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DEPARTMENTAL MANUAL

Personnel

Part 370 DM Addition to FPM

Chapter 711 Labor Management Relations

370 DM 711

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Subchapter 1. General Provisions.

1.1 Program Concepts. This Department's labor-management relations program is founded on the conviction that:

A. Sound management practices will be enhanced by cultivating a bilateral relationship between management and recognized labor unions;

B. Labor unions can contribute to the efficient performance of Government functions;

C. Labor unions are effective channels of communication with significant groups of employees;

D. Prompt and equitable settlement of grievances can best be accomplished at the local level by utilizing flexible and informal procedures.

1.2 Management Policy. It is the policy of the Department of the Interior - that:

A. Equitable employment practices consistent with the public interest are the paramount consideration in labor-management relations.

B. Employees have the right, free from restraint or reprisal, to organize, join or assist any union, or to refrain from such activity, and to designate representatives for the purpose of negotiating and consulting with management officials.

C. Labor-management relations is an important part of the overall managerial responsibility of every management official.

D. Management accepts and supports the philosophy of Federal labor-management relations as a bilateral relationship between management and union representatives which must be nurtured in a climate of mutual trust and confidence.

E. Management officials have the right and responsibility to direct, manage and control their respective program activities in furtherance of equitable employment practices consistent with the public interest.

F. Management officials will strive to maintain an equitable employment system which is sensitive to the needs and concerns of employees, as expressed through their union representatives, in making decisions.

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G. Negotiations will be conducted in good faith on all matters appropriate for negotiations. All reasonable efforts will be made to reach agreement before seeking third-party assistance.

H. Negotiated agreements are the commitment of both parties and will be administered firmly and fairly.

I. Grievances applicable to negotiated agreements should be settled in a prompt and equitable manner.

J. Consultation or negotiation with unions holding exclusive recognition or national consultation rights will be accomplished in a meaningful way, with a resolve to achieve greater employee participation in the making of decisions on personnel policies and practices and matters affecting working conditions.

K. Labor-management relationships will seek to foster improvements in overall government efficiency and effectiveness as well as employee performance and productivity.

1.3 Definitions. Except for the definitions in 370 DM 711,1.3G-I, the definitions provided below are the same as those in Section 7103 of the Federal Service Labor Management Relations Act. They are repeated for the most part, in full, to facilitate use of this Chapter without requiring users to refer back to the statute.

A. Act or CSRA, Title VII refers to Civil Service Reform Act of 1978, Title VII Federal Service Labor Management Relations (Public Law 95-454).

B. Labor Organization means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment.

C. Conditions of Employment means personnel policies, practices, and matters, whether established by rule, regulation or otherwise affecting working conditions, except that such term does not include policies, practices and matters:

(1) relating to political activities prohibited under subchapter III of chapter 73 of 5 U.S.C..

(2) relating to the classification of any position; or,

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(3) to the extent such matters are specifically provided for by Federal statute.

D. Management Official means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.

E. Supervisor means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such actions, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.

F. Professional Employee means

(1) An employee engaged in the performance of work -

(a) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(b) requiring the consistent exercise of discretion and judgment in its performance;

(c) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(d) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

(2) An employee who has completed the courses of specialized intellectual instruction and study described in 370 DM 711.1.3F(1)(a) and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in 370 DM 711, 1.3F(1).

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G. Third Party Authorities. Where short references are used:

- (1) Authority means Federal Labor Relations Authority
- (2) Panel means Federal Services Impasse Panel
- (3) Mediation means Federal Mediation and Conciliation Service

H. Labor-Management Negotiations is used interchangeably with the terms "collective bargaining" and "bilateral negotiations."

I. Emergency Situations are those which pose sudden, immediate, and unforeseen work requirements for management at the level of recognition beyond its reasonable control or ability to anticipate. Emergency may be further defined in a negotiated agreement.

1.4 Authority of the Assistant Secretaries. The authority of the Assistant Secretaries with respect to labor-management relations is included in the delegation of authority for personnel management in 205 DM 8. Specific delineation of bureau LMR authorities or responsibilities is addressed throughout this chapter and other Assistant Secretaries delegations.

