

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 30

ASSIGNMENT OF PERSONNEL

Section 1.

In the event that a duty assignment involves a detail to a higher graded position at the District level, the following procedures shall be used. It is understood by the parties that these procedures apply to unit positions.

- a. All qualified employees in an office shall be considered for the assignment.
- b. Qualified employees shall be ranked according to a non discriminatory criteria including but not limited to performance, mission, budget and other needs.
- c. Qualified employees shall also be considered for the assignment on the basis of seniority in accordance with

Section 2 of this Article.

- d. The selecting official may select any properly rated and ranked employee for the position or no employee at all.

Section 2.

If the Employer decides not to use the competitive procedures outlined above, temporary details or promotions to higher grade positions shall be offered to qualified employees in an office on the basis of seniority. If all employees decline the assignment, the position shall be assigned to the least senior qualified employee. A detail within the meaning of this Agreement is a detail as defined in OPM regulations and refers to the formal assignment of an employee from one permanent position to another established position on a temporary basis. The term detail as used in this Article has no relation to witness security details or other similar assignments.

Section 3.

When an employee is to be detailed to a higher graded position for more than 120 calendar days, the employee will be temporarily promoted as provide by law and regulation.

Section 4.

Prior to the reassignment of a bona-fide disabled employee, the Employer will consider the impact of the reassignment and make such accommodations as required by the Federal Employee Rehabilitation Act.

Section 5.

The parties recognize that seniority plays an important part in employment and assignment on all details, PC trips, and other temporary assignments. When making assignments among qualified personnel, absent specific management designation as to who the deputy-in-charge of the assignment will be, the senior person will serve as deputy-in-charge of the assignment.

ARTICLE 31

EMPLOYEE ASSISTANCE PROGRAM

Section 1.

The Employer and the Union recognize the importance of the Employee Assistance Program for employees whose job performance is affected by alcoholism, drug abuse, emotional illness, serious personal problems which adversely affect on-the-job performance or interpersonal relationships in the work place, and other personal problems. The Employee Assistance Program (EAP) is a confidential voluntary program designed to help employees and family members resolve problems, whether they occur on or off the job.

Section 2.

In accordance with DOJ and other appropriate guidelines the Employer will provide EAP program services to employees and family members with confidential EAP services to include assessment counseling and referral to qualified mental health professionals at no cost to the employee.

Section 3.

The provisions of law, rule, and regulations must be complied with prior to the Employer taking any disciplinary action against employees for alcohol or drug related problems.

Section 4.

It is understood by parties that all EAP program services and personal information will be held in the strictest of confidentiality in accordance with law and regulation. EAP

information will only be released to designated individuals upon written consent of the employee except as otherwise provided by law and regulation.

Section 5.

Any employee who is found to use drugs through a confirmed positive test or other appropriate evidence, may be disciplined as provided by E.O. 12564 and subject to the

requirements of law, regulation and this Master Agreement.

No adverse personnel action will be taken as a result of information provided by an employee who voluntarily seeks confidential help and assistance through the USMS EAP prior to being identified through other means, seeks confidential help and assistance through the EAP, attends treatment and rehabilitation recommended by the EAP assessment and refrains from using illegal drugs. Any delay by an employee in attending treatment and rehabilitation may subject the employee to adverse personnel action.

Section 6.

To the maximum extent possible, the Employer will provide employees assistance by providing program administration, counselors, and referrals for treatment to local community resources and services. Any employee who participates in this program will be entitled to all of the rights and benefits provided to other employees who are ill, in addition to specific services and assistance which this program may provide.

Section 7.

No employee will have his/her job security or promotion opportunities jeopardized by his/her request for referral assistance.

Section 8.

The focus of corrective interviews for the abuse of legal drugs (not prescribed by a physician) or alcohol is restricted to the issues of job performance and misconduct.

Section 9.

The employee(s) participating in the program shall be afforded the opportunity to have appropriate Union representation at interviews required or requested for the purpose of assisting the employee(s) in solving the alcoholism or drug abuse problem.

