

COLLECTIVE BARGAINING AGREEMENT

BY AND BETWEEN

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
INDIAN HEALTH SERVICE
OKLAHOMA CITY AREA
CLAREMORE INDIAN HOSPITAL**

AND

**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
(AFGE)
LOCAL 3601**

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ARTICLE 1
PREAMBLE

1.1 WHEREAS the Congress finds that

Experience in both private and public employment indicates that the statutory protection of the right of Employees to organize, bargain collectively, and participate through lawfully constituted labor organizations of their own choosing in decisions which affect them.

- A. Safeguards the public interest;
- B. Contributes to the effective conduct of the public business;
and
- C. Facilitates and encourages the amicable settlement of disputes between Employees and their Employers involving conditions of employment.

1.2 The public interest demands the highest standard of Employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve Employee performance and the efficient accomplishment of the operations of the Government.

1.3 Whereas the well-being of Employees and the efficient administration of Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment.

1.4 If there is a conflict in any Employer rule or regulation and this Agreement, not required by law or government-wide rule or regulation, and for which no compelling need has been established, then this Agreement shall prevail, absent mutual agreement of the Parties.

PURPOSE

1.5 It is the purpose of this Agreement to prescribe certain rights and obligations of Employees, the Employer and the Union and to establish procedures which are designed to meet the special requirements and needs of the Parties. Therefore, the provisions of this Agreement are to be interpreted in a manner consistent with the requirements of an effective and efficient Government.

- 1.6 Pursuant to the policy and purpose set forth above, the following articles of this basic Agreement, together with any and all supplemental agreements and/or amendments which may be agreed to at later dates, constitute a total agreement by and between the DHHS, PHS, IHS, Oklahoma City Area, Oklahoma City, Oklahoma, hereinafter referred to as the Employer, and the American Federation of Government Employees (AFGE), Local 3601, hereinafter referred to as the Union, for the Employees in the Bargaining Unit described in Article 2 of this Agreement.
- 1.7 It is agreed and understood by the Employer and the Union that nothing in this Agreement shall conflict with any applicable or future law or regulation of the Federal Government, including, but not restricted to, Executive Orders and those rules and regulations issued by OPM, DHHS, and IHS. This does not preclude any bargaining obligations that may exist under the statute.
- 1.8 The Employer and the Union jointly acknowledge and accept their responsibilities to build a workplace that treats all employees as being one of the most important assets in meeting the mission and providing services to the American Indian/Alaska native population.

ARTICLE 2
RECOGNITION AND UNIT DESCRIPTION

- 2.1 The Employer recognizes that the Union is the exclusive Representative of all Bargaining Unit Employees (BUE) included in the unit as described in Section 2 below.
- 2.2 INCLUDED: All nonsupervisory, nonprofessional and professional employees employed by Claremore Service Unit including employees of Claremore Service Hospital, Jay, Okmulgee and Miami, Oklahoma Health Centers.
- EXCLUDED: Management officials, supervisors, guards, Commissioned Corps personnel and employees described in section 7112(b)(2)(3)(4)(6) and (7).
- 2.3 Any amendments or clarifications of unit that may result from subsequent issuances to the Authority will become part of the unit description, adding to or deleting from the above.

**ARTICLE 3
DEFINITIONS**

The following definitions of terms used in this Agreement shall apply:

- 3.1 ACT: Civil Service Reform Act of 1978.

- 3.2 ADVERSE ACTION: A removal, suspension of more than fourteen (14) days. A reduction in grade, reduction in pay, or furlough for thirty (30) days or less.

- 3.3 ALTERNATIVE SCHEDULES/COMPRESSED WORK SCHEDULES:

AWS is a compressed work schedule which means (1) in the case of a Full Time employee, an 80 hour bi-weekly basic work requirement that is scheduled for less than 10 workdays (2) in the case of a Part Time Employee a bi-weekly basic work required of less than 80 hours that is scheduled for less than 10 workdays and that may require the employee to work more than 8 hours in a day. All schedules will be subject to 24/day, 7 days/week as deemed necessary to cover patient care areas.

- 3.4 AMENDMENTS: Modifications of the basic Agreement to add, delete or change portions, sections or articles of the Agreement.

- 3.5 AUTHORITY: The Federal Labor Relations Authority established by the Civil Service Reform Act of 1978.

- 3.6 BARGAINING UNIT EMPLOYEE (BUE): Employees identified by Article 2 of the Collective Bargaining Agreement represented by AFGE. Local 3601, at CIH: Claremore, Oklahoma.

- 3.7 CONDITIONS OF EMPLOYMENT: Personnel policies, practices, and matters whether established by rule, regulation, or otherwise affecting working conditions, except that such terms does not include policies, practices and matters:
 - A. relating to political activities prohibited under subchapter III of 5 U.S.C Chapter 73; or
 - B. relating to the classification of any position.
 - C. To the extent such matters are specifically provided for by Federal Statutes.

- 3.8 **CONSULT or CONSULTATION:** Communication and exchange of views of mutual interest. It is considered part of the initial step used by either Party to resolve a problem concerning the working environment or the administration of this Agreement. Consultation does not automatically lead to the process of negotiations, nor does it substitute for bargaining obligations under the statute.
- 3.9 **DAYS:** Calendar days, unless otherwise stated.
- 3.10 **DISCIPLINARY ACTION:** Official reprimand or a suspension of fourteen (14) days or less.
- 3.11 **EMERGENCY:** Unforeseen occurrence, pressing necessity, calling for immediate action.
- 3.12 **EMPLOYER:** DHHS, PHS, IHS, Oklahoma City Area Office.
- 3.13 **IMPACT AND IMPLEMENTATION BARGAINING:** Negotiations concerning procedures which management officials will observe in exercising Management rights and/or negotiations concerning appropriate arrangements for the employees affected by the exercise of Management rights.
- 3.14 **IMPASSE:** The inability of the Representatives of the Employer and the Union to arrive at a mutually agreeable decision concerning negotiable matters through the negotiation process.
- 3.15 **LEAVE APPROVING OFFICIAL:** The management official or Employee who has delegated authority to approve leave for any BUE.
- 3.16 **NEGOTIATE or NEGOTIATION:** Bilateral bargaining by Representatives of the Employer and the Union for the purpose of arriving at a written Agreement with respect to personnel policies, practices, procedures and matters affecting general working conditions, so far as may be appropriate under applicable laws and regulations.
- 3.17 **NEGOTIABILITY DISPUTE:** A disagreement between the Parties as to the negotiability of an item.
- 3.18 **NON-DISCIPLINARY ACTION:** Oral/Written Counseling, Oral/Written Warning/Caution, Oral/Written admonishment if conditions warrant.
- 3.19 **OFFICIAL TIME:** Time for Employees serving as Union Representatives during duty status to perform representational functions in accordance with the provisions of this Collective Bargaining Agreement, applicable laws, rules and regulations.

3.20 ON-CALL STATUS: An employee will be considered off duty and time spent in an on-call status shall not be considered hours of work if:

- A. The Employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the Employee is required to remain within a reasonable call-back radius; or,
- B. The Employee is allowed to make arrangement such that any work which may arise during the on-call period will be performed by another person subject to prior notification to and approval by Management.

3.21 PARTIES: The Parties to this Agreement are the Employer, DHHS, PHS, IHS, Oklahoma City Area and Union (AFGE Local 3601).

3.22 PROFESSIONAL: as defined in 5 U.S.C. Section 7103(15) "professional employee" means:

A. an Employee engaged in the performance of work

- 1. requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning, or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities); or
- 2. requiring the consistent exercise of discretion and judgment in its performance, which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

B. an Employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(1) of this paragraph and is performing related work under appropriate direction or guidance to qualify the Employee as a professional Employee described in subparagraph (A) of this paragraph.

3.23 PROGRESSIVE DISCIPLINE: A process designed primarily to correct and/or improve Employee behavior rather than to punish or penalize. This concept does not preclude an adverse action for a 1st offense if conditions warrant. Non-disciplinary, disciplinary and adverse actions will be

considered for further instances of misconduct in progressive action cases.

- 3.24 SENIORITY: The Employer and the Union agree that seniority shall be based on the Employee's service computation date (continuous) as established at the CIH Service Unit.
- 3.25 SUPPLEMENTS: Additional articles negotiated during the term of the basic Agreement.
- 3.26 UNION/MANAGEMENT MEETINGS: Meetings which are held for communication and exchange of views *or* matters of mutual interest concerning conditions of employment.
- 3.27 UNION REPRESENTATIVE: Any official elected, appointed *or* designated in writing to the Employer by AFGE Local 3601.

ARTICLE 4
MANAGEMENT RIGHTS

- 4.1 In accordance with 5 U.S.C. 7106(a), the Employer retains the right:
- A. to determine the mission, budget, organization, number of employees, and internal security practices of the Employer; and
 - B. in accordance with applicable laws:
 - 1. to hire, assign, direct, layoff, and retain BUE(s) in the Facility, 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 internal operations shall be conducted;
 - 3. with respect to filling positions, to make selections for appointments from:
 - a. among properly ranked and certified candidates for promotion; and
 - b. by any other appropriate source;
 - c. to take whatever actions may be necessary to carry out the Agency mission during emergencies.
- 4.2 Nothing in this section shall preclude any agency and any labor organizations from negotiating:
- A. at the election of the agency, on the numbers, types and grades of BUE(s) or positions assigned to any organizational subdivision work project, or tour of duty, or on the technology, methods, and means of performing work;
 - B. procedures which Management officials of the agency will observe in exercising any authority under this section by such Management officials; or
 - C. appropriate arrangement for BUE(s) adversely affected by the exercise of any authority under this section by such Management officials.

- 4.3 Management officials, including supervisors, retain the right to hold counseling and other discussions with a BUE without the presence of a Union Representative, unless the Employee(s) believes the discussion concerns an examination in connection with an investigation that could lead to disciplinary action, and the Employee(s) requests Union representation.
- 4.4 Nothing in this Article will nullify or abridge the right of the BUE(s) to grieve or otherwise appeal the application of a management decision made within its reserved rights.

ARTICLE 5
EMPLOYEES RIGHTS AND REPRESENTATION

- 5.1 Each BUE shall have the right to form, join, or assist any labor organization or to refrain from such activity, freely and without fear of penalty or reprisal, and each Employee shall be protected in the exercise of such right. When employees request representation, official time will be granted with supervisor approval as workload permits. A DAL 17 must be submitted for official time.
- 5.2 BUE(s) have the right (Weingarten Rights) to have a local Union Representative present at any examination by a representative of the Agency in connection with an investigation if:
- A. the BUE reasonably believes that the examination will result in disciplinary action(s) against the Employee; and
 - B. the BUE requests Union representation
- 5.3 Nothing in this Agreement shall require a BUE to become or to remain a member of a labor organization, or pay money to the organization, except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deduction. Processing of dues withholding actions will be in accordance with 5 U.S.C. 7115(a) and (b). (See Article on voluntary allotment of Union dues).
- 5.4 A. This Agreement does not prevent any BUE(s), regardless of Employee organizational membership, from bringing matters of personal concern to the attention of appropriate Agency officials in accordance with applicable laws, regulations or Agency policies.
- B. Any BUE has the right to be represented by an attorney or other representative other than the Union, of the Employee's own choosing **and** at the Employee's cost, in any grievance or appeal action, except in cases of a grievance or an appeal processed under the negotiated grievance procedures of this Agreement, MSPB or EEO. However, the Union will, in a timely manner, be provided copies of any such action from the initial filing through the remedy. If an employee chooses to represent himself/herself during the NGP, the Union shall in a timely manner be provided copies. The Union also has the right to be in attendance at any such meeting, for the protection of any other BUE(s) who may be affected by like circumstances.

- 5.5 Nothing in this agreement shall restrict the right of an employee to exercise his grievance and appeal rights provided by laws, regulations, policies, and this Agreement.
- 5.6 The Employer will ensure, and the BUE(s) have the right to inspect, their medical records, if any, are maintained by the facility according to applicable Privacy Act Rules and Regulations.
- 5.7 A BUE is accountable for the performance of official duties and compliance with standard of conduct for Federal Employees and HHS Standard of Conduct and current implementing regulations. Within this context, the Employer affirms the right of a BUE to conduct his/her life as he/she deems fit. BUE(s) will have the right to engage in outside activities of their choosing without being required to report on such activities, except where required by law, the above stated regulations, and so long as those activities do not interfere with the performance of their assigned duties.
- 5.8 The supervisor will bring any perceived problem with any BUE to the Employee's attention as soon as possible after the supervisor becomes aware of the problem.
- 5.9 BUE(s) have the responsibility to arrange the means of transportation for arriving at work on time.
- 5.10 The Employer will not discipline, or otherwise discriminate against any BUE because he/she has filed a complaint or given testimony under the Act, the negotiated grievance procedure of this Agreement or any other established procedures for redressing Employee dissatisfaction.
- 5.11 The Employer will annually inform BUE(s) of their rights pursuant to Section 7114(a)(2)(b) of the Civil Service Reform Act.
- 5.12 The Employer will not coerce or in any manner require BUE(s) to invest their money, donate to charity, or participate in activities, meetings or undertakings not related to their performance of official duties.
- 5.13 No BUE will be discriminated against by either the Employer or the Union because of race, color, religion, sex, national origin, age, marital status, physical handicap, or lawful political affiliation, except as provided by law (specifically, Indian Preference).
- 5.14 In exercising any rights granted under law, regulation or this Agreement, BUE(s) and their Representatives will be free from restraint, coercion, discrimination, or reprisal.
- 5.15 Normally, leave approving authority (the person who needs to be called) will remain with the first line supervisors. Anytime the first line supervisor

is unavailable (whether absent, not responding to pages/phone calls), the BUE should contact the next designated leave approving authority.

