However, an investigation may not be necessary if through normal  
19 management action and with prompt notification to employees, the hazardous condition  
20 identified can be abated immediately.  
21 C. The parties agree that each worksite facility will be inspected at least twice each calendar year  
22 using form 5510 or equivalent.  
23

24 **Section 5. Health and Safety Committees**  
25

- 26 A. The Parties agree that Union/management participation in the Agency's Occupational Safety  
27 and Health Program at all levels is essential for the overall success of the Program. The Parties  
28 agree to continue the joint HSC in Central Office and to establish joint HSCs in each CMS  
29 regional office. (In the regions, the Parties are encouraged to participate in established multi-  
30 agency HSCs at the facility).  
31  
32 B. The purpose of the HSCs are to monitor, advise, and assist in the development and operation of  
33 the Agency's occupational safety and health program.  
34  
35 C. The Committees will consist of at least four members with equal numbers of management and  
36 Union representatives. The Chairperson of the committee will be elected from among the  
37 committee members. The position will alternate among management and Union members.  
38  
39 D. The functions of the committee include but are not limited to:  
40  
41 1. Developing joint reports regarding inspection findings for the appropriate  
42 management official;  
43  
44 2. Receiving and investigating employee reports of unsafe or unhealthy conditions;  
45  
46 3. Referring matters to the Agency Health & Safety officer(s), OSHA and/or NIOSH as  
47 appropriate;

- 1
- 2 4. Receiving and investigating employee reports of unsafe or unhealthy conditions.
- 3 Employees may submit such reports to either the Union or Agency representatives.
- 4 When such a report is received, the Union and Agency representatives will attempt to
- 5 jointly verify the facts and submit a report, or, if not in agreement, separate reports to
- 6 the official in charge of the component, who will decide what, if any, action to take;
- 7
- 8 5. Developing and/or monitoring preventative maintenance schedules for HVAC system
- 9 components;
- 10
- 11 6. Conducting job safety analysis if there appears to be a pattern of accidents, disabling
- 12 injuries and/or illnesses, and making recommendations to eliminate any hazards
- 13 identified;
- 14
- 15 7. Encouraging employees to submit suggestions or recommendations for improving the
- 16 health and safety program; and
- 17
- 18 8. Clearing all health and safety material produced by the Agency for distribution to
- 19 employees and assisting in planning any employee meetings held by the Agency on
- 20 occupational health and safety program.
- 21
- 22 E. The Agency will pay registration and related expenses (generally not to exceed \$100) for each
- 23 HSC member to attend at least one local health and safety related conference each year.
- 24
- 25 F. The Agency will post the names and telephone numbers of the HSC members.
- 26
- 27 G. The Agency will annually provide the Occupational Health and Safety Report for the specific
- 28 facility involved to the HSC for that location.
- 29
- 30 H. At least quarterly, the regional/central office health and safety members will meet either in
- 31 person, by Picture-tel, or by conference call, as appropriate, to share information, address
- 32 unresolved issues, and/or issues that impact more than one location. The Parties may mutually
- 33 agree to cancel any meeting determined to be unnecessary.
- 34
- 35 I. The Parties agree that work on the Safety and Health Program is a part of ongoing cooperative
- 36 relationship between the Agency and Union. Time spent on a Health and Safety Committee
- 37 activities will be considered duty time.
- 38

#### 39 **Section 6. Training**

- 40
- 41 A. Union committee members will be offered equivalent training given to Agency's committee
- 42 members, but not less than 16 hours. Each designated onsite health and safety representative
- 43 will receive 4 hours per year of health and safety training. Such training will be excluded from
- 44 any band or block of official time.
- 45
- 46 B. Members of the Washington, D.C., Satellite, and Regional Office health and safety committees
- 47 will be offered a reasonable amount of health and safety training to allow coordination of
- 48 unresolved local issues.
- 49
- 50 C. Nothing prohibits the parties from agreeing to additional health and safety training.

- 1  
2 D. The Agency will continue to provide employees with the appropriate orientation and/or  
3 training that the Agency deems necessary to perform their jobs safely. Such training will  
4 include instructions in the proper work methods to be used and proper use of required  
5 equipment.  
6

7 **Section 7. Safe and Healthy Working Environment**  
8

9 The Agency is committed to providing employees a safe and healthy working environment that  
10 includes, but is not limited to, the following issues:  
11

12 A. Use of Insecticides and Other Like Chemicals  
13

14 To the extent that the Agency has control, there will be no application of ir       les and other  
15 like chemicals during working hours in occupied areas. Such other chemicals include paint,  
16 carpet glue, HVAC cleaning agents and/or similar construction chemicals. Whenever  
17 insecticides and other like chemicals are used, the HSC as well as affected employees will  
18 receive advance notice about the application. Employees with special health needs will be  
19 reasonably accommodated.  
20

21 The area will be adequately ventilated prior to occupancy. In leased buildings, the Agency  
22 will work with the lessor and/or GSA in order to achieve and maintain these standards.  
23

- 24 B. The Agency will comply with GSA temperature standards stated in 41 CFR, Chapter 101,  
25 §101-20.107. The Parties recognize that temperature conditions, in and around work areas that  
26 are outside the above ranges can have a direct bearing on the employees' health. In such cases,  
27 the Agency will take appropriate action to alleviate the condition or remove affected  
28 employees from the area.  
29

- 30 C. The Agency will post appropriate emergency numbers.  
31

32 D. Occupant Emergency Organizational Plan  
33

34 The Agency will have an Occupant Emergency Organizational Plan and will publish the chain  
35 of command, which will identify a member of management or designee who will be at the site  
36 for employee direction during all scheduled work hours in occupied buildings. The plan will  
37 cover employee procedures in the event of fire, bomb threat, or similar emergency situations.  
38 Evacuation drills will be conducted twice annually.  
39

- 40 E. The Agency will comply with the National Fire Safety Code.  
41

- 42 F. The Agency will make every reasonable effort to provide employees, as appropriate, with  
43 ergonomic workstations which meet the requirements of the American National Standards  
44 Institute (ANSI). The Agency will provide employees with workstations appropriate to the  
45 function. Whenever possible, the workstation will be 8 feet by 8 feet.  
46

47 The Agency will provide at each workstation ergonomic adjustable chairs designed to  
48 minimize musculoskeletal discomforts. The chair, at a minimum, will include a pneumatic  
49 seat height adjustment, swivel tilt, lockable back tilt, independently adjustable lockable seat  
50 and back tilt, adjustable locking synchronized seat and back tilt, swivel tilt lock, dual posture,

1 independently adjustable locking seat and back tilt, locking back tilt, and knee tilt with lock.  
2 The workstation whenever possible, at a minimum will contain at least a height-adjustable  
3 keyboard surface. The Agency will accommodate on a case-by-case basis employees with  
4 special needs stemming from factors such as height, weight, or disability.  
5

6 **G. Lighting**

7  
8 The Agency will comply with GSA lighting standards stated in 41 CFR, Chapter 101, Section  
9 101-20.107.

10  
11 The Agency will provide a desk light to employees with a special need.

12  
13 **H. Air Quality**

- 14  
15 1. The Agency and Union agree that all CMS employees are entitled to work in an  
16 environment containing safe and healthful indoor air quality.  
17  
18 2. The Agency will provide safe and healthful indoor air quality by complying with laws,  
19 regulations, guidelines, and/or policies issued by Federal regulatory agencies such as  
20 OSHA, EPA, and GSA.  
21  
22 3. The Agency agrees to continue its current program of air quality testing in accordance  
23 with GSA indicator levels for indoor air quality. A copy of the air quality report will  
24 be provided to the HSC and the Union.  
25  
26 4. The Agency will conduct onsite investigations/inspections when a problem concerning  
27 indoor air quality or microbial contamination is formally brought to the attention of the  
28 Agency. These investigations/inspections will meet the criteria of the GSA Federal  
29 Property Management Regulations and the American Society of Heating, Refrigerating  
30 and Air Conditioning Engineers (ASHRAE) and the protocols of OSHA.  
31  
32 5. The Agency agrees to eliminate or control all known and potential sources of microbial  
33 contaminants by assessments and appropriate response to all areas where water  
34 collection and leakage has occurred. The Agency will promptly clean and/or repair  
35 contaminated areas.  
36  
37 6. The Agency will comply with the ASHRAE standards for maintaining ventilation  
38 efficiency by:  
39  
40 a. Ensuring that, as appropriate, outdoor air supply dampers and room vents are  
41 open;  
42  
43 b. Removing or modifying obstructions which block fresh air flow; and  
44  
45 c. Balancing the system to prevent inflow or outflow of contaminated air due to  
46 pressure differentials between rooms.  
47  
48 7. The Agency will ensure that in all facilities occupied by CMS employees:  
49  
50 a. Filtration is used and chemical treatment with activated charcoal or other

1 adsorbents is provided for copy facilities not exhausted to the outside;

2  
3 b. Humidity is maintained in accordance with ASHRAE standards; and

4  
5 c. Appropriate measures are taken to minimize and/or eliminate the impact of  
6 contamination from outside sources such as garages, cooling towers, building exhausts,  
7 etc. Where the levels of such contaminants becomes health-threatening, the Agency  
8 will seek to relocate or evacuate employees from the facility.  
9

10 I. VDT Program

11  
12 1. The Agency will make every effort to reduce sources of glare surrounding the  
13 workstation. This may include:

14  
15 a. Use of anti-glare screen;

16  
17 b. Repositioning VDTs; and/or

18  
19 c. Installing blinds.  
20

21 2. Under the End User Computing (EUC) 2, microcomputers will meet the EPA Energy  
22 Star requirements. VDT monitors will contain anti-glare features and meet the  
23 Swedish MPR II specifications for Electro Magnetic Field (EMF) radiation.  
24

25 3. The Agency will annually provide employees with information on proper adjustment of  
26 furniture, posture, relaxation exercises for visual and musculoskeletal strain, and other  
27 beneficial work habits. The Agency will annually provide a checklist regarding proper  
28 VDT maintenance (cleaning).  
29

30 4. The visual display terminal, keyboard, and any provided accessory furniture will meet  
31 ANSI standards.  
32

33 5. VDT operators who become pregnant should be given the opportunity to temporarily  
34 perform non-VDT duties within the workplace. A requested reassignment to non-VDT  
35 duties will be conditioned upon certification from the operator's physician. This  
36 certification will state that: because of physical, psychological or emotional reasons, it  
37 is in the interest of the employee or her fetus that she refrain from any operations of a  
38 VDT for the duration of her pregnancy. The physician may substitute comparable  
39 language. Pregnant operators who choose to continue doing VDT work should be  
40 given additional non-VDT work breaks upon request.  
41

42 6. When an employee performs one hour of continuous VDT duties, the employee is  
43 entitled to 15 minutes of non-VDT duties. This break from VDT duties may also be in  
44 the normal rest break or lunch break.  
45

46 J. Asbestos

47  
48 The Agency will, through coordination with the General Services Agency (GSA), perform  
49 periodic monitoring of asbestos levels in the Agency's buildings that have been identified by  
50 the GSA as having potential asbestos problems. The tests will be performed in accordance

1 with GSA standards. The results of such monitoring will be provided to the Union.

2  
3 The Agency will take steps to verify reports of dangerous or unhealthy or potentially  
4 dangerous or unhealthy conditions and, upon verification, take appropriate action. If a  
5 discontinuance of work or shifting of employee work location is required, the Agency will  
6 notify the Union in advance of taking such action, except in emergency situations.

7  
8 The Agency, through coordination with GSA, will request the establishment of written  
9 Operations and Maintenance (O&M) Plans in accordance with guide GSA PBS P-5900 (2c),  
10 for buildings which have been identified as having asbestos containing materials (ACM).  
11 O&M plans should include periodic monitoring of asbestos containing materials and periodic  
12 monitoring of airborne asbestos fibers. Implementation of abatement plans affecting  
13 conditions of employment will be bargained in accordance with 5 U.S.C. 7107 article 4.

14  
15 **K. Designated Smoking Areas**

16 Employees will be allowed to smoke only in designated smoking areas.

17  
18  
19 **Section 8. Medical Services and Health Programs**

20  
21 The Agency will provide medical services and health programs to all employees.

22  
23 **A. The Agency will provide the following services:**

- 24  
25 1. A health unit staffed by appropriate certified medical personnel that provides at a  
26 minimum emergency treatment, blood pressure screening, and treatments requested by  
27 an employee's private physician.  
28  
29 2. If the Agency has reason to believe that an employee was exposed in the conduct of  
30 their official duties to an infectious disease and/or toxic substance that poses a serious health  
31 threat, the Agency will offer timely medical testing at the expense of the Agency.  
32  
33 3. The Agency will offer smoking cessation classes free of charge, provided a sufficient  
34 number of employees enroll for each class. Where an insufficient number of employees  
35 enrolls for a class, the Agency may cancel the class at its options. Employees participating in  
36 these classes will be granted administrative leave equal to the time allotted for each session.

37  
38 **B. The Agency will provide at no or nominal cost the following health services when possible.**

- 39  
40 1. Immunization programs;  
41  
42 2. Cholesterol screening;  
43  
44 3. Periodic screening test for early detection of chronic diseases or disorders such as  
45 mammography, colon cancer, prostate conditions, etc.;;  
46  
47 4. Stress reduction training; and  
48  
49 5. Other preventative screening programs.  
50

- 1 C. For those services that the Agency is unable to provide in (B) above, the Agency will attempt  
2 to solicit local health institutions to provide above services at a reduced rate. The Agency will  
3 make such information available to employees.  
4
- 5 D. When services are provided by the Agency, a reasonable amount of administrative leave will  
6 be granted to employees who are availing themselves of these services.  
7
- 8 E. The Agency will make reasonable efforts to ensure the availability of adequately trained  
9 personnel to administer cardio-pulmonary resuscitation (CPR).  
10
- 11 1. The Agency will periodically solicit for volunteers;  
12  
13 2. The Agency will timely provide training and re-certification at no cost to the  
14 volunteers;  
15  
16 3. The Agency will publish the names of the volunteers certified to provide CPR; and  
17  
18 4. The Agency will make CPR shields and masks available and readily accessible to  
19 volunteers.  
20  
21 5. The parties will bargain the use of defibrulators upon promulgation of government-wide  
22 rules and regulations.  
23
- 24 F. The Agency will protect the anonymity of employees seeking or receiving services under these  
25 health and medical programs.  
26
- 27 G. When an employee participates in a rideshare program and it is necessary for the employee to  
28 return home or to a medical facility because of family illness or incapacitation, the Agency will  
29 provide transportation at no cost to the employee. When the employee becomes ill or  
30 incapacitated, the Agency is only responsible for arranging for transportation to return home or  
31 to a medical facility. If a coworker is required to transport the employee, there will be no  
32 charge of leave for the coworker.  
33
- 34 H. Any health services currently provided in the Regional Offices in addition to the above will  
35 continue.  
36

### 37 **Section 9. Renovations and Construction** 38

- 39 A. The Agency will isolate areas of renovation from occupied areas that are not under  
40 construction. To the maximum extent possible, the Agency will perform the work during non-  
41 working hours and weekends.  
42
- 43 B. The Agency and Union recognize that indoor air pollution may be produced by the emission or  
44 evaporation (off-gassing) of chemicals found in building materials and furnishings.  
45
- 46 1. The Agency, to reduce the effects of off-gassing, will ensure that there is adequate  
47 ventilation in the work area.  
48
- 49 2. The Agency will obtain the material safety data sheets (MSDS) for all building  
50 materials and furnishings and make a copy available to the HSC or the Union



1 representative.

- 2
- 3 3. The Agency will furnish relevant health information to an employee's physician upon  
4 request.
- 5
- 6 4. When an employee has documented adverse health effects from off-gassing, the  
7 Agency will improve ventilation to the employee's work area or relocate the employee  
8 to an area that has adequate ventilation.
- 9

10 **Section 10. Violence in the Workplace**

11

12 The prevention of violence in the workplace is of mutual interest to both the Agency and the  
13 Union. Threatening or intimidating behavior and violence in the workplace are  
14 unacceptable forms of conduct and will be not be tolerated.

15

16 **Section 11. Protective Assistance**

17

18 The Agency recognizes that some job assignments that require official travel present a threat  
19 to the personal safety of employees. When employees or the Union bring such  
20 circumstances to the attention of the manager, appropriate measures will be taken to  
21 minimize risk to the affected employees. The Parties agree to jointly review existing  
22 employee protective procedures from time to time to assure that employees receive the  
23 maximum feasible protection from such dangers.

24

25 **Section 12. Onsite Security**

26

- 27 A. The Agency will make reasonable efforts to protect employees from abusive and threatening  
28 clients and will take reasonable precautions to ensure such protections.
- 29
- 30
- 31 B. The Agency will arrange for emergency protective assistance in Central and each Regional  
32 Office to enable employees to receive assistance if the situation requires it.
- 33
- 34 C. Whenever an employee is faced with a physically threatening situation, the Agency will  
35 provide appropriate assistance.
- 36
- 37 D. Employees will not be required to divulge personally identifiable information to the public in  
38 individual circumstances where the employee reasonably believes harassment or physical  
39 abuse may result. In such cases, the employee should timely inform his or her immediate  
40 manager.
- 41
- 42 E. Where conditions warrant, the Agency will provide equipped security guards at CMS facilities.
- 43
- 44 F. The Agency will equip reception areas with appropriate security devices to ensure, to the  
45 maximum extent possible, employee safety.
- 46
- 47 G. All phones will be labeled with appropriate emergency numbers.
- 48

49 **Section 13. Leases**

50

- 1 A. CMS maintained leases of spaces will be provided to the Union upon request.
- 2
- 3 B. The parties recognize the potential impact of solicitations of offers from GSA. The Union will
- 4 be notified timely of these situations. This provision is not a waiver of the Union's right to
- 5 request additional information, consultation and bargaining.
- 6
- 7
- 8

2  
3 Article 10

4  
5 HOURS OF WORK AND FLEXIPLACE

6  
7 Section 1. Purpose

8  
9 The Parties recognize that in order to build a high quality, customer-focused team, it is  
10 necessary to create a high quality, family-friendly work environment that will attract  
11 and retain highly qualified professional employees. The Parties agree that the primary  
12 mission of the Agency is to serve the needs of its customers and partners. Within the  
13 need to serve both customers and partners, the Parties are committed to establishing  
14 supporting flexible work arrangements so employees can balance work with personal  
15 and family life.

16  
17 Section 2. Definitions

18  
19 A. Administrative Work Week

20  
21 The administrative workweek will be a period of seven (7) consecutive calendar days  
22 beginning on Sunday at 12:01 a.m. and ending on Saturday at 12:00 p.m. midnight.

23  
24 B. Normal Business Day and Basic Workweek

25  
26 The normal business day consists of an eight-hour day, 8:30 a.m. to 5:00 p.m., (including  
27 a 30-minute, non-paid, lunch break) Monday through Friday, inclusive, which taken  
28 together form the basic workweek. The occurrence of holidays will not affect the  
29 designation of the basic workweek.

30  
31 Prior to changing the Agency's practices on affording rest breaks to employees, notice  
32 will be given to the Union in accordance with Article 4.

33  
34 C. Core Days

35  
36 Core days are Tuesday, Wednesday, and Thursday. Employees should report to their  
37 official duty station on these days unless on leave or other approved absence.

38  
39 D. Basic Work Requirement

40  
41 The basic work requirement is the number of hours, excluding overtime hours, which an  
42 employee is required to work or is required to account for by leave, excused absence, holiday  
43 hours, compensatory time off, or time off as an award. For full-time employees, the basic  
44 work requirement is 80 hours per bi-weekly pay period. A part-time employee's basic work  
45 requirement is the number of hours the employee is scheduled to work in a biweekly pay  
46 period.

47  
48 E. Flexible Work Schedule (FWS)

49  
50 A flexible work schedule (FWS) is defined as an 8½-hour (or less, if part-time), 9 ½-hour or

1 10½-hour work schedule, Monday through Friday, in which an employee is allowed to vary  
2 his/her arrival time on a daily basis within the Agency's established arrival times. A full-time  
3 employee on a 9 ½-hour FWS works eight, 9 ½-hour days, one 8 ½-hour day and designates  
4 one non-work day during the bi-weekly pay period. A full-time employee on a 10 ½-hour  
5 FWS works, eight, 10 ½-hour days and designates two non-work days during the biweekly pay  
6 period. Other flexible work schedules may be established as long as the basic work  
7 requirement is met (see Section 3.C.).  
8

9 F. Tour of Duty

10  
11 The tour of duty under a flexible work schedules means the limits within which an employee  
12 must complete his or her basic work requirement.  
13

14 Central Office Single Site (Baltimore)

15  
16 The Agency's tour of duty at Central Office single site (Baltimore) is Monday through Friday,  
17 6:00 a.m. to 6:00 p.m.  
18

19 Washington, D.C. Office

20  
21 For the Washington D.C. Office, the Agency's tour of duty is Monday through Friday, 7:00  
22 a.m. to 8:30 p.m. Employees will complete their regular working hours before 6:30 p.m.  
23

24 Regional Offices and Satellite Office

25  
26 For other locations, including Regional and Satellite Office locations, the Agency's tour of  
27 duty begins at 6:00 a.m. and may be extended to 7:00 p.m., depending upon the business needs  
28 of the office. In those offices that extend their tours of duty beyond 6:00 p.m., employees will  
29 complete their regular working hours before 6:00 p.m.  
30

31 G. Flextime

32  
33 Flextime is a schedule that permits an employee to select an arrival time each day, and to  
34 change that arrival time daily, as long as it is within the Agency's established arrival times  
35 of 6:00 a.m. until 9:30 a.m. Monday through Friday for Central Office Single Site  
36 (Baltimore), Regional and Satellite Offices and 6:00 a.m. until 10:00 a.m. Monday  
37 through Friday for Washington, D.C.  
38

39 H. Credit Hours

40  
41 Credit hours are hours worked in excess of an employee's basic work requirement that an  
42 employee elects to work, with management approval, in order to vary the length of a  
43 subsequent workday or workweek (see Section 3.B.).  
44

45 I. Flexiplace

46  
47 Flexiplace is a voluntary telecommuting program that enables an employee to work at an  
48 Alternative Duty Station (ADS) with management approval. An Alternative Duty Station may  
49 include an employee's residence or other designated location (see Section 3.D.).

1 **Section 3. Work Schedule Options**

2  
3 Subject to the terms of this Agreement, all employees may elect to work a flexible work  
4 schedule, credit hours, and/or flexiplace.

5  
6 A. Flextime

7  
8 1. Central Office, Regional and Satellite Office Arrival Times

- 9  
10 a. Employees working an 8 ½-hour daily tour or less may report for duty between  
11 6:00 a.m. and 9:30 a.m.  
12  
13 b. Employees working a 9 ½-hour daily tour may report for duty on any such day  
14 any time between 6:00 a.m. and 8:30 a.m.  
15  
16 c. Employees working a 10 ½-hour daily tour may report for duty on any such day  
17 any time between 6:00 a.m. and 7:30 a.m.  
18

19 2. Washington, D.C. Arrival Times

- 20  
21 a. Employees working an 8 ½-hour daily tour or less may report for duty between  
22 7:00 a.m. and 10:00 a.m.  
23  
24 b. Employees working a 9 ½-hour daily tour may report for duty on any such day  
25 any time between 7:00 a.m. and 9:00 a.m.  
26  
27 c. Employees working a 10 ½-hour daily tour may report for duty on any such  
28 day any time between 7:00 a.m. and 8:00 a.m.  
29

30 3. For genuine needs, e.g., educational purposes, car pool arrangements, childcare needs,  
31 and/or other family considerations, managers will permit exceptions to the Agency's  
32 established tour of duty.  
33

34 4. Flex-Out

35  
36 Employees will be allowed to flex out and in during the workday without charge to  
37 leave, subject to prior management approval. If a combination of an employee's  
38 starting time and the amount of time the employee is away from the work site precludes  
39 the completion of the employees daily tour, the employee will be charged the  
40 appropriate leave at his or her request, or if warranted, charged AWOL.  
41

42 5. Late Openings

43  
44 When the opening of the Agency is delayed due to hazardous weather or other  
45 conditions beyond the control of the Agency, all employees in the affected  
46 building(s) will revert to a 7:30 a.m. fixed starting time for that day. Ending  
47 time(s) will depend on the employee's scheduled daily tour for that day.  
48

49 B. Credit Hours

1  
2 1. Request to Work Credit Hours  
3

- 4 a. Normally, an employee will request to work credit hours in advance when  
5 the number of credit hours is more than two. This request will be made to  
6 the immediate manager. The request will be approved or denied by the  
7 manager as soon as possible.  
8  
9 b. Upon the request of the employee, the earning of credit hours may be  
10 approved retroactively where the circumstances warrant (e.g., where it was  
11 not practical for the employee to obtain advance approval).  
12  
13 c. When credit hours are approved and overtime is subsequent<sup>ly</sup> available,  
14 the employee will be afforded the opportunity to be paid  
15 the overtime.  
16

17 2. Earning Credit Hours  
18

- 19 a. All employees, including those who are part-time, are authorized to work  
20 up to two (2) credit hours per day provided that there is work available for  
21 the employee, and it can be performed at the requested time(s).  
22  
23 Employees may request, in advance, to work additional credit hours and at  
24 other times, including non-work days. Approval of such requests will be at  
25 management's discretion.  
26  
27 b. Credit hours may be earned during the Agency's applicable tour of duty for  
28 the employee's official duty location.  
29  
30 c. Credit hours may be earned in 1/4-hour increments.  
31  
32 d. Employees may accumulate and carry forward indefinitely, from one pay  
33 period to the next a maximum of twenty-four (24) credit hours.  
34  
35 Normally, credit hours in excess of 24 must be used within the pay period  
36 in which they are earned or be forfeited. If an employee is prevented by  
37 management from using credit hours, the employee will be provided equal  
38 time off at the earliest mutually agreed upon date.  
39  
40 e. Compensation Waiver  
41  
42 An employee waives the right to premium pay for the time spent working  
43 credit hours.  
44  
45 f. Employees are not eligible to work credit hours at the ADS unless, an  
46 exception is authorized by the employee's immediate manager.  
47

48 3. Using Credit Hours  
49

- a. Use of credit hours will be subject to the same criteria for approval as any other leave. An employee may elect to use earned credit hours for all or any part of any approved leave.
- b. Credit hours must be earned before they may be used. Credit hours may be used in 1/4-hour increments.
- c. Where management elects to require employees to submit an SF-71 (Application for Leave) for credit hours used, employees should check the box marked "Other" on the SF-71 and specify in writing the words "credit hours".
- d. Employees should be aware that to avoid forfeiture, accumulation of more than 24 credit hours per pay period requires management approval.

C. 9 ½-hour and 10 ½-hour Flexible Work Schedule (FWS)

1. FWS Requests

Employees will have the option at or prior to the beginning of any calendar quarter (January, April, July, October) to:

- a. Request a 9 ½-hour or 10 ½-hour flexible work schedule (new employees may enroll upon entering on duty.) To ensure full consideration, requests should be submitted at least five (5) workdays before the beginning of a calendar quarter.
- b. Convert to a different work schedule option as provided for in Section 2.E., or modify their non-workday designation.
- c. On a case-by case basis, an employee and immediate manager may mutually agree to changes in an established schedule to meet ad hoc needs during any given pay period.
- d. Employees may withdraw from a flexible work schedule at the end of any pay period.
- f. An employee and his/her immediate manager may mutually agree to changes in an established schedule to meet ad hoc needs during any given pay period.

1. Flexible Work Schedule (FWS) Approval

- a. FWS requests will be adjudicated at least two (2) working days prior to the beginning of a calendar quarter.
- b. Subject to 3.E. below, flexible work schedules that meet core day requirements will be approved.

1 c. Managers may approve flexible work schedule requests that depart  
2 from the core day requirement in order to meet special  
3 circumstances, or genuine needs of the employee or office. On a  
4 case-by-case basis, managers will give genuine consideration to an  
5 employee's request based on circumstances such as educational  
6 purposes, childcare or other family/personal considerations.  
7

8 If the requested schedule is denied, the manager will give the  
9 employee a timely oral explanation for the denial. If requested in  
10 writing, such denial will be provided in writing.

11 D. Flexiplace

12 The parties agree that the Flexiplace program contributes significant employee  
13 morale and a family friendly work environment that are major components of the  
14 DHHS Quality of Life Initiative. Flexiplace reduces transportation costs (including  
15 costs associated with payment of the transit benefit.) In addition, the parties recognize  
16 that Flexiplace may improve the recruitment and retention of high-quality employees.  
17  
18

19 1. Requests

20 Employees will have the option at or prior to the beginning of any calendar  
21 quarter to request to perform work at an Alternative Duty Station (ADS) on  
22 a regularly scheduled basis. Employees may also request at anytime to  
23 work at an ADS on an irregular basis (episodic) to work on a specific  
24 assignment(s).  
25  
26

27 2. Eligibility

28 All employees who meet the following criteria are eligible to participate in  
29 Flexiplace.  
30  
31

- 32 a. The employee is in good standing and is not on a Performance  
33 Assistance Plan (PAP) or Performance Enhancement Plan (PEP).  
34  
35 b. The employee is not on leave restriction.  
36  
37 c. The employee is not in a probationary period or formal training  
38 status (formal training status does not include the normal  
39 progression of an employee through a career ladder).  
40  
41 d. The employee's official duties can be performed, either in whole or  
42 in part, at the ADS without impairment to the mission of the  
43 Agency.  
44  
45 e. The employee has the workspace, utilities, equipment and reference  
46 materials suitable for the work to be performed at the designated  
47 ADS as specified in the Flexiplace Program Agreement (see Exhibit  
48 1).  
49



1 f. The employee is willing to sign and abide by the Flexiplace  
2 Program Agreement.  
3

4 3. Workplan

5  
6 Employees requesting to work at the ADS on a regular basis and their immediate  
7 manager will jointly develop a Workplan (Exhibit 2). Such Workplan will be  
8 developed within 10 workdays of the request and may be reviewed monthly (or as  
9 needed). The Workplan should include the following:

- 10  
11 - the employee's overall assignments (whether working at the office or  
12 ADS), including establishing any necessary priorities.  
13  
14 - an inventory of necessary equipment and/or resource mater  
15  
16 - the scheduled day or days the employee will be performing work at the  
17 ADS. The employee and manager may mutually agree to change the  
18 established schedule to meet ad hoc needs.  
19

20 4. Day Card

21  
22 Managers may require employees to submit a day card before the end of the pay  
23 period. (The day card is informal in nature at the employee's design.) If  
24 requested, it must include the employee's name, date(s) at the ADS, and generally  
25 show the activities/accomplishments performed at the ADS.  
26

27 5. Approval

- 28  
29 a. Employee requests that meet the requirements of Section 3.D.2. and 3.  
30 above and the core day requirements will be approved. Managers may  
31 approve ADS requests which depart from the core day requirements to  
32 meet special circumstances, or needs of the employee or office.  
33  
34 b. Employee's requesting flexiplace after the effective date of this agreement may  
35 be required to work episodic flexiplace for a time period sufficient to allow the  
36 manager to determine the employee's suitability for flexiplace on a regularly  
37 scheduled basis.  
38

39 6. Call Backs to the Official Duty Station

40  
41 Employees may be required to report to their official duty station for previously  
42 scheduled training, conferences, other meetings, or to perform work on a short-  
43 term basis that cannot otherwise be performed at the ADS or accomplished via  
44 telephone or other reasonable alternative methods.  
45

46 Employees may also be required to report to their official duty station for  
47 emergency operational exigencies to perform Agency work which cannot  
48 otherwise be performed on another workday, at the ADS, via telephone, or other  
49 reasonable alternative methods. In such cases, employees will be provided  
50 reasonable advance notice and be provided a reasonable time to report. Employees

1 should make every effort to report as soon as possible. With good and sufficient  
2 reason, the employee will be permitted up to two (2) hours to report.

