DEPARTMENT OF DEFENSE
CIVILIAN PERSONNEL MANAGEMENT SERVICE
1400 KEY BOULEVARD
ARLINGTON, VA 22209-5144

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MEMORANDUM FOR THE ADJUTANT GENERAL, MAINE ARMY NATIONAL GUARD, ATTN: SMSgt. JEFFREY A. GUESMAN
HEADQUARTERS, MAINE NATIONAL GUARD
CAMP KEYES, AUGUSTA, MAINE 04333-0033

SUBJECT: Agreement extension between The Adjutant General, Maine Army National Guard and the Association of Civilian Technicians, Pine Tree Chapter #79 (Lairs No. 080530)

The subject agreement extension, executed on June 7, 2006, was reviewed pursuant to 5 U.S.C. § 7114(c). As agreed to by the parties in Article 30, Section 3.a., the agreement went into effect minus a disapproved provision in Article 32, Performance Ratings, sections 7a and 7b.

The parties subsequently met and by Execution Agreement letter dated October 12, 2006, agreed to strike the disapproved provisions, specifically sections 32.7(a) and (b) from the subject agreement, which were:

a. Article 32, Performance Ratings, sections 7a and 7b:

"a. Performance expectations will be expressed in terms of quality, quantity, or timeliness."
"b. When it is not possible to write an exception as in 32.7(a) above, they may be stated in terms of expected results or manner/method of performance."

As was stated in the original partial approval letter, the two sections of provision 7 above require that performance standards established by management include specified characteristics; i.e., expressed in terms of quality, quantity or timeliness, or in terms of expected results or manner/method of performance. As such, this provision directly interferes with management's right under 7106(a)(2)(A) and (B) to direct employees and to assign work. It is therefore, non-negotiable. (See National Treasury Employees Union and Department of Health and Human Services, Social Security Administration, Office of Hearings and Appeals, Baltimore Maryland, 39 FLRA No. 25, provision #2.)

Based on the Execution Agreement signed by the parties to strike the disapproved provision, the agreement pursuant to 5 U.S.C. § 7114(c) is hereby approved.

The approval of this agreement does not constitute a waiver of or exception to any existing law, rule, regulation or published policy.

This action is taken under authority delegated by DoD 1400.25-M, Civilian Personnel Manual, Subchapter 711, Labor Management Relations. Please annotate the agreement to indicate: Approved by the Department of Defense on OCT 31 2006

Copies of the approved agreement should be forwarded as follows:

a. Defense Civilian Personnel Management Service (DCPMS) Field Advisory Services Division, Labor Relations Branch, 1400 Key Blvd., Suite B-200, Arlington, Virginia 22209-5144 – two copies and one copy of OPM Form 913-B (attached). Also, please send a copy of the approved agreement on disk (Microsoft Word, WordPerfect or any standard text format) or e-mail us a copy at labor.relations@cpms.osd.mil.

b. National Guard Bureau, ATTN: NGB-TN, 1411 Jefferson Davis Highway, Suite 9100, Arlington, Virginia 22202-3231 – one copy.

If there are any questions concerning the agreement, Dennis Jones can be reached on DSN 426-6301 or commercial (703) 696-6301, extension 417.

A copy of this memo was served on the union by first class mail on OCT 31 2006

Darryl Roberts
Deputy Director for Labor and Employee Relations

Attachment:
As stated

cc:
Mr. Phil Flagg
President, Pine Tree Chapter #79
Association of Civilian Technicians
41 Know Avenue
Bangor, ME 04402

National Guard Bureau
ATTN: NGB-HRL
1411 Jefferson Davis Highway
Suite 9100
Arlington, Virginia 22202-3231