- 5.16 BUE(s) and Union Representative may meet briefly, e.g., up to 1-3 minutes, without official time being requested, as long as contacts are incidental and infrequent, do not interfere with patient care, and occur outside the department. When a BUE requests Union representation, the Union Representative will complete a DAL 17 for Official Time if the meeting will last longer than 3 minutes.
 - A. Perceived problems with brief meetings will be brought to the attention of a Union Official and a management official. No Union business will be conducted within the departments.
 - B. The Union will guard against the Abuse of Brief Meetings.
- 5.17 The Union and Employees agree that budgetary requirements are paramount. Every effort will be made, however, to ensure humane treatment regarding separations, i.e., Temporary Employees will be provided a copy of the approved personnel action (SF-52), which indicates that their appointment has been extended.
- 5.18 BUE(s) have a right to an accurate Position Description as described in the "Position Description" Article 19.
- 5.19 BUE(s) will be afforded proper regard and protection of their privacy and Constitutional rights.
- 5.20 Employer and Union will endeavor to establish working conditions conducive to enhancing and improving morale and efficiency.
- 5.21 Employer will not counsel and/or give corrective guidance to any BUE in the presence of another Employee, or public (i.e., Patients/Visitors).
- 5.22 If an employee is to be served with a warrant or subpoena, it will be done in private, without the knowledge of other employees, to the extent it is within management's control.
- 5.23 No BUE will be used as an example to threaten other Employees.
- 5.24 No BUE will be subjected to unreasonable working conditions as reprisal.
- 5.25 BUE(s) will be provided a copy of any written Area policy upon request.
- 5.26 Telephones are for use to conduct official Government business in accordance with OCAO/IHS Circular 93-06.

5.27 Any BUE will have the right to examine his/her Official Personnel Folder (OPF) via the Internet at the following URL: <https://eopf.nbc.gov/hhs/>.

ARTICLE 6
UNION RIGHTS AND REPRESENTATION

- 6.1 **RECOGNITION:** The Employer recognizes the AFGE Local 3601 (referred to as the Union), its duly elected Officers, appointed Officials, and Stewards as the exclusive Representatives of Employees in the Bargaining Unit, and that the Union, through its designated Representatives has the exclusive right to represent all Bargaining Unit Employees in the unit with the Employer in regard to all matters affecting their conditions of employment. All duly elected Union Officers, appointed Officials, and Stewards are authorized to represent BUE(s) to the full extent of the law.
- 6.2 The Employer will respect the rights of the Union and will meet jointly to negotiate with the designated Union Representatives on negotiable conditions of employment when appropriate, including negotiations concerning the impact and/or implementation of any new policy or change in policy affecting the Bargaining Unit Employees or their conditions of employment. When such changes are proposed, the Employer will furnish the Union or designee with a copy of such proposed changes as soon as possible. The appropriate Union representative will furnish comments, if any, within the time frames set forth in Article 8, Mid-term Bargaining.
- 6.3 The Union will be given the opportunity to be present at:
- A. any formal/informal discussion between one or more representatives of the Employer and one or more BUE, or their Representatives, concerning any grievance of any personnel policy or practices or other general condition of employment; and
 - B. (Weingarten) any examination of a BUE by a representative of the Employer in connection with an investigation, if:
 - 1. the BUE reasonably believes that the examination may result in disciplinary action against the Employee; and
 - 2. The BUE requests representation.
- 6.4 The Union will supply the Employer a written list of its current Officers and Officials. The listing and changes thereto will be submitted to the designated Labor Relations official by the Union.
- 6.5 For the purpose of this article, "representational function" means those activities authorized by this Agreement and undertaken by Union Representatives who are BUEs, on behalf of other Employees as provided by statutory provisions.

- 6.6 A. **IMMEDIATE REPRESENTATIONAL DUTIES:**
A Union Representative, when needing to leave his/her work site to perform immediate representational duties, shall first obtain permission from his/her immediate supervisor by submission of a properly completed DAL-17, or in the absence of the immediate supervisor, the next level supervision. Such permission shall normally be granted unless compelling circumstances preclude leaving at that time. If permission is denied, the supervisor will inform the Union representative of the reason for denial and note the reason on the DAL-17. If the person with whom the representational function is to be conducted is an employee not under the same supervisor, the concurrence of that Employee's supervisor will be acquired prior to initiating the request. If the person is another management official or a third party official, an appointment with that official should be acquired prior to initiating the request.
- B. **SCHEDULED REPRESENTATIONAL DUTIES:**
Upon presentation of a properly completed DAL-17 for scheduled meetings and not less than twenty-eight (28) hours prior to the scheduled meeting, the LAO will advise the Union Representative/BUE of the approval/disapproval if the DAL 17 is received before 12:00 noon, the Supervisor will provide a decision by the end of the business day. If the DAL-17 is received after 12:00 noon, then the response will be due by the end of the following business day. Such permission shall normally be granted unless compelling circumstances preclude leaving at that time. If permission is denied, the supervisor will inform the Union representative of the reason for denial and note the reason on the DAL-17.
- 6.7 Pursuant to the right and responsibilities of the Union for representing all BUEs, Representatives of the Union who are Employees of the Employer will be granted use of reasonable official time to conduct representational functions in accordance with the provisions, both statutory and stated herein without charge to leave or loss of pay. No premium pay will be paid to BUE(s) for time spent beyond regular duty time while performing "representational functions" unless mutually agreed.
- 6.8 The Union will be allowed a reasonable amount of official time to perform those responsibilities specified in this Agreement, or as otherwise provided by law. Official time is granted for appropriate representational functions as provided by law. A reasonable amount of official time will be granted to Stewards or elected Officials of the Union to accomplish the following, including, but not limited to:

- A. when preparing and presenting grievances in accordance with a negotiated grievance procedure, disciplinary and adverse actions;
- B. when preparing, presenting or responding to unfair labor practice charges;
- C. when preparing, presenting or providing representation with regard to an arbitration;
- D. when meeting, or preparing to meet, with Management officials for meetings (arranged and called by Management), consultations, trainings, discussions, reviewing drafts and negotiation with Management.
- E. When attending meetings arranged and called by Management, the Union official shall be responsible for securing their own approved official time.
- F. When serving as an Employee Representative in the preparation of presentation for:
 - 1. an appeal to the Merit Systems Protection Board; or
 - 2. a discrimination complaint under such proceedings.

- 6.9 Form DAL-17 (copy attached as Appendix 1) will be used to administer the use of official time for representational functions.
- 6.10 The Union agrees that in the case of any concern it wishes to express regarding specific conditions at CIH it will address the concern with the Employer first in order to give the Employer an opportunity to respond to these concerns. An Employer representative will meet with the designated Union Official to discuss the concern(s). Nothing in this section is to be construed as meaning abridgement of a citizen's First Amendment rights under the U.S. Constitution.
- 6.11 The Employer and the Union will adhere to all other responsibilities enunciated throughout this Agreement in a cooperative and timely manner, and meet with each other on matters relating to personnel policies, practices, and matters affecting working conditions.
- 6.12 The Employer and the Union agree to cooperate to improve communications between the BUE(s) and supervisors, to promote efficiency, to improve the morale of Employees, to increase the productivity, and will focus on the goal of making CIH a better place to work.

- 6.13 The Union shall advise the Employer's Labor Relations Officer, or designee, of any proposed visit by non-employee Union Representatives as soon as the Employee Representative becomes aware of the date of their arrival.
- 6.14 Internal Union business, such as attending Union membership meetings, will be conducted during non-duty hours of the employees involved. Activities concerned with internal management of Employee organizations, such as the collection of dues, membership meetings, campaigning for officers, conduct of elections and distribution of literature or authorization cards, etc., will not be conducted during duty time. The Union may use the Employer's facilities in accordance with established policies for meetings and consultations.
- 6.15 The Union will make a good faith effort to distribute tasks, functions and duties across the SU in a reasonable manner; however, the Union retains the right to determine the designation of Union Representatives.
- 6.16 The Union will be entitled to contribute, where facility newsletters are published and have such contributions published as often as they desire, subject to Employer review and approval.

The Employer will allow official time for training of all Union elected/appointed Officials on a yearly basis of no more than 500 hours for the Service Unit, to include travel time. Written requests for official time for training will be submitted at least 3 weeks in advance to the Employer-designated management official. Training under this section will generally be designed primarily to further the interests of the Government by improving the labor-management relationship, including such topics as contract administration, handling of statutory actions, e.g., grievance handling, and information related to Federal personnel/labor relations laws, regulations and procedures.

Notification to the Employer-designated management official will include a copy of the event's agenda or other literature that allows the Agency to differentiate between legitimate official time activities and non-legitimate official time activities (e.g., internal Union business, social events).

The Union will be responsible for administering the training hours and allocating hours to individual representatives.

ARTICLE 7
LABOR-MANAGEMENT CONSULTATION MEETINGS

- 7.1 The Parties recognize that the negotiation of a basic agreement is but one element of a successful and effective Labor Management Relations program. Therefore, the Parties agree to meet in consultation on a quarterly basis for the purpose of exchanging information and discussing appropriate matters of concern and interest relating to personnel policies, practices and working conditions.
- 7.2 The quarterly consultation meeting normally will be held the first workday of each quarter at 10:00 a.m. unless a different date and time is agreed upon, in a meeting place designated by the Employer. To facilitate meaningful discussion, both parties should submit agenda items (generally with a brief description) to the other party at least ten (10) days prior to the scheduled meeting. Matters not on the agenda may be discussed by mutual consent. If no agenda items are submitted by either party, the meeting shall be cancelled.
- 7.3 Normally, the quarterly consultation meeting may be attended by three (3) representatives of the Employer and three (3) representatives of the Union. In the event the Union desires more than three (3) representatives at any given meeting, it should submit a name list, requesting permission, to the Service Unit Administrative Officer, along with a brief justification as to why the extra representative is desired. Such requests will be made at least five (5) work days prior to the scheduled meeting.
- 7.4 It is understood that specific grievances, complaints or appeals will not be discussed in the Labor-Management Quarterly Consultation meetings. However, this does not preclude the discussion of general personnel policies, practices and working conditions which might give rise to grievances, complaints, or appeals so that problems might be identified for possible preventive actions where appropriate.
- 7.5 It is the expectation of the Parties that the Labor Management Consultation meetings will be conducted in a cooperative non-adversary and businesslike manner. Therefore, each Party is to refrain from general griping about the other's motives, the use of innuendo, non-specific allegations, and abusive language.

ARTICLE 8
MID- TERM BARGAINING

- 8.1 The Employer agrees not to establish or change any condition of employment unilaterally which terminates, or directly conflicts with a specific term or condition of this Agreement, except changes which are required by laws and Executive Orders.
- 8.2 The Employer recognizes the Union's right to request negotiations on procedures which the Employer will observe in exercising its retained Management rights (Article 4) when such action by the Employer will have an impact on BUE(s) pursuant to 7106(b)(2) and (3) of the Civil Service Reform Act and Executive Orders.
- 8.3 Some topics, based on nature and urgency, may be more conducive to address through Labor-Management Consultation meetings, otherwise they are handled through this Article.

Matters appropriate for mid-term bargaining shall include those issues within the scope of bargaining, as proposed by either Party which are either newly formulated, or changes to established personnel policies and practices during the term of this agreement, which effect the working conditions of unit employees.

- 8.4 When either party proposes to establish or change a condition of employment which will have an impact on BUE(s), the initiating party will adhere to the procedures outlined below in section B. The initiating party will submit all necessary information on a change to permit full and proper discussion, this notice may include the following:

A. Notice

1. the nature and scope of the proposed change,
2. an explanation of the initiating party's plans for implementing this change,
3. an explanation of why the proposed change is necessary, and
4. the proposed implementation date.

B. Changes applicable to the Bargaining Unit:

1. A notice, both verbal and written, will be submitted to the receiving party as far in advance as possible of a proposed change. **The receiving party will have ten (10) working days in which to request an opportunity to negotiate. Such request will contain the written proposals which the receiving party wishes to negotiate.** When it is

administratively impractical for the initiating party to provide ten (10) working days advance notice, the receiving party will be informed as to when it must give notice and submit proposals, if it wishes to invoke negotiations. When negotiations are invoked, then the parties shall commence negotiations within three (3) working days. If the initiating party delays or decides not to implement the proposed change, written notification will be provided. Timeframes may be extended by written mutual agreement, (i.e., conditions when official time cannot be granted).

2. The parties agree that any proposals submitted in the context of Impact or Implementation or other mid-term bargaining will be specifically related to the proposed change(s) and will not deal with extraneous matters.
3. The parties agree that reasonable extensions of time under this section may be made for good cause provided that the total time involved does not cause an unreasonable delay or impede the Employer in the exercise of its management rights.

8.5 The following procedures shall govern the conduct of all mid term negotiations pursuant to this Article:

- A. Negotiations will take place during regular administrative works days;
- B. The Employer will provide a site for mid-term negotiations. Consideration will be given to provide a caucus room for both parties;
- C. The Union will be authorized the same number of Union negotiators on official time as the Employer has representatives at the bargaining table; and
- D. Time spent during negotiating sessions shall be on official time in accordance with Article 6 for Employee Union Representatives if otherwise in a duty status;
- E. No observers will be allowed during any negotiation session except by mutual agreement;
- F. The starting date and the daily schedule for negotiations will be established by the Chief Negotiators.

- G. Alternates may substitute for negotiating team members. Such alternates will be entrusted with the right to speak for and to bind the members for whom they substitute.
- 8.6 When the Employer and the Union cannot agree on a negotiable matter and an impasse has been reached, the item will be set aside. After all negotiable items on which agreement can be reached have been disposed of the Parties will again attempt to resolve any impasses. Either one or both Parties may seek the services of the Federal Mediation and Conciliation Service (FMCS). When the services of mediation do not resolve the impasse, either the Employer or the Union, or both jointly, may seek the services of the Federal Services Impasses Panel (FSIP).
- 8.7 Those privileges of BUE(s) which by custom, tradition, and known existing practice have become an integral part of their working conditions, shall not be abridged as a result of not being enumerated in this Agreement.
- 8.8 It is the right of either Party to initiate bargaining on those issues not covered by this Agreement at any time during the life of the Agreement. Prior to implementing changes, bargaining will occur to the full extent of law and Article 8. It is further agreed that issues covered by the contract can only be re-negotiated by mutual agreement.

ARTICLE 9
NEGOTIATED GRIEVANCE PROCEDURE

- 9.1 The purpose of this Article is to provide a mutually acceptable and orderly method for the resolution of grievances filed by BUE(s) and the Parties. This negotiated grievance procedure will be the exclusive procedure available to the Union, BUE(s), and Management for resolving grievances which fall within its coverage.

Most grievances arise from misunderstandings. The Employer and the Union recognize the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner that will maintain the self-respect of the BUE and maintain the efficiency of the Employer. To accomplish this, the Parties will cooperatively attempt to settle grievances expeditiously, courteously and at the lowest level possible. Employees and their Representatives will be unimpeded and free from restraint, interference, coercion, discrimination, or reprisal consistent with Title 5, United States Code, and this Collective Bargaining Agreement in seeking adjustments of grievances not excluded in this Article.

