

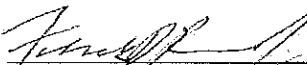
MEMORANDUM OF AGREEMENT
BETWEEN
DEFENSE LOGISTICS AGENCY
AND
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES COUNCIL 169
Defense Performance Management and Appraisal Program

The Defense Logistics Agency (DLA) and the American Federation of Government Employees Council 169 (AFGE Council 169) enter into this Memorandum of Agreement for the purpose of implementing the Defense Performance Management and Appraisal Program (DPMAP) for bargaining unit employees.


Therefore, the Parties agree to the following:

1. The current appraisal cycle will end on December 31, 2016. DLA will establish a new performance period of January 1 – March 31, 2017 (Abbreviated Appraisal Cycle) under existing policies and procedures before transitioning to a new annual cycle of April 1, 2017 – March 31, 2018 under DPMAP.
2. During the Abbreviated Appraisal Cycle, DLA will place employees on performance plans using the same plans (i.e. performance elements and standards) for the period of January 1-March 31, 2017. The Parties agree that employees will not be issued a rating of record at the end of this period.
3. From the date of this agreement, through April 30, 2017, the Council, Locals and employees will have 10 work days to provide input for new performance standards versus the 5 work days as stated in Article 18, section A (4), or 30 days from the completion of negotiations, which ever is later. During this initial period, if production reports are used to establish performance standards they will be provided to the union.
4. AFGE Council 169 Executive Board members will be provided the opportunity to conduct an internal union train-the-trainer session with their local Presidents or designee. The agency agrees to shorten the Annual Labor-Management Meeting by 1 day to provide the Council the opportunity to conduct their session.
5. The DLA and AFGE Council 169 agree to modify Article 18 of the DLA-AFGE Council 169 Master Labor Agreement (MLA)

For the Union:


Frank D. Rienti, Jr. Date 11-7-16
President, AFGE Council 169

For the Agency:


Brad Bunn Date 11/7/16
Director, DLA Human Resources

ARTICLE 18
PERFORMANCE EVALUATION

SECTION 1. GENERAL

- A. Periodic observation and evaluation of performance, accompanied by discussions, should serve to increase understanding between supervisors and subordinate employees regarding performance.
- B. Management will prepare and use written performance plans to evaluate the work of subordinates. Performance plans will be applied to an employee in a fair and objective manner. Upon request, the Employer will provide the Union existing production records to substantiate that the application of quantitative performance standard is based on a fair and objective review of actual production. The requested data must be relevant and for the purpose of carrying out representational duties.
- C. Performance plans must be current and derived from the duties and responsibilities of the position, and performance standards must be reasonably attainable.
- D. Employees will be given the opportunity to participate in the initial development and substantial revision of performance plans for their positions. Employees may suggest changes to their performance plans during the rating cycle.
- E. Management will keep employees informed periodically of their performance, and must provide them with counseling and training necessary to be fully productive.
- F. Performance ratings will be one of the bases for decisions regarding employee training, awards, reassignments, promotions, within-grade increases and quality step increases, retention, reductions in grade, and performance-based removals from the Federal Service. Those employees whose performance falls below the Fully Successful level will be given the opportunity to improve.
- G. The Agency will not prescribe a distribution of levels of ratings for employees covered by this Agreement. Each employee's performance will be judged solely against his/her performance standards.
- H. Employees who serve as representatives or officials of labor organizations will be rated solely on the basis of how well they perform the duties and responsibilities of their officially assigned positions. They will not be disadvantaged in their performance rating because of the time spent in a representational capacity.

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Employees who spend 100% of their time as labor representatives or officials of labor organizations are considered unrateable for performance appraisal purposes. For reduction-in-force, employees who spend 100% of their time as labor representatives will receive a modal rating.

