

**Collective Bargaining Agreement**  
**Between the**  
**National Border Patrol Council**  
**and**  
**Immigration and Naturalization Service**

Effective February 6, 1995

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## Article 1

### **Recognition**

The Service recognizes the American Federation of Government Employees (National Border Patrol Council) as the bargaining agent for all Border Patrol Personnel of the Immigration and Naturalization Service assigned to Border Patrol Sectors except professionals and those excluded from coverage by the Civil Service Reform Act.

## Article 2

### **Effect of Law and Regulation**

A. In the administration of all matters covered by this Agreement, the parties are governed by existing or future laws; and government-wide rules or regulations in effect upon the effective date of this Agreement. In the administration of the Agreement, should any conflict arise between the terms of this Agreement and any present or future laws, provisions of such laws shall supersede conflicting provisions of this Agreement.

B. Should any conflict arise in the administration of this Agreement between the terms of this Agreement and any government-wide or agency rule or regulation such as the Federal Personnel Manual or Department of Justice Orders, Policy Letters, Manuals (other than a rule or regulation implementing 5 USC 2302), issued after the effective date of this Agreement, the terms of this Agreement will supersede and govern.

C. In any conflict between the terms of this Agreement and any provisions of Service Orders, Policy Letters, Manuals, etc., regardless of date of issuance, the terms of the Agreement will govern.

D. The requirements of this Article shall apply to all understandings or agreements

between the parties.

### Article 3

#### **Union Relations at the National, Regional and Local Levels**

A. The Service and Union recognize that the participation of employees in the formulation and implementation of personnel policies and practices affect their well being and the efficient administration of the government. The parties further recognize that the entrance into a formal agreement for the exchange of information in the broad area of personnel policy or practice at the national, regional and local levels may contribute to the effectiveness of the labor-management relationship. They, therefore, agree to the following forums for the purpose of informally discussing all matters of interest or concern in the areas of personnel policies, practices and matters affecting working conditions, whether or not spoken to in the agreement. These discussions will not assume the character of formal negotiations. Although further study of problems raised by the Service or the Union during these discussions may result, neither the Service nor the Union is obligated to reach agreement on the issues addressed during these discussions.

B. Representatives of the Service and the Union shall meet at the national level annually during the month of May. An agenda covering the items to be discussed must be forwarded in writing to the Associate Commissioner, Management, at least thirty (30) calendar days prior to the scheduled meetings. Up to ten (10) additional agenda items may be submitted on the first day of the meeting.

Eight (8) Union representatives will be on official time while attending such meetings. The cost of travel, including per diem or actual subsistence, will be borne by the Service. The meetings



at the national level will be held for three (3) days with travel on official time. Any additional representatives the Union feels are required for the meeting may attend, on annual leave or leave without pay, with the Union bearing the cost of their travel and per diem.

C. Representatives of Service and the Union shall meet at the Regional level semiannually during the months of March and September. All agenda items covering the issues to be discussed must be forwarded in writing to the Regional Director at least thirty (30) calendar days prior to the scheduled meeting. Up to ten (10) additional agenda items can be submitted at the start of the meeting.

Regional Officials and four (4) Regional representatives designated by the Union from that Region will meet semiannually for the purpose of informal discussions, and these representatives will be in an official status while attending such meetings. Such regional meetings may be up to two (2) days, exclusive of travel of time, unless extensions are mutually agreed upon. Travel will be on official time. The cost of travel and per diem will be borne by the Service. Any additional representatives the Union feels are required for the meeting may attend, on annual leave or leave without pay, with the Union bearing the cost of their travel and per diem.

D. Representatives of the Service and the Union at the Sector level shall have the opportunity to meet quarterly or at the request of either party for the settlement of local problems and for the improvement of communications, understanding, and cooperation between the Service and constituent units of the Union. Any understanding reached at these meetings shall be recorded, signed by the parties involved, and copies forwarded to the Local President or his or her designee and the Regional Director. Such understanding will remain in effect until amended through negotiations.

E. The Union will notify the Service of the names of designated representatives of the Council, each Region and Sector and any changes as they occur.

#### Article 3A

#### **Impact Bargaining at National, Regional, and Sector Level**

A. The parties recognize that from time to time during the life of the agreement, the need will arise requiring the change of existing Service regulations covering personnel policies, practices, and/or working conditions not covered by this agreement. The Service shall present the changes it wishes to make to existing rules, regulations and existing practices to the Union. The Union will present its views and concerns (which must be responsive to either the proposed change or the impact of the proposed change) within a set time after receiving notice from Management of the proposed change. In the absence of timely Union proposals Management will have no obligation to enter into negotiations. Nothing in this article shall require either party to negotiate on any matter it is not obligated to negotiate under applicable law. The time will be:

Thirty (30) calendar days at National Level

Fifteen (15) calendar days at Regional level

Ten (10) calendar days at Sector level

National level:

At the end of the time period at the National level, the Union will serve notice of its intent to start negotiations. The Union will present its written proposals within ten (10) calendar days, and negotiations will commence the following calendar week. Agreements reached at such negotiations will be recorded in a memorandum of understanding to be signed by the representatives of the Service and the Union.

#### Regional level:

If the Vice-President so elects, the Union may request negotiations on the changes or the impact of the changes. Negotiations will begin within ten (10) calendar days of the request to negotiate. Agreements reached at such negotiations will be recorded in a memorandum of understanding to be signed by the Regional Vice-President and the Regional Director or his or her designee.

#### Sector level:

The Union and local management will meet to discuss the changes. If no agreement is reached the Union may request negotiations, and such negotiations will begin within five (5) calendar days. Agreements reached at such negotiations will be recorded in a memorandum of understanding to be signed by the Union representative and the Chief Patrol Agent or his or her designee.

B. Negotiation teams at the National, Regional, or Sector level will be authorized an equal number of representatives present on official time. Travel and per diem for the Union representatives will be borne by the Employer.

C. All negotiations time, including travel to and from meetings, will be excludable for AUO purposes.

#### Article 4

#### **Rights and Obligations**

A. This agreement or its provisions may not in any manner diminish or impair any rights which would otherwise be available to any employee in the absence of such an agreement.

B. Management officials of the Service retain the right to determine the mission,

budget, organization, numbers of employees, and internal security practices of the Service; and in accordance with applicable laws and regulations—(1) hire, assign, direct, lay off, and retain employees in the Service, or to suspend, remove, reduce in grade or pay or take other disciplinary action against such employees; (2) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which Service operations shall be conducted; (3) with respect to filling positions, to make selections for appointment from among properly ranked and certified candidates for promotion, or any other appropriate source; and (4) to take whatever actions may be necessary to carry out the Service mission during emergencies.

Nothing in this Contract shall preclude the Service and the Union from negotiating:

(1) at the election of the Service 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 of the Service will observe in exercising any authority under this Article; or

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

C. Nothing in the agreement shall 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.

D. The preceding requirements of this Article shall apply to all supplemental, implementing, subsidiary or informal agreements between the parties.

E. Employees shall have and shall be protected in the exercise of the right, freely and

without fear of penalty or reprisal, to form, join, and assist the affiliated locals of this Union or to refrain from any such activity. Except as expressly provided herein or the 1978 CSRA the freedom shall be recognized as extending to participation in the management of the Union and acting for it in the capacity of a Union representative, including presentation of its views to the officials of the Executive Branch, the Congress, or other appropriate authority.

F. The Service may provide the opportunity, but may not require employees to participate in recognized savings programs, charitable campaigns for contributions, or other community related programs or efforts.

G. An employee has the right to freely communicate with the appropriate member of the following offices concerning individual personnel matters:

- (1) the Servicing Human Resources Office;
- (2) the EEO Office or the EEO Officer;
- (3) a Supervisor or Management official of a higher rank than the employee's immediate supervisor;
- (4) EEO Counselors;
- (5) the appropriate official in the Health and Safety Office.

H. Any inquiry into an employee's off-duty conduct must be based on activity which, if verified, would have a nexus to the employee's official position. The Service and Union agree that the conduct of employees while off duty shall result in action concerning the employee only when there is a nexus between that conduct and the employee's official position. Employees will not be subjected to harassment or frivolous inquiries.

I. The Union shall be given the opportunity to be represented at any formal discussion

between one or more management representatives and one or more bargaining unit employees concerning any grievance or personnel policy or practice or condition of employment.

#### Article 5

##### **Relationship of the Agreement to Agency Policies, Regulations, and Practices**

A. In prescribing regulations relating to personnel policies and practices and working conditions, the Service shall have due regard for the obligation imposed by the CSRA.

B. For the stated duration of the Agreement, it will have the full force and effect of regulations within the Unit. During this period, the agreement will be modified only by the passage of legislation, and the issuance of O.P.M., Department of Justice or Service regulations required by law or other appropriate authorities, or by mutual agreement of the parties.

C. This Agreement is not intended to abolish, solely by exclusion herefrom, any understandings or agreements which have been mutually acceptable to the parties. Such understandings or agreements may not conflict with the master agreement.

#### Article 6

##### **Status of Employee Representatives**

A. The Service shall not impose any restraint (except as may otherwise be provided in the CSRA or this agreement), interference, coercion, or discrimination against employees in the exercise of their rights to organize and designate representatives of their own choosing for the purposes of collective bargaining, Labor-Management Relations, or upon duly designated employee representatives acting on behalf of an employee or group of employees within the bargaining unit.

B. A reasonable number of stewards may be designated by the Union or its affiliated

Locals and shall be recognized as employee representatives. The Union will supply the Service with their names and notify Management of any changes in the roster of stewards. Stewards will normally function within their Sector, except in unusual situations; as an exception to the payment of travel and per diem expenses otherwise provided for in this agreement, in such instances the Union will bear any cost of travel and per diem, and time traveling to and from the representational activity will be on official time.

C. Upon request and approval in advance, Union officials are authorized to perform and discharge the duties and responsibilities which may be properly assigned to them under the terms of the CSRA by the Union in accordance with this agreement and any supplementary agreements hereunder. The Service agrees that there shall be no restraint, interference, coercion, or discrimination against a Union official because of the performance of such duties during the period they are serving as Union officials. This does not preclude employees, including those on leave without pay, being called back to their official duties when there is an immediate need for their services.

D. It is incumbent upon the Union to furnish Management the names of its stewards. In turn Management will advise new unit employees, or employees transferring between stations, upon entering on duty, of the name of the Local President.

## Article 7

### **Use of Official Time**

#### A. Local Officials

1. Upon request and approval in advance, a reasonable period of time in an on-duty status will be granted to accredited representatives of the Union to perform the duties of their

office which are consistent with the Statute and this contract. Reasonable time, including the form it will take (block, percentage, number of hours, etc.) and whether a Council Officer may be eligible to use local time in addition to Council time, may be negotiated in a supplemental agreement. Local Presidents or their designees will normally be released to perform appropriate labor relations duties, subject to local workload requirements. In making this determination, local management will be sensitive to the obligation under Article 6 of this Agreement. Time used to perform approved labor-management functions shall be recorded on the time and attendance report. Official time will not be used for internal Union business, which shall be charged to leave without pay or annual leave.

2. When a representational activity is held at a particular time, the participants will be scheduled to be on duty during that time.

3. A Local Union President or his or her designee may be granted up to two (2) hours travel time for the purpose of traveling to represent a grievant at any worksite within the Sector where there is no local Union steward.

4. Union officers and stewards will be authorized official time for all matters relating to the administration of this Agreement and labor-management relations matters, such as--

(a) investigation, preparation, and representation in regard to discrimination complaints and appeals; informal employee or labor-management complaints; unfair labor practice complaints; grievances/arbitrations under the negotiated grievance and arbitration procedure; and statutory appeals.

(b) preparation and representation of the Union in labor-management meetings.

(c) representation at adjustment of grievances, adverse action and EEO matters that

affect bargaining unit members.

(d) attendance at committee meetings as the designated Union representative(s).

(e) review of and response to memoranda, letters, and requests from the Employer, as well as review and dissemination of instructions, manuals, and notices which affect personnel policies, practices, or working conditions.

(f) preparation for labor-management meetings; Local Presidents or their designees will be granted two (2) hours of official time for such purposes prior to each meeting with management.

(g) serving as technical advisor or assistant employee representative in hearings; there shall be a limit of one representative so designated at a proceeding.

(h) attending hearings or meetings in the capacity of an observer where bargaining unit employees have elected to pursue a grievance without Union representation.

Approval of official time for appropriate Union representational activities other than those specified above will be subject to review at the regional level. In this instance, time that is questionable will be discussed with the submitting Union official. If disagreement remains, the payroll records will be adjusted, with notification of the adjustment to the official. The action may be grieved beginning at Step 3 of the negotiated grievance procedure.

5. All official time for local representational activities shall be requested in accordance with the following provisions:

(a) Local Union officials will give advance written notice to Management in accordance with (b) below. The requirement that the written notice be made in advance shall not apply in cases where such advance written notice would be impractical. Local Union officials will inform

the immediate supervisor or designee on the appropriate form of the items to be performed (A.4(a) through (h) of this Section) and estimated amount of time to be used. If the immediate supervisor or designee is not available, the written notice may be submitted after the official time use.

(b) The Employer will furnish the form which shall be used to request official time. (See Appendix VI) The Union official will prepare the form pursuant to this Article and submit it to the appropriate supervisor. The supervisor will endorse the form in a timely manner indicating approval or denial, retain one copy and return one copy to the requester; if the union official is not provided an answer to the request prior to the time requested, he or she may assume it is approved. If the request is approved, the Union official will advise his or her supervisor, either orally or in writing, as to the date and time of his or her return to duty and total number of hours used. The supervisor will then note his or her copy of the original request to reflect the total time (hours/dates) used and insure that such time is appropriately recorded on the Union official's time and attendance report. The supervisor will also, at that time, forward a copy of the form to the appropriate Servicing Human Resources Office (LMR).

(c) The Union official and employee involved shall also obtain approval in advance from the employee's supervisor for any meeting during the employee's duty time which removes the employee from duty.

#### B. National Council Officers

In recognition of the leadership role and inherent responsibilities of their positions, and in order to carry out representational duties under Statute and this Agreement, National Council Officers will be authorized to utilize up to a maximum of 7305 hours of official time in each calendar year. The Council President will not utilize in excess of 1565 hours per year of that total

and no other Officer will utilize in excess of 1044 hours per year. Official time provided for by law or other provisions of this agreement will not be charged to these totals. Official time use will be requested and approved in advance. Official time will not be used for internal Union business including solicitation of members, which shall be charged to leave without pay or annual leave.

C. In order that workloads may be adjusted to compensate for time spent on Union activities, time used to perform approved labor-management functions shall be recorded in accordance with the following procedures:

1. Absent unusual circumstances, within fifteen days after the conclusion of each pay period, each Council Officer will certify in writing the number of hours spent on approved Union duties during that pay period. A report will be submitted for each pay period whether or not official time for labor relations duties was utilized. Such certification shall include an identification of case and/or items (A.4(a)-(h) of Section A) with a breakdown of hours spent on each case or item.

2. Two decisions will be made as to whether time requested by Council Officers is to be approved:

(a) An initial determination by the employee's supervisor based on workload considerations. Council Officers will request time to perform approved labor relations functions of their supervisors. If workload permits, these Officers will be released. In making this determination, supervisors will be sensitive to the obligations under Article 6. If the Officer is not provided an answer to the request prior to the requested time, he or she may assume it is approved.