- 9.2 A "grievance" is defined as any complaint subject to the control of the Employer or the Union:
- A. by any BUE concerning any matter relating to the employment of the Employee;
 - B. by the Union concerning any matter relating to the employment of any BUE; and
 - C. by a BUE, the Union or the Employer concerning:
 - 1. the effect or interpretation, or a claim of breach of this Agreement; or
 - 2. any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment of BUE(s).

- 9.3 This article does not apply to:
- A. Any claimed violation of 5 USC 73 relating to prohibited political activities;
 - B. a suspension or removal under Section 7532 of 5 U.S.C. 75 for national security reasons;

- C. any complaint concerning retirement, life insurance or health insurance;
- D. any examination, certification or appointment;
- E. the classification of any position which does not result in the reduction in grade or pay of a BUE;
- F. termination of temporary, probationary, trial period or term employees;
- G. a preliminary warning or notice of an action which has not yet been taken - however, BUE(s) will not be threatened or harassed by the Employer;
- H. any written notices of proposed actions which, if effected, would be grievable under this Agreement;
- I. A reduction in force action appealable under 5 CFR, part 351;
- J. An action terminating a temporary promotion and returning the employee to the position from which temporarily promoted or to a position equal in grade and pay to the position from which temporarily promoted;
- K. Matters in which the remedy sought is not personal to the grievant;
- L. Complaints concerning positions which are not in the bargaining unit;
- M. Grievances by employees in the excepted service who are non-preference eligible, or who are preference eligible who have not completed one (1) year of current continuous employment in the same or similar positions, for actions taken under 5 CFR 75 and 43; and
- N. Any allegations of EEO discrimination under 2302(b)(1) (See EEO Article).

9.4 This Article, at the exclusive election of an employee in the bargaining unit, not otherwise excluded, applies to:

- A. A removal or reduction in grade of the employee for unacceptable performance in accordance with Section 4303 of 5 USC 43;
- B. A removal, a suspension for more than fourteen (14) days, a reduction in grade, a reduction in pay, or a furlough of thirty (30) days or less, in accordance with the provisions of 5 U.S.C. 75.

Nothing in this Agreement shall prevent employees from exercising the option of appealing adverse actions and actions based on unacceptable performance to the MSPB, or processing 5USC 2302 (b)(1) prohibited personnel practices through the statutory appeals process.

An employee shall be deemed to have exercised his/her option to raise a matter either under the applicable statutory procedure or under this negotiated grievance procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing under the provisions of this Article, whichever event occurs first. The selection of either procedure prohibits the use of the other for pursuing the matter.

The Union has exclusive right to represent employees in presenting grievances and appeals under the Negotiated Grievance Procedure (NGP) in the Agreement. An employee or group of employees may present a grievance themselves without representation by the Union, provided that the local Union representative is a party to all discussions and grievance hearings. (In that instance, management will provide the Union notice of grievance filed and management responses throughout the procedure.) In any case, the local Union Representative shall have the right to be present at the adjustment. The adjustment must be consistent with the terms of this Agreement.

9.5 Employees are encouraged to present their problems or matters of dissatisfaction to their immediate supervisor. These presentations are to be treated initially as personal discussions and not grievances to be processed under the grievance procedures of this Article. If these informal steps fail to resolve the problem or are not used, then the grievance shall be filed within fourteen (14) calendar days from the date of the occurrence, or the date that the grievant knew or should have known of the event giving rise to the grievance. The employee and the supervisor shall make reasonable efforts to resolve the matter before the employee resorts to the use of the grievance procedure. Reasonable Official time may be granted with supervisory approval for employees to prepare grievances and consult with a Union Representative.

- 9.6 The formal grievance procedure consists of three (3) steps. At any step of the procedure, the appropriate management official may conduct any investigation, he/she deems appropriate and may meet with the grievant and/or the grievant's designated Representative in attempting to resolve the grievance. The local Union will be given the opportunity to be present.

The management official at each step will provide the Employee and Union with a written decision if any, within the designated time frame. Grievance decisions will identify the next higher management official for each stage. If a decision is not rendered or is unsatisfactory, the Employee or the Union may elevate it to the next stage. The grievance will be considered settled by the previous stage decision if the grievant or the local Union fails to elevate the grievance within the prescribed timeframe.

Only matters relevant to specific grievance issues will be discussed. Matters and relief requested that have not been raised in the initial presentation cannot be raised at any subsequent stage. The grievance will contain the following information:

- A. a statement that the grievance is being filed under the provisions of this Agreement;
- B. the matter being grieved, specifically and in detail, i.e., who, what, where, when, how, why, etc.;
- C. the name, title and organizational assignment of the official(s) alleged to have committed the action being grieved;
- D. the specific remedial relief being sought by the grievant;
- E. the grievant's name, title, grade, work telephone number and organizational assignment;
- F. the name of the grievant's organizational Steward, if Union representation has been requested; and,
- G. signature of grievant and date grievance filed.

Step One

1. As soon as possible within the fourteen (14) calendar days prescribed above, the grievant may meet with his or her first-line Supervisor and if

the issue is not resolved will submit his/her grievance to the immediate supervisor.

2. A BUE may be represented by a Union Representative or by him/her self, provided that the local Union Representative is a party to all discussions and grievance hearings.
3. The supervisor will meet with the BUE and the Union Representative, if any, within seven (7) calendar days after submission of the grievance to discuss the grievance.
4. The Supervisor will issue a written decision within seven (7) calendar days following the meeting. If the decision is not satisfactory to the grievant, it may be referred to the next step within five (5) calendar days after the immediate supervisor's decision.

Step Two

1. If the Step 1 decision is not satisfactory, or if no decision was rendered within five (5) calendar days after the date that the Step 1 decision would have been due, the grievant may submit the grievance to the second-level supervisor.
2. The second-level supervisor will schedule a meeting with the grievant and Union Representative, if any, within five (5) calendar days after receipt of the grievance in a mutual effort to resolve the grievance.
3. A written Step 2 decision shall be issued within seven (7) calendar days following the Step 2 grievance meeting, and shall identify the appropriate management official to receive the next step, if the grievance is further pursued.
4. If the decision is not satisfactory to the grievant, it may be referred to the next step within five (5) calendar days after the immediate supervisor's decision.

Step Three

1. If the Step 2 decision is not satisfactory to the grievant or if no Step 2 meeting occurs and/or no Step 2 decision is issued, either party may then request mediation.
2. The parties agree to use the Federal Mediation and Conciliation Service (FMCS) as the primary manner in which to select a mediator.
3. If it is impracticable to secure an FMCS mediator the parties may select a mediator who is mutually agreeable to the parties.

4. The request for mediation must be in writing and made within fourteen (14) days after receipt of the Step 2 decision or within fourteen (14) days after the Step 2 decision was due. If the grievance is still not resolved after mediation, the Union or Employer may invoke binding arbitration in accordance with Article 10.

9.8 Time Limits

Time limits shall be complied with unless there are exceptional circumstances. If the Employer does not meet the time limits in this agreement, the Union or the grievant may unilaterally move the grievance to the next step of the grievance process. Time limits may be waived in writing by mutual agreement by the parties. A deadline that falls on a weekend or holiday will be extended to the following workday.

9.9 Waiver of Steps

Any step of the grievance procedure may be waived by mutual written consent of the parties.

9.10 Union Grievance

The Union may file a grievance on its behalf with the Employer within twenty (20) days from the event giving rise to the grievance or from the date the Union became aware of the event forming the basis of the grievance, whichever occurs later. The grievance must be filed in writing with the lowest common management official who governs the issue⁴ being grieved. This management official will render a written decision within fifteen (15) calendar days to the Union official who filed the grievance. If the Union is not satisfied with the decision, it may pursue the grievance to mediation or binding arbitration in accordance with the procedures in Article 9, Step 3 of this Agreement.

9.11 Employer Grievance

Management may file a grievance with the Business Manager or his/her designee within twenty (20) days from the event giving rise to the grievance, or from the date the Employer became aware of the event that forms the basis of the grievance. The Union will render a written decision within fifteen (15) days. If the Employer is not satisfied with the Union's decision, it may pursue the grievance to mediation or binding arbitration in accordance with the procedures in Article 9, Step 3 of this Agreement.

9.12 Group Grievance

The Union may file a group grievance, on behalf of two or more

employees, when the group of employees has an identical or similar grievance. The Union shall file the group grievance within twenty (20) days from the event giving rise to the grievance, or from when the group knew or should have become aware of the event forming the basis of the grievance, whichever occurs later.

Step One

The grievance shall be filed with the lowest common management official who governs all the affected employees. This management official shall render a written decision within fifteen (15) DAYS TO THE Union official who filed the grievance.

Step Two

If the Union is not satisfied with the Step 1 decision or if no Step 1 decision is issued, the Union may proceed immediately to Step 2. The Step 2 official shall be the management official one level higher than the Group Step 1 official in this section. The Step 2 official shall render a written decision within (15) days of filing the Step 2 grievance.

Step Three

If the Union is not satisfied or if no decision is issued with the Step 2 grievance, the Union may proceed immediately to mediation or binding arbitration in accordance with the procedures in Article 9, Step 3 of this Agreement.

ARTICLE 10 ARBITRATION

10.1 This Article shall be administered in accordance with the Federal Service Labor-Management Relations Statute, title 5 United States Code, Chapter 71, and this agreement. If a grievance is not resolved under the Negotiated Grievance Procedure of this Agreement, including ADR, if any, the Employer or the Union may invoke arbitration by serving notice on the other Party within thirty (30) days of the date of the grievance decision, or if no decision was rendered the date the decision was due. The Area Labor Relations Officer (ALRO) and the Union will consult within ten (10) days of receipt of the notice invoking arbitration and will individually or jointly submit a request to the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven (7) impartial persons qualified to act as arbitrators. If either Party refuses to submit or sign the request, the other Party may unilaterally make the request. The ALRO and the Union will consult within ten (10) days after receipt of the list for the purpose of selecting an arbitrator. If the Parties cannot mutually agree upon one (1) of the listed arbitrators, they will each alternately strike an arbitrator's name from the list of seven (7) until one (1) name remains. The remaining person shall be the duly selected arbitrator. This procedure does not prevent the Parties from mutually rejecting all the names on the list and requesting a new list. The first strike will be determined by a coin toss. Each arbitration hearing will be 3 days or less in duration.

Computation of Time

In computing periods of time for the purpose of this article, the first day of counting will be the day after the act or event (e.g., the day after the employee received a final decision to take discipline, or the day after the deadline for submitting a response to a grievance). If the last day in the count is a Saturday, Sunday, a legal holiday, a day other than a legal holiday when the employer's office is closed that day shall not be counted, and the last day will be the next regular work day.

10.2 The Federal Mediation and Conciliation Service is hereby empowered to make a direct designation of the arbitrator selected by one party to hear the case in the event the other party refuses to participate in selection of an arbitrator within ten (10) days of receipt of the list.

10.3 If the Parties fail to agree on a joint submission of the issue for arbitration, each Party will submit a separate submission and the arbitrator will determine the issue(s) to be heard.

- 10.4 By mutual agreement, the Parties may arrange for a pre-hearing conference with or without the arbitrator to consider possible settlement and/or means of expediting the hearing. For example, this can be done by reducing the issue(s) to writing, stipulating facts, outlining intended offers of proof, authenticating proposed exhibits, exchanging lists of proposed witnesses, etc.
- 10.5 Once the hearing dates have been established, but a particular date is cancelled, the party responsible for the cancellation will be responsible for all cancellation costs and expenses. If the parties mutually agree to cancel a particular date, the parties will each pay 1/2 of any cancellation costs and expenses. The parties are bound by the cancellation policy of the individual arbitrator.
- 10.6 All fees and expenses of the arbitrator will be shared equally by the Parties. Any additional cost, such as travel and per diem, transcripts, etc., shall be paid by the Party incurring the expenses. If the Parties choose an arbitrator who requires a transcript or mutually agree to have a transcript made, the Parties agree to share the transcription cost. The arbitration hearing site will be provided by the Employer.

The aggrieved employee, the Union representative and approved witnesses, if any, who are employees of the Employer may be on official time during the time they participate in the hearing, if they are otherwise in a duty status. Employee witnesses will be allowed official time only for the period of time they are testifying, time required at the hearing site and for travel to and from the hearing site. If the situation arises in which the hearing is scheduled during a witness' off-duty time, efforts will be made by the Employer to accommodate the employee. Questions concerning the necessity of a proposed witness shall be decided by the arbitrator.

If the arbitrator allows observers, then both parties will mutually agree if any are to be present, their identity and the numbers. Lists of potential observers will be exchanged five (5) days in advance of the hearing. Employee observers will not be entitled to official time.

Ex Parte Communication with Arbitrator

There will be no communication with the arbitrator unless both Parties are participating in the communication.

- 10.7 The procedures used to conduct the hearing shall be determined by the arbitrator except that either party retains the right to submit pre-hearing or post-hearing briefs. A verbatim transcript of the hearing will be made if mutually agreed upon, and the cost shall be shared equally by the Parties.
- 10.8 The arbitrator will submit his/her decision to the Parties not later than thirty (30) days following the close of the hearing. If more time is needed, the arbitrator must request consent of the Parties.

- 10.9 The arbitrator has no authority to add to, subtract from, or otherwise modify the terms of this Agreement, or any changes thereto, or the Employer's rules, regulations and procedures. The authority of the arbitrator will extend to the interpretation of Agency regulations, provisions of law, or regulations of appropriate authority outside the Agency and this Agreement.
- 10.10 The arbitrator will date the award the date he/she mails or otherwise dispatches the award. In this regard, the arbitrator will send the award to the Parties by Certified Express Mail or Federal Express.
- 10.11 In cases where either Party intends to claim attorney fees, that Party will submit an itemized list of the charges to the arbitrator and to the other Party prior to the closing of the record.
- 10.12 Any dispute involving the interpretation or application of an arbitration award shall be returned to the arbitrator for resolution. This may be accomplished verbally, or by prompt written submission by either party. The arbitrator will render his/her decision within seven (7) calendar days following the request for clarification. If more time is needed, the arbitrator must request the consent of the Parties.