3  
4 7. Removal

5  
6 The Agency may remove an employee from the Flexiplace Program due to one or  
7 more of the following:

- 8  
9 - the employee is placed on a leave restriction. The employee is eligible to  
10 request participation upon lifting of the leave restriction.  
11  
12 - the employee is placed on a PAP. The employee is eligible to request  
13 participation 60 days after expiration of the PAP.  
14  
15 - the employee is placed on a PEP. The employee is eligible to  
16 request participation one (1) year after expiration of a PEP.  
17  
18 - the employee's failure to adhere to the requirements specified in the  
19 Flexiplace Program Agreement.  
20  
21 - the employee has proven to be non-accessible for coverage requirements  
22 while working at the ADS and/or working at the ADS has proven to place  
23 an undue burden on other office staff.  
24

25 Normally, employees will not be removed from participation for single or minor  
26 infractions of Flexiplace Program requirements. Managers will make a bona fide  
27 effort to counsel employees about specific problems before effecting removal.  
28

29 When a decision is made to remove an employee from the Flexiplace Program, the  
30 employee must be given written notice indicating the reason(s) for removal, using  
31 the format in Exhibit 4. Unless otherwise specified, the employee may reapply for  
32 Flexiplace Program participation 30 calendar days after removal from the Program  
33 provided that his/her performance is at least fully successful.  
34

35 8. Problems Affecting Work Performance

36  
37 Employees will promptly inform managers whenever any problems arise which  
38 adversely affect their ability to perform work at the ADS. Examples could include  
39 situations such as equipment failure, power outages, telecommunications  
40 difficulties, etc.  
41

42 9. Hours of Work and Leave

43  
44 Employees performing work at the ADS are subject to the same workday requirements  
45 as they would be if they were performing work at the official duty station. Employees  
46 performing work at the ADS are not authorized to work overtime or official  
47 compensatory time, except in special circumstances (e.g., to meet priority needs of the  
48 Agency.) In these situations, prior approval must be obtained from the immediate  
49 manager.  
50

1 Employees performing work at the ADS will follow established procedures for  
2 requesting and obtaining approval of leave, consistent with this Article and Article 31  
3 of this Agreement.  
4

5 10. Travel Reimbursement  
6

7 Employees will be reimbursed for official travel as if working at their official duty  
8 station.  
9

10 11. Emergency Closing/Late Openings/Early Dismissals  
11

12 On a day when an employee is scheduled to work at the ADS and her/his official  
13 duty station building is closed for all or part of a day, the following rules apply:  
14

15 a. Full Day Closing  
16

17 The employee is not required to perform work at the ADS. However, if the  
18 employee voluntarily chooses to perform any work at the ADS, she/he is  
19 not entitled to additional compensation, such as overtime or compensatory  
20 time, credit hours, etc.  
21

1  
2 b. Late Openings  
3

4 On a day when an employee is scheduled to work at the ADS and his or her  
5 official duty station building opens late, the employee is entitled to the  
6 exact amount of excused absence that he or she would have received if  
7 scheduled to work at the official duty station. In this situation, the  
8 voluntary work provisions in a. above apply.  
9

10 c. Early Dismissals  
11

12 On days when an early dismissal occurs, the employee is required to  
13 perform her/his full ADS schedule.  
14

15 12. Emergency Situations  
16

17 In the event of a local emergency situation that adversely affects employees' ability  
18 to commute to the workplace (e.g., transit strike, natural disaster), the Parties agree  
19 to meet immediately to discuss possible temporary Flexiplace arrangements for  
20 affected employees.  
21

22 13. Additional Requirements  
23

24 Employees participating in the Flexiplace Program will be required to:

- 25 - observe existing policies for requesting leave;
- 26 - utilize any government owned/leased equipment for official purposes only  
27 and will safeguard government owned/leased equipment and documents as  
28 currently required at their official duty station; and
- 29 - adhere to applicable government regulations governing information  
30 management and electronic security procedures for safeguarding data and  
31 data bases.  
32

33 14. Equipment and Support  
34

35 At a minimum, the Agency will provide the following as available:  
36

- 37 - call forwarding with remote access capability;
- 38 - government issued telephone credit cards;
- 39 - access to toll-free lines; and
- 40 - necessary software.  
41

42 In addition, in accordance with applicable policies and within demonstrable  
43 budgetary constraints, the Agency will make a good faith effort to assist employees  
44 in obtaining all necessary equipment, supplies, and services required to participate  
45  
46  
47  
48  
49  
50

1 in the Flexiplace Program. The Parties will meet to discuss whether replaced  
2 equipment can be properly used to support the flexiplace program.  
3

4 The employee will be responsible for operating costs, home maintenance, or any  
5 other incidental costs (e.g., utilities) associated with the use of the ADS. The  
6 Agency will be responsible for the maintenance and repair of government owned  
7 equipment (e.g., a government owned computer). The Agency will be responsible  
8 for the cost (installation and maintenance) of a dedicated phone line if required by  
9 the Agency to enhance accessibility and/or for the employee to contribute to  
10 coverage. The employee does not relinquish any entitlement to reimbursement for  
11 appropriately authorized (in advance, if appropriate,) expenses incurred while  
12 conducting business for the Agency as provided for by law and implementing  
13 regulations.  
14

15 15. Satellite Offices

16  
17 The Parties agree to continue to discuss the feasibility of establishing additional  
18 satellite office locations. Discussions will focus on accessibility of GSA sites,  
19 employee interest, and availability of Agency funding. Prior to establishing  
20 satellite office locations, the Parties agree to negotiate consistent with Article 4 of  
21 this Agreement.  
22

23 E. Staff Coverage

24  
25 The Parties will determine coverage requirements locally. When it is determined that  
26 coverage is an issue, priority consideration will be given to bargaining unit employees for  
27 participation in Flextime and Flexiplace when bargaining unit and non-bargaining unit  
28 employees provide the coverage in question. The Parties agree that employees working at  
29 an ADS does not necessarily detract from coverage requirements. The Parties also agree  
30 that employees working at an ADS with E-mail capability contribute to coverage  
31 requirements.  
32

33 If the Agency believes that staff coverage will not be adequate on any given workday, the  
34 Agency will notify the Union, and the Parties will promptly meet to resolve the issue. If  
35 agreement on coverage is not reached within 10 working days of notification to the Union,  
36 either Party may initiate an Alternative Dispute Resolution process with a third Party  
37 mutually agreed to with the authority to mediate a resolution. Neither Party waives its  
38 statutory rights.  
39

40 F. Suspension of Flextime/Flexiplace/Adverse Impact

41  
42 The Agency reserves the right to temporarily suspend the Flextime and/or Flexiplace  
43 Program for individual employees where operational exigencies require a return to the  
44 traditional 5-day workweek. Where this occurs, Center Director/Regional Administrator  
45 (or equivalent) approval is required. The manager will then notify the employee of the  
46 expected date for resumption of the suspended schedule. Prior to extension of the  
47 suspension beyond one pay period, the Union will be notified, and the Agency agrees to  
48 fulfill its obligation in accordance with 5 U.S.C. 71.  
49

1 Occasionally, an employee may also be required to arrive at a specific time on a particular  
2 day for special activities (e.g., to attend a class, to attend a meeting where personal  
3 appearance is necessary, etc.). If the circumstances requiring such a change permit, the  
4 Employer will, to the maximum extent possible, provide the employee with at least  
5 twenty-four hours written notice explaining the reason(s) for the change.  
6

7 Should adverse impact result from the implementation of Flexiplace (e.g., computer server  
8 capacity, etc.), the Parties nationally will meet immediately to attempt to resolve the  
9 matter. The provisions within this Article may be adjusted to resolve the adverse impact.  
10

11  
12 G. Employees on Travel/Attending Training or Conferences/On Detail

13  
14 Employees who are in travel status, attending official training courses or conferences, or  
15 on detail during a workday will adhere to his/her normal daily tour/schedule unless it will  
16 not fulfill the purpose of the official travel, training or activity. An employee in travel  
17 status, attending official training or conferences, or on detail will be granted credit hours  
18 in accordance with Section 3.B. if required to fulfill the purpose of the official travel,  
19 training or activity.  
20

21 H. Holidays

22  
23 1. Holiday Pay

24  
25 Employees working a 9 ½-hour or 10 ½-hour flexible work schedule who are prevented  
26 from working on a day designated as a holiday or an “in lieu of” holiday by Federal  
27 statute or Executive Order are entitled to only eight (8) hours of pay for the holiday.  
28 Employees on these schedules will account for the additional one or two hours by  
29 requesting one or two hours of leave. In the case of a 9 ½-hour employee, in order to  
30 account for the additional one hour, the employee will be permitted to temporarily  
31 change his or her 8 ½-hour day to the holiday.  
32

33 2. “In Lieu of” Holiday

34  
35 Except as provided in subsections a. and b. below, if a Federal holiday falls on a FWS  
36 employee’s non-work day, the employee’s preceding work day will be the designated  
37 “in lieu of” holiday. (I.e., if the actual holiday falls on a FWS employee’s non-work  
38 day Monday, the employee’s non-work day would be a Friday.)  
39

40 a. Exception: If an actual holiday falls on a Sunday, and the Federal holiday is  
41 observed on a Monday, the subsequent work day (rather than the preceding  
42 work day) will be the employee’s designated “in lieu of” holiday. (I.e., if the  
43 Fourth of July falls on a Sunday, the Federal holiday will be observed on  
44 Monday, July 5. In this situation, the employee’s non-work day would be  
45 Tuesday, July 6.)  
46

47 b. The Agency head may also prescribe rules under which a different “in lieu of”  
48 holiday is designated when the Agency head determines that a different “in lieu  
49 of” holiday is necessary to prevent an “adverse Agency impact.”  
50

1  
2 **Section 4. Overtime Provisions**  
3

4 It is mutually recognized that overtime compensation is made when an employee has  
5 been in pay status as determined by applicable law in excess of 8 ½-hours per day (or 9  
6 ½ or 10 ½-hours for an extended flextime participant) or in excess of 40 hours per week  
7 (or 80 hours per pay period for participants on flexible arrangements).  
8

9 Leave usage is not a factor in approving overtime. The manager has the discretion to  
10 approve overtime if an employee is in LWOP and/or AWOL status during a given  
11 workday or workweek.  
12

- 13 A. Overtime when used will normally be distributed to bargaining unit employees whose  
14 performance is at least fully satisfactory.
- 15
- 16 B. Overtime will not be distributed or withheld as a reward or penalty.  
17
- 18 C. When an employee, whether covered by the Fair Labor Standards Act (FLSA) or exempt,  
19 works regular overtime, such overtime will be scheduled and paid in increments of 15  
20 minutes. When an employee, whether covered by the FLSA or exempt, works  
21 irregular/occasional overtime, such overtime will be scheduled and paid in increments of  
22 15 minutes.  
23
- 24 D. Employees covered (non-exempt) by the FLSA will receive overtime compensation in  
25 accordance with the provisions of the FLSA. Positions designated as "FSLA Non-  
26 exempt" are those positions that are covered by the terms of the Fair Labor Standards Act.  
27 Incumbents of such positions are entitled to overtime pay at a rate of one and one-half  
28 times their rate of basic pay, without the GS-10, Step 1 restriction. All bargaining unit  
29 positions at the GS 13 grade level and below, with the exception E below have been  
30 designated as "non exempt" for purposes of FLSA overtime payment.  
31
- 32 E. Positions designated as "FLSA Exempt" are those positions not covered by the Fair Labor  
33 Standards Act. Incumbents of such positions are entitled to overtime pay at a rate of one  
34 and one-half times their rate of basic pay or the GS-10 step 1 rate of pay, whichever is  
35 less. Bargaining unit positions at the GS-13 level and below within the Immediate office  
36 of the Administrator, the Office of Legislation and the Press Office have been be  
37 designated as "Exempt" for purposes of FLSA overtime payment.  
38
- 39 F. When approved by the Agency, employees can accrue and use compensatory time in  
40 accordance with applicable law and regulations. When feasible, the Agency will grant an  
41 employee's request for compensatory time rather than payment for overtime.
- 42 G. It is agreed that non-bargaining unit employees will not be scheduled on overtime to  
43 perform the duties of bargaining unit employees for the sole purpose of eliminating the  
44 need to schedule bargaining unit employees for overtime.  
45
- 46 H. When employees in a voluntary situation indicate in advance that they will work overtime,  
47 the Agency should have a reasonable expectation that they will keep their commitment.  
48
- 49 I. Employees who are: 1) called back for a period of overtime, or 2) who work overtime on  
50 Saturday and/or Sunday, are entitled to a minimum of two (2) hours of overtime pay.

1 Employees who work on a Federal holiday are entitled to a minimum of two (2) hours of  
2 holiday pay.

3  
4 J. When scheduled overtime is to be mandated for all employees in the operating entity,  
5 employees will be notified at least two (2) days in advance. Notice of one (1) day will be  
6 given for all other scheduled overtime work whenever possible.

7  
8 K. Employees will not be scheduled to perform functions on overtime below their grade  
9 levels unless the number of volunteers at the lower level is insufficient.

10  
11 L. When the Agency decides to use overtime, volunteers will be solicited from among  
12 qualified volunteers before using non-volunteers.

13  
14 M. Overtime will be assigned fairly.

15 **Section 5. Time and Attendance Certification**

16  
17 A. All employees are required to record and certify their attendance in accordance with 5  
18 U.S.C. Chapter 61.

19  
20 B. Time and Attendance Certification Procedures Under TAIMS (Time and Attendance  
21 Information Management System)

22  
23  
24 1. Biweekly certification forms will be distributed to each employee on or before the  
25 beginning of each pay period. The employee must record daily actual arrival and  
26 departure times and total hours worked on this form.

27  
28 2. The employee will record any leave, absence, overtime, compensatory time or credit  
29 hours earned and/or used for each day of the pay period. Employees must attest to the  
30 accuracy of their forms by signing the form in the space provided. An employee's  
31 certification form will be maintained at his or her workstation and will be available and  
32 accessible for review by his or her manager.

33  
34 3. On the established closeout day of every day period, each employee is responsible for  
35 submitting the fully completed certification form to his or her manager for certification.

36  
37 4. An employee's failure to timely submit the certification form to the manager may result  
38 in inaccurate or delayed payment of salary checks. If an employee is unable to transmit  
39 the completed certification form to his or her manager, it is the responsibility of the  
40 employee to make arrangements with the manager to ensure that the certification form  
41 is timely completed and transmitted to the timekeeper. All certification forms are to be  
42 retained by each timekeeper for later evaluation.

43  
44 C. Time and Attendance Certification Procedures Under the Integrated Time and Attendance  
45 System (ITAS)

46  
47 1. The Integrated Time and Attendance System (ITAS) is a timekeeping by exception  
48 application that supports most aspects of tracking and reporting work hours and leave  
49 for federal employees. ITAS will be phased in over time by organizational component



1 in order to replace the existing TAIMS (Time and Attendance Information  
2 Management System). Once ITAS is implemented for a particular organizational  
3 component, the certification procedures under TAIMS will no longer be applicable.  
4

- 5 2. Employees will activate the on-line certification feature of ITAS and verify their time  
6 records before the end of each biweekly pay period. The act of verifying means that  
7 the employee certifies that his or her time card for that pay period is correctly stated  
8 and the he or she understands that willful falsification of any time records may result in  
9 severe disciplinary action, including a fine of not more than \$10,000 or imprisonment  
10 or both (18 U.S.C. 287, 1001).  
11

- 12  
13 3. A manager may institute additional certification or time and leave restriction procedures  
14 for employees on leave restriction.  
15

**EXHIBIT 1**  
**FLEXIPLACE PROGRAM AGREEMENT**

The following constitutes an agreement between the Centers for Medicare & Medicaid Services (CMS), and \_\_\_\_\_ on the terms and conditions of the \_\_\_\_\_  
(Name of Employee)

CMS Flexiplace Program, consistent with Article 10 of the Master Agreement:

1. The address of the employee's residence within which the alternate duty station (ADS) is located is:

\_\_\_\_\_

Telephone # \_\_\_\_\_

2. The ADS meets the following which are required by the government for its convenience and to ensure a safe workplace and the security of records and files.

o telephone line(s) and instrument(s) are present and working to ensure that the employee is accessible for coverage requirements during the agreed upon hours at the ADS;

o records and files must be secure in order to minimize the opportunity for unauthorized access; and

o a smoke detector and readily accessible fire extinguisher are in the residence where the ADS is located.

3. The employee's participation in this program is voluntary. Both Parties agree to adhere to the applicable Flexiplace Program policies outlined in Article 10 of the Master Agreement. The Agreement is in effect until canceled by either the employee or the immediate manager. The employee may withdraw from the program at any time.

4. The employee's official daily tour at the ADS will be the same as that at the official duty station; i.e., the employee's approved starting time at the official duty station will be the approved starting time at the ADS. The employee will designate a normal start and ending time at the ADS and will notify the immediate manager of any changes.

5. Employees performing work at the ADS are subject to the same maximum workday limits and starting and ending times as they would be if they were performing work at the official duty station. Participating employees are not authorized to work overtime hours at the ADS unless approved by management consistent with Article 10, Section 3.C.8. of the Master Agreement. Employees are not entitled to work credit hours at the ADS unless authorized under Article 10, Section 3.B.2.f. of the Master Agreement. If the employee works overtime or credit hours that meets these criteria, he/she will be compensated in accordance with applicable law, regulation, and policies.

6. An employee's time and attendance for work performed at the ADS will be recorded in the same manner as is used to record the performance of work at the official duty station.

7. Consistent with Article 31, the employee will follow established procedures for requesting and obtaining approval for leave at the ADS.

- 1 8. Employees performing work at the ADS on a regular basis and their immediate manager will  
2 jointly develop a Workplan (See Exhibit 2) and may be required to submit a day card after  
3 his/her work at ADS day(s) but before the end of the pay period. If required, such day card  
4 will be informal in nature and at the employee's own design. It should include the employee's  
5 name, date(s), and generally show the activities/accomplishments on his/her work at the ADS.  
6
- 7 9. The employee will be responsible for operating costs, maintenance, or any other incidental  
8 costs (e.g., utilities) associated with the use of the employee's ADS unless the costs are the  
9 result of maintenance of government owned equipment (e.g., a government owned computer.)  
10 The employee does not relinquish any entitlement to reimbursement for appropriately  
11 authorized expenses incurred while conducting business for the Agency as provided for by law  
12 and implementing regulations.  
13
- 14 10. For good and sufficient cause, and provided the employee is given at least 7 days advance  
15 notice, the Agency may conduct periodic inspections of her/his ADS during the employee's  
16 normal working hours to ensure work site conformance with safety standards and other  
17 specifications in these guidelines. Such inspections will occur only on days when the  
18 employee is working at the ADS.  
19
- 20 11. The Government will not be liable for damages to an employee's personal or real property  
21 during the course of performance of official duties or while using Government equipment at  
22 the employee's ADS, except to the extent the Government is held liable by Federal Tort Claims  
23 Act claims or claims arising under the Military Personnel and Civilian Employees Claims Act.  
24
- 25 12. The employee is covered under the Federal Employee's Compensation Act if injured in the  
26 course of actually performing official duties at the ADS (designated work station). Any  
27 accident or injury occurring at the ADS must be brought to the immediate attention of the  
28 manager. Because an employment-related accident sustained by an employee during a  
29 Flexiplace Program assignment will occur outside the premises of the official duty station, the  
30 Agency must investigate all reports immediately following notification. The provisions of  
31 Article 34, Master Agreement, apply to all ADS-related on-the-job injuries.  
32
- 33 13. The ADS is the location enumerated in Section 1 of the Flexiplace Program Agreement and  
34 may not be changed without prior approval of the immediate manager.  
35
- 36 14. All Government-borrowed equipment is for official business only.  
37
- 38 15. The terms of Article 23, Master Agreement, continue to apply to the employee at the ADS.  
39

40 **EMPLOYEE:** \_\_\_\_\_ **Date** \_\_\_\_\_  
41 (Signature of Employee)

42  
43 **APPROVED:** \_\_\_\_\_ **Date** \_\_\_\_\_  
44 (Signature Immediate Manager)  
45

1  
2  
3 **EXHIBIT 2**

4 **FLEXIPLACE PROGRAM WORKPLAN REQUEST**

5 **Note: This Workplan is to completed jointly by the employee and immediate manager. The workplan will be**  
6 **updated as necessary.**

7  
8 1. The employee's assignments and priorities (if applicable) are as follows:

9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 2. The employee requests to perform work at the ADS on the following day(s) of each pay period  
16 (circle as appropriate):

17  
18 First week: Mon. Tues. Wed. Thurs. Fri.

19  
20 Second week: Mon. Tues. Wed. Thurs. Fri.

21  
22 3. The following is an inventory of equipment and/or reference material required by the  
23 Government in order for the work to be performed at the ADS. The inventory is guided by the  
24 responsibilities/assignments, or portion thereof, that the employee will perform at the ADS. It  
25 is understood that the employee may be required to provide, at his/her own expense, some or  
26 all of the required inventory.

27 \_\_\_\_\_  
28 \_\_\_\_\_  
29 \_\_\_\_\_  
30 \_\_\_\_\_

31  
32  
33 \_\_\_\_\_  
34 Signature of Employee Date

35 \_\_\_\_\_ Approved \_\_\_\_\_ Disapproved (reasons stated below)

36 \_\_\_\_\_  
37 \_\_\_\_\_  
38 \_\_\_\_\_  
39  
40  
41 \_\_\_\_\_  
42 Signature of Immediate Manager Date

43 **NOTE:** A copy of this request should be maintained by both the employee and the manager.  
44  
45

**EXHIBIT 3**

**FLEXIPLACE EPISODIC PROGRAM WORK ASSIGNMENT REQUEST**  
**(A separate request must be completed for each assignment)**

**TO:** \_\_\_\_\_  
(Name of First-Line Manager)

**FROM:** \_\_\_\_\_  
(Name of Employee)

**SUBJECT:** Request to Perform Episodic Work at My Alternative Duty Station ( \_\_\_\_\_ s Part of  
CMS's Flexiplace Program

I am requesting to work at my ADS as indicated below:

Date(s)	Starting Time	Ending Time

**Description of Assignment:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Employee                      Date

\_\_\_\_\_  
Approved                      Disapproved (reasons stated below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Manager                      Date

**NOTE:** A copy of this request should be maintained by both the employee and the manager.

1  
2 **EXHIBIT 4**  
3

4 **NOTICE OF REMOVAL FROM FLEXIPLACE PROGRAM PARTICIPATION**  
5

6 **TO:** \_\_\_\_\_  
7 (Name of Employee)  
8

9 **FROM:** \_\_\_\_\_  
10 (Name of Immediate Manager)  
11

12 **SUBJECT:** Removal of Employee Participation in CMS's Flexiplace Program  
13

14 I am rescinding your participation in CMS's Flexiplace Program effective \_\_\_\_\_  
15 The reason(s) for my decision is as follows:  
16

17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25

26 You may reapply for participation in the Flexiplace Program as specified in Article 10, Section 3.C.6.  
27

28 \_\_\_\_\_  
29 Signature of Immediate Manager                      Date

30  
31 \_\_\_\_\_  
32 Signature of Employee                                      Date  
33 (Signature does not imply agreement)  
34

1 **UNION – Final Revised Offer**

2 **Article 11**

3  
4 **USE OF OFFICIAL FACILITIES**

5  
6 **Section 1. Access to Internet**

7  
8 The Agency will furnish the Union with access to the internet.

9  
10 **Section 2. Telephone System**

11  
12 The Agency will equip each Agency-provided Union office space with a  
13 telephone system commensurate with its location (i.e. Central or Regional Office)

14  
15 **Section 3. Miscellaneous Services**

16  
17 The Agency agrees to provide routine cleaning and maintenance services in Union  
18 occupied space and to furnish the Union, where available, access to photocopiers, shuttle  
19 service, and other customary and routine services and equipment. The Agency will grant  
20 the Union the use of Picturatel or comparable satellite technology for no less than two  
21 (2) hours quarterly.

22  
23 **Section 4. Office Space and Furnishings**

24  
25 A. The Agency will continue to provide the Union in Central Office and Regional  
26 Offices, at no cost to AFGE, the space, equipment, and furnishings as currently  
27 provided as well as one personal computer in each Regional Office and five  
28 personal computers in the Union Office in Central Office. Such personal  
29 computers will have the same capacity standard as that given to all Agency  
30 employees. The Agency will also continue to provide a fax machine, telephones,  
31 desks, chairs, etc. in each Union Office as well as routine office supplies and to  
32 maintain furnishings and décor commensurate with the other administrative  
33 offices within the facility.

34  
35 B. The Agency will provide suitable space for regular Union meetings.

36  
37 C. The Agency agrees to provide adequate facilities for membership drives at a  
38 location that will provide access to unit employees during non-work periods.  
39 Arrangements will be made at the local level.

40  
41 **Section 5. Mail**

42  
43 Consistent with postal regulations, the Union will have use of Agency metered or franked  
44 mail limited to representational matters. Mass mailings are inappropriate under this  
45 Section.

46

4 **UNION COMMUNICATIONS**

5  
6 **Section 1. Bulletin Boards**

- 7  
8 A. The Agency agrees to provide the Union with the use of approximately 33% of the space on  
9 official bulletin boards that the Agency has on its premises. The Agency agrees to provide at  
10 least one (1) Union bulletin board on each floor of the buildings occupied by the Agency.  
11  
12 B. The Union agrees that all postings will be on designated Union bulletin boards. The Union  
13 agrees that such postings will not malign the character of any individual nor any  
14 libelous attacks upon any individual.  
15  
16 C. The Union agrees to furnish a copy of any Union-developed information scheduled to be  
17 posted on the bulletin boards to the designated labor relations officer in Central Office, or  
18 Regional Office designee in the regions at least one day in advance for informational purposes.  
19

20 **Section 2. Distribution of Literature**

- 21  
22 A. Official publications of the Union may be distributed on CMS / GSA property by Union  
23 representatives on official time or non-duty time. Distribution will be accomplished at a time  
24 and in such manner as to not disrupt operations. All such materials will be properly identified  
25 as an official Union issuance. The Union agrees that such materials will not malign the  
26 character of any individual nor contain any libelous attacks upon any individual.  
27  
28 B. The Union agrees to furnish a copy of any Union-developed literature scheduled for  
29 distribution to the designated labor relations officer in the Central Office, or Regional Office  
30 designee in the regions at least one day in advance for informational purposes.  
31

32 **Section 3. Publication Racks**

33  
34 The Agency will provide space for Union publication racks in each building for the purpose  
35 of distributing Union newspapers and other Union material.  
36

37 **Section 4. Copies of Agreement**

- 38  
39 A. For purposes of ratification, the Agency will provide the Union 125 copies of this Agreement  
40 and place it on the Agency's Intranet.  
41  
42 B. Once ratified, the Agency will provide at no cost to AFGE, copies of this Agreement to each  
43 bargaining unit employee on duty at the distribution date and to all employees entering on duty  
44 after that date. The Agreement will be printed on 8-1/2" x 11" paper in type that can be read  
45 easily. The Agency will also provide a reasonable number of additional copies to the Union.  
46  
47 C. The Agency will distribute Mid-Term Agreements to all affected employees electronically  
48 within the time frames mutually agreed to by the Parties.  
49  
50 D. The Agency will place the Master Labor Agreement and on the Intranet for review and/or use



1 by employees.

- 2  
3 E. The Agency will make appropriate arrangements to accommodate visually impaired  
4 employees.

5  
6 **Section 5. New Employees**

7  
8 The Agency will make arrangements for the Union to meet new employees at the time of  
9 their entrance on duty or at such other times mutually agreed to by both Parties. Official  
10 time will be granted for the Union to make a brief presentation to new employee(s) about  
11 the Union. The presentation will not exceed 45 minutes in duration and will be scheduled  
12 immediately prior to the employee's lunch period when requested by the Union.

13  
14 **Section 6. Intranet and E-mail**

- 15  
16 A. The Agency will provide the Union a "home page" on its Intranet to provide employees  
17 information on matters such as Union programs, benefits and initiatives. The Union "home  
18 page" will be identified on the main Intranet menu/home page.  
19  
20 B. The Union will have direct access to the Intranet for purposes of uploading/updating  
21 information of the Union's "home page" and otherwise accessing the Intranet.  
22  
23 C. The Agency will timely provide the Union designee(s) necessary training, hardware, software,  
24 and maintenance services set up, update, access and otherwise use the Intranet. The Union will  
25 provide the Agency names of its representatives who may authorize and/or upload information  
26 to the Union's home page.  
27  
28 D. The information that the Union displays on its home page will be exclusively governed by the  
29 provisions set forth in this Section. Information placed the Union's home page will comply  
30 with this Agreement.  
31  
32 E. Clearance coordinators will not be liable for errors made in good faith.  
33  
34 F. Recognized Union representatives may use E-mail to communicate directly to employees by  
35 having access to established e-mail groups. However, the Union will not use E-mail to  
36 communicate partisan political material.  
37

38 **Section 7. Employee Data**

39  
40 Semi annually, the Agency will provide the Union with an alphabetical list that includes the names,  
41 grade and step, position titles, division and or duty station, and SCD dates of all  
42 employees.  
43

4 **Article 13**

5  
6 **PARKING AND TRANSPORTATION**

7  
8 **Section 1. Parking Policies**  
9

- 10 A Parking facilities managed by the Agency will be operated in accordance with applicable law,  
11 Government-wide rule or regulation and the provisions of this Article.  
12
- 13 B The Agency will provide secure, adequate, convenient parking at no cost to employees at the  
14 Agency's Central Office single site location.  
15
- 16 C. Where applicable, employees must register their vehicle(s) in accordance with Agency parking  
17 policies. Employees will notify designated Agency Officials of any changes as required under  
18 Agency parking policies (e.g., new tags, new vehicle,  
19 etc.). Employee parking permits must be displayed in accordance with Agency parking  
20 instructions.  
21
- 22 D. At the Agency's Central Office single site location, employees will park in employee assigned  
23 areas between the hours of 6 a.m. and 3 p.m. Employees may park in any space on a  
24 first-come basis, excluding numbered reserved, disabled, or visitor spaces. Between the hours  
25 of 3 p.m. and 6 a.m. on weekdays, and anytime on weekends and holidays, employees may  
26 park in any space other than numbered reserved and disabled spaces.  
27
- 28 E. When implementing any changes in Agency parking policies, the Agency will provide notice,  
29 and upon request, bargain with the Union to the extent required by law and in accordance with  
30 the mid-term bargaining provisions of this Agreement.  
31
- 32 F. When an employee receives a traffic or parking ticket on Agency parking facilities within  
33 Federal Protective Services jurisdiction, the employee has the right to defend such ticket in  
34 court. In cases where the employee's citation is rescinded and/or the employee is found not  
35 guilty, the Agency will convert any leave the employee requested to defend him/herself to  
36 administrative leave. This includes time required to report to, attend, and return from court.  
37
- 38 G. Employees may request and receive a parking space for medical purposes in accordance with  
39 law, Government-wide rule or regulation, and Agency parking policies.  
40  
41

1 **Section 2. Shuttle Service**

2  
3 When provided by the Agency, shuttle service will be made available to employees.  
4 Questions and/or complaints regarding shuttle service, as well as reservations, may be  
5 directed to the customer service desk or other designated official. Accommodations will be  
6 made for employees with disabilities. Employees on detail will be allowed to ride the  
7 shuttle provided they register in advance. The Agency will monitor the shuttle service to  
8 ensure safe and courteous operations.  
9

10 **Section 3. Transit Benefit Policies**

11  
12 The Agency agrees to fund the transit/vanpool benefit program in accordance with 26  
13 U.S.C. 132, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), 5 U.S.C. 7005  
14 Executive Order 13150, and any other applicable law, Government-wide rule or reg  
15 and the provisions of this Article. Transit/vanpool benefits will be funded in the following  
16 manner:  
17

18 A. Washington, D.C. Office

19  
20 Employees whose official duty station is in the Agency's Washington, D.C. office will be paid  
21 a transit/vanpool benefit equal to their eligible commuting costs, not to exceed \$100 per  
22 month.  
23

24 B. Central Office, Regional and Satellite Offices

25  
26 Employees whose official duty station is other than the Washington, D.C. office will be paid a  
27 transit/vanpool benefit equal to their eligible commuting costs, not to exceed \$65 per month.  
28

29 F. Employees will follow the applicable procedures established for their official duty station  
30 location for the transit/vanpool benefit, which include completing, signing, and certifying all  
31 necessary forms.  
32

33 G. Employees who commute daily to and from work using their personal vehicles are not eligible  
34 for the transit/vanpool benefit payment.  
35

36 H. The Agency will make appropriate arrangements for employees to advertise ridesharing  
37 opportunities.  
38

39 I. The Agency will work with local public transportation agencies, to the extent possible, to make  
40 public transportation available to accommodate mobility-impaired employees.  
41

1 **UNION – Final Offer Revised**

2  
3 **Article 14**

4 **REDUCTION-IN-FORCE AND TRANSFER OF FUNCTION**

5 **Section 1. Purpose**

6  
7 This Article establishes and describes the procedures the Agency will take in the event of  
8 a reduction-in-force or transfer of function in accordance with applicable law (5 U.S.C.  
9 §§ 3502 and 3203), Government-wide rule or regulation (5 C.F.R. Part 351) and this  
10 Article. This Article is intended to protect the interests of employees while allowing the  
11 Agency to exercise its right and duties in carrying out its mission. The Agency is  
12 responsible for assuring that 5 C.F.R. Part 351, and this Article are uniformly and  
13 consistently applied to any one reduction in force.

14 **Section 2. Definitions**

15 For purposes of this Article, the following terms and expressions will have the following  
16 meanings in accordance with 5 C.F.R Part 351:

17 A. Reduction-In-Force (RIF):

18 A “reduction in force” (RIF) means the release of a competing employee from his  
19 or her competitive level by furlough for more than 30 days; separation, demotion,  
20 or reassignment requiring displacement, when the release is required because of  
21 lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the  
22 exercise of reemployment rights or restoration rights; or reclassification of an  
23 employee's position due to erosion of duties when such action will take effect

1 after the Agency has formally announced a reduction-in-force in the employee's  
2 competitive area and when the reduction-in-force will take effect within 180 days.

3 B. Transfer of Function:

4 Transfer of function means the transfer of the performance of a continuing  
5 function from one competitive area and its addition to one or more other  
6 competitive areas, except when the function involved is virtually identical  
7 functions already being performed in the other competitive area(s) affected; or the  
8 movement of the competitive area in which the function is performed to another  
9 commuting area.

10 C. Reorganization:

11 The planned elimination, addition or redistribution of functions or duties in an  
12 organization.

13 D. Undue Interruption:

14 Undue interruption means a degree of interruption that would prevent the  
15 completion of required work by the employee 90 days after the employee has  
16 been placed in a different position. The 90-day standard should be considered  
17 within the allowable limits of time and quality, taking into account the pressures  
18 of priorities, deadlines, and other demands. However, a work program would  
19 generally not be unduly interrupted even if an employee needed more than 90  
20 days after the reduction-in-force to perform the optimum quality or quantity of  
21 work. The 90-day standard may be expanded if placement is made under 5 C.F.R.  
22 Part 351 to a low priority program or to a vacant position.

