

LABOR-MANAGEMENT RELATIONS

I PURPOSE

This Instruction:

- A Implements Executive Order 11491, as amended, Labor-Management Relations in the Federal Service.
- B Establishes labor-management relations policy of the Agricultural Marketing Service (AMS) and the Packers and Stockyards Administration (P&SA).
- C Assigns responsibilities for applying the requirements and principles set forth herein.
- D Provides guidance on labor-management relations matters.

II POLICY

It is AMS and P&SA policy to promote and achieve a meaningful labormanagement relations program that will:

- A Recognize that employees in exclusively recognized labor organizations serve the interest of their own well-being and contribute to efficient Agency administration by participation in the formulation and implementation of personnel policies and practices affecting conditions of their employment.
- B Assure that basic responsibility and authority for managing assigned programs is retained by management officials while recognizing that officials will at all times deal in good faith with labor organizations on all appropriate matters.

III EMPLOYEE PARTICIPATION

- A Right To Form, Join,, or Assist a Labor Organization. Each employee has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from such activity, and each employee shall be protected in the exercise of this right. No interference, restraint, coercion, or discrimination shall be practiced to encourage or discourage membership in a labor organization. Except as provided below, the right to assist a labor organization extends to participation in the management of the organization.
- B Conflicts of Interest. In order to avoid conflicts of interest between the unofficial activities of employees and their official responsibilities, it is the policy of the Agencies that:
 - 1 The following individuals may join any labor organization, but may not act as a representative or participate in the management of any such organization:
 - a Management officials and supervisors.

- b An employee who assists or acts in a confidential capacity to a management official who formulates, determines, or effectuates management policies involving labor relations and who has routine access to confidential labor relations material.
- 2 No employee shall carry on any activities as an officer or agent of a labor organization which will conflict, or appear to conflict, with the proper exercise of, or be incompatible with, his official duties or responsibilities. In the event such a conflict, apparent conflict, or incompatibility arises, the individual concerned will be given a reasonable opportunity to correct the condition causing such conflict or incompatibility.

IV RESPONSIBILITIES

- A General. It is the responsibility of Agency officials at all levels to properly apply the labor-management relations policies and procedures outlined in this Instruction. Officials should refer questions through appropriate channels to the Labor-Management Relations Staff, Personnel (PE) Division.
- B Supervisors and management officials shall:
 - 1 Maintain strict neutrality in all statements and dealings with employees and union officials regarding unionization or any union activity. Supervisors and management officials are prohibited from expressing personal opinions or preferences regarding union matters.
 - 2 Refer requests for negotiation from recognized labor organizations to Division officials for determination of appropriate response.
 - 3 Recognize that although certain contemplated actions, personnel policies, or practices may be exempted from bargaining by guaranteed management rights or issuance by higher authority, the method of implementing these actions or policies may be subject to negotiation. Agency officials should as a good management practice discuss proposed actions with labor representatives.
- C The PE Division is assigned the basic responsibility to coordinate, oversee, and review the effectiveness of the Labor-Management Relations Program for AMS and P&SA. Specifically, the PE Division shall:
 - 1 Represent the Office of the Administrator in such conferences, consultations, negotiations, and other dealings with labor organizations, as appropriate.
 - 2 Prepare and present the Agency position in impasses, disputes, unit determinations, unfair labor practice cases, arbitrations, and related processes.
 - 3 As appropriate, advise and assist management officials in consultations, negotiations, labor relations problems, and in other dealings with labor organizations.
 - 4 Maintain contact on appropriate matters with the Department Office of Personnel and other Government offices and with the national, regional, and local offices of labor organizations.

5 Certify all dues deduction forms, such as Standard Form (SF)-1187, Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues.

6 Prepare the Agency Action Plans for labor-management relations.

D Division Directors are assigned responsibility for:

1 Firsthand contacts with employee labor organizations and for administering the labor-management negotiated agreement.

2 Assuring that supervisors and management officials in their divisions who have direct relationships with a labor organization receive appropriate labor-management relations training.

