1996 MASTER AGREEMENT
BETWEEN THE
UNITED STATES MARSHALS SERVICE
AND THE
AMERICAN FEDERATION OF
GOVERNMENT
EMPLOYEES, AFL-CIO
INTERNATIONAL COUNCIL OF
U.S. MARSHALS SERVICE LOCALS, C-210

## ARTICLE 15

## EQUAL PAY FOR EQUAL WORK

The Employer and the Union understand that employees have the right to file an equal pay complaint in accordance with 29 U.S.C. 2006.D.

## ARTICLE 16

## PARKING

The Employer agrees to maintain the current parking policy at each office unless the policy is changed pursuant to Article 3-Mid-Term Bargaining.

## ARTICLE 17

## LEAVE

In matters concerning the approval of leave, The Employer has the discretion to approve leave subject to staffing, workload and mission requirements. Employees are entitled to accrue leave and take leave in accordance with law, regulation and this Agreement. Employees desiring leave shall complete an SF-71 stating the type of leave requested and the duration of the leave and submit such request to his/her supervisor. The supervisor shall exercise the discretion to approve or disapprove within 4 days of receipt of the request. If the employee is not advised on the approval or disapproval of the request the employee will request an immediate determination and the Employer will provide a response within one work day. If the leave is disapproved, the employee may request the reason be in writing and the Employer will provide such. The employee may raise the disapproval for reconsideration at the next higher level or may file a grievance under the terms of this Agreement. In the exercise of management discretion, the supervisor will be guided by equity, fairness and workload requirements.

The Employer, the employee and the Union will work together support the cross training of employees to temporarily perform the duties of an employee who is on leave.

**Section 1.**

The Employer may authorize annual leave or leave without pay to employees to attend an AFGE sponsored convention.

**Section 2.**

It is an employee's responsibility to report for work on time. Unavoidable or necessary tardiness may be excused in accordance with Part D of this Article. Repetitive lateness subjects an employee to adverse action. The employee has a responsibility to notify the Employer when he or she will be late or unable to report for duty. If the employee is unable to contact the his/her immediately supervisor, the employee will be carried in leave without pay status (LWOP), until the employee provides sufficient explanation and or documentation to support the appropriate approved status or the employee will be charged absence without leave (AWOL).

**Section 3.**

Leave may be taken in 15 minute increments as provided in this Article.

**A. ANNUAL LEAVE**

**Section 1.**

The use and accrual of annual leave is a right afforded to employees and not a privilege. Annual leave will be granted in a manner which allows each employee, if he/she wishes, to take extended leave based on the employees personal needs and wishes provided the employee has accrued the leave which is requested.

Consistent with the needs of the Service, annual leave which is requested in advance will be approved.

**Section 2.**

If prevented by emergency from taking approved annual leave, employees with use/or lose leave may apply for restoration under governing procedures. The forfeiture or carryover of annual leave balances shall be determined in accordance with applicable regulations.

**Section 3.**

In the event of a conflict in annual leave requests submitted by employees, the senior employee's request will be given first preference. All time served in a position in the USMS and in which the employee was entitled to earn annual leave, will be counted to determine which employee is senior. All employees with "use or lose" annual leave will be given first preference.

**Section 4.**

The Employer may approve a change in the selection of leave time, provided another employee's choice is not affected and workload permits, if requested by the employee.

**Section 5. Emergency Annual Leave**

Emergency annual leave should be requested within one-half hour after the beginning of the employee's work-shift. Notification should be directed to the employee's supervisor or other

management official, if available. After the employee has made a reasonable

attempt to notify the supervisor (include electronic paging), and was unsuccessful, the employee shall complete a leave slip and advise another employee of the emergency situation. The employee requesting such will complete an SF-71 upon return to duty. Request for emergency annual leave while at work may be made by contacting the supervisor and stating the reason for the leave. In accordance with the Family and Work Life policy of the Employer, the supervisor will normally grant benefit requests for such leave.

**Section 6.**

Because a request for annual leave may involve business of a highly personal nature that the employee may not wish to divulge, the employee may give a reason of personal business, when requesting annual leave, and will not be required to provide details as to the specific reason, unless the employee is currently on a leave restriction notice.

**Section 7.**

Request for advance annual leave which would accrue during the current year, may be granted and must be repaid by the employee before any more annual leave can be advanced. The employee's leave usage and employment record will be taken into consideration in advancing annual leave. Exceptions to repayment may be made in accordance with appropriate regulations.