1 E. Competitive Area:

2 Should the Agency change any of its current competitive areas, it shall notify the  
3 Union in accordance with Article 4, and bargain to maximum extent required by  
4 the law.

5 F. Competitive Level:

6 A competitive level consists of all positions in a competitive area which the  
7 same grade (or occupational level) and classification series, and which are similar  
8 enough in duties, qualification requirements, pay schedules, and working  
9 conditions so that the Agency may reassign the incumbent of one position to any  
10 of the other positions in the level without undue interruption.

11 **Section 3. Freezing of Vacancies**

12 The Agency will normally freeze all vacant positions 60 days prior to the  
13 effective date of the RIF. The Agency may exclude certain positions from the  
14 freeze when the freeze on these vacant positions would affect the Agency in the  
15 effectiveness or efficiency of its operations or would result in additional costs  
16 (e.g., overtime, travel or per diem). When the Agency decides to fill a vacant  
17 position after the effective date of the RIF, whether previously frozen by virtue of  
18 the RIF or in the creation of new vacancies, employees who have been demoted  
19 will be offered the vacancy, provided the employee is qualified or has been given  
20 a waiver of qualifications for the intended position. Employee entitlement to this  
21 special consideration will be determined in accordance with Section 20 of this  
22 Article.

1 **Section 4. Employee Notification**

2  
3 An individual employee who is adversely affected by a RIF or transfer of function action  
4 will be given an advance general notice of at least 30 days prior to specific notice. A  
5 specific notice will be issued not less than 60 days prior to the effective date of the  
6 action. In addition to the 30 days general notice, employees reassigned to a location  
7 outside their commuting area will be given at least 90 days specific notice. In 1 to  
8 information required by this Article, all notices will contain the information required by  
9 5 C.F.R. Part 351. When a reduction in force is caused by circumstances not reasonably  
10 foreseeable, the Director of OPM, at the request of the Agency, may approve a notice  
11 period of less than 60 days. The shortened notice period must cover at least 30 full days  
12 before the effective date of release. Upon requesting the shortened notice period from  
13 OPM, the Agency will concurrently notify the Union. Upon the Union's request, the  
14 Agency will meet and confer with the Union about the shortened notice period.

15 **Section 5. Employee Information**

16 The Agency will provide complete information needed by employees to fully understand  
17 the action and why they are affected. At a minimum, the Agency will:

- 18 A. Inform all employees as fully and as soon as possible of the plans  
19 or requirements for the action in accordance with applicable rules and  
20 regulations;
- 21 B. Inform all employees of the extent of the affected competitive area,  
22 the regulations governing such action and the kinds of assistance provided  
23 to affected employees;

1 C. Electronically maintain and publicize a list of Agency-wide  
2 vacancies and information regarding other Government-wide Federal  
3 vacancies, such as USAJobs; and

4 D. Conduct a placement program within the Agency to minimize the  
5 adverse impact on employees affected by the RIF. The placement  
6 program will include counseling for employees on opportunities  
7 alternatives available to affected employees.

8 **Section 6. Personnel Files**  
9

10 The union may review any employee's Official Personnel Folder (OPF) at an employee's  
11 request in writing if the employee believes that the information used to place him/her on  
12 the retention is inaccurate, incomplete, or not in accordance with law, Government-wide  
13 rule or regulation, or the provisions of this Article.

14 **Section 7. Records**  
15

16 The Agency will maintain all lists, records and information pertaining to actions taken  
17 under this Article for at least two years in accordance with applicable law and  
18 Government-wide rule or regulation.

19 **Section 8. Retention Register**

20 A copy of any retention registers will be given to the union. A copy of the preliminary  
21 retention register will be made available to the union at the time the general notices are  
22 issued.



1

2 **Section 9. Employee Use of Agency Facilities**

3

4 Employees who are identified for transfer of function, separation, or change to a lower  
5 grade as a result of RIF under this Article will be entitled to reasonable use of the  
6 following facilities and/or services for the purpose of locating suitable employment:

- 7 A. telephone/fax;
- 8 B. photocopy equipment;
- 9 C. interagency mail/E-mail/internet;
- 10 D. personal computer; and
- 11 G. career or EAP counseling provided by the Agency.

12 **Section 10. Employee Use of Duty Time**

13

14 Employees who are identified for transfer of function, separation, or change to a lower  
15 grade as a result of RIF under this Article will be granted a reasonable time while in a  
16 duty status without charge to leave for the following:

- 17 A. Preparing, revising and reproducing job resumes and/or job application  
18 forms;
- 19 B. Participating in employment interviews; and
- 20 C. Reviewing job bulletins, announcements, etc.

21 **Section 11. Performance Appraisals**

22 Except for employees who are re-rated after a period allowed in 5 C.F.R. Part 432, annual  
23 performance appraisals for purposes of retention standing will be frozen 60 days prior to  
24 the effective date of the action. The three latest annual appraisals of record received

1 during the four-year period prior to the effective date of the freeze will be used to  
2 determine eligibility for additional credit toward an employee's service computation date.  
3 Employees who do not have three annual appraisals will be granted performance credit in  
4 accordance with 5 C.F.R. 351.504.

#### 5 **Section 12. Release From Competitive Level**

6  
7 When an employee is to be released from his/her competitive level, the "best offer" is  
8 made. The offer will be as close to the employee's current grade as possible and in the  
9 same commuting area if possible.

#### 10 **Section 13. Employee Response to Notice of Offer**

11 Upon receipt of specific notice notifying the employee that he/she is offered a  
12 reassignment or change to lower grade or will be released from his/her competitive level,  
13 the employee will have until the end of the specific notice period during which to accept  
14 or reject the offer made.

#### 15 **Section 14. Reassignment to a Different Competitive Area**

16 Reassignment of employees outside of their competitive area will be avoided when  
17 possible. When the Agency is not able to place an employee within the competitive area  
18 and the employee accepts a reassignment requiring a move to another competitive area,  
19 the Agency will reimburse the employee for his or her move at the rates authorized in  
20 accordance with applicable law and Government-wide rule or regulation.

#### 21 **Section 15. House Hunting**

22 When the Agency assigns an employee to a position as a result of a transfer of function or  
23 RIF requiring a move to another geographic area, the employee will be granted a  
24 reasonable period of duty time, not to exceed 10 days, to locate housing and make related

1 arrangements at the new work location. If the Agency determines it is appropriate under  
2 the circumstances, the Agency may grant the employee additional duty time. The  
3 employee will be placed in travel status for such trips and will receive travel and per diem  
4 reimbursement in accordance with applicable law, and Government-wide rule or  
5 regulation.

#### 6 **Section 16. Time Allowed for Relocation**

7 Employee reassigned to a different commuting area who relocate will be allowed a  
8 reasonable period of time, as necessary, to complete the move and report to work at the  
9 gaining activity.

#### 10 **Section 17. Displaced Employees**

11 The Agency will provide any employee to be separated by RIF or transfer of function  
12 with the appropriate information regarding unemployment benefits available to them.

#### 13 **Section 18. Details**

14 Employees on detail will not be released during a reduction-in-force from the position to  
15 which they are detailed but, rather, from the affected employee's permanent position of  
16 record.

#### 17 **Section 19. Transfer of Function**

18 A. In accordance with 5 C.F.R. Part 351, Subpart C, when a transfer of function  
19 occurs, the Agency will identify the positions of competing employees with the  
20 transferring function. The Agency will identify the number of positions needed to  
21 perform the transferring function in the gaining competitive area. To determine  
22 which employees are identified for transfer, the Agency must establish a retention  
23 register that includes the name of each competing employee who performs the

1 function. Competing employees listed on the retention register are identified for  
2 transfer in the inverse order of their retention standing.

3 B. The Agency will permit other employees in the competitive area losing the  
4 function to volunteer for transfer with the function in place of employees  
5 identified by the Agency for transfer. If the total number of employees who  
6 volunteer for transfer exceeds the total number of employees required to fill  
7 the function in the competitive area that is gaining the function, the Agency may  
8 give preference to the volunteers with the highest retention standing or make  
9 selections based upon other appropriate criteria.

#### 10 **Section 20. Re-promotion Rights of Affected Employees**

11 For a period of two years, affected employees demoted by an action covered by this  
12 Article will be re-promoted to vacancies as they occur according to the following criteria:

- 13 A. The Agency determines to fill the vacancy;
- 14 B. The employee has the requisite skills and abilities for the position without undue  
15 interruption; and
- 16 C. Another qualified employee does not have a higher retention standing.

#### 17 **Section 21. Reemployment Priority Rights of Affected Employees**

18 Career and career-conditional employees who have received a specific RIF notice and have not declined a  
19 valid job offer at no lower a rate than the current grade will be entered on the Department's Reemployment  
20 Priority List (RPL) for the commuting area in which the position was located in accordance with 5 C.F.R.  
21 330, Subpart B. Employees will be listed for all positions for which they are qualified and available.  
22 Career employees may remain on the list for two years, career-conditional employees for one year, from  
23 the date of separation unless removed earlier through placement or declination of an offer.

1

2 **Section 22. Bargaining Obligations**

3 Neither party waives any rights to negotiate any matter not comprehensively covered by  
4 this article. All bargaining will be in accordance with Article 4, of the Collective  
5 Bargaining Agreement.

6

7

2 Article 15

3  
4 CONTRACTING OUT

5  
6  
7 When the agency anticipates contracting out of work presently being performed by  
8 bargaining unit employees, the union will be notified prior to the invitation for bids and at  
9 the earliest possible date.

10  
11 The parties have a mutual interest in ensuring constructive employee involvement in  
12 implementing Commercial Activities (A- 76) Studies initiated by the Agency. The

- 13
- 14 1. A representative designated by the union will participate as a non-voting member on the  
15 agency steering committee responsible for overseeing the A-76 Studies process, except when  
16 that committee reviews or discusses the management study, including the most efficient  
17 organization (MEO).  
18
  - 19 2. The union will appoint a bargaining unit employee (and an alternate) as the union's  
20 representative on each Performance Work Statement (PWS) team and to each MEO team.  
21 Additionally, employees may serve on the PWS, MEO or source evaluation panel, but, if they  
22 participate on one, they cannot participate on another (with the exception of the Union MEO  
23 Development Team (discussed below) on which there are no restrictions). The parties will  
24 consult concerning assignment of additional bargaining unit employees to the PWS and MEO  
25 teams. Any bargaining unit employees participating on the PWS or MEO Teams or source  
26 evaluation panels will be provided relevant training.  
27
  - 28 3. The union may also appoint up to three bargaining unit employees each to participate on a  
29 Union MEO Development Team. These teams will be limited to employees appointed by the  
30 union and will develop proposed MEOs for each agency function impacted by the A- 76  
31 studies. Each Union MEO Development Team will be provided with a copy of the second draft  
32 of the associated PWS team from which they will develop their MEO. The management MEO  
33 team for each function will review and consider the final product of the corresponding Union  
34 MEO Development Team. The A-76 contractor will invite members of the Union MEO  
35 Development Team to attend the same training offered to Management MEO Teams or  
36 equivalent training. The contractor will inform the teams of all relevant deadlines in a timely  
37 manner.  
38
  - 39 4. The union shall have the right to designate a representative (and alternate) to each source  
40 evaluation panel convened to evaluate contractor bids submitted in connection with each study.  
41 The union representative may observe the proceedings and participate in discussions but will  
42 not submit "scores" for the contractor bids. Union designees to source evaluation panels shall  
43 be subject to the requirements and restrictions of the Federal Acquisition Regulation and other  
44 applicable laws, rules, and regulations and shall be informed of such requirements and  
45 restrictions.  
46
  - 47 5. In accordance with OMB Circular A- 76 and in order to preserve the right-of-first-refusal or  
48 opportunity for future employment with the contractor, all employees who participate on the  
49 PWS or MEO Teams and the source evaluation panels (but not those who participate on the

1 Union MEO Development Teams, to which the prohibitions do not apply) should be aware of  
2 the general restrictions *set* forth in the Circular which state that they should "not review,  
3 approve, or have direct knowledge of the final performance estimates."  
4

5 In order to protect their right of first refusal, employees on the PWS Teams will cease  
6 participation in the PWS development process after providing their comments on the second  
7 draft PWS to the FDA's A-76 Study contractor. Because they will not be involved in  
8 finalization or approval of the PWS, PWS team members have no other restrictions or impacts.  
9 However, different restrictions apply to employees participating on the MEO teams.  
10 Consequently, the level of participation in the PWS and MEO teams in which employees can  
11 engage without jeopardizing their rights of first refusal varies and will be described in detail in  
12 the employee acknowledgment form (or attachment to it) provided to each participating  
13 employee by the FDA prior to his or her participation on any of these teams (other than for  
14 data collection).  
15

16 6. Pursuant to OMB Circular A- 76, any bargaining unit employee has the right to elect not to  
17 participate in the study as a team member at any time, regardless of whether appointed by the  
18 union or assigned by the agency. This should not be interpreted to mean that employees may  
19 decline to furnish information concerning their duties and responsibilities or other factual  
20 matters related to their employment to the A-76 study contractor in connection with the  
21 studies.  
22

23 7. All union representatives (including alternates) on PWS Teams, MEO Teams, source  
24 evaluation panels, or Union MEO Development teams will receive a reasonable amount of  
25 official time to prepare for and participate in team activities. If there are any disputes about  
26 how much time is reasonable under the circumstances they will be referred to the Union's  
27 National Office and the Agency's Office of Internal Customer Service. Representatives of  
28 those offices will meet to resolve the disputes. Any disputes which cannot be amicably  
29 resolved at the national level will be resolved through the negotiated grievance procedure.  
30

31 8. If any management members of the PWS, Management MEO teams, or source evaluation  
32 panels are required or allowed to travel in order to participate on the teams, a similar number  
33 of bargaining unit employees may do so as well.  
34

35 9. The agency will hold all employee meetings concerning the A-76 studies for affected  
36 personnel, including bargaining unit employees, at least quarterly. These meetings may be  
37 held by video teleconference or teleconference when necessary and will be coordinated with  
38 the appropriate union representatives. The union will be provided thirty minutes at the end of  
39 each meeting to meet separately with bargaining unit employees.  
40

41 10. The agency will provide a website on which employee or union questions about the studies and  
42 the agency's answers to those questions will be posted.  
43

44 11. The union reserves the right to negotiate unresolved issues which may arise at a later date.  
45

46 12. The union reserves any appeal or protest rights it may have under law, rule, or regulation in  
47 connection with the results of agency A-76 studies.  
48  
49

2  
3 **Article 16**

4  
5 **TRAINING AND CAREER DEVELOPMENT**

6  
7 **Section 1. General Principles**

- 8  
9 A. The Parties agree that the primary purpose of training is to develop employees' skills and  
10 knowledge to attain Agency objectives. The Parties agree that training will be provided that is  
11 necessary for the performance of assigned duties or to advance employees' careers in the  
12 Agency. Subject to funding limitations, career development programs will be provided to  
13 meet projected human resource requirements.  
14  
15 B. The individual should continually strive for his/her own improvement. This can be  
16 accomplished by keeping abreast of development's in one's field of endeavor, being alert to  
17 one's own training needs, and participating in various self-improvement activities, such as off-  
18 duty classes, membership in professional societies, etc.  
19

20 **Section 2. Individual Development Plans (IDP)**

- 21  
22 A. The Agency will encourage career development by providing individual employees the  
23 opportunity to develop and IDP.  
24  
25 B. The Agency will assist employees in preparing IDPs, including guidance on the relation of  
26 organizational needs to individual career goals.  
27  
28 C. The Agency agrees to inform employees, at least annually, of the purpose and means of  
29 developing IDPs. IDPs are used to plan activities that accomplish learning objectives. Such  
30 learning activities include: courses, self-study, on-the-job training, and developmental work  
31 assignments.  
32

33 **Section 3. Training**

- 34  
35 A. The Parties will jointly develop training nomination and selection criteria. The Parties intend  
36 that this provision will be used primarily for new and/or career enhancing training.  
37  
38 B. The Agency will inform employees, at least annually, of training policies, nomination  
39 procedures, and the availability of training programs. Upon request, the Agency will advise  
40 individual employees of training opportunities that meet identified learning objectives.  
41  
42 C. Employees or managers may initiate discussion of individual training needs. These  
43 discussions may occur in response to Agency training announcements or at other times such as  
44 annual work planning, performance discussions, or coaching sessions. Such informal  
45 discussions may or may not be linked to an IDP.  
46  
47 D. Training nominations and approval will be based on available funds and the employee's current  
48 position, career ladder, or IDP.  
49  
50 E. When resources for training are limited, priority training needs will be based on fair criteria



1 that are equitably applied. The Agency will give priority to training identified in an  
2 employee's Developmental Assistance Plan and training required to perform the duties of an  
3 employee's current position.  
4

- 5 F. Employees will be notified of the approval/disapproval of their selection for training. Such  
6 notification should be given prior to the starting date of the training. Should an employee's  
7 selection be disapproved for lack of resources, the employee is encouraged to reapply at a later  
8 date and will receive first consideration for approval.  
9
- 10 G. As resources permit, the Agency will develop, with local educational institutions and other  
11 training sources, opportunities for employees to participate in long-term educational programs.  
12
- 13 H. If an employee takes an individual training course that exceeds 81 hours or the Agency  
14 more than \$2,501, the Agency may require the employee to sign an agreement to continue in  
15 service after the training. Excepted from this provision is Agency provided on-the-job training  
16 and/or training required by the Agency. The period of service will begin immediately after  
17 such training and is equal to three times service, the Agency has a right to recover actual  
18 training and travel costs, except pay. Such recovery will be prorated based on the amount of  
19 continuing service that remains outstanding. The employee may request reconsideration of the  
20 recovery amount or request a waiver of this requirement, based on extenuating circumstances,  
21 e.g., disability retirement. Requests for reconsideration or waiver will be granted on a fair and  
22 equitable basis.  
23

#### 24 **Section 4. Formal Career Development Programs** 25

- 26 A. The Agency offers career development programs to prepare employees for future jobs or  
27 assignments.
- 28 1. Career development programs are described in the CMS Training and Career  
29 Development Catalog. Descriptions include eligibility requirements and program  
30 activities. The Catalog is located on the Agency's Intranet, but may also be found in  
31 administrative offices and the CMS Training Center.
- 32 2. The Agency will publicize career development programs when they are announced.  
33 Announcements will contain specific application instructions.
- 34 3. The Agency will develop and implement career development programs that will  
35 provide:
- 36 -- opportunities to learn from temporary developmental assignments, and to  
37 increase their knowledge of CMS programs and work processes through on-the-  
38 job-training (e.g., the Rotational Registry Program.)  
39
- 40 -- employees in clerical, technical, or assistant positions to avail themselves of  
41 college courses and other developmental opportunities.  
42
- 43 Prior to the Agency's solicitation of interest, the Parties will jointly develop the criteria  
44 for participation in the career development programs and the details for  
45 implementation.  
46

- 47 B. For Developmental Assistance Plans for employees in Extended Career Ladders, refer to

1 Article 26.

2  
3 C. Employee Coverage

- 4  
5 1. Career development programs will be limited to the Agency's employees.  
6  
7 2. Candidates will have competitive status or will be serving in excepted positions under  
8 Schedule A 213.3102(U) (Handicapped) or CFR 315.102 (VRA).  
9

10 D. Evaluating Criteria

- 11  
12 1. Participation in career development programs will conform to the HHS Career  
13 Opportunities Training Agreement (COTA), all applicable Governn le rules and  
14 regulations, and this Master Agreement.  
15  
16 2. To the maximum extent feasible, evaluating criteria will be consistent with  
17 trainee/target position, job related, and applied equitably to all employees. Variations  
18 in rating criteria will be based on real differences in the job.  
19  
20 3. Upon request, the Agency will provide employees counseling concerning how the  
21 employee might prepare for taking Agency administered tests.  
22

23 E. IDPs for Career Development Program Participants

- 24  
25 1. Employees selected for a Career Development Program for which there is a  
26 trainee/target position will be given an IDP within thirty (30) days of initial placement.  
27 The IDP will set forth all of the criteria which the employee must meet to reach the  
28 target position, what training will be provided, and the name of the manager  
29 responsible for making decisions on matters affecting the trainee.  
30  
31 2. The responsible manager will assist the employee in the preparation of the IDP and will  
32 review the IDP with the trainee at least quarterly and document the employee's progress  
33 in fulfilling the plan. Trainees who satisfactorily perform the duties of the trainee  
34 position, meet the requirements set forth in the IDP, and meet all qualification  
35 requirements will, barring circumstances beyond the control of the Agency, be non-  
36 competitively reassigned or promoted, whichever is appropriate, to the target position.  
37

38 F. Pay Retention

- 39  
40 1. Employees selected to enter a career ladder at a reduced grade and where the pay rate  
41 cannot be accommodated within the new pay range, are entitled to pay retention under  
42 5 U.S.C. 5363 and Part 536, CFR.  
43  
44  
45 2. Prior to acting on an employee's request for reduction in grade, the Agency will fully  
46 inform the employee of the effects of such action.  
47  
48 3. Trainees who voluntarily request a reduction in grade to participate in the program and  
49 subsequently are unable to qualify for the target position will be reassigned to  
50 appropriate positions at the lower grade levels.

- 1
- 2 G. Employees who lack education requirements needed for target positions will be trained at the
- 3 Government's expense during or after regular work hours as outlined in the IDP.
- 4
- 5 H. Time to meet specialized experience as defined in the OPM Qualification Standards will be
- 6 credited at the rate of one (1) month of training for two (2) months of experience.
- 7

8 **Section 5. Mentoring Program**

- 9
- 10 A. The Mentoring Program provides an opportunity for mentorees to increase their awareness of
- 11 CMS as an organization, learn new skills and accept new challenges that build their self-
- 12 confidence and self-motivation. By teaching, coaching and encouraging others, mentors will
- 13 improve their own skills in these areas while serving as a role model.
- 14
- 15 B. The Mentoring Program will be open to all CMS employees. The program will be coordinated
- 16 by the Learning Resources Group and the Office of Equal Opportunity and Civil Rights.
- 17
- 18 C. The Mentoring Program will be announced to employees.
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**Article 17**

**AWARDS**

**Section 1. Background and Purpose**

The CMS Employee Awards Program reflects the Agency's commitment to promote improvement in the Agency's performance. It is recognized that the use of both monetary and non-monetary awards has a significant effect on employee morale, motivation and performance. The Awards Program is an incentive program that provides recognition based on employee improvement and achievements that contribute to the Agency's mission providing the highest quality service possible. The Awards Program is intended to and reward employees to continually strive for excellence.

Employee empowerment and teamwork are critical components in achieving continuous improvement. CMS's Awards Program not only recognizes individual employee accomplishments, but promotes the recognition of accomplishments of employees as members of teams. Because of the interrelationship between teamwork and enhanced Agency performance, the Awards Program is based on the concept that teams which improve Agency performance deserve recognition and that individual employees who contribute to the success of teams, their work units, and thus the Agency also deserve recognition. The Awards Program is designed to promote a positive work environment, emphasizing teamwork and cooperation rather than individual competition.

The Agency is committed to the principles of employee empowerment and ownership. As a demonstration of this commitment, CMS's Awards Program is intended to reflect the involvement of its employees and their representatives in the program's design and implementation. The Agency recognizes that in a changing culture, employees can and should also play a major role in identifying other employees that are deserving of recognition.

Perhaps most important, CMS's Awards Program itself is designed to be a dynamic process subject to continuous improvement based on customer feedback. It encourages innovation in motivating and rewarding employees, and provides flexibility to tailor awards to best meet individual components' and employees' needs. As such, CMS's Awards Program is highly adaptable to a changing work environment.

1 **Section 2. Oversight**

2  
3 The CMS Labor-Management Cooperation Committee (LMCC) will retain overall  
4 responsibility for administering the Awards Program, including, but not limited to,  
5 consideration of any funding constraints and budgetary limitations, allocating funding  
6 between award categories, determining the method of allocating resources to Component  
7 Awards Panels (e.g., per capita, percentage of salary), and providing timely guidelines and  
8 oversight to Awards Panels. The LMCC will establish and disburse an Agency-wide  
9 Awards Program budget as close to the beginning of the fiscal year as possible. Any  
10 Awards resources not used by any Awards Panel will revert to the LMCC for reallocation  
11 prior to the end of the fiscal year. Management retains its right to determine the overall  
12 awards budget.

13  
14 Because the Awards Program as set forth in this Article is intended to be innovativ  
15 evolutionary in nature, and because its effectiveness is critical to the Agency achieving its  
16 mission, the Parties will continue to examine opportunities for improving the Awards  
17 Program in CMS.

18  
19  
20 **Section 3. Policy**

- 21  
22 A. The following awards are part of the CMS Awards Program: On-The-Spot (OTS), Special Act  
23 (SA), Time-Off Award (TOA), Performance Award, Quality Step Increase (QSI), and other  
24 CMS/HHS non-monetary awards.
- 25  
26 B. Awards will be distributed in a fair and objective manner; they will serve to promote a positive  
27 work environment; and they will be linked to employee contributions that enhance Agency  
28 performance.
- 29  
30 C. The Parties agree that an effective Awards Program should result in a more effective  
31 workforce, higher productivity, and improved working environment. Therefore, CMS agrees  
32 to provide an Awards Program for employees whose performance meets the requirements of  
33 the awards described in this Article.
- 34  
35 D. Each Awards Panel will have maximum flexibility to manage its Awards Program in  
36 accordance with the provisions of Section 6 of this Article.
- 37  
38 E. All employees in good standing are eligible to receive awards.
- 39  
40 F. Unless otherwise prohibited by this Article, employees are not limited in the number or types  
41 of awards they may receive or the frequency with which they may receive them. However,  
42 employees should not receive more than one (1) monetary award (including Time-Off) for the  
43 same act or occurrence. An Award Panel may, however, augment an award if it believes that  
44 the initial award was not sufficient recognition for the act or occurrence.
- 45

- 1
- 2 G. The Parties recognize the importance of rewarding performance in a timely manner. All
- 3 awards will be processed in a timely and expeditious manner.
- 4
- 5 H. The Awards Pool budget is reserved for CMS non-management employees. Commission
- 6 Corp. Officers, contractors, and other non-CMS employees cannot receive monetary awards
- 7 (including TOA) from the Awards Pool budget.
- 8
- 9 I. The Agency agrees that the Secretary of Health and Human Services is the defendant in any
- 10 EEO complaint regarding decisions of Awards Panels and the Agency assumes any and all
- 11 liability in such complaints.
- 12

13 **Section 4. Definitions**

- 14
- 15 A. Base Salary - Actual base salary paid to an employee as shown in the lower right corner of the
- 16 employee's Earnings and Leave Statement.
- 17
- 18 B. Appraisal Year - The regularly scheduled appraisal cycle that begins October 1 and ends
- 19 September 30.
- 20
- 21 C. Rating of Record - The final appraisal received at the end of the appraisal year (see Article 21).
- 22
- 23 D. Component - The organizational entity comprising an Awards Pool for the purposes of
- 24 distributing awards resources (e.g., a Center or Regional Office).
- 25

26 **Section 5. Suggestion/Invention Awards**

- 27
- 28 A Suggestion/Invention Award provides recognition of an individual employee or group of
- 29 employees for a suggestion/invention which results in tangible or intangible savings to the
- 30 Government.
- 31
- 32 A. The Agency will encourage employees to submit suggestions under the CMS
- 33 Suggestion/Invention Program. Awards will be appropriate for suggestions/inventions which
- 34 result in tangible or intangible benefits to the Agency's programs.
- 35
- 36 1. In the event a decision regarding a suggestion/invention is not made within 90 days of
- 37 submission, the employee may request a written status report.
- 38
- 39 2. Non-adoption of employees' suggestions/inventions will be written and will contain
- 40 specific reasons for non-adoption.
- 41

1  
2 3. In the event a non-adopted suggestion/invention is later implemented within 2 years  
3 from the initial decision date, the employee will receive appropriate remuneration for  
4 the suggestion.

5  
6 4. In the event an employee informally submits a suggestion/invention (i.e., orally gives  
7 his/her idea to a staff or management person) that is adopted, the employee must  
8 submit the suggestion in writing within 1 year of the date the suggestion is placed in  
9 effect in order to be considered for a cash award.

10  
11 B. The Agency will develop and communicate to employees a process for submitting  
12 suggestions/inventions. This process will facilitate both automated and non-automated  
13 submittals. Suggestions/inventions submitted in this manner will be processed in accordance  
14 with this Agreement.

15  
16 C. Suggestion/Invention Awards will be in accordance with the DHHS Personnel Instruction 451-  
17 1 tables.

18  
19 **Section 6. Awards Panels**

20  
21 A. At the beginning of each fiscal year, each Component will establish an Awards Panel with the  
22 overall responsibility (including handling employee inquiries and concerns) for administering  
23 the following awards for employees within its component:

- 24  
25 - On-the-Spot (OTS)  
26 - Special Act or Service (SA)  
27 - Time-Off (TOA)  
28 - Performance Award  
29 - Quality Step Increase (QSI)  
30 - CMS/HHS Non-monetary

31  
32 B. Delegation

33  
34 1. Each Awards Panel will determine the portion of its awards budget to allocate to  
35 managers for the use of OTS Cash Awards.

36  
37 2. Each Component Awards Panel may establish Awards Panels below the Component  
38 level.

39  
40 a. Unless otherwise restricted by this Article, each Component Awards Panel may  
41 delegate authority to these panels for administering awards (including Time-Off  
42 Awards) along with the appropriate funds.  
43

- 1  
2           b.       Should such panels be established, creativity should be encouraged in  
3                   developing informal recognition and awards that reflect the local work  
4                   environment and preferences of the employees.  
5

6   C.    Awards Panel Membership  
7

8       Component Awards Panels will consist of a minimum of four members and two alternates.  
9       Each member/alternate serves for a period of at least 1 year. Alternates will be designated for  
10       those instances when panel members are absent, have been nominated for awards, have  
11       nominated employees for awards, etc.  
12

13       All Awards Panels will consist of an equal number of Union-appointed and management-  
14       appointed representatives (members and alternates).  
15

16   D.    Decision Making  
17

18       Decisions of Awards Panels must be by consensus with a quorum present. For the purpose of  
19       this section, quorums must include an equal number of management and Union-appointed  
20       representatives. For internal decisions, Awards Panels are also encouraged to use dispute  
21       resolution processes and techniques when appropriate.  
22

23       If an Awards Panel below the component level cannot reach a consensus, the issue will be  
24       referred to the Component Awards Panel for a decision.  
25

26       Awards Panels may obtain additional information as needed to make a decision on an award.  
27

28   E.    Confidentiality  
29

30       Information provided the Awards Panel, its deliberations and actions will be treated  
31       confidentially and in accordance with the provisions of the Privacy Act and will not be  
32       disclosed except as provided for by this Article.  
33

- 34   F.    Awards Panels must meet at least quarterly to review and decide on award nominations that  
35       have been received.  
36

- 37   G.    The amount(s) allocated each Component Awards Panel will constitute its Awards Pool  
38       budget. Awards Panels will have broad discretion in administering its Awards Pool budget.  
39

- 40   H.    Each Awards Panel established below the component level will receive a proportion of the  
41       component's Awards Pool budget appropriate to its delegated authority.  
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I. Process for On-The-Spot, Special Act, Time-Off, and CMS/HHS Non-monetary Awards

1. Employees and managers are encouraged to identify employees and groups who are deserving of On-The-Spot, Special Act, Time-Off, and CMS/HHS non-monetary awards. Any employee, manager, or team/committee may nominate an employee or group to the Awards Panel for consideration for an award.
2. Whether or not employees and groups should be able to nominate themselves for awards consideration is a controversial issue- with legitimate pros and cons being cited on both sides of the issue. Because Awards Panels are provided maximum flexibility to design their programs to best meet the needs of their components, the decision whether or not to permit self-nomination is being left to each Component Awards Panel. In making its decision, Panels are encouraged to seek input from customers.
3. Standard forms will be used to nominate employees or groups for consideration for awards. Generally, nominators are not expected to recommend an award amount. Nominators will be required to provide a narrative describing the nature of the contribution deserving recognition. The contribution should demonstrate one or more of the following:
  - Foster teamwork,
  - Employee initiative,
  - Employee versatility,
  - Leadership, and/or
  - Other act that promotes customer service or supports the Agency mission/strategic plan.

Awards Panels are encouraged to develop more specific criteria for the above categories.

4. Awards panels will, within available resources, grant an award appropriate to the approved nomination. To the extent feasible, award amounts should be comparable to amounts granted for like contributions.

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5. Individual Awards

- a. Awards Panels may elect to have nominations submitted directly to the Panel or flow through the first line manager of the nominee. In either event, the nominee's first line manager will be provided an opportunity to concur/non-concur with the nomination and provide comments. All nominations must be timely forwarded to the Awards Panel by the manager.
- b. Generally, the Awards Panel of the component where the nomination was initiated will review the nomination. However, if the individual initiating the nomination is not either in the nominee's component or the component where the work was performed, the nomination will be reviewed by Awards Panel of the nominee's component. For work performed outside the nominee's component, Awards Panel may receive input from other components as appropriate.
- c. Where an issue of jurisdiction over an individual award nomination cannot be resolved, the Component Awards Panel in which the employee receives his/her rating of record is responsible for adjudicating the award nomination. However, Awards Panels are encouraged to coordinate across components as described in Section J.