1.5 Responsibility of the Director of Personnel. Responsibility for the Department's labor-management relations program has been assigned to the Director of Personnel, Office of the Assistant Secretary - Policy, Budget and Administration. He/she is responsible for the following, and all other implied duties related to the administration of the program:

A. Representation of the Department with the headquarters offices of national and international labor organizations, and with the Authority, the Panel, the FMCS, the Office of Personnel Management, other Federal or non-Federal agencies, and associations or organizations, in matters affecting the policy and statutory or regulatory responsibilities of the Department in such matters;

B. Coordination with the Office of the Solicitor, Department of the Interior, of those aspects arising from the Department's labor-management relations program referred to in 111 DM 2 and 370 DM 711, Subchapter 8, with respect to the role of the Office of the Solicitor regarding labor-management relations;

C. Guidance and direction to bureaus, including participation where necessary, in any phase of bureau activities dealing with labor-management relations matters with authority to initiate corrective action;

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D. Establishment of procedures to ensure the prompt receipt of information, reports, and correspondence requiring the attention of the Office of Personnel on significant labor-management issues;

E. Approval of basic labor-management agreements or amendments and revisions of the same. Also, approval of management requests to terminate basic agreements (Refer to 370 DM 711, 5.5).

F. Establishment of Departmental labor-management program standards and the conducting of periodic evaluations to identify and correct program deficiencies.

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Subchapter 2. Employee Participation in Labor Union Activities.

2.1 General Policies.

A. Each employee will have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee will be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right:

(1) To act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to the Department of the Interior and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

(2) To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

B. Employees and recognized labor unions will not call or engage in a strike, work stoppage, or slowdown, or unlawfully picket any activity of the Department in a labor-management dispute, or condone any such activity by failing to take affirmative action to prevent or stop it.

C. The right to join a lawful labor union extends to all employees, but participation in the management or acting as a representative of a labor union does not extend to management or supervisory officials, personnel officers and specialists, confidential employees, or any employee whose union activity would result in a conflict, or appearance of conflict, of interest or otherwise would be incompatible with his/her official duties.

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Subchapter 3. Exclusive Recognition.

3.1 Criteria. Exclusive recognition will be granted to a labor union which meets the requirements of the Act and the Federal Labor Relations Authority regulations and has been accorded recognition by a "Certification of Representatives" issued by the Authority.

3.2 Union Obligations. A labor union granted exclusive recognition becomes the only recognized representative of the bargaining unit, and has the right and obligation to speak and act for all employees in the bargaining unit without discrimination or regard to union membership.

3.3 Representation Procedure. The Act gives the Authority the responsibility to:

A. Determine the appropriateness of units for labor organization representation under section 7112.

B. Supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of Title VII relating to the according of exclusive recognition to labor organizations.

3.4 Appropriate Bargaining Unit. The appropriate unit should be established on an agency, plant, installation, functional, or other basis and it will be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the Department.

A. A unit will not be determined to be appropriate under this paragraph solely on the basis of the extent to which employees in the proposed unit have organized, nor will a unit be determined to be appropriate if it includes:

(1) except as provided under Section 7135(a)(2) of 5 U.S.C., any management official or supervisor;

(2) a confidential employee;

(3) an employee engaged in personnel work in other than a purely clerical capacity;

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- (4) an employee engaged in administering the provisions of this chapter;
- (5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;
- (6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security;  
or
- (7) any employee primarily engaged in investigation or audit functions relating to the work of individuals employed by the Department whose duties directly affect the internal security of the Department, but only if the functions are undertaken to ensure that the duties are discharged honestly and with integrity.

B. Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization:

- (1) which represents other individuals to whom such provision applies; or
- (2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.

**3.5 Observer at Tally of Ballots.** Management will arrange to have an observer present at the tally of ballots when an election is conducted on any representation issue.

**3.6 Consolidation of Units.** Two or more units which are in a bureau and for which a labor organization is the exclusive representative may, upon petition by management or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority will certify the labor organization as the exclusive representative of the new larger unit.

**3.7 Coordination of Representation Issues.**

A. Petitions for new bargaining units, changes in existing bargaining units, or consolidation of bargaining units will be handled in accordance with 370 DM 711 §. Due to time constraints, telephone notification of the pending representation issue followed by a written submission may be necessary. Prior to management's filing a Clarification of Unit petition or a petition challenging the status of a recognized union, coordination will take place between the field through bureau headquarters to the Department.

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B. In an election if the percentage of the vote in comparison to the eligible voters is so small, or if irregularities in the tally of ballots, or other factors exist that lead the management observer to believe that the election was not representative or was improperly conducted, this should be communicated to the Bureau Labor Relations Officer and the Division of Labor Management Relations, by telephone immediately after the tally of ballots and followed by a letter containing all details concerning this matter.