ARTICLE 11
MERIT PROMOTION PLAN

- 11.1 The processing of competitive, non-competitive, and temporary promotions, details, and reassignments for BUEs will be in accordance with the Indian Health Service Merit Promotion Plan, this Agreement and applicable law, rule and regulation.

The purpose and intent of the provisions contained in this Article are to ensure that merit promotion principles are applied in a consistent manner with equity to all Employees, in accordance with Indian preference requirements, and without regard to political, religious, labor organization affiliation or non-affiliation, marital status, race, color, gender, national origin, non-disqualifying disabling condition or age, and will be based on job-related criteria.

- 11.2 Prior to changing any provisions of this plan, the Union will be notified and given the opportunity to negotiate on the proposed changes, to the extent negotiable.
- 11.3 In the interest of effective Employee utilization, details of BUEs may be used to meet temporary work needs of the Employer. Selection for details will be based on the bona-fide needs of Management and the ability of the Employee(s). Details of more than thirty (30) days will be documented via an SF 52, Request for Personnel Action. The Employer will periodically review Employee's qualifications/eligibility for a temporary promotion when an Employee is detailed to a higher graded position in the Bargaining Unit. The Employer will first ask for volunteers; the volunteers will be selected by service comp date. In the event there are not enough volunteers, the Employer will detail by inverse service computation date. Non-negotiable due to management rights to determine most qualified to perform.
- 11.4 An Employee who fully meets the minimum eligibility standards and time-in-grade requirements temporarily placed in an established higher grade position in the Bargaining Unit in excess of thirty (30) days will be temporarily promoted. If a temporary promotion is expected to, or will exceed one hundred twenty (120) days, competitive procedures will be followed.
- 11.5 Normally, career ladder promotions exempt from the Merit Promotion competition will be effected within two (2) pay periods following the date the Employee becomes eligible, and all other requirements and conditions for promotions have been met. Upon Employee request, the Employer will provide information to the Employee regarding his/her promotion.

ARTICLE 12
USE OF OFFICIAL FACILITIES AND SERVICES

- 12.1 The Employer agrees to provide the Union space, upon availability, for the purpose of conducting Employee Union/Local meetings during non-duty time. The Union/Local will adhere to the facility policy for reserving meeting space. The Union/Local agrees to be responsible for the proper use and cleanliness of the space provided.
- 12.2 The Employer agrees to provide Room 621 as a secured area allocated for the Union office.

The Employer will provide a lockable file cabinet or other similarly agreed upon equipment. The Employer shall make a reasonable effort to provide excess office equipment for Union use.

The Employer will make every feasible effort to provide meeting space for Union Officials to discuss representational matters with BUEs on an as-needed basis at the Service Unit.

The Union will be afforded twenty-four (24) hours per day/seven (7) days per week access to this Union office area.

Union representatives shall be given reasonable access to telephone lines, fax machines and copy machines for the purpose of conducting official labor relations business regarding grievances and other representational matters, at no cost to the Union. The Union will be given their own access code to the copy machine by Supply.

MAIL:

Internal Mail: Internal mail distribution service will be made available to the Union for distribution of material to Employees of the Bargaining Unit. Material for individuals will be individually addressed and placed in departmental mailboxes by the Union. It is understood that this can be for internal Union notices, such as membership drives or newsletters; such items are to be placed in the internal mail system during non-duty time.

The Union will be given access to the e-mail internet systems for appropriate representational purposes.

- 12.3 A. The Union will maintain four (4) bulletin boards in the Service Unit for utilization of postings of Union business. Only the Union may add/remove material(s) from these bulletin boards. Locations: by the Canteen, East Hallway (formerly Women's Program Board), ER Hallway, and West Hallway for the display of Union literature,

correspondence and notices. Literature posted or distributed to employees must not violate any law, applicable provisions of this Agreement or security regulations, or contain scurrilous or libelous material towards any employee, Management official or Union.

Materials other than the official publications of the Union AFGE may be displayed, upon approval signature of a designated Union Representative.

BUE(s) will be allowed to peruse the material on these bulletin boards at their leisure, without fear of reprisal.

- B. When a facility newsletter is published, Employees may submit articles through their specific departments for publication. Employees will be responsible for the accuracy, adherence to ethical standards, and any statements made within their submission regarding individuals or organizations.

- 12.4 The Employer is responsible for the typing of this Agreement and will submit the typed Agreement to the Union for final approval.
- 12.5 The Employer agrees to make the contract available via the Claremore Indian Hospital web page to all CIH employees. Employees who want to obtain a hard copy of the collective bargaining agreement are responsible for printing outside of the facility.
- 12.6 The Employer agrees to furnish to the Union quarterly upon request an up-to-date list of all Employees in the Service Unit, showing name, position title and number, and official duty station.
- 12.7 The Employer agrees to make available for on-site review to the Union and Employees, Office of Personnel Management and Merit Systems Protection Board publications, including regulations, supplements, and classification standards which are maintained by the on-site facility when not accessible via the internet. The Employer will provide the Union with one (1) copy of all future Departmental Personnel instructions and activity personnel policies applying to the BUEs which are maintained by the OCAO.
- 12.8 The Union may announce meetings over the PA system provided the announcements are in compliance with current facility policy.

ARTICLE 13
TRAINING AND CAREER DEVELOPMENT

- 13.1 The Employer and the Union agree training and development of employees is important in carrying out the mission of the Agency.

Consistent with needs, budget and travel limitations, employee training and development will be administered in accordance with all applicable laws, rules, regulations, and the provisions of this agreement.

- 13.2 The Employer will identify training needs of BUEs and will to the maximum extent possible, provide training designed to assure continued efficiency of Employees in the performance of their officially assigned duties and for their career development and advancement needs. It is the employee's responsibility to request training on the appropriate form in writing. It is the immediate supervisor's responsibility to approve or deny the training request and notify the employee in writing. If training is denied due to workload reasons or budgetary constraints including but not limited to these considerations, then these training requests can be re-submitted for consideration at a later date.

- 13.3 The Employer agrees that it will not make its training nominations or selection determinations for BUEs on any discriminatory factors such as race, color, religion, national origin, political affiliation, marital status, non-disqualifying handicapping condition, age, personal favoritism, membership/non-membership in any employee organization or activity, or the holding of an office in an Employee organization, except as authorized by law. Rather, nominations will be made based on the need of the Employer subject to availability of funds.

- 13.4 The Parties recognize that organizational resource variables are present in any organization and will influence the actual needs for training development and education of the work force. Therefore, the career training and development program is designed to provide efficient and effective training normally in the following priorities:

- A. improving Employee performance of current duties;
- B. developing of Employees for meeting the Agency's future manpower requirements;
- C. adopting and implementing of new systems and technology requiring differing skills, knowledge, and abilities;
- D. developing Agency Employees' skills unavailable through existing recruitment sources;
- E. assisting the upward mobility of lower level Employees; and

- F. keeping Employees abreast of the "state of the art" and maintaining specialized proficiencies.
- 13.5 If an Employee is required to train a new Employee, the supervisor will recognize the additional responsibilities and time required and make appropriate adjustments to work assignments when possible.
- 13.6 It will be a matter of interest and concern for the Employer and the Union that approved training courses, seminars, conferences and meetings be scheduled, whenever possible, during work hours to allow the Employees the opportunity to gain information, education and training. Management will make a reasonable effort to provide coverage to enable BUEs to attend training classes.
- 13.7 The Employer agrees to make available to all Employees enrolled in approved training courses excess academic aids such as desk calculators, typewriters, etc., if available and used on the premises of the Employer, at mutually agreeable times during the Employee's non-duty hours.
- 13.8 The Employer agrees that a Union Representative will be recognized as a participating member on every Service Unit Training/Education Committee. If the designated member is precluded from attending a meeting, an alternate may attend.
- 13.9 The CEO will insure that all department supervisors of the facility will review the need and requirements of the Hospital for the training of Employees.
- 13.10 When BUEs are required to read or study for self-taught educational courses, they may be allowed during duty time to read at the Nurse's Station during slow periods to complete the requirements.
- 13.11 Medical Staff Professional Employees training nominations must be submitted to appropriate supervisor for pre-approval and consideration of reimbursement for CME.
- 13.12 When an Employee requests job-related training and funds are not available, but the Employee agrees to pay for the training, the Employer will consider granting administrative leave if feasible.
- 13.13 Each employee will be entitled to establish an individual Development Plan (IDP). The IDP is a guide to help individuals to reach career goals within the context of organizational objectives; it is a developmental action plan to move employees from where they are to where they want to be. It

provides systematic steps to improve job performance and pursue career goals.

The IDP is a personal action plan. An IDP also identifies training and other developmental experiences needed to achieve goals, for the benefit of the individual and organization, within a specified time frame.

Your individual and professional development are an IHS priority. The establishment of your IDP is a collaborative effort between you and your supervisor, and may be used as a constructive tool in shaping your individual and organizational performance goals.

13.14 Agency approved travel and training requests will be paid according to the applicable travel rules and regulations.

ARTICLE 14
ORIENTATION OF NEW EMPLOYEES

- 14.1 All new Employees will be informed by the Employer that the Union is the Exclusive Representative of Employees in the Service Unit. Each new Employee will receive a copy of a list of the Officers and Representatives of the Union and their organizational unit.
- 14.2 The local Union Representative will be afforded the opportunity to speak at orientation sessions for new Employees if formal orientation sessions are held, to provide such Employees with an introduction to the purposes, goals and achievements of the Union.
- 14.3 At the monthly new employee orientation, a Union representative will have fifteen (15) minutes duty time the opportunity to speak. No management officials will be present at this time (exception: new management employees will remain).

ARTICLE 15
DISCIPLINARY ACTIONS

15.1 Disciplinary actions will only be taken for Just Cause:

- A. For the purpose of this Article, a disciplinary action is an official reprimand or a suspension of fourteen (14) days or less.
- B. Verbal warnings, counseling, written warnings and admonishments are considered to be guiding in nature; however, if the offense continues as part of the progressive discipline process reference will be made to the previous guidance. Employees may provide a response to such guidance.
- C. Disciplinary actions will be in accordance with prevailing laws, rules, and regulations of higher authority and this Agreement, and are grievable under the Negotiated Grievance Procedure, unless excluded by law or this Agreement.
- D. Prior to the initiation of disciplinary action, the agency will conduct an investigation as deemed necessary to determine whether such action is warranted. The Union will be given the opportunity to be present at any examination of a BUE by the initiating official in connection with the investigation, if the Employee reasonably believes that the examination may result in disciplinary action against the Employee and the Employee requests representation as described in Article 5.2. The Supervisor will inform Employee of the purpose of such a meeting at least one (1) hour prior to the meeting, when feasible, telling the employee whether he or she is the subject of the investigation or a collateral witness.

If the Employee requests such Union representation, he/she will be afforded an opportunity to obtain such representation before further examination of the Employee occurs, unless obtaining a representative would create an unreasonable delay in disposing the issue. If this occurs, the agency representative should proceed without a meeting to take appropriate action based on information received from other sources or delay the interrogation until another representative is chosen. The employee's right to Union representation is balanced against the chosen representative being readily available. During the meeting, an Employee will have the opportunity to read all presented material in the supervisor's presence.

- E. If the Agency believes that disciplinary or adverse action is necessary such action will be initiated in a timely manner dependent upon the individual circumstances.

15.2 An official reprimand, at a minimum, should state the following:

- A. state the specific reasons for the reprimand, together with sufficient details for the Employee to understand what misconduct underlies the reprimand and why the misconduct is inappropriate;
- B. inform the Employee that more severe disciplinary action may be taken on any further misconduct;
- C. include a copy of any evidence relied upon for the reprimand;
- D. inform the Employee of the right to have the reprimand reviewed under the Negotiated Grievance Procedure of this Agreement;
- E. inform the Employee that the written reprimand will be made a part of the Employee's Official Personnel Folder for a specified period of time, not to exceed 18 months; and
- F. inform the Employee that the official reprimand may be removed at an earlier time by the supervisor when he/she determines the behavior which led to the reprimand has been corrected.

15.3 For the purpose of this Agreement, a suspension means the placing of an Employee, for disciplinary reasons, in a temporary status without duties or pay.

- A. An Employee against whom a suspension of fourteen (14) days or less is proposed, is entitled to:
 - 1. an advance written notice stating the specific reason(s) for the proposed action and any supporting documents;
 - 2. a reasonable time, not to exceed seven (7) working days, to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer;
 - 3. to be represented by the Union at the election of the Employee; and
 - 4. to a written decision and the reasons, therefore, at the earliest practicable date; the action will be implemented no sooner than seven (7) working days from receipt of the decision.

- B. Copies of the notice of proposed action, the answer of the Employee, if written, a summary thereof if made orally, the notice of decision and reasons therefore, and any order affecting the suspension, together with any supporting material will be maintained by the Employer in accordance with its record-keeping rules, regulations and procedures.
- C. In the event that an unfavorable decision is issued, the decision notice will state that the Employee has the right to grieve the decision under the Negotiated Grievance Procedure in Article 9, or the IHS Grievance Procedure, depending upon the status of the employee.
- D. When a disciplinary action is proposed the investigation documents will be attached in their entirety or made available for the employee/representative to review.
- E. The role of the Union representative in a meeting when an employee is being questioned is to assist the employee to facilitate the investigation and suggest names of persons believed to have first-hand knowledge. The representative cannot advise the employee to remain silent, or not give a statement, unless criminal charges are involved.

ARTICLE 16
ADVERSE ACTIONS

- 16.1 A. For the purposes of this Agreement, an adverse action is a:
1. removal;
 2. suspension for more than fourteen (14) days;
 3. reduction in grade;
 4. reduction in pay; and
 5. furlough of thirty (30) days or less.
- B. An adverse action does not apply to:
1. a suspension or removal for national security reasons, 5 CFR 732;
 2. a reduction-in-force action, 5 CFR 351;
 3. voluntary action initiated by the Employee;
 4. termination of appointment on the expiration date specified as a basic condition of employment at the time the appointment was made;
 5. action that terminates a temporary or term promotion and returns the Employee to the position from which temporarily promoted, or to a different position of equivalent grade and pay, if the Agency informed the Employee that it was to be of limited duration;
 6. a reduction or removal based solely on unsatisfactory performance covered in Article 17, 5 CFR 432; or
 7. actions directed by the Office of Personnel Management, Merit Systems Protection Board, 5 CFR 1206, or other appropriate authority.
- 16.2 Adverse action will be initiated only for such cause as will promote the efficiency of Federal Service. Discipline is intended to correct an individual's behavior as well as to maintain order and efficient operations within the workplace. It is understood that discipline should not be punitive in nature.