6. Group Awards

- a. At the Awards Panel's option, nominations for groups may be submitted directly to the Awards Panel or flow through the manager of the component that has the lead for the project. (However, the Awards Panel should notify each nominee's manager of the nomination.) In either event, the manager with the lead for the project will be provided an opportunity to concur/non-concur with the nomination and provide comments. All nominations must be timely forwarded to the Awards Panel by the manager.
- b. If the Awards Panel approves a group award, the funds will come from its Awards Pool budget. However, Awards Panels are encouraged to coordinate across components and may share the costs of awards when appropriate (see J. Coordination).
- c. If the jurisdiction over a group award cannot be resolved, the nomination is referred to the nominees' respective Awards Panels for consideration as an individual award.

1 J. Coordination

2  
3 Awards Panels are encouraged to coordinate across components to ensure that all  
4 individuals/groups nominated receive consideration for an award. Awards Panels are also  
5 encouraged to share the costs of awards where appropriate.  
6

7 K. Documentation

8  
9 Awards Panels will keep records of awards nominations and their dispositions.

10  
11 An employee/group making a nomination to an Awards Panel will receive a written  
12 acknowledgment of receipt of the nomination from the appropriate Awards Panel and a written  
13 notification of final disposition of the nomination. The disposition notification should include,  
14 as appropriate, the justification for disapproval, referral, or approval. For a  
15 nomination, the disposition notification will include the type and amount of an award granted.  
16

17 Awards Panels will provide employees receiving awards with written documentation that  
18 clearly articulates the type and amount of an award and the specific reason(s) he/she received  
19 the award. A copy will be provided to the employee's manager. Such documentation should  
20 be suitable for use by the employee, to the extent applicable, to demonstrate a knowledge,  
21 skill, and/or ability when applying for a position under the Merit Promotion System.  
22

23 The employee notification will not include the origin of the nomination.  
24

25 **Section 7. On-The-Spot (OTS) Awards (Cash and Time-Off)**

26  
27 An OTS Award is a Special Act Award designed to recognize noteworthy contributions or  
28 accomplishments that are of a non-recurring nature either within or outside of an individual's  
29 job responsibilities. Generally, OTS Awards are given for short-term activities.  
30

31 An OTS Cash Award can range from \$50 up to \$500. An OTS Time-Off Award can range  
32 from 4 hours up to 40 hours per employee. An OTS Time-Off Award is an incentive award  
33 granted to an employee that allows an excused absence without charge to leave or loss of  
34 pay.  
35

- 36 A. Awards Panels may grant OTS Cash and Time-Off Awards based on awards nominations.  
37  
38 B. Managers may grant an OTS Award based upon his/her own observations or as a result of  
39 observations and/or OTS Award recommendations initiated by any employee or manager.  
40  
41 C. Managers granting an OTS Award will forward an informational copy, including the source  
42 initiating the award, to the appropriate Awards Panel.  
43  
44 D. Awards Panels and Managers are encouraged to provide employees with the option of time-off  
45 or cash.  
46  
47 E. Funds for OTS cash awards will be distributed in accordance with the provisions of this  
48 Article.  
49

50 **Section 8. Special Act (SA) Award**

1  
2 A SA Award is a lump sum cash payment of more than \$500 granted for recurring or non-  
3 recurring accomplishments of employees whose contribution demonstrates one or more of  
4 the criteria in 6.I.3. Awards Panels have authority to grant Special Act awards up to \$2000  
5 for an individual or \$2000 times the number of employees in a Special Act group award.  
6

7 A. Group Special Act Awards will be distributed to the group. The group will determine, by  
8 consensus, how to allocate the award among its members based on the degree to which each  
9 member contributed to the success of the group. If a consensus cannot be reached, the award  
10 will be distributed to group members on a per capita basis.  
11

12 B. Special Act Awards will be processed within 3 pay periods following the date of approval.  
13

14 **Section 9. Time-Off Awards (TOA)**  
15

16 A TOA is an incentive award granted by the Awards Panel to an individual or group that  
17 allows an excused absence without charge to leave or loss of pay. This award is in  
18 recognition of contributions to the quality, efficiency or economy of operations; e.g., work  
19 on a difficult or important project, initiative in meeting a deadline, creativity in improving  
20 service. (Time-off of up to 40 hours may also be granted as an OTS Award--see Section 7.)  
21

22 A. TOA's may be granted to anyone, regardless of other awards received during the appraisal  
23 year.  
24

25 B. An employee may be granted up to 80 hours of time off during a leave year (or, in the case of a  
26 part-time employee or an employee with an uncommon tour of duty, the average number of  
27 hours of work in the employee's biweekly scheduled tour of duty).  
28

- 1
- 2 C. Time off may be granted in amounts of up to 40 hours per employee for a single contribution
- 3 (or, in the case of a part-time employee or an employee with an uncommon tour of duty, one-
- 4 half the average number of hours of work in the employee's biweekly scheduled tour of duty).
- 5
- 6 D. TOA nominations will be forwarded to the appropriate Awards Panel.
- 7
- 8 E. The time off must be scheduled in accordance with Article 31 and used within 1 year after the
- 9 date the award is approved. It may not be converted to a cash payment.
- 10
- 11 F. Group Time-Off Awards will be distributed to the group. The group will determine, by
- 12 consensus, how to allocate the award among its members based on the degree to which each
- 13 member contributed to the success of the group. If a consensus cannot be reached the award
- 14 will be distributed to group members on a per capita basis.
- 15

16 **Section 10. Performance Awards and QSI**

17

18 Performance awards are in recognition of sustained superior performance or in recognition

19 of continued exceptional service that has demonstrated qualities in leadership, employee

20 versatility, teamwork, or other sustained superior performance or continued exceptional

21 service, these awards will be awarded by managers. 40 percent of the total awards pool

22 budget will be allocated on a per capita basis to management for these awards.

- 23
- 24 A. Annually, the Labor-Management Cooperation Committee will establish the total number of
- 25 performance awards to be awarded to employees. Performance awards will be allocated based
- 26 on the number of employees within the Component's Awards Pool.
- 27

- 28 B. Quality Step Increase (QSI)
- 29

30 A QSI is a performance award that provides an increase in an employee's basic rate of pay

31 from one step in his/her position to the next higher step of the grade in recognition of sustained

32 superior performance. QSIs will not be budgeted against an Awards Panels budget. The

33 Labor-Management Cooperation Committee will determine a separate budget and allocation.

- 34
- 35 1. Generally, QSIs are considered to be the most appropriate type of recognition for
- 36 employees who are at the journeyman level of their position but below a step 10 of
- 37 their grade and employees in stand-alone positions below a step 10 of their grade.
- 38
- 39 2. QSIs may be awarded annually to employees who are determined to be deserving by
- 40 management.
- 41

- 42 E. Performance Award
- 43

44 A Performance Award is a lump sum cash payment of more than \$1000 up to \$5000 in

45 recognition of continued exceptional performance. Since employees at the Step 10 of their

46 grade are not eligible for a QSI, managers are encouraged to reward sustained superior

47 performance by nominating such employees for a Performance Award.

- 48
- 49 1. Employees who receive a QSI for the appraisal year are not eligible to receive a
- 50 Performance Award for the same appraisal year.

- 1  
2 2. An employee may only receive one (1) Performance Award for an appraisal year.  
3  
4 3. An employee's individual circumstances should be considered when determining the  
5 appropriateness of a QSI or a Performance Award.  
6  
7 4. Performance Awards will be processed within 3 pay periods following the date of  
8 approval.  
9

10 **Section 11. Other Non-monetary Awards**

- 11  
12 A. Nominations for Administrator's Citations, Component Director's Citations, and HHS Awards  
13 will be reviewed by the Awards Panel.  
14  
15 B. The panel will make an initial recommendation concerning the merit of the nomination.  
16  
17 C. At the appropriate time (a specified period before the awards ceremony), the Awards Panel  
18 will submit recommendations to the Component Director in priority order of the employees  
19 that they determined are deserving of an award.  
20

21 **Section 12. Annual Review by Awards Panels**

22  
23 Annually, each Component Awards Panel will perform the following:

- 24  
25 A. Conduct a review of its awards system to determine whether:  
26  
27 - awards are being distributed equitably and fairly;  
28  
29 - its Awards Program supports the Agency's mission; and  
30  
31 - its Awards Program is encouraging customer service, teamwork, employee initiative,  
32 employee versatility, and leadership.  
33  
34 B. Elicit feedback from its customers on the perceived fairness of the program, its effectiveness in  
35 achieving its stated goals, general customer satisfaction, and recommendations for  
36 improvements.  
37  
38 C. Based upon (A) and (B) above, each Awards Panel will, as appropriate:  
39  
40 - make adjustments to its Awards Program consistent with the authority delegated the  
41 panel under this Article; and/or  
42  
43 - make recommendations to the Labor-Management Cooperation Committee for  
44 improvements.  
45  
46 D. Submit by December 1 of each year an Annual Report to the Human Resources Management  
47 Group including the following:  
48  
49 - employee name, grade, step, series, and component;  
50

- 1 - type of award nomination, if applicable;
- 2
- 3 - type of award granted (designate as "none" if no award was granted); and
- 4
- 5 - an award amount (dollar amount or number of hours if a time-off award was granted).
- 6
- 7 E. Submit by December 1 of each year an Annual Report to the Labor-Management Cooperation
- 8 Committee including the following:
- 9
- 10 - a statistical summary of awards, including the number of nominations, the number of
- 11 each type of award nomination, the number of each type of award granted, and the
- 12 aggregate amount (dollars or number of hours) of each type of award granted; and
- 13
- 14 - an executive summary of its findings and any actions taken or recom ions to the
- 15 Agency Labor-Management Cooperation Committee based upon (A) and (B) of this
- 16 Section.
- 17

18 **Section 13. Awards Report**

19  
20 The Agency will provide the Union with statistics/reports pertaining to the yearly  
21 payment of awards, including TOAs. At a minimum, such data will be by Component  
22 Awards Panel and contain the information in Section 12.D. Such report will be furnished to  
23 the Union by December 15 of each year.  
24

2  
3 **Article 18**  
4 **EQUAL EMPLOYMENT OPPORTUNITY**

5  
6 **Section 1. Policy**

7  
8 The Agency and the Union affirm their commitment to the policy of providing equal  
9 employment opportunities to all employees and to prohibit discrimination because of race,  
10 color, religion, sex, national origin, disabling condition, or age. In addition, the  
11 Parties recognize their commitment to the policy of prohibiting discrimination on the basis  
12 of marital status, political affiliation, sexual orientation, or harassment on the basis of sex.  
13 The Agency will have a positive, continuing and results-oriented program of affirm  
14 action. The Parties agree that Equal Employment Opportunity will be administered  
15 accordance with Title 5 U.S.C., the Civil Rights Act of 1991, the Rehabilitation Act of 1973  
16 as amended, the American with Disabilities Act (ADA), and the Age Discrimination in  
17 Employment Act (ADEA).  
18

19 **Section 2. Affirmative Employment Plan (AEP)**

- 20  
21 A. Establishment and implementation of the Affirmative Employment Program Plan is a  
22 fundamental Agency objective. The Agency will continue to provide overall management  
23 support and budgetary planning to achieve affirmative action objectives throughout the  
24 Agency.  
25  
26 B. It is the policy of the Agency to provide equal employment opportunities and treatment for all  
27 current or prospective employees and to: prohibit discrimination because of race, color,  
28 religion, sex, national origin, mental or physical handicap, age, marital status, political  
29 affiliation, or sexual orientation or harassment. Toward this end, the Agency agrees to maintain  
30 a work environment that assures employees fair and impartial treatment in all employment  
31 actions with a special consideration for the effect and not merely the intent of management  
32 decisions.  
33  
34 C. The Parties will negotiate a CMS-wide Affirmative Employment Plan and any necessary  
35 supplement(s). Negotiations will begin 60 days from the effective date to this Agreement or at  
36 such time otherwise mutually agreed to by the Parties. The Parties may mutually agree to drop  
37 any of the requirements referenced below.  
38

39 Consistent with EEOC Guidelines the negotiating committee will:

- 40  
41 1. Undertake a comprehensive program analysis of the current status of all affirmative  
42 action efforts including:  
43  
44 a. Organizational and Resources;  
45  
46 b. Workforce Analysis;  
47  
48 (1) Analysis of CMS's workforce by Professional, Administrative,  
49 Technical, Clerical and Other white Collar Occupational Categories and



1 Blue Collar Occupational Category (PATCOB), grade groupings, and  
2 major occupations;

3  
4 (2) Comparison of CMS's workforce with the previous year's workforce;  
5 and

6  
7 (3) Comparison of CMS's workforce with the appropriate civilian labor  
8 force (CLF)

9  
10 c. Discrimination complaints (review bases, issues, and findings of informal and  
11 formal complaints)

12  
13 d. Recruitment and Hiring

14  
15 e. Employee Development Programs;

16  
17 f. Promotions;

18  
19 g. Separations; and

20  
21 h. Program Evaluation;

22  
23 2. Identify Problems(s) and Barrier(s);

24  
25 3. Establish Objectives and Action Items, including;

26  
27 a. A clear statement of specific and measurable objectives and supporting action  
28 items that will resolve problems identified;

29  
30 b. Assignment of a responsible official for each objective and action item;

31  
32 c. A target date for completion of each objective and action item;

33  
34 4. Establishment of numerical objectives (goals) for each job category or major  
35 occupation where there is manifest imbalance or conspicuous absence of EEO group(s)  
36 in the workforce;

37  
38 5. The Negotiating Committee will also consider Alternative Dispute Resolution  
39 processes for inclusion in the AEP and adoption by the Agency.

40  
41 6. Monitoring:

42  
43 a. CMS will provide the Union annual status reports on workforce profile and  
44 action items;

45  
46 b. Any and all EEOC evaluation of CMS programs will be timely provided to the  
47 Union.

48  
49 c. The Parties through their designated representatives will meet annually for up to  
50

1 3 days at CMS headquarters to assess progress and negotiate adjustments, as  
2 appropriate.  
3

### 4 **Section 3. Notice to Employees**

5

6 The Agency will make available to employees written information describing the AEP, and  
7 the EEO complaint procedure. The names and telephone numbers of EEO counselors will  
8 be posted on bulletin boards and the Agency's Home Page and kept current.  
9

### 10 **Section 4. Counselors**

11

- 12 A. The Parties agree that a sufficient number of trained EEO counselors are necessary to a  
13 properly administered EEO program. Counselors will be given training and made available  
14 and accessible to employees.  
15
- 16 B. It is mutually agreed by the Parties that the Union may submit nominees for EEO counselor  
17 positions being filled on collateral duty basis. The Agency will give consideration to Union  
18 nominees.  
19
- 20 C. Employees may request an EEO counselor of their choosing. If the employee cannot be  
21 provided with the requested counselor, the names of available counselors will be provided.  
22
- 23 D. Union officials representing employees in EEO complaints will have prompt access, subject to  
24 applicable EEOC procedures, to copies of the EEO Counselor and Investigative Reports and  
25 the personnel records of the complainant.  
26
- 27 E. The Counselor will provide the employee or his/her representative a copy of the initial contact  
28 form. If the employee uses a Union representative, the copy will be given to the Union  
29 representative.  
30

### 31 **Section 5. Complaints**

32

- 33 A. Any employee who wishes to file or has filed a complaint will be free from coercion,  
34 interference, or reprisal and will be entitled to expeditious processing of the complaint  
35 within the time limits prescribed by regulations. Any employee who seeks to file a  
36 complaint will have the right to select a representative of his/her choosing. However,  
37 the Union has the right to refuse to represent non-member in EEO complaints.  
38
- 39 B. An employee has the option of filing a complaint under the negotiated grievance  
40 procedure (Article 24) or under the statutory EEO complaint procedure, but not both.  
41 Should the employee elect to file a grievance under the negotiated grievance procedure,  
42 he/she does not have an automatic right to an arbitration hearing because only the  
43 Union can invoke arbitration. Therefore, the employee will be advised to consult with  
44 the Union before making his/her decision to file a grievance. EEO counselors will  
45 provide an inquiring employee with a written statement to that effect.  
46
- 47 C. The Agency agrees to furnish the Union, upon request, the Annual Statistical Report on  
48 Discrimination Complaints.  
49
- 50 D. If an employee elects to utilize the grievance procedure with Union representation,

1 instead of the statutory procedure for alleged discrimination, the Union will have the  
2 right of discovery if the grievance is referred to arbitration.  
3

#### 4 **Section 6. Duty Time**

5  
6 When an employee files a complaint of discrimination under the statutory procedure, the  
7 Complainant and the representative will be allowed a reasonable amount of duty time.  
8

#### 9 **Section 7. Upward Mobility**

10  
11 In accordance with Article 16 of this Agreement (Training and Career Development), the  
12 Agency will provide the opportunity for employees to enhance their skills through  
13 on-the-job training, work-study programs, and other training measures, so that they may  
14 perform at their highest potential and advance in a manner commensurate with their  
15 abilities.  
16

- 17 A. The Parties agree that the goal of upward mobility is to provide employees the  
18 opportunity to compete for Agency positions so as to advance and perform at their  
19 potential.  
20  
21 B. Upward mobility objectives are to be an integral consideration in affirmative action  
22 planning and will be consistent with EEO goals and objectives.  
23

#### 24 **Section 8. Reasonable Accommodations for Employees with Disabilities**

- 25  
26 A. The Agency is committed to affirmative action for employment, placement, and  
27 Advancement of qualified individuals with disabilities and disabled veterans.  
28  
29 B. The Agency will offer reasonable accommodation to the known physical or mental  
30 limitations of qualified individuals with a disability regardless of type of appointment,  
31 unless the Agency can demonstrate that the accommodation would impose an undue  
32 hardship on the operation of the Agency.  
33  
34 C. The Parties recognize that individual accommodations will be determined on a case-by-  
35 case basis, taking into consideration the employee's specific disability, existing  
36 limitations, the work environment and any undue hardship imposed on the operation of  
37 the Agency's program as defined above. Qualified employees with disabilities may  
38 request specific accommodations.  
39  
40 D. Both parties agree that reasonable accommodation means an adjustment made to a job  
41 and/or the work environment that enables a qualified person with a disability to  
42 perform the duties of that position. The Agency will eliminate undue delay in  
43 considering requests for reasonable accommodations for employees with disabilities  
44 despite general fiscal constraints. Such accommodations are to be considered as  
45 exceptions to the general restrictions and will be evaluated on a case-by-case basis with  
46 regard to the merit of the request.  
47  
48 E. Should a non-probationary employee become unable to perform the essential functions  
49 of his or her position even with reasonable accommodation due to a disability, the  
50 Agency will offer to reassign the employee when a funded vacant position is available

1 and the other conditions in 29 CFR 1614.203(g) are met.

2  
3 F. For employees with disabilities, job restructuring is one of the principal means by  
4 which some qualified workers with disabilities can be accommodated. The principal  
5 steps in restructuring jobs are:

- 6  
7 1. Identify which factor, if any, makes a job incompatible with a worker's disability.  
8  
9 2. If a barrier is identified in a non-essential job function, it may be eliminated so that  
10 capabilities of the person may be used to the best advantage.  
11  
12 3. Job restructuring does not alter the essential functions of the job; rather, any changes  
13 made are those which enable the person with a disability perform functions.

14  
15 G. Both Parties agree that in many cases, changes in the work environment enable persons  
16 with disabilities to more effectively perform their job duties. Alterations may be, but  
17 are not limited to:

- 18  
19 1. Rearranging files or shelves;  
20  
21 2. Widening access areas;  
22  
23 3. Maintaining hazard-free pathways;  
24  
25 4. Raising or lowering equipment;  
26  
27 5. Moving equipment controls from one side to the other, or modify them for hand or  
28 foot operation;  
29  
30 6. Installing special holding devices on desks, benches, chairs or machines.  
31  
32 7. With respect to the modernized systems environment, examples of accommodations  
33 are:  
34  
35 a. The surface that holds the terminal will be adjusted to a level suitable to the  
36 employee's needs.  
37 b. The keyboard will have "light touch." Guards and other adaptive  
38 devices will be considered.  
39 c. Visually impaired employees will be permitted to label "home" keys.  
40 d. Operational and training materials will be available in Braille.  
41 e. Lap trays will be considered.  
42 f. Computer based voice-output systems or VDT screen enlargers will be  
43 provided for visually impaired employees.  
44 g. Hardware and software will be configured to accommodate color blindness  
45 (blinking cursor, highlighting).  
46 h. Printer switches will be available in "light touch" and located in an easily  
47 accessible location.  
48

49 H. An employee may be provided assistive devices if the Agency determines that the use  
50 of the equipment is necessary to perform official duties. Such equipment does not

1 cover personal items which the employee would be expected to provide such as,  
2 hearing aids or eye glasses.  
3

4 **Section 9**

5  
6 The Agency will be liberal in granting leave to accommodate the handicapping condition of  
7 employees. For example the Agency will advise employees that:  
8

- 9 1. Leave without pay be granted for illness or disability.  
10  
11 2. Sick leave can be appropriately used by a handicapped individual (who uses  
12 prosthetic devices, wheel chair, crutches, guide dog, or other similar type  
13 devices) for equipment or guide training or medical treatment  
14

15 The Agency will provide handicapped employees full consideration for all training  
16 opportunities. Once an employee is selected for training, the Agency will provide reasonable  
17 accommodation to the employee to attend and complete the training.  
18

19 It is the intent of the Agency to provide on-the-job training opportunities to qualified  
20 handicapped employees consistent with operational needs.  
21

22 For the purpose of continuing to provide reasonable accommodations for hearing-impaired  
23 employees, management agrees to provide interpreter services for those employees who seek  
24 Union assistance and/or representation on their individual concerns. To the extent possible,  
25 this should be arranged in advance unless the employee wants to retain confidentiality.  
26

27 To provide employees with disabilities equal opportunity to perform official business travel,  
28 certain additional travel expenses necessarily incurred to accommodate the employee's  
29 disability may be reimbursed under the Federal Travel Regulations.  
30

31 On a case-by-case basis, an employee with a disability may request flexiplace or work-at-home  
32 as a form of reasonable accommodation.  
33  
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2  
3  
4 **ARTICLE 21**

5  
6 **EMPLOYEE PERFORMANCE SYSTEM**

7  
8  
9 **Section 1. Overview**

10  
11 CMS will strive for improvement in Agency performance to fulfill CMS's commitment to  
12 providing quality public service. Accomplishment of the Agency mission is intended to be  
13 achieved within an environment that recognizes the interdependence of employees' contributions  
14 and thus promotes teamwork.

15  
16 Improvement in Agency performance will be sought by analyzing work processes and  
17 correcting systemic problems and/or revising processes, as appropriate. Consistent with  
18 CMS's commitment to an environment that promotes teamwork, the accomplishment of group  
19 or team objectives will be a cornerstone of the performance system.

20  
21 To promote teamwork and eliminate unnecessary employee competition, a simplified  
22 performance system will be employed. The purpose of the performance system agreed to in  
23 this Article is to provide a fair and equitable framework for honest feedback and open, two-  
24 way communications between employees and their managers. The system focuses on  
25 contributions within the scope of the employee's job description in achievement of CMS's  
26 overall service mission. Accomplishment of objectives is intended to be achieved within a  
27 teamwork environment.

28  
29 The performance system will emphasize:

- 30
- 31 o Continuous Communication;
  - 32 o Employee Development (rather than being used as a disciplinary tool);
  - 33 o Administrative Simplicity (rather than labor-intensive);
  - 34 o The evolution of the manager's role to coach;
  - 35 o Recognition of special skills and contributions as part of, or in addition to,
  - 36 regular job duties;
  - 37 o Employee input into group objectives;
  - 38 o Overall employee contributions; and
  - 39 o Encouragement of unit and group achievement of the Agency's mission; (rather
  - 40 than fostering individual competition).
  - 41
  - 42
  - 43
  - 44
  - 45
  - 46
  - 47
  - 48

49 An annual appraisal of "successful" assures employees of entitlement to within-grade  
50 increases, eligibility for promotion consideration, eligibility for award consideration and

1 serves as a positive, tangible assertion that the employee is in "good standing."  
2

3 Because the Employee Performance System as set forth in this Article is intended to be  
4 innovative and evolutionary in nature, and because its effectiveness is critical to CMS  
5 achieving its mission, the Parties will continue to examine opportunities for improving the  
6 Employee Performance System in CMS.  
7

8  
9 **Section 2. Policy**

10  
11 The Employee Performance System, in its entirety and application, must be fair, equitable,  
12 and solely related to the job.  
13

14 **Section 3. Communications**

15  
16 A. Organizational Responsibility:  
17

18 Work units/teams are encouraged to develop mutually agreed-upon goals, based on the  
19 Strategic Plan, laws, regulations, and customer expectations. These goals will be written and  
20 shared with all work unit/team members.  
21

22 B. Orientation Sessions  
23

- 24 1. An orientation briefing will be provided to all new employees entering on duty by the  
25 employee's manager and will be an oral discussion to explain, clarify and communicate  
26 the employee's job responsibilities, as articulated in the employee's position description  
27 and the employee's performance plan. The purpose of this discussion is to ensure that  
28 there is a clear and common understanding of the duties and responsibilities contained  
29 in the employee's position description and performance plan.  
30
- 31 2. The manager will assure that the employee has an up-to-date position description,  
32 performance plan, and, if applicable, the career ladder plan, and will initiate a dialogue  
33 with the employee to discuss the employee's duties and responsibilities in relation to  
34 the organizational unit's goals and CMS's mission.  
35
- 36 3. Subsequent orientation sessions should be held when there is a change in the work  
37 situation such as:  
38
- 39 o a change in the manager of record,
  - 40
  - 41 o when detailed,
  - 42
  - 43 o a change in the component's goals or objectives,
  - 44
  - 45 o a change in assignments,
  - 46
  - 47 o a change in the work processes of the component, or
  - 48
  - 49 o when an employee returns from an extended absence of 90 calendar days or  
50 more.

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4. The intent of the Parties is to create a simplified/less burdensome performance system. To that end, the Parties have agreed to eliminate non-critical elements and only include duties that are essential to successful job performance as critical elements in performance plans.

Each employee will receive a performance plan that contains at least one critical element and the standard for "successful" performance. The performance plan will contain those duties/responsibilities of the employee's position description that are critical to job performance. These duties/responsibilities will constitute the critical elements in the performance plan. Elements will be uniform to the maximum extent feasible. Variations in elements will be based on real differences in the job.

5. The performance standard for each element in an employee's performance plan will be established at the "Successful" level. Prior to implementation of new/revised performance standards, the Agency will provide advance notification to the Union and the Parties will proceed in accordance with Article 4.

C. Informal discussions are a standard part of supervision and should occur throughout an appraisal period.

1. Discussions may be initiated by the manager or employee. Discussions may be held one-on-one or between a manager and a workgroup.
2. Discussions should be a candid, forthright dialogue between the manager and employee(s) aimed at improving the work product. The discussion will provide the opportunity to assess accomplishments and progress and identify and resolve any problems in the employee's or work team's work product. Where indicated, the manager should provide additional guidance aimed at developing the employee(s) and improving the work product or outcome. Discussions will provide the employee the opportunity to seek further guidance and understanding of his or her work performance.



1 **Section 4. Uses of the Performance System**

2  
3 This performance system is used for making a basic determination that an employee is in  
4 "good standing." It is also the basis for making certain personnel-related decisions.

- 5  
6 A. Within-Grade Increases - An employee who has attained an appraisal of "Successful" has  
7 achieved an "acceptable level of competency" and will be entitled to appropriate within-grade  
8 increases.  
9  
10 B. An appraisal of "Successful" will be used as the initial factor in determining basic eligibility  
11 for consideration of awards (when appropriate), promotions, and other personnel actions.  
12  
13 C. This performance appraisal will be used in making determinations regarding reassignments-in-  
14 force (RIF) within the Agency in accordance with Article 14 of this Agreement.  
15

16 **Section 5. Process**

- 17  
18 A. All "Successful" bargaining unit employees will receive an annual performance appraisal for  
19 the period October 1 through September 30, thereby certifying that the job duties and  
20 responsibilities have been performed at an acceptable level. The appraisal will be issued in  
21 writing to the employees within 30 calendar days of the end of the appraisal period. New  
22 employees to the Agency for less than 90 calendar days as of September 30, will receive a  
23 delayed appraisal upon completion of the 90-day minimum appraisal period.  
24  
25 B. When appraising performance, the employer will not hold employees accountable for factors  
26 that affect performance that are beyond the control of the employee.  
27  
28 C. Documented performance discussions will be required when the manager believes the  
29 employee is not performing in a successful manner.  
30

31 **Section 6. Performance Assistance Plan (PAP)**

32  
33 If at any time during the appraisal year the manager identifies a performance problem,  
34 he/she will meet with the employee and, if requested, a Union representative, to advise the  
35 employee of the problem, determine the root cause, and develop a written assistance plan to  
36 resolve the problem. This counseling session will be documented in writing and a copy will  
37 be provided to the employee.  
38

- 1 A. The assistance plan will afford the employee a reasonable opportunity of at least 45 calendar  
2 days to resolve the identified performance-related problem. During this period, the employee  
3 will be deemed to be performing at a Successful level for purposes of any performance-related  
4 personnel actions and will not be subject to adverse action for performance-related problems.  
5 This "deemed Successful" level will not constitute an assessment or certification of a  
6 successful level of performance.  
7
- 8 B. The assistance plan will be tailored to the specific needs of the employee and may include  
9 formal training, on-the-job training, counseling, assignment of a journeyman mentor, or other  
10 assistance as appropriate. The Parties agree that placing the employee on 100% review does  
11 not equate to appropriate assistance.  
12
- 13 C. The purpose of the period of assistance is to help the employee improve, raise performance  
14 accumulate documentation as the basis for a future performance-related action.  
15
- 16 D. The Parties understand that determining unit, office, and/or components' success may require  
17 the collection and analysis of data. The focus of data collection will be on the processes and  
18 not on the individual employee. However, the data may indicate repeated problems at a  
19 particular point in the process attributable to a specific job family and/or individual employee.  
20
- 21 E. At any time during the assistance period the manager may conclude that assistance is no longer  
22 necessary. The manager will so notify the employee of this determination in writing.  
23
- 24 F. If, following the assistance period, the manager is unable to make a certification that the  
25 employee is successfully performing his/her job duties and responsibilities, the manager will  
26 give the employee a documented performance interview communicating this determination and  
27 that he/she will be placed on a formal Performance Enhancement Plan (PEP) and that  
28 personnel related actions (WIGI, awards, etc.) will be withheld while this level of performance  
29 continues. If requested, the employee is entitled to a Union representative at this performance  
30 interview.  
31  
32

1 **Section 7. Performance Enhancement Plan (PEP)**  
2

- 3 A. If the manager determines under Section 6.F. that the employee is not successfully performing  
4 his/her job duties, the manager will, in addition to providing the employee the written notice  
5 discussed above, develop, in consultation with the employee and, if requested, his/her Union  
6 representative, a written PEP. The PEP will identify the employee's performance deficiencies,  
7 the successful level of performance, the action(s) that must be taken by the employee to  
8 improve to the successful level of performance, the methods that will be employed to measure  
9 the improvement, and any provisions for counseling, training, or other appropriate assistance.  
10 The goal of this PEP is to return the employee to successful performance as soon as possible.  
11
- 12 B. A reasonable period of not less than 60 calendar days under a PEP will be given for the  
13 employee to achieve successful performance.  
14
- 15 C. At any time during the PEP period, the manager may conclude that the employee's  
16 performance has improved to the Successful level and the PEP can be terminated. In that  
17 event, the manager will notify the employee in writing, terminate the PEP, and appraise the  
18 employee successful, if appropriate.  
19

20 **Section 8. Performance-Based Actions (under 5 U.S.C. 4303 and 5 CFR 432)**  
21

- 22 A. Should all remedial action fail and the employee's performance is determined to be  
23 unacceptable, the manager will issue an appraisal of unacceptable performance to the  
24 employee. One of the following actions will be taken: reassignment, reduction to the next  
25 lower appropriate grade, or removal.  
26
- 27 B. An employee who is reassigned or demoted to a position at a lower grade will be issued a  
28 performance appraisal 90 calendar days after assignment to the new position.  
29
- 30 C. An employee whose reduction in grade or removal is proposed for unacceptable performance  
31 is entitled to:  
32
- 33 1. 30 calendar days advance written notice of the proposed action that identifies the  
34 specific basis for the proposed action including specific instances of unacceptable  
35 performance.  
36
  - 37 2. A representative. The employee must inform the deciding official, in writing, of the  
38 representative's name.  
39
  - 40 3. A reasonable time, not to exceed 20 calendar days, to answer orally and in writing.  
41
- 42 The decision to retain, reduce in grade, or remove an employee will be made within 30  
43 calendar days after the date of expiration of the notice period.  
44
- 45 D. The employee will be given a written decision which:  
46
- 47 1. specifies directly or by reference the instances of unacceptable performance on which  
48 the decision is based;  
49
  - 50 2. unless proposed by the Head of Agency, has been concurred in by an employee who is

1 in a higher position than the person who proposed the action; and  
2

3 3. specifies the effective date, the action to be taken, and the employee's right to appeal  
4 the decision.  
5

6 D. In accordance with 5 U.S.C. § 7121, an employee may appeal the action to either the Merit  
7 Systems Protection Board under § 7701, or the Union on behalf of the employee may timely  
8 file a written request to invoke arbitration under the terms of this Agreement. The choice of  
9 appeal forum is irrevocable. An employee will be deemed to have exercised the appellate  
10 option at such time as the employee timely initiates an appeal under the statutory procedure or  
11 the Union, on behalf of the employee, timely files a written request to invoke arbitration,  
12 whichever occurs first. Arbitration must be invoked no later than 20 working days after the  
13 effective date of the action.  
14

2 Article 22  
3 WITHIN GRADE INCREASES  
4

5 Section 1. Guides for Acceptable Level of Competence

6 The following guides will be used within the Agency in determining acceptable level of  
7 competence for purposes of within-grade increases (WIGI).

