

FEDERAL MEDIATION AND CONCILIATION SERVICE
Arbitrator Ronald Leahy

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|-----------------------------|---|-------------------|
| In the matter of: | : | |
| | : | |
| AMERICAN FEDERATION OF | : | |
| GOVERNMENT EMPLOYEES, | : | |
| LOCAL 506 | : | |
| | : | |
| Union, | : | Case No. 06-04028 |
| | : | |
| and | : | |
| | : | |
| UNITED STATES DEPARTMENT OF | : | |
| JUSTICE, FEDERAL BUREAU OF | : | |
| PRISONS, FCC COLEMAN | : | |
| | : | |
| Agency. | : | |

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Federal Bureau of Prisons, FCC Coleman (“FCC Coleman”) and American Federation of Government Employees, Local 506 (“Union”) in resolution of the grievance filed by the Union on April 18, 2006 regarding claims for Back Pay Act overtime compensation made on behalf of current and former bargaining unit employees at FCC Coleman who were entitled to and not paid night differential when working overtime between the hours of 6:00 p.m. and 6:00 a.m. that was scheduled in advance of the administrative workweek (FMCS Case No. 06-04028).

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**

The Grievant is the Union at Federal Correctional Complex Coleman, Florida.

The Union is the certified representative of all bargaining unit employees at the Federal Correctional Complex Coleman, Florida.

2) Participating Employees

- a) The “participating employees” shall be current and former bargaining unit employees who worked in excess of one hundred (100) overtime hours during Fiscal Year 2010.
- b) Within fifteen (15) days of the date this Agreement is fully executed, the Agency shall provided the Union’s counsel with a listing of participating employees, identified by name.
- c) The listing of participating employees shall include the number of overtime hours worked by each participating employee during Fiscal Year 2010.

3) Compensatory Time Credit.

- a) Within thirty (30) days of the date this Agreement is fully executed, each participating employee shall be credited with sixteen (16) hours of Fair Labor Standards Act (FLSA) compensatory time, except for participating employees who worked in excess of four hundred (400) overtime hours during Fiscal Year 2010.
- b) Within thirty (30) days of the date this Agreement is fully executed, each participating employee who worked in excess of four hundred (400) overtime hours during Fiscal Year 2010 shall be credited with twenty-four (24) hours of FLSA compensatory time.
- c) Compensatory time credited pursuant to this Agreement shall be considered earned pursuant to 5 C.F.R. § 551.531.

4) **Attorney Fees and Costs:**

- a) The Agency shall reimburse the Union's counsel for reasonable attorneys' fees at the Laffey Matrix rate and costs. Within fifteen (15) days of the date this Agreement is fully executed, the Union's counsel shall provide the Agency with a listing of its reasonable attorneys' fees and costs incurred to the date this Agreement is fully executed. The Agency shall certify the Union's reasonable attorneys' fees and costs for payment within fifteen (15) days of receipt of the listing described herein.
- b) The Union and their attorney agree that they will be responsible for any federal, state, or local tax liability arising from the payment of attorneys' fees and costs, and that they will hold the Agency harmless from any liability for such taxes which may be owing on account of the payment of such sums.
- c) The Agency shall reimburse the Union's counsel for reasonable attorneys' fees at the Laffey Matrix rate and costs associated with implementing this Agreement. Within sixty (60) days after the Agency has fulfilled its obligations pursuant to Paragraph 3, the Union's counsel shall provide the Agency with an updated invoice for its reasonable attorneys' fees and costs. The Agency shall certify the Union's reasonable attorneys' fees and costs for payment within fifteen (15) days of receipt of the listing described herein.

5) **Miscellaneous Conditions Concerning Payment**

- a) **Miscellaneous Income Forms** The parties agree that this Agreement does not determine the amount of any income tax or any other taxes for which the participating employees, or their beneficiaries, may be liable for now or in the

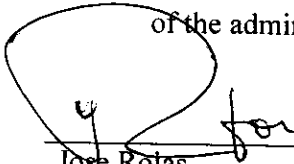
future as a result of this Agreement. The participating employees will be responsible for any federal, state, or local tax liability arising from the payment of the amounts set forth in the settlement, and that they will hold the Agency harmless from any liability for such taxes which may be owed on account of payment from this settlement.

- 6) **Release From Claims Related to Settlement** The Union and the Agency understand and agree that in consideration for the services provided and payments made by the Agency, and the Agency's compliance with the terms of this Agreement, the Union, for itself, its successors, assigns, current and former bargaining unit employees hereby remises, releases and forever irrevocably discharges the United States government, the Department of Justice, the Agency and their officers, agents and employees, and each of them, separately and collectively, from any claims for payment on behalf of the bargaining unit employees for the time periods covered by this Agreement in which they were entitled to night differential.
- 7) **Recovery Under Other Matters:** The Union hereby recognizes that current and former bargaining unit employees shall be precluded from receiving any further payment for night shift differential for overtime for time periods and matters covered by this grievance and settlement, as described above. Specifically, compensatory time credits under this Agreement will preclude any other recovery for back pay, interest, or any other type or form of relief or settlement that may be entered into in any other complaint, grievance, arbitration, civil litigation or any other type of legal claim based on the Agency's failure to pay night differential from April 17, 2000 to the date this Agreement is fully executed.

- 8) **Disputes:** The parties agree to act expeditiously and amicably to attempt to resolve any disputes regarding whether an employee is eligible for the compensatory time payments set forth herein. In the event that the parties are unable to resolve a dispute, they will present the dispute to Arbitrator Leahy for resolution. In the event that the Union prevails, the Union will be entitled to additional reasonable attorneys' fees and costs for associated with the claim.
- 9) **Precedential Value:** The Parties agree that this Agreement is being entered into due to the unique circumstances of this matter and it is not to be precedent for any other case.
- 10) **Agreement As Evidence:** The Parties agree that this Agreement may be used as evidence only in a subsequent proceeding in which either party alleges a breach of the Agreement.
- 11) **Waiver:** The Union will not sponsor any arbitration of individual grievances seeking night differential of any other bargaining unit employees, for the period of April 17, 2000 to present.
- 12) **Extensions:** Any of the deadlines set forth in this agreement may be extended by mutual agreement of the Union and the Agency.
- 13) **Authority of Parties:** The parties agree that they have full authority to enter into this Agreement and to make the promises, obligations and considerations contained herein.
- 14) **Totality of Agreement:** The parties agree that the terms of this Agreement constitute the entire agreement between the parties and that no other promises or representations, either express or implied, have been made or sought to induce


acceptance of this Agreement.

- 15) **Admissions:** This Agreement does not constitute an admission of fault, error, or wrongdoing by any party.
- 16) **Consideration:** The parties acknowledge that there is adequate consideration for each and every promise contained herein.
- 17) **Severability Clause:** If any provision of this Agreement shall be held invalid or unenforceable, the remainder of the Agreement shall not thereby be held invalid or unenforceable.
- 18) **Further Efforts:** The parties agree that they share responsibility for ensuring that bargaining unit employees properly receive their night differential for overtime worked between the hours of 6:00 p.m. and 6:00 a.m. that is scheduled in advance of the administrative workweek.
- a) The Union agrees to promptly notify the Agency of any instances where bargaining unit employees have not received a night differential for overtime worked between the hours of 6:00 p.m. and 6:00 a.m. that is scheduled in advance of the administrative workweek.



Jose Rojas
President, AFGE Local 506
5/21/13

Date



B. Romero
Associate Warden/LMR Chair
Federal Correctional Complex Coleman
20 MAY 13

Date