Section 10.

Employees removed for alcoholism and drug abuse may be counseled by the Employer regarding their right to request disability retirement, if eligible.

Section 11.

The Employer and agrees to make available and provide employees with information and training or orientation materials outlining EAP program services. This material will identify the EAP coordinator name and phone number.

ARTICLE 32

INVOLUNTARY REASSIGNMENT

Employees who are subject to involuntary reassignment will be reassigned under the

following procedures:

Section 1.

The Employer agrees to provide a minimum of 45 days notice prior to the effective date of the reassignment.

Section 2.

The Employer agrees to provide reasonable extensions to employees for legitimate reasons.

Section 3.

The Employer agrees to pay expenses related to an involuntary reassignment including travel, per diem, and housing assistance, as provided by applicable regulations. Upon request, the Employer will provide the Union with relevant information regarding the reassignment unless the information violates the law.

Section 4.

The parties agree that the provisions of the Article apply only to involuntary reassignments of personnel outside the local commuting area (50 mile radius). This Article does not apply to involuntary reassignment of personnel within their present commuting area.

ARTICLE 33

VOLUNTARY REASSIGNMENTS

Section 1.

When the Employer chooses to fill a operational vacancy (222 reassignment) by voluntary reassignment, the vacancy shall be announced USMS wide.

Section 2.

A preference list will be established ranking the employees who submit applications.

Section 3.

Consideration of applicants will be under the following priority basis:

- a. Grade level
- b. Date of application
- c. Length of service in present district
- d. Length of service in USMS.

Section 4.

After considering the employees who apply for voluntary assignment, the Employer may select any applicant on the list, or none.

ARTICLE 34

REOPENER CLAUSE

The Employer agrees to commence negotiations within 60 days after any proposals declared nonnegotiable are found negotiable by appropriate authority. The ground rules used for the negotiations of the Agreement will be in effect during any reopened negotiations.

ARTICLE 35

CONTRACTING OUT

Section 1.

The Employer has the right to contract out work in accordance with 5 U.S.C. Section 7106 and Article 8 of this Agreement. The term contracting out relates to commercial activity actions by the Employer which will displace and/or impact on career or career conditional employees within the bargaining unit.

Section 2.

The Employer retains the right to determine what constitutes the most efficient organization. However, recommendations by the Union will be accepted for review.

Section 3.

If the decision to contract out will impact on working conditions, the Employer will notify the Union of its decision. If the Union chooses, it may request impact bargaining arrangements for career and career conditional employees who are adversely affected. The Employer agrees to advise the Union of the organizational segments and number of employees affected and other relevant information, which is releasable, will be provided to the Union at the time of impact bargaining.

Section 4.

Impact bargaining regarding contracting out for employees adversely affected will be conducted in accordance with the procedures set forth in Article 3 of the Master Agreement.

The Employer agrees to assist members of the bargaining unit who are displaced because of a commercial activity action. This includes, but is not limited to, officially requesting "early out" authority for employees vested under the retirement regulations. Affected career status employees will be reassigned and/or retained to the maximum extent possible.

Section 5.

The decision to contract work out made by the Employer is non-grievable and non-arbitrable under the negotiated grievance procedures since these disputes are covered by the administrative appeals process.

Section 6.

If requested, periodic discussions will be held with Union officials to provide information on studies made to contract out unit work.

Section 7.

It is understood by the parties that the Employer may direct unit employees to supervise contracted out activities.

ARTICLE 36

NEPOTISM

Section 1.

In accordance with the intent of the Office of Personnel Management's regulations on employment of relatives, an official of the Department may not appoint, promote, or advance a relative to a position in the Department, nor may an official propose a relative for appointment, employment, promotion, or advancement in the Department.

Section 2.

Members of the same family will be considered to be father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, in accordance with 5 U.S.C. Section 3110.