8 A. An employee is considered to have attained an acceptable level of competence when  
9 performance is of an acceptable level as defined below:

10 Fully successful performance by an employee.

11 B. Denial of a WIGI is not to be used as a punitive measure or for an act of misconduct in lieu of  
12 appropriate disciplinary actions.

13 C. A notice of a proposed adverse/disciplinary action (nonperformance related) is not a bar  
14 against a favorable determination of an acceptable level of competence for a WIGI.

15 Section 2. Within-Grade Increases

16 A. The determination to grant or withhold a WIGI will be based on the employee's appraisal of  
17 record and his/her current performance under a performance plan for 120 days or more. (Refer  
18 to Article 21 for Performance Appraisal.)

19 B. The WIGI will be granted as soon as the employee is eligible if he/she has met an acceptable  
20 level of competence.

21 Section 3. Procedures for WIGI Determinations

22 A. Where an employee has been assigned a present manager for less than ninety (90) days, and  
23 that manager cannot adequately assess the employee's performance, he/she will secure the  
24 written views of the employee's prior manager before making a performance determination.  
25 The prior manager's views will be entered in the employee's supervisor work folder.

26 B. Except in rare and unusual circumstances, the WIGI will be granted as soon as the employee is  
27 eligible unless the employee was informed:

28 1. during the most recent progress review, as prescribed in Article 21, or

29 2. in no event later than at least sixty (60) calendar days before the end of the

30 statutory waiting period for eligibility for a WIGI that his/her performance is below an  
31 acceptable level of competence and that unless his/her performance improves, the WIGI  
32 will be denied.

33 C. In those rare and unusual circumstances when the manager does not give sixty (60) calendar  
34 days advance notice and the WIGI is delayed, the manager will reconsider the employee's level  
35 of competence not later than sixty (60) calendar days after the date on which the employee  
36 completed the required waiting period. If the employee's level of competence is acceptable, the  
37 WIGI will be retroactively affected to its original due date.

- 1 D. If at the end of the sixty (60) calendar days the employee's performance is not at an acceptable  
2 level of competence for the purpose of approving the WIGI, the employee will be given a  
3 written notice which will include:
- 4 1. An indication that the employee's work has been reviewed;
  - 5 2. A statement that the employee's work has been determined to be of a less than an  
6 acceptable level of competence;
  - 7 3. An identification of those elements where the employee's performance has  
8 resulted in denial of the WIGI;
  - 9 4. A statement that the employee has a right to request, in writing, a reconsideration of the  
10 negative determination, provided the request is made within fifteen (15) days of the employee's  
11 receipt of the negative determination;
  - 12 5. The name of the reconsideration official to whom the employee may submit a  
13 request;
  - 14 6. A statement that the employee may have a Union-approved representative of his/her  
15 choosing in presenting a request to the reconsideration official;
  - 16 7. A statement that the employee may appeal the basis for the negative determination in  
17 person and/or in writing; and
  - 18 8. An explanation that the employee may be considered for a WIGI at any time during the  
19 next 26 calendar weeks if the employee demonstrates an acceptable level of competence.

#### 20 **Section 4. Appeals**

21 The Parties agree that the employee may appeal the reconsideration decision to the final step  
22 of the negotiated grievance procedure prior to arbitration as set forth in Article 24 of this  
23 Agreement.

#### 24 **Section 5. Redetermination**

25 After a WIGI has been withheld, the Agency may grant the WIGI at any time after it determines that  
26 the employee has demonstrated sustained performance at an acceptable level of competence. In such  
27 cases, the WIGI will be effective the first day of the first pay period after the acceptable determination  
28 is made.

29 A new determination will be made within each 26 weeks following the date the WIGI was due or the  
30 date of the final disposition of the negative WIGI decision, whichever is later. If the new  
31 determination is negative, the employee is entitled to a notice of negative determination and the right  
32 to reconsideration. If the negative redetermination is sustained upon reconsideration, the notice will  
33 inform the employee of his/her right to grieve the decision under the negotiated grievance procedure  
34 under Article 24 of this Agreement.

35  
36

2 Article 23

3  
4 DISCIPLINARY or ADVERSE ACTIONS

5  
6 Section 1. Purpose and Policy

- 7
- 8 A. Disciplinary actions are defined as reprimands. Adverse actions are defined as  
9 suspensions of any duration, removals, furloughs without pay for 30 days or less,  
10 reduction in pay or grade (Actions involving suspensions greater than fourteen  
11 (14) days, removals, downgrades, or reduction in pay can be appealed through the  
12 Systems Protection Board, or grieved through the negotiated grievance  
13 procedure).
- 14
- 15 B. Disciplinary and adverse actions will only be taken for just and sufficient cause  
16 and will be effectuated in accordance with applicable laws, Government-wide rule  
17 or regulation and this Agreement. In case of off duty misconduct, disciplinary or  
18 adverse action will only be taken if there is a nexus between the employee's  
19 misconduct and the employee's position.  
20 Disciplinary or adverse action will be initiated timely after the offense is  
21 committed or made known to the Agency.
- 22
- 23 C. Discussions involving disciplinary or adverse actions will be conducted privately  
24 and in such a manner as to avoid embarrassment to the affected employee. The  
25 Agency will protect the privacy of the employee against whom a disciplinary or  
26 adverse action is taken.
- 27
- 28 D. The Agency will make available for review copies of all the material collected  
29 and/or relied upon to support the proposed action concurrent with the proposal  
30 notice being delivered to the employee. If requested by the employee or his/her  
31 representative, the Agency will furnish copies of such material prior to the reply  
32 (whether oral or in writing). Where management has relied upon witnesses to  
33 support the reasons for the proposed action, the Agency will make available their  
34 identity and provide any written statements taken. The material relied upon will  
35 include all evidence that has been collected and considered in determining the  
36 disciplinary/adverse action (including the severity of the proposed action) taken  
37 by the Agency.
- 38
- 39 E. In effecting disciplinary or adverse actions, the Agency endorses the concepts of  
40 like penalties for like offenses and progressive discipline. However, mere surface  
41 consistency is to be avoided, and the Agency should give due regard to the  
42 existence of any mitigating/aggravating circumstances, the nature of the position  
43 occupied by the employee involved, and any other factors bearing upon the  
44 incidents or acts involved. The degree of discipline administered should be  
45 proportionate to the offense and on a case-by-case basis.
- 46  
47

1 The following sequence of steps should serve as guidance when considering  
2 disciplinary/adverse action:

- 3
- 4 1. Oral Warning
- 5 2. Written Counseling
- 6 3. Reprimand
- 7 4. Short-term suspensions
- 8 5. Long-term suspensions
- 9 6. Removal

- 10
- 11 F. Records of disciplinary or adverse actions will be purged in a timely manner.  
12 Purged records may not be relied upon or referred to in subsequent actions.
- 13
- 14 G. The Union and the Agency may mutually agree to extensions of any time frames  
15 stated within this Article. The Agency will not unreasonably deny a request for  
16 extension of the time frame to respond to proposals. If the employee response is  
17 not timely filed and an extension is not granted, the Agency may issue its final  
18 decision.
- 19
- 20 H. The Agency will notify the Union in writing of any disciplinary or adverse actions  
21 within three (3) workdays of the issuance. One (1) sanitized copy of the proposed  
22 action will be provided to the Union when the Union is not representing the  
23 employee.
- 24
- 25 I. An employee will be given reasonable time to prepare and present a reply or  
26 appeal to a covered action. CMS employees who appear as witnesses at any step  
27 in these procedures will be in duty status.
- 28

## 29 **Section 2. Counseling and Warnings**

- 30
- 31 A. Discipline should be proceeded by oral warnings, or counseling.
- 32
- 33 B. Oral warnings and written counseling are not in themselves disciplinary or  
34 adverse actions. They are only intended to put the employee on notice that future  
35 misconduct could result in disciplinary action. Upon request, any employee  
36 receiving counseling is entitled to a Union representative.
- 37
- 38 C. A written counseling will be expunged from all Agency records within six (6)  
39 months of issuance.
- 40

## 41 **Section 3. Reprimands and Short Term Suspensions**

- 42
- 43 A. Reprimand Definition. A reprimand is a written disciplinary action. A copy of  
44 the reprimand will be made a part of employee's supervisor work folder and the  
45 employee's official personnel folder for up to two (2) years. However, the  
46 manager will remove the reprimand from the supervisor work folder and the



1 employee's official personnel folder no later than one (1) year after the date of the  
2 letter of reprimand, if the purpose of the discipline has been served.

3  
4 B. Short-Term Suspension Definition: A short-term suspension is a suspension of  
5 fourteen (14) days or less.

6  
7 C. Right to Representation: Employees are entitled to representation at all phases of  
8 these proceedings, including all meetings with a management official for the  
9 purpose of discussing the covered actions. The employee has a right to designate a  
10 representative, including an attorney.

11  
12 The employee is responsible for bearing any and all costs for representation if the  
13 representative is other than the exclusive representative (Union). In the event an  
14 employee (or employees) proceeds without Union representation, the Union will  
15 be given the opportunity to be present at all meetings. In its capacity as an  
16 observer, the Union agrees to respect the confidentiality of all information  
17 obtained. Any adjustments must be consistent with the terms of this Agreement.

18  
19 D. Procedures: An employee is entitled to a written notice of the proposed action  
20 stating the specific details of the charges being brought, the employee's appeal  
21 rights, and right to Union representation. The employee's immediate manager, or  
22 designee, will issue the proposal.

23  
24 The employee and/or representative has the right to respond orally, in writing, or  
25 both to the charges brought against the employee within ten (10) working days of  
26 receipt of the notification of the proposed action. This response must be  
27 addressed to the immediate manager proposing the action. The response may  
28 include any and all matters that the employee or representative deems relevant to  
29 the proposed action.

30  
31 The next level manager, or their designee, will within ten (10) working days of  
32 receipt of the employee's written response or oral presentation, if any, issue a  
33 written decision to the employee or employee's representative and inform  
34 employee of their appeal rights. Following receipt of the Agency's decision, the  
35 employee will have 20 workdays to file a grievance pursuant to Article 24.

36  
37 E. A short term suspension of 14 days or less will be held in abeyance if arbitration  
38 is timely requested.

39  
40 **Section 4. Suspensions of More than 14 Days, Removals, Furloughs Without Pay**  
41 **for 30 days or Less and Reductions in Pay or Grade.**

42  
43 A. Right to Representation: Employees are entitled to representation at all phases of  
44 any of these proceedings, including all meetings with a management official for  
45 the purpose of discussing the covered actions. The employee has a right to  
46 designate a representative, including an attorney.

1  
2 The employee is responsible for bearing any and all costs for representation if the  
3 representative is other than the exclusive representative (Union). In the event an  
4 employee (or employees) proceeds without Union representation, the Union will  
5 be given the opportunity to be present at all meetings. In its capacity as an  
6 observer, the Union agrees to respect the confidentiality of all information  
7 obtained. Any adjustments must be consistent with the terms of this Agreement.  
8

9 B. Procedures: An employee is entitled to a thirty (30) day advance written notice of  
10 the proposed action stating the specific details of the charges being brought the  
11 employee's appeal rights, and right to representation. Normally, the employee's  
12 immediate manager, or their designee will issue the proposal. However, such thirty  
13 (30) day notice may be waived if there is reasonable cause to believe the  
14 employee has committed a crime for which a sentence of imprisonment may be  
15 imposed.  
16

17 The employee and/or representative has the right to respond orally, in writing, or  
18 both, to the charges brought against the employee within ten (10) working days of  
19 receipt of the notification of the proposed action. This response, if in writing,  
20 must be addressed to the deciding official (or their identified designee) who will  
21 be at least one organizational level higher than the proposing official. The  
22 response may include any and all matters that the employee or representative  
23 deems relevant to the proposed action.  
24

25 The deciding official, or their designee, will within ten (10) working days of  
26 receipt of the employee's written response or oral presentation, if any, issue a  
27 written decision to the employee and the employee's representative, if any, and  
28 inform employee of their appeal rights. Following receipt of the Agency's  
29 decision, the employee may either file a grievance or appeal the action to Merit  
30 Systems Protection Board (MSPB). If the employee elects to appeal the action to  
31 the MSPB, the employee will have thirty (30) calendar days from the effective  
32 date of the Agency action to appeal to the Merit System Protection Board. If the  
33 employee elects to file a grievance, the employee will have 20 workdays to file.  
34 (Except in the case of performance based actions which must be filed in  
35 accordance with Article 21).  
36

### 37 **Section 5. EEO Options**

38

39 If the appeal is based, in whole or in part, on an allegation of discrimination, the  
40 employee may file an EEO complaint in accordance with Article 24, Section 8.

2 Article 24

3  
4 GRIEVANCE PROCEDURE

5  
6 Section 1. Purpose

- 7
- 8 A. The purpose of this Article is to provide a mutually acceptable method for the prompt and  
9 equitable settlement of grievances filed by bargaining unit employees or the Parties.
- 10
- 11 B. The Union and the Agency earnestly desire that these grievances and complaints should be  
12 settled in an orderly, and prompt manner so that the efficiency of the Agency be  
13 maintained and morale of employees will not be impaired. Every effort will be made by the  
14 Agency and the Union to settle grievances at the lowest possible level of the grievance  
15 procedure. Employees and their representatives will be unimpeded and free from restraint,  
16 interference, coercion, discrimination or reprisal in seeking adjustment of grievances.

17  
18 Section 2. Scope

19  
20 A grievance means any complaint:

- 21
- 22 A. by an employee concerning any matter relating to the employment of the employee;
- 23
- 24 B. by the Union concerning any matter relating to the employment of the employee; or
- 25
- 26 C. by an employee, the Union or the Agency concerning:
- 27
- 28 1. the effect or interpretation of a claim of breach of the collective bargaining Agreement  
29 or
- 30 2. any claimed violation, misinterpretation or misapplication of any law, rule or regulation  
31 affecting conditions of employment.
- 32
- 33 D. The negotiated grievance procedures contained in this Article do not cover:
- 34
- 35 1. any claimed violation relating to prohibited political activities;
- 36 2. any complaint concerning retirement, life insurance or health insurance;
- 37 3. any suspension or removal for national security reasons;
- 38 4. any examination, certification or appointment; or
- 39 5. the classification of any position which does not result in the reduction in grade or pay  
40 of any employee.
- 41

1 **Section 3. General Provisions**

2 This negotiated procedure will be the exclusive procedure available to the Union, the  
3 Agency, and the employees in the bargaining unit for resolving such grievances except as  
4 otherwise provided in this Article. It is understood that an employee processing a  
5 grievance under this Article will be limited to Union representation or self-representation. ✓  
6 When an employee is represented by the Union, all management contact concerning the  
7 grievance will be with the Union representative. When not representing bargaining unit  
8 employees in a grievance, the Union will have the right to observe all formal discussions  
9 and proceedings during all steps of the negotiated grievance procedure. In its capacity as an  
10 observer, the Union agrees to respect confidentiality of all information obtained. However,  
11 in the event an employee proceeds without Union representation, the Union will be given  
12 the opportunity to be present at adjustment meetings. Any such adjustment must be  
13 consistent with the terms of this Agreement.

14  
15 In accordance with 5 U.S.C. 7121, an employee at his/her option may raise matters covered  
16 under 5 U.S.C. 4303 (Unacceptable Performance) and 5 U.S.C. 7512 (Suspensions of More  
17 than 14 Days, Removals, Furloughs Without Pay, for 30 days or Less and Reductions in  
18 Pay or Grade) under the appropriate statutory procedures or the negotiated grievance  
19 procedure, but not both. An employee will be deemed to have exercised his/her option at  
20 such time as the employee timely files a notice of appeal under the applicable appellate  
21 procedures or the Union invokes arbitration timely, whichever event occurs first.

22  
23 An employee affected by a prohibited personnel practice or discrimination may raise the  
24 matter under a statutory procedure or the negotiated grievance procedure, but not both. An  
25 employee will be deemed to have exercised his/her option at such time as he/she timely  
26 files a grievance in writing or initiates an action under the applicable procedure.

27  
28 **Section 4. Question of Grievability/Arbitrability**

29  
30 In the event either Party should declare a grievance non-grievable or non-arbitrable during  
31 the grievance procedure, the disputes of grievability or arbitrability will be referred to  
32 arbitration as a threshold issue in the related grievance. The Party raising the  
33 grievability/arbitrability question will provide an adequate explanation of the issue at the  
34 earliest time possible during the grievance procedure.

35  
36 When the Agency alleges an issue is non-grievable or non-arbitrable, the grievant will have ✓  
37 five workdays to reconstitute the grievance if he/she wishes. Upon reconstitution, the  
38 grievance will be resubmitted at the level at which the issue was raised and proceed as a  
39 normal grievance. The grievant will be allowed only one reconstitution attempt.

40  
41 **Section 5. Processing Procedures**

42  
43 **STEP 1**

44 A written grievance must be submitted to the immediate manager within twenty (20) ✓  
45 working days of the date the employee became aware of the occurrence of an incident/event  
46 or it will not be considered. A grievance concerning a continuing practice or condition may  
47 be presented at any time. All grievances will be in writing and be submitted on the CMS  
48 Standard Grievance Form (see Appendix I to Article 24) by the grievant or their designated  
49 Union representative. The grievance information should include the date filed, the name of  
50 grievant and his/her representative, if any, and signature of grievant or his/her

1 representative, the work location, and sufficient detail to identify the basis of the grievance,  
2 including the specific Article of the Agreement, and general reference to any practice, law,  
3 rule or regulation alleged to be violated, misinterpreted or misapplied and any alleged facts  
4 and the specific relief the employee seeks.  
5

6 Upon request, the Step 1 official will listen to the grievant's/representative's oral  
7 presentation. The Step 1 official will review the written grievance, conduct an investigation  
8 and/or obtain advice, and will attempt to adjust it as speedily as possible. The Step 1  
9 official will give a written decision within ten (10) working days of receipt of the grievance  
10 or oral presentation, whichever is later.

11  
12 When presenting the Step 1 response to the grievant/representative, the Step 1 official will  
13 ask if a Step 2 review is requested. This request must be made in writing, usually on a  
14 grievance form. The grievant/representative will have five (5) workdays from the receipt  
15 of the Step 1 response to make this choice. If the Step 2 review is requested, the  
16 Step 1 official will forward the grievance materials to the Step 2 official.  
17

## 18 **STEP 2**

19 The Step 2 official will be at least one organizational level higher than the Step 1 official.  
20 If the Step 2 official does not have the authority to resolve the grievance, the grievance  
21 will be submitted without delay to an official, designated by the Agency, having such  
22 authority who will adjudicate it. The Step 2 official will meet with the  
23 grievant/representative as soon as possible if an oral presentation is requested. A written  
24 decision will be prepared within ten (10) working days of the oral presentation or, if no oral  
25 presentation was requested, within ten (10) working days of the date the  
26 grievant/representative chose to advance the grievance to Step 2, whichever is later.  
27

28 The written decision should include:

- 29 1. a brief statement of the Agency's position;
  - 30 2. a summary of findings; and
  - 31 3. the Agency's final decision.
- 32  
33

34 If the decision is not acceptable to the employee or the Union, the Union may refer it to arbitration in  
35 accordance with Article 25, Arbitration, of this Agreement.  
36

37 At all steps in the process, the deciding official will address the merits of the grievance  
38 regardless of whether or not they have the authority to grant the relief. ✓  
39

## 40 **Section 6. Failure to Meet Requirements**

- 41
- 42 A. In employee grievances, failure on the part of the Agency to meet any of the time requirements  
43 of this procedure will permit the grievance to advance to the next step of the grievance  
44 procedure. However, failure by the Agency to respond to the grievance will waive the  
45 grievance timeframes. ✓
- 46
- 47 B. If the grievant after receiving a decision fails to timely pursue the grievance, the grievance will  
48 terminate.
- 49
- 50 C. If a decision is not issued, the grievance will not terminate.

1 **Section 7. Duty Time and Witnesses**

2  
3 An employee will be afforded reasonable duty time to prepare for discussions and to present a  
4 grievance under this Article. Any CMS witnesses as determined by either Party to be necessary to the  
5 resolution of the grievance will also be on duty time. ✓

6  
7 **Section 8. EEO Options**

8  
9 Before filing a grievance which alleges discrimination, the employee will first discuss the  
10 allegation with an EEO Counselor. This discussion must be within forty-five (45) calendar  
11 days after the event causing the allegation or after the date the employee became aware of  
12 the event. The Counselor will have thirty (30) calendar days to resolve the matter informally. If the  
13 Counselor is unsuccessful, he/she will give the employee a written notice stating his/her right  
14 to file either a formal complaint under the statutory EEO procedure or a grievance under this  
15 procedure. This notice will clearly inform the employee that if he/she elects to file a grievance  
16 under the negotiated grievance procedure, he/she does not have an automatic right to an  
17 arbitration hearing because only the Union can invoke arbitration. Therefore, the employee  
18 will be advised to consult with the Union before making his/her decision to file a grievance. If  
19 the employee elects to file under the negotiated grievance procedure, he/she will proceed under  
20 Section 5 of this Article within twenty (20) working days of the date of the Counselor's final  
21 report and attach a copy of the Counselor's notification to the grievant if the counseling process  
22 was used. (The EEO Counselor will advise the employee with whom the grievance may be  
23 initially filed.) For the purpose of this section, the Step 1 official is the official who took the  
24 action which gave rise to the allegation of discrimination or his/her designee. If the official is  
25 the Step 3 official or higher, that official will have fifteen (15) working days to attempt to  
26 resolve the matter and issue a decision. If the matter is not resolved, the  
27 grievant/representative will have five (5) workdays to elect to have the matter reviewed by a  
28 higher appropriate authority identified by the Agency. That official will have twenty-five (25)  
29 work days to either resolve the matter or render a final decision. } 2

30  
31 **Section 9. Union/Management Grievances**

- 32  
33 A. A grievance on behalf of the Union or the Agency will be submitted in writing to the Agency's  
34 labor relations officer (or designee) or the Union President (or designee), respectively. The  
35 grievance must be filed within 30 working days from the date of the incident or event that gave  
36 rise to the grievance or from the date that the filing party became aware of such incident or  
37 event.. A grievance concerning a continuing practice or condition may be presented at  
38 anytime. ✓
- 39  
40 B. Upon receipt of a union/management grievance, the Agency's labor relations officer (or  
41 designee) and the union president (or designee) will, within 10 working days, meet to attempt  
42 resolution.
- 43  
44 C. If, after the meeting, the grievance is unresolved, arbitration must be invoked no later than 20  
45 working days after the date of the meeting to attempt resolution. If the parties do not meet to  
46 attempt resolution within 10 working days, the grievant must invoke arbitration no later than  
47 30 working days from the date the grievance was filed.
- 48  
49 D. Any grievability/arbitrability issues must be raised no later than 30 working days after the date  
50 the grievance was filed.

1  
2 E. Union/management grievances shall not be used to file a grievance on behalf of an individual  
3 employee or combine unrelated individual grievances.  
4

5 **Section 10. Union Membership**

6  
7 The Union is not obligated to provide representation on matters in statutory appeals of adverse action ✓  
8 and EEO complaints. The Union may consider membership as a factor in its decision whether or not  
9 to provide representation.

10  
11 **Section 11. Disposition of Grievance Form**

12  
13 Within thirty (30) days, the parties will meet to devise a new standard form for Disposition ✓  
14 of Grievance.  
15

2 **Article 25**  
3 **ARBITRATION**  
4

5 **Section 1. Invoking Arbitration**

6 If unresolved, a grievance processed under Article 24 of this Agreement may be referred  
7 to arbitration as provided for in this Article. Such referral will be made within twenty  
8 (20) working days except where otherwise noted after receipt of the final written decision  
9 of an action processed under Article 23 or Article 24. If not appealed within th  
10 limit, there will be no other appeal. A request to invoke arbitration will be proc  
11 accordance with the procedures outlined in this Agreement.

12 Invocation for arbitration will be filed with the Central Office designated management  
13 official.

14 **Section 2. Selection of Arbitrator for Major Arbitration**

15 Within five (5) working days from the date of the request for arbitration, the Parties will  
16 jointly or separately request the Federal Mediation and Conciliation Service (hereinafter  
17 called FMCS) to provide a list of five (5) impartial persons to act as arbitrators from the  
18 appropriate geographical area. The Parties will meet within three (3) working days after  
19 receipt of such a list. If they cannot mutually agree upon one (1) of the listed arbitrators,  
20 then the Agency and the Union will each strike one (1) arbitrators' name from the list of  
21 five (5) and will then repeat this procedure. The remaining person will be the duly  
22 selected arbitrator.

23 **Section 3. Prehearing Conference**

24 By mutual agreement, the Parties may arrange for a prehearing conference, with or  
25 without the arbitrator, to consider possible settlement and means of expediting the  
26 hearing. For example, this can be done by reducing the issue(s) in writing, stipulating  
27 facts, outlining intended offers of proof, authenticating proposed exhibits, exchanging  
28 lists of witnesses or waiving the use of a transcript.

29 **Section 4. Major Arbitration Procedures**

- 30 A. The arbitrator's fees and all expenses will be shared equally by the Parties.
- 31 B. The procedures used to conduct the arbitration will be determined by the  
32 arbitrator. All Parties will be entitled to call and cross-examine witnesses and will  
33 be entitled to a hearing before the arbitrator.
- 34 C. If either Party requests a transcript, that Party will bear the entire cost of such a  
35 transcript and will furnish one (1) copy of the transcript to the other Party and one  
36 (1) copy will be forwarded to the arbitrator.



- 1 D. If possible, the arbitration hearing will be held on the Agency's premises during  
2 the regular working hours of the basic workweek. All CMS bargaining unit  
3 employees participating in the hearing will be in duty status.
- 4 E. Arbitration of an employee grievance may only be invoked by the Union.
- 5 F. If the Parties fail to agree on a joint submission of the issue for arbitration, each  
6 will submit a separate submission and the arbitrator will determine the issue or  
7 issues to be heard.
- 8 G. Normally, the Parties agree to exchange a complete list of prospective witnesses  
9 at least fifteen (15) days prior to the hearing. The Parties will attempt to ly  
10 agree on witnesses to testify at the hearing. In the event the Parties cannot  
11 on appropriate witnesses, the respective list of requested witnesses will be  
12 presented to the arbitrator at the hearing. In determining who will appear, the  
13 arbitrator will approve only those persons whose testimony will be material to the  
14 matter in dispute and not unduly repetitious of other testimony to be offered.
- 15 H. The Arbitrator will have no authority to add to, subtract from, alter, amend or  
16 modify any provision of this Agreement.
- 17 I. The arbitrator's decision will be final and binding. However, either Party may file  
18 an exception to the arbitrator's award in accordance with applicable law and  
19 regulations.
- 20 J. The arbitrator will be requested by the Parties to render his or her decision as  
21 quickly as possible, but in any event within thirty (30) days after the close of the  
22 proceedings.

23 **Section 5. Supplemental Arbitration Procedure**

- 24 A. The following Supplemental arbitration procedure is hereby adopted with respect  
25 to any grievance which involves:
- 26 - Reprimands and suspensions of 3 days or less;
  - 27 - Action imposing sick leave restriction;
  - 28 - Denials of sick leave, annual leave, and LWOP;
  - 29 - AWOL charges;
  - 30 - Flexiplace, credit hours, flexible work schedule denial; and
  - 31 - Any other matter mutually agreed upon.
- 32 B. A panel of arbitrators will be designated by the Agency's Labor Relations Officer  
33 and the official Union Representative. A number of arbitrators sufficient to ensure  
34 the intended operation of this procedure will be selected. Panels of arbitrators will  
35 be established to hear cases in the Central Office and each Regional Offices. Each  
36 panel will consist of two (2) permanent arbitrators. Their expenses and fees will

1 be borne equally by the Agency and the Union. The arbitrators who wish to serve  
2 on this panel must agree to a set of conditions for conduct and pay as follows:

3 1. Conduct of Hearing

4 The Parties agree that the primary purpose of this supplemental arbitration  
5 procedure is to provide a swift and economical method for the resolution  
6 of identified disputes. The Parties agree to take positive action to see that  
7 this purpose is fulfilled. In addition, the arbitrator will have the authority  
8 to take steps necessary to see that the purpose is fulfilled. To this end, the  
9 following guidelines will apply:

- 10 a. A single case should normally not require more than four hours  
11 to be heard, with each Party being allowed up to two (2) hours to  
12 examine witnesses and make opening and closing statements. The  
13 arbitrator will ensure that the length of the hearing is not  
14 unnecessarily extended because of irrelevant or repetitious  
15 testimony. The arbitrator may also waive the time limits for good  
16 and sufficient reasons.
- 17 b. The hearing will be informal.
- 18 c. No briefs will be filed or transcripts made.
- 19 d. There will be no formal evidence rules.
- 20 e. Each Party's case will be presented by a designated representative.
- 21 f. The arbitrator will have the obligation of assuring that the  
22 necessary facts and considerations are brought before him or her  
23 by the representatives of the Parties in the most expeditious  
24 manner. In all respects, the Arbitrator will assure that the hearing is  
25 a fair one.
- 26 g. If the arbitrator or the Parties conclude at the hearing that the  
27 issues involved are of such complexity as to require further  
28 consideration by the Parties, the case will be referred to Section 4  
29 of this Article. It will be processed as though appealed on such  
30 date.
- 31 h. The arbitrator will be urged to issue a bench decision at the  
32 hearing, but in any event the arbitrator will render the decision  
33 within two (2) working days after the conclusion of the hearing.  
34 This decision will be final and binding on both Parties. However,  
35 either Party may file exceptions to an award with the Federal  
36 Labor Relations Authority under regulations prescribed by the  
37 Authority.

38 2. Fees to Arbitrator for Services and Expenses

1 a. Hearings and Study Time

2 The arbitrator will be paid on a per hearing day basis plus  
3 reasonable study time. Study time will include the arbitrator's  
4 written decision on the cases heard. A normal hearing day will be  
5 from 9:30 a.m. to 12:30 p.m. and 1:30 p.m. to 4:30 p.m. and be  
6 held on the Agency's premises (with a maximum of two (2)  
7 hearings per day).

8 b. Expenses

9 Travel expenses will be paid when the hearing is scheduled  
10 from the arbitrator's normal place of doing business. Car expenses  
11 will be paid at the prevailing Government rate per mile.

12 If overnight stay is required, the arbitrator will be reimbursed for  
13 reasonable expenses incurred for lodging and meals at the  
14 prevailing Government rate.

15 c. Cancellation

16 The arbitrator will be paid a cancellation fee as follows:

- 17 (1) Cancellation by mutual consent of the Parties and notification to  
18 the arbitrator at least forty-eight (48) hours prior to the scheduled  
19 beginning of the hearings.
- 20 (2) Cancellation by mutual consent of the Parties and notification to  
21 the arbitrator within forty-eight (48) hours of the scheduled  
22 hearing.
- 23 (3) Settlement or cancellation by mutual consent of the Parties after  
24 the arbitrator appears at the hearing. In addition to the cancellation  
25 fee, reasonable travel and lodging expenses incurred.
- 26 (4) Once the arbitration date has been established, should either Party  
27 move to postpone, delay, cancel, and/or withdraw, the moving  
28 Party will notify the other Party and the Parties will jointly contact  
29 the arbitrator. The arbitrator will rule on the request. The Party  
30 initiating such action will pay all reasonable associated fees and  
31 expenses.

32 3. Billing

33 The arbitrator will bill each of the local Parties for one-half (1/2) of the total  
34 fee and expenses. Prior to the hearing, the Parties will give the arbitrator  
35 the name, position and address of their designated local representatives to  
36 whom the arbitrator will forward billings and decisions. It will be the  
37 arbitrator's responsibility to make sure that he or she has such information  
38 prior to the close of the hearings.

1 C. Panel Selection

2 In establishing the panel or replacing vacancies, the Parties will follow the  
3 process as described in Section 2.

4 D. Removal from the Panel

- 5 1. An arbitrator may be removed from the panel at any time by mutual  
6 consent of the Parties.
- 7 2. Absent mutual consent, either Party may remove one (1) arbitrator in the  
8 twelfth (12) month from the date of selection of the arbitrator an lly  
9 thereafter.
- 10 3. Removal under 1. or 2. above will be effective thirty (30) days from the  
11 date of the joint removal letter from the Parties to the arbitrator.
- 12 4. Any arbitrator removed will appropriately dispose of any cases currently  
13 under his or her jurisdiction, unless otherwise agreed to by the Parties.