(b) A final determination to be made at Headquarters based on information supplied

in the 7C report. Council Officers will submit a report of time spent on appropriate labor relations functions in accordance with this Article, using the report form supplied by management. The reports will be submitted to their supervisor, who will forward them promptly, through the chain of command, to Headquarters. Headquarters will promptly review the specific information that is questionable with the submitting Council Officer. If disagreement remains, the payroll records will be adjusted, with notification of the adjustment to that Officer. Grievances over disputed time will be presented to Headquarters for processing through the grievance procedure.

D. Union representatives will not suffer any loss of pay, allowances, or other penalty for use of official time. All official time, including travel to and from meetings, will be excludable for AUO purposes.

E. Upon request and approval in advance a reasonable period of leave without pay will be granted to Council and Local Officers for the purpose of carrying out Union-related duties.

F. (1) The Service agrees that official leave may be administratively authorized for Union representatives to attend training approved by Management which is designed to advise representatives on matters within the scope of the CSRA, which are of mutual concern to the Service and the Union. Administrative excusal for this purpose will not exceed ten (10) man days per fiscal year for each Sector with less than 50 employees, 20 man days per year for each sector with 50-199 employees, 30 man days per year for each Sector with more than 200 employees, and 20 man days per year for the Council.

(2) Agendas for such training, which includes the actual hours that the training will be conducted and the employee(s) designated to attend, will be submitted for approval to Management in the appropriate Regional Office at least thirty (30) calendar days in advance of the

date the training is scheduled to commence. Management shall notify the Union of its decision no later than fifteen (15) calendar days after receipt of the agenda.

(3) Individual requests for union sponsored training shall be submitted with the agenda that includes the actual hours that training will be conducted. Requests shall be received in writing from the Union at least thirty (30) calendar days in advance of the date training is scheduled to commence. Management shall notify the Union of its decision no later than 15 calendar days after receipt of the request.

## Article 8

### **Use of Official Facilities**

A. At the request of the Union, subject to availability, space will be made available for meetings of the Union during non-duty hours of the employees involved. The Union agrees to exercise reasonable care in using such space and will leave it in a clean and orderly condition.

B. Each Immigration and Naturalization Service installation will provide bulletin board space in a place of prominence for posting material published by the local AFGE Local, by the National Headquarters of the AFGE, and the National Border Patrol Council. In each Sector Headquarters the Service will provide one locked bulletin board of a size approximately 3' by 3' for posting of material. The bulletin boards will be permanently attached to the walls where building management regulations permit such permanent installations. Arrangements for space and installation of bulletin boards shall be made with the appropriate Chief Patrol Agent.

In addition, miscellaneous items such as notices of items for sale, etc., may be posted upon approval of the Union. The Union shall be responsible for all matters on the bulletin board and each item placed thereon shall be initialed and dated by a Union official. The Union agrees to keep

its bulletin board space in a neat and acceptable manner.

Literature or notices posted will neither violate any law nor contain libelous material.

C. Official publications of the Union that are transmitted to an Agency installation shall be placed in a place of prominence where they shall be readily accessible to all employees at that installation. For this purpose, mail drawers shall be considered such a place of prominence where mail drawers are provided to employees. Such publications shall not be delayed in distribution to the Union official addressed or general distribution to appropriate employees.

#### Article 9

##### **Identification of Employees in the Unit**

A. The Service agrees to provide to the Council President, within sixty (60) days after this agreement goes into effect and quarterly thereafter, a list reflecting the name, grade, duty station and position title of all bargaining unit employees. Employees that entered on duty in the Sector within the last quarter will be appropriately marked. Said list shall group employees by duty station and position title. The parties recognize that the listing will not be construed as action by the employer to unilaterally deny bargaining unit status to any employee or to confer it.

#### Article 10

##### **Outside Employment**

A. Outside employment, including self-employment, must not result in or create the appearance of a conflict of interest with official duties or with official business of the Service nor impair the employee's mental or physical capacity to perform official duties. The employer shall not take actions regarding an employee's outside employment which are arbitrary or capricious.

B. Employees desiring to accept or undertake outside employment, including self-

employment, shall request permission in writing and obtain written authorization from the employer prior to commencement thereof, consistent with this Article. The request must be made on form G-843 (Appendix VII).

C. An employee's request must be submitted to the employer at least fourteen (14) calendar days prior to proposed commencement of outside employment or business activity.

D. The employer will respond to the employee, approving or denying the request, as soon as possible but not later than 8 calendar days after receipt of the request. If there is no response within 8 calendar days from receipt, the employee may assume there is no objection and begin in the outside employment or self-employment. When the employer denies a request, the employee will be advised of the reason therefor.

E. Volunteer activity is not considered outside employment for the purposes of this Article.

## Article 11

### **Union Representatives Permitted on Government Property**

National representatives of the Union, Council Officers and Council employees shall be permitted upon all Agency installations. It is understood that such Union representatives shall, whenever possible, give advance notice to the supervisor in charge of the installation of their impending visit. Upon arrival, he or she shall attempt to advise the supervisor, if available, of his or her presence.

Such representatives shall not interfere with the work of the employees of the installation during duty hours. Council Officers, Council employees and National representatives of the Union shall be permitted to participate in meetings between Local representatives and the Agency.

## Article 12

### **Personnel Manuals**

A. The Agency agrees to provide in each Sector Headquarters an up-to-date copy of the Service Administrative Manual and an up-to-date copy of the Federal Personnel Manual. Where Administrative Manuals are presently provided (including stations), the manuals will be readily accessible to all employees and the Union, consistent with reasonable security concerns.

B. The Agency will furnish one up-to-date copy of the Federal Personnel Manual and INS Administrative Manual, including all supplements, to the Council President.

## Article 13

### **Dues Withholding**

A. The Union and the Service agree to maintain, for the life of this Agreement, a system for voluntary allotments by the employees of the unit for the purpose of paying their dues as members of the Union.

B. See Appendix I for the complete Dues Withholding agreement.

## Article 14

### **Leave**

A. Annual leave is a right of the employee and not a privilege. Consistent with the needs of the Service, annual leave which is requested in advance will be approved. It will be the responsibility of the supervisor, in consultation with the employee, to schedule annual leave in order that annual leave will not be forfeited.

B. The employer will make every effort to schedule workloads and annual leave in a manner which permits each employee, if he or she wishes, to schedule at least three (3)

consecutive weeks of accrued annual leave each year.

The number of employees granted leave during any given period shall be governed by Service requirements and the number of employees required for necessary coverage.

C. Each employee shall be responsible for planning and making timely requests for his or her annual leave in accordance with his or her personal desires. Leave preferences shall be submitted in order that leave schedules can be established and posted in a conspicuous place in the facility no later than February 15 of each calendar year. Employees who do not request leave by February 15 will be allowed to take leave at a later date, provided it does not interfere with annual leave scheduled or the needs of the Service. Requests for annual leave of five (5) days or less need not have been included in the annual leave schedule provided all five (5) days are within one administrative workweek.

D. When it is impracticable to grant all requests for annual leave for a given period, the supervisor shall give consideration to the following factors:

- (1) Amount of leave to employee's credit.
- (2) Seniority: (For the purpose of this Article seniority is defined as the length of INS service commencing with the first day of employment).
- (3) Whether employees have children of school age and cannot benefit from vacations taken when their children are in school.
- (4) Whether employee was able to take leave at desired time during previous scheduling period.

Normally annual leave once approved will not be canceled. Annual leave will be canceled only for exigencies of the Service's business when such leave was approved in advance. Before

canceling leave the Service will make a reasonable effort to take other action.

E. Any employee-initiated change in approved vacation schedule cannot be made without the concurrence of all employees whose vacation schedule would be affected by the change.

F. An employee may be excused to vote, insofar as practicable, without interfering seriously with operations as follows:

If the polls are not open at least three hours, either before or after an employee's hours of duty, he or she may be allowed to report for work three hours after the polls open or to leave work three hours before the polls close, whichever requires the lesser amount of time off. Depending upon exceptional circumstances in an individual case, an employee may be excused for such additional time necessary to vote, but not to exceed a full day.

G. Permanent employees will be granted necessary time off without charge to leave or loss to pay to serve as a juror, or as a witness on behalf of the United States, a state or municipality when officially required to appear.

H. For sick leave periods of not more than three consecutive workdays, the employee shall not be required to submit Form SF-71, unless there is reasonable evidence of abuse. Sick leave in excess of three days shall be reported on form SF-71, including a medical certificate or a statement of the nature of the illness and why a medical certificate is not furnished.

I. When administrative leave is granted in the case of inclement weather or other conditions which warrant such leave, Management will notify employees on duty.

The employer will make a reasonable effort to notify employees who have not yet reported to duty that administrative leave has been granted.

If hazardous weather or emergency conditions existing within the employee's normal commuting area prevent an employee from reporting to work, and the post of duty is not closed, an employee can be granted administrative leave for the day, or that part of a day, during which such conditions prevented the employee from reporting to work. To be eligible for leave under this subsection, the employee must provide the employer with evidence that he or she made every reasonable effort to report to work, but that such conditions prevented him or her from doing so.

J. A male employee may be granted annual leave or, if annual leave is exhausted, leave without pay (up to 14 calendar days) for the purpose of aiding, assisting or caring for his wife or minor children while his wife is incapacitated for maternity reasons.

K. Annual leave or sick leave balances will not be factors for promotion. However, evidence of leave abuse may be used as an aid in determining reliability of an employee and/or his or her physical ability to perform the duties of a position.

L. Employees effecting a change in duty station may be granted administrative leave not to exceed four (4) workdays to make all necessary arrangements for preparing and actually effecting the transfer.

## Article 15

### **Development and Training**

A. The Service and the Union agree that the training and development of employees within the unit is a matter of primary importance to the parties. Through the procedures established for employee-management cooperation, and consistent with the needs of the Service, the parties shall seek the maximum training and development of all employees. The Service agrees to develop and maintain forward-looking effective policies and programs designed to achieve this

purpose, consistent with its needs.

B. The Service and the Union recognize that each employee is responsible for applying reasonable effort, time, and initiative in increasing his or her potential value to the Service through self-development and training. Employees are encouraged to take advantage of training and educational opportunities needed to increase their efficiency in the performance of their duties and for possible advancement in the Service.

C. The nomination of employees to participate in training and career development programs and courses shall be based on Service needs but will be free of personal favoritism.

D. The Service agrees to make available to employees training opportunities and seminars consistent with Service goals. Employees may be granted variations within the normal workweek, including leave without pay, for educational purposes consistent with Service needs.

E. The Service encourages the individual employee to develop a personal plan for career self-development. In developing this plan the employees may seek counselling and advice from his or her supervisor. (See Article 4, Section G, for permission to contact personnel office or higher level supervisor for advice.) The Service agrees to provide lists and catalogs on available Service training.

F. The Service agrees to provide appropriate training in trainee level positions according to its needs and provide employees with information about that training.

G. The Service will maintain records for all employees who receive Service training.

H. To assist in the implementation of the electronics technician's training program, consideration will be given to filling vacancies at the trainee level where Service candidates are not fully qualified for journeyman positions.

I. The Service encourages the Union to submit recommendations to the Commissioner or the Regional Directors concerning employee training needs and programs.

J. See Appendix III and Appendix IV for agreements relating to BORTAC and Pilot Training.

K. The Service agrees to provide refresher or advanced training in accordance with established Service policies.

## Article 16

### **Classification**

A. The Agency encourages the Union to make known to the Agency its views on the adequacy or inadequacy of occupational classification standards. The Agency agrees to consider the Union's oral or written views concerning the occupational classification standards and will notify the Union, in like manner, of any action taken.

B. Classification decisions rendered by the Agency or OPM having the effect of establishing a grade level within an occupation, hitherto nonexistent in that occupation, will be forwarded by the Region in which the action is taken to Headquarters for circulation of that decision and the basis for that decision to all other Regions. This information will be considered where appropriate in the subsequent classification of similar positions within the occupation throughout the Agency.

C. When the employee designates the Union as the employee's representative in a classification appeal the representative may discuss the classification appeal with the classifier prior to the beginning of a desk audit. Sufficient time shall be allowed prior to the beginning of the desk audit for the designated representative and the classifier to arrange a mutually agreeable

meeting date to discuss the classification appeal. The classifier will summarize his or her findings for the appellant and the Union representative.

D. Headquarters and Regional Classifiers will continue to make visits to field position locations to conduct desk audits of the different Agency positions. Notice of the visit of the classifier will be posted as far in advance as possible on the bulletin board of the station he or she intends to visit.

E. The Agency will provide every employee of the Service with an accurate description of the duties which may govern his or her grade. The employee will be encouraged to discuss any changes or inaccuracies with the supervisor who will also maintain a continuing review of duties.

F. If an employee has a question concerning his or her classification or position description, he or she is entitled to discuss his or her position description with his or her supervisor. Upon request of the employee, a Union representative may be present during this discussion. If the employee wishes to further pursue the question, he or she may forward a written request to the Servicing Human Resources Office. The Servicing Human Resources Office will either answer, or acknowledge receipt of, the request in writing within 30 calendar days, providing an estimate of the additional time needed to reply.

G. The parties agree that, except where the Agency would be impeded in carrying out its overall law enforcement mission, duties not specified in an employee's position description, or reasonably related thereto, will be avoided unless temporarily required by the needs of the Agency.

H. The parties recognize that details to other positions and activities are necessary and an integral part of mission accomplishment. Details to other activities or to higher graded positions

for fifteen (15) consecutive workdays or more will be documented by memorandum to the employee with a copy to his or her official personnel folder. The Service will not use details to avoid filling positions at a higher grade level, nor will they be made on the basis of personal favoritism. Should the requirements of the Service necessitate an employee's being detailed to a lower position, this will in no way adversely affect the employee's salary, classification, or job standing.

If a detail of more than 60 calendar days is made to a higher grade position, or to a position with known promotion potential, it must be made under competitive promotion procedures.

If an employee alleges that a detail violates FPM regulations or this agreement, he or she may file a grievance under the negotiated grievance procedure.

#### Article 17

#### **Safety and Health**

A. The Service agrees to provide safe and healthful working conditions, taking into account the mission of the Service and the inherent hazards of the job performed.

B. The Service agrees to maintain a joint Union-Management Safety and Health Committee in each Sector. The Committee shall be composed of at least one representative of Management and one representative of the Union. The Union representative shall be selected by the Union.

The Committee shall:

- (1) Meet as often as necessary upon request of either party;
- (2) Make inspections of the facilities annually;
- (3) Make recommendations to the appropriate management official for the correction

of unsafe or harmful conditions and the elimination of unsafe or harmful work practices;

(4) Promote health and safety education; and

(5) Make recommendations for awards relating to safety which will be forwarded through official channels to the appropriate offices for action.

The names, duty stations and telephone numbers of the joint Safety and Health Committee will be posted on all official bulletin boards.

C. The Union agrees to participate on the Committee and will endeavor to have its members observe all safety rules and use all equipment and safeguards provided. Members of the Committee, upon request and with the approval of the designated management official, shall be allowed to leave their work, for the purpose of performing their duties as outlined in this Article, without loss of pay or charge to leave.

D. In the course of performing their normally assigned work, employees will be alert to observe unsafe practices and conditions. If an unsafe condition is observed, the employee shall report it in writing to a member of the Union-Management Safety and Health Committee.

(1) The Committee shall meet within seven (7) calendar days of notification that a question has arisen and shall issue its recommendations in writing to the designated local management official no later than fourteen (14) calendar days after their meeting. In the event that the members of the Committee do not agree on the recommendations, any of the members shall have the right to express a written minority view. It shall be the responsibility of both parties to insure the availability of the committee representative within the stated time limits.

(2) The written decision or an interim response of the Service shall be rendered within fourteen (14) calendar days after receipt of the Committee's recommendations.