ARTICLE 37

HOURS OF WORK

Section 1.

As provided by law, the basic administrative work week is seven consecutive days scheduled in advance. The basic non-overtime workweek is scheduled for five (5) consecutive days, Monday - Friday, whenever possible. The basic non-overtime workday shall not exceed eight hours except for employees covered under availability pay provisions. The occurrence of holidays shall not affect the designation of the basic work-week. Breaks in working hours of more than one hour shall not be scheduled in any basic workday.

Section 2.

If an employee's workload permits, an employee may take a ten (10) minute rest period during the middle of the first and last half of each shift. Every effort will be made to give

each employee his/her lunch period in the middle of the day.

Section 3.

The Employer and the Union recognize that the Employer may schedule employees on alternative work schedules, (AWS)/ (compressed work schedules) and shift schedules and the Union has the right to negotiate impact and implementation of the proposed change. AWS and shift schedules will be implemented consistent with provisions set forth in 5 C.F.R. 610.121. When the Employer decides to implement an AWS or shift schedule, the Employer may implement such schedule without any further duty to negotiate using the following procedures set forth in Section 4 of this Agreement. If the Employer decides to implement AWS or shiftwork under any other procedures, the Employer must notify the Union of the proposed change and negotiate the proposed change as required by law rule and regulation.

Section 4.

Before implementing any AWS or shift schedule, the Employer will poll the employees to see if sufficient volunteers are available to work the alternative schedule. If sufficient volunteers are not available, then the Employer may assign employees as necessary. The following procedures will be used prior to implementation of AWS or shift schedule.

AWS - (compressed schedules)

1. The Employer decides the tour of duty and type of schedule to be available.
2. The Employer decides the hours of the tour of duty to be available.
3. Prior to assignment of any schedules, the Employer will permit employees to volunteer for tour of duty of choice.
4. If insufficient qualified volunteers are available to staff and tour of duty, the Employer will assign qualified employees with the least amount of seniority first.
5. Definition of Seniority: USMS service, DOJ service, Federal service.
6. When a holiday occurs on the employee's regularly scheduled nonworkday other than Sunday, the preceding workday is the employee's holiday. When the holiday occurs on a Sunday that is a scheduled nonworkday the next scheduled workday is the employees holiday.
7. Employees will be paid overtime when an employee works beyond their scheduled tour of duty in accordance with law and regulation.
8. Any changes in hours of work will be carried out in accordance with Article 4 of the Master Agreement.

Shift Schedules

1. The Employer decides the tour of duty and type of schedule to be available.

2. The Employer decides the hours of the tour of duty to be available.
3. Prior to assignment of any shift schedules, the Employer will permit employees to volunteer for their schedule of choice.
4. If insufficient qualified volunteers are available to staff a scheduled shift, the Employer will assign qualified employees with the least amount of seniority first.
5. Definition of Seniority: USMS service, DOJ service, Federal service.
6. Employees will be paid overtime when an employee works beyond their scheduled tour of duty in accordance with law and regulation.
7. Any changes in hours of work will be carried out in accordance with Article 4 of the Master Agreement.

ARTICLE 38

OVERTIME AND AVAILABILITY PAY

Section 1.

The Employer should exempt Union officers or stewards from scheduled overtime and special assignments during off duty hours when a request for such exemption is made in writing and the stated purpose for the exemption is to conduct official Union business. This section shall not apply in instances where there is a clear and immediate need to perform the work and the assignment cannot be made to another employee.

Section 2.

The Employer determines when overtime will be performed. It is understood that overtime must be worked when scheduled. The Employer agrees to advise employees as soon as practicable when overtime is necessary. Overtime work is incident to employment in the USMS and subject to the provisions of this section.

An employee may request, in writing, relief from scheduled and unscheduled overtime assignments and such a request may be granted if another qualified employee is available and willing to accept the assignment.

In cases determined necessary, such as but not limited to emergencies, an employee must accept an overtime assignment. Overtime may be compensated pursuant to Section 7 of this Article.