V RELATIONSHIPS

A Relationships with Exclusively Recognized Organizations.

A labor organization granted exclusive recognition shall be the exclusive representative of employees in the bargaining unit and is entitled to act for and to negotiate agreements covering all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

B Relationships With Individual Employees.

Recognition of a labor organization does not preclude management officials from dealing with individual employees on matters affecting them as individuals. Any employee, regardless of labor organization membership, may bring matters of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations, and Agency policies.

C Relationships With Other Organizations. Recognition

of labor organizations shall not preclude consulting or dealing with veterans organizations or with religious, social, fraternal, professional, or other lawful associations, as specified in section 7(d) of Executive Order 11491 and in accordance with the conditions contained therein.

VI PARTICIPATION IN UNION ACTIVITIES

A Limitations on Use of Official Time.

Activities concerned with organizing efforts and the internal management of labor organizations, including but not limited to the solicitation of memberships, collection of dues or other assessments, circulation of authorization cards or petitions, solicitation of signatures on dues withholding authorization forms or forms revoking dues withholding authorizations, campaigning for labor organization office, and distribution of literature, may not be conducted within the regular working hours of the employees involved. Similarly, when labor organizations schedule membership meetings, internal elections, workshops on negotiating skills or techniques, local, state, or national conventions, or similar events wholly or partially within the regular working hours of employees, any employees attending or participating in such events shall do so on approved annual leave or leave without pay status.

B Administrative Leave for Training Sessions.

An employee who is an official or representative of a recognized organization may be excused without charge to leave for the purpose of attending a training session sponsored by a labor organization, provided the subject matter of such training is of mutual concern to the Government and the employee in his capacity as an organization representative, and the Government's interest will be served by the employee's attendance. Administrative leave granted for this purpose should be approved only for short periods of time that are reasonable under the circumstances. Prior approval by the employee's supervisor is required. Requests for such leave must be in writing and supported by a statement of the purpose for the leave and the content of the program or meeting to be attended.

C Negotiation of Agreements. Employees who represent a labor organization shall not be on official time when participating in the negotiation of a labor-management agreement, except to the extent agreed upon by the parties within the limitations set forth in Section 20 of Executive Order 11491.

D Travel Expenses for Labor Organization Representatives.

In certain situations the travel expenses of employees serving as labor organization representatives while attending meetings with Department or Agency officials may be paid. The determination of whether or not to pay the expenses shall be based on the following guidelines:

- 1 All Agency authorizations for the payment of travel expenses to employees serving as organization representatives to attend labor management meetings shall be supported by a certification of the primary interest of the United States, accompanied by a brief explanation of the basis for the certification.
- 2 The Administrator or his designee should be guided in making such certifications by the following guidelines:
 - a Travel expenses may be paid for activities such as joint labor-management cooperation committees (for example, joint efforts concerning, but not limited to, prevention of accidents, reduction of absenteeism, improving communications, insuring equal employment opportunity, and maintaining employee productivity and morale) when the activity is primarily in the interest of the Government.
 - b In accordance with the provision that internal labor organization business be conducted during nonduty hours, travel expenses shall not be paid to attend labor organization meetings, conferences, or training sessions.
 - c Travel expenses shall not be paid to attend negotiation sessions for the purpose of negotiating an agreement.
 - d There shall be no payment of overtime compensation.

3 In making a determination as to whether or not to pay the travel expenses of employees representing labor organizations, the total circumstances surrounding the meeting must be considered in order to determine whether payment of the travel expenses of employees who are labor organization representatives attending is in the primary interest of the United States.