C. Improper conduct during pre-election campaigning or actual voting by representatives of intervening union(s), the incumbent union, or any other party that could influence the outcome of an election should be reported by telephone immediately to the Bureau and Department as in 370 DM 711,3.7B followed by a letter containing all details concerning the matter.

D. The expression by management of any personal view, argument, opinion or the making of any statement which contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, will not constitute an unfair labor practice under any provision of the Act, or constitute grounds for the setting aside of any election conducted under any provisions of the Act if the expression:

- (1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election;
- (2) corrects the record with respect to any false or misleading statement made by any person in the representation process;
- (3) informs employees of the Government's policy relating to labor-management relations and representation.

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Subchapter 4. Obligation to Negotiate (Meet and Confer).

4.1 The Obligation to Meet and Confer (Negotiate) provides greater participation by employees, through their recognized union representative, in the formulation and implementation of policies which are likely to affect their working conditions. The obligation may be fulfilled by management through an advance notice to the union in written or oral form, or both, of the proposed changes in personnel policies or working conditions. Negotiations may be required when the union requests to bargain on the proposal.

A. Meetings with the Exclusive Representative. Management must give the exclusive representative of an appropriate bargaining unit an opportunity to be represented at formal discussions between management and employees in the bargaining unit concerning grievances, personnel policies, practices, or other matters affecting general working conditions of employees in the bargaining unit.

B. Communications with Special Organizations. The exclusive recognition of labor unions, as described above, does not affect the special relationships of veterans, religious, social, fraternal, professional or other lawful organizations, which may exist with management officials in this Department. However, consultations with these organizations should not be on matters of general labor management policy and should be limited to matters within the direct interest of the members of the organization. When the nature of meetings can be construed to impact on bargaining unit concerns, it is appropriate to give the exclusive representative opportunity to be present at discussions.

C. National Consultation Rights.

(1) When they so request, labor unions which qualify under the criteria established in the Authority's regulations must be granted National Consultation Rights (NCR) by the Department or those bureaus which:

(a) Have authority to formulate substantive changes in the conditions of employment;

(b) Have functions national in scope that are implemented in field activities.

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(2) All new or modified substantive matters affecting Department-wide policy must be transmitted to the Division of Labor Management Relations, Office of Personnel, prior to issuance. Should consultation be required, the Division of Labor Management Relations will submit the material to the union, as well as arrange a meeting if necessary.

(3) Any labor organization having national consultation rights in connection with any agency under 370 DM 711,4.1C(1)(a) and (b) will:

(a) be informed of any substantive change in conditions of employment proposed by management at the NCR level, and

(b) be permitted reasonable time to present its views and recommendations regarding the changes.

(4) If any views or recommendations are presented under 370 DM 711,4.1C(3) management will:

(a) consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

(b) provide the labor organization a written statement of the reasons for taking the final actions.

4.2 Scope of Negotiations.

A. Section 7103 (a)(14) of 5 U.S.C. includes matters on which bargaining is mandatory. That is, management must negotiate union proposals with respect to conditions of employment except as excluded therefrom under the statutory definition, or otherwise excluded from the scope of bargaining by law or regulation.

B. Nothing in the Act precludes management and the exclusive labor organization from negotiating:

(1) at the election of management, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials will observe in exercising any authority under this paragraph; or

(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this paragraph by such management officials.-

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C. Section 7106(a) of 5 U.S.C. includes matters on which bargaining is prohibited. That is, management may not negotiate away any of the retained rights, powers, and authority necessary to perform the functions of management. (See 370 DM 711,5.2B )

D. Conditions of employment which are covered specifically by Federal statutes, Executive Orders, laws, or rules and regulations issued by higher authority (e.g., OPM, Department and Bureaus) are excluded from negotiations.

E. During the bargaining process a request by the union at the bargaining level for an "exception" to a regulation or portion of a regulation of a primary national subdivision (bureau or equivalent office) or Department must be submitted by bargaining level management simultaneously to the Division of Labor Management Relations, and the bureau or office (primary national subdivision) involved for determination on issues concerning Departmental regulations. The bureau will within ten (10) days submit all background and supporting documentation to the Division of Labor Management Relations. The Division of Labor Management Relations will consult with other bureaus whose regulations may be affected by the decision and will coordinate with the Solicitor's Office. The determination to grant or not grant exception will be made by the Director of Personnel, after coordination with the bureau or office involved. For issues concerning bureau regulations, coordination will be conducted between the bureau involved, the Division of Labor Management Relations and the Solicitor's Office. Exceptions to bureau regulations will be made by the Bureau Director or his/her designee. Denial of a request for an "exception" may require the Department to support a "compelling need" to continue to bar negotiations of the issue contested with the FLRA.

