

**FEDERAL MEDIATION AND CONCILIATION SERVICE**

In the matter of:

AMERICAN FEDERATION OF	:	
GOVERNMENT EMPLOYEES,	:	
LOCAL 1102	:	
	:	
Union,	:	FMCS Case No. 09-57136
	:	
and	:	
	:	
UNITED STATES	:	
DEPARTMENT OF JUSTICE,	:	
FEDERAL BUREAU OF PRISONS	:	
FDC SEATAC,	:	
	:	
Agency.	:	
_____	:	

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made by and between the U.S. Department of Justice, Bureau of Prisons, FDC Seatac (“Agency”) and the American Federation of Government Employees Local 1102 (“Union”) in resolution of the grievance (FMCS No. 09-57136) filed on May 13, 2008, concerning the alleged claim that the Agency did not pay overtime compensation pursuant to the Fair Labor Standards Act (“FLSA”) for time spent performing pre and post shift work. In full and complete settlement of the above-referenced grievance, the parties by and through their undersigned representatives, freely and voluntarily agree to the terms outlined in this agreement.

1.     Coverage

Grievants are present and former bargaining unit members of the Bureau of Prisons with a duty station of FDC Seatac, in Seatac, WA from the period of time of May 13, 2005 to the date this settlement agreement is fully executed. The Grievants covered by this settlement warrant and represent that no other action or suit with respect to the claims that are set forth in the grievance covered by this settlement agreement will be filed in or submitted to any court or

any administrative forum including, but not limited to, the General Accounting Office or the Office of Personnel Management for the time period that this grievance covers. By agreeing to accept payment under this settlement, the grievants agree to waive any right or entitlement to pursue or collect payment for any FLSA claims for pre and post shift work for the time period that this grievance covers.

2. Lump Sum Payment

The Agency shall provide the Union, through the Union's attorney Michael Posner of Posner and Rosen LLP, a lump sum settlement amount of \$450,000 to distribute to bargaining unit employees participating in the grievance. This lump sum covers all back pay, liquidated damages, interest and attorney's fees and costs owed to the grievants for the matters asserted in the grievance. The Union and/or Posner and Rosen LLP shall determine the respective shares to be distributed to the grievants participating in the grievance.

3. Payment Timetable and Method for Payment of Lump Sum

The Agency shall make the lump sum payment of \$450,000 to the law firm of Posner and Rosen LLP, 3600 Wilshire Blvd. Suite 1800, Los Angeles, California 90010 by an electronic funds transfer or a single check made payable to "Posner and Rosen LLP" on or before January 8, 2010. Posner and Rosen on behalf of the Union, will be responsible for distributing to each grievant his/her respective share of the lump sum amount. The parties agree that this Settlement Agreement does not determine the amount of any income tax or any other taxes for which the Grievants or beneficiaries may be liable now or in the future as a result of this Agreement. The Union agrees that its individual members will be responsible for any federal, state, or local tax liability arising from the payment of the amounts set forth in the settlement, and that they will

hold the Agency harmless from any liability for such taxes which may be owed on account of payment from this settlement. After making any distribution to the Grievants or their beneficiaries, all required forms will be submitted by Posner and Rosen LLP on behalf of the Union to the Internal Revenue Service (IRS) for each Grievant or beneficiary. Posner and Rosen LLP on behalf of the Union will be responsible for distributing all required federal tax forms to the grievants. These tax forms must be sent in accordance with Federal tax regulations.

4. Interest

In the event that the Agency fails to pay the amount of \$450,000 on or before January 8, 2010, interest shall begin to accrue on the amount owed beginning on January 8, 2010. Interest will accrue in accordance with the formula prescribed under the Back Pay Act, 5 U.S.C. §5596(b)(2)(A), and by the Office of Personnel Management in FPM Letter 550-78. The interest shall be computed at the rate or rates in effect under Section 6621(a)(1) of the Internal Revenue Code of 1986 and shall continue to accrue until the Agency transmits the lump sum amount to Posner and Rosen, LLP in accordance with paragraph 3 above.

5. Release From Claims Related to Settlement

The Union and the Agency understand and agree that in consideration for the payment made by the Agency and the Agency's compliance with the terms of this Agreement, the Union remises, releases and forever irrevocably discharges the United States Government, the Bureau of Prisons, the Agency and their officers, agents and employees, and each of them, separately and collectively, from claims for FLSA overtime compensation for time spent by bargaining unit employees allegedly working pre and post shift work for the time periods covered by this grievance and this settlement agreement.

6. Documentation

The Union agrees to provide the Agency with a list of employee names. In turn, the Agency agrees to provide the Union with attendance records for non-custody staff, and daily roster assignment lists for custody staff, for the period of May 13, 2005 through the date this settlement agreement is fully executed for the employees listed. In order to effectuate this provision, the Union agrees to cooperate with the Agency if there are any questions or concerns raised by the Agency.

7. Waiver

In consideration for the payments made and the promises provided herein the Union will not sponsor any arbitration or individual grievances seeking FLSA overtime for time spent by bargaining unit members allegedly performing pre and post shift work from May 13, 2005 through the date this settlement agreement is fully executed.

8. Extensions

Any of the deadlines set forth in this agreement may be extended by mutual agreement of the Union and the Agency.

9. Precedent

This Agreement is made solely for the purpose of settling this grievance and permitting entry of final resolution of the following grievance: FMCS No.09-57136. All parties agree that this agreement does not constitute an admission of guilt or wrongdoing by any party. All parties agree that this Agreement shall not be cited as precedent, and may not be cited, published, or referenced by either party as justification for their respective positions or referred to in any other proceeding, whether judicial or administrative, for any purpose other than to enforce the terms of

this Agreement. The parties recognize that it is in their respective interests to resolve these disputes through this settlement.

10. Completeness of Agreement

This document constitutes the complete terms of the settlement and supercedes any and all prior oral or written representations, understanding, or agreements between the parties to this agreement.

11. Authority of the Parties

The parties declare that they have full authority to enter into this agreement, have fully understood the terms, and have voluntarily entered and accepted the settlement terms contained herein.

The Union's representative of record represents that she is authorized to enter into this Agreement on behalf of AFGE Local 1102, which has full authority to enter into this agreement and to make the promises, obligations and considerations contained herein. The Agency's representative of record represents that she is authorized to enter into this Agreement on behalf of the U.S. Department of Justice, Bureau of Prisons, FDC Seatac, which has full authority to enter into this agreement and to make the promises, obligations and considerations contained herein.

FOR THE UNION



Leipusa Meaole  
Chief Steward AFGE Local 1102

Date: 11-17-09

FOR THE AGENCY



Marion Feather  
Warden, FDC Seatac

Date: 11/17/9