**Section 8.**

Annual leave will not be canceled by the Employer except under the following conditions:

1. during periods of emergency or serious personnel shortage, as determined by the responsible management official, or designee; or

2. after determination by the responsible management official, or designee, that duties require cancellation.

When cancellation appears to be necessary, the employee will be notified as far in advance as possible and be allowed to express any personal concerns. If leave is cancelled the employee will not be charged for the leave, may reschedule the leave and may request restoration of the leave as provided by law, regulation and this Agreement.

**Section 9.**

Where unforeseen emergencies arise while the employee is at work, the employee shall notify the immediate supervisor of the nature of the emergency and the possible anticipated extent of the employee's absence. The Employer will exercise discretion to approve the leave request as provided for in this Article.

**Section 10.**

If the emergency extends beyond the period for which the leave was originally approved, the employee will notify the Employer and request additional approval.

**Section 11.**

The Employer will consider request for annual leave in conjunction with a paid holiday under the same terms applied to other annual leave requests.

**B. SICK LEAVE.**

**Section 1.**

The use of sick leave is an employee right and benefit to be used as provided in this Agreement and as provided in law and regulation. Sick leave may be used for the following purposes:

a. When an employee is incapacitated by sickness, injury, or pregnancy and confinement;

b. For medical, dental, or optical examination;

c. When a member of the immediate family is ill with a contagious disease which requires care and attendance of the employee or a serious illness under the provisions of the Family Friendly Leave Act (FEFFLA). In a case where a family member has a contagious disease, upon request, the employee will furnish a statement from the attending physician.

d. When an employee has been exposed to a contagious disease which would danger the health of co-workers.

**Section 2.**

Sick leave should be reported within one-half hour after the beginning of the employee's work-shift. Notification should be directed to the employee's supervisor or other management official, if available. If this is not possible, it may be given to another employee. Application for sick leave for medical, dental or optical appointments must be made in advance except in emergencies.

**Section 3.**

Employees may be required to furnish reasonable acceptable evidence to substantiate a request for approval of sick leave if the sick leave exceeds three (3) consecutive workdays. Employees will not be required to furnish a doctor's certificate to substantiate a request for approval of sick leave periods of three (3) consecutive days or less, due to abusive use of sick leave, the Employer has given written notice to an employee that for a stated period (not to exceed six (6) months, unless the abuse continues), the employee must furnish a doctor's certificate for each absence from work which he/she desires to use sick leave. Employees who, because of illness, are released from duty, and are not subject to restrictions in this section, will not be required to furnish a medical certificate to substantiate sick leave.

**Section 4.**

In the event an employee receives on-duty injury or exposure to a communicable disease blood-born or air-born pathogen or injury due to exposure to hazardous waste materials, such employee may be placed in approve leave status as provided 20 CFR Part 10.

**Section 5.**

The Employer may allow employees to visit the health unit in a USMS facility for periods of a short duration to receive temporary medical care without charge to leave.

## C. FAMILY LEAVE AND CARE

**Section 1.**

As provided by the Family Medical leave Act (FMLA), employees may use available sick, annual, or leave with out pay (LWOP) for up to 12 weeks for the care or birth of a child, adoption or foster placement of a child with the employee, care for themselves if they have a disabling illness, or care for a family member with a serious health condition. Family member means the following relatives of the employee;

a. spouse and parents thereof,

b. children including adopted children and spouses thereof

c. parents,

d. brothers and sisters and spouses thereof,

e. any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

This leave may be extended upon request and approval by the supervisor.

Employees may also request an advance of sick leave, annual leave or use LWOP for family care purposes. Employees are expected, when possible, to give no less than a 30 day notice of their intention to take this leave. Use of such leave must be scheduled through the submission of a SF-71 to the employees immediate supervisor. The leave may also be used on an intermittent basis during the same 365 day period. Any leave over and above the 12 weeks provided by the FMLA must be approved in advance by the immediate supervisor.

**Section 2.**

Employees may request as provided in this Article long term family and emergency leave not to exceed four months - two of which may be non-pay status. This period includes any time provided by the FMLA. The request shall include the types of leave desired, approximate dates and anticipated duration. While on the above leave, the employee's position will be protected and benefits continued including health benefits as provided by law.