It is recognized that circumstances may differ from district to district. Accordingly, specific procedures may be developed and negotiated at the district level. It is understood that the Employer retains the authority to assign specifically trained or qualified employees to assignments involving overtime. These qualifications include but are not limited to special language capabilities, specialized training etc. The Employer retains the authority to assign overtime to any employee for the efficiency of the USMS.

Section 3.

To the maximum extent practicable, an employee will be scheduled to perform official travel away from the duty station within his/her or her regularly scheduled workweek. In cases where travel outside his or her regularly scheduled workweek is necessary, employees will be compensated pursuant to law, rule, and regulation.

Section 4.

When known in advance and practicable, the Employer will give advance notice of overtime assignments. For security and sensitive reasons, the parties recognize that in some instances, advance notice cannot be given.

Section 5.

Irregular or occasional overtime work performed by an employee on a day when work was not scheduled for him/her, or for which he/she is required to return to his/her place of employment, is deemed at least 2 hours in duration for the purpose of overtime pay or compensatory time off.

Section 6.

The Employer may grant an employee compensatory time off in lieu of overtime under appropriate statutory authority pursuant to Article 18 of this Agreement.

Section 7.

Overtime work assignments to employees should be scheduled on a fair and equitable basis.

Section 8.

Employees assigned to an alternative work schedule such as shift work, compressed work week, and flexitime, are entitled to overtime for all time worked in excess of their scheduled tour of duty as required by law and regulation.

Section 9.

Unscheduled overtime pay shall be calculated in 15 minute increments as provided by law and regulation. Scheduled overtime will be calculated in 1 minute increments as provided by law and regulation.

Section 10. Law Enforcement Availability Pay (LEAP)

- a. Employees in law enforcement positions (Criminal Investigators, GS-1811 5-7-9) will be covered under the provisions of LEAP.
- b. The Employer will not unnecessarily schedule employees for 2 hours when no work is available.
- c. In accordance with the LEAP Act of 1994, and the USMS LEAP Policy, criminal

investigators are entitled to overtime pay for all work performed, on a regular workday, that is scheduled in advance of the administrative workweek, in excess of 10 hours; or for all work performed, on other than a regular workday, that is scheduled in advance of the administrative workweek. Overtime pay for other bargaining unit employees, not covered by LEAP, will continue in as provided in this Agreement. ****

d. Union officials will be considered to be eligible to be certified for LEAP, and will not be decertified for conducting official union business in accordance with law and regulation. Bargaining unit employees and employee representatives, entitled to Official Time in accordance with Article 10 of the Negotiated Master Agreement, will continue to receive LEAP pay during such periods of Official Time. In addition, these periods of Official Time may not be used as a basis for decertification.

Section 12. Call Back Overtime

a. Employees required to remain in a standby status will be paid in accordance with law or regulations.

b. Employees shall be provided advance notice, to the maximum extent possible, of the requirement to perform call-back overtime work. (USMS does not agree with Union proposal).

c. At least two (2) hours overtime pay is guaranteed for call-back overtime work.

d. An employee will be considered off-duty and time spent in an on-call status shall not be considered hours of work if:

1. The Employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or

2. The employee is allowed to make arrangements such that any work which may arise during the on-call period will be performed by another person.

e. Employees covered under provisions of LEAP are excluded from the provisions of this section as provided by law.

Section 13.

FLSA covered employees may receive premium pay as provided by law and regulation for all hours of work performed while engaged in stand-by duty. FLSA covered employees assigned to carry a beeper and directed to be in "Stand by" status are entitled to premium pay as provided by law.

Section 14.

The parties agree the Employer may require law enforcement personnel on LEAP pay to carry an electronic device and to serve as a duty officer to be available to respond to emergent needs of the Service. The requirement to carry an electronic device does not automatically guarantee premium pay for such employees. Employees will be compensated

for all hours of actual work as provided by law and regulation.