- 16.3 A. An Employee against whom an adverse action is proposed is entitled to:

At least thirty (30) days advance written notice, unless there is reason to believe that the Employee has committed a crime for which a sentence of imprisonment may be imposed, or for furlough without pay due to unforeseeable circumstances requiring immediate curtailment of activities, stating:

1. the specific reason for the proposed action and supporting documentation;
2. entitlement to ten (10) working days to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer;
3. the right to be represented by a Union Representative or by an attorney; and
4. that Employee and/or his/her Representative will be authorized a reasonable amount of Official time to review the material relied upon to support the proposal and to prepare an answer and to secure affidavits, if he/she is otherwise in an active duty status.

- B. The deciding official's response will include:

1. a written decision and the specific reasons;
2. the Employee's rights to grieve the decision under the Negotiated Grievance Procedure of this Agreement, or appeal to MSPB if applicable, but not both;
3. the effective date of the action, which shall not be less than thirty (30) days from the date of receipt of the proposal notice. In such case the effective date of the action may be immediately after the employee's receipt of the final notice.
4. the Employee has the option to make copies of the written decision prior to the departure from the premises.

- C. If the Agency determines it is necessary to add additional charges to a proposed disciplinary action, the Agency will rescind the original proposal and issue a new one, including the new charges, thus starting the process all over.

- D. The Agency will not unreasonably deny a request for extension of the time to respond to proposals if there is a valid reason for the extension.
- E. Off-duty Conduct

In cases where a disciplinary or adverse action is proposed for reasons of off-duty misconduct, the Agency's written notification will contain a statement of the nexus between the off-duty misconduct and the efficiency of the service.

- 16.4 Under ordinary circumstances, an Employee whose removal has been proposed will remain in a duty status in his/her regular position during the advance notice period.

In those rare circumstances where the Agency determines that the Employee's continued presence in the workplace during the notice period may pose a threat to the Employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the Agency will consider alternatives available under the statute.

- 16.5 Employees against whom adverse actions are taken under the provisions of this Article may grieve under Article 9 of this Agreement, or appeal the action to Merit Systems Protection Board, but not both. The following Employees may appeal or grieve as appropriate:

- A. An individual in the competitive service:
 - 1. who is not serving a probationary or trial period under an initial appointment; or
 - 2. who has completed one (1) year of current continuous service under other than a temporary appointment limited to one (1) year or less.
- B. A (Veteran's) preference eligible in the excepted service who has completed one (1) year of current continuous service in the same or similar positions.

[Douglas Factors added to Appendix]

ARTICLE 17

ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

17.1 Pursuant to 5 U.S.C. 4303, the Employer may reduce in grade or remove an Employee for unacceptable performance.

An Employee whose reduction in grade or removal is proposed under 5 U.S.C. 4303 is entitled to:

- A. thirty (30) days advance written notice of the proposed action which identifies:
 - 1. specific instances of unacceptable performance by the Employee on which the reduction in grade or removal is based; and
 - 2. the critical elements of the Employee's position involved in each instance of unacceptable performance.
- B. at the Employee's election, be represented by a Union Representative or an attorney;
- C. a maximum of ten (10) calendar days to answer orally and/or in writing; and
- D. a written decision.

17.2 The Employer may extend the notice period referenced in Section 1(A) in accordance with IHS and OPM Regulations.

17.3 The decision to retain, reduce in grade, or remove an Employee will be made within thirty (30) days after the date of expiration of the notice period. Improvement in the Employee's performance during the notice period will be taken into account, along with any Employee response, in the final decision.

17.4 In the event an unfavorable decision is issued the Employee, the decision letter will include:

- A. the Employee right to grieve the decision under the Negotiated Grievance Procedure of this Agreement, or appeal to MSPB, but not both;
- B. the effective date of the action, which will not be more than ten (10) working days from the date of receipt of the decision notice.

- 17.5 The Supervisor will give the Employee a reasonable opportunity to demonstrate acceptable performance before proposing a reduction in grade or removal under this Article.
- 17.6 Employee against whom an action is taken under the provisions of this Article may grieve or appeal the actions as follows:
- A. An individual in the competitive service:
 - 1. who is not serving a probationary or trial period under an initial appointment; or
 - 2. who has completed one (1) year of current continuous service under other than a temporary appointment limited to one (1) year or less.
 - B. A (Veteran's) preference eligible in the excepted service who has completed one (1) year of current continuous service in the same or similar positions.
 - C. An individual in the excepted service other than a (Veteran's) preference eligible:
 - 1. who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service; or who has completed two (2) years of current continuous service in the same or similar positions in an executive agency under other than a temporary appointment limited to two (2) years or less.
- 17.7 This Article is not applicable to probationary or trial period Employees.
- 17.8 All actions taken under this Article must be in compliance with Article 25 (Performance Management Appraisal System).

ARTICLE 18
EMPLOYEE ASSISTANCE PROGRAM

- 18.1 The Employer agrees to administer an Employee Assistance Program within available resources under the guidelines of Federal law and the Departmental rules and regulations of this program.
- 18.2 The EAP program will be designed to provide counseling and other assistance to Employees suffering from mental and emotional disorders, alcoholism, alcohol or other drug abuses, marital, familial or other problems that are encountered by Employees.

Voluntary participation and Employee responsibility through the existence and functions of counseling and referral programs will be publicized. Requests for participation in the program will not be used as a basis for the Employer to take action which is harmful to the Employee, except as related directly to sensitive positions. If after a reasonable period the Employee's work performance and/or conduct does not improve, the Supervisor will consult with the Human Resources Division concerning the appropriate action to take.

Progress and improvement in conduct and performance made by an Employee while enrolled in a treatment or rehabilitation program, to the extent known by the Employer will be viewed favorably by the Employer when considering corrective action.

- 18.3 Employees who suspect they have such a problem(s), whether or not it currently affects their work, are encouraged to use the EAP program on a voluntary basis. Complete confidentiality is assured to the Employee while in the EAP program. Employees who voluntarily seek out the services of the EAP program, but wish to maintain their privacy, must arrange to do so on their own time (e.g., lunch period, before or after their duty hours) based on the availability of a counselor, sick or annual leave, and may be at his/her own expense. Self-referred Employees who wish to inform their Supervisors of EAP attendance may receive Official time while at EAP for an initial appointment. Self-referred Employees will receive the same counseling services, including outside referral to community resources, as Supervisor-referred Employees.
- 18.4 Regardless of the nature of the referral, the EAP counselor will not disclose any information about a participating Employee to the Employee's Supervisor without the Employee's written consent. The EAP counselor will discuss the Consent Form which the Employee has the option to sign, but is not required to do so. Only if the Employee signs the form may the EAP counselor inform the Supervisor whether the Employee is making progress. If the Employee chooses not to sign the Consent Form, the EAP counselor may not disclose any information to

the Supervisor, except whether or not the Employee made or kept appointments during duty hours. The Consent Form may also be used when a counselor refers an Employee to a community resource. In this instance, the signed consent allows the community resource to provide to the EAP counselor, not the Supervisor, information about an Employee's program.

- 18.5 An employee is on Official time when he/she initially meets with the EAP counselor, provided he/she informs his/her Supervisor directly, or does so indirectly by signing the Consent Form. An Employee who does not want his/her Supervisor to know of his/her attendance at EAP counseling sessions must arrange appointments outside duty hours, based on the availability of a counselor, during lunch periods, or during periods of approved leave. Employees who are referred to community resources for treatment must request approved leave for these treatment sessions if they occur during the Employee's scheduled work day.
- 18.6 Whenever outside referral to a community agency or practitioner is deemed advisable for an Employee, the EAP counselor will refer the Employee to appropriate treatment services. The EAP program will attempt to assure that the costs of such treatments are kept within the Employee's financial means by recommending third-party payments, sliding fee scale community resources, and self-help groups to the extent possible.
- 18.7 Upon entry into the EAP program, it will be the Employee's responsibility to comply with the EAP program objectives. An Employee who declines to accept an EAP professional's assistance, initial diagnosis, and/or treatment remedies for whatever is causing deteriorating job performance and whose job performance continues to be deficient, will be dealt with according to disciplinary regulations.

Like poor performance, an Employee's misconduct may be caused or aggravated by alcohol abuse, drug abuse, or emotional problems. Whenever possible, supervisors should consider referring such Employees to the EAP program prior to, or concurrent with, proposed disciplinary actions.

- 18.8 Confidentiality of Employee's medical records while under the EAP program will conform to and adhere to Departmental rules and regulations.
- 18.9 The Employer agrees that periodically the Union will be advised of the status and operation of the EAP through orientation, either in Labor Management Consultation meetings, or a special meeting set up for this purpose.

18.10 The Union will be authorized to have a Union representative attend onsite employee training sessions on EAP, but will not be authorized to attend EAP Training for managers and supervisors.

18.11 Employee counseling concerning an Employee's performance and/or work conduct problems will be conducted by the Employee's immediate Supervisor, in connection with performance discussions or disciplinary discussions.

ARTICLE 19
POSITION DESCRIPTIONS

- 19.1 Each Employee is entitled to a complete and accurate Position Description (PD) which will be reviewed for accuracy at least every five (5) years. Such position descriptions will reflect major duties and responsibilities of the position for which the classification grade, title and series, as well as civil service qualification requirements, can be based. To the extent feasible, Employees will only be assigned tasks which are related to their job or field of work. Employees will not be assigned tasks which would likely cause injury to the Employee or others.
- 19.2 Each Employee will be furnished a copy of his/her position description upon hire or request. When a PD is revised (i.e., additions or deletions) or Employee changes positions, the Employee will be provided a copy of the PD.
- 19.3 If an Employee believes that his/her PD does not adequately describe his/her current duties, or believes that the position is improperly classified as to title, series, grade or pay system, he/she will first discuss the matter with his/her Supervisor. The Supervisor will review the PD with the Employee. If the PD is not accurate, the Supervisor will initiate action to ensure that the PD reflects major duties and responsibilities. Resolution of the Employee's dissatisfaction should be attempted informally between the Employee, a Union Representative if requested by the Employee, the Supervisor, and/or, if necessary, a representative of Human Resources. After the PD has been updated and classified by HR, the supervisor may also request a desk audit by appropriate Human Resources staff if the resulting classification of the position is still not satisfactory.
- 19.4 An Employee may request a desk audit (PD) review through their Supervisor. Once the Employee has a complete and accurate PD and still is dissatisfied with the position's classification as to title, series, grade or pay system, the Employee may appeal in accordance with applicable regulations for a Classification Appeal through OCAO or OPM. At their election, the employee in the classification appeal will provide to the Union a copy of any correspondence.
- 19.5 Employees whose positions are downgraded through no fault of their own will be afforded grade and pay retention in accordance with applicable law and regulation.

ARTICLE 20
VOLUNTARY ALLOTMENT OF UNION DUES

20.1 Dues Allotment

The Employer agrees that each eligible Employee in the Union covered by this Agreement has the right to make a voluntary allotment from his/her pay for the payment of his/her membership dues to the Union, or to revoke the allotment, in accordance with the following:

The Union will inform each of its members of the voluntary nature of the authorization for allotment of pay to cover dues and of the prescribed procedure for revoking it.

20.2 Dues Allotment Standard Form (SF-1187)

The Union agrees to distribute to its members Standard Form SF-1187, "Request for Payroll Deductions for Labor Organizations Dues," and to receive at anytime completed forms from members who request an allotment. The Union Treasurer/Designee is designated to receive the completed forms to enter the amount of dues for the member for each pay period and to determine whether the Employee is in good standing. The Union Treasurer/Designee will then complete the required certification and submit the forms to the Labor Relations Office, Claremore Indian Hospital Human Resources. The payroll deductions will begin within thirty (30) days of receipt at Claremore Indian Hospital Human Resources.

20.3 Dues Allotment Revocation

An Employee may revoke an allotment by submitting a signed Form SF-1188 on their anniversary date one (1) year after initial processing date. After the initial year, the authorized revocation is May 1. Revocation requests received after May 1 or before April will be returned to the Employee.

It is the Employee's responsibility to complete form SF 1188 to halt their Union Dues Allotment when transferring to another Federal Agency or other IHS Service Unit.

20.4 Notification of Union for Withdrawal Request/Termination of Federal Employment.

The Employer's designated CIH Human Resources Representative will notify the Union Treasurer/Designee within thirty (30) days of an Employee's request to revoke dues allotment and/or termination of any BUE(s).

ARTICLE 21 REDUCTION IN FORCE

21.1 Policy

Management will seek to avoid the necessity of taking a Reduction-In-Force (RIF) action. The provisions of law, OPM, HHS, and IHS Regulations and instructions and this Article will apply to all RIF actions affecting unit Employees. Employees affected by a RIF will receive fair and equitable consideration throughout the RIF process.

21.2 Procedure

Reduction-In-Force Folders: The Union and the Employer will individually or jointly encourage each Employee to see that his/her personnel file and application for Federal employment are up-to-date as soon as the RIF or reorganization is announced. Management will add to the personnel file appropriate changes or amendments requested by the Employee. Both personnel files and applications for Federal employment will be used in the RIF process to match Employees to appropriate positions. Employees will be notified of the rights that may be applicable to them through the Reemployment Priority List, CTAP/ICTAP Program, and provided assistance accordingly to apply for vacancies.

21.3 A. Union Notification

Normally, when the Employer makes a decision to conduct a RIF, the Employer will notify the Union in writing at the earliest day possible and prior to the sixty (60) day specific notice to Employees. The Union will be provided the following information:

1. the reason for the RIF;
2. Competitive Areas/Levels - valid consideration will be given to the Union disagreements on competitive levels, if any, to attempt to resolve the issue short of a grievance;
3. copies of HHS grade and pay retention regulations, Veterans and Indian preference rights, and Retreat rights;
4. Tentative positions to be abolished; and
5. Sample of specific notice letter and other information included in the Employee notice packet.

B. Employee Notification

The Employee will be given a specific notice not less than sixty (60) days prior to the effective date of the action. All such notices will contain the information required by the OPM regulations.

If an Employee receives a specific RIF notice, that Employee and/or his/her representative will be given the opportunity to review retention registers listing other employees who may be entitled to displace him/her, as well as employees he/she may be entitled to displace.