**Section 3.**

Upon request and approval, employees may use sick leave to cover physical examinations, medical treatment and the period which the employee is physically incapacitated due to pregnancy, confinement or a serious illness provided sufficient medical evidence is provided.

**Section 4.**

Upon request and approval, leave may be taken to care for a new born or newly adopted child or a seriously ill parent or spouse. Leave will be granted as stated above.

**Section 5.**

If employees use all of his/her leave for family care purposes, additional leave as provided by law and regulation may be granted and charged to accrued annual and sick leave or LWOP.

**Section 6.**

Employees with deaths in their immediate family may request extended periods of annual leave. Normally, these requests may be granted unless the workload does not permit.

**D. ADMINISTRATIVE LEAVE**

**Section 1.**

The Employer agrees that when voting polls are not open at least three (3) hours either before or after an employee's regular hours of work, he/she will be granted an amount of excused leave which will permit him/her to report to work three (3) hours after polls open or leave work three (3) hours before polls close, whichever requires the lesser amount of time. Under exceptional circumstances where the rules do not permit sufficient time, an employee may be excused for such additional time, not to exceed a full day, as may be needed to enable him/her to vote, depending upon the particular circumstances in each individual case.

**Section 2.**

When an excused absence is administratively granted because of weather conditions or other similar reasons, and the period of excused absence is preceded and/or followed by official work time, in order to receive the benefit of the excused time, the employee must be in an active duty status immediately before or after the period of excused absence. This provision does not apply to personnel designated as essential who must report for work during emergency situations. In order to avoid confusion, essential personnel should be designated in writing by the offices concerned.

**Section 3.**

An unavoidable emergency absence of less than fifty-nine (59) minutes can be excused.

**Section 4.**

Employees who are eligible may be placed on court leave for jury duty and receive compensation in accordance with applicable regulations.

**Section 5.**

The Union and the Employer agree that not more than once each eight (8) weeks, employees who donate blood without compensation will be authorized up to four (4) hours excused absence. Time for recuperation may be extended upon a request of an appropriate medical authority.

**Section 6.**

If a fellow Deputy U.S. Marshal is slain while on duty, the Employer agrees to let as many fellow employees attend the funeral services as possible, without charge to annual leave.

**E. RELIGIOUS OR PERSONAL LEAVE**

To the extent modifications in work schedules do not interfere with the efficient accomplishment of the Employer's mission, an employee will be granted accrued compensatory time for religious reasons and/or religious holidays which occur on a regularly scheduled work day of the employee basic work week, in accordance with appropriate regulations.

**F. VOLUNTARY LEAVE TRANSFER PROGRAM**

The Employer will consider employee request to be placed in the voluntarily leave program as provided by DOJ regulations and this Article.

**G. LEAVE WITHOUT PAY**

The Employer may approve leave without pay for three (3) years to any employee elected a National Officer of AFGE. Such leave may be extended in three (3) year increments and will be terminated when the employee leaves office. In such an event, the employee maintains federal benefits and rights to the extent as provided by law.

## ARTICLE 18

## COMPENSATORY OVERTIME

**Section 1.**

Employees covered under premium pay provisions of the Fair Labor Standards Act (FLSA) whose rate of basic pay is less than the maximum rate of basic pay of GS-10, will not be required to work compensatory time in lieu of overtime. Should an employee elect compensatory time in lieu of overtime and the employee is not allowed to take time off within the prescribed time period set out in DOJ Order 1551.1c, the employee will be paid overtime at the appropriate rate of pay pursuant to law, rule, or regulation.

**Section 2.**

Employees will not be required to take compensatory time during periods that were not requested by the Employee. It is understood that employees must use earned compensatory time by the end of the year following that in which it was earned.

## ARTICLE 19

## PAYROLL ALLOTMENT PROCEDURE FOR WITHHOLDING UNION DUES

**Section 1.**

Nothing in this Agreement shall require an employee to become, or to remain a member of the Union or to pay money to the Union except pursuant to a voluntary, written authorization by the member for the payment of dues through payroll deductions.

**Section 2. Definitions**

a. Dues -- The regular, periodic amount determined by the Union to be required of the member to maintain good standing in the Union. This amount is certified by the Union on the SF-1187 form and excludes special assessments, back dues, fines, and similar items not considered to be dues. A multi-level dues structure may be utilized.

b. SF-1187, "Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues."

c. SF-1188 - "Revocation of Voluntary Authorization for Allotment of Compensation for Payment of Employee Organization Dues."

d. Payroll Office- Justice Payroll Center, Justice Management Division, Department of Justice.

e. Personnel Office - Human Resources Division, Office of the Director, USMS.