14 **Section 6. Appeals**

- 15 A. Upon receipt of the Step 3 decision as provided in Article 24 or Article 23 of the  
16 Agreement, the official Union representative may request in writing to appeal the  
17 actions to an arbitrator under this supplemental procedure. The request to appeal  
18 must be made within twenty (20) working days of receipt of the Step 3 decision.
- 19 B. When two (2) appeals have been filed, the Parties will jointly contact the next  
20 member of the previously established arbitration panel, pursuant to the rotation  
21 system currently in use by the Parties. For suspensions of three (3) days or less,  
22 either Party may request arbitration on a single case basis. If the designated  
23 arbitrator is not available to preside within ten (10) days, either Party will have  
24 the right to request that the next panel member in the rotation be contracted until  
25 an arbitrator is obtained.

26 **Section 7. Arbitration Sites**

- 27 A. Expedited arbitration will be held at the site where the grievance arose, or other  
28 mutually agreeable location. CMS
- 29 B. Major arbitration will be held at HCFA headquarters, in Baltimore MD or other  
30 site agreed to by the Parties, considering such factors as use of official time,  
31 calling of witnesses, travel and per diem costs, and such other related  
32 considerations. Travel and per diem will be authorized for approved witnesses.  
33  
34

1 **UNION – Final Offer Revised**

2 **Article 26**

3 **MERIT PROMOTION**

4  
5 **Section 1. Purpose and Policy**

6 It is the intent of the Parties to design the merit promotion process as a corollary to the  
7 two tier appraisal system created in Article 21 and to assure openness and objectivity in  
8 merit promotion selections.

9 The parties agree that the purpose and intent of the provisions contained herein ...  
10 ensure that merit promotion principles are applied in a consistent manner with equity to  
11 all employees and without regard to political, religious, or labor organization affiliation  
12 or non-affiliation, marital status, race, color, sex, national origin, disabling condition, age,  
13 or sexual orientation and shall be based solely on job-related criteria. This article sets  
14 forth the merit promotion system, policies and procedures applicable to bargaining unit  
15 position employees in the Agency.

16  
17 **Section 2. Definitions**

18 For the purpose of this Article, the definitions contained in Part 335 and other related  
19 parts of Title 5 Code of Federal Regulations will be incorporated as a part of this  
20 Agreement except as otherwise defined in this Agreement.

21 **Section 3. Use of Career Ladders**

22 **A. Career Ladder Plans**

23 A Career Ladder Plan will be established for each career ladder position. The  
24 Career Ladder Plan will outline the criteria for each grade level (including time-  
25 in-current-grade specifications) which an employee must meet in order to be  
26 promoted. A copy of the plan will be given to each employee upon entry into the  
27 career ladder. The employee will be provided with a copy of any revised Career  
28 Ladder Plan within 30 days of such revision. The employee will also be advised  
29 of his or her earliest eligibility date for promotion under the plan. When Career  
30 Ladder Plans are established and/or revised, the Agency will provide notice to the  
31 Union in accordance with Article 4 of this Agreement.

32 **B. Developmental Assistance Plan (DAP)**

33 At any time a manager and/or employee recognizes an employee's need for  
34 assistance in meeting the career ladder advancement criteria, the manager and  
35 employee will develop a plan designed to assist the employee in meeting the  
36 Career Ladder Plan criteria. The Developmental Assistance Plan should include  
37 applicable training as well as any other support appropriate. At the request of the  
38 employee, the Union may provide assistance.

1 Employees who are on a Performance Assistance Plan or a Performance  
2 Enhancement Plan as outlined in Article 21 must first demonstrate successful  
3 performance at their current grade level before a DAP is considered.

4 C. Career Ladder Advancement Assessment

- 5 1. At the time the employee reaches his/her earliest date of promotion  
6 eligibility, the Agency will decide whether or not to promote the  
7 employee.
- 8 a. If an employee is certified as successful and is meeting the  
9 promotion criteria in the career ladder plan, the Agency will promote the employee if  
10 the promotion which will be effective at the beginning of the first  
11 pay period after the requirements are met.
- 12 b. If an employee is not meeting the criteria for promotion, the  
13 employee will be provided with a written notice at least 60 days  
14 prior to the earliest date of promotion eligibility. The written  
15 notice will state what the employee needs to do to meet the  
16 promotion plan criteria.
- 17 c. If the employee is making progress, the supervisor will ensure that  
18 he/she has the opportunity to acquire pertinent skills and  
19 knowledge and to demonstrate that he/she meets promotion  
20 requirements as soon as is feasible.
- 21 d. If the employee is experiencing problems, the provisions in (2) are  
22 applicable.
- 23 e. In the event that the employee met the promotion criteria but the  
24 appropriate management official failed to initiate the promotion  
25 timely, the promotion will be retroactive to the beginning of the  
26 first pay period after the pay period in which the requirements  
27 were met.

28 2. If a non-probationary employee fails to meet the promotion criteria after  
29 the appropriate assistance, the Agency will:

- 30 a. provide the employee with additional time to meet the promotion  
31 criteria
- 32 b. assign the employee duties commensurate with his/her current  
33 grade:

34 The career ladder plan may be suspended and the employee  
35 will remain at the level he/she attained within the career  
36 ladder; Or

37 The employee may be assigned to another position at the  
38 same grade and step.

1 In either case, the employee may be reinstated back into the  
2 career ladder plan non-competitively.

3 **Section 4. Use of Competitive Procedures**

4 A. Promotions

5 Competitive procedures will apply to any selection for promotion except as  
6 excluded by Section 7 of this Article.

7 B. Reassignments

8 Competitive procedures will apply to:

- 9 1. any selection to a position at the same or lower grade in a series different  
10 than that occupied by the employee which:
- 11 a. provides specialized experience as defined in the Office of  
12 Personnel Management (OPM) qualification standards that the  
13 employee does not already have, and
  - 14 b. is required for subsequent promotion to a higher graded position.
- 15 2. any selection to a position at the same or lower grade with known  
16 promotion potential higher than the position occupied immediately before  
17 the change.

18 C. Details

19 Competitive procedures will apply to selections of more than 120 days to:

- 20 1. a higher graded position (A detail to a higher graded position for a period  
21 in excess of 30 calendar days must be via temporary promotion in  
22 accordance with Section 6 of this Article.);
- 23 2. a position with known promotion potential; or
- 24 3. a position in a series different than that currently occupied by the  
25 employee which:
- 26 a. provides specialized experience as defined in the Office of  
27 Personnel Management (OPM) qualification standards in the series  
28 the employee is being detailed to, which the employee does not  
29 already have, and
  - 30 b. is required for subsequent promotion to a higher graded position.

31 D. Training

32 Competitive procedures will apply to any selection to a formal training or career  
33 development program which provides for promotion to a target position.

1 E. Transfers/Reinstatements

2 Competitive procedures will apply to any transfer of a Federal employee or  
3 reinstatement of a former Federal employee to:

- 4 1. a higher graded position than the candidate's highest grade previously held  
5 on a permanent basis, or
- 6 2. a position with known promotion potential greater than the highest actual  
7 grade previously held on a permanent basis.

8 The transfer or reinstatement action may be taken only if the candidate is with  
9 eligible employees under competitive procedures. The same qualifications,  
10 standards and, to the maximum extent feasible, the same methods of evaluation  
11 will be applied to persons being considered for appointment to higher graded  
12 positions by transfer or reinstatement as to other candidates.

13 **Section 5. Non-competitive Actions**

14 A. Promotions - The following actions may be taken non-competitively:

- 15 1. Promotion of an incumbent to a position that is reclassified to a higher  
16 grade due to the accretion of additional duties and responsibilities and not  
17 based on planned management action. To be eligible for a non-competitive  
18 promotion in this situation, the employee must have performed the higher  
19 level duties for at least 6 months, must continue to perform the same basic  
20 function, and the employee's former position must be absorbed  
21 administratively into the new position.
- 22 2. Promotion of an incumbent or an individual entitled to reemployment  
23 rights to a position that is reclassified to a higher grade without significant  
24 changes in duties as a result of a change in the content or interpretation of  
25 classification standards.
- 26 3. Promotion of an employee covered by an OPM or DHHS approved  
27 training agreement.
- 28 4. Promotion of an employee within a career ladder provided the employee  
29 has met all qualifications and performance requirements established for  
30 the career ladder.
- 31 5. Promotion from an understudy or trainee position when the employee was  
32 selected under competitive procedures for the understudy or trainee  
33 position, provided the employee has met all qualifications and  
34 performance requirements for the target position.
- 35 6. Re-promotion of a HCFA employee, up to the highest grade previously  
36 held in Government on a permanent basis under a career or career-  
37 conditional appointment, provided that the employee was not demoted or  
38 separated from that grade based on performance or conduct.



- 1 7. Promotion directed by proper authorities (e.g., judges, arbitrators, FLRA,  
2 or other appropriate authorities).
- 3 8. Temporary promotions of an employee to a higher graded position totaling  
4 120 days or less. Any temporary promotions beyond 120 days must be  
5 made under competitive procedures.
- 6 9. A career ladder promotion following non-competitive conversion of a  
7 cooperative education student in accordance with applicable OPM policy.
- 8 10. Permanent promotion from a temporary promotion when the  
9 announcement stated that the temporary promotion may become  
10 permanent.
- 11 11. Promotion after being selected through priority consideration procedures.

12 B. Reassignments/Changes to Lower Grade

13 All reassignments/changes to a lower grade are non-competitive except as  
14 specified in Section 6.B. of this Article. The provisions in Article 27, Section 4  
15 will apply to all non-competitive reassignments (the Parties may mutually agree  
16 to waive this provision.) The Agency will follow the provisions of Article 14  
17 when an employee is involuntarily reassigned outside his/her commuting area.

18 C. Details

19 All details are non-competitive except as specified in Section 6.C. of this Article.

20 D. Reassignments

21 When an employee is reassigned to a different position, the employee will be  
22 given at least 90 days in which to become proficient. If he/she cannot attain  
23 successful performance during that period, action may be taken in accordance  
24 with Article 21.

25 E. Voluntary Demotions/Downgrades

26 Prior to acting on an employee's request for a voluntary reduction in grade, the  
27 Agency will assure that:

- 28 1. The employee has been fully apprised in writing about the effects of such  
29 an action; and
- 30 2. The employee has been given an explanation of all other alternatives  
31 relevant to the particular case.

32 F. Assignments of Duties for Medical Reasons

33 Employees recuperating from serious illness or injury and temporarily unable to  
34 perform their assigned duties as certified by a physician may voluntarily submit a  
35 written request to their manager for temporary assignment to duties

1 commensurate with the disability and the employee's qualifications. The Agency  
2 may require that such requests be reviewed by a Federal medical officer for  
3 appropriate recommendations. The Agency will consider such requests in  
4 accordance with applicable rules and regulations and medical recommendations.  
5 The Agency will, to the extent feasible, temporarily assign the employee to an  
6 appropriate vacancy or duties and responsibilities within his/her own  
7 Component/equivalent office commensurate with the employee's disability and  
8 qualifications. Such employee will continue to be considered for promotional  
9 opportunities for which they are otherwise qualified.

10 **G. Other Non-competitive Actions**

- 11 1. Transfer of a Federal employee or reinstatement of a former Federal  
12 employee at the same or lower grade, or to a position with the same  
13 known promotion potential as the highest graded permanent position held  
14 by the employee.
- 15 2. A position change permitted by reduction-in-force regulations.

16 **Section 6. Temporary Promotions**

- 17 A. When employees are temporarily assigned to a higher graded position for a period  
18 of more than thirty (30) calendar days, the assignment must be made via  
19 temporary promotion effective the first day of the assignment. The 30 calendar  
20 day provision will not be circumvented by rotating employees into a higher-  
21 graded position in order to avoid the higher rate of pay.
- 22 B. For purposes of this section, when dealing with temporary assignments to a  
23 position of higher grade for a period in excess of 30 days, a General Schedule  
24 employee who performs the grade-controlling duties of a higher-graded position  
25 for at least 25% of his/her time shall be temporarily promoted.

26 **Section 7. Vacancy Announcements for Competitive Actions**

27 **A. Area of Consideration**

- 28 1. Normally, the area of consideration for bargaining unit positions will be as  
29 follows:
- 30 a. nationwide at the GS-14 or above grade level; and
- 31 b. HCFA Headquarters (Baltimore, Md./Washington D.C.) or  
32 Regional Office level at the GS-13 level and below.

33 Extensions beyond HCFA nationwide at the GS-14 level, and HCFA  
34 Headquarters or Regional Office level at the GS-13 level and below can be made  
35 where the normal area does not, or is not reasonably expected to, produce a  
36 reasonable number of eligible candidates or when, because of past experience or  
37 the nature of the position, the Assessment panel and the appointing official agree

1 that an extended area is desirable in seeking candidates to fill a particular  
2 vacancy.

3 When a decision is made for outside recruitment for a bargaining unit position, a  
4 summary vacancy announcement identifying the title, series, and grade of the  
5 outside recruitment will be timely announced to employees via e-mail and made  
6 available on CMSNet. The employee can obtain a copy of the Recruitment Notice  
7 and KSA's from the CMSNet or from an employee in the Human Resources  
8 Management Group (Personnel Office). Employees may apply for and will be  
9 considered for the vacancy. Qualified applicants will be rated by the appropriate  
10 servicing personnelist based on the established KSA's. In accordance w  
11 existing government wide rules and regulations, a selection certificate v  
12 issued to the Selecting Official. If the selection certificate contains the name of  
13 one or more bargaining unit employees and an interview is conducted with any  
14 applicant other than one with veteran's preference, all bargaining unit employees  
15 named on the selection certificate will likewise be interviewed. The Selecting  
16 Official will make the final selection for the bargaining unit vacancy.

17 2. Reducing the Area of Consideration

18 a. Mandatory Reduction

19 Where positions are re-engineered to a higher grade, the area of consideration will  
20 be restricted to those incumbents of the positions which form the basis for the  
21 higher graded position. (In filling such positions, competitive procedures must be  
22 used and candidates usually are identified by the appropriate servicing personnel  
23 office rather than through a vacancy announcement and application procedure.)  
24 The term "Re-engineered Position" means a new position resulting from the  
25 restructuring of the duties of one or more already established position(s) through  
26 planned management action.

27 b. Optional Reduction

28 When solicitation throughout the normal area would be clearly  
29 impractical because extenuating and unique circumstances exist,  
30 the promotion record must contain complete documentation  
31 justifying the smaller area, which will only be reduced by mutual  
32 consent of the Parties.

33 3. For a period of 10 workdays prior to considering candidates from outside  
34 the AFGE-bargaining unit, the Employer agrees to first consider for  
35 selection internal candidates.

36 B. Information on Vacancy Announcements - HCFA vacancy announcements will  
37 be standardized and will contain the following information:

38 1. Announcement number and date.

- 1           2.     Title, series, grade, position number, organizational location, duty station,  
2           and shift of the position.
- 3           3.     Total number of positions to be filled, if more than one.
- 4           4.     A statement regarding known promotion potential, if applicable.
- 5           5.     Tour of duty or notation that the position is intermittent, if there is no  
6           regular tour of duty.
- 7           6.     Opening and closing dates of the announcement.
- 8           7.     Area of consideration and reason for special areas when applicat
- 9           8.     A brief summary of major duties.
- 10          9.     Qualification requirements (including any selective placement factors.)
- 11          10.    KSA's and Evaluation criteria.
- 12          11.    Application procedures.
- 13          12.    Whether supervisory references are required.
- 14          13.    Equal employment opportunity statement.
- 15          14.    Where appropriate, statement that the position is temporary, its expected  
16          duration and whether it may become permanent.
- 17          15.    Where appropriate, statement that candidate who is selected will be  
18          required to complete a financial interest statement.
- 19          16.    Name and telephone number of the personnel specialist or other individual  
20          to contact for information relating to an announcement.
- 21          17.    The address of appropriate servicing personnel office.

22    C.     Career ladders may be posted at any grade level or combination of grade levels  
23          within the established career ladder.

24    D.     Posting of Vacancy Announcements

- 25          1.     The Agency will distribute a summary listing of all currently advertised  
26          vacancies weekly via the Agency's E-mail system. Individual vacancy  
27          announcements will be posted on the CMSNet, and will be maintained in  
28          the appropriate servicing personnel office. Individual announcements will  
29          be made available to employees upon request.
- 30          2.     Announcements will be posted for 10 workdays.

- 1           3.     Open-continuous announcements will remain posted at all times. The  
2           Union will be provided prompt notice of any decision to discontinue the  
3           use of those announcements.

4     E.     Cancellation and Reposting

- 5           1.     The Agency has the right to cancel any vacancy announcement at any  
6           time. However, such cancellations will not be used to compromise merit  
7           promotion principles.
- 8           2.     If a vacancy announcement has been posted and is later found to contain  
9           substantive errors or require changes, when re-announced, it will  
10          change and whether or not previous applicants need to refile in order to be  
11          considered.

12   **Section 8. Knowledge, Skills, and Abilities (KSA's)**

13   A.     Definition

14           A KSA is a job-related worker characteristic that is used in assessing candidates'  
15           qualifications for promotional purposes. Relevant KSA's will be developed for  
16           each vacancy to be announced.

- 17   B.     The Parties agree that KSA's developed for all current and future unit positions,  
18           and changes and modifications thereto, will be fair, job related, applied equitably  
19           and uniformly, and established in accordance with law, higher authority rules and  
20           regulations and this Agreement.

21   C.     Establishing KSA's

22           Subject to the terms of this Agreement, the Selecting Official will establish KSA's  
23           for bargaining unit positions. The established KSA's are subject to the review and  
24           approval by the Assessment panel. Informational copies will be provided to the  
25           Union as part of the vacancy announcements.

26   D.     Procedures

- 27           1.     KSA's will be developed by:
- 28                   a.     identifying the major tasks/duties of the position through a job  
29                   analysis based on information contained in the position  
30                   description, Career Ladder Plan, qualification standards and/or  
31                   classification standards; and
- 32                   b.     identifying the worker characteristics and demonstrated abilities  
33                   (KSA's) needed to perform the job.
- 34           2.     KSA's are defined as follows:

1 A knowledge is an understanding of an organized body of information  
2 (usually of a factual or procedural nature) relating to a particular subject  
3 matter area.

4 A skill is a learned power to perform proficient manual, verbal, or mental  
5 manipulation of data or things, or to influence the activities of people. It  
6 embodies observable and verifiable performance parameters.

7 An ability is the power to perform an activity at the present time. An  
8 ability is evidenced by the performance of some activity or work and  
9 should not be confused with an aptitude which is only a potential  
10 performing an activity. An aptitude cannot be determined or measured  
11 information in applications.

12 3. For each announced vacancy in the bargaining unit, not less than three and  
13 not more than six KSA's will normally be identified.

14 a. KSA's will be measurable (degree of possession can be discerned)  
15 and reasonable (some candidates can be expected to possess them).  
16 Any KSA's which do not meet these criteria will be dropped.

17 b. The KSA's developed will be reviewed to determine which ones  
18 are critical to successful job performance. These KSA's, (at least  
19 two) will be designated as critical.

20 Those KSA's designated as critical will be specifically derived  
21 from the grade controlling factors of the classification standard  
22 and/or those related parts of the position description.

23 c. Evaluation Criteria will be developed for each KSA. The  
24 Evaluation Criteria will be derived from, and consistent with, the  
25 official position description of record. Evaluation Criteria will be  
26 identified in the vacancy announcement and fully documented and  
27 made a part of the merit promotion package.

## 28 **Section 9. Assessment Panel Process**

29 A. Panel Membership Requirements – Assessment panels will be established for all  
30 competitive actions. Assessment Panels will usually be convened at the regional  
31 level for field components. Panel members shall be instructed in the tasks  
32 necessary to perform the panel's function. The panel shall consist of:

- 33 1. Two management officials;
- 34 2. Two volunteer bargaining unit representatives with concurrence of the  
35 Union.

36 The number of panel members may be changed by mutual consent of the parities.

1 In order to assure that broad interests are represented, to the extent practical, the  
2 panel should include a member from outside the component in which the vacancy  
3 exists.

4 The Parties recognize that some competitive actions may require larger panels.  
5 The Agency may determine the necessary panel size. However, all panels of more  
6 than four members should consist of an equal number of bargaining unit  
7 employees and management officials.

8 The method of soliciting and selecting bargaining unit volunteers will be subject  
9 to the mutual agreement of the parties.

10 Panel members must not be in competition for the vacancy and must be at least at  
11 the same grade, or higher if possible, than the journey level of the vacancy to be  
12 filled.

13 An individual may not serve on a panel where a conflict of interest might exist;  
14 i.e. a relative. The Agency does not intend to have selecting officials for the  
15 position in question serving as panel members.

16 B. Members of the Assessment Panel should be familiar with the job requirements of  
17 the position(s) being filled.

18 C. Assessment Panel Materials – The Agency will provide the Assessment Panel  
19 with all of the necessary information for completing its function.

20 D. Assessment Panel Responsibilities - The Assessment Panel will:

- 21 1. Review and finalize KSA's and Evaluation Criteria for the position(s);
- 22 2. Determine eligibility of applicants in accordance with OPM qualification  
23 standards;
- 24 3. Apply evaluation criteria to ensure that a list of well-qualified candidate is  
25 selected;
- 26 4. Verify applicant information where in question; and
- 27 5. Refer list of well-qualified candidates.

28 E. When the selecting official has required the inclusion of supervisory references,  
29 the employee applicants will solicit such references and include them with their  
30 applications.

31 F. Evaluation of Candidates - The Selecting Official will develop evaluation criteria  
32 to determine the extent to which candidates possess the KSA's. Such evaluation  
33 criteria will be subject to review and approval by the Assessment Panel and must  
34 be job related and measurable and will include such factors as the proportion of  
35 time spent performing relevant activities, length of relevant experience, the  
36 complexity of the activity, identifiable results, level of contacts involved in

1 performing the work, and the scope of responsibilities and duties performed. An  
2 employee's balance (+ or -) of annual or sick leave may not be considered as an  
3 evaluation criterion or a reason for selection or non-selection.

4 Using the evaluation criteria, the panel will evaluate each application in order to  
5 ascertain the relevancy of the candidate's background (including but not limited to  
6 work experience, awards, training, outside activities, etc.) to the KSA's.  
7 Candidates will be evaluated on the extent to which they possess the KSA's  
8 relevant to the position being filled.

9 A list of well-qualified candidates will not be based on a predetermined  
10 of candidates.

11 G. Multiple Grade Levels or Locations

12 If an announcement pertains to more than one grade level or geographic location,  
13 a separate list of eligibles will be developed for each grade level and location.

14 H. Documentation

15 The panel will document working notes. Notes may be annotated on applications  
16 and/or on any worksheets used by the panel. The notes will serve as reference  
17 material to document the process by which the well-qualified candidates were  
18 referred. Such documentation may also be used by the appropriate servicing  
19 personnel office in providing feedback to employees who were not selected for  
20 the vacant position.

21 I. Confidentiality - The deliberations of the panel's actions will be treated  
22 confidentially and in accordance with provisions of the Privacy Act.

23 J. Selection -

- 24 1. Once a well qualified list has been established by the Assessment panel,  
25 there will be no other candidate information gathered by the selecting  
26 official. However, this does not preclude the selecting official from  
27 recontacting the Assessment Panel and/or interviewing all well-qualified  
28 candidates.
- 29 2. The selecting official will make selection(s) within 60 calendar days of  
30 receipt of the Assessment Panel's well-qualified package.
- 31 3. If the vacancy is one for which an under-representation exists and is a  
32 targeted occupation as identified in the Affirmative Employment Plan, and  
33 there are well-qualified candidates who would reduce the under-  
34 representation, then the selecting official will give serious consideration to  
35 those individuals who would reduce the under-representation. If an under-  
36 representation is not present, then the selecting official will seriously  
37 consider providing upward mobility for those well-qualified candidates  
38 who have been stagnated in grade.



1 4. In the event of unanticipated vacancy(s) in the same position and location  
2 as the posted vacancy occurring within 90 days of the selection, the  
3 selecting officer may make additional selections from the well-qualified  
4 candidates.

5 5. When a selection has been made, the Agency will arrange a release date,  
6 notify the employee, and ensure that the appropriate personnel forms are  
7 processed. The effective date of a promotion action, other than promotion  
8 within a career ladder, will be the first day of the pay period in which the  
9 employee is scheduled to report. If an employee has been selected for  
10 promotion, has accepted the offer, and a reporting date has been  
11 established, and the resultant request for personnel action (SF-52  
12 timely received and/or acted upon by the appointing official, the action  
13 shall be made retroactive to the reporting date.

14 6. Employees selected for career ladder positions will be promoted to the  
15 next higher grade level at the beginning of the first pay period after  
16 selection, provided time in grade and any other legal promotion  
17 requirements are met.

18 7. All selections are to be recorded and posted on the merit promotion  
19 selection list. This list will be distributed to employees biweekly via the  
20 Agency's email system.

21 8. The designated union official will also receive notice.

22 K. Declinations

23 In the event of declinations, the panel will reconvene as necessary to make  
24 another selection(s).

25 L. Announcement of Selectees

26 All selections are to be recorded and posted on the merit promotion selection list.  
27 This list will be distributed to employees biweekly via the Agency's E-mail  
28 system.

29 **Section 10. Employee Applications**

30 A. Who must file

31 To be considered for a posted vacancy, an employee must file the appropriate  
32 application materials in accordance with the individual vacancy announcement.

33 B. Time Limits

34 The time limits for filing for a posted vacancy are as follows:

35 1. In the event that either Party wishes to utilize new Open-Continuous  
36 Announcements, notice will be given pursuant to Article 4.

- 1           2.     For individual announcements, an employee's application must be  
2           received by the appropriate servicing personnel office or postmarked by  
3           the closing date shown on the vacancy announcement.
- 4           3.     Employees scheduled to be absent and away from the area of  
5           consideration in excess of 2 weeks for any of the following reasons:
- 6           a.     approved leave
- 7           b.     detail
- 8           c.     training course
- 9           d.     official business
- 10          e.     compensable injury
- 11          f.     service with the military, public internal organization, or with local  
12           government will be considered for promotional opportunities  
13           within the area of consideration for vacancies which occur during  
14           their absence. Prior to departure, employees must complete an  
15           application with a written request for consideration for vacancies  
16           posted during their absence and submit it to Human Resource  
17           Management Group, which will ensure that the application is  
18           considered for vacancies for which the employee is eligible.
- 19          4.     Employees continuously absent on approved leave, detail, at training  
20           courses, or on official business for an entire posting period will, upon  
21           return, review position vacancies announced and closed during their  
22           absence and make application for such vacancies in which they are  
23           interested. Such late applications must be submitted within 3 workdays  
24           after return to duty and must be accompanied by a statement prepared and  
25           signed by the employee, and also by his/her manager, explaining the dates  
26           and reason(s) for the employee's absence. Employees filing delayed  
27           applications under this provision will be considered only for those  
28           vacancies for which a selection has not been made.

29    C.     Application Form

30           Employees will complete written applications when required and in accordance  
31           with instructions in the vacancy announcement using such forms as prescribed.

32    D.     Multiple Applications

33           When employees apply for more than one vacancy and are selected, the employee  
34           has the option of choosing which position he or she will accept.

35

36

1 **Section 11. Employee Information**

2 In regard to a specific vacancy for which they have filed, applicants are entitled to the  
3 following information as it becomes available during the promotion process:

- 4 - whether they met minimum qualification requirements;
- 5 - whether or not they were well qualified; and
- 6 - the names of those selected.

7 **Section 12. Priority Consideration**

8 A. Definition - For the purpose of this Article, a priority consideration is the bona  
9 fide consideration for non-competitive selection given to an employee as the  
10 result of a previous failure to properly consider the employee for selection  
11 because of procedural, regulatory, or program violation. Employees will receive  
12 one priority consideration for each instance of improper consideration.

13 B. Processing - The procedures for processing a priority consideration will be:

- 14 1. Employees will be notified in writing by the authorized management  
15 official of entitlement to each priority consideration. Such notice will  
16 advise employees that if a vacancy is announced and posted and the  
17 employee wishes to exercise their priority consideration, they should  
18 submit the necessary application to HRMG with a written request that they  
19 wish priority consideration for the vacancy.
- 20 2. Priority consideration is to be exercised by the selecting official at the  
21 option of the employee for an appropriate vacancy. An appropriate  
22 vacancy is one for which the employee is interested, is eligible, and which  
23 leads to the same grade level as the vacancy for which proper  
24 consideration was not given.
- 25 3. Prior to the evaluation of other applicants, the name(s) of the employee(s)  
26 requesting to exercise priority consideration will be referred to the  
27 selecting official. The selecting official will make a determination on the  
28 request prior to evaluating other applicants.
- 29 4. The fact that the employee chooses to exercise a priority consideration  
30 does not preclude that employee from also filing an application through  
31 the regular posting process.

32 A. Union Notification - In order to assure compliance with this section, the Union  
33 will be furnished statistics on priority considerations granted and exercised and  
34 the results. Statistics will be kept and provided to the Union on a quarterly basis.  
35 The Union will also be notified in writing of each individual priority  
36 consideration completed.

1 **Section 13. Special Consideration**

2 Employees who were downgraded without personal cause; (i.e., where the downgrade  
3 was not due to misconduct, inefficiency, or at the employee's own request), may be  
4 eligible for special consideration. Re-promotion may be made to a grade previously held  
5 on a non-temporary basis or to an intervening grade. This applies only when the  
6 employee was downgraded in the Agency and the re-promotion is to a grade formerly  
7 held in the Agency.

8 Employees under this provision will receive a special consideration for each grade for  
9 which they were demoted or downgraded.

10 **Section 14. Union Review of Competitive Actions**

- 11 A. The Union will be permitted to conduct audits of selection packages for all  
12 bargaining unit positions when it has reason to believe a discrepancy exists or  
13 when requested to do so by an employee.
- 14 B. The Union will provide the Agency with the names of the Union representatives  
15 who are responsible for conducting audits. Any changes to the list of designated  
16 representatives will be sent to the Agency in writing. The representative  
17 designated to conduct the audit will not have been an applicant for the promotion  
18 package being audited.
- 19 C. Employees who believe they were improperly excluded from consideration may  
20 request a review of the promotion package through the Union audit procedure  
21 described below.
- 22 D. If the employee chooses to use the Union procedure, he/she must make a written  
23 request to the Union during the period from the date the eligibles are referred to  
24 the assessment panel up to 15 working days after the selection is posted. A Union  
25 request under Subsection (A.) above may be made from the date of the posting of  
26 the vacancy to 6 months following the date of selection.
- 27 E. The designated management official responsible for the package will make the  
28 pertinent records from the package available to the Union auditor within 7  
29 working days of receipt of the audit request. An auditor will treat information  
30 confidentially and review it in HRMG in the presence of a management official.
- 31 F. If during the course of the audit additional information is determined to be  
32 necessary, such information will be secured from HRMG.
- 33 G. Employees who elect to use the grievance procedure rather than the Union audit  
34 procedure must initiate action in accordance with Article 24, Grievance

2  
3 Article 27

4  
5 **DETAILS AND TEMPORARY ASSIGNMENTS**

6  
7 **Section 1. Purpose and Policy**

8  
9 Details are intended for meeting temporary needs of the Agency when necessary  
10 services cannot be obtained by other desirable or practicable means.

11  
12 **Section 2. Definitions**

13  
14 A detail is a temporary assignment of an employee to a different or the same  
15 position at a different duty station for a specified period, with the employee  
16 returning to his/her regular duties or duty station at the end of the detail.

17  
18 **Section 3. Documentation**

- 19  
20 A. Details in excess of 30 calendar days will be reported on Standard Form 52 and maintained as  
21 a permanent record.  
22  
23 B. Details of less than 30 calendar days will be noted by a record placed in the employee's SF-7B  
24 Extension File.  
25  
26 C. Any employee detailed to a classified position will be given a job description or a written  
27 statement of duties when detailed to an unclassified position, if such assignment is for 30  
28 calendar days or more.  
29

30 **Section 4. Rotation**

31  
32 The following will apply when offering non-competitive details to both classified and unclassified  
33 positions.