**4.3 Official Time**

A. Any employee representing the exclusive representative in the negotiation of a collective bargaining agreement will be authorized full official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized will not exceed the number of individuals designated as representing management for such purposes.

B. Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) will be performed during the time that any employee is in a non-duty status.

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C. Except as provided in 370 DM 711, 4.3A, the Authority will determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority will be authorized official time for such purposes during the time the employee otherwise would be in a duty status.

D. Except as provided in 370 DM 711, 4.3C:

(1) any employee representing an exclusive representative, or

(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, will be granted official time through negotiations in any amount management and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

E. Reasonable amounts of official time will be granted to the exclusive bargaining representative during regular working hours to attend and participate in meetings (other than negotiations and issues covered under 370 DM 711, 4.3D(2)), required by management.

**4.4 Negotiability Determination Process.** If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulations, or a controlling agreement, and therefore not negotiable, it may be processed according to the procedures required by Section 7117(c)(1) of 5 U.S.C., Section 2424 of the Authority's rule and the following:

A. The union must request in writing a negotiability allegation from management. Management must respond within the 5 days presently identified in FLRA rules, Section 2424.3. Management must telephonically contact its bureau labor relations office for coordination prior to response. A copy of the written response must be provided to the bureau and the Division of Labor Management Relations.

B. The union must appeal the negotiability allegation within 15 days from receipt of management's response.

C. The Department must submit its position to the Authority with service to the exclusive union, within 30 days from filing of the appeal.

**4.5 Negotiation Disputes and Impasses** will be settled through the procedures specified in Section 7119 of 5 U.S.C., subject to the requirements of 370 DM 711, 1.1A and 370 DM 711,8.

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A. The FMCS, or other third-party mediation, is only empowered to assist the parties in voluntarily reaching a settlement or to informally recommend a resolution of the negotiation dispute.

B. The Panel, on the other hand, is empowered to issue a final and binding decision resolving the negotiation impasse. All negotiation impasse issues going to the Panel will follow the requirements outlined in 370 DM 711.8.

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Subchapter 5. Labor Management Agreements.

5.1 Labor-Management Agreements constitute all the written terms of understanding arrived at by the parties through the process of collective bargaining. They may consist of the basic agreement, amendments or revisions to the basic agreement, supplements to the basic agreement, memoranda-of-understanding and notes-for-the-record agreed to by the parties.

5.2 Basic Labor-Management Agreement. This term refers to the latest written primary agreement negotiated by management officials and representatives of labor unions having exclusive recognition rights for the bargaining unit involved. The basic agreement establishes the principles, policies, and practices which will govern the relationship of the negotiating parties. The word "contract" has the same meaning as the word "agreement".

A. All basic agreements approved subsequent to the effective date of E.O. 10988 (January 17, 1962) should incorporate the following.

(1) A statement identifying the parties to the agreement and a specific definition of the bargaining unit covered by the agreement;

(2) A statement that nothing in the agreement will require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

(3) A statement as to the scope, duration, and extent of the agreement, including any provisions for the renewal, amendment or termination of its provisions along with the agreement's effective date and termination date.

(4) All labor agreements negotiated, extended, or renewed on or after November 24, 1971, will provide a procedure, applicable only to the bargaining unit, for the consideration of grievances.

(a) The negotiated grievance procedure shall provide that employee representation is restricted to the exclusive union or a representative approved by the union when presenting grievances under the negotiated procedure.

(b) The negotiated grievance procedure shall provide that employees may present their own grievances without representation but if employees elect to do so, the exclusive representative must be given an opportunity to be present during the grievance proceeding.

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(c) A negotiated procedure must provide for final and binding arbitration. Arbitration may be invoked only by the parties to the agreement, not by individual employees. Either party may file exceptions to an arbitrator's award with the Authority under the regulations prescribed by the Authority. Exceptions to the arbitrator's award may be filed by management officials only through the Director of Personnel, Office of the Assistant Secretary - Policy, Budget and Administration. The scope of the arbitrator's authority must be identified in the agreement.

(5) Management officials retain the right, in accordance with laws and regulations to:

(a) determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

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

(c) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations will be conducted;

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

(e) to take whatever actions may be necessary to carry out the agency mission during emergencies.

B. The provisions of Section 704 of the Act and Section 7135 of 5 U.S.C. and the requirements of this section, do not preclude the renewal or continuation of a lawful agreement between management and a labor union entered into before the effective date of E.O. 10988 (January 17, 1962).