**Section 3. Eligible Employees must:**

a. Be in the Unit covered by this Agreement.

b. Be a member in good standing with the Union.

c. Have a regular net salary, after other legal and required deductions, sufficient to cover the amount of the authorized allotment for dues; and

d. Request the allotment on the prescribed form (SF-1187) which has been certified by the authorized Union official.

**Section 4. Responsibilities of the Union**

The Union shall:

a. Certify on the SF-1187 form the amount of dues to be withheld each biweekly pay period.

b. Promptly forward completed SF-1187 forms to the National Secretary-Treasurer, 1325 Massachusetts Ave., N.W.., Washington, D.C. 20005.

c. Provide the Personnel Office with written notifications concerning:

1. Changes in the amount of Union Dues.

2. The name of any employee who has been expelled or ceases to be a member in good standing in the Union within ten days after the date os such determination.

3. The name of any employees on dues checkoff who transfers from one local to another; any change in the local to receive dues deducted from check; and any changes in the amount to be deducted occasioned by the transfer to a new local.

**Section 5. Responsibilities of the Employer**

The Employer shall:

a. The USMS Human Resources Office will screen each SF-1187 to insure that only eligible employees are on the dues withholding listing. The Employer will notify the National Secretary-Treasurer of each employee whose dues withholding has been terminated pursuant to this section.

b. Receive in the USMS Office of Human Resources the SF-1187 form from the Union; certify on the SF-1187 form that the employee is in the Unit covered by this Agreement; and promptly forward the SF-1187 form to the Payroll Office for processing.

c. Promptly, upon receipt of a revocation, the Employer will notify the National Secretary-Treasurer, AFGE, of the revocation.

**Section 6. Procedures:**

It is agreed that the following procedures will govern the voluntary allotment of dues:

**a. Withholding of Dues**

1. Upon receipt of a properly prepared and transmitted SF-1187 form from the National Secretary-Treasurer, AFGE, the Personnel Office shall forward same to the Payroll Office. The Payroll Office shall arrange to withhold the Union dues in accordance with existing pay periods (26 biweekly periods) under which employees are regularly compensated.

2. The dues deduction will be effective as soon as possible but in no case will it be later than two (2) full pay periods following receipt by the Payroll Office of the SF-1187 form.

**b. Change in Dues**

1. The amount of dues certified on the original allotment form (SF-1187) will remain unchanged until an authorized Union official provides written certification to the Personnel Office that the amount of dues has changed. New SF-1187 forms will not be required.

2. Changes in the amount of the allotment due to changes in the amount of Union dues will not be made more than twice every twelve months.

3. Changes in the amount deducted for Union dues will be effective as soon as possible, but in no case will it be later than two full pay periods following receipt by the Payroll Offices of the Union's certification of changes in its dues.

**c. Termination of Allotments:**

Allotments by employees shall be terminated:

1. Upon loss of exclusive recognition by the Union, effective at the beginning of the first full pay period after such loss or recognition;

2. When the dues withholding agreement is terminated;

3. When an employee ceases to be eligible for inclusion in the unit covered by this Agreement for which the Union is the exclusive representative. Employees temporarily promoted out of the unit will have their dues withholding terminated while they are the incumbent of a non-unit position. The employee

may continue to pay dues directly to the Union during his or her temporary promotion. When the temporary promotion is terminated, the Employer will automatically resubmit a request to Justice Payroll to reinstate dues withholding;

4. When an employee is expelled or ceases to be a member of the Union in good standing, effective with the first complete pay period after receipt by the Personnel Office of written notice from the authorized Union official;

5. Revocations by employees shall be in duplicate, preferably on an SF-1188 form, shall be forwarded by the employee to the Personnel Office. The SF-1188 forms will be purchased by the Employer and made available to employees at their duty station.

6. Employees may submit SF-1188's ninety (90) days prior to their annual revocation period, but no earlier. Employees who have elected dues withholding prior to January 11, 1979, or who have been on dues withholding for one year after January 11, 1979, may revoke dues withholding each January 15th. Employees may revoke dues withholding no earlier than one (1) year after the initiation of dues withholding.