E. In the case of identical grievances on Safety issues arising under this section, involving two or more Sectors, subject to the consent of the employees involved, one safety grievance shall be selected by the Union for processing. All decisions for that grievance will be binding on the other safety grievances.

F. Service policy prohibits the use of vehicles not in safe operating condition. Negligence in reporting vehicle damages may be grounds for disciplinary action being taken against the responsible operator.

G. When an employee believes he or she is being required to work under conditions which are unsafe or unhealthy beyond normal hazards inherent in the operation in question, he or she shall refer the matter to his or her supervisor. The supervisor will make an evaluation of the working conditions, and direct that the work either be continued or stopped.

H. Copies of reports furnished to the Department of Labor in compliance with E.O. 12196, "Occupational Safety and Health Program for Federal Employees" will be available to the Union.

I. To the maximum extent possible, employees assigned to duties in an office should be accorded an uninterrupted lunch period between the third and fifth hours of duty where lunch periods are customarily taken. The Service shall provide clean and healthful lunch rooms, at offices where lunch facilities are available, for the consumption of food.

## Article 18

### **Injury Compensation**

A. When employees or their representatives report an illness or injury has occurred in the performance of official duties, the employees at their request will be promptly counseled

by trained personnel as to their right to file for compensation benefits and the benefits payable. The employee also shall be advised as soon as possible that, when traumatic injury leave has been exhausted, compensation benefits can be used in lieu of sick or annual leave. The agency will give appropriate assistance to the employee in filing a compensation claim.

B. The Agency and Union understand that injury compensation cannot be paid for any period when an employee is on paid leave. If, when traumatic injury leave has been exhausted, the injured employee has sick or annual leave to his or her credit, he or she may decide whether to use all or part of it before applying for injury compensation. If the employee should be charged for sick or annual leave (or if he or she is so charged because he or she was not informed of the possibility of injury compensation benefits), he or she may repay in a lump-sum or by any other plan acceptable to his or her payroll office, the amount collected while on annual or sick leave. This repayment would permit him or her to qualify for injury compensation provided all other conditions are met.

C. Employees will be permitted to review documents relating to their claim which the Office of Workers' Compensation and Servicing Human Resources Office have authorized to make available. Employees may be accompanied by their designated representative if they so desire.

## Article 19

### **Fitness for Duty Examination**

A. In directing employees to undergo a fitness for duty examination, the Agency will observe applicable rules and regulations.

B. Employees will be advised of their right to have a Union representative at any time allowed, or not prohibited, by OPM procedures.

## Article 20

### **Disabled Employees**

A. Any employee who has been injured or incapacitated and able to perform limited duty will be assigned to such duties that he or she is able to perform, when such duty is available, until he or she has recovered from the injury or incapacitation. Employees will be eligible for recommendation for promotion although they are serving in limited duty status.

B. An employee who suffers a compensable illness or injury and later, within one year after commencement of benefits, recovers from such illness or injury and meets the physical requirements of the position to which he or she is being assigned will be restored to duty in the former or an equivalent position in accordance with 5 USC 8151 and 5 CFR 353.307 et seq.

C. The Service shall, if the injury or disability is overcome within a period of more than one year after the date of commencement of compensation, make all reasonable efforts to place, and accord priority to placing, the employee in his or her former or equivalent position, in accordance with 5 USC 8151 and 5 CFR 353.307 et. seq.

## Article 21

### **Personnel Files**

A. No derogatory material of any nature which might reflect adversely upon the employee's character or Service career will be placed in his or her Official Personnel File (OPF) or Employee Performance File (EPF) without his or her knowledge.

In the interest of strengthening supervisor-employee relationships, supervisors will discuss employee work performance or work deficiencies with the involved employee(s) on a timely basis.

B. Upon written request of the employee concerned, his or her OPF, EPF, position

description and classification standards will be made available to the employee or his or her representative for his or her information in the processing of any complaint, grievance, adverse action or allegation of discrimination. Such material will be made available as soon as possible for review in the office of a supervisory official of the Service during the normal business hours of that office. The employee or his or her representative will be assisted by the Service in obtaining machine copies of the position description, classification standards, or such material from the official personnel file as may be needed by the employee in connection with the matter which forms the basis for the review.

When the Union is designated as the representative of an employee, it will furnish the name and address of the representative to the Service in writing and copies of all correspondence addressed to the employee will be furnished to the representative.

C. When an employee requests to review any of the items for the purpose stated in Section B, that are maintained in the Administrative Center, such material will be promptly forwarded to the Chief Patrol Agent and appropriate arrangements for review will be made by him or her.

## Article 22

### **Equal Employment Opportunity**

A. The Service and the Union agree to cooperate in providing equal employment opportunity for all qualified persons; to prohibit discrimination because of age, sex, race, religion, physical handicap, color, or national origin; and to promote full realization of equal employment opportunity through a positive and continuing effort.

An EEO committee will be established in each Sector where such committees do not

already exist, to give advice to the Service in developing and implementing the program. Service representatives and one Union representative will serve on each Committee. All representatives will be working members of the Committee with the same rights and responsibilities as the other members.

EEO committees will meet quarterly during duty hours and in duty status. This does not preclude the CPA or Regional Director from approving duty time for committee meetings during other than normal duty hours if such approval is warranted and is requested in advance.

B. The Service and the Union will support and strive for the realization of the following listed EEO programs:

- (1) A more balanced representation of minority groups and women in Officer Corps positions.
- (2) Upward Mobility of clerical and other support personnel into occupations with greater career advancement potential as identified by the Service.

C. The Service and the Union agree that the upward mobility and career programs are of paramount importance. The Council President may submit to the appropriate Regional Office or to the Headquarters, his or her specific written recommendations including the suggested methods of implementation relating to the upward mobility and career development programs within the Service.

D. The Service agrees to furnish semi-annually to the Union two copies of raw statistical EEO reports sent to the OPM. The Service will brief Regional and Sector representatives on the status of local EEO programs at the Regional and Sector meetings held in accordance with Article 3 of this agreement. The Service will accept and consider any written proposal furnished

by the Council President for use in updating EEO plans of action.

E. It is the practice of the Service to appoint and train at least 50% of the Equal Employment Opportunity Counselors from the bargaining unit. The Service is committed to this principle. Pursuant to 5 U.S.C. § 7106, however, the Service retains the right to change this practice. If the Service elects to do so, it will notify the Union in accordance with Article 3A, Section A. of this agreement and will, upon request, negotiate with the Union to the fullest extent required by law.

Candidates selected shall meet the criteria established by the program and will be trained in accordance with the provisions of applicable regulation. Counselors will serve under the direction of the Service's Director of Equal Employment Opportunity.

F. The Service agrees to furnish to the Union an annual summary of the number and types of discrimination complaints received.

G. In accordance with appropriate regulations, where corrective or remedial action to be taken as a result of adjudicatory procedures would appear to conflict with a provision of a negotiated agreement, management shall provide the Union with reasonable notice and the opportunity to bargain to the fullest extent required by law. To the maximum extent permitted by law, the agency will maintain the *status quo* until its collective bargaining obligations have been fully satisfied.

## Article 23

### **Reduction in Force, Transfer of Function, Reorganization**

A. The Service and the Union jointly recognize that occasions may arise where adjustments of the work force may be necessary either by reduction-in-force, transfer of function,

or reorganization. When such adjustments involve release of employee(s) from competitive level or area, they will be conducted in accordance with this Article.

B. (1) A reduction-in-force means the release of employees from their competitive level by separation, demotion, furlough for more than 30 days, or reassignment requiring displacement; when lack of work or funds, reorganization, reclassification due to change in duties, or the need to place a person exercising re-employment or restoration rights requires the Service to release the employee.

(2) Transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another commuting area.

(3) Reorganization means the planned elimination, addition, or redistribution of functions or duties in an organization.

C. Prior to official notification of employees, the Council will receive at least thirty (30) days advance notice of any pending reduction-in-force, transfer of function or reorganization. This notice, in writing, will include the reasons for the reduction-in-force or transfer of function or reorganization, the approximate number and types of positions affected, the approximate date of the action, and an invitation to the Union to a meeting conducted by the Service to explain the reduction-in-force or transfer of function or reorganization procedure, and answer relevant questions.

D. The Service will attempt to minimize actions that adversely affect employees which often follow a reduction-in-force by using, to the extent feasible, attrition to accomplish reductions. All reductions-in-force will comply with applicable laws and regulations.

E. The Service agrees to provide affected employees as much advance notice of reduction-in-force or transfer of function or reorganization as is administratively possible, but in no case will such notice be less than 30 calendar days. All such notices shall contain the information required by OPM regulations. When a general notice is issued to employees, a specific notice will be given the employee not less than five (5) calendar days preceding the effective date of the action.

F. All reductions-in-force (RIFs), transfers of function and reorganizations will be carried out in compliance with laws, and any alleged violation of applicable laws and regulations will be subject to review under the negotiated grievance procedure beginning at Step 3 of Section

E. With regard to RIF actions which would otherwise be appealable to the Merit Systems Protection Board, an employee who alleges a violation of a prohibited personnel practice under Section 2302(b)(1) of Title 5, U.S. Code may elect either to appeal to the Merit Systems Protection Board or under the negotiated grievance procedure, but not both.

G. Employees receiving a reduction-in-force notice have the right to review retention lists pertaining to all positions for which they are qualified. This includes the retention register for their competitive level and those for other positions for which they are qualified, down to and including those in the same or equivalent grade at the position offered by the Service. If separation occurs, this includes all positions equal to or below the grade level of their current positions. Affected employees shall have the right to the assistance of the Union when reviewing such lists or records.

H. Affected employees shall have a minimum of five (5) calendar days in which to accept or reject, in writing, an offer of another position. Failure of employees to respond, in

writing, to the offer within the time limits will be considered a rejection of the offer.

I. The Service will:

(1) inform employees of plans for the transfer of function and the governing regulations after a decision has been made;

(2) notify the employee of the proposed plan, in writing, so that the employee will be able to consider the action and give a reasonable answer. Where the transfer of function is to another commuting area, the employee shall have not less than 30 calendar days to accept or reject the position offered;

(3) assist and counsel affected employees in seeking placement opportunities with other Federal Agencies or elsewhere in the community;

(4) counsel employees on individual rights relating to such matters as retirement and severance pay.

J. In the event career or career-conditional employees are separated by reduction-in-force, the Service will refer these names to the Department of Justice for inclusion on the appropriate reemployment priority list in accordance with governing regulations. Employees will be given preference for reemployment consistent with governing regulations. The Service will provide affected employees information regarding employment possibilities with other Government agencies, retirement, severance pay, and other benefits available to them.

K. If, as a result of a reduction-in-force or a transfer of function, an employee is reassigned to a new position, the Service agrees to comply with all applicable laws and regulations requiring that it provide employees a fair opportunity to attain satisfactory performance.

L. The parties agree that technological changes such as automation and reengineering

are desirable for the efficient operation of the Service. However, decisions and actions concerning the impact of these changes should be made with a full awareness of employee morale. In light of this, when such changes affect the classifications, or status, of positions covered by this agreement, the Service will meet with the Union to discuss these changes. The Service will attempt to minimize the adverse impact of these changes by using attrition and reassignment.

M. In the event of a transfer of function or reorganization of Service activity to another government entity, the Service will solicit the cooperation of the gaining agency in explaining the ramifications of such a change to the Union.

N. Nothing in this Article shall be interpreted as a waiver of the Union's right to initiate bargaining over impact and implementation, as provided for by 5 U.S.C. 7106(b)(2) & (3), on any proposed reduction-in-force, transfer of function or reorganization. Absent mutual agreement to do so, no such bargaining will include reopening the provisions of this Article.

#### Article 24

##### **Acceptable Level of Competence - Within Grade Increases**

All determinations that an employee's work is not at an acceptable level of competence and any subsequent actions shall be governed by applicable laws and regulations 5 U.S.C. § 5335 and 5 C.F.R. Part 531). Current laws and regulations include a requirement that the Service provide such employees with a written notice setting forth the reasons for any negative determination and the respects in which the employee must improve his or her performance in order to be granted a within-grade increase, and informing the employee of his or her right to request that the appropriately designated Service official reconsider the determination.

All notices informing employees of their right to request reconsideration shall set forth all



of the statutory and regulatory requirements governing such matters in effect at the time of the negative determination.

## Article 25

### **Uniforms**

A. The employer has determined that the maintenance of a uniformed force of employees will promote the law enforcement mission of the Service. Accordingly, determinations regarding which employees will wear a uniform and when, where, and under what circumstances the uniform or uniforms determined to be appropriate will be worn are rights reserved to management.

B. Only uniform items officially approved by Service headquarters will be worn by employees. The employer shall maintain listings of the officially approved items within each Sector, and shall maintain a uniform program under which agents may obtain uniform items either through payment of a uniform allowance or, at the discretion of the employer, through a voucher system.

C. The agency will notify and discuss with the Union, all proposed uniform changes, additions and deletions, prior to circulation to the field.

D. Unless it is definitely known that three types of dress shall be required for performance of duty on detail (TDY), requirement for transporting uniforms shall be limited to either the rough duty or dress uniforms in addition to appropriate clothing for plain clothes duty.

E. Uniformed personnel will be required to wear name plates with the wearer's initial and last name, unless otherwise determined by the agency.

F. The Sam Browne Shoulder Strap shall not be part of the uniform for all non-

Supervisory Border Patrol Agents.

G. (1) The basic uniform allowance received in the first year of employment shall be sufficient to purchase the required minimum number of uniform items required by Service policy. Its use may be restricted by the Service as follows: The initial uniform purchase shall consist of only those items required for training at the Border Patrol Academy. The balance of the basic allowance may be used to purchase those items needed for graduation from the Border Patrol Academy and all other items required by Service policy during the first year of employment.

(2) The replacement uniform allowance received in the second and subsequent years of employment shall be the maximum amount allowable under law.

H. In the event the Employer is not legally able to pay the uniform allowance in Section G, the Employer will furnish the employees any and all uniform items the employees may be required to wear.

I. Local management will determine the periods of time, the tours of duty, and assignments during which the summer or winter uniform will be worn.

## Article 26

### **Travel and Per Diem**

A. Travel or any extension thereof will, to the maximum extent possible, be authorized or ordered in advance in sufficient time for the employee to have in his or her possession a travel advance prior to starting such travel.

B. The Service agrees to make every effort to avoid requiring employees to perform continuous automobile travel for more than eight hours in any work day or to travel on assigned days off.

C. The sole purpose of a travel advance is to provide the employee with funds to sustain himself or herself when performing official travel. Travel will be authorized to the maximum extent possible in sufficient time for the employee to have in his or her possession a travel advance. The travel advance shall be returned promptly upon cancellation or indefinite postponement of the travel for which the advance was made.

D. It will be the responsibility of a traveler to submit a travel voucher in accord with Section E of this article, and to return any excess of the travel advance over reimbursable travel expenses concurrently with the voucher.

E. Travelers are required to submit travel vouchers within five (5) work days after completion of travel or each thirty (30) days, whichever occurs first, exclusive of full days on emergency work assignments, leave, or union related duties. In no event will more than seven (7) calendar days be excluded for union related duties.

F. When an employee has not submitted a travel voucher within the above time limits, the employee's immediate supervisor shall discuss the matter with the employee in order to ascertain why the voucher has not been completed. Absent the exceptions noted above or other good and sufficient cause, the supervisor will direct the employee to submit a voucher in not less than four (4) calendar days after the required discussion with the employee takes place.

Preparation and submission of vouchers shall not be delayed for lack of sufficient receipts. A reclaim or supplemental voucher shall be submitted when the traveler has obtained the necessary receipts not available when the initial voucher was filed.