SECTION 2. DEFINITIONS

- A. **Appraising Supervisor.** The individual who is authorized to assign and review work, and is responsible to oversee performance of the employee being evaluated. This individual is normally the immediate supervisor who exercises full range of personnel management responsibility.
- B. **Approving Official.** The individual(s) responsible for approving ratings submitted by the appraising supervisor for those ratings which fall below Fully Successful. This is normally the next higher-level supervisor above the appraising supervisor.
- C. **Critical Element.** A component of a position consisting of one or more duties and responsibilities which contribute toward accomplishing organizational goals and objectives, and which is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.
- D. **Fully Successful.** The performance level necessary for the employee to function adequately, fulfill the duties and responsibilities of the position, and properly contribute to meeting organizational performance goals.
- E. **MyPerformance:** The DoD automated appraisal tool authorized for use by both supervisors and employees to document the performance management process of the DoD Performance Management and Appraisal Program.
- F. **Outstanding:** Performance that, as described in DoDI 1400.25, volume 431, produces exceptional results or exceeds expectations well beyond specified outcomes; sets targeted metrics high and far exceeds them (e.g., quality, budget, quantity); handles roadblocks or issues exceptionally well and makes a long-term difference in doing so; is widely seen as an expert, valued role model, or mentor for this work; exhibits the highest standards of professionalism.
- G. **Performance Appraisal.** The process of reviewing and evaluating the performance of an employee against the written performance plan.
- H. **Performance Plan.** The written combination of critical elements and standards of performance for them.

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- I. Performance Standard. The results-oriented statement that describes the level of performance established for a critical element in such dimensions as quality, quantity, timeliness, and manner of performance. To the extent performance standards are based on numerical goals or numerical performance levels, the numerical goals for which the employee is responsible will be stated in the performance standard.
- J. Rating of Record. The summary rating under 5 U.S.C. § 4302 ordinarily required at the end of the appraisal period. Illustrative of the summary rating determinations in DoD Instruction 1400.25, Volume 431, period Level 5 - Outstanding (the average score of all critical element performance ratings is 4.3 or greater with no critical element being rated "1" (Unacceptable) resulting in a rating of record that is a 5); Level 3 - Fully Successful (the average score of all critical element performance ratings is less than 4.3 with no critical element being rated a "1" (Unacceptable) resulting in a rating of record that is a "3") and Level 1 - Unacceptable (any critical element rated as "1").
- K. Summary Rating. The written record of the appraisal of each performance element and the assignment of the summary adjective rating.
- L. Unacceptable. Performance which fails to meet the Fully Successful level for a critical element. Also refers to the summary rating assigned if an employee is rated Unacceptable in one or more critical elements.

SECTION 3. PROCEDURES

A. Establishing Written Performance Plans

- 1. Written performance plans related to the duties and responsibilities of each position will be prepared, revised as necessary, and kept current. Performance plans will set forth the criteria by which work will be measured for each critical element. Employees will be encouraged to participate in the initial development of performance plans for their positions and may make suggestions to their supervisor concerning changes thereto during the rating cycle. To the extent feasible, the performance standards should include specific, measureable, achievable, relevant, and timely (SMART) criteria, which provides the framework for developing effective results and expectations. To the maximum extent feasible, performance standards shall be objective and provide opportunities for outstanding performance. Absolute (i.e., pass/fail) standards are permissible when a single instance of failure to meet the standard could result in death, injury, breach of security, or great monetary loss.

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2. Performance standards describe how the requirements and expectations provided in the performance elements are to be evaluated. Performance standards must be provided for each performance element in the performance plan and will be written at the Outstanding, Fully Successful and Unacceptable level.

An employee will be provided a copy of the performance plan for his/her position at the beginning of each appraisal period, upon initial entry into the position, and when a new or revised performance plan is established.