- E Solicitation of Membership and Support. Labor organizations will be afforded reasonable opportunities to solicit membership among employees. Such solicitation may not be conducted in an activity during the working hours of the employees being solicited, nor may an employee be granted official time for the purpose of soliciting organization membership. Subject to the foregoing restrictions and to normal security regulations, labor organization representatives may be permitted, whenever practicable, to post or distribute literature or to hold organization meetings at the activity for the purpose of soliciting memberships.
- F Use of Facilities. Activity facilities may be made available for the use of labor organizations in accordance with applicable regulations. Where a labor organization holds exclusive recognition, the use of such facilities by that organization is a proper subject for negotiation.
- G Furnishing of Information. Lists of names, positions, titles, grades, and/or duty stations of activity or unit employees will be furnished to labor organizations upon request. If the cost of preparing such lists is significant, a charge may be made to recover the actual cost to the activity. In the case of labor organizations granted exclusive recognition, the frequency with which updated lists of unit employees are furnished is a matter for local negotiation. When a list of unit employees is furnished to an Area Administrator for use in checking a labor organization's showing of interest, a copy of the list shall be furnished, without charge, to the petitioning organization and to any other labor organization qualifying as an intervenor. Home addresses or telephone numbers of employees shall not be furnished to labor organizations.

VII UNFAIR LABOR PRACTICE COMPLAINTS

Chapter 711 of the Department Personnel Manual, Subchapter 6, requires the use of fair and adequate procedures for investigating and processing complaints of violations of Section 19 of Executive Order 11491 (Exhibit A, attached), within the general guidelines stated in that Subchapter. Accordingly, the following categories of Unfair Labor Practice complaints are defined and the procedures which shall be applicable to the investigating and processing of complaints within each of these categories are hereby established.

- A Who May File Complaints. A complaint that AMS or an activity of AMS, P&SA or an activity of P&SA, or a labor organization has engaged in any act prohibited by Executive Order 11491 or has failed to take any action required by the Executive Order may be filed with the Assistant Secretary of Labor by an employee, by either Agency or an activity of either Agency, or by a labor organization.
- B Complaints by an Employee or by a Labor Organization. A complaint by an employee or a labor organization of an

alleged violation of Section 19 of Executive Order 11491 may be processed as an Unfair Labor Practice under procedures described in this Instruction or, if appropriate, may be processed under a grievance procedure. An issue which properly can be raised by an appeal procedure may not be raised as an Unfair Labor Practice. The management official who receives an employee or labor organization complaint of an Unfair Labor Practice or a grievance containing such a complaint shall promptly forward a copy thereof through channels to the Director, PE Division.

C Complaints by Management Officials Against a Labor Organization. Management complaints may only be made in coordination with and after approval by the Director, PE Division.

- 1 For Activities Prohibited Under Section 19(b)(4) of Executive Order 1149. If a strike, work stoppage, slowdown, or picketing is called or engaged in by a labor organization representing Federal employees or by the members of such an organization, the supervisor or management official responsible for the Federal activity shall immediately report the facts, by telephone, to the Director, PE Division and the appropriate Program Division Director. The Director, PE Division, will take such action as is necessary to develop all the facts of the case and shall provide a full report to the Department Director of Personnel.
- 2 For Other Complaints by Management Officials Against a Organization. The management official will report other complaints through appropriate channels to the Director, PE Division. The Director, PE Division, must approve the complaint before it is filed.

D Where To File Complaints. Complaints shall be filed directly with the party or parties against whom the charge is directed, within 6 months of occurrence of the alleged Unfair Labor Practice, except for complaints by management officials against a labor organization (see paragraph C, above). Complaints should contain the following information:

- 1 The name and address of the employee, management official, or labor organization making the complaint. For a complaint submitted by a labor organization, include the name and address of an organization representative who will be available locally to participate in efforts to resolve the complaint.
- 2 The name, address, and telephone number of the management official or labor organization against whom the complaint is made.
- 3 A clear and concise statement of the facts constituting the alleged Unfair Labor Practice, including the time and place of occurrence of the particular acts and a statement of the portion or portions of Executive Order 11491 alleged to have been violated.