5.3 Amendments or Revisions to Basic Agreements. These terms refer to written negotiated agreements which modify in part, or wholly change, the term of the basic agreement.

5.4 Supplements to Basic Labor-Management Agreements.

A. This term refers to written negotiated agreements dealing with wages and related pay matters or practices which supplement the basic agreement.

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B. Supplements to basic agreements may not delete, change or otherwise nullify any provisions of the basic agreement. The negotiating parties may jointly decide to terminate supplements. Management initiated termination of supplements requires approval of Bureau Headquarters. However, supplements to basic agreements automatically terminate if the basic agreement is terminated or expires, or if the union loses its exclusive recognition status.

5.5 Approval of Labor-Management Agreements.

A. Basic Agreements, Amendments, and Revisions to the Basic Agreement. These terms are collectively referred to below as "agreement."

(1) All basic labor-management agreements, and amendments or revisions to basic agreements, will first be signed and dated by the appropriate labor-management negotiating committees and by the management official exercising authority at the bargaining level.

(2) The agreement will be forwarded within (3) three working days after execution (signing) by the parties to Bureau Headquarters and three copies of the agreement must be submitted simultaneously to the Office of Personnel for review, approval/disapproval of the agreement in accordance with the provisions of Section 7114(c)(1)(2) (3) and (4). The bureau will notify the Department of any violation of bureau policies or regulations within fifteen (15) days from execution of the agreement locally.

(3) The agreement will become effective upon approval by the Director of Personnel. It will be approved if it conforms to applicable laws, existing published bureau and Department of the Interior policies and regulations, and the regulations of other appropriate authorities. If the agreement is not approved or disapproved within 30 days from the date of execution, it shall take effect and be binding on the agency and the exclusive representative beginning on the 31st day.

(4) Upon approval, the agreement will be returned to the negotiating parties with one copy being sent to Bureau Headquarters. After copies of the agreement have been reproduced, the bureau will forward six copies to the Division of Labor Management Relations.

(5) Termination. Management requests to terminate a basic agreement shall be forwarded to the Office of Personnel through the bureau Labor Relations Officer.

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B. Supplements to Basic Labor-Management Agreements.

(1) Supplements to basic agreements will be signed and dated by the appropriate labor-management negotiating committees and by the management official exercising authority at the bargaining level.

(2) The original supplement and a sufficient number of copies, as determined by the bureau, will be forwarded through normal bureau channels to the appropriate administrative authority at Bureau Headquarters for approval within 3 (three) working days after execution (signing by the parties). Three copies of the supplements will be submitted simultaneously to the Office of Personnel. The Office of Personnel will notify the bureau of any violations of Departmental policies or regulations or conflict with law, or regulations of appropriate authorities within fifteen (15) days of execution of agreements locally. Approval of supplements must be made within 30 calendar days from the date of signature at the bargaining level.

(3) Authority to approve supplements concerning wage rates only may be delegated by the bureau to appropriate authority.

C. Renewal of Negotiated Agreements.

(1) No negotiated agreement, or supplement to a negotiated agreement, will be extended or renewed beyond its present term, except as provided by Section 704 of the Act and Section 7135 of 5 U.S.C., unless it conforms to applicable laws, Executive Orders, and regulations of appropriate outside authorities.

(2) At least ten (10) days prior to commencement of the open period in the agreement (period prior to the termination date of the contract during which either management or the union may notify the other of their desire to reopen or terminate the agreement), management, at the negotiating level, must determine if there are any conflicts between provisions of the agreement and applicable laws, Executive Orders, or regulations of other appropriate authorities outside the Department. Particular emphasis should be directed to insuring compliance with laws, Executive Orders, and regulations issued after the date of approval of the agreement. Bureaus will be responsible for insuring that these determinations are made.

(3) When the agreement conflicts, or possibly conflicts, with laws, Executive Orders, or regulations, a report must be made immediately to the Bureau Labor Relations Officer who will coordinate with the Chief, Division of Labor Management Relations. If the Department and/or the bureau determine that a conflict exists, the responsible official at the negotiating level will take appropriate steps to reopen the agreement to negotiate removal

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of the conflicting provisions.