G. If a dispute exists as to the propriety of an expense claimed on a voucher, any excess of a travel advance over the undisputed portion of the claim will be collected from the

employee or withheld from the employee's salary pending resolution.

H. If an employee is not reimbursed for properly claimed expenses within twenty (20) work days after filing his or her travel voucher, he or she may request, through supervisory channels, that the processing of the voucher be expedited. If an employee's Government credit card account becomes delinquent because the Service failed to process a voucher in a timely manner, the Service will expedite the processing of the voucher and will contact the credit card contractor and explain that the employee is not at fault.

I. Absent emergency circumstances, supervisors will allow sufficient time during regularly scheduled tours of duty for preparation of travel vouchers.

J. The recovery of outstanding cash travel advances shall be accomplished in accordance with the provisions of Appendix V.

K. No disciplinary action may be taken for failure to submit a travel voucher or repay a travel advance until all procedures of this Article have been exhausted and the employee has been notified in writing that failure to comply may result in disciplinary action. However, disciplinary action may be taken for insubordination if an employee fails to respond to direction by his or her supervisor, in accordance with Section F of this agreement, to prepare and submit a travel voucher.

L. Disputes over the interpretation and application of this Article may be presented under the grievance procedure in Article 32 of the Agreement.

M. Disputes over what expenses are reimbursable may only be grieved or appealed by presenting such claim in the following steps: (1) An appeal will be sent to the appropriate Administrative Center Finance Director. (2) If the employee has not received a determination

within thirty days, or the employee is dissatisfied with the decision of the Administrative Center Finance Director, the employee may then submit the claim (no specific format) to the: Claims Group, Financial and General Management Studies Division, U.S. General Accounting Office, 441 G Street, NW, Washington, DC.

N. The Service agrees that for operational details requiring advance planning, as much advance notice as possible will be given to employees selected for the detail.

O. Except for training courses, details away from the normal duty station will not exceed 35 calendar days, unless the employee volunteers for a longer period.

#### Article 27

#### **Overtime—**

#### **Other Than Uncontrollable Overtime**

A. Overtime assignments will be distributed and rotated equitably among eligible employees. Supervisors shall not assign overtime work to employees as a reward or a penalty, but solely in accordance with the Service's need. Complaints or disagreements on distribution of overtime shall be processed in accordance with the negotiated procedure.

Necessary records (the bi-weekly duty schedule and the time and attendance report) will be maintained by the Service in accordance with the established retention schedule and made available to all employees or their designated representatives upon request.

B. All employees in an overtime status will perform the duties of the position to which assigned. They will wear the necessary uniform and identification that the duties of the position require.

C. To the extent that local conditions warrant and space and resources are available,



the Service agrees to provide suitable space for changing uniforms and lockers for storage of employee uniforms.

## Article 28

### **Tours of Duty**

A. The parties to this agreement recognize that for employees engaged in law enforcement activities, and their required support personnel (normally those employees working under the jurisdiction of a Border Patrol Sector), the employer shall establish, maintain, and change those shifts, tours of duty and hours of work to best promote the efficient and effective accomplishment of the mission and operations of the Service.

B. Assignment to tours of duty shall be posted five days in advance in the appropriate work area covering at least a two week period.

C. Except in an emergency, the Agency agrees to schedule eight (8) hours between changes in shifts, and when practical will schedule more time between shifts.

D. The Service agrees that it will attempt to assign consecutive days off duty consistent with the Service's mission.

E. The Administrative workweek shall be seven consecutive days, Sunday through Saturday.

F. Breaks in working hours of more than one hour shall not normally be scheduled in any basic workday.

G. When practical, an employee shall be given at least 24 hours advance notice of individual shift changes. Individuals involved in a change of shift should be notified of the reason for the change.

H. Any employee may retain a carbon copy of his or her DJ-296 and/or Form I-50 if he or she so desires.

I. Where mutually agreeable to all employees affected, and approved by the supervisor, employees may trade shifts out of the normal rotation. The supervisor will not unreasonably withhold approval of a request to trade shifts.

J. The basic non-overtime workday shall not exceed eight (8) hours.

## Article 29

### **Grooming and Appearance**

A. Subject to Section D of this Article and any applicable bargaining obligations under the CSRA, the Service retains the right to establish reasonable grooming standards for all employees. Any grooming standards so established for uniformed officers will be designed to promote their image as professional law enforcement officers.

B. Every effort will be made to consistently and fairly apply established grooming standards.

C. In accordance with the procedures set forth in Article 33 (Grievance Procedure) and Article 34 (Arbitration), the Union reserves the right to grieve and arbitrate the validity of any grooming standards established unilaterally by the Service. In ruling upon any such grievance, the Arbitrator shall be guided by the principles contained in this Article. Questions as to the application of the grooming standards are also subject to grievance and arbitration in accordance with the procedures set forth in the Grievance Procedure and Arbitration Articles.

D. Head and facial hair, including sideburns and moustaches, shall be neatly trimmed and clean, and shall neither interfere with the wearing of the required uniform nor constitute a

safety hazard or an impediment to the employee's ability to properly perform his or her assigned duties. Beards shall not be permitted, except for medical and religious reasons. Hair will not be worn below the outer portion of the shirt collar, nor completely cover the ears, nor cover any portion of the eyebrows.

The Service bears the burden of demonstrating that a particular employee's grooming violates the established standards as a result of the provisions of this Section D.

#### Article 30

### **Equal Pay for Equal Work**

The Agency and the Union agree to the principle of equal pay for equal work as set forth in 5 U.S.C. § 2301(a)(3). The Agency shall cooperate fully in processing alleged violations of this law under any applicable procedures which may be provided by law or regulation.

#### Article 31

### **Formal Meetings and Investigative Interviews**

A. The Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Service and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment.

B. (1) The Service will provide the Union (or another person of the employee's choice not involved in the investigation) the opportunity to be represented at any examination of an employee in the unit by a representative of the Service if:

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

b. the employee requests representation.

(2) The employer will advise employees in the unit of this right annually and will post the annual notice throughout the year on bulletin boards where notices for employees are normally posted.

(3) The Service agrees prior to taking a written or sworn statement from an employee, or when an employee is going to be interrogated before witnesses which may lead to disciplinary action against the employee, he or she will be advised in writing of his or her right to be represented by the Union.

The failure to obtain representation will not delay the interrogation by more than 48 hours from the time the employee receives notice of the interrogation. The employee and the Union will promptly designate the representative and make reasonable efforts to minimize the delay. Upon request, a reasonable extension of time will be granted when the representative must travel more than 100 miles to represent the employee.

C. Normally, an employee who is a witness in an investigation is not entitled to Union representation; however, an employee who is requested to give information concerning another person and who refuses to do so voluntarily will be entitled to representation upon request if he or she reasonably believes that the examination may result in discipline against him or her.

D. (1) Any guarantee of administrative immunity offered to induce the employee to submit to interrogation will be bona fide and in writing, with a copy provided to the employee and his or her representative.

(2) This provision is intended to provide information to bargaining unit employees and does not affect the right of the Department of Justice to determine the functions to

be performed by its officials: Under 18 U.S.C. § 6003, no official of the Service is authorized to grant criminal immunity, which is a matter totally within the control of the U.S. Attorney and the appropriate Division within the Department of Justice. Service investigators may, however, inform employees that the U.S. Attorney has declined criminal prosecution in a matter under investigation and that, consequently, those employees are obliged to answer questions about that matter. In all such instances, no information gathered during the interrogation may be used against the employee in a criminal proceeding.

E. Investigative interviews undertaken on behalf of the Service may be conducted at any reasonable hour. However, investigators will make reasonable efforts to consider such factors as employee fatigue and schedules of designated representatives when scheduling interviews. Nonetheless, where an employee is directed to appear for an interview, all hours spent in the interview shall be compensated at an appropriate rate.

F. Where an employee is asked to certify to the correctness of a transcript of a prior investigative interview, he or she shall be afforded upon request the opportunity to review any recording of the interview by arrangements with appropriate management.

## Article 32

### **Disciplinary and Adverse Actions**

A. When the Union is designated as the representative in a disciplinary or adverse action, the employee will furnish to the Service written designation and authorization on Appendix VIII. The designation and authorization form will serve to release to the representative the information and documents which, as provided in this Article and relating to the disciplinary or adverse action, the employee is entitled to receive. Information and documents which are not

releasable will not be used in taking a disciplinary or adverse action. The designation and authorization will include the name and address of the representative where the Service will promptly provide the material and copies of all correspondence addressed to the employee. If time and distance are factors in the designation and authorization, it may be furnished to the local supervisor in writing and that supervisor may attest to its authenticity by telephone to the releasing official.

B. When the Union is not designated as the representative in a disciplinary or adverse action, the Union will be furnished with sanitized copies of the notice of proposed action, final actions taken, and decisions on any subsequent appeals (except that published decisions of adjudicating bodies need not be sanitized). Sanitized copies are copies from which all identifying information (for example, name and social security number) has been removed. Copies furnished shall identify the issuing Sector, but information identifying lower organizational levels will be deleted. The Union agrees to provide the Service with a list of representatives designated to receive such notices.

C. The disciplinary actions covered by the provisions of this Article are written reprimands, suspensions of fourteen (14) calendar days or less, and disciplinary transfers. Any dispute concerning the disciplinary nature of an action involving relocation of an employee may be referred as a threshold issue in an arbitration under Article 34 (Arbitration).

- D. An employee against whom a disciplinary action is proposed is entitled to:
- (1) an advance written notice stating the specific reasons for the proposed action;
  - (2) a ten day response period, extended for good cause, to answer the notice orally and/or in writing, and to furnish affidavits and other documentary evidence in

support of the answer; if an oral reply is made, the employee and representative will normally be present; however an employee may be represented by the representative alone for valid medical reasons;

- (3) upon request, a copy of the material relating to the proposed action, regardless of whether relied upon in the proposed action;
- (4) be represented by an attorney or other representative;
- (5) a formal written decision, and the specific reasons therefor, by an official other than the official who proposed the action. The deciding official will consider only the reasons specified in the notice and the material in the investigatory and disciplinary files, and shall consider any answer of the employee and his or her representative.

E. Adverse actions are removals, suspensions for more than fourteen (14) calendar days, reductions in grade or pay, and furloughs of thirty days or less.

F. An employee against whom an adverse action is proposed is entitled to:

- (1) at least thirty (30) calendar days advance written notice, unless there is a reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, in which case he or she is entitled to at least seven (7) days advance written notice. The specific reasons for the action must be stated. If fewer than thirty (30) calendar days advance written notice is provided, the specific reasons for the belief that a sentence of imprisonment may be imposed must also be stated.
- (2) a ten day response period, extended for good cause, to answer the notice orally

and/or in writing, and to furnish affidavits and other documentary evidence in support of the answer(s). If an oral reply is made, the Service will prepare a summary of the reply. The employee may review the summary, make corrections, and submit his or her version of the summary. If an oral reply is made, the employee and representative will normally be present; however, an employee may be represented by the representative alone for valid medical reasons.

- (3) upon request a copy of the material relating to the proposed action, regardless of whether relied upon in the proposed action;
- (4) be represented by an attorney or other representative;
- (5) a final written decision, and the specific reasons therefor, by an official other than the official who proposed the action. The deciding official will consider only the reasons specified in the notice and the material in the file, and shall consider any answer of the employee and his or her representative.

G. The employer shall furnish employees with notices of proposed disciplinary/adverse actions at the earliest practicable date after the alleged offense has been committed and made known to the employer. It is understood criminal investigations outside the control of the employer may be prolonged; in such cases, the employer shall furnish notice at the earliest practicable date after the employer has obtained control over the matter under investigation.

H. Where investigations have been unduly prolonged because they are not within the administrative control of the employer, a reasonable extension of the response period to the proposed disciplinary or adverse action will be granted by the Employer, upon the request of the employee or his or her representative. In addition, except where time limits are provided by law

or applicable government-wide regulation, time limits in this Article will be extended for good cause.

I. An employee who is dissatisfied with the decision on any disciplinary or adverse action may file a grievance under (1) or (2) below. Removals, suspensions for more than fourteen (14) days, reduction in grade or pay, and furloughs for thirty (30) days or less are also appealable to the Merit Systems Protection Board. An employee cannot file both a grievance and an appeal with the MSPB. Once an employee files a written grievance, or a timely MSPB appeal, he or she may not pursue the other procedure.

(1) In the case of an official reprimand, the grievance processing shall begin with Step II in Article 33 (Grievance Procedure) of this Agreement and continue through successive Steps.

(2) In the case of a suspension of fourteen (14) days or less, disciplinary transfer, or an adverse action, the employee may request the Local to pursue the grievance without intervening Steps, through arbitration procedures in Article 34 (Arbitration) of this Agreement. The Service's Notice of Decision shall represent the Service's final decision referred to in Section A of Article 34 (Arbitration).

J. Any disciplinary or adverse action which is later found to have been unwarranted shall be removed from the official file of the employee and destroyed and the employee so notified in writing.

K. No record of a complaint, determined to be unfounded, will be placed in the employee's Official Personnel Folder. Such complaint may, in the interest of the employee and the Service, be maintained in a subject file but will not under any circumstances be considered as a factor in connection with any disciplinary action, promotion, etc. Such subject file will be

maintained in accordance with the Service records retirement program.

L. It is recognized that all employees are expected to pay promptly all just financial obligations.

M. The parties agree that letters of reprimand, suspension of less than fifteen (15) days, and other adverse actions will be taken only for appropriate cause as provided in applicable law. Such cause, in the case of actions which are not based on unacceptable performance, shall be just and sufficient and only for reasons as will promote the efficiency of the Service.

N. Although termination of a probationary or temporary employee is not an appealable adverse action, the Service agrees that when it deems advance notice of termination to be in the best interests of the operations of the Service, the affected employee will be given two (2) weeks advance notice prior to the effective date of such action.

### Article 33

#### **Grievance Procedure**

A. The purpose of this Article is to provide a fair and simple means for the prompt and equitable processing of grievances. The negotiated grievance procedure shall be the exclusive procedure available to the Union and employees in the unit for resolving grievances which fall within its coverage, except as specifically provided herein. However, any employee or group of employees in the unit may present such grievances to the Service and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given the opportunity to be present during the processing and at the adjustment and furnished a copy of any written adjustment. The initiation or presentation of a grievance by employees will not cause any

reflection on their standing with or their loyalty to the Service.

B. Definition — A grievance means a complaint either by a unit employee concerning his or her conditions of employment, or by the Union in its own behalf or concerning conditions of employment of any employee. Unless excluded below, such a complaint may concern the adverse impact of:

(1) the effect or interpretation, or a claim of breach of this master Agreement, or other written agreement between the parties; or

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

Exclusion — This procedure does not cover grievances concerning:

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

(2) retirement, life insurance, or health insurance;

(3) a suspension or removal under Section 7532 of Title 5 U.S.C. for reasons of national security;

(4) any examination, certification, or appointment;

(5) the reclassification of any position which does not result in a reduction in grade or pay of any employee;

(6) a complaint of discrimination which is listed in 5 U.S.C. 2302(b)(1) if the employee has elected to use the statutory appeal procedure;

(7) 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 appeals procedure provided

under 5 U.S.C. 7701;

(8) as an interim procedure, until the negotiated Merit Promotion Plan is appended to the contract in accordance with Appendix II, Steps I, II, and III of the grievance procedure do not apply to the Administrative Manual Section applicable to the Merit Promotion and Reassignment Plan. Instead of referral to a grievance examiner under the Administrative Manual Section applicable to the Employee Grievance System, as referred to in the Administrative Manual Section applicable to the Merit Promotion and Reassignment Plan, the Union may invoke arbitration in accordance with Article 34. Grievances on appraisals described in the Administrative Manual Section applicable to the Merit Promotion and Reassignment Plan may be grieved starting at Step I of the negotiated grievance procedure;

(9) 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 or her representative in the matter.