3. Any substantial change to or revision of performance plans will be discussed with the concerned employees and their comments considered prior to the plan becoming official. When a new or substantially revised performance plan is prepared, copies of the draft plan will be provided to the employee(s) and the Union.
4. While the content of the performance plans is the exclusive determination of the Employer, the Employer will give consideration to any comments received from the employee or Union prior to the performance plan(s) being finalized and implemented provided they are received within 5 work days. An employee's acknowledgement, initials or signature do not imply agreement with the performance plan.
5. Changes will be acknowledged and the revisions noted in the MyPerformance appraisal tool. Employees will be advised if:
 - (1) the element or standard will apply at the beginning of the next appraisal cycle;
 - (2) the plan is being updated during the current cycle (if the employee does not have an opportunity to perform under the revised element(s) for the minimum 90-calendar-day period, the revised elements will not be rated); or
 - (3) the current appraisal cycle is being extended by the amount of time necessary to allow 90 calendar days of observed performance under the revised element or standard. (Extending the appraisal cycle will affect the start date of the employee's subsequent appraisal cycle; however, the subsequent appraisal cycle will still end March 31 of the following calendar year.)
6. To the extent practicable, as determined by the agency, employees performing like duties and working under the same position description, will have the same standards.

B. Discussing Performance with Employees

1. Performance appraisal is a continuous process involving periodic discussions between the supervisor and employee (at least three documented discussions per year, initial, one mid-period discussion and a summary discussion at the end of the appraisal period or when performance is rated). Every effort should

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be made to assure that employees understand the performance plan for their positions, as well as the extent to which their performance meets standards. Employees, at their request, will receive clarification of any aspect of their plan which is not clear.

2. When an employee's performance falls below the Fully Successful level, the employee will be counseled regarding his/her performance and the consequences that may result such as potential denial of a within-grade increase, inability to be considered for merit promotion and loss of RIF retention standing.
3. Each employee's performance will be discussed at the time a rating is given. If an employee is temporarily unavailable for this discussion, the supervisor should reschedule the discussion, if practicable.
4. Formal performance discussions will be documented in the automated tool (i.e., MyPerformance). If written (paper-based) documents are used, the employee will be furnished with copies of the documents at the time of the meeting. Formal performance meetings will be held in person, to the extent practicable, which may include the use of various video teleconference or office communicator tools (e.g. "Skype") to ensure face-to-face communication. The meetings will be in private. The documented discussions will include employee's accomplishments and contributions; employee's level of performance, including any areas that need improvement; barriers to success; and employee's developmental needs and career goals.

C. Rating Performance

1. The DoD and DLA rating cycle begins April 1st and ends on March 31st each year. Ratings will be based on at least 90 calendar days working under an approved performance plan. When an employee changes from one position to another, but has served 90 calendar days in the former assignment for the losing supervisor, a narrative assessment will be prepared and forwarded to the gaining supervisor. To the extent that it is applicable, that narrative assessment will be considered when the employee's performance is rated at the end of the appraisal period. When a position change occurs during the last 90 days of the appraisal period and the employee is otherwise eligible for a rating, a rating of performance will be prepared. Ratings thus prepared will become the rating of record for the appraisal period.
2. Descriptions of Performance Rating Levels. The performance rating assigned should reflect the level of the employee's performance as compared to the standards established.
3. Employees will be advised in sufficient time of deadlines in which employee input is due for consideration in the performance evaluation.
4. Employee self-assessments should be given serious consideration in