**Section 7. Remittance of Dues.**

a. The Employer shall remit, by check, the dues withheld after each pay period for which deductions are made.

b. Checks in payment of dues shall be made payable to and forwarded to:

AFGE National Secretary-Treasurer

80 F. Street., N.W.

Washington, D.C. 20001

c. The remittance checks shall be accompanied by listings of the following information to the extent applicable:

1. identification of the Payroll Office reporting the data and the Union Local to receive the dues;

2. pay period ending date;

3 . the name of each member whose dues were forwarded to the Union and the amount of dues withheld;

4. the gross amount deducted; and

5. the net amount remitted to the Union local.

**Section 8.**

Under Payments and Over Payments - Any SF-1187 submitted to the Personnel Office that management does not process will be returned to the Union with the reason why this was not accepted. The Union reserves the right to discuss the exclusions with Management personnel. Management will be responsible for corrections of any administrative errors. There will be no charge to the Union for dues withholding.

## ARTICLE 20

## GRIEVANCE PROCEDURE

**Section 1.**

The purpose of this Article is to provide a mutually acceptable method for a prompt and equitable settlement of grievances. This shall be the exclusive grievance procedure available to the parties and employees in the unit.

**Section 2. A grievance means any complaint:**

a. By an employee concerning any matter relating to the employment of the employee;

b. By the Union concerning any matter relating to the employment of an employee; or

c. By an employee, union or management concerning

1. the effect or interpretation or a claim of breach of this agreement; or

2. any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**Section 3. Exclusions - This procedure does not cover grievances concerning:**

a. Any claimed violation of Subchapter III of Chapter 73 of Title 5 U.S.C. (relating to prohibited political activities);

b. Retirement, life insurance, or health insurance;

c. A suspension or removal under Section 7532 of Title 5 U.S.C. for reasons of national security;

d. Any examination, certification, or appointment;

e. The classification of any position which does not result in a reduction in grade or pay of any employee;

f. Any personnel action (to include also the proposed action and the incidents which form the basis for the action) if the employee has elected to initiate the statutory appeal procedure of the agency's EEO appeals process, the EEOC, the FLRA, or the MSPB to challenge, in any way, the personnel action. Initiate an action is defined as filing or authorizing the filing of an appeal under another appeals procedure. Employees are subject to all regulations governing other appeals procedures.

g. An appeal of an adverse action based on performance under 5 U.S.C. 4302 or efficiency under 5 U.S.C. 7512 if the employee elects the statutory appeal procedure provided under 5 U.S.C. 7701;

h. A Union appeal of an adverse action or an allegation of discrimination against any employee if the Union is not expressly designated by the employee as his/her representative on the matter.

i. Issues raised as Unfair Labor Practices complaints cannot be raised as grievances under the NGP.

j. Non-selection for promotion from a group of properly rated and ranked certified candidates. (Appeal rights are contained in applicable laws and regulations).

k. A counseling or preliminary warning notice, which if effected, would be covered under the grievance procedure. (This does not apply to a meeting in which an examination takes place, where there is a reasonable belief that disciplinary action may occur and the employee requests Union representation).

l. An employee can file a grievance alleging unsafe or unhealthful working conditions or alternatively file an Office of Safety and Health Administration (OSHA) complaint but not both.

**Section 4.**

Only officials designated by the Union may represent employees in grievances. Union officials representing employee grievants have the right to be present during any phase of the grievance process. Employees may present their own grievances directly to management; however, when the grievant specifically requests or designates a Union representative in the grievance, the representative must be notified prior to any meeting and afforded the opportunity to be present during any discussion of the grievance, subject to provisions of Article 10 - "Official Time, Travel and Per Diem."

**Section 5.**

The parties recognize that the NGP is designed to give the parties the opportunity to resolve interpretations and/or applications of this Agreement. Therefore, any violation of this agreement should be processed under the provisions of this Article. The parties agree to submit virtually all contract related matters to the NGP for final disposition and to use sparingly unfair labor practice procedures concerning contract related issues which may

occur in the day-to-day administration of this agreement. Violations of the Statute should be processed under the ULP procedures.

**Section 6.**

A grievance must be presented within thirty (30) days after the date of the incident giving rise to the grievance or thirty (30) days after the incident became known, except that no grievance may be filed more than one year after the date the grievance occurred. Grievances concerning letters of caution, reprimands, suspensions, demotions, and removals will be filed at Step 3 of the Negotiated Grievance Procedure.