C. Allegations by management as to grievability or arbitrability should be raised at the earliest practical time. However, the parties recognize that questions of arbitrability or grievability may be raised at any appropriate time. Management will attempt to raise such issues at the time that a decision is issued on the grievance at the level of the Headquarters or Regional Director, unless the basis of the grievability/arbitrability determination arises after that time.

D. The Agency and the Union agree that every effort will be made by management and the aggrieved party(s) to settle grievances at the lowest possible level. It is agreed that the employee and his or her representative will be given a reasonable amount of time to present the grievance. Upon request, a grievant and his or her Local representative may each be authorized

up to a maximum of 2 hours at Step I and 6 hours at Steps II and III of official time to prepare a grievance for presentation.

E. Step I: Informal grievances must be filed within thirty (30) calendar days after the incident occurs. This time limit will not apply where it is established that the employee had no way of being aware of the incident. The grievance shall first be taken up orally by the concerned employee with the first level of supervision in an attempt to settle the matter. He or she may, if he or she desires, be assisted in the presentation by a Union representative. The Union representative must be present if the employee so desires. If the employee presents a grievance directly to Service management for adjustment consistent with the terms of this agreement, the Union shall be given the opportunity to have an observer present on official time during the processing and at the time of the adjustment and will be provided with a copy of any written adjustment. The immediate supervisor shall take whatever action he or she deems appropriate to attempt to resolve the problem. If the supervisor is unable to do so, he or she shall so notify the employee as soon as possible, but no later than five work days after the presentation. At the option of the employee, he or she may pursue his or her informal grievance to the next higher level of supervision if that level is not one of the management officials cited in Step II. All aforementioned procedures for Step I shall apply at this level for informal resolution of the employee's grievance.

Step II: If the employee is dissatisfied with the results of the oral presentation, he or she may file a formal written grievance within 15 calendar days with the Chief Patrol Agent. The employee or the Union shall set forth in precise terms exactly what the grievance is; all the facts relating thereto, including the names of any individuals or entities against whom the grievance is made; the pertinent Article(s) and Section(s) of this Agreement in dispute;

the reason for dissatisfaction; and the corrective action desired. When the Union is designated as the representative of an employee in a grievance, the employee will also furnish the name and address of the representative to the Service in writing. The employee will also furnish the name and address of any witness(es). The Chief Patrol Agent or his or her designated representative will meet with the employee. The employee's Union representative may be present, in duty status, at the discussion with the employee. The Union will have the opportunity to have an observer present at the discussion, in duty status, when the Union has not been designated by the employee as his or her representative. When Service employees are called as witnesses, the employees will be considered to be in a duty status. A written decision will be rendered to the employee and his or her representative, if any, within twenty (20) calendar days after receipt of the written grievance. In all cases, a copy of the written decision will be provided to the Union. The written decision shall set forth in precise terms the basis for the decision.

Step III: If the employee is dissatisfied with the decision of the Chief Patrol Agent, he or she may, within fifteen (15) calendar days of receipt of the decision submit his or her grievance in writing to the appropriate Regional Director. The employee will include a copy of the written grievance he or she submitted under Step II and a copy of the written decision he or she received, as well as the reason for his or her dissatisfaction with the initial decision, and the corrective action desired. The employee will also at this time submit a copy to the officer who rendered the decision in Step II. Within thirty (30) calendar days after receipt the appropriate Regional Director or his or her designee will review the grievance, will obtain or direct to be obtained such necessary additional facts as he or she may deem appropriate including consultation with the employee and his or her representative, and shall give the employee and his or her

representative a written decision which shall include the basis for the decision including a statement of facts to support the decision. If the employee is dissatisfied with the decision, he or she may submit the grievance to the appropriate Local for a decision on whether to process the case through arbitration as provided in Article 34.

F. (1) Union initiated grievances may be submitted in writing (containing the same information required in Step II) within 30 calendar days of the incident by the appropriate Union representative or his or her designee to the appropriate management representative or his or her designee. The Union representative and the management representative shall discuss the matter as soon as possible. The management representative will obtain whatever additional evidence is necessary and will give the Union representative his or her written answer within 30 calendar days of receipt of the written grievance. If the grievance is not settled by this procedure, the Union may, within 15 calendar days, refer the matter to arbitration as described in Article 34 by written notification to the management representative.

(2) In the case of a grievance arising from an action initiated by or within a Sector, the appropriate representatives are the Council President and the Chief Patrol Agent; by a Region, the Council President and the Regional Director; by Headquarters, the Council President and the Executive Associate Commissioner, Field Operations.

G. In the case of identical grievances, one grievance may be selected by the Union for processing. The decision(s) on the selected grievance shall have binding application to the other grievances.

H. All time limits herein may be extended by mutual agreement of the employee or his or her representative and the Service. Failure of the Service to observe the time limits and

procedures for any Step in the grievance procedure shall entitle the employee or the Union to advance the grievance to the next step and present the additional violation to the arbitrator for adjustment.

I. All time limits of this grievance procedure, including arbitration, shall be controlling. Where, under the provisions of this Article, the time limit for taking an action falls on a weekend or a holiday, the action will be considered timely if taken on the next work day. Service will be by personal service, Certified Mail-Return Receipt Requested, Express Mail, Federal Express, or Mailgram.

J. Grievances will be filed at the level where the action being grieved was initiated. If management raises a valid argument that a grievance was filed at an improper level, the grievance will be considered timely if it was otherwise submitted in a timely manner, and will be forwarded to the level that the Agency designates as being responsible for the action being grieved.

#### Article 34

#### **Arbitration**

A. If the Service and Union fail to settle any grievance processed under the negotiated grievance procedure, such grievance, upon written request by the Union, may be submitted to arbitration within fifteen (15) calendar days from the date the Service's final decision is personally delivered or mailed. If service is by mail, five (5) additional calendar days shall be allowed.

In cases involving suspensions of less than fifteen (15) days, or adverse actions, requests for arbitration must be filed after receipt of the Notice of Decision, but not later than thirty (30) calendar days after the effective date of action.

B. Recognizing that both parties consider completion of the R-43 to be of concern and

that the Federal Mediation and Conciliation Service prefers joint submission of the form, each party will participate in completion of the Form. It is recognized that the parties may differ in their view of the issue, the area from which arbitrators may be drawn, and so forth. Accordingly, either party may provide information on the form that is to be submitted to the FMCS, and will allow adequate space for the other party to provide input on the R-43. The Union may either submit a written request to management for arbitration, or a completed R-43, to fulfill the requirement of Section A.

(1) If the Union submits a written request, management will prepare a R-43 and submit it to the Union, which shall provide its input, sign the form, and submit it to the FMCS within seven calendar days.

(2) If the Union submits a completed R-43 to management, management will provide its input, sign the form, and submit it to the FMCS within seven calendar days.

The parties shall telephonically select an arbitrator within seven (7) calendar days after receipt of such a list. If they cannot agree upon one of the listed arbitrators, the Service and the Union will each strike one arbitrator's name from the list of five and then repeat this procedure. The remaining person shall be the duly selected arbitrator.

C. Either party may withdraw its grievance or request for arbitration of a grievance at any time. However, where withdrawal of the grievance or arbitration request results in charges from an arbitrator based on tardy cancellation of a planned hearing, the party withdrawing the grievance or request for arbitration shall pay all such charges.

D. If for any reason either party refuses to participate in the selection of an arbitrator, the FMCS will be empowered to make a direct designation of an arbitrator to hear the case.

E. The arbitrator's fees and expenses shall be borne equally by the Service and the Union. Fees to be paid by the Service will be governed by existing regulations. The arbitration hearing will be held, if possible, on the Service's premises during the regular day shift of the basic workweek. In the absence of operational emergency circumstances, the Service shall, if provided two weeks notice of the arbitration hearing, rearrange schedules so that all participants receive reasonable official time to prepare for, participate in, and travel to and from hearings. Participants appearing for the Union will be entitled to applicable travel and per diem if roundtrip travel of more than 100 miles is required.

If each party elects to receive a transcript, each shall pay half the cost. Either party may elect to receive a transcript initially ordered by the other at any time up to the conclusion of the hearing. If either party does not elect to receive a transcript ordered by the other party, the transcript shall be made available for inspection when post-hearing briefs are exchanged. A request to correct the record may be made up to seven calendar days following the inspection.

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

If the arbitrator's decision has not been received within sixty (60) days after the closing of the record, the parties will go forward with a joint request to the FMCS calling for prompt issuance of the decision.

G. The arbitrator's award shall be final and binding on the parties. The award may be appealed, pursuant to law.

## Article 35

### **Negotiation of Supplemental Agreements**

A. AFGE Locals designated by the Union shall be allowed to negotiate a supplemental agreement covering all eligible employees in the Sector. It is understood there will be only one supplemental agreement per Sector.

B. Supplemental agreements are subject to review by the parties to ensure they do not conflict with the Master Agreement. Each party will, within 15 calendar days following execution of the supplemental agreement, notify the other of any provision which is alleged to conflict with the Master Agreement. The parties will discuss the provisions in question following notification in an effort to resolve the dispute; any continuing disagreement as to a provision will be resolved in accordance with Article 34 (Arbitration), based on the discussion and any other communication thereon not to exceed 15 calendar days following the discussion.

C. Matters appropriate for negotiation are defined by the CSRA of 1978.

## Article 36

### **Impasses in Supplemental Negotiations**

A. When it has been determined that an impasse has been reached, the item shall be set aside. After all negotiable items on which agreement can be reached have been disposed of, the parties shall once more attempt to resolve any existing impasse item.

B. If such consideration does not result in the resolution of the impasse, the assistance of the Federal Mediation and Conciliation Service may be requested by either of these parties.

C. Any impasse which remains unresolved following mediation may be submitted to the Executive Associate Commissioner, Field Operations and the National Headquarters of the



AFGE for consideration and referral to the Federal Service Impasses Panel in accordance with existing instructions and rules established by the Panel.

D. The procedure described above shall not preclude the parties from agreeing on any issues or from entering into complete agreement without the assistance of the Mediator or the Panel.

#### Article 37

##### **Merit Promotion Plan I**

The Merit Promotion Plan presently in negotiation will become part of this agreement as Appendix II, when approved by both parties.

#### Article 38

##### **Publicizing the Agreement**

A. The Service agrees to reproduce and distribute (5" x 7") copies of the Agreement, legibly printed, to all employees currently assigned to the bargaining unit. It is further understood that proof copies of the Agreement will be reviewed and approved by the Agency and Union prior to final printing.

B. In addition, the Service agrees to provide one hundred and fifty (150) copies of the printed Agreement to the Council President and fifty (50) copies to AFGE.

C. The Service agrees that at the time of orientation, all new Unit employees shall be advised that the Union has exclusive recognition and shall be furnished a copy of the Union contract together with copies of health insurance plans.

D. The Union will be advised in advance of all new employee orientation sessions and

will have the opportunity to make a fifteen (15) minute presentation during regular duty hours to the employees at the orientation. The union representative will be in a non-duty status and the Union's presentation will cover only labor relations law, provisions of the contract and Union-Management agreements.

## Article 39

### **Effective Date and Duration**

A. This agreement shall be considered executed on the date it has been signed by both parties' authorized representatives (or, if the representatives sign on different dates, on the date signed by the last of the two). Following agency head approval pursuant to 5 U.S.C. § 7114(c) (or failure of the agency head to approve or disapprove within 30 days of execution) the agreement shall become effective on the date of the ceremonial signing of the agreement by the Commissioner of the Service and the President of the Union Council. The parties agree to promptly schedule a signing ceremony.

B. The agreement shall remain in effect for three (3) years from its effective date. If either party subsequently desires to renegotiate this contract, it will furnish written notice to the other party containing the proposed changes not less than one hundred eighty (180) days but not more than two hundred ten (210) days prior to the termination of this agreement. If neither party desires to renegotiate the agreement, the parties shall execute new signatures and dates, and the agreement shall be renewed for a one (1) year period.

C. In the event notice is given by either party, renegotiations shall begin within sixty (60) days from the date of receipt of notice of the proposed changes.

## **APPENDIX I**

### **Dues Withholding**

#### Section I (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 Authorization Dues.”

D. Payroll Office: National Finance Center, U.S. Department of Agriculture. Reference to the Payroll Office is not intended to make the Payroll Office a party to this contract. The Payroll Office is referenced solely for informational purposes.

E. Servicing Human Resources Office (SHRO): The Human Resources office located in the appropriate Administrative Center.

#### Section II (Eligible Employees)

To be eligible to make a voluntary allotment for the payment of Union dues, an employee 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 III (Responsibilities of the Union)

The Union shall:

A. Inform and educate its members on the voluntary nature of the dues allotment program, including conditions governing revocation of allotments;

B. Purchase and distribute the SF-1187 Form to its members;

C. Certify on the SF-1187 Form the amount of dues to be withheld each biweekly pay period, and identify the Local to receive the dues deductions;

D. Promptly forward completed SF-1187 forms to the appropriate Servicing Human Resources Office;

E. Furnish written notification to the Servicing Human Resources Office concerning the names and titles of Local Union officials authorized to certify the SF-1187 form; and

F. Provide the appropriate Servicing Human Resources Office with written notification 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 (10) days of such determination; and

3. The name of any employee on checkoff who transfers from one Local to another; any change in the Local which receives dues deducted from check; and any change in the amount to be deducted occasioned by the transfer to a new Local.

G. In Sectors where there is more than one Local, each Local in a Sector shall have the right to process SF-1187's.

#### Section IV (Responsibilities of the Employer)

The employer shall:

A. Screen each Form SF-1187 at the Servicing Human Resources Office to ensure that only eligible employees are on the dues withholding listing. The Servicing Human Resources Office will also screen each promotion action to remove employees who are promoted or transferred out of the unit.

B. Receive in the appropriate Servicing Human Resources Office the SF-1187 form from the Union; certify on the SF-1187 form that the employee is a member of the bargaining unit; stipulate the bargaining group the employee is a member of by certifying the appropriate group in the upper right-hand corner of the SF-1187; and promptly forward the SF-1187 Form to the Payroll Office for processing.

#### Section V (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 completed SF-1187 form from the Servicing Human Resources Office, the Payroll Office shall arrange to withhold the Union dues in accordance with existing pay periods (26 biweekly periods) and procedures under which employees are regularly compensated.

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

3. Employees who meet the eligibility requirements for dues withholding (stated in Section II) and who have a current dues withholding agreement in effect on the date this Agreement is approved, need not execute a new SF-1187 form to come under the provision of this Agreement; PROVIDED, that this Agreement does not necessitate any change being made to their current allotment.

B. Changes 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 Servicing Human Resources 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 once every twelve (12) months.

3. Changes in the amount deducted for Union dues will be effective as soon as possible.

C. Termination of Allotments.

1. Automatically:

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

b. When the dues withholding agreement is terminated;

c. When an employee ceases to be eligible for inclusion in the Union in good standing, effective with the first complete pay period after receipt by the Payroll Office of written notice from the authorized Union official.

2. Voluntarily:

a. An employee may submit a written request, SF-1188, for the revocation of an allotment at any time. He or she may submit the request, in duplicate, to the Servicing Human Resources Office. Revocations will be effective the first full pay period following September 1, if the request is received in the Servicing Human Resources Office by September 1, or at one year after signing up for dues withholding.

b. Revocations by employees shall be in duplicate, preferably on the SF-1188 form, and shall be forwarded by the employee to the Servicing Human Resources Office. The Servicing Human Resources Office will forward the original to the Payroll Office for payroll records and the carbon shall be returned to the Union Local address provided on the SF-1188.