- 34  
35 A. The universe of employees to be canvassed will be those of similar grade and occupation  
36 within the appropriate operational entity, (i.e., Center, Office, or Group in  
37 Baltimore/Washington, D.C. or a single Regional Office. This universe may be expanded for  
38 legitimate work related reasons. The universe may be limited only with the mutual consent of  
39 the parties.  
40  
41 B. The Agency will list the qualifications and performance attributes (e.g., relevant experience,  
42 knowledge, skills and training) it determines to be necessary to perform the detail. They will  
43 be objective and job-related and posted on the Agency's Intranet (or sent to employees by e-  
44 mail as is the current practice in the regions).  
45  
46 C. The detail announcement will be posted at least 1 workday. Interested employees will respond  
47 by e-mail to the address listed on the detail announcement. The employees may include  
48 statements about their qualifications for the detail if necessary.  
49  
50

- 1 D. If more employees volunteer than vacancies exist, the Agency will select from the volunteers.  
2 Seniority will be the selection criterion, unless unusual circumstances require some other bona  
3 fide factor.  
4
- 5 E. If there are no volunteers, then the least senior qualified employee(s) will be selected, unless  
6 unusual circumstances require some other bona fide factor.  
7
- 8 F. If there are fewer volunteers than vacancies, then the volunteers will be selected and additional  
9 persons will be selected based as in E.  
10
- 11 G. Seniority will be determined by Service Computation Date (SCD).  
12
- 13 H. These procedures will not apply when the Agency makes a detail to accommodate a  
14 substantiated medical or health problem.  
15
- 16 I. These procedures will initially not apply when the Agency must make a detail to respond to an  
17 unusual, sudden, and unforeseen situation of an urgent nature. However, after the initial detail,  
18 the Agency will fill the detail under the provisions of this section.  
19

#### 20 **Section 5. Restriction on Lower-Graded Duties**

21  
22 Should the requirements of the Agency necessitate an employee being detailed to a lower-graded  
23 position, this will in no way adversely affect the employee's salary, classification, or position of  
24 record.  
25

#### 26 **Section 6. Assignments of Duties for Medical Reasons**

27  
28 Employees recuperating from serious illness or injury and temporarily unable to perform their  
29 assigned duties as certified by a Health Care Provider may voluntarily submit a written request to their  
30 manager for temporary assignment to duties commensurate with the disability and the employee's  
31 qualifications. The Agency may require that such requests be reviewed by a Federal medical officer  
32 for appropriate recommendations. The Agency will consider such requests in accordance with  
33 applicable rules and regulations and medical recommendations.  
34

35 The Agency will, to the extent feasible, temporarily assign the employee to an appropriate vacancy or  
36 duties and responsibilities within his/her own Center/Regional Office or equivalent commensurate  
37 with the employee's disability and qualifications. Such employee will continue to be considered for  
38 promotional opportunities for which they are otherwise qualified.  
39

2 Article 29

3  
4 WORK-AT-HOME PROGRAMS

5  
6 Section 1. General

7 The Parties agree that the implementation and administration of the CMS Work-  
8 At-Home Program will be governed by applicable law, Government-wide rules  
9 and regulations, and this Article.

10

11 Section 2. Definitions

12 A. "Work-at-Home" is defined as a program whereby employees may perform work at home for a  
13 specified period of time because of a temporary personal or family situation (i.e., illness,  
14 injury, or disability). The Work-at-Home Program is designed primarily to address an  
15 employee's temporary personal or family medical needs.

16 B. "Serious illness or injury" is defined as a medical condition that involves:

- 17 1. A period of incapacitation or treatment in connection with or consequent to inpatient  
18 care (i.e., an overnight stay in a hospital, hospice, or residential medical care facility);  
19 or  
20 2. A period of incapacitation requiring absence from work, school, or other regular daily  
21 activities of more than 3 consecutive work days that also involves continuing treatment  
22 by (or under the supervision of) a health care provider.

23 C. "Health Care Provider" is defined as any of the following individuals:

- 24 1. Doctor of Medicine or Osteopathy;  
25 2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to  
26 treatment consisting of manual manipulation of the spine to correct a subluxation as  
27 demonstrated by X-ray to exist) who are authorized to practice by State law; nurse  
28 practitioners and nurse-midwives who are authorized to practice by State law; or  
29 3. Christian Science practitioners listed with the First Church of Christ, Scientist, in  
30 Boston, Massachusetts.

31 Section 3. Criteria

32 Subject to certification by a health care provider and the guidelines outlined in  
33 Section 4 below, an employee may request to perform work at home for a  
34 specified period if she/he meets any of the following criteria:

- 1 A. Personal injury or illness which unduly impedes the employee from commuting to the official  
2 duty station; or
- 3 B. Personal injury or illness which would make it difficult or impossible for the employee to  
4 perform an entire day's work at the official duty station, but which would not preclude the  
5 employee from performing her/his official duties at home; or
- 6 C. Serious injury or illness of a family member (i.e., spouse; children, including adopted and step  
7 children; parents, including step parents; and siblings, including step brothers/sisters) or any  
8 individual related by affinity whose association with the employee is equivalent to one of the  
9 aforementioned family member categories.

10

#### 11 **Section 4. Factors to be Considered**

12 In determining whether the employee can effectively perform her/his work at home, the manager will  
13 consider all of the following factors:

- 14 A. What type of work the employee will perform;
- 15 B. What type(s) of equipment is needed to perform the work (e.g., computer, modem, etc.);
- 16 C. How the quality/quantity of work will be evaluated; and
- 17 D. How work assignments will be transmitted between the employee and the manager.

#### 18 **Section 5. Requests**

19 The following criteria/procedures are relevant to Work-at-Home Program initial  
20 requests and extension requests, respectively:

- 21 A. To apply for the Work-at-Home Program, an employee must submit a written request to  
22 her/his manager. The written request must be submitted using the Work-at-Home Program  
23 Request form (see Exhibit 1) and must include detailed medical certification from the  
24 employee's (or, as appropriate, the family member's) health care provider. The first-line  
25 manager will indicate her/his recommendation for approval/disapproval and forward the  
26 employee's request to the designated servicing personnel official, who will review the request  
27 to ensure that all medical and technical requirements have been met. This official will then  
28 forward his/her comments and concurrence/non-concurrence **directly** to the Center  
29 Director/Regional Administrator (or equivalent). The Center Director/Regional Administrator  
30 (or equivalent) will then make the final Agency decision on the employee's request. All stages  
31 of the review, recommendation, and approval processes will be completed in an expeditious  
32 manner with full regard for the employee's privacy. In situations where the employee's request  
33 is based upon foreseeable circumstances (e.g., non-emergency surgery), her/his request should  
34 be submitted at least 15 days in advance of the requested work-at-home period.
- 35 B. Initial work-at-home requests will be approved for the length of the personal or family  
36 situation as anticipated by the employee's or family members' health care provider up to a  
37 maximum period of 6 months. Any requests for extensions will be subject to the same  
38 criteria/procedures outlined above. If the total work-at-home period exceeds 12 months, any  
39 request for extension must be referred to the designated servicing personnel official prior to  
40 Center Director/Regional Administrator (or equivalent) approval. In addition to the normal

132



1 designated servicing personnel official review of the medical documentation, the Personnel  
2 Officer will provide recommendations regarding possible alternate options. If appropriate, the  
3 Center Director/Regional Administrator (or equivalent) may then authorize an additional  
4 extension.

- 5 D. After the Center Director/Regional Administrator has approved the employee's Work-at-Home  
6 Program Request, the employee will be required to complete a Work-at-Home Program  
7 Agreement (see Exhibit 2). Once the first-line manager has approved the Work-at-Home  
8 Program Agreement, the employee may begin working at home.

## 9 **Section 6. Certification Requirements**

- 10 A. The health care provider's certification must be on her/his official letterhead; signed by the  
11 health care provider; and dated.
- 12 B. Where the situation involves an **employee's personal medical needs**, the certification must:
- 13 1. Indicate the specific nature of the illness or injury;
  - 14 2. Include the anticipated beginning and ending dates of the incapacitation;
  - 15 3. State the specific reason(s) why the employee is incapable of commuting to the official  
16 duty station and/or performing her/his duties at the official duty station for an entire  
17 day; and
  - 18 4. Include a statement that the employee is capable of performing her/his duties at home,  
19 subject to any specific limitations.
- 20 C. Where the situation involves a **family member's medical needs**, the certification must:
- 21 1. Indicate the specific nature of the illness or injury;
  - 22 2. Include the anticipated beginning and ending dates of the incapacitation; and
  - 23 3. Include a statement describing the care that the employee will provide to the family  
24 member.
- 25 D. Sample instructions for the health care provider are included as Exhibit 3. The employee is  
26 responsible for providing a copy of the instructions to the health care provider when requesting  
27 medical documentation in support of her/his case.

## 28 **Section 7. Emergency Closings/Late Openings/Early Dismissals**

29 The relevant provisions of Article 10 and Article 31 also apply to Work-at-Home Program  
30 participants.

## 31 **Section 8. Hours of Work and Leave**

- 32 A. Work-at-Home Program participants are subject to the same maximum workday limits they  
33 would be if they were performing work at the official duty station, consistent with Article 10,  
34 Section 3, of this Agreement. Work-at-Home Program participants will not normally be  
35 authorized to work credit hours or perform overtime or official compensatory time. However,  
36 if special circumstances exist, (e.g., to meet priority needs of the Agency) and the manager and  
37 employee mutually agree that the employee can perform the work, credit hours and/or

1 overtime/official compensatory time can be authorized. In this case, prior approval must be  
2 obtained from the Center Director/Regional Administrator (or equivalent). In no event will  
3 Work-at-Home Program participants be forced or coerced to work overtime/official  
4 compensatory time.

5 E. Work-at-Home Program participants will follow established procedures for requesting and  
6 obtaining approval of leave, consistent with Article 31 of this Agreement.

7 **Section 9. Problems Affecting Work Performance**

8 Employees will promptly inform managers whenever any problems arise which adversely  
9 affect their ability to perform work at the residence. Examples could include situations such as  
10 equipment failure, power outages, telecommunications difficulties, etc.

11 **Section 10. Equipment and Support**

12 The manager will make a bonafide effort to provide work that can be performed at home and/or  
13 necessary equipment, such as laptops, to employees who otherwise meet the Criteria and Certification  
14 Requirements of this Article.

15 **Section 11. Removal**

16 The Agency may remove an employee from the Work-At-Home Program if the employee fails to  
17 perform the agreed upon duties or fails to adhere to the Work-At-Home Program Agreement.  
18

**EXHIBIT 1**

1  
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22

**WORK-AT-HOME PROGRAM REQUEST**

Name of Employee \_\_\_\_\_

Employee's Organization \_\_\_\_\_

(Center/Office, Division, and Branch)

Employee's Office Telephone Number \_\_\_\_\_

-----

**Employee's Request**

I am requesting to perform work at home from \_\_\_\_\_ (beginning date) to \_\_\_\_\_  
(ending date) for the following reason(s) (describe specific personal or family medical  
situation):

A copy of the required medical certification from my health care provider (or my family  
member's health care provider) is attached.

-----  
\_\_\_\_\_

Signature of Employee

Date

-----

**First-Line Manager's Recommendation**

I have reviewed the employee's request and recommend \_\_\_\_\_ approval, or \_\_\_\_\_  
disapproval for the reasons stated below:

-----  
\_\_\_\_\_

Signature of First-Line Manager

Date

1 **Designated Servicing Personnel Official's Concurrence/Non-concurrence**

2 The designated servicing personnel official has reviewed the employee's request and \_\_\_\_\_  
3 concurs, or \_\_\_\_\_ non-concurs for the following reasons:

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_

10 \_\_\_\_\_

11 Signature of the Appropriate Personnel Official      Date

12 -----

13 **Center Director/Regional Administrator (or Equivalent) Approval/Disapproval**

14 I have reviewed the employee's request and \_\_\_\_\_ approve, or \_\_\_\_\_ disapprove for the  
15 reasons stated below:

16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_

22 \_\_\_\_\_

23 Signature of Center Director/Regional      Date

24 Director (or Equivalent)

25

1 **EXHIBIT 2**

2 **WORK-AT-HOME PROGRAM AGREEMENT**

3 The following constitutes an agreement between the Health Care Financing Administration (HCFA),  
4 and \_\_\_\_\_

5 (Name of Employee)

6 on the terms and conditions of the HCFA Work-at-Home Program, consistent with Article 29 of the  
7 Master Agreement.

8 1. The employee is participating in the Work-at-Home Program voluntarily.

9 2. The address of the employee's permanent official duty station is: \_\_\_\_\_

10 The address of the employee's (or family member's) residence where the work will be performed is:

11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_

16 Describe in detail the specific room or area within a room where the work will be performed:

17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 The residence identified above meets the following requirements:

- 22 • a telephone line and instrument are present and working to ensure that the employee is  
23 reachable at all times during the agreed upon hours;
  - 24 • records and files must be secure in order to minimize the opportunity for unauthorized access;  
25 and
  - 26 • a smoke detector and readily accessible fire extinguisher are in the residence where the work  
27 area is located; and
- 28 3. The employee will continue in pay status while working at home within the hours that are  
29 specified in the approved Work-at-Home Program Request (Exhibit 1). The employee's official  
30 tour of duty at home will be the same as that at the official duty station; i.e., the employee's  
31 approved starting time at the official duty station will be the approved starting time at home.
- 32 4. The employee will be subject to the same maximum workday limits and starting and ending  
33 times as they would be if they were performing work at the official duty station. Participating  
34 employees are not normally authorized to work credit hours or perform overtime or official  
35 compensatory time. If the employee receives approval to work credit hours or overtime or  
36 official compensatory time, she/he will be compensated in accordance with applicable law,  
37 regulation, and policies.

- 1 5. An employee's time and attendance for work performed at home will be recorded in the same  
2 manner as is used to record work performed at the official duty station.
- 3 6. The employee must obtain manager approval before taking leave in accordance with  
4 procedures established by the manager. By signing this agreement, the employee agrees to  
5 follow established procedures for requesting and obtaining approval of leave, consistent with  
6 Article 31, Master Agreement.
- 7 7. The Government will not be responsible for operating costs, maintenance, or any other  
8 incidental cost (e.g., utilities) associated with the use of the residence unless the costs are a  
9 result of maintenance of government owned equipment (e.g., a government owned computer.)  
10 The employee does not relinquish any entitlement to reimbursement for appropriate authorized  
11 expenses incurred while conducting business for the Agency as provided for by law and  
12 implementing regulations.
- 13 8. Borrowing of Government equipment by employees is subject to manager approval,  
14 availability of equipment, and completion of all requisite property pass documentation. If the  
15 employee borrows Government equipment, the employee will borrow and protect the  
16 Government equipment in accordance with procedures established in FIRMR Bulletin 30,  
17 October 15, 1985. Government-owned equipment will be serviced and maintained by the  
18 Government. If the employee provides her/his own equipment, she/he is responsible for  
19 servicing and maintaining it.
- 20 9. For good and sufficient cause, and provided the employee is given at least 24 hours advance  
21 notice, the employee agrees to permit periodic inspections of the work area within the home  
22 during the employee's normal working hours to ensure work site conformance with safety  
23 standards and other specifications in these guidelines. Such inspections will occur only on days  
24 when the employee is working at home.
- 25 10. The Government will not be liable for damages to personal or real property during the course of  
26 performance of official duties or while using Government equipment at the residence, except  
27 to the extent the Government is held liable by Federal Tort Claims Act claims or claims arising  
28 under the Military Personnel and Civilian Employees Claims Act.
- 29 11. The employee is covered under the Federal Employee's Compensation Act if injured in the  
30 course of actually performing official duties at the home. Any accident or injury occurring at  
31 the residence must be brought to the immediate attention of the manager. Because an  
32 employment-related accident sustained by an employee while working at home will occur  
33 outside the premises of the official duty station, the manager must investigate all reports  
34 immediately following notification. The provisions of Article 34, Master Agreement, apply to  
35 all on-the-job injuries which occur at the residence.
- 36 12. All Government-borrowed equipment is for official business only.
- 37 13. The terms of Article 23, Master Agreement, continue to apply to the employee while  
38 performing work at home.

39 **EMPLOYEE:** \_\_\_\_\_ **Date** \_\_\_\_\_

40 **APPROVED:** \_\_\_\_\_ **Date** \_\_\_\_\_ (First-Line Manager)

41

1 **EXHIBIT 3**

2 **NOTE TO (Name of Employee's (or Family Member's) Health Care Provider)**

3 **SUBJECT:**Medical Documentation Needed in Support of a Work-at-Home Program Request

4 **(Name of Employee)** is applying for the Health Care Financing Administration Work-at-Home  
5 Program. In providing medical documentation in support of the employee's request, the  
6 following information must be provided:

7 **Situations Involving the Employee's Personal Medical Needs**

- 8 1. The specific nature of the illness or injury;
- 9 2. The anticipated beginning and ending dates of the incapacitation;
- 10 3. The specific reason(s) why the employee is incapable of commuting to the official duty station  
11 and/or performing her/his duties at the official duty station for an entire day; and
- 12 4. A statement that the employee is capable of performing her/his duties at home, subject to any  
13 specific limitations.

14 **Situations Involving the Employee's Family Member's Medical Needs**

- 15 1. The specific nature of the illness or injury;
- 16 2. The anticipated beginning and ending dates of the incapacitation; and
- 17 3. A statement describing the care that the employee will provide to the family member.

18 **The certification must be on your official letterhead, signed by you**  
19 **personally, and dated.**

20 Your cooperation in providing this information is appreciated. Should you have  
21 any questions regarding the above requirements, please call **(Name of Designated**  
22 **Servicing Personnel Official)** on **(Phone Number)**.

23

24

2 **Article 30**

3  
4 **OFFICIAL TIME**

5  
6 **Section 1. Policy Statement**

7 The Agency recognizes that in furtherance of good labor-management relations, Union officials have  
8 the responsibility of carrying out representative duties. The Parties also recognize that Union officials,  
9 when not engaged in authorized labor- management activities, are expected to acco the duties  
10 of the position to which they have been assigned.

11 In accordance with this Agreement, the Agency will recognize Union officials designated by the  
12 Union as appropriate users of official duty hours for Union representational activities and labor-  
13 management relations functions.

14 **Section 2. Release from Duty for Representation Matters**

15 Union officials will be permitted to leave the worksite to discharge their functions as described in this  
16 Agreement.

17 Union officials will work at their regular work stations except when carrying out  
18 functions as provided herein. Union officials will report to their regular work  
19 stations at the beginning of their shift and the end of their shift unless previous  
20 arrangements have been made with their manager. On those occasions when an  
21 official is unable to report to his or her normal duty station or sign out at the end  
22 of the shift due to circumstances beyond his or her control, e.g., meetings,  
23 arbitrations, hearings, etc., the Union official will inform their manager in  
24 advance of the nature of the business when possible.

25  
26 **Section 3. Special Assignments, Reassignments, Details**

27 The Agency agrees it will notify the Union prior to placing Union officials on special assignments,  
28 reassignments, and/or details away from the area within which they serve.

29 **Section 4. Official Time**

- 30 A. Official time will not be used for internal Union business.
- 31 B. Official time falls into two (2) general categories.
- 32 1. A reasonable amount of official time will be granted for representational activities  
33 initiated and/or approved in advance by the Agency:



- 1 a. Attendance at meetings with the Employer concerning personnel policies,  
2 practices, other general conditions of employment, or any other matter covered  
3 by 5 U.S.C. 7114 (a)(2)(A);
- 4 b. Attendance at meetings to discuss or present unfair labor practice charges or  
5 Union clarification petitions;
- 6 c. Attendance at meetings for the purpose of presenting replies to the proposed  
7 termination of probationers;
- 8 d. Attendance at oral replies to notices of proposed disciplinary, adverse or  
9 unacceptable performance actions;
- 10 e. Attendance at meetings to present appeals in connection with ~~statutory~~ or  
11 regulatory appeal procedures in which the Union is designated  
12 representative;
- 13 f. Attendance at meetings for the purpose of presenting reconsideration replies in  
14 connection with denial of within-grade increases;
- 15 g. Attendance at examination of employees in the unit by representative(s) of the  
16 Employer in connection with an investigation if:
  - 17 (1) the employee reasonably believes that the examination may result in  
18 disciplinary action against the employee; and
  - 19 (2) the employee requests representation;
- 20 h. Attendance at grievance meetings and arbitration hearings;
- 21 i. Attendance at meetings of committees on which Union representatives are  
22 authorized membership by the Employer.
- 23 j. Attendance at midterm negotiations;
- 24 k. Travel to any of the activities above; and,
- 25 l. Attendance at the Agency recognized activities to which the Union has been  
26 invited.
- 27 2. A bank, or finite limit, of official time will be used for representational activities  
28 initiated by the Union. The bank is limited to 18,000 hours per year. The Union will be  
29 permitted to carryover one half (½) of any unused bank time into the next year.
- 30 Appropriate activities for use of bank time are as follows:
  - 31 a. to confer with employees or groups of employees with respect to any matter for  
32 which remedial relief may be sought pursuant to the terms of this Agreement,  
33 including exploratory meetings to determine whether it is appropriate to seek  
34 remedial relief;
  - 35 b. to prepare grievances;
  - 36 c. to prepare witnesses;

- 1 d. to review documents that are not available during non-duty hours;
- 2 e. to prepare a reply to a notice of proposed disciplinary, adverse or unacceptable
- 3 performance action;
- 4 f. to prepare for arbitration;
- 5 g. to prepare a reconsideration statement in connection with the denial of a within-
- 6 grade increase;
- 7 h. to meet with national staff representatives of the Union in connection with a
- 8 grievance, arbitration or Unfair Labor Practice (ULP) charge;
- 9 i. to participate in an authority investigation or hearing preparation as
- 10 representative of the Union;
- 11 j. to travel to and from meetings for which the steward receives bank time;
- 12 k. to prepare for local and multi-unit Labor Management Relations committee
- 13 meetings and local and multi-unit negotiations;
- 14 l. to participate in training designed primarily to further the interest of government by
- 15 bettering the labor-management relationship (this is available to all non-Steward
- 16 officials as well);
- 17 m. to prepare and maintain records and reports required of the Union by Federal agencies;
- 18 n. to maintain financial records and books required to complete IRS reports;
- 19 o. to maintain Union office hours;
- 20 p. to effectuate Congressional contacts:
  - 21 (1) if requested or subpoenaed by a Member or committee of Congress to appear,
  - 22 or,
  - 23 (2) for any meeting with member(s) of Congress as a result of prearranged
  - 24 appointment, or,
  - 25 (3) for any contacts in their own regional office cities with members of Congress or
  - 26 their respective staff members;
- 27 q. to chair committee meetings;
- 28 r. to conduct training on labor relations issues for employees not to exceed two (2) hours
- 29 quarterly (non-cumulative); and
- 30 s. to attend regularly scheduled Union events, i.e., training, convention, and other such
- 31 regularly scheduled activities of which management is notified in advance.

32 **Section 5.**

33 The Union will provide in writing and maintain with the Agency on a current  
34 basis a list of all Officers, Principal Representatives and Stewards, committee

1 members and other authorized representatives.

2

3 **Section 6. Abuse of Official Time**

4 Alleged abuses of official time will be brought to the attention of the Director, Human Resource  
5 Management Group (HRMG), or his or her designee on a timely basis by management officials. The  
6 Director, HRMG, or his/her designee will then consult with the President of the Union and/or his or  
7 her designee, and if these allegations are substantiated, appropriate action will be taken.

8 **Section 7. Official Time Record**

9 In accordance with Section 4 of this Article, Union officials will complete all required portions of the  
10 Official Time Record.

11 **Section 8. Grievants and Witnesses**

12 Grievants and witnesses will be granted reasonable official time for the purpose of preparation and  
13 presentation of arbitrations and grievances under this Agreement.

CMS

HEALTH CARE FINANCING ADMINISTRATION  
OFFICIAL TIME REPORT

1  
2  
3  
4  
5  
6

Week/Month: \_\_\_\_\_ Union Representative: \_\_\_\_\_

Days of the Week 1	Union Activity 2	Destination Union Office/Other 3	Departure Time 4	Return Time 5	Cumulative time (Enter by Code Destination) 7 4c. 4c2.	
Monday						
Tuesday						
Wednesday						
Thursday						
Friday						

7

Total: \_\_\_\_\_

8 Please enter the appropriate code to describe authorized union activities in column above

9 per article 30, Section-4. Official Time 1-2. See reverse.

10  
11  
12  
13  
14  
15  
16

**Note:** This report should be completed and submitted to authorizing official at the beginning of the day. Union representatives may correct forms at the end of the day or week to reflect actual events.

Union Representative: \_\_\_\_\_ Signature  
Supervisor: \_\_\_\_\_ Signature

- 1  
2 1. A reasonable amount of official time will be granted for representational activities initiated and/or approved in advance by the Agency:
- 3 a. Attendance at meetings with the Employer concerning personnel policies, practices, other general conditions of employment, or  
4 any other matter covered by 5 U.S.C. 7114 (a)(2)(A);
- 5 b. Attendance at meetings to discuss or present unfair labor practice charges or Union clarification petitions;
- 6 c. Attendance at meetings for the purpose of presenting replies to the proposed termination of probationers;
- 7 d. Attendance at oral replies to notices of proposed disciplinary, adverse or unacceptable performance actions;
- 8 e. Attendance at meetings to present appeals in connection with statutory or regulatory appeal procedures in which the Union is  
9 designated as the representative;
- 10 g. Attendance at meetings for the purpose of presenting reconsideration replies in connection with denial of within-grade increases;
- 11 h. Attendance at examination of employees in the unit by representative(s) of the Employer in connection with an investigation if:
- 12 i. the employee reasonably believes that the examination may result in disciplinary action against the employee; and
- 13 1. the employee requests representation;
- 14 a. Attendance at grievance meetings and arbitration hearings;
- 15 b. Attendance at meetings of committees on which Union representatives are authorized membership by the Employer.
- 16 c. Attendance at midterm negotiations;
- 17 d. Travel to any of the activities above; and,
- 18 e. Attendance at the Agency recognized activities to which the Union has been invited.
- 19
- 20 2. Appropriate activities for use of bank time are as follows:
- 21 a. to confer with employees or groups of employees with respect to any matter for which remedial relief may be sought pursuant  
22 to the terms of this Agreement, including exploratory meetings to determine whether it is appropriate to seek remedial relief;
- 23 b. to prepare grievances;
- 24 c. to prepare witnesses;
- 25 d. to review documents that are not available during non-duty hours;
- 26 e. to prepare a reply to a notice of proposed disciplinary, adverse or unacceptable performance action;
- 27 f. to prepare for arbitration;
- 28 g. to prepare a reconsideration statement in connection with the denial of a within-grade increase;
- 29 h. to meet with national staff representatives of the Union in connection with a grievance, arbitration or Unfair Labor Practice  
30 (ULP) charge;
- 31 i. to participate in an authority investigation or hearing preparation as representative of the Union;
- 32 j. to travel to and from meetings for which the steward receives bank time;
- 33 k. to prepare for local and multi-unit Labor Management Relations committee meetings and local and multi-unit negotiations;
- 34 l. to participate in training designed primarily to further the interest of government by bettering the labor-management  
35 relationship (this is available to all non-Steward officials as well);
- 36 m. to prepare and maintain records and reports required of the Union by Federal agencies;
- 37 n. to maintain financial records and books required to complete IRS reports;
- 38 o. to maintain Union office hours;
- 39 p. to effectuate Congressional contacts;

- 1 (1) if requested or subpoenaed by a Member or committee of Congress to appear, or,  
2 (2) for any meeting with member(s) of Congress as a result of prearranged appointment, or,  
3 (3) for any contacts in their own regional office cities with members of Congress or their respective staff members;  
4 q. to chair committee meetings;  
5 r. to conduct training on labor relations issues for employees not to exceed two (2) hours quarterly (non-cumulative); and  
6 S. to attend regularly scheduled Union events, i.e., training, convention, and other such regularly scheduled activities of which  
7 management is notified in advance.  
8  
9

2 Article 31

3  
4 TIME AND LEAVE

5  
6 Section 1. General Leave Policies and Practices

- 7  
8 A. Employees will be entitled to accrue and use leave in accordance with this Agreement.
- 9  
10 B. Employees should apply in advance for approval of all anticipated leave. Leave requests and  
11 approval or denial will be made in writing on Form SF-71. The leave approving official agrees  
12 to respond to all leave requests in a timely manner.
- 13  
14 C. When an employee has not received advance approval for leave and does not report to work,  
15 the employee should notify (directly or by leaving a message) his/her leave approving official  
16 and request appropriate leave, normally by 9:30 a.m. The leave approving official will  
17 approve or deny the leave requested.
- 18  
19 In the event the employee does not report during the reporting period, the manager will not  
20 record the leave status until the end of the scheduled shift, except for the need to process time  
21 records. If the employee's leave status has not been clarified by the end of the shift, the  
22 absence may be charged to AWOL. This will not preclude a later change in leave status for  
23 good and sufficient reason(s).
- 24  
25 D. Employees will accrue leave in accordance with Government-wide rules and regulations.
- 26  
27 E. All absences will be charged in increments of 1/4-hour.
- 28  
29 F. Employees will not be denied leave usage solely because of their leave balance. However,  
30 annual leave may not exceed the amount available for use during the leave year.
- 31  
32 G. Leave will not be denied as a disciplinary measure.
- 33  
34 H. The Agency will not force employees to use personal leave against their will in a manner  
35 inconsistent with Government-wide rules and regulations.

36  
37 Section 2. Annual Leave

- 38  
39 A. Annual leave is provided and used to allow employees an annual vacation of extended leave  
40 for rest and recreation and to provide periods of time off for personal and emergency purposes.  
41 The use of accrued annual leave is the right of the employee, subject to the right of the  
42 employer to approve the time at which leave may be taken. Employees should apply in  
43 advance for approval of all anticipated leave to permit the orderly scheduling of leave and to  
44 avoid leave forfeiture that might otherwise result.
- 45  
46 B. Leave requested in advance will be granted except when there is an operational exigency that  
47 would preclude it. Leave may also be granted when it is not scheduled in advance and  
48 business permits. Leave for personal emergencies will be granted unless there is an operational  
49 exigency that requires the employees' presence.

- 1  
2 C. When "use or lose" leave is requested in writing before the start of the 3rd biweekly pay period  
3 prior to the end of the leave year and cannot be approved or used prior to the end of the leave  
4 year, the excess annual leave will be restored in accordance with applicable rules and  
5 regulations and carried over into the next leave year.  
6  
7 D. The leave approving official should timely request an advance schedule for leave for periods of  
8 high annual leave usage. Leave approval/denial will be provided within 15 working days after  
9 the request. When scheduling conflicts arise, managers should attempt to let the employee(s)  
10 involved resolve the conflict among themselves. Unresolved conflicts in these requests will be  
11 settled on a fair basis.  
12  
13 E. Employees, upon request and with the approval of the manager, may change ~~annually~~ annually  
14 authorized annual leave to sick leave in accordance with Section 3 of this A  
15

16 **Section 3. Sick Leave**  
17

- 18 A. The use of sick leave is an employee benefit. The Agency will grant sick leave to an employee  
19 when the employee:  
20  
21 1. Receives medical, dental, or optical examination or treatment;  
22  
23 2. Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy,  
24 or childbirth;  
25  
26 3. Provides care for a family member as a result of physical or mental illness; injury; pregnancy;  
27 childbirth; or mental, dental, or optical examination or treatment; or  
28  
29 4. Would, as determined by the health authorities having jurisdiction or by a health care provider,  
30 jeopardize the health of others by his or her presence on the job because of exposure to a  
31 communicable disease; or  
32  
33 5. Must be absent from duty for purposes relating to the adoption of a child, including  
34 appointments with adoption agencies, social workers, and attorneys; court proceedings;  
35 required travel; and any other activities necessary to allow the adoption to proceed.  
36  
37 B. Employees normally will not be required to furnish a medical certificate (SF-71 medical  
38 certification or equivalent) to substantiate a request for approval of sick leave unless sick leave  
39 exceeds 3 consecutive workdays.  
40  
41 1. In cases where the nature of illness was such that an employee did not need to see a medical  
42 practitioner, a medical certificate will not be required unless the employee is on restricted sick  
43 leave or there is a good reason to believe that the employee was not entitled to sick leave.  
44  
45 2. In individual cases, if there is evidence that an employee's leave pattern (e.g., frequency,  
46 "Monday/Friday" usage, etc.) gives sufficient reason that an abuse of sick leave exists, the  
47 employee will first be advised by an interview and counseled that he/she may be placed on  
48 restricted sick leave. If the employee's leave pattern continues, the employee will be advised  
49 in writing that all future requests for sick leave must be supported by a medical certificate.  
50



1 The sick leave record of all employees under sick leave restriction will be reviewed at least  
2 every 2 months and lifted if the abuse has discontinued. If the leave abuse resumes within a 2-  
3 month period following its being lifted, the employee will again be placed on leave restriction.  
4

- 5 3. An employee with a chronic medical condition that does not require medical treatment but  
6 does result in periodic absences from work for 3 consecutive days or more will not be required  
7 to furnish a physician's certificate on a continuing basis if the employee: (1) is not on leave  
8 restriction, and (2) provides, if requested, an updated valid medical certificate every 6 months  
9 which clearly states the continuing need for the periodic absences.