The notice shall also state the Employee's right to appeal the final RIF action to the Merit Systems Protection Board.

Upon receipt of a specific notice as a result of a RIF action, (per OPM regulations), the Employee will have at least five (5) days in which to accept or decline the offer. After the initial notice, subsequent offers for positions will be in accordance with OPM regulations. All offers will have a five (5) day response period.

21.4 A Union Representative will be authorized Official time, if otherwise in a duty status, to meet with the Employer's representative periodically to be briefed on compliance with the provisions of this Agreement on RIF procedures.

21.5 Placement

The Employer will, if considered necessary and possible, provide placement assistance of Employees being adversely affected by the RIF, initiate a review for the purposes of minimizing downgrades and separations as to any action or other event which creates a vacant position at or below the current grade of an adversely affected Employee for which he/she may qualify, and on which Management has the authority to act.

21.6 To the maximum extent feasible, within available time and funds, and based on the position priorities, Employees scheduled to be adversely affected by a RIF will be given the opportunity to participate in training which would qualify them for other jobs or enhance their placement possibilities.

21.7 In further efforts to minimize the impact of a RIF on Employees, the Employer will give serious consideration to taking the following actions to the maximum extent feasible, consistent with the Employer's needs and mission requirements:

- A. restructure vacant positions to enable Employees adversely affected to meet the qualifications for a needed position;

- B. assist Employees who received no valid job offer in their competitive area to find positions in another competitive area, if the Employee so desires;
- C. freeze hiring in the competitive area and during the RIF;
- D. With reference to vacant positions only, the Selecting Official may and is encouraged to, consider waiving discretionary qualification requirements for an announced vacant position, if an employee who has received a specific notice of RIF meets the minimum requirements for the positions and the Selecting Official believes the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties of the position.

21.8 Competitive areas are established by Departmental policy and regulations. The Employer agrees that it will not implement any changes in the established competitive area without notifying the Union.

21.9 The Employer agrees that it will not implement a RIF in a competitive area which has Bargaining Unit Employees and which does not conform to the competitive area currently established without notifying the Union and giving it an opportunity to negotiate on any negotiable change.

21.10 Any Employee who receives a specific RIF notice and believes that a harmful error has been committed in processing the RIF action, may notify Area Human Resources. The Area Human Resources Division, on behalf of the Employer, will review the basis for the allegation, make any corrections deemed appropriate, and advise the Employee of the findings. Such action does not affect the right of the Employee to appeal RIF actions affecting them.

21.11 The Employer will implement and maintain CTAP/ICTAP out-placement programs with the goal of assisting Employees, subject to separation by RIF, to acquire employment in IHS, other Federal agencies and in the private sector.

Upon request, and with supervisory approval, Employees affected by the RIF will be provided reasonable time, equipment, and space to seek other employment.

21.12 Severance pay will be provided in accordance with applicable laws and regulations to eligible Employees who are separated by RIF.

ARTICLE 22
INCENTIVE AWARDS AND SUGGESTIONS

- 22.1 It is agreed that the Employer will administer an Incentive Awards and Suggestion Program pursuant to law and regulations, as implemented by the Department of Health and Human Services and the Employer. It is further agreed that the purpose of this program is to motivate Employees to increase productivity and creativity by rewarding those whose job performance and adopted ideas benefit the Government and are substantially above normal job requirements and performance standards.
- 22.2 The Employer, upon request, will bi-annually provide the Union a list of Employees who receive Incentive Awards. The Employer will encourage Employees to offer suggestions under appropriate Departmental Suggestion Programs. No Employee will be unlawfully discriminated against in the administration of the Incentive Awards Program.
- 22.3 The Employer will encourage and publicize the Incentive Awards program, explaining the various types of awards and providing guidance for recommending awards.
- 22.4 Any changes in the Suggestion or Incentive Awards Programs will be negotiated with the Union as required by law and to the extent negotiable.

ARTICLE 23
HEALTH AND SAFETY

23.1 The Employer will provide safe and sanitary working conditions, equipment and training in consonance with standards promulgated under appropriate laws, directives, executive orders, JCAHO standards, and OSHA regulations (29 CFR Section 1910) adhered to by the Employer.

23.2 The Union will have a Representative and alternate(s) on the local Safety Committee. The Safety Officer will notify all committee members of meetings.

The name of the Union Representative and his/her alternate will be provided by the Union. The Union should consider certain qualifications of its Designee, such as knowledge and interest in the Occupational Safety and Health Program.

When Union Representatives are involved in authorized representational duties, negotiations, discussions, or meetings pursuant to this Article, they will be on Official time, if Employees are otherwise in duty status.

23.3 The Safety Committee divides inspections among safety committee members which includes a Union representative. The Safety Inspection of designated areas is conducted on a quarterly basis. Corrective action is taken for any deficiencies cited in their work areas by the Department Heads or designee.

23.4 Employees will report any unsafe conditions immediately to their Supervisor and the Safety Officer for correction. The Union Representative(s), in the course of his/her normally assigned responsibilities, are encouraged to observe and report unsafe conditions and practices, equipment and environmental conditions in their immediate areas which may present health hazards. The Union or BUEs have the option of reporting any uncorrected, unsafe conditions to the Department of Labor (DOL) under the OSHA.

23.5 Normally, Employees shall not be required to work in an environment which the Safety Official, or other qualified safety personnel of the Department, has determined to be unsafe to the continued health of the Employee(s) affected.

23.6 The Union reserves the right to make safety and health suggestions which offer practical and feasible ways for improving safety and health conditions whenever it believes it is necessary or desirable to do so.

- 23.7 A. When an Employee feels he/she is subject to conditions so severe that even short term exposure to such conditions would be detrimental to health or safety, he/she will report the circumstances to the immediate Supervisor and the Union Representative, if available. The Supervisor and the Representative, if available, will inspect the work area to insure it is safe before requiring the Employee to carry out the work assignment. If any doubt regarding the safety or existing conditions is raised by either the Supervisor or the Union Representative, a ruling will be obtained from the local safety officer or environmental health official.
- B. An Employee may decline to perform a work assignment when the Employee has a reasonable belief that imminent risk of death or serious bodily harm exists and there is not sufficient time to seek redress through normal channels. Such declination may not place patient safety at risk. The Employee must notify a supervisor of the declination immediately, or as soon as possible.
- 23.8 The Employer will take reasonable steps to abate all safety and health hazards that are reported by Employees, if so determined by the appropriate safety or environmental health official, or found during inspections. When an imminent danger situation is discovered, it will be brought to the immediate attention of the Supervisor who will take prompt action to eliminate or reduce the hazard, if it is so determined that a hazard exists, or cease operations and withdraw exposed personnel until such action is taken.
- 23.9 Occupational Injury or Disease: Employees will report all injuries or illnesses which occur on the job to their Supervisor:
- A. In the case of serious occupational injury, illness or accidental death of an Employee, the BUE's supervisor will notify the Union Representative as soon as possible after notification of the family. All released information shall follow HIPAA and Privacy Act rules.
- B. In case of an occupational injury or illness, the employee will complete all required documentation of the injury or illness, in accordance with Indian Health Manual Part 1, Chapter 8, Managing the Worker's Compensation Program. The Employer will assure that an adequate supply of all required forms is available in each work place. If employee is unable to complete the documentation, then an individual, on behalf of the employee, may do so.
- C. The Employer will promptly forward to Human Resources complete documentation required when an Employee sustains an occupational injury or contracts an occupational disease. The

Employer, upon request, will meet with the injured Employee and his/her Union Representative, at employee's election, regarding the case.

- D. The injured BUE's Supervisor or other management official will, explain the Employee's rights and options under FECA, supply copies of the proper Office of Workers' Compensation (OWCP) forms, and review such forms for proper completion. A copy of all submitted documentation and forms, which are releasable under law, will be provided to the Employee upon request.
- E. Employees recuperating from disabling occupational injury or illness who are temporarily unable to perform the full range of their assigned duties will submit a request to his/her immediate supervisor requesting temporary assignment (detail) to duties commensurate with the temporary disability, the employee's qualifications and the Employer's mission. If considered necessary and appropriate by the Employer, the Employee shall submit any requested clarifying or additional medical information and/or submit to an offered Fitness for Duty Medical Examination. To the extent that the employee's limited abilities are needed within his/her organization of assignment, and if the request is supported by adequate medical documentation, the Employer will make a reasonable effort to grant the employee's request. The employee shall be granted a temporary assignment in accordance with prevailing rules and regulations and for a period of time deemed reasonable by the Employer.

23.10 Personal Protective Equipment (PPE)

The Employer, in accordance with prevailing policy, will provide and maintain suitable PPE and training for BUEs engaged in activities requiring the same. Employees are required to use PPE according to manufacturer requirements. The only variance from the use of PPE will be medical in nature, or as provided by OSHA regulations. Failure by an employee to adhere to these requirements may jeopardize that employee's entitlement to benefits under DOL/OWCP and may subject the employee to disciplinary action.

23.11 The Union agrees to encourage BUEs to observe safe working practices and the safety and health policies, standards and regulations issued by the Employer.

23.12 The Employer will provide the following services, in consonance with IHS Employee Health Program,

- A. Medical records for BUEs cared for under the Employee Health Program will be maintained and secured by the individual responsible for Employee health and will be subject to the same rules and regulations as other confidential medical records. Violations will be dealt with in accordance with the Privacy Act.
- B. No charge will be made to IHS Employees for services set forth and provided by the Employee Health Program.
- C. Every reasonable effort will be made to provide Employee Health services during the Employees' working hours.
- D. Employees may have required services performed by a private physician, at their own expense, provided the results are made available for their employee health records.

Scope of Services:

Normally, Hospital Employee Health Programs shall include:

- A. Emergency diagnosis and treatment of injury or illness occurring during working hours;
- B. Health promotion and disease prevention:
 - 1. documentation of hazardous conditions in the work environment;
 - 2. health education to maintain personal health;
 - 3. specific disease screening and immunizations required, including:
 - a. immunizations appropriate for age
 - b. Rubella titer upon entrance on duty for all Employees who do not have documentation of prior Rubella immunity or immunization; documentation of measles immunization is required for those born since 1957; immunization is required if antibodies are absent; special consideration will be given for those who are allergic to the vaccine, have a history of severe reaction to vaccine, or are currently pregnant;
 - c. Tuberculosis screening annually, or as often as necessary;

- d. Hepatitis A immunization is required for food service workers; Hepatitis B immunization is offered for all workers at risk to exposure (*Required unless waived or waiver is on file*); and
- e. Employees with an exposure to HIV will be offered testing/medications per Hospital protocol - at no cost to BUE.

23.13 No Employee will be subject to restraint, coercion, discrimination, or reprisal because of filing any complaint regarding health and safety.

23.14 When the Employee believes there may be asbestos or lead exposure in a maintenance or repair job, or other similar duties, the Employee may request, and the Employer shall then provide, an analysis of the suspected material to determine if in fact it is asbestos or lead. If asbestos or lead is found, Management will insure the work around asbestos or lead is performed in accordance with OSHA standards.

23.15 The Employer will maintain and ensure the ventilation system meets any Environmental Protection Agency guidelines.

23.16 Specialized job safety training appropriate for the work performed will be provided, including transporting patients and lab specimens or other hazardous materials. Training will be given at least annually for Employees who handle hazardous materials.

Employees are responsible for attending safety and other mandatory training. Mandatory training will be scheduled in advance, and given on Employees' tours of duty, whenever possible. However, if training cannot be offered on Employees' tours, or the workload does not permit Employee attendance, Employees will be compensated in accordance with Article 28 (Overtime).

23.17 Employees' smoke areas will not be located near air intake ducts, doorways, or courtyards.

Existing windbreaks/shelters which are not located near air intake ducts, doorways, and courtyards will remain unless re-negotiated.

23.18 The Employer will provide an area inside the hospital for BUEs for lunch/other breaks. Lounge Area provided for BUE's lunch/breaks, located in main hallway close to public restrooms.

23.19 The Employer agrees to provide phone headsets for any Employee required to utilize the phone as a routine function of their duties (including, but not all-inclusive, of the following: Billing, Appointment Clerks, Contract Health, Business Office, Support Services, Operators, and PCC Clerks).

23.20 The Employer agrees to provide a non-smoking area outside the hospital area in the patio area and tables will be provided.

ARTICLE 24
CONTRACTING OUT WORK

- 24.1 The Employer agrees to keep the Union informed regarding plans to contract Bargaining Unit work (including, but not limited to PL 93-638 contracting arrangements with Tribes). This will include providing a copy of any documentation the Employer has available for release under the Freedom of Information Act or applicable statutes, upon request.
- 24.2 If a RIF is necessitated because of the Contract, the Employer agrees to take the following actions:
- A. Recommend that, to the extent possible pursuant to laws and regulations, any Employee displaced as a result of the Contract be given the opportunity for employment openings within the Agency and the contract position for which the displaced Employee is qualified and for which the Employer has control.
 - B. Make efforts to outplace affected permanent Employees in suitable positions elsewhere within the Oklahoma City Area, IHS, consistent with Management needs and Employee desires.
 - C. To the extent feasible, arrange for gradual transition when conversion to the contract is made, to provide greater opportunity for placement of affected Employees.
 - D. Inform Employees of the CTAP/ICTAP program and provide assistance as possible and available to Employees with outplacement. When appropriate, provide information and assistance to employees on referrals to Department of Labor (DOL) and other agencies to obtain private sector employment for Employees subject to RIF.
 - E. Within available resources and needs of the Employer reassign or retrain affected Employees to the maximum extent possible.
 - F. Relative to PL 93-638, Indian Self-Determination contracts/compacts, brief the Union Officials and Employees on types of employment that can be offered by the Tribe. The Union will be notified sixty (60) days prior to the effective date of any compact/contract for Bargaining Unit services.
- 24.3 The Employer will keep the Union advised of the status of the contract.
- 24.4 Once the decision has been made to contract out Bargaining Unit work, the Employer agrees to provide all procedures and benefits that are available under RIF procedures to affected Employees.

ARTICLE 25
PERFORMANCE MANAGEMENT APPRAISAL PROGRAM (PMAP)

- 25.1 The Employer and the Union agree that in accordance with continued implementation and administration of the IHS Performance Management Appraisal Program (PMAP), the Employer will monitor the performance of an Employee's progress toward meeting performance standards. The Employer will reinforce positive performance and deal promptly with any instances of negative performance.