**APPENDIX II**

**MERIT PROMOTION AND REASSIGNMENT PLAN**

*To be included upon completion of negotiations.*

## **APPENDIX III**

### **BORDER PATROL TACTICAL UNIT**

This appendix sets forth the current agreement between the Service and the Union concerning the Border Patrol Tactical Unit. The Service reserves the right to change those parts of the agreement which pertain to matters specified in 5 U.S.C. § 7106(a). If the Service elects to do so, it will notify the Union in accordance with Article 3A, Section A of the Agreement, and will, upon request, negotiate with the Union to the fullest extent allowable under the law. Until such time as all phases of negotiations concerning said matters are completed, the Service will maintain the *status quo* with regard to any such proposed changes unless Federal law requires the changes by a date certain or, due to exigent circumstances, implementation is required for the necessary functioning of the agency.

1. The mission of the U.S. Border Patrol Tactical Team is to provide the Immigration and Naturalization Service with a specially trained and equipped tactical unit to address unusual situations within the service by use of special techniques. This team has deployment capability to any location on short notice.

2. Upon assignment as a member of BORTAC, the officer will be furnished a negotiable instrument representing an advance in an amount insuring that the employee does not have to spend his/her own money for travel expenses and a supply of Government Transportation Requests (SF-1169A) if required, not to exceed 10, to be used only for the purpose of conducting government business. If the advance is in the form of a check, it will not be cashed until the employee is notified that he/she is to travel. Any unused portion of the travel advance will be remitted with the submission of the travel voucher and a new advance will be issued. Nothing

herein will preclude the employee from obtaining a cash advance from the imprest fund if he/she is required to travel while a voucher and request for a new advance is being processed. Accountability for the travel advance and any unused GTR's that were required will be the responsibility of the BORTAC member and he/she may be required to present the same for inspection after reasonable notice. Failure to produce either travel advance, unused GTR's or any proven abuse of any negotiable instrument may be grounds for dismissal from the BORTAC Unit and may subject the employee to disciplinary action.

3. In accordance with applicable government-wide travel regulations, which appear as Exhibit 1 to INS AM 2501, where the employee's presence is required at a BORTAC worksite and public transportation is unavailable or its use impractical, the Immigration and Naturalization Service, to the maximum extent reasonable, shall insure that employees have access to a sufficient number of vehicles for use between the worksite and temporary lodgings and between either of the above places and suitable eating places, drug stores, barber shops, places of worship, cleaning establishments and similar places necessary for the sustenance, comfort or health of the employee to foster the continued efficient performance of government business.

4. Shift rotation and the assignment of overtime for all bargaining unit employees of the BORTAC Unit will be fair and equitable to the maximum extent possible consistent with the mission of the unit.

5. The uniform for the BORTAC Unit will be the official Border Patrol rough duty uniform. The Service will furnish any special items of equipment required by BORTAC which are not described in the Administrative Manual as part of the rough duty uniform. These items will be repaired or replaced by the Service as necessary. BORTAC members may be required to

perform preventive maintenance on the items of equipment issued to them (i.e., oilings, polishing, etc.)

6. Management will select BORTAC members from volunteers. No record of documentation of the reasons for an employee either withdrawing or being separated from the program will be kept or the reasons disclosed by management, unless records are needed to process grievances or other formal proceedings.

7. The Service will make every reasonable effort to ensure that BORTAC Unit members will be provided luncheon and washroom facilities separate from those used by persons in Service custody.

8. In the event of an outbreak of serious of life threatening communicable disease (as determined by a competent medical authority) at a BORTAC worksite, all BORTAC members working at the site during the incubation period of the disease will be notified by the most expeditious means, followed by written communication when the initial notification was oral. A CA-2 may then be filed by the employee.

9. The Service will make appropriate immunizations available to all on-site and arriving BORTAC members at a worksite where competent medical authority has established or has reason to believe that a communicable disease and/or condition exists.

10. BORTAC Unit members shall be paid travel and per diem in accordance with all applicable laws, rules and regulations.

11. This agreement shall not impair or diminish an employee's rights under the national collective bargaining contract, MP&RP or other negotiated agreements. The grievance procedure in the most recently negotiated national contract will apply to all disputes arising from the

BORTAC program.

12. Contingent upon approval of the Department of Justice, the Service will request from OPM an exemption to appendix A of 5 CFR 550 authorizing hazardous duty pay differential for members of the BORTAC Unit when they are involved in hazardous assignments which are not part of the regular duties of the Border Patrol position.

## **APPENDIX IV**

### **BORDER PATROL PILOT TRAINING AND EVALUATION PROGRAMS**

This appendix sets forth the current agreement between the Service and the Union concerning pilot training and evaluation programs. The Service reserves the right to change those parts of the agreement which pertain to matters specified in 5 U.S.C. § 7106(a). If the Service elects to do so, it will notify the Union in accordance with Article 3A, Section A of the Agreement, and will, upon request, negotiate with the Union to the fullest extent allowable under the law. Until such time as all phases of negotiations concerning said matters are completed, the Service will maintain the *status quo* with regard to any such proposed changes unless Federal law requires the changes by a date certain or, due to exigent circumstances, implementation is required for the necessary functioning of the agency.

U.S. BORDER PATROL  
PILOT TRAINING PROGRAM

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## PILOT TRAINING PROGRAM (Revised 6/83)

### I. PURPOSE

- A. To evaluate candidates for promotion to the position of pilot.
- B. To evaluate applicants for enrollment in the pilot training program.
- C. To train candidates in the low level tracking, search, and observation flying required of Border Patrol Pilots.
- D. To provide qualified candidates from within the Service the opportunity to accumulate sufficient flying experience to qualify for the position of Border Patrol Pilot.

### II. SCOPE AND RESPONSIBILITY

The program encompasses the evaluation and training of pilot candidates selected for enrollment in the pilot training program which is designed to train applicants who lack the technical experience to qualify for promotion or reassignment to a pilot position.

The Chief, Air Operations assigned to the Office of the Assistant Commissioner, Border Patrol, in the Central Office (Duty Post: Air Operations Facility (EFO), El Paso, Texas) has primary responsibility for conducting the program.

### III. QUALIFICATIONS REQUIRED

#### Border Patrol Agent/Pilot Trainee, GS-1896-9

- A. Three years experience in the Border Patrol program which requires knowledge and application of the I&N laws, regulations, decisions, operating procedures, and instructions pertaining to admission, exclusion, and deportation of aliens; smuggling, transporting, aiding, abetting, or shielding aliens from arrest who enter or attempt to enter this country illegally, and other provisions of the I&N Act. In addition, the incumbent must be proficient in the Spanish language (i.e., be able to communicate effectively in Spanish).
- B. Possess a valid FAA commercial pilot certificate with airplane, single-engine, land

rating; airplane-instrument rating; and a valid FAA Class I medical certificate issued not more than 60 days prior to the closing date of the vacancy announcement.

- C. Must have logged a minimum of 250 hours-flight time which must include at least 100 hours of pilot-in-command time, and any combination of 50 hours instrument/night time.
- D. Most recent annual officer corps rating of “recommended” or higher on Form G-610A as provided for under the provisions of AM 2265.

#### IV. ANNOUNCEMENT AND SELECTION

Pilot positions, including Border Patrol Agent/Pilot Trainee positions, which are to be filled by promotion or reassignment are announced in accordance with the provisions of the Merit Promotion and Reassignment Plan (MP&RP) as provided for in AM 2265.

Eligibility requirements and selective placement factors are specified in the vacancy announcement for the position to be filled. Applications accompanied by OPM Form 1170/21 (formerly CSC Form 671), Supplemental Qualifications Statement - Record of Aeronautical Experience, shall be submitted in the manner specified in the vacancy announcement. All orientation, evaluation, and training will be conducted based on the stated experience levels as reported by the candidate on OPM 1170/21.

All selections made for positions announced Service-wide, which are subject to the conditions set forth in this program, shall be made in accordance with the provisions of the MP&RP. The provisions of this training and evaluation do not pertain to supervisory and/or managerial positions within the 2181 series which are appropriate to be filled in accordance with MSP II, or any other plan. Candidates must be fully qualified for the position applied for as of the closing date of the vacancy announcement in order to receive consideration for selection.

#### V. ORIENTATION

All candidates will be given an initial orientation flight in each type of single-engine airplane assigned to the sector where the training will take place. Purpose of the initial orientation flights will be to allow the candidate to familiarize himself with the flight handling characteristics of the airplane(s) and to acquaint himself with the local airport

traffic and practice areas while accompanied by a sector pilot. No written evaluation of pilot performance will be made for the initial orientation flight in each type of airplane.

All orientation, evaluation, and training provided for under this program shall encompass fixed-wing, single-engine airplane training only. Orientation flights in helicopter or multi-engine aircraft will not be given, however, there is no prohibition against candidates riding as observers in such aircraft provided that it does not interfere or conflict with other assigned duties. Helicopter, multi-engine, and other training and evaluation is further discussed in Section E, Part VII.

## VI. EVALUATION

### A. General Provisions

All candidates will be evaluated during their respective period(s) of training on the basis of pilot proficiency, skill, and aeronautical knowledge required of the duties of the position; knowledge of basic officer corps and other operating procedures which are common to the Border Patrol Agent and Airplane Pilot functions; and the ability to deal effectively with the wide range of others with whom contact is required in the pilot position. All qualified and eligible candidates selected will be evaluated and rated without regard to race, age, color, sex, national origin, religion, lawful political affiliation, physical handicap, marital status, or other non-merit factors except where specifically authorized by law.

The 60 day evaluation will not be required for any candidate selected for a GS-11 pilot position who has successfully completed the service pilot training program as provided for herein, or has served a minimum 60-day cumulative period in an official detail as an acting pilot during the preceding 12 months prior to selection. In any case where the evaluation period prior to final selection and entry on duty in a pilot position is waived as provided for in this paragraph, an in-flight instrument proficiency and operational checkride will be given by the Chief, Air Operations, or his designee, after a tentative selection has been made but prior to entry on duty or obligation of any employee relocation expense.

### B. Specific Provisions

Candidates selected to fill a Border Patrol Agent/Pilot Trainee position, GS-9, will be assigned to the sector where the position was announced. Such selection may or may not involve transfer of the selectee, depending upon the duty station of the person selected.

Any candidate who is transferred as a result of his application for consideration to the position and who subsequently either successfully completes the training period, or is eliminated from the program and further consideration for pilot training, may transfer at his own expense, to his previous duty station if a vacant authorized position exists at that station. If the employee elects to return to the previous station, and no vacancy currently exists he will be transferred at his own expense when a vacancy occurs.

In either case, the candidate will be transferred to a Border Patrol Agent, GS-9 position at the training station until he has been competitively selected for an announced vacancy. After selection for the training program, but before entering on duty in the training position, the employee will be required to enter into a training agreement which will contain a reminder that the training is being provided in order to qualify the employee to compete for Border Patrol pilot positions. Successful completion of the training program and acquisition of the basic qualifications for the GS-11 pilot position will not result in automatic promotion or consideration to the position of pilot. Although the provisions of the MP & RP, AM 2265, preclude a requirement that an employee apply for a specific vacancy, those who successfully complete the training program will be expected to make a reasonable effort to seek consideration for announced pilot vacancies.

Upon initial selection and entry on duty at the training site, the candidate will be evaluated by the Chief, Air operations in consultation with the Supervisory Pilot, or other appropriate sector pilots in the training sector. Evaluation factors will include, among other things, the candidate's total flight experience, recent flight experience, analysis of equipment flown, night/instrument/cross-country experience, and any other aeronautical experience factors pertinent to the journeyman pilot position. On the basis of this evaluation an individual master training plan will be designed and prepared which will serve to provide the necessary flight experience to meet the training goals for each individual.

Candidates who are rated as satisfactory on the monthly evaluation reports will continue to be retained in the training program until they have acquired a total flight time of 1500 hours. Master training plans for each individual will be structured so as to assure that all pertinent subjects and flight experience have been covered and/or accomplished so as to coincide with the achievement of 1500 hours flight time. No candidate will be allowed to remain in the program beyond the end of the month in which he reaches the 1500 flight hour experience level, however, a minimum of 60 days will be required in which to properly evaluate the trainee. Such trainee will be evaluated in accordance with the guidelines contained in the Border Patrol pilot training program.

Candidates will be evaluated on the same basis in the training program as those who are evaluated for a 60-day period for filling a GS-11 entry level position. Unless special conditions warrant, the normal rating period for candidates in a trainee position shall be 30 days by the sector pilots on flight proficiency and overall conduct and efficiency, and quarterly for the overall assessment of operational capabilities and potential by the Supervisory Pilot, or other appropriate supervisor. The narrative reports must be supported by G-495 entries, and shall include a narrative of the candidates' progression which shall refer to any strong or weak points observed.

The same conditions and restrictions applicable to GS-11 candidates concerning initial orientation, dual and solo flight, and G-495 reporting by both the trainee and the sector pilots shall apply to GS-9 trainee pilots. Deficiencies reported in any required report must also be verbally brought to the trainee's attention with a recommendation and guidance on how he can achieve the desired improvement of the deficiencies. In the evaluation of the trainee, the total amount of flight time and recency of experience will be taken into consideration, so as to afford a fair and objective rating of his potential.

The original of all applicable reports required as a result of this program will be furnished to the Chief, Air Operations within five work days after the reporting date through the Chief Patrol Agent. Copies of all reports must be simultaneously furnished to the appropriate regional office. Copies of the G-495s shall be made available to the trainee.

At any time during the period of training that it is initially determined, after an appropriate period of evaluation, that a candidate does not possess the technical skill or other qualities necessary to become a suitable Border Patrol pilot, arrangements will be made to detail such candidate to another sector for an evaluation period of 30 days. A candidate will not be eliminated from the program without a detail to another sector in order to further determine his suitability to continue in the program. An exception to this provision would be in the case of an individual who voluntarily requests removal from the program. In such case, the individual will be processed out of the program in the same manner as those who either successfully complete the program or are eliminated for cause. Upon completion of any such detail to another sector, a determination as to retention or elimination from the program will be made by the Chief, Air Operations in consultation with the Supervisory Pilot or other appropriate supervisory officers from both the training sector and the sector where the 30 day evaluation took place. In the event that there are significant differences between the reports, assessments and recommendations of the two reporting sectors, arrangements will be made to provide a second 30 day evaluation period in a third sector.

All recommendations for both retention or elimination from the program will be fully substantiated by G-495 entries and other narrative memoranda and will be made part of the official training file maintained on the candidate. Elimination of an officer from the training program because of a lack of flying ability will not be made a part of any official file pertaining to that officer's career within the Service.

## VII. TRAINING

### A. General Provisions

All training required under this program will be conducted under the supervision of journeyman or supervisory Border Patrol pilots. Sector pilots at the GS-11 level will not conduct training for GS-9 pilot trainees. Training will generally be conducted in Service-owned or operated aircraft and must be in an airworthy condition for the type of flight to be conducted before any flight is attempted.

Pilot trainees will maintain a minimum operating altitude of 500 feet AGL and a minimum airspeed of 150% VSO when conducting solo aircraft operations, except when operating in an airport traffic pattern and required to operate at lower speeds and altitudes for the purpose of take-off and/or landing. Power on and power off stalls may also be practiced in solo flight provided the individual has been cleared by written entry on Form G-495 and provided further that each stall maneuver is started at a minimum altitude of 3000 feet AGL. Operations conducted at less than the foregoing minimums shall be accomplished only under the supervision of a rated Border Patrol pilot in the aircraft with the trainee while the operation is being conducted.