Third level grievances filed originally at the third level must be delivered to the third level deciding official not more than thirty (30) days after date or receipt by the grievant of the decision letter. Reasonable extensions may be requested and will normally be granted.

**Section 7. Grievance Procedure**

**Step One.**

Normally, employee grievances should be filed with the immediate supervisor. However, grievances may be filed at the level that caused the grievance. If the grievance is filed with the USM or Division Chief or other designated management official, the parties will meet within five (5) workdays of receipt of the grievance, and discuss the grievance informally. The management official will issue a decision within ten (10) workdays of the meeting to the employee and his representative, if any.

**Step Two.**

If the grievance is not resolved by the procedures in Step One, the grievance may be submitted to the National Labor Relations Officer or other designated management official within seven (7) workdays after receipt of the Step One decision. The management official will review, investigate, and discuss the grievance with the employee and his representative within seven (7) workdays of receipt of the Step Two grievance. The management official will issue a decision in writing within ten (10) workdays after receipt of the Step 2 grievance unless time limits are mutually extended.

**Step Three.**

If the grievance is not resolved by the procedures in Step Two, the grievance may be submitted to the Director or his designee within seven (7) workdays of receipt of the Step Two decision. The Director or his designee will review, investigate, and if necessary, discuss the grievance with the employee and his representative. The Director, or his designee, will issue a final decision in writing to the Step Two grievance. The

Director, or his designee, will notify the employee and his representative within thirty (30) days after receipt of the

grievance at Step Three. The decision at Step Three will state that it is the final decision of the Employer on the grievance. A grievance that is properly filed directly with the Director shall be processed under Step Three procedures. If there are any questions concerning who is

currently the "designee", the Chief of Employee and Labor Relations in Service Headquarters should be contacted.

Each step of the grievance must be completed in sequence. If the Employer does not issue a decision within the time limits provided in this Article, the aggrieved party may advance the grievance to the next step.

The time limits of the grievance procedure may be extended by mutual agreement. For the purposes of determining time limits of this procedure, a grievance shall be deemed filed or presented under this Article when it is received by the proper official.

**Section 8.**

When an employee covered by this Agreement suffers loss or damage as a result of management's violation of this Agreement, the employee will be paid back pay in accordance with applicable law.

**Section 9.**

The parties have the obligation to make a complete record during the steps of the grievance procedure including the obligation to produce any and all witnesses who have relevant information. New issues may not be raised after Step One unless the party had no knowledge of the issue at the time the grievance was initially filed.

**Section 10.**

Any rejection of a grievance of the grounds of non-arbitrability or non-grievability will be served on the aggrieved party at or prior to the time when a final decision on the grievance is to be issued. If the grievance is not resolved by the procedures in Step Three of the grievance procedure, the Union may invoke arbitration pursuant to Article 25, Arbitration.

If a party raises a grievability or arbitrability issue, based on timeliness or substance, the arbitrator must conduct a two stage hearing and rule on the procedural issue(s) prior to hearing the substance of the grievance.

**Section 11. Employer Grievances:**

a. Scope. The Employer may file a grievance with the Union over any matter which by law may be resolved through the negotiated grievance procedure. The Employer may present a grievance to the National President, AFGE, or his/her designee.

b. Procedures. The grievance shall be presented in writing. The grievance shall be decided by the President or his designee within 30 work days of receiving the grievance. If the Employer is dissatisfied with the President's disposition of the grievance, the Employer may refer the grievance for binding arbitration.

**Section 12.**

Employees who have sought informal EEO counseling may still file a grievance on the matter, provided that such grievance is initiated within thirty (30) days of incident giving rise

to the grievance to be filed, and no formal EEO complaint has been filed.

**Section 13.**

The parties hereto agree that every reasonable effort will be made to settle grievances at the lowest possible level.