The development of performance standards and identification of critical elements are encouraged to be a joint effort between the Employee and his/her Supervisor.

Employees and their Supervisors will meet at least one (1) time each year to discuss the performance standards and critical elements to be applicable for the coming rating year. The standards and identified critical elements will be put in writing and signed by the Employee and the Supervisor. Further amendments may be made during the rating year, and these amendments will be noted with the Parties' signatures. While it is desirable for the supervisor and employee to agree on the performance plan, agreement is not always possible nor is it required by law in order for the performance plan to be established and implemented. The employee's signature shall officially certify that performance expectations have been communicated by the supervisor and a signed copy has been retained. In those instances where the employee refuses to sign the form(s), the supervisor will indicate such on the forms. Performance expectations will cover results expected during the full performance period. If circumstances affecting the work situation change during the performance period, elements and standards for the remainder of the period may be added, deleted, or modified.

- 25.2 Each Employee is accountable for his/her own performance and will make every reasonable and possible effort to meet the performance standards of his/her position. Each Employee is responsible for reviewing his/her own performance expectations, his/her progress toward meeting the expectations, and for advising the Supervisor of any circumstances or conditions which may affect performance.
- 25.3 Performance reviews, which may include face-to-face discussions, may take place at any time deemed appropriate by the Supervisor. A face-to-face documented progress review will, however, take place approximately mid-term in the performance period. When the Employee's performance is less than satisfactory, the progress

review will include a face-to-face discussion. The Employee will be provided with a copy of the documented progress review.

- A. The Supervisor will discuss the Employee's job performance with the Employee in private at least one (1) time approximately midway through the appraisal period.
- B. If deficiencies have been identified in the Employee's performance, the Employee will be notified when the problem is perceived. The Supervisor will recommend specific ways, including training, if needed, for the Employee to improve.
- C. The annual performance evaluation will be in written form, completed and given to the Employee as soon as possible after the end of the appraisal period.
- D. The Employer will make every effort to ensure confidentiality of performance appraisals

25.4 Employees whose performance is falling below an acceptable level will be given an opportunity to improve. A PIP will be developed which states at a minimum:

- A. what the Employee must do to bring his/her performance up to an acceptable level;
- B. what steps the Supervisor will take to assist the Employee;
- C. when the Employee's performance will be reevaluated to measure improvement.

25.5 In the interest of providing for objectivity in a performance appraisal, an Employee will have been working under the performance standards and elements for at least ninety (90) days. When this is not the case, the current performance rating will be considered the appraisal of record until replaced by a later rating.

25.6 Within five (5) workdays after the receipt of the proposed performance plan, an employee may request a discussion to clarify or comment on the proposed plan. Upon receipt of a request, the supervisor will schedule a discussion. These meetings are considered counseling sessions and not "formal" meetings as defined in 5 U.S.C. 71. However, upon request, employees may meet with their Union representative on official time prior to the meeting with their supervisor, to discuss the proposed changes.

ARTICLE 26

LEAVE

26.1 Annual Leave

- A. Bargaining Unit Employees will earn Annual Leave (AL) in accordance with applicable laws and regulations. If using the prescheduling process for requests of Annual Leave that is yet to be accrued, tentative approval will be made if the Employee can be expected to accrue the required Leave by the date requested.

- B. All AL will be requested of the Employee's immediate Supervisor or his/her designee via Oklahoma City Area Office ITAS (internet), or on SF-171 for those Employees who do not have access to ITAS. Timekeepers do not have the authority to approve leave. For leave not prescheduled, the employee will not request annual leave beyond the amount of accrued leave in his/her leave account.

- C. For the purposes of this Article, "week" is defined as forty (40) consecutive scheduled work hours for eight (8) hour and ten (10) hour shift Employees and forty (40) to forty-eight (48) consecutive scheduled work hours for twelve (12) hour shift Employees. Scheduling Annual Leave involving a holiday or spring break will be achieved by a rotation, regardless of seniority. Within each Leave competitive area, scheduling will begin with the Employee with the longest continuous Claremore Service Unit seniority and will be rotated. As each Employee's turn comes in the rotation, there will be a maximum of two (2) weeks per request. These two (2) weeks may be used either consecutively, or as separate weeks. Each request may be for less than two (2) weeks but for consecutive days. Dated requests are due November 30 for Nursing Employees, and January 31 for other Employees. Scheduling will begin after due dates. Conflicting AL requests received after due dates will be scheduled based on a first-come, first-served basis regardless of seniority. All employees are responsible for calculating in advance how many hours of use or lose leave will be earned for the upcoming calendar year. Scheduling of use or lose leave will not be given priority over another employee's already approved request if the employee with use or lose leave submits a request to use the leave after the due date. Employees will be provided with the opportunity, where practical, to use any Annual Leave earned (that will be in excess of the maximum allowable carry-over) some time during the course of the Leave year to avoid losing Annual Leave.

The Employer will seriously attempt to schedule two (2) days off before and after a scheduled vacation period of Annual Leave

designated by the Employee in advance of his/her Leave time. Reasonable efforts, consistent with workload and work schedule requirements, will be made to adhere to the established Leave schedule. Employees affected by Employer changes in Leave will have the right to have their Leave rescheduled, provided another Employee's choice is not changed or disturbed, and providing the workload permits. Requests for certain weeks containing holidays/spring break will be awarded to any Employee, if no other Employee has requested that time, regardless of whether the requesting Employee had the same week the previous year(s).

26.2 Sick Leave

- A. An Employee will earn Sick Leave in accordance with applicable laws and regulations. Sick Leave is an Employee benefit to be used by the Employee in accordance with the specific procedures of this Article, for absences required by illness, injury, medical appointments, or certain circumstances involving contagious disease under applicable laws and/or regulations.
- B. When possible, Sick Leave requests for non-emergency medical, dental, or optical examinations, operations, or treatments will be requested from the Supervisor at least 15 days in advance.
- C. A medical certificate will not be required to substantiate requests of approval of Sick Leave for three (3) days or less. In individual cases where the employee's usage of leave gives rise to suspicion of abuse, a medical certification may be required for absences of less than three (3) days or for any occasion of leave for medical purposes.

26.3 Leave Restriction

Leave restrictions may be implemented when:

- A. The Employee's leave record reflects an inappropriate or excessive use of leave and the Employer has counseled the Employee regarding the Employee's use of leave, there is a written record of such counseling with a copy provided to the employee at the time of the counseling, and the leave record does not indicate substantial improvement.
- B. The Employer must advise the Employee in writing of the leave restriction and the actions required for compliance.

- C. Once an employee is on leave restriction, the restriction will be reviewed every three (3) months and will be lifted once the employee shows substantial improvements as determined by the Employer.

26.4 Family Leave

- A. Family Friendly Leave Act (FFLA) - Employees may be entitled to Leave under the FFLA. A copy of the applicable rules and regulations will be provided to the Employee upon request.
- B. Family Medical Leave Act (FMLA) - Employees may be entitled to twelve (12) administrative workweeks of Leave for certain family and medical needs in accordance with the provisions of the FMLA. A copy of the applicable rules and regulations will be provided to the Employee upon request.

26.5 Military Leave

Any Employee who is a member of the National Guard or a Reserve Component of the Armed Forces will be entitled to Military Leave, as provided for in 5 U.S.C. 6323, as amended, and implementing regulations. Approval of the Military Leave provided in the foregoing will be based on the copy of the orders directing the Employee to active duty, or certification of attendance by an appropriate Military authority.

In addition, Employees who are called for a period of training or a period of active duty beyond those provided for above may be granted AL, or Leave Without Pay (LWOP), pursuant to appropriate regulations and Agency policy.

Any Employee contemplating the use of Military Leave will advise the Employer as soon as possible of the anticipated dates of such Leave.

Employees called to Military duty must furnish to their Leave Approval Official (LAO) a copy of their Military orders, or a statement from their Commanding Officer.

26.6 Voting Leave

Employees are encouraged to exercise their right to vote in any National, State, Tribal or Local election, or in referendums on civic matters in their communities. Any Employee who needs Administrative Leave time to enable him/her to vote should make arrangements with his/her LAO prior to election day. Normally, employees are expected to vote on their own time prior to or after their tour of duty. Therefore, any request for Administrative Leave for voting purposes will be considered in view of the Employee's particular circumstances.

26.7 Blood Donor Leave

Employees may be granted Administrative Leave for recuperative purposes when donating blood during an officially sanctioned blood drive. Any BUE who needs more than normal recuperative time at the blood donation site will be referred back to the hospital for further recuperation, and return to duty when released by the appropriate medical official in charge. If other action is deemed necessary, the appropriate medical official will be requested to contact the Employee's LAO with recommendations.

26.8 Administrative Leave/Excused Absence

- A. Occasionally, severe inclement weather or other conditions posing serious risks may result in the Administrative closing of the work place for a day or part of a day. In such cases, to the extent feasible, the following policy and procedures will be followed:
1. If a decision to close the work place occurs during the work day, the notice of specific release of Employees will be communicated down through the supervisory chain.
 2. Normally, only those employees determined by the Employer as essential for continuity of operations will be required to report for duty or to remain on duty during an administrative leave.
 3. In the absence of a decision to close the work place, either prior to or during normal duty hours, the Leave policy will be initiated on an individual basis for those Employees desiring Annual leave or LWOP due to inclement weather or other conditions where serious risks may be involved.

26.9 Leave Without Pay

- A. Leave without pay (LWOP) is a temporary non-pay status and absence from duty, which may be granted upon the Employee's request.
- B. LWOP will be administered in accordance with applicable laws, regulations, and this Agreement.

- C. LWOP, regardless of Leave balances, may be granted by the Employer.
- D. Extended LWOP to attend a school or university whereby the Employer will benefit from the training or to cover extended periods of illness not covered by Sick or Annual Leave, may be requested by an Employee. Management has the discretion to determine whether requests for LWOP will be approved.

26.10 Court Leave

Court Leave will be granted to permanent and temporary Employees in accordance with Departmental regulations and Comptroller General decisions governing the various types of Court Leave. Court Leave is authorized absence for certain attendance at court, without charge to Annual Leave, or loss of pay of an Employee from official duty. It is granted for jury duty with a State, Municipal, Federal or District of Columbia Court. Court Leave also is granted for attending court in a non-official capacity as a witness on behalf of "a State or Local Government." Court Leave will be granted based on a copy of the court orders.

26.11 Tardiness

When an Employee must be tardy for an unforeseen reason, he/she must notify his/her LAO as soon as possible and immediately upon arrival at work. The LAO will consider each incident of tardiness on its merits. The Employer may excuse infrequent tardiness when reasons for the tardiness are justifiable to the Supervisor. When the Employee is charged with Leave for an unauthorized absence or tardiness, the Employer may not require the Employee to perform work for any part of the Leave period charged against his/her account.

26.12 Leave Charges

Leave usage will be charged in increments of one-quarter (1/4) hour.

26.13 Holidays

- A Employees in the unit will be entitled to payment and/or time off for all Holidays, as prescribed by applicable laws, rules and regulations, including any Holidays that may be added in the future. .

- B. Holiday schedules will be posted as far in advance as possible.
- C. Employer will rotate Holidays among Employees in a competitive area, and keep at least five (5) years backlog of Holiday schedules for reference in scheduling rotating Holidays.
- D. If any Employee requests a Holiday they have been awarded in the past five (5) years, and no other Employee in the competitive area requests the same Holiday, the Supervisor will award the Holiday to the requesting Employee.
- E. The rotation of Holidays may be more or less than five (5) years, depending on the number of Employees in a competitive area.
- F. Holiday weeks requested for AL - see Article 26 (26.1 (C) Annual Leave)

26.14 Scheduled Leave

Normally, the Employee's first-line Supervisor will be the Leave Approving Official (LAO). The Employer agrees that the LAO will provide a timely response to leave requests normally within a day. Denials of Leave requests will be communicated to the Employee.

26.15 Unscheduled Leave

Employees are strongly encouraged to contact the appropriate Leave Approving Official (LAO) as soon as possible when making a request for unscheduled leave. Employees who work shifts, including all of the Nursing Departments must contact their appropriate LAO 2.5 hours prior to the beginning of the shift. Employees who do not work shifts must contact their LAO within 15 minutes of the beginning of their tour. In cases that prevent the employee from meeting these conditions, the LAO will make a determination on a case by case basis. Employees may be required to provide information in sufficient detail which will allow the supervisor to make a determination.

26.16 Advance Leave

Advance Leave may be requested and approved in accordance with applicable laws, rules and regulations and local Claremore hospital policy. The employee must have been an IHS employee for at least one (1) year as a condition of consideration for this request.

ARTICLE 27
HOURS OF WORK AND TOURS OF DUTY

- 27.1 The Employer agrees to establish and administer work weeks, hours of work and tours of duty in accordance with laws, regulations, agency policy and this Agreement.
- 27.2 A. **(basic non-AWS)** The basic work week will consist of a maximum of five (5) consecutive eight (8) hour days, except when an Employee requests, and the Employer approves, more than a 5 consecutive day schedule, or operational needs require the Employer to schedule the basic work week over a six (6) day period.
- B. Establishment, changes, or cancellation of an Alternate Work Schedule (AWS) will be negotiated by the Hospital and Local Union.
- C. Notice of proposed permanent changes in individual shifts will be given at least fourteen (14) days in advance. The Supervisor will provide advance notice of proposed schedule changes to the Union and Employee by written memo. Emergency changes may be accomplished unilaterally by the Agency. Procedures for determining which Employees work which shift or tour of duty for emergency changes will be determined by the appropriate Supervisor in consultation with the affected BUEs.
- 27.3 Shift and tour Employees who work in continuous operations will rotate through various shift hours, except where there are permanent evening and night positions. These tours of work will consist of eighty (80) hours over a two (2) week period. The days off will be consecutive when feasible. Shift and tour schedules will be posted at least four (4) weeks in advance of the assignment. Except in the case of callback, AWS, split shift, overtime, emergency situations, workload or other legitimate reasons, every feasible effort will be made to give at least 12 hours between tours of duty, unless the Employee volunteers to work with less than 12 hours off between tours. Every practicable effort will be made so Employees will not be scheduled more than two (2) different rotations per week, nor two (2) different rotations per pay period.
- 27.4 Upon request, the Employer may authorize a rescheduling of the customary work week to allow Employees to take courses in nearby colleges, universities, or other educational institutions, when the rescheduling does not interfere with the accomplishment of the work to be performed. The Employee is still responsible for a full work week, and no premium pay will be paid solely because of the rescheduling. While the course(s) need not be directly related to the work of the Agency, it should

be of such a nature to equip the Employee for more effective work in the Agency.