(4) In order that agreements will be consistent with applicable law and regulation, as required by the Act, any basic or supplementary agreement that is or has been in effect for three (3) years will not be renewed until after review by the bureau in consultation with the Department for compliance with such laws and regulations as were not in effect at the time such agreement was negotiated or where the interpretation of such has been significantly modified since that time. If the negotiating parties wish to renew an agreement that has been in effect, or will have been in effect, for three (3) years by its termination date, the agreement or supplement must be submitted for review and approval in accordance with the provisions of 370 DM 711, 5.5A and B, as appropriate at least sixty (60) days prior to the termination date. If additions to or alterations of, the contract must be made to bring it into compliance, the parties to the contract will be promptly notified. When the agreement has been renegotiated to take into account these requirements the agreement must be resubmitted for the same Departmental review required by Section 7114 of 5 U.S.C., as is applicable to all other agreements.

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Subchapter 6. Services to Labor Organizations.

6.1 Payroll Deduction of Union Dues.

A. If an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency will honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment will be made at no cost to the exclusive representative or the employee. Except as provided in 370 DM 711,6.1B any such assignment may not be revoked for a period of 1 year.

B. An allotment under 370 DM 711,6.1A for the deduction of dues with respect to any employee will terminate when:

(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or

(2) the employee is suspended or expelled from membership in the exclusive representative.

6.2 Special Situations.

A. Subject to 370 DM 711,6.2B, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority will investigate the petition to determine the validity. Upon certification by the Authority of the validity of the petition, management will have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purposes. Bureau approval is required for these dues deduction agreements.

B. The provisions of 370 DM 711,6.2A will not apply in the same case of any appropriate unit for which there is an exclusive representative.

C. Any agreement under 370 DM 711,6.2A between a labor organization and an agency with respect to an appropriate unit will be null and void upon the certification of an exclusive representative of the unit.

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Subchapter 7. Unfair Labor Practices.

7.1 Unfair Labor Practices.

A. Management and unions will comply with Sections 7116 and 7118 of 5 U.S.C. in all unfair labor practices proceedings.

B. Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this paragraph. Except for matters wherein, under sections 7121(e) and (f) of Title VII, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, at the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures. All unfair labor practices filed with the Authority will follow the requirements outlined in 370 DM 711,8.

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C. The Division of Labor Management Relations will be included as a party in interest on all service sheets to receive copies of correspondence and notification related to all third party issues.

D. To ensure that cases taken before third parties will be effectively pursued, the Division of Labor Management Relations in coordination with the Office of the Solicitor and the bureau, will determine who will present such cases to third parties. The Division of Labor Management Relations in coordination with the bureau will determine the policies involved in such presentations and the goals desired.

E. The Director of Personnel is responsible for coordination with the Office of Labor Management Relations, Office of Personnel Management for: significant cases likely to go before a third party; notification of arbitration awards believed to meet the criteria under 5 U.S.C. 7121(f); and notification of agency determinations to seek judicial review of Federal Labor Relations Authority decisions and furnish copies of all arbitration awards.

(1) Bureau Directors shall provide the Director of Personnel:

(a) copies of all arbitration awards

(b) notification within ten working days of receipt of an arbitration award believed to meet the criteria for judicial review.

(2) Bureau Directors are responsible for furnishing the above information to the Director of Personnel for coordination with The Office of Labor Management Relations. Each bureau will develop a system(s) to insure that the information is furnished in a timely fashion.

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Subchapter 8. Coordination of Third Party Issues.

8.1 Involvement of Department Headquarters.

A. The constant expansion of union activity in the Federal sector has made it essential that the Department have available current labor relations information on matters brought before third parties so that management can be provided accurate and timely guidance on its handling of issues.

B. All union, or employee, or management initiated matters which may require a hearing or other third party actions (except mediation), must be forwarded by management, in writing, prior to formal submission, to the Division of Labor Management Relations, with simultaneously serving of a copy to the Bureau Headquarters. Third party matters initiated by employees or unions must be brought to the attention of the Labor Management Relations Office of the bureaus and Department via telephone immediately upon receipt of the issue. Examples of issues requiring this action are:

- (1) Unfair labor practices
- (2) Issues necessitating decision and/or reports of the Authority;
- (3) impasse issues going to arbitrators for decision;
- (4) Negotiability or impasse issues to the Authority or Panel;
- (5) Representation issues;
- (6) Grievability/arbitrability issues;
- (7) Any other third party matter not specifically mentioned above.

The documents and other information furnished to the Division of Labor Management Relations relative to third parties will be transmitted to the Office of the Solicitor by the Division of Labor Management Relations so that legal implications, or potential legal implications may be dealt with. Normally, all contacts from the Department to the local parties will be made through bureau headquarters except when time constraints require other action.