The pilot trainee shall record in his logbook as pilot-in-command time all hours flown which comply with FAR 61.51 (c) (2) (i). All Border Patrol pilot trainees shall be required to maintain accurate and current logbooks at all times.

Pilot trainees are not permitted to carry anyone in the aircraft except when a rated Border Patrol pilot is in the aircraft and occupies the other pilot position and the aircraft is equipped with fully functioning dual controls. In such instances, the rated Border Patrol pilot shall assume the responsibilities of the pilot-in-command regardless of who is manipulating the aircraft controls.

Pilot trainees will have a master training plan established which will cover the proposed interim from their experience level when they enter the training program to the successful

completion of the program at the 1500 hour level. A copy of the master plan will be tailored to each individual's specific requirements and based on the experience level at the time he enters the program. Such training plan will include a review, and additional experience in all areas required for the commercial pilot certificate and airplane instrument rating based on Part 61 of the Federal Aviation Regulations (FARs). In addition, training will be given in low level signcutting techniques, farm and ranch check techniques, train check techniques, anti-smuggling operations, high altitude observation techniques, as well as other related Border Patrol and enforcement operations.

Training will be divided into three phases as set forth in Sections B, C, and D of this Part. Each phase will be individually designed for the candidate and structured so that one phase overlaps into the next phase in order to maintain a smooth and orderly progression to successful culmination of the program for each candidate. As a result of resource management and conservation concepts, emphasis will be placed on producing the highest quality aviator as is possible rather than creating an atmosphere wherein trainees must continually operate under threat of elimination from the program.

Aircraft operated by this Agency are public aircraft by FAA definition, and as such, are not subject to many of the FARs. In order to accomplish a necessary level of standardization, ease of enforcement operations, continuity, and conformance with those FAA operating rules which apply to all aircraft operating within domestic airspace, it is general Service policy to operate within the guidelines, intent, and operating practices imposed by FAR Part 91. Unless specifically exempted by proper Service authority, the general guidelines, operating authority, and-intent expressed in FAR Part 91, must be complied with. Specific exemptions will be contained in the Air Operations Manual or in directives issued periodically on an as-needed basis.

Throughout the training period, emphasis will be placed on developing safe operating practices and developing the skills required in Border Patrol operational flying. It is recognized that a certain level of danger is inherent when operating an aircraft in the environment that Service pilots are required to operate in at times. Except when necessary to conduct an authorized operation at a low altitude or airspeed, an altitude must be maintained which would allow for a reasonable chance of a safe landing in the event of equipment failure. In addition, it must be clearly understood by all employees involved that buzzing, aerobatics, formation flying, or any daredevil type tactic will not be tolerated, including any abuse of equipment. Any evidence of such will be sufficient cause for immediate removal from the program. Pilot safety, followed by the proper use of official equipment are of paramount importance and anything less will constitute grounds for

removal.

Take-offs and landings at other than established and designated airports by a trainee while conducting solo flight will not be authorized.

B. Phase I Training

Specific flight maneuvers, demonstrations, and instruction will be contained and described in the individual's Master Training Plan (MTP). General training during this phase will consist of basic aircraft, systems, and operational area orientation; familiarization with standard aircraft operating procedures; Service and sector operating procedures; a review of commercial, instrument, and night flying requirements, procedures, and maneuvers; demonstration and review of Border Patrol and other regulatory operational restrictions; review of in-flight operational flying within established restrictions. Training conducted under this phase is generally expected to consume approximately 15% of the entire flight hour requirement.

C. Phase II Training

Specific flight maneuvers, demonstrations, and instruction will be contained and described in the individual's MTP. Training during this period will be oriented toward instruction and demonstrations involving low level signcutting techniques, techniques involving, and peculiar to, farm and ranch check, maintaining aerial surveillance of smuggling operations, practical exercises and training to increase instrument, night, and nap-of-the-earth (NOE) flying proficiencies. Training conducted under this phase is generally expected to consume approximately 55% of the entire flight hour requirement.

D. Phase III Training

Specific flight maneuvers, demonstrations, and instruction will be contained and described in the individual's MTP. Training during this phase will center around instruction and practical experience to further develop and refine signcutting techniques while attention is diverted outside the aircraft, and actual solo operational experience in farm and ranch check operations, including all operations which can be conducted without violating low-flight restrictions imposed; increased emphasis on instrument and night flying techniques and proficiencies to include planning, filing, and conducting a minimum of three actual or simulated IFR cross-country flights, preferably transiting or otherwise requiring radio contact with at least two ATC Center facilities. Each of the three flights should be

conducted to separate airports having ATC facilities for an instrument approach and landing. Upon completion of this phase, the candidate will have acquired the minimum of 1500 hours to qualify for the position of airplane pilot. Training conducted under this phase is generally expected to consume approximately 30% of the entire flight hour requirement.

E. Other Training

The following is included for informational purposes only and does not apply to application for the training program.

The vacancy announcement system for pilot positions is structured around the premise that the commercial airplane pilot certificate with single-engine and instrument ratings is the basic requirement. In those sectors which operate single-engine fixed wing, multi-engine fixed wing, and single or multi-engine helicopters, or any combination thereof, the basic requirement will be for the commercial airplane pilot certificate with the single-engine land and instrument ratings. This will serve to preclude any service pilot from being locked out of competition simply because operation of more sophisticated aircraft in his present sector is not warranted.

Training for the commercial helicopter rating and multi-engine airplane ratings will be conducted on an as-needed basis, based on operational needs of the Service. It is general Service policy to train pilots in helicopters and multi-engine airplanes only in those sectors where such aircraft are operated or scheduled to be operated. Generally, such training will be procured from commercial sources as funding and operational considerations permit.

Pilots will be able to compete for positions regardless of the types of aircraft flown in the desired sector, however, the vacancy announcement will contain a training requirement which will necessitate the successful completion of training required to acquire the desired ratings for the equipment flown. Such announcements will also contain a clause which informs the bidder that his failure to successfully complete the required training for ability or academic reasons will be sufficient cause to transfer the selectee to the first available airplane pilot position for which he is qualified.

Anyone assigned to a sector which is operating turbine-powered, light observation helicopters will be given adequate turbine helicopter transition training upon completion of training which results in the awarding of a commercial add-on helicopter rating. If the GS-11 Pilot is otherwise satisfactorily performing in the basic requirement, failure to

qualify for a commercial helicopter or multi-engine rating during his year as a GS-11 will not adversely impact upon his promotion to GS-12 Pilot.

The Pilot Training Program shall not in any manner diminish or impair employee rights under the negotiated Merit Promotion and Reassignment Pilot or the National Collective Bargaining Agreement. The grievance procedure in the agreement will apply to disputes arising from the program.

U.S. BORDER PATROL  
PILOT EVALUATION PROGRAM

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## PILOT EVALUATION PROGRAM (Revised 9/82)

### I. PURPOSE

- A. To evaluate candidates for promotion to the position of pilot.
- B. To introduce candidates to the low level tracking, search, and observation flying required of Border Patrol pilots.

### II. SCOPE AND RESPONSIBILITY

The program encompasses the evaluation of all qualified Service officers who apply for reassignment or promotion to pilot positions except current Border Patrol pilots.

The Chief Pilot, assigned to the Office of the Assistant Commissioner, Border Patrol, in the Central Office (Duty Post: Air Operations Facility (EFO), El Paso, Texas) has primary responsibility for implementing the program.

### III. QUALIFICATIONS REQUIRED

#### A. Airplane/Aircraft Pilot, GS-2181-12

One year of experience as a pilot or co-pilot at the GS-11 level which has provided a thorough knowledge of the Border Patrol Program.

NOTE: In the case of a noncompetitive promotion from GS-11 to GS-12, a written recommendation from the immediate supervisor of the pilot recommended for promotion, and substantiated by appropriate G-495s for the period served as a GS-11 pilot, is required. The recommendation must contain an appropriate certification that the individual being recommended for promotion is fully capable of performing the entire range of duties of the GS-12 position.

#### B. Airplane/Aircraft Pilot, GS-2181-11

- 1. Three years experience in the Border Patrol program which requires knowledge and application of the I&N laws, regulations, decisions, operating procedures, and instructions pertaining to admission, exclusion, and deportation of aliens; smuggling, transporting, aiding, abetting, or

shielding from arrest aliens who enter or attempt to enter this country illegally; and other provisions in the I&N Act. In addition, the incumbent must be proficient in the Spanish language (i.e., be able to communicate effectively in Spanish).

2. Possess a valid FAA commercial pilot certificate with airplane, single-engine, land rating; airplane-instrument rating; and a valid FAA Class I medical certificate issued not more than 60 days prior to the closing date of the vacancy announcement.
3. Must have logged a minimum of 1500 hours flight time, which must include 250 hours pilot-in-command, 150 hours instrument/night, and 100 hours within the last 12 months.
4. The 60 day evaluation period will be waived for selectees who have completed the Pilot Training Program or have a cumulative total of at least 60 days detailed as an Acting Pilot during the preceding 12 months and received evaluation ratings during such period which reflect favorably on the candidate's potential for becoming a suitable Border Patrol pilot.

For the 60 day evaluation period, selectees will be detailed, as an Acting GS-11 Pilot, to a sector or sectors other than the one to which they are assigned at the time of selection.

Upon successful completion of the 60 day evaluation period, the time detailed for evaluation purposes will be credited towards the selectee's mandatory year as a GS-11 Pilot.

5. Most recent annual officer corps rating of "Recommended" or higher on Form G-610A as provided for under the provisions of AM 2265.

#### IV. ANNOUNCEMENT AND SELECTION

Pilot positions, including Border Patrol Agent/Pilot Trainee positions, which are to be filled by promotion or reassignment are announced in accordance with the provisions of the Merit Promotion and Reassignment Plan (MP&RP) as provided for in AM 2265.

Eligibility requirements and selective placement factors are specified in the vacancy

announcement for the position to be filled. Applications accompanied by OPM Form 1170/21 (formerly CSC Form 671), Supplemental Qualifications Statement - Record of Aeronautical Experience, shall be submitted in the manner specified in the vacancy announcement. All orientation, evaluation, and training will be conducted based on the stated experience levels as reported by the candidate on OPM 1170/21.

All selections made for positions announced Service-wide which are subject to the conditions set forth in this program shall be made in accordance with the provisions of the MP&RP. The provisions of this training and evaluation do not pertain to supervisory and/or managerial positions within the 2181 series which are appropriate to be filled in accordance with MSP II, or any other plan. Candidates must be fully qualified for the position applied for as of the closing date of the vacancy announcement in order to receive consideration for selection.

V. ORIENTATION

All candidates will be given an initial orientation flight in each type of single-engine airplane assigned to the sector where the training will take place. Purpose of the initial orientation flights will be to allow the candidates to familiarize themselves with the flight handling characteristics of the airplane(s) and to acquaint themselves with the local airport traffic and practice areas while accompanied by a sector pilot. No written evaluation of pilot performance will be made for the initial orientation flight in each type of airplane.

VI. EVALUATION

A. General Provisions

All candidates will be evaluated during their respective period(s) of training on the basis of pilot proficiency, skill and aeronautical knowledge required of the duties of the position; knowledge of basic officer corps and other operating procedures which are common to the Border Patrol Agent and Airplane Pilot functions; and the ability to deal effectively with the wide range of others with whom contact is required in the pilot position. All qualified and eligible candidates selected will be evaluated and rated without regard to race, age, color, sex, national origin, religion, lawful political affiliation, must meet medical requirement, marital status, or other non-merit factors, except where specifically authorized by law.

The 60-day evaluation will not be required for any candidate selected for a GS-11

pilot position who has successfully completed the Service pilot training program. In cases where the evaluation period prior to final selection and entry on duty in a pilot position is waived as provided for in this paragraph, an inflight instrument proficiency and operational checkride will normally be given by the Chief Pilot or his designee, after a tentative selection has been made, but prior to entry on duty or obligation of any employee relocation expense. Such checkride may be waived at the option of the Chief Pilot.

B. GS-12 Pilot Position

Entry into a GS-12 pilot position is normally achieved after having successfully completed a one year intern period in a GS-11 pilot position, therefore, no evaluation will normally be made for progression to GS-12, except as provided for in Section C of this Part. Exceptions to this progression would be the reemployment of a former employee or the competitive selection of a former pilot who meets all of the qualifications and selective placement factors required of the position. In such a case, since the individual must have served a minimum one year period as a GS-11 pilot within the Border Patrol program in order to be eligible for the GS-12 level, the Chief Pilot will give a comprehensive instrument proficiency and operational checkride after the individual has been selected for the position by the appropriate selection official but prior to entry on duty or the commitment of employee relocation expenses. Any situation involving the initial entry of a GS-12 pilot which is not covered herein will be handled on a case-by-case basis, utilizing the basic applicable guidelines contained herein, so as to provide an equitable evaluation of the candidate prior to entry on duty in the pilot position.

C. GS-11 Pilot Position

Candidates selected for promotion or reassignment to a GS-11 pilot position shall be detailed to a Border Patrol sector other than the sector in which the position is to be filled for an initial 30 day evaluation. The candidate will then be detailed to the sector in which the vacancy is to be filled for a second 30 evaluation period.

During the initial evaluation period, the candidate shall be accompanied and supervised by a rated Border Patrol pilot on all flights until he has been cleared for solo flight in the type(s) of airplane(s) operated in that sector. After cleared for solo flight by the Supervisory Pilot, or by a sector pilot designated by the Chief Pilot, in the case of sectors which do not have a Supervisory Pilot, the candidate shall be

accompanied and supervised by a sector pilot on at least three flights per week.

Candidates will be evaluated on both flight proficiency and general conduct and efficiency as they apply to the provisions of Section A of this Part. Evaluation of flight proficiency will be accomplished at the conclusion of each dual flight conducted with the candidate at the controls and will be based on the proficiency displayed during the execution of the various flight requirements contained in Part VII of this program, and selected by the rated Border Patrol pilot to be performed by the candidate. Results of all in-flight evaluations will be recorded chronologically on Form G-495.

In any evaluation of the candidate, the total amount of flight time and recency of experience will be taken into consideration so as to afford a fair and objective rating of performance and potential. Rating officials should be mindful of the fact that all candidates evaluated under this section must possess a minimum of 1500 hours flight time and after a reasonable refresher period in the aircraft used for training, should be considerably more competent than trainees at the GS-9 level.

All sector pilots who have flown or worked with the candidate shall prepare a narrative evaluation of the candidate's conduct, efficiency and potential to become a competent, mature, self-disciplined, and professional pilot. Such reports will be prepared at the end of the first 15 days of the evaluation period and again at the conclusion of each evaluation period.

Required reports will be furnished to the Chief Pilot, through the Chief Patrol Agent, for inclusion with the final evaluations report of the candidate. In the event that deficiencies in the candidate's flight proficiency or overall conduct and efficiency are noted during any rating period and reported in the evaluation report, the candidate must be verbally informed by the supervisor or other appropriate pilot of areas in his performance where improvement is needed and expected. The candidate must also be informed of how he can best achieve this improvement.

At the end of each 30-day evaluation, an overall assessment of the candidate's potential for becoming a suitable Border Patrol pilot shall be prepared by the Supervisory Pilot, or other appropriate supervisor, and substantiated by appropriate G-495 entries for each evaluation period or the semi-monthly narrative reports from sector pilots. Such assessment, accompanied by the original of all other narrative evaluations and G-495 reports, along with any other pertinent attachments which

may relate to the candidate, shall be forwarded to the Chief Pilot not later than the third work day after completion of the training period. This overall assessment of the candidate shall contain a recommendation as to the retention or elimination of the candidate from the program.