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- developing the performance rating for that employee.
5. Choosing not to provide the voluntary self-assessment will not disadvantage an employee relative to those who do provide such assessments, in and of itself. However, it is the performance of the employee with regard to the performance plan that should determine the rating and the rating official remains responsible for adequately and accurately observing, fostering, motivating and evaluating that performance throughout the entire rating period.
 6. Supervisors will write a performance narrative that succinctly addresses the employee's performance measured against the performance standards for the appraisal cycle. (a) The performance narrative discusses the employee's performance and provides support for other personnel actions. (b) Performance narratives are required for each element rated as a means of recognizing all levels of accomplishments and contributions to mission success
 7. An employee who has been on long-term training or other lengthy absence from duty, or for other reasons has not completed the minimum 90 days of work necessary for a rating at the end of the appraisal period is not eligible for a rating. When either a temporary promotion or a reassignment NTE (date) is processed, the agency will ensure that an appropriate performance plan exists for the position. If one is not available, he or she must follow the procedures outlined in section 3.A. above.
 8. When a performance rating is prepared, each performance element will be rated consistent with the DoD Instruction 1400.25, volume 431, (e.g. Outstanding, Fully Successful, Unacceptable).
 9. In the event the employee has had insufficient opportunity to demonstrate performance on an element, the element will be annotated as unrateable and will not be considered in determining the summary adjective rating unless the supervisors extends the appraisal cycle.
 10. If an employee's performance fails to completely meet the Fully Successful level, performance for that element should be rated Unacceptable. The appraising supervisor will provide a copy of the completed performance rating to the employee, discuss its contents and the employee's performance and obtain the employee's acknowledgement, which will be documented in MyPerformance. The employee's acknowledgement does not imply agreement; it merely verifies that the rating has been received and discussed.
 11. When an employee has been informed that his/her performance is below the Fully Successful level, the Employer will promptly initiate efforts to help the employee overcome the deficiencies. Section 4 provides further guidance to be followed when performance is considered to be at or below the Fully Successful level.
 12. When employees are appraised, supervisors will consider extenuating circumstances (such as special assignments, abnormal workload fluctuations, etc.).
 13. Employees will be assessed on the DoD or DLA values, and activity-level goals and objectives, only to the extent applicable to the assessment of

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individual performance elements as described in the performance standards for each element.

14. A performance standard is a statement of the expressed level of achievement in terms of the quality, quantity, timeliness, etc., required for the performance of an element of an employee's job. Application of all performance standards shall be fair and equitable, and consistent with regulatory requirements and the requirements of the position.

D. Rerating Performance During the Appraisal Period

1. It is expected that employees will usually receive only one performance rating per year. However, performance may be rerated when an employee's performance in one or more critical elements has become Unacceptable. Consistent with government-wide regulation, performance must be rerated when the rating of record does not agree with the decision to grant or withhold a within grade increase. Normally, supervisors will counsel employees about performance deficiencies that would result in a denial of a within-grade increase sufficiently in advance of the due date (60 days, when practicable) so as to allow them the opportunity to improve their performance to the Fully Successful level.
2. A rerating may not take place until the employee has completed a minimum of 90 calendar days in the job working for an appraising supervisor, and at least 90 calendar days have elapsed since the previous rating. It is not necessary to rerate an employee at the end of a warning period (see Section 4 below) in order to take an appropriate performance-based personnel action.

E. Appraising Performance on a Detail, Temporary Promotion, or Reassignment NTE (date)

1. When a detail, temporary promotion, or reassignment NTE (date) within DLA is expected to last 90 days or more and a change to the performance plan is required the employee will be furnished with a copy of the performance plan for the position.
2. Upon completion of a detail, temporary promotion, or reassignment NTE (date) lasting 90 days or more, the employee will receive a narrative statement documented in MyPerformance. A narrative statement is a brief narrative description of an employee's performance, accomplishments and contributions during the temporary assignment. A narrative statement is not a rating of record.

If the temporary promotion or reassignment NTE (date) lasted less than 9 months during the rating period, such a narrative statement is for information only and does not become the rating of record. It will be considered to the extent that is applicable to the employee's regular position when the

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employee's performance is rated at the end of the appraisal period. See section 3.C.3. for information concerning longer temporary assignments.