## ARTICLE 21

## ARBITRATION

**Section 1.**

Only the Union or the Employer may request binding arbitration.

a. Any party wishing to arbitrate a grievance not settled through the grievance procedures must serve written notice of their intent on the other party within thirty (30) days of completing the last appropriate step of the procedure. The notice shall consist of the properly executed form customarily used by the Federal Mediation and Conciliation Service (FMCS) for requesting a Panel of Arbitrators. The party served shall execute the portion of the form reserved for it and will forward it to the appropriate FMCS office. The President of the Council, or his/her designee, or a representative of the National Office of AFGE are authorized to invoke arbitration on behalf of the Union.

b. The moving party shall contact the opposing party within ten (10) working days after both receive a list of arbitrators from the FMCS. If the parties cannot mutually agree upon one of the listed arbitrators, then the Employer and the Union will each strike one arbitrator's name from the list, repeating this procedure until one name remains. The remaining person shall be the duly selected arbitrator.

c. If the moving party fails to contact the other party within 61 days after both parties have received a list of arbitrators from the FMCS, then the moving party has failed to exercise its right to arbitrate the issue and the arbitration is moot. The other party is under no obligation to proceed to a hearing on the issue.

**Section 2.**

All fees and expenses of arbitration will be borne equally by the Employer and the Union. Any fees paid by the Employer are subject to applicable regulations.

**Section 3.**

The grievant and employees who are called as witnesses, shall be excused from their duties to the extent necessary to participate in the arbitration without loss of pay or charge to leave.

**Section 4.**

The Parties shall exchange witness lists at least seven (7)

workdays prior to the hearing. Where there is a dispute between the parties as to whether a

witness's testimony is needed by an arbitrator to reach a conclusion on an issue in the case, the parties agree to a conference call with the arbitrator at least three (3) work days prior to the hearing to request the arbitrator to determine in advance of the hearing whether the witness shall testify. The Arbitrator shall determine whether the witness shall testify on the basis of an offer of proof from the proponent of the witness. The arbitrator's determination on a witness's appearance shall be final and binding on the parties.

**Section 5.**

The Employer will choose the site of any hearing prior to the selection of the arbitrator. The selection of hearing site will consider such factors as the overall costs to the government, the issues in the hearing, the location of grievant, witnesses or evidence in the dispute and the location of the arbitrator.

**Section 6.**

Approved witnesses may be provided up to four (4) hours of official time to prepare and assist the Union with preparation for the arbitration proceeding. The Union shall have the right to prepare for arbitration, to include but not limited to interviewing the grievant, on official time pursuant to Article 10 of this Agreement.

**Section 7.**

The arbitrator will be requested to render his decision as quickly as possible, but in any event, not later than thirty (30) days after the close of the record, unless the parties mutually agree to extend the time limit.

**Section 8.**

The arbitrator's award shall be binding on the parties. However, either party may file exceptions to an award with the FLRA under its regulations.

**Section 9.**

Any dispute over the interpretation of an arbitrator's award, including remanded awards, shall be returned to the arbitrator for settlement.

**Section 10.**

Upon mutual agreement of the parties, arbitration hearings may be conducted as oral proceedings with without verbatim transcript or filing of briefs. Either party may request that the hearing be transcribed. The original of the transcript shall be provided to the Arbitrator. If both parties agree to have the hearing transcribed, the costs will be borne equally by the parties. If only one party requests that the hearing be transcribed, the costs shall be borne by the requesting party. In this case, the requesting party will have exclusive use of and access to the transcript; the other party shall not be entitled to a copy of the transcript or to review the transcript.

**Section 11.**

The Arbitrator's authority shall be limited to deciding only the issue or issues presented in a grievance.

**Section 12.**

The FMCS shall be empowered to make a direct designation of an arbitrator to hear the case in the event:

a. Either party refuses to participate in the selection of an arbitrator; or

b. Upon inaction or undue delay on the part of either party.

**Section 13.**

If the parties fail to agree on a joint submission of the issue for arbitration, each party shall submit a separate submission, and the arbitrator shall determine the issue to be heard.

**Section 14.**

To protect the privacy of the parties and witnesses, arbitration hearings shall be closed except by mutual consent of the parties.

**Section 15.**

All arbitration hearings shall be scheduled during the regular work week except by mutual consent of the parties.

**Section 16.**

Exceptions to the arbitrator's award must be filed within thirty (30) days plus five (5) days from the date the arbitrator mails the decision. Exceptions are governed by Title 5 U.S.C., Section 7122 of the Labor Relations Statute or other applicable regulations.

**Section 17.**

The Arbitrator has full authority to award appropriate remedies and attorney fees as provided by law and regulation.

**Section 18.**

The parties may mutually agree and request an expedited arbitration procedure. In such event, the Arbitrator may render a decision at the close of the proceedings.