In the event that there are significant differences between the reports, assessments and recommendations of the two reporting sectors, provisions will be made to provide another 30-day evaluation in a third sector before any effort is made to eliminate a candidate from further consideration. Prior to the end of the second or third evaluation period, as appropriate, a final in-flight proficiency checkride will be administered by the Chief Pilot or his designee, to determine final acceptability for selection to the pilot position, or elimination from further consideration.

After all flights conducted solo by the candidate, he shall record a brief narrative on Form G-495 of the type of flight, including any airwork or maneuvers performed, and any operational results which may be achieved. All sector pilots on flight status while evaluations are in progress will be scheduled to ride with, give operational instructions and evaluate the candidate(s) on a flight by flight basis. Flights should be scheduled so that all pilots have an equal opportunity to fly with each candidate.

Upon successful completion of the evaluation period and entry on duty in a GS-11 pilot position, the incumbent will be subject to the evaluation methods operational restrictions, and reporting requirements during the GS-11 intern period as outlined in the Air Operations Manual and other directives.

## VII. TRAINING

### A. General Provisions

All training required under this program will be conducted under the supervision of journeyman or Supervisory Border Patrol pilots and will generally be conducted in Service-owned or operated aircraft and must be in an airworthy condition for the type of flight to be conducted before any flight is attempted.

GS-11 pilot candidates will maintain a minimum operating altitude of 500 feet AGL and a minimum airspeed of 150% VSO when conducting solo aircraft operations, except when operating in an airport traffic pattern and required to operate at lower

speeds and altitudes for the purpose of take-off and/or landing. Power on and power off stalls may also be practiced in solo flight provided the individual has been cleared by written entry on Form G-495 and provided further that each stall maneuver is started at a minimum altitude of 3000 feet AGL. Operations conducted at less than the foregoing minimums shall be accomplished only under the supervision of a rated Border Patrol pilot in the aircraft with the trainee while the operation is being conducted.

The pilot candidate shall record in his logbook as pilot-in-command time, all hours flown which comply with FAR 61.51 (a) (2) (i). All candidates for GS-11 pilot positions shall be required to maintain accurate and current logbooks at all times.

GS-11 pilot candidates are not permitted to carry anyone in the aircraft except when a rated Border Patrol pilot is in the aircraft and occupies the other pilot position and the aircraft is equipped with fully functioning dual controls.

Each pilot candidate will have a master training plan established which will cover the proposed period of evaluation. The training plan will include a review and additional experience in all areas required for the commercial pilot certificate and airplane instrument rating and based on Part 61 of the Federal Aviation Regulations (FARs). In addition, training will be given in low level sign cutting techniques, farm and ranch check techniques, train check techniques, anti-smuggling operations, high altitude observation techniques, as well as other related operations.

Training will be divided into three phases as set forth in Sections B, C, and D of this Part. Each phase will be individually designed for the candidate and structured so that one phase overlaps into the next phase in order to maintain a smooth and orderly progression to successful culmination of the program for each candidate. As a result of resource management and conservation concepts, emphasis will be placed on producing the highest quality aviator as is possible rather than creating an atmosphere wherein trainees must continually operate under threat of elimination from the program.

Aircraft operated by this Agency are public aircraft by FAA definition, and as such are not subject to many of the FARs. In order to accomplish a necessary level of standardization, ease of enforcement operations, continuity, and conformance with those FAA operating rules which apply to all aircraft operating within domestic airspace, it is general Service policy to operate within the guidelines, intent, and

operating practices imposed by FAR Part 91. Unless specifically exempted by proper Service authority, the general guidelines, operating authority, and intent expressed in FAR Part 91 must be complied with. Specific exemptions will be contained in the Air Operations Manual or in directives issued periodically on an as needed basis.

Throughout the evaluation period, emphasis will be placed on developing safe operating practices and developing the skills required in Border Patrol operational flying. It is recognized that a certain level of danger is inherent when operating an aircraft in the environment that Service pilots are required to operate in at times. Except when necessary to conduct an authorized operation at a low altitude or airspeed, an altitude must be maintained which would allow for a reasonable chance of a safe landing in the event of equipment failure. In addition, it must be clearly understood by all employees involved, that buzzing, aerobatics, formation flying, or any daredevil type tactic will not be tolerated, including any abuse of equipment. Any evidence of such will be sufficient cause for immediate removal from the program. Pilot safety, followed by the proper use of official equipment are of paramount importance and anything less will not be tolerated.

Take-offs and landings at other than established and designated airports by a candidate or trainee while conducting solo flight will not be authorized.

B. Phase I Training

Specific flight maneuvers, demonstrations, and instruction will be contained and described in the individual's Master Training Plan (MTP). General training during this phase will consist of basic aircraft, systems, and operational area orientation; familiarization with standard aircraft operating procedures; Service and sector operating procedures; a review of commercial, instrument, and night flying requirements, procedures, and maneuvers; demonstration and review of Border Patrol and other regulatory operational restrictions; review of in-flight and equipment emergency procedures; and limited operational flying within established restrictions. Training conducted under this phase is generally expected to consume approximately 15% of the entire evaluation period flight time.

C. Phase II Training

Specific flight maneuvers, demonstrations, and instruction will be contained and

described in the individual's MTP. Training during this period will be oriented toward instruction and demonstrations involving low level sign cutting techniques, techniques involving, and peculiar to, farm and ranch check, train check, maintaining aerial surveillance of smuggling operations, practical exercises and training to increase instrument, night, and nap-of-the earth (NOE) flying proficiencies. Training conducted under this phase is generally expected to consume approximately 55% of the evaluation period flight time.

D. Phase III Training

Specific flight Maneuvers, demonstrations, and instruction will be contained and described in the individual's MTP. Training during this phase will center around instruction and practical experience to further develop and refine sign cutting techniques while attention is diverted outside the aircraft, and actual solo operational experience in farm and ranch check operations, including all operations which can be conducted without violating low-flight restrictions imposed; increased emphasis on instrument and night flying techniques and proficiencies, to include planning, filing, and conducting a minimum of three actual or simulated IFR cross-country flights, preferably transiting or otherwise requiring radio contact with at least two ATC Center facilities. Each of the three flights should be conducted to separate airports having ATC facilities for an instrument approach and landing. This phase is generally expected to consume approximately 30% of the evaluation period flight time.

E. Other Training

The following is included for informational purposes only and does not apply to application for the training program.

The vacancy announcement system for pilot positions is structured around the premise that the commercial airplane certificate with single-engine and instrument ratings is the basic requirement. In those sectors which operate single-engine fixed wing, multi-engine fixed wing, and single or multi-engine helicopters, or any combination thereof, the basic requirement will be for the commercial airplane certificate with the single-engine land and instrument ratings. This will serve to preclude any Service pilot from being locked out of competition simply because operation of more sophisticated aircraft in his present sector is not warranted.

Training for the commercial helicopter rating and multi-engine airplane ratings will be conducted on an as-needed basis, based on operational needs of the Service. It is general Service policy to train pilots in helicopters and multi-engine airplanes only in those sectors where such aircraft are operated or scheduled to be operated. Generally, such training will be procured from commercial sources as funding and operational considerations permit.

Pilots will be able to compete for positions regardless of the types of aircraft flown in the desired sector, however, the vacancy announcement will contain a training requirement which will necessitate the successful completion of training required to acquire the desired ratings for the equipment flown. Such announcements will also contain a clause which informs the bidder that his failure to successfully complete the required training for ability or academic reasons will be sufficient cause to transfer the selectee to the first available airplane pilot position for which he is qualified.

Anyone assigned to a sector which is operating turbine-powered light observation helicopters will be given adequate turbine helicopter transition training upon completion of training which results in the awarding of a commercial add-on helicopter rating. If the GS-11 Pilot is otherwise satisfactorily performing in the basic requirement, failure to qualify for a commercial helicopter or multi-engine rating during his year as a GS-11 will not adversely impact upon his promotion to GS-12 Pilot.

The Pilot Evaluation Program shall not in any manner diminish or impair employee rights under the negotiated MP&RP or the Collective Bargaining Agreement. The grievance procedure in the agreement will apply to disputes arising from the programs.

## **APPENDIX V**

### **RECOVERY OF OUTSTANDING TRAVEL ADVANCES**

- A. This agreement applies solely to travel advances provided to employees by the Agency, and does not include any funds that employees obtain from Automatic Teller Machines.
- B. Any employee who has a travel advance outstanding more than 30 days but less than 60 days after the completion of travel shall receive a letter:
1. advising the employee of the outstanding balance of the travel advance and the date(s) for which such travel was authorized; and
  2. advising the employee of his or her right to inspect or obtain a copy of the documentation related to the outstanding travel advance; and
  3. providing the employee with an opportunity to:
    - a. submit evidence that a travel voucher for the travel in question has been filed and/or any excess travel advance over the amount claimed for such travel has been returned; or
    - b. file a travel voucher for the travel in question and/or return any excess travel advance over the amount claimed for such travel.
- C. Any employee who has a travel advance outstanding more than 60 days after the completion of travel shall receive a letter by certified mail, return receipt requested or by personal delivery, signed for by the employee:
1. advising the employee of the outstanding balance of the travel advance and the date(s) for which such travel was authorized; and
  2. advising the employee of his or her right to inspect or obtain a copy of the documentation related to the outstanding travel advance; and
  3. providing the employee with an opportunity to:
    - a. submit evidence that a travel voucher for the travel in question has been

filed and/or any excess travel advance over the amount claimed for such travel has been returned; or

- b. file a travel voucher for the travel in question and/or return any excess travel advance over the amount claimed for such travel; and/or
  - c. enter into a written agreement with the Agency to repay the outstanding excess travel advance; and/or
  - d. request a review of the alleged indebtedness by submitting a written request for review to the head of the servicing Finance Office within 30 days of receipt of the letter; and
4. advising the employee that the failure to take one of the actions outlined in subparagraph C.3. above shall result in the initiation of steps to recover the outstanding travel advance balance through salary offset no sooner than 30 days following receipt of the letter.
- D. Salary offset to recover outstanding travel advances shall not exceed 15% of an employee's disposable income in any pay period.
  - E. No interest or penalties shall be assessed against employees for delinquent travel advance repayments.
  - F. Any amount that is offset from an employee's salary in error (including any amount that is substantiated on a voucher and/or any advance that is returned to the Agency by any other means) shall be promptly refunded to the employee.
  - G. Nothing herein waives any employee rights otherwise available under the Debt Collection Act of 1982.

## APPENDIX VI

**U.S. Department of Justice**

Immigration and Naturalization Service

Border Patrol Request for Official Time for Union Business

1. Name of Supervisor	2. Union Official ( <i>Name, Title, Duty Station</i> )
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Pursuant to Article 7A - Official time is requested as follows:

3. Date/Time of Request	4. Date(s) Requested	5. Total # of Hours Expected	6. Activity Performed
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7. Updated Phone #	8. Duty	Location of Employee(s) being represented ( <i>Name/Title if Formal action has been initiated</i> )
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9. Endorsement by Supervisor	10. Date/Time	11. ( <i>Cross out one</i> ) <b>Approved/Denied</b> <i>If denied explain below</i>
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12. To the best of my knowledge this time will be/was used in accordance with Article 7A of the CBA.	13. Date/Time
<div style="border-top: 1px solid black; margin-top: 10px;"> <i>(Signature of Union Official)</i> </div>	

14. Final Endorsement as recorded on Time & Attendance Report:	15. Charge to Activity Code(s)
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16. Date(s)	17. Total hours used
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18. Remarks (*Explain denial etc.*)

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Form G-955 (1/12/95)

## APPENDIX VII

U.S. Department of Justice  
Immigration and Naturalization Service

Outside Employment or Business Request

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**Section I — To be completed by *requesting employee*.** (See AM 2234.03 for additional information.)

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*Please provide all information requested to the best of your knowledge.*

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1. Your name (*Last, First, Middle*)

2. Title and Grade of your I&NS position

3. I&NS office to which you are now attached

4. Your I&NS Post of Duty

5. Are you **now** engaged in outside employment?

No       Yes (*If "Yes" explain on reverse*)

6. Name of employer/prospective employer

7. Address of employer/prospective employer

8. Type of business of employer/prospective employer

9. Estimated hours of employment

(Hours) \_\_\_\_\_

Per day       Per week

10. Estimated duration of employment

Indefinite       Temporary

(*If "Temporary" give dates of employment below*)

From \_\_\_\_\_ To \_\_\_\_\_

11. Description of outside activities  
(*Continue on reverse if necessary*)

12. If employment/prospective employment involves any of the following, check the appropriate block and explain on reverse. (*Checking a block will not automatically exclude applicant.*)

In excess of 20 hours per week.

Legal or Immigration advice.

Investigations or detective work.

Reporting to an individual currently employed by the Immigration and Naturalization Service (if so, give name and title on reverse).

Performance of hazardous duties.

Dealing or transacting business with the Federal Government.

Dealing with persons or firms with whom you may come into official contact on immigration matters.

Dealing with alcoholic beverages.

Duties which could create the appearance of a conflict of interest with your position as an employee of the Immigration and Naturalization Service.

Dealings with persons who are primarily known aliens.

**13. Employee's certification:**

I hereby certify that my services in connection with the outside employment, or business referred to, will not have a direct or indirect bearing on the status of any alien, nor conflict with or infringe on my duties with, or responsibilities to, the Immigration and Naturalization Service. The statements made herein are complete and correct to the best of my knowledge. I further understand that, if my outside employment or business is approved, I must:

- (a) Reapply for written permission if the nature of this employment or business changes.
- (b) Reapply for written permission upon promotion or transfer to a different position, even if under the same approving official.
- (c) Notify my supervisor and the servicing personnel officer, in writing, when my approved employment or business activity is terminated (unless the termination date is
- (d) Refrain completely from using official Government time, supplies or equipment in support of my outside employment activities.

\_\_\_\_\_  
14. *Employee's signature*

\_\_\_\_\_  
15. *Date Signed*

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**Section I -**

(Continued) **To be completed by *requesting employee*.** (See AM 2234.03 for additional information.)

**16. Additional Remarks**

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**Section II -**

**Recommendation of Immediate Supervisor**

G Approve            G Disapprove (If disapproved, please explain below.)

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*Signature*

*Title*

*Date*

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**Section III -**

**Recommendation of Reviewing/Recommending Official.** (Complete if necessary. The number of levels of review actually required are dependent on the level to which final approving authority is delegated by Regional Commissioners/Associate Commissioner, Management.)  
If your recommendation or reasons for it differ from that of the supervisor, please explain below.

G Approve            G Disapprove

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*Signature*

*Title*

*Date*

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**Section IV -**

**Final Action.** If your final determination or reasons for it differ from that of the supervisor or reviewing/recommending official, please explain below.

G Approved            G Disapproved

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*Signature*

*Title*

*Date*

**APPENDIX VIII**

**DESIGNATION OF REPRESENTATIVE  
AND AUTHORIZATION TO RELEASE INFORMATION**

I, \_\_\_\_\_, hereby designate  
\_\_\_\_\_ as my Union  
representative in the disciplinary action proposed against me.

As my representative, (s)he is entitled and authorized to receive copies of all correspondence, documents, and material related to my case, in accordance with my rights in Article 31 and the rest of the labor agreement between the National Border Patrol Council, American Federation of Government Employees, AFL-CIO and the U.S. Immigration and Naturalization Service.

The address of my Union representative is: \_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Date