F. Probationary Period Evaluation

1. During the probationary period required after competitive appointment, a new employee will be appraised to determine whether conduct, performance, and overall fitness warrants retention in the Federal service.
2. Management will evaluate a probationary employee's conduct and performance not later than 2 months prior to the completion of the probation period. A written evaluation and recommendation must be submitted on whether or not the employee should be retained. This probationary period evaluation does not take the place of the annual performance rating. This provision does not prevent the Agency from separating a probationary employee for any reason during the remainder of the employee's probationary period.
3. 5 CFR 315 provides guidance and procedural requirements for the separation of a probationary employee.

G. Performance Ratings and Other Personnel Actions

1. An employee's performance will govern the decision to grant or withhold a within grade increase when one is due. General Schedule (GS) employees must be performing at "an acceptable level of competence." An acceptable level of competence equates to a rating of record at the Fully Successful or higher summary level. Employees covered by the Federal Wage System must perform at a "satisfactory" or higher level as provided in 5 U.S.C. § 5343(e)(2). A satisfactory rating equates to a rating of record at the Fully Successful or higher summary level. The most recent rating of record must agree with the decision to grant or withhold a within grade increase.
- H. Effective Date of the Appraisal. A rating of record is final when it is signed by the employee's supervisor, in his or her capacity as rating official and, where required by DLA policy, by a higher level reviewer (HLR). A rating of record finalized before June 1 will be effective June 1.
- I. In the event the Employer is conducting a Reduction in Force, the Employer will ensure that all performance ratings based on the established cutoff, are entered into DCPDS prior to generating a retention register.

J. Performance Rating Grievances

1. Employees are expected to seek informal resolution of disagreements with their supervisors concerning performance ratings. A grievance may be filed only after a performance rating has been completed and communicated to the

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employee. If it is alleged that the summary rating has been incorrectly determined, this should be reviewed and corrected, if appropriate, by management. Only allegations of incorrect determinations of the summary ratings or ratings of individual critical elements may be grieved; the summary rating itself may not be grieved. The summary rating will be appropriately adjusted automatically depending upon the outcome of a grievance on one or more critical elements.

2. When an employee grieves one or more critical elements rated below Fully Successful, the burden of proof that the rating(s) given is proper rests with management.

SECTION 4. WARNING EMPLOYEES OF SERIOUS PERFORMANCE DEFICIENCIES

- A. When performance is considered by management to be below the Fully Successful level for non-probationary employees, the supervisor will counsel the employee concerning performance deficiencies, specifically identify areas of performance below the Fully Successful level, explain what must be done to improve, and suggest ways for improvement. More than one counseling session may be necessary before an employee is able to demonstrate Fully Successful performance.
 1. As a matter of practice, performance deficiencies should be addressed as early as possible during the performance cycle. Supervisors should follow the procedures in DLAI 1400.25, Volume 431, Enclosure 2, Section 8.a. "Addressing Performance Issues Early."
 2. Unacceptable performance: If performance is considered to be at the Unacceptable level in one or more critical elements after documented counseling and assistance regarding performance deficiencies so that the employee is aware the deficiencies, a letter of warning will be issued to the employee. To the extent practicable, counseling will be face-to-face. The letter will state that performance is considered to be Unacceptable, establish a period (normally a minimum of 90 days) during which the employee will be expected to attain the Fully Successful level in the deficient element(s), and generally include the following:
 - a. Identification of each critical element in which performance is considered to be Unacceptable and description of those aspects of work that are deficient.
 - b. What performance is required to overcome the deficiencies.
 - c. The personnel action (reassignment, demotion, or removal) that may result if performance is not improved to the Fully Successful level and

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generally, the types of assistance management determines necessary to improve performance.

3. The written performance plan must form the basis for the requirements of the warning letter. During the warning period, the employee must be periodically counseled noting where improvements have been made and where they have not. A written record of each counseling session should be kept showing the date, nature of assistance and advice, and how the employee is progressing. If an annual performance rating becomes due during the warning period, the rating will be deferred until the end of the period and the employee will be so notified.
4. The letter of warning will be canceled and the employee informed if during, or at the end of the warning period, performance has improved to the Fully Successful level. If performance is Unacceptable in one or more critical elements at the end of the warning period, the employee must be either reassigned or demoted to a position where it is considered by management that he/she could perform all critical elements at the Fully Successful level, or must be removed from the Federal service.