E Receipt of a Complaint. All complaints received by supervisors and management officials shall be promptly forwarded through administrative channels to the Director, PE Division.

F Procedures for Settlement of Complaint.

1 Informal. The PE Division shall investigate the complaint. Maximum use shall be made of informal contacts and discussions with and between representatives of the parties involved so as to produce an acceptable resolution or adjustment of the complaint if possible, without resorting to more formal procedures. If the complaint is resolved or adjusted to the satisfaction of the parties concerned, the basis for such a settlement shall be reduced to writing, signed by the parties to the complaint, and the case closed. A copy of the settlement document and a copy of the facts of the investigation shall be furnished to each of the parties concerned.

2 Formal. If informal attempts at settlement are unsuccessful in disposing of the complaint within 30 days, the parties may agree to stipulate the facts to the Assistant Secretary of Labor for Labor-Management Relations and request a decision without a hearing, or a party may file a complaint requesting the Assistant Secretary of Labor for Labor-Management Relations to issue a decision in the matter. Details on the processing of an appeal to the Assistant Secretary of Labor may be obtained from the PE Division, upon request.

G Decisions by the Assistant Secretary of Labor for Labor-Management Relations. A decision by the Assistant Secretary of Labor for Labor-Management Relations, including any remedial action which he may direct to be taken, shall be fully and promptly implemented.

H Right of Labor Organization. No Unfair Labor Practice complaint involving the same individual or individuals and substantially the same facts shall be processed under more than one procedure either concurrently or sequentially. If, however, an Unfair Labor Practice complaint is processed under a grievance procedure and involves, either directly or indirectly, a labor organization which has not been made a party to the proceedings or which is not representing the employee or employees involved, an opportunity will be afforded such organization to observe or participate in the proceedings to the extent of its interest.

VIII ALLOTMENT OF DUES TO LABOR ORGANIZATIONS

A General Provisions.

1 Procedures and costs for effecting dues withholding are subject to a memorandum of understanding between the U.S. Dept. of Agriculture and the national headquarters of labor organizations. (See AMS Instruction 352-5, Voluntary Salary Allotments for Payment of Employee Organization Dues.)

2 Employees may effect a voluntary allotment for the payment of dues to a labor organization, provided:

- a The employee is in an exclusively recognized unit, and
- b The labor organization to which he belongs has signed an agreement with Agency management which incorporates or references the national memorandum of understanding and which has been approved by the Department Director of Personnel.

B Method of Filing for Dues Withholding. Employees may file

for dues withholding and change or cancel such withholdings in accordance with provisions in AMS Instruction 352-5.

IX ADDITIONAL ASSISTANCE

For guidance and advice on any labor-management relations matter not covered by this Instruction, supervisors and management officials should consult with the Labor-Management Relations Staff, PE Division.

/s/ Irving W. Thomas
Deputy Administrator, Management

Attachment

EXHIBIT A

Excerpt from Executive Order 11491

Labor-Management Relations in the Federal Service

as amended February 6, 1975

Sec. 19 Unfair labor practices.

(a) Agency management shall not --

- (1) Interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;
- (2) Encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;
- (3) Sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under Section 23 of this Order when consistent with the best interest of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;
- (4) Discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;
- (5) Refuse to accord appropriate recognition to a labor organization qualified for such recognition; or
- (6) Refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not --

- (1) Interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;
- (2) Attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;
- (3) Coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the

discharge of his duties owed as an officer or employee of the United States;

- (4) Call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop
- (5) Discriminate against an employee with regard to the terms of conditions of membership because of race, color, creed, sex, age, or national origin; or
- (6) Refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws which conform to the requirements of this Order.

(d) Issues which can properly be raised under an appeals procedure may not be raised under this Section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedures under the unfair labor practice section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions nor as precedents for such decisions. All complaints under the unfair labor practice section that cannot be resolved by the parties shall be file with the Assistant Secretary.