27.5 Rest Breaks

Each Employee is authorized one (1) fifteen minute rest break within each four (4) hour work period, including overtime. Where possible, Employees will be allowed to take the rest break away from the immediate worksite. It is agreed that the rest breaks may not be continuations of the meal break, and they may not be granted immediately after the beginning of the work shift, or immediately prior to the end of the work shift, nor may rest breaks be accumulated. It is recognized by both Parties that rest breaks occur during duty time and are a privilege afforded to the Employee. Rest breaks may be denied in emergency situations where operational necessity requires an Employee to be at the worksite and/or may be restricted to the worksite, but rest breaks will not arbitrarily be withheld by the Supervisor.

27.6 An Employee will take a meal break as close to the midway point of his/her shift as practicable. However, it is understood that in an emergency, an employee's meal break may be postponed or canceled. It is recognized by both parties that meal breaks occur during non-duty time. There will be no charged time for a meal break with four (4) hours of overtime, unless a meal break is taken. If an Employee is required to continue working through his/her meal break, the Supervisor and Employee must insure one of the following occurs:

- A. The meal break is taken as soon as possible during the tour; however, the meal break will not be taken immediately preceding the end of the Employee's tour; or
- B. If the meal break cannot be taken, the Employee must be compensated through overtime (OT) equal to the amount of time worked during the meal break. The Employee may request compensatory time (comp time) in lieu of OT.

27.7 Any required pre-and post-shift activity will be compensated according to laws, rules and regulations.

27.8 If the Employee is required to work after normal duty hours because of inclement weather, the agency agrees to provide at least one (1) meal to the Employee.

ARTICLE 28
OVERTIME

- 28.1 A. When overtime (OT) work is required, consideration will be given to affording Employees (i.e., on-site) who normally perform the work the opportunity to receive the OT on a volunteer basis. Management may direct Employees to perform the work if a sufficient number of Employees do not volunteer. OT will be distributed equitably and fairly consistent with Employee ability to perform the work. In no case, will OT work be assigned to any Employee as a reward or punishment if an employee is scheduled to perform OT work.
- B. Employees who desire to volunteer for OT should inform their Supervisor.
- C. If there are more volunteers than OT hours available, those Employees with the seniority will be given first (1st) consideration.
- 28.2 Records showing the OT distribution will be maintained, and all Employees will have an equal opportunity to share in the OT, unless an Employee indicates unwillingness to perform OT duties. In the event an Employee does not desire to work OT, the Employer will make every effort to accommodate the Employee's request to be excused from OT work, provided that another qualified Employee is available and willing for the OT.
- 28.3 An Employee directed or authorized to work OT will be compensated to the extent permitted by law. Employees directed or authorized to work OT will be compensated for any partial hour worked in increments of fifteen (15) minutes. Odd minutes will be rounded up or down to the nearest fifteen (15) minute increment for each occurrence.
- 28.4 Call-back OT work is irregular or occasional OT work performed by an Employee on a day/shift when work was not scheduled for him/her, or for which he/she is required to return to his/her place of employment and deemed at least two (2) hours duration for the purpose of premium pay, either in money or compensatory time off will be at the employee's discretion, except a GS-10 and above would fall under 5 CFR 550.114(c). On-call status will be fairly and equitably distributed.
- 28.5 A. Employees covered by the Fair Labor Standards Act (FLSA) as amended and FLSA exempt Employees paid at or below the maximum rate of a GS-10 will be paid OT in accordance with the appropriate laws and regulations. Employees may request comp time for irregular or occasional OT work only and may not be required to take comp time in lieu of OT pay.

- B. The Employer will not approve comp time unless it appears that the workload will make the taking of comp time feasible within DFAS guidelines, with the opportunity to negotiate, where required, if there are future changes in the DFAS guidelines. Comp time must be used within the DFAS guidelines otherwise it converts to OT pay at the end of the DFAS guidelines period.
- C. Requests for Approval of Overtime (PHS 1912) will be used to request OT payment or comp time. Employees requesting to utilize comp time will submit an SF- 71 to their Supervisor for approval.
- D. Employees must validate in writing on the appropriate form the OT/compensatory time hours worked.

28.6 FLSA exempt Employees paid at a rate above the maximum rate of GS-10 may request comp time in lieu of OT. The Employer may require these Employees to take comp time. The provisions of 28.5 and (C) are applicable. Employees with rates of basic pay greater than basic pay for GS-10 Step 1 the overtime rate is the greater of:

- A. the hourly rate of basic pay for GS-10 Step 1, multiplied by 1.5;
or,
- B. the employee's hourly rate of basic pay

28.7 It is Agency policy to make every reasonable effort to accommodate an Employee's request for compensatory time off for religious observance when personal religious beliefs require Employees to abstain from work during periods of the work day or work week. Employees must use the compensatory time within sixteen (16) weeks or eight (8) pay periods from date earned.

Religious compensatory time is taken off for religious observances and earned by work beyond the scheduled tour. It is not the same as regular comp time in as much:

- A. Employees in any grade may use it; and
- B. it can be used before it is earned, if it is repaid, i.e. worked within the same pay period.
- C. Agency will not create OT hours for time requested for meeting religious requirements.

Employees must request Employer approval of comp time off for religious observances by submitting Standard Form (SF-71), Application for Leave (Employees without internet access), or via OCAO ITAS link (for Employees

with internet access). The block for remarks on SF-71 will reflect "Religious Compensatory Time" and will state the compelling religious belief that requires the Employee to abstain from work as requested.

Religious comp time will be administered in accordance with the applicable laws, rules, and regulations, i.e., 5 C.F.R 550 Subpart J.

**ARTICLE 29
PREMIUM PAY**

- 29.1 Night shift differential will be paid in compliance with applicable laws and regulations.
- 29.2 Premium pay for Sunday work will be paid in compliance with applicable laws and regulations.
- 29.3 Employees will receive Hazardous Duty Pay/Environmental Differential Pay in accordance with applicable laws and regulations.
- 29.4 Section 1. On Call Response

In order to provide for appropriate patient care, it has been determined by OKLAHOMA CITY AREA INDIAN HEALTH SERVICE that some employees need to be available to respond to any emergencies in **thirty (30) minutes** of being properly notified, except when weather conditions or other uncontrollable circumstances do not permit employees to respond in that time frame. EMPLOYEES will make every effort to respond in **thirty (30) minutes** whenever the circumstances require and permit. Good faith will be exercised by management, UNION and EMPLOYEES in the application of this policy. The EMPLOYEES on-call will not be substantially restricted.

Section 2: On-Call Conditions

The following conditions will apply to all EMPLOYEES assigned to ON-CALL status:

- A. EMPLOYEES assigned to an ON-CALL status must respond to the facility in **thirty (30) minutes** after being properly notified.
- B. EMPLOYEES assigned to ON-CALL status must leave a telephone number where they can be reached and/or be assigned a beeper so they can be contacted in case of emergency.
- C. If a beeper is issued to the EMPLOYEE ON-CALL, it is the EMPLOYER'S and EMPLOYEE'S (joint) responsibilities to verify and document the working condition of the beeper before the ON-CALL period starts. An EMPLOYEE cannot be held liable for failure to respond due to a proven beeper malfunction.

- D. With advance notice and approval from management, EMPLOYEES ON-CALL shall be allowed to exchange call or otherwise arrange for someone else to respond.
- E. Failure to respond on-site after being properly notified to a call for duty may subject the EMPLOYEE to disciplinary action, unless there are extenuating circumstances beyond the EMPLOYEE'S control.
- F. Payment for authorized call-backs will be paid in accordance with all applicable rules and regulations. An EMPLOYEE will be paid a minimum of two (2) hours overtime for each call-back or for actual time worked, if more than two hours - unless the employee who has left the facility premises after being properly released from duty by his/her supervisor or designee is called back to the facility by telephone or beeper to perform more work, the EMPLOYEE shall not be compensated if the call back work occurs during the original call period for which he or she is already being compensated.
- G. EMPLOYEES are free to pursue their normal activities so long as they remain available for call in case of emergencies.
- H. Management will determine who is authorized to call in an EMPLOYEE ON-CALL and what criteria will be used to classify an emergency situation.
- I. Management reserves the right to determine which EMPLOYEES will remain in ON-CALL status as the needs of patient care dictate. The UNION reserves the right to call to management's attention those EMPLOYEES who meet the conditions for ON-CALL status. EMPLOYEES have the right to request to be placed or not be placed in ON-CALL status. Management will consider such requests.

ARTICLE 30
PAY AND LEAVE STATEMENTS

- 30.1 If an individual Employee does not receive his/her salary direct deposit when due, the Employee should notify his/her time and attendance clerk or the Integrated Time & Attendance System (ITAS) Coordinator at extension x6425. The Employer will take action immediately to see that a new or replacement direct deposit can be issued. In the event the Employee does not receive a salary direct deposit, the Employee should discuss with his/her designated timekeeper the process for requesting an emergency salary direct deposit. Employees will cooperate fully with Area Office payroll liaison persons when requested. Every effort will be made to pay the employee within the next payperiod.
- 30.2 Employees can access their Leave and Earning Statement at www.dfas.mil/.
- 30.3 Electronic Deposit of payroll is mandatory for all Employees.

ARTICLE 31
EQUAL EMPLOYMENT OPPORTUNITY

- 31.1 Within the existing law and regulations mandating Indian Preference, the Employer and the Union agree to cooperate in providing equal employment opportunity for all qualified persons; to prohibit discrimination because of race, sex, color, national origin, religion, age (over 40), or person with a disability. This discrimination is prohibited pursuant to 29 CFR 1614.101(a). Reprisal or retaliation for participation in the EEO process, or opposing discrimination pursuant to 1614.101(a) is also prohibited to 29 CFR 1614.101(b).

Department of Health and Human Services Policy also prohibits discrimination because of sexual orientation.

The Employer is responsible for ensuring that all employees are held accountable for their own conduct, and that harassment of other employees or patients, is protected under 1614.101(a) and (b) is corrected immediately.

The Employer will attempt to accommodate an Employee's request to an accommodation due to a physical/mental handicapping condition, provided the accommodation does not create an undue hardship for the Employer.

- 31.2 The Employer agrees to provide employees with the name(s), or phone number(s) of employees authorized to conduct EEO counseling. The employer agrees to maintain those name(s), or number(s) on the Oklahoma City Area IHS Website, or on EEO posters that are maintained on bulletin boards throughout the Hospital.
- 31.3 Any Employee who wants to file an informal EEO complaint must first contact an EEO counselor at OCAO, and specifically request EEO counseling.

The employee must contact the EEO counselor within 45 days of the date of the alleged discrimination, or in the event of a personnel action, within 45 days of the effective date of the personnel action. The EEO counselor will reply to the informal EEO complaint within the regulatory requirements, {thirty (30) days under the current regulations}. If EEO fails to respond after thirty (30) days, the employee has the right to file a formal complaint.

An employee subject to this bargaining agreement may file a union grievance, using the negotiated grievance (NGP) process; however, an employee may not file both an EEO complaint and a grievance.

To clarify, the bargaining unit member may request EEO counseling at the same time they file a grievance through NGP, but in the event the EEO counselor cannot resolve the informal complaint, the bargaining unit member cannot file a formal EEO complaint, if they have already filed a Stage 1 grievance (NGP). See 29 CFR 1614.107(a)(4), and 1614.301(a).

It is the Employees' responsibility to read/follow all EEO guidelines to assure timeframes are met.

- 31.4 All Employees are encouraged to discuss their concerns or their allegations of discrimination with their immediate supervisor prior to requesting EEO counseling. Such discussions may remedy the complaint or concern prior to requesting EEO counseling. Employees may have a representative, including a union representative with them during their discussions or during the EEO process. However, there are some limitations on representation. For example, an employee cannot have a person from the personnel or EEO office as a representative, nor can a supervisor who is in their chain of command represent employees.
- 31.5 The Employer and all Employees are responsible for the promotion of Prevention of Harassment/Hostile Work Environment. OCAIHS/CIH has established a "zero-tolerance" policy against harassment/hostile work environment (OCAIHS Circular No. 04-01).

ARTICLE 32
DURATION AND TERMINATION

- 32.1 A. Pursuant to 5 U.S.C. 7114(c), the IHS will approve or disapprove this Agreement within thirty (30) days from the date the Agreement is signed by the respective Parties.
- B. If the IHS does not approve or disapprove the Agreement within thirty (30) days, the Agreement will take effect and will be binding, subject to the provisions of 5 U.S.C. 71 and any other applicable laws, rules, or regulations.
- C. If the IHS disapproves any provisions of the Agreement, the entire Agreement will be returned to the Parties for renegotiation of the disapproved portions and resubmitted for approval.
- D. If the IHS approves the entire Agreement within the thirty (30) day period, then the Agreement will become effective upon approval.
- E. The effective date will be shown on both the cover and signature pages of the printed Agreement.
- 32.2 This Agreement will remain in full force and effect for three (3) years from its effective date and automatically renew itself from year to year thereafter. However, either Party may give written notice to the other party not more than one hundred five (105), nor less than sixty (60) days prior to the third (3rd) anniversary date, and each year thereafter, of its intention to reopen and amend, modify, terminate the Agreement. When such notice is given, the Parties will meet for the purpose of negotiating the amendments or modifications not later than thirty (30) days prior to the anniversary date. The conduct of such negotiations will be determined at that time by a Memorandum of Understanding. If negotiations are not concluded prior to the expiration date, the Agreement will continue until agreement is reached, or all issues are resolved.

IN THE WITNESS WHEREOF, THE PARTIES HERETO EXECUTE THIS AGREEMENT
ON THE _____ DAY OF _____, 2011.

FOR THE AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES (AFL/CIO)
AFGE LOCAL 3601

FOR DHHS, PHS, IHS
OKLAHOMA CITY AREA
CLAREMORE SERVICE UNIT

GUY BURRIS
AFGE President

MELINDA TEEHEE
Chief Negotiator

GEORGE VALLIERE
Chief Executive Officer
Claremore Indian Hospital

RADM KEVIN D. MEEKS, RS, MPH
Area Director
Oklahoma City Area IHS