SECTION 5. REMEDIAL ACTIONS BASED ON UNACCEPTABLE PERFORMANCE

- A. An employee may be reassigned, demoted, or removed from the Federal service because of Unacceptable performance in one or more critical job elements. A decision for such action may only be based on instances of Unacceptable performance which occurred within a 12-month period ending with the date of the proposed action. However, before it is proposed to remove an employee for Unacceptable performance, consideration must be given to the advisability of a reassignment or demotion to another position where it is likely the employee could perform acceptably.
- B. Demotions and removals due to Unacceptable performance are actions subject to the formal job protection procedures. When proposing to take such an action under 5 CFR 432, the following procedures will be followed:
 1. Employees will be advised of their right to representation and will be given a minimum 30-calendar day advance notice.
 2. The charge must list the critical job elements and standards of performance that were not met. It must include the basic facts developed in following the warning period outlined in paragraph A above.
 3. A reasonable amount of official time to prepare and present a reply to the charge must be given and the employee so informed in the notice of proposed action.

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4. Any records or documents relied upon to support the charge will be made available or provided to the employee or the representative for review upon request. Information on this matter must be also provided in the notice of proposed action.
 5. Any reply made by the employee must be carefully considered. If it is decided that the proposed action is warranted and supported, the employee will be given a notice of decision. The decision to take the action must be made by the approving official. The notice of decision must include information on the employee's appeal or grievance rights, as appropriate, as well as the right of Union representation.
 6. The employee will be notified in writing when it is decided to cancel the proposed action.
- C. A performance-based action may also be taken under 5 CFR 752 when the requirements of these regulations are followed.
 - D. The procedural requirements above do not apply to the separation of employees during their probationary period after competitive appointment. Requirements pertaining to probationers are contained in Part 315, 5 CFR.

SECTION 6. PERFORMANCE APPRAISAL RECORDS

- A. The DoD automated appraisal tool, MyPerformance, will serve as the Employee Performance Folder (EPF) for performance plans and ratings. These records will be retained consistent with government-wide regulation, typically 4 years.
- B. All bargaining unit employees will have access to computers and duty time for the purpose of utilizing MyPerformance. All efforts will be made to avoid disadvantaging employees who do not regularly use a computer in their jobs. To the extent the Agency requires employees to use computers for the Performance Management System, those employees will receive any necessary training and assistance.
- C. Employees, and their union representatives, if requested, will be able to see the performance related information about themselves that is kept in the system and will have subject to mission requirements, a maximum of 1 hour per week during their regular work schedules and the right to enter into the system their own achievements and successes. The system will not allow anyone to change anything that was entered by another person (i.e., supervisors cannot change an employee's entries). Employees will be offered training in preparing self-assessments of their own performance. Those employees who do not write this type of document in the course of their normal duties will be given necessary assistance so as not to be disadvantaged.

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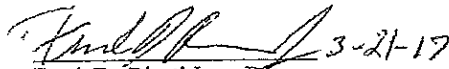
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D. The Agency will ensure that the electronic performance management system complies with all privacy requirements.

SECTION 7: DPMAP Implementation and Labor-Management Cooperation: The parties agree to use the existing labor-management meeting structure to discuss issues regarding the implementation of the Program, trends and on-going performance culture changes. Consistent with the DoD evaluation requirements, the parties agree to work together and discuss the program evaluation criteria.

SECTION 8: Local negotiations on this Article is not authorized.

For the Union:

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Frank D. Rienti Jr. Date
President, AFGE Council 169

For the Agency:

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Brad Bunn
Director, DLA Human Resources