- 10  
11 C. In addition to any bereavement leave authorized under Section 5, employees are entitled to use  
12 40 hours of their sick leave per calendar year to care for, or to make arrangements for or attend  
13 the funeral of, the following family members:

- 14  
15 1. Spouse and parents thereof;  
16  
17 2. Children, including adopted children, and spouses thereof;  
18  
19 3. Parents, brothers and sisters, and spouses thereof; and  
20  
21 4. Any individual related by blood or affinity whose close association with the employee is the  
22 equivalent of a family relationship.  
23

24 In addition to the 40-hour basic entitlement, full-time employees who have a sick leave  
25 balance of 80 hours (after use of the 40 hours) may use an additional 64 hours of sick leave,  
26 bringing the maximum yearly allowance to 104 hours; or, in the case of a part-time employee,  
27 the number of sick leave hours normally accrued during a leave year. Part-time employees  
28 may use sick leave according to the average number of hours worked per week. For example,  
29 an employee who works 20 hours a week would be allowed to use 20 sick leave hours per year  
30 (basic entitlement) and an additional 32 hours of sick leave provided that he/she has a sick  
31 leave balance equal to twice the average number of hours in the weekly tour of duty (40  
32 hours.)  
33

- 34 D. An employee who expects to be absent more than one day will inform the manager (or  
35 designee) of the expected date of return to duty and notify the manager of any changes. In  
36 such cases, daily reports will not be required. In the case of extended illness, the employee  
37 will inform the manager as soon as he/she becomes aware of an expected return to work date.  
38

#### 39 **Section 4. Advance Annual/Sick Leave**

- 40  
41 A. Advance annual leave is leave time requested on an SF-71, approved by the delegated  
42 authority, and taken but not yet earned by the employee. An employee may be advanced all  
43 annual leave that will accrue up to the end of the leave year. However, advance annual leave  
44 may not be granted to a temporary employee beyond the date set for the expiration of his/her  
45 temporary appointment; or to any employee if there is a likelihood that he/she will retire, be  
46 separated, or resign from CMS before the date when he/she will have earned the leave. Upon  
47 separation, employees must repay any annual leave advanced and not earned at the time of  
48 separation (except for separation due to death or disability retirement).  
49

- 50 B. Sick leave up to a total of 30 days will be advanced in cases of serious disability or ailment and

1 when required by the exigencies of the situation. The leave approving official must assure that  
2 the illness is serious and that an exigency exists. An employee's request for advanced sick  
3 leave must be in writing. The request must be supported by a medical certificate. Sick leave  
4 cannot be advanced when it is likely the employee will retire, be separated, or resign before the  
5 advanced leave will be earned. Advanced sick leave may be granted irrespective of whether  
6 the employee has annual leave to his/her credit. It may be combined with annual leave when  
7 necessary to cover one continuous period of absence.  
8

9 C. Denials of requests for advance leave must be conveyed to the employee promptly and must  
10 contain a specific explanation of the reasons for the denial.  
11

12 D. Annual leave or sick leave earned on a current basis may not be used until all advance leave  
13 has been liquidated.  
14

### 15 **Section 5. Bereavement Leave**

16  
17 A. Upon request, subject to any documentation requirements, leave approving officials will  
18 approve up to three (3) days of absence without charge to leave or loss of pay for employees to  
19 mourn the death of the following family members:  
20

21 1. Spouse;

22  
23 2. Children, including adopted and step-children;

24  
25 3. Parents, including stepparent;

26  
27 4. Siblings, including stepbrother/sister; and

28  
29 5. Any individual related by affinity; i.e., whose association with the employee is the equivalent  
30 to one of the family relationships identified above.  
31

32 B. Upon request, subject to any documentation requirements, leave approving officials will  
33 approve one (1) day of absence without charge to leave or loss of pay for employees to mourn  
34 the death of a grandparent or parent of their spouse.  
35

36 C. The manager, at his/her discretion, may require documentation (e.g., obituary, death  
37 certificate) prior to final approval of bereavement leave. However, this documentation will  
38 normally be required only in unusual circumstances.  
39

### 40 **Section 6. Family and Medical Leave**

41  
42 A. Under the CMS Family and Medical Leave Program (FMLP), a bargaining unit employee is  
43 entitled to a total of six (6) months leave without pay (LWOP) during any 12-month period for  
44 one or more of the following reasons:  
45

46 1. The birth of a son or daughter of the employee and the care of such son or daughter.

47  
48 2. The placement of a son or daughter with the employee for adoption or foster care.

49  
50 3. The care of a family member of the employee with a serious health condition. Family

1 member is defined as:

- 2
- 3 a. spouse, and parents thereof;
- 4
- 5 b. children, including adopted children, and spouses thereof;
- 6
- 7 c. parents; and
- 8
- 9 d. brothers and sisters, and spouses thereof.

- 10
- 11 4. A serious health condition of the employee that makes the employee unable to perform
- 12 the essential functions of his or her position.

13

14 For either of the reasons listed in (1) and (2) above, the LWOP may be extended, upon

15 request, for an additional six (6) months.

- 16
- 17 B. The term "serious health condition" means an illness, injury, impairment, or physical or mental
- 18 condition that involves:

- 19
- 20 1. Any period of incapacity or treatment in connection with, or consequent to, inpatient
- 21 care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.
- 22
- 23 2. Any period of incapacity requiring absence from work, school, or other regular daily
- 24 activities of more than three (3) calendar days that also involves continuing treatment
- 25 by (or under the supervision of) a health care provider.
- 26
- 27 3. Continuing treatment by (or under the supervision of) a health care provider for a
- 28 chronic or long-term health condition that is incurable or so serious that if not treated
- 29 would likely result in a period of incapacity of more than three (3) calendar days; e.g.,
- 30 medical treatment of substance abuse, including alcohol, or for prenatal care.

- 31
- 32 C. Substitution of Paid leave

- 33
- 34 1. The employee may elect to substitute annual leave, sick leave, advanced annual leave,
- 35 advanced sick leave for unpaid family or medical leave for any part of the applicable
- 36 period consistent with governing laws and regulations. An employee may not
- 37 retroactively substitute paid leave for unpaid family and medical leave. An employee
- 38 may continue to use earned compensatory time and credit hours, subject to normal
- 39 supervisory approval, in addition to his/her entitlement to leave under the FMLA.

40

41 When an employee invokes entitlement under FMLA for their own health condition,

42 he/she may substitute any or all accrued sick leave to his/her credit for LWOP. When

43 an employee invokes entitlement to care for a family member as defined in Section 3.C.

44 above, the employee may substitute his/her leave for LWOP, subject to the limitations

45 outlined in Section 3.C.

- 46
- 47 2. An employee may request to use leave on an intermittent basis or under a reduced leave
- 48 schedule when medically necessary. The employee must consult with the manager and
- 49 make a reasonable effort to schedule intermittent LWOP and/or paid leave so as not to
- 50 disrupt the operations of the Agency.

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D. Notice of Leave

1. Requests for use of family and medical unpaid leave under the CMS FMLP will be made in writing on Form SF-71. The employee must include the following statement in Item 6 ("Remarks") of the SF-71: "I request absence under CMS's FMLP for (birth/care of child; adoption/foster care; care of family member; or personal health reasons)", as appropriate.
2. When the need for unpaid family and medical leave is foreseeable, the employee will provide 30 days notice of intent to take leave. Otherwise, the employee will provide such notice as is practicable. If the need is foreseeable and the employee fails to give 30 days notice with no reasonable excuse for the delay of notification, the Agency may delay the taking of family and medical unpaid leave until at least 30 days after the date the employee provides notice of his or her need for family and medical leave.

E. Medical Certification - (When requesting leave for serious health conditions)

1. An employee will provide written medical certification to the Agency in a timely manner.
2. The written medical certification will include:
  - a. The date the serious health condition commenced.
  - b. The probable duration of the serious health condition.
  - c. The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including a statement as to the incapacitation, examination, or treatment that may be required by a health care provider.
  - d. A statement that the employee is unable to perform the essential functions of his/her position.
3. The Agency will not require any personal or confidential information in the written medical certification other than that required by paragraph E.(2) above.
4. If the Agency doubts the validity of the original certification, the Agency may require, at the Agency's expense, that the employee obtain the opinion of a second health care provider designated or approved jointly by the Agency and the employee concerning the information certified under paragraph E.(2) above.
5. If the opinion of the second health care provider differs from the original certification, the Agency may require, at the Agency's expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Agency and the employee concerning the information certified under paragraph E.(2) above. The opinion of the third health care provider will be binding on the Agency and the employee. The definition of "health care provider" will be consistent with the provisions of the Family and Medical Leave Act (FMLA).

1  
2 "Health Care Provider" is defined as any of the following individuals:  
3

- 4 - Doctor of Medicine or Osteopathy;  
5  
6 - Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors  
7 (limited to treatment consisting of manual manipulation of the spine to correct a  
8 subluxation as demonstrated by X-ray to exist) who are authorized to practice  
9 by State law;  
10  
11 - Nurse practitioners and nurse midwives who are authorized to practice by State  
12 law; or Christian Science practitioners listed with the First Church of Christ,  
13 Scientist, in Boston, Massachusetts;  
14  
15 - A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is  
16 recognized as a traditional healing practitioner by native traditional religious  
17 leaders who practice traditional healing methods as believed, expressed, and  
18 exercised in religions of the American Indian, Eskimo, Aleut, and Native  
19 Hawaiians.  
20

21 6. To remain entitled to family and medical leave, an employee or the employee's spouse,  
22 son, daughter, or parent must comply with any requirement from the Agency that he or  
23 she submit to examination (not treatment) to obtain a second or third medical  
24 certification from a health care provider other than the individual's health care provider.  
25

26 7. If the employee is unable to provide the requested medical certification before leave  
27 begins, or if the Agency questions the validity of the original certification provided by  
28 the employee and the medical treatment requires the leave to begin, the Agency will  
29 grant provisional leave pending final written medical certification.  
30

31 8. If, after the leave has commenced, the employee fails to provide the requested medical  
32 certification, the Agency may:  
33

34 a. Charge the employee as AWOL, unless:  
35

36 (1) the reason for not providing the medical certification was beyond the  
37 control of the employee; or  
38

39 (2) the employee made a good faith effort to provide the certification.  
40

41 Prior to being placed on AWOL, an employee will be provided written advance  
42 notice of at least 10 working days and given the reasons why AWOL is being  
43 charged. During this period, the employee may comply with the Agency's  
44 request; and, if so, the AWOL charges will be rescinded.  
45

46 b. Allow the employee to request that the provisional leave be charged as LWOP  
47 or charged to the employee's annual and/or sick leave account, as appropriate.  
48

49 9. Any health care provider designated or approved by the Agency will not be employed  
50 by the Agency or be under the administrative oversight of the Agency on a regular basis unless

1 the employee's official duty station is located in an area where access to health care is  
2 extremely limited.

3  
4 **F. Medical Re-certification**

5  
6 While an employee is on family and medical leave, the Agency may require, at the Agency's  
7 expense, subsequent medical re-certification from the health care provider only if the  
8 circumstances described in the original medical certification is subject to change significantly,  
9 or if the Agency receives bona-fide information that casts doubts upon the continuing validity  
10 of the medical certification. Such requests for medical re-certification will not occur more  
11 frequently than every six (6) weeks.

12  
13 **G.** An employee eligible under CMS's FMLP may request to participate in the Telework Flexiplace  
14 Program and Work-At-Home Program consistent with Articles 10 and 29 of the Collective Bargaining Agreement as  
15 appropriate.

16  
17 **H. Protection of Employment and Benefits**

18  
19 Upon return from family and medical leave, the employee will be restored to the same position  
20 as he/she occupied before the leave or an equivalent position, with equivalent benefits, pay,  
21 status, and to the extent possible, other terms and conditions of employment.

22  
23 **I.** When an employee requests leave under CMS's FMLP, the Agency will provide guidance  
24 concerning the employee's rights and obligations under the Program.

25  
26 **J.** An employee who meets the criteria for leave and has complied with the requirements under  
27 this section may not be denied leave, consistent with all applicable rules governing annual or  
28 sick leave, as appropriate.

29  
30 **Section 7. Official Closing Due to Inclement Weather or Other Emergency Conditions**

31  
32 **A. General Provisions**

- 33  
34 1. **OVERVIEW** These general provisions apply to **all** CMS employees, regardless of  
35 official duty station. All employees are to presume that CMS's offices are open each  
36 regular workday unless a specific announcement to the contrary is made. Although  
37 employees are expected to be prepared to deal with most emergencies, conditions  
38 might occur which will make the closing of all or some locations necessary. The  
39 decision to close the office will be as a result of hazardous conditions that the majority  
40 of employees might face while reporting to their workplace or returning home. A  
41 decision on a late opening or full-day closing and announcements will be broadcast  
42 through local news or recorded for employees telephone access as early as possible.  
43 Employees should listen to designated radio or television stations, or phone into the  
44 designated number(s) for instructions.
- 45  
46 2. **FULL-DAY CLOSING** When a decision is made to close CMS's offices for a full day  
47 by administrative order due to inclement weather or other conditions warranting such  
48 closing, employees not required to work, including employees previously authorized  
49 annual or sick leave, will not be charged leave.

- 1 3. EARLY DISMISSAL When a decision is made to dismiss employees early during the  
2 workday, employees not involved in essential services, who depart at the time of the  
3 dismissal, will be excused without charge to leave or loss of compensation for the  
4 remainder of their tour of duty for the day. Employees must be on duty part of the day  
5 when an early dismissal is authorized in order to be entitled to any period of excused  
6 absence. In the event an employee in a duty status on the day of an early dismissal  
7 requests leave/LWOP and departs before the official dismissal time, leave will be  
8 charged only up to the time of the early dismissal.  
9
- 10 4. LIBERAL GRANTING OF LEAVE When inclement weather or another emergency  
11 condition exists, but when a late opening or early dismissal has not been officially  
12 authorized, leave approving officials will be as liberal as possible in approving requests  
13 for leave/LWOP.  
14
- 15 5. EMPLOYEES WITH MOBILITY IMPAIRMENTS During periods of inclement  
16 weather or other emergency conditions, leave approving officials will give special  
17 consideration to employees with temporary and permanent mobility impairments; i.e.,  
18 these employees may be granted excused absence even when CMS is officially open.  
19
- 20 6. Except for employees in Washington, D.C.; when a late opening is authorized the  
21 Agency will utilize the prescribed fixed shift of 7:30 a.m. to 4 p.m. (or 7:30 a.m. to 5/6  
22 p.m. for Extended Flex Program participants) as a point of reference to determine the  
23 amount of excused absence to be granted. Employees will be granted excused absence  
24 from 7:30 a.m. up to the official announced opening time. Employees who were  
25 previously scheduled for a full day's leave on such days will also be granted the  
26 authorized period of excused absence. On days when a late opening occurs, a liberal  
27 leave policy will automatically be in effect; i.e., employees may take annual leave or  
28 leave without pay (LWOP) without prior supervisory approval. Annual leave or  
29 LWOP requests will be approved for those employees who wish to remain home for the  
30 full day, who report after the announced late opening time, or who wish to depart  
31 earlier than the fixed departure time.  
32

33 B. Procedures for Baltimore Offices  
34

- 35 1. Announcements concerning Federal offices in the Baltimore  
36 Metropolitan Area (as sponsored by the Baltimore Federal Executive  
37 Board) will be applicable to all CMS Baltimore-based employees,  
38 subject to the provisions outlined below.  
39
- 40 2. If "Code Red" is announced, CMS's Baltimore complex will be closed  
41 for the entire workday.  
42
- 43 3. If "Code Yellow" is announced, CMS's Baltimore-based employees  
44 should report to work at 10:30 a.m. The normal lunch break should be  
45 taken, and employees on an 8-hour shift may depart at 4:00 p.m.; 9-hour  
46 shift employees may depart at 5:00 p.m.; and 10-hour shift employees  
47 may depart at 6:00 p.m.  
48
- 49 4. If "Code Blue" is announced, CMS's Baltimore-based employees  
50 should report to work at 12:30 p.m. No lunch break will be allowed.

1 Employees on an 8-hour shift may depart at 3:30 p.m.; 9-hour shift  
2 employees may depart at 4:30 p.m.; and 10-hour shift employees may  
3 depart at 5:30 p.m.  
4

5 C. Procedures for Washington, D.C. Offices  
6

- 7 1. CMS's Washington, D.C.-based employees are governed by the  
8 inclement weather/emergency closing procedures promulgated by the  
9 United States Office of Personnel Management (OPM) in a  
10 memorandum dated January 21, 1997, subject to the provisions outlined  
11 below.  
12  
13 2. On days where OPM's media announcement indicate 1 "Adjusted  
14 Home Departure" schedule is in place, employees w/ 1st leave for  
15 the entire day will be granted excused absence equal to the number of  
16 hours announced in the "Adjusted Home Departure" statement, and will  
17 be charged leave only for the remaining portion of their tour of duty for  
18 that day.  
19  
20 3. On days where an "Adjusted Home Departure" schedule is announced, a  
21 liberal leave policy will automatically be in effect, i.e., employees may  
22 take annual leave or LWOP without prior supervisory approval. Annual  
23 leave or LWOP requests will be approved for those employees who  
24 wish to remain home for the full day or who wish to depart prior to the  
25 end of their tour of duty.  
26

27 D. Procedures for Regional Offices  
28

- 29 1. Inclement weather/emergency closing procedures for CMS's Regional  
30 employees are set locally by the governing Federal Executive Board. At  
31 the beginning of each inclement weather season (normally,  
32 October/November), the Agency agrees to disseminate local seasonal  
33 procedures to all employees in the affected Region.  
34  
35 2. If local Federal Executive Board procedures are changed, the Agency  
36 agrees to afford the Union an opportunity to negotiate changes prior to  
37 implementation.  
38  
39 3. Regional employees are subject to the "General Provisions" outlined in  
40 A., above, unless different local procedures have been mutually agreed  
41 to by the Parties.  
42

43 **Section 8. Adjustment of Work Schedules for Religious Observances**  
44

- 45 A. Requests for religious compensatory time (RCT) will be granted unless approval of the request  
46 would interfere with the timely and efficient accomplishment of the unit's work or would  
47 prevent the availability of a sufficient number of employees to perform the unit's work.  
48  
49 B. Employees must request approval of RCT for religious observances from the appropriate  
50 approving manager in advance and in writing. All requests will be submitted on an SF-71 (to



1 include appropriate attachments). Requests must include all of the following information:

- 2
- 3 1. The dates(s) and number of hours requested.
- 4
- 5 2. In the space provided for remarks, the employee must state, "this leave is because my
- 6 personal religious belief requires me to refrain from work for a religious observance for
- 7 (this day) or (portion of the day)."
- 8
- 9 3. The proposed dates(s) on which the religious compensatory work will be performed.

10

11 C. During the months of February and August each year, employees will submit requests for RCT

12 for the six (6) month periods of April through September and October through March,

13 respectively. Such written requests should be submitted to the appropriate : ig manager

14 by the last day of February and August, respectively.

15

16 D. When requests for religious time off are submitted after February or August scheduling

17 periods, the requests will be considered on a first-come, first-served basis.

18 E. Only after the manager approves both the employee's request for RCT and his/her religious

19 compensatory work schedule will the employee work RCT. While the employee's request to

20 work at specific times must be considered, authority for scheduling the time to be worked is

21 vested in the manager. The religious compensatory work schedule will be approved at the

22 same time the request for RCT is approved. Where it is not possible to schedule the work

23 concurrent with the approval of the request for RCT, the manager will make the decision to

24 schedule the work as the work is needed, but within the allotted time period specified. It is the

25 employee's responsibility to take advantage of the opportunities offered or to obtain advance

26 approval to work at other times.

27

28 F. All RCT must be worked within the thirteen (13) pay periods in advance of the religious event.

29

30 G. Employees may be allowed to accumulate RCT in increments of at least 1/4-hour per day.

31

32 H. Earned RCT is forfeited unless used for the religious observance on the date designated on the

33 SF-71, except in the following circumstances:

- 34
- 35 1. If the employee is precluded by personal illness or an exigency of the public service as
- 36 declared by an authorized official from using earned RCT for the designated day, its
- 37 use may be deferred.
- 38
- 39 2. If the employee requests RCT for another religious observance, any unused earned
- 40 RCT must be used for that observance.

41

42 **Section 9. Excused Absence (Administrative Leave)**

43

44 A. Excused absence (sometimes referred to as administrative leave) is absence from assigned

45 duties without charge to leave or loss of pay. The Parties agree that excused absence may be

46 granted for activities that are in the Government's interest.

47

48 B. Employees will be granted up to four (4) hours of excused absence to donate blood to a CMS-

49 sponsored or endorsed blood program. Such leave time will only be for the amount of

50 administrative leave time necessary to travel to the donation site, donate blood, recuperate at

1 the donation site, if needed, and return to work if the employee's tour of duty is not over.  
2 Additional excused absence will be granted to employees who donate blood platelets through  
3 CMS-endorsed Hemapheresis Programs (e.g., the Hemapheresis Center at Johns Hopkins  
4 Hospital, through the American Red Cross Hemapheresis Program, or equivalent Regional  
5 Office Programs.)  
6

7 C. Upon request, subject to certification by a physician, leave approving officials will approve  
8 excused absence for employees who serve as living donors for bone marrow, organ and tissue  
9 donation and transplantation. The use of excused absence can cover time off for activities such  
10 as donor screening, the actual medical procedure, and recovery time. Leave approving  
11 officials will approve:

- 12
- 13 1. up to 7 workdays of absence in any calendar year without charge to employee's loss of pay  
14 for each donation by employees participating as living bone marrow donors.
- 15
- 16 2. up to 30 workdays of absence in any calendar year without charge to leave or loss of  
17 pay for employees participating as living organ or tissue donors.
- 18

19 The length of absence from work can vary depending on the medical procedure  
20 involved in the donation. Therefore, for longer periods of incapacitation, leave  
21 approving officials will approve annual and/or sick leave or LWOP in combination  
22 with the maximum amounts of excused absence specified in (1) and (2) above. Also,  
23 the Voluntary Leave Transfer Program is available to employees with zero sick and  
24 annual leave balances who participate as living organ or tissue donors.  
25

26 D. In the event of major disruption in public transportation, employees who normally utilize the  
27 disrupted public transportation may, at the discretion of the manager, be granted excused  
28 absence.  
29

### 30 **Section 10. Leave Without Pay (LWOP)**

31

32 A. Requests for LWOP will be given serious and bonafide consideration. Such requests will be  
33 approved workload considerations permitting.  
34

35 B. LWOP will be granted in the following cases:

- 36
- 37 1. When a disabled veteran requests LWOP for medical treatment.
- 38
- 39 2. When requested by a reservist or National Guard member for military duties.  
40 Employees may request such leave after their military leave has been exhausted.
- 41
- 42 3. When requested by an employee who has suffered an incapacitating job-related injury  
43 or illness and is waiting adjudication of his/her claim for employee compensation by  
44 the Office of Workers' Compensation Program.
- 45
- 46 4. When an employee makes a request under the CMS Family and Medical Leave  
47 Program and meets the criteria for that program as contained in Section 6 of this  
48 Article.
- 49
- 50 5. When a CMS employee is elected to serve as AFGE LOCAL 1923 President or is

1 elected or appointed to a position with an AFGE District or National Office.

2  
3 6. An employee may take 24 hours LWOP per calendar year to attend parent teacher  
4 conferences, and for dental/medical appointments for family members.

5  
6 C. Before requesting LWOP, employees should consult with their servicing personnel official  
7 concerning the potential consequences of LWOP on tenure, WIGIs, retirement, health benefits,  
8 and other benefits.

9  
10 **Section 11. Military Leave**

11  
12 A. In accordance with law and regulations, full-time employees who are members of the National  
13 Guard or the Armed Forces Reserves are entitled to 15 calendar days of reg military leave  
14 (ML) in a fiscal year for active duty or active duty for training.

15  
16 B. For part-time employees, ML is prorated based on the number of hours in the employee's  
17 workweek.

18  
19 C. Employees who do not use the entire 15 days can carry any unused ML (not to exceed 15 days)  
20 over to the next fiscal year. Military leave may never exceed 30 days.

21  
22 D. Regular ML is charged in increments of 1 day and includes non-workdays falling within the  
23 period of absence of military duty; e.g., weekends, holidays, day off due to compressed work  
24 schedules. Non-workdays falling at the beginning or end of ML are not included in the period  
25 of ML.

26  
27 **Section 12. Court Leave**

28  
29 A. In accordance with laws and regulations, an employee with a regular scheduled tour of duty is  
30 entitled to court leave (CL). CL is appropriate for:

31  
32 1. jury duty;

33  
34 2. when summoned to court to serve in an unofficial capacity as a witness for, or supply  
35 evidence for, State or local government; or

36  
37 3. when summoned to court to serve in an unofficial capacity as a witness for, or to  
38 supply evidence for, a private party when the Federal, D.C., State or local government  
39 is either the plaintiff or the defendant.

40  
41 B. CL is not to be granted to an employee who appears in court as either a plaintiff or a defendant  
42 on his/her own behalf. Employees should present the court order, subpoena, or summons to  
43 their approving official when they request CL for appearing as a witness or a juror.

44  
45 C. Upon return to duty, the employee must submit written proof of attendance from the court to  
46 the leave approving official. The proof of attendance should show the dates (and hours if less  
47 than a full day) served.

48  
49 D. No compensation is received for serving on jury duty in a Federal court; however, employees  
50 may keep expense money received for mileage, parking or required overnight stay. Monies

1 received for performing jury duty in State or local courts are indicated on the pay voucher or  
2 check as either "fees for services rendered" or "expense money." "Expense money" may be  
3 retained by the employee; "fees for services rendered" must be submitted to the Agency's  
4 finance office.  
5

### 6 **Section 13. Elections**

7  
8 As a general rule, where polls are not open at least three (3) hours before and employee's usual arrival  
9 time or after an employee's usual departure time, he/she will be excused from enough time to permit  
10 him/her to report for work three (3) hours after the polls open or leave work three (3) hours before the  
11 polls close, whichever requires less time off.  
12

3  
4 **COMPUTER SECURITY**

5  
6 **Section 1. Background**

- 7  
8 A. The Parties recognize that employees have a right to reasonable privacy in the  
9 work place. The Parties recognize also that the Agency uses computer systems  
10 that contain sensitive information to accomplish its mission, and that the Agency  
11 has a responsibility to ensure the security and privacy of such sensitive  
12 information.  
13

14 **Section 2. Definitions**

- 15  
16 A. Sensitive information is any information which the loss, misuse, unauthorized  
17 access to or modification of could adversely affect the national interest, or the  
18 conduct of Federal programs, or the privacy to which individuals are entitled  
19 under The Privacy Act and the Social Security Act.  
20  
21 B. For purposes of this Article, Computer Systems are any assembly of computer  
22 hardware, software, and/or firmware configured to collect, create, communicate,  
23 compute, disseminate, process, store, and/or control sensitive information.  
24

25 **Section 3. Training**

- 26  
27 A. In compliance with the Computer Security Act of 1987 (P.L. 100-235), the  
28 Agency agrees to provide appropriate training to employees involved in the  
29 operation or use of computer systems containing sensitive information to enhance  
30 employees awareness of the threats and vulnerabilities of computer systems and  
31 to encourage the use of improved security practices.  
32  
33 B. As one method to enhance employee awareness and encourage improved security  
34 practices, the "Application for Access to CMS Computer Systems," including the  
35 reverse titled "Security Requirements for Users of CMS Computer Systems,"  
36 (Appendix 1 to this Article) will be used for granting employees access to CMS  
37 Computer Systems containing sensitive information.  
38

39 **Section 4. Records and Reviews**

- 40  
41 A. Any systems of records used for recording access to CMS Computer Systems, and  
42 any reviews for unauthorized access to or illegal use of CMS's Computer Systems  
43 will be in accordance with applicable laws and rules, including the Privacy Act of  
44 1974, federal regulations, including 59 FED. REG. 41329 (08-11-94), and the  
45 Master Labor Agreement.  
46

1 B. Any reviews of CMS's Computers Systems will not be used for the purpose of  
2 harassing, intimidating, or retaliating against any individual or group of  
3 individuals.  
4

5 **Section 5. Communication Systems Monitoring**  
6

7 A. The Agency will not conduct secret monitoring of employee telephone calls  
8 and/or communication technologies; e.g., an employees' personal computer,  
9 without giving the employee specific advance notice.  
10

11 B. Monitoring employees through the use of communication technologies is an issue  
12 of concern for the Union. The Parties agree that the issue of employee monitoring  
13 is a proper subject for future bargaining. The Union retains the right to initiate  
14 negotiations on employee monitoring upon notification to management in  
15 accordance with Article 4.  
16

17 C. The parties agree that employees may reasonably use information technology  
18 (personal computers, printers, duplicating equipment, fax, telephone, e-mail and  
19 internet) for personal use that is not inconsistent with government-wide rules and  
20 regulations.  
21

Appendix I to Article 35

**APPLICATION FOR ACCESS TO CMS COMPUTER SYSTEMS**

**Read and complete both sides of this form.**

**1. Type of Request** Please indicate User ID  
(For Change or Delete)

( ) NEW User ID    ( ) CHANGE User Information and/or Access    ( ) DELETE User ID

Preferred Group (For Ne

**2. User: Check here ( ) if this information indicates a change to current user information**

<b>CMS</b>	<b>NON-CMS</b>
/ / Last Name / First Name / MI	/ / Last Name / First Name / MI
Social Security Number (see Privacy Act Advisory Statement on reverse)	Social Security Number (see Privacy Act Advisory Statement on reverse)
/ / / Bureau / Office / Division / Branch	Company Name
Mail Stop Address                      Desk Location in Central Office ( )    ext.	Company Address
Telephone Number	City    State    Zip  Desk Location in Central Office ( )    ext.    ( )    ext. Company Telephone Number    User Daytime Telephone Number

**3. Type of Access: If this is a request for change in access, enter A for Add or D for Delete**

( ) TSO            ( ) WYLBUR    ( ) M204            ( ) IDMS            ( ) Client/Server

( ) FTS2000    ( ) CICS            ( ) NDM Indicate Server or C/S Application

( ) LAN E-MAIL - LAN POST OFFICE    Circle Post Office:    DC1    CO1 (North Bldg.)    CO2 (Central Bldg.) CO3 (South Bldg.)

ATL1    BOS1    CHI1    DAL1    DEN1    KCM1    NYC1    PH11 SEA1    SFO1

**4. Authorization - Required for Approval**

We acknowledge that our Organization is responsible for all resources to be used by the person identified in Item 2, above

<b>CMS PROJECT OFFICER OR CMS MANAGER FOR NON-CMS USER</b>	<b>Manager FOR CMS USER</b>	<b>RACF GROUP ADMINISTRATO</b>
Print Name	Print Name	Print Name
Signature                      Date	Signature                      Date	Signature                      Date
( )    ext.	/ / /	( )    ext.
Telephone Number	Bureau /Office /Division /Branch	Telephone Number
Project Expiration Date	Mail Room Address	Desk Location in Central Office
	( )    ext.	

**THIS REQUEST WILL BE REVIEWED BY THE CMS SENIOR INFORMATION SYSTEMS SECURITY OFFICE**

1  
2



**PRIVACY ACT ADVISORY STATEMENT**  
**Privacy Act of 1974, P. L. 93-579**

The information on side 1 of this form is collected and maintained under the authority of Title 5 U.S. Code, Section 552a(e)(10). This information is used for assigning, controlling, tracking, and reporting authorized access to and use of CMS' computerized information and resources. The Privacy Act prohibits disclosure of information from records protected by the statute, except in limited circumstances.

The information you furnish on this form will be maintained in the Individuals Authorized Access to the Center for Medicare & Medicaid Services (CMS) Data Center Systems of Records and may be disclosed as a routine use disclosure under the routine uses established for this system as published at 59 FED. REG. 41329 (08-11-94) and as CMS may establish in the future by publication in the Federal Register.

Collection of the Social Security Number (SSN) is authorized by Executive Order 9397. Furnishing the information on this form, including your Social Security Number, is voluntary, but failure to do so may result in delaying the processing of this request.

**SECURITY REQUIREMENTS FOR USERS OF CMS' COMPUTER AS**

CMS uses computer systems that contain sensitive information to carry out its mission. Sensitive information is any information, which the loss, misuse, or unauthorized access to, or modification of could adversely affect the national interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under the Privacy Act. To ensure the security and privacy of sensitive information in Federal computer systems, the Computer Security Act of 1987 requires agencies to identify sensitive computer systems, conduct computer security training, and develop computer security plans. CMS maintains a system of records for use in assigning, controlling, tracking, and reporting authorized access to and use of CMS' computerized information and resources. CMS records all access to its computer systems and conducts routine reviews for unauthorized access to and/or illegal activity.

Anyone with access to CMS Computer Systems containing sensitive information must abide by the following:

- Do not disclose or lend your IDENTIFICATION NUMBER AND/ OR PASSWORD to someone else. They are for your use only and serve as your "electronic signature." This means that you may be held responsible for the consequences of unauthorized or illegal transactions.
- Do not browse or use CMS data files for unauthorized or illegal purposes.
- Do not use CMS data files for private gain or to misrepresent yourself or CMS.
- Do not make any disclosure of CMS data that is not specifically authorized.
- Do not duplicate CMS data files, create sub-files of such records, remove or transmit data unless you have been specifically authorized to do so.
- Do not change, delete, or otherwise alter CMS data files unless you have been specifically authorized to do so.
- Do not make copies of data files, with identifiable data, or data that would allow individual identities to be deduced unless you have been specifically authorized to do so.
- Do not intentionally cause corruption or disruption of CMS data files.

A violation of these security requirements could result in termination of systems access privileges and/or disciplinary/adverse action up to and including removal from Federal Service, depending upon the seriousness of the offense. In addition, Federal, State, and/or local laws may provide criminal penalties for any person illegally accessing or using a Government-owned or operated computer system illegally.

If you become aware of any violation of these security requirements or suspect that your identification number or password may have been used by someone else, immediately report that information to your security officer.

\_\_\_\_\_  
*Signature of User*

\_\_\_\_\_  
*Date*

2 Article 36

3  
4 RECYCLING

5 Section 1. Purpose and Policy

6  
7 The parties agree that recycling is important for environmental concerns. The Agency  
8 recognizes that it can make more efficient use of natural resources by maximizing  
9 recycling and preventing waste where possible. Any recycling programs established by  
10 the parties will be done in a cost effective manner. The Agency will make every reasonable  
11 effort to see that employees are environmentally conscious.

12  
13 The parties agree that revenue generated from recycling will be used in acco. with the  
14 Statute.

15  
16 The issue of recycling will be dealt with by the LMCC and will periodically be on the LMCC  
17 agenda.  
18