Memorandum of Understanding Between the NOAA Office of General Counsel and Region 8, National Weather Service Employees Organization, NOAA Attorney’s Guild, Regarding the Promotion Process for Bargaining Unit Attorneys

1. At the request of the attorney, an attorney will be considered for promotion to the next higher grade at least annually.

2. An attorney will be considered for promotion to the next higher grade if the attorney has received a performance rating at his or her most recent annual performance evaluation of “meets or exceeds expectations,” and has consistently demonstrated the readiness and ability to perform at the next higher level. Merely performing at a “meets or exceeds” level is not sufficient to meet this eligibility requirement. Attachment A specifies the criteria that Management has identified as being required for promotion to the GS 15 level.

3. Nothing in this agreement abrogates or limits management rights under 5 U.S.C. Section 7106.

4. An attorney’s qualifications for promotion to the next higher grade, as well as the attorney’s progress and accomplishments, should be discussed in the attorney’s annual performance review and in the mid-year progress review. In addition, once per year, if requested by the employee, the first line supervisor/manager or other management designee will meet with the employee, within 10 business days of the request, to discuss the attorney’s promotion potential, and any steps the attorney may take to enhance his or her qualifications for promotion. Such meetings may occur telephonically.

5. On a quarterly basis, NOAA GC senior management will convene a management review committee meeting of appropriate NOAA GC supervisors/managers or other management designee to review the promotion potential and qualifications for promotion of those attorneys who have been in their current grade for one year, or who are recommended for promotion in accordance with paragraph 8 below.

6. Promptly after the quarterly management meeting referenced in paragraph 5 above, an attorney under consideration for promotion will be notified by a member of the management review committee and the first line supervisor/manager or other management designee whether the attorney’s promotion to the next higher grade has been approved by NOAA GC management. If the promotion has not been approved, the management review committee member and first line supervisor/manager or other management designee will give the attorney the reasons why the promotion was not approved and any steps the attorney may take to enhance his or her qualifications for promotion.
For those attorneys approved for promotion, the SF-52 shall be submitted to the appropriate Work Force Management Office and/or administrative processing center within 10 business days of the quarterly management review committee meeting following which the promotion was approved. A copy of the submitted paperwork shall be sent to the attorney. Management will make best efforts to have all promotions become effective in the earliest possible pay period following submission of the SF-52 to the Work Force Management Office.

The first line supervisor/manager or other management designee is responsible for preparation of promotion recommendations. Promotion recommendations should be concise, and only as long as necessary to demonstrate persuasively that the attorney has met the criteria in Paragraph 2 above. For promotions up to GS-14, the supervisor/manager or other management designee should address the performance criteria in the position description for the higher grade, providing a basis with respect to each performance criterion. For promotion to GS 15, the recommendation should address the GS 15 criteria in Attachment A, providing an example with respect to each performance criterion. For all promotions, one example of an attorney's work may support more than one criterion or competency. The promotion recommendation may be written using a bullet point format. The attorney must provide all information requested by his or her supervisor/manager or other management designee to facilitate the preparation of such promotion documents promptly upon request.

Management will provide a copy of this policy to each bargaining unit attorney within 10 days following the successful completion of agency head review.

Jane Luxton, NOAA General Counsel for Management

Marguerite Matera, for NWSEO Region 8, NOAA Attorneys Guild

12/19/08
DATE:

12/19/08
DATE:
ATTACHMENT A

Criteria for Promotion to the GS-15 Level

An attorney will be considered for promotion to grade GS-15 if the attorney has met all the criteria in Paragraph 2 of the Memorandum of Understanding Between the NOAA Office of General Counsel and Region 8, National Weather Service Employees Organization, NOAA Attorney’s Guild, Regarding the Promotion Process for Bargaining Unit Attorneys dated December 19, 2008, including the criteria below. While an attorney is ultimately responsible for his or her professional growth and development, to the extent practicable a supervisor/manager will seek to provide opportunities for an attorney to meet these criteria. Examples of activities that meet a criterion are provided below for guidance. However, experiences different from but similar in nature and difficulty to those provided in the examples below may be used to justify promotion to a GS-15.

1. Gained a diversity of legal and/or programmatic experience. This criterion can be met by demonstrating that the attorney has completed a variety of work in one or more offices.

2. Demonstrated a high degree of skill in oral and written expression. Examples of activities that would be evaluated for the purposes of satisfying this criterion include, but are not limited to:

   a. Before or during employment with NOAA GC, made a presentation to a regulated community or at an in-house subject matter training conference;

   b. taught a training course for federal or state employees;

   c. presented in-house at a brown bag on substantive matters relevant to NOAA;

   d. provided significant legal advice and/or guidance as counsel to bodies that include, but are not limited to, a Commission, Fishery Management Council, Take Reduction Team, natural resource Trustee Council, or similar body, agency program, other executive branch agency, or as of counsel to DOJ on litigation matters;

   e. written article(s) in professional journals or other publications;

   f. participated as a lecturer in legal, academic or public settings;

   g. lectured at law school;

   h. taught a CLE course;
i.-prepared a handbook or guidance document for use by NOAA, other agencies or entities; or

j.- wrote a significant brief or motion.

3. Earned the trust and confidence of clients, as demonstrated by communications or awards from clients, or by supporting narrative from a first line supervisor/manager.

4. Demonstrated in-depth knowledge and ability to apply substantive and administrative law, regulations and policies relevant to the attorney's area of practice.

5. Demonstrated a basic knowledge of technical aspects of clients' work (for example, fisheries or natural resource science or economics).

6. Demonstrated a familiarity with relevant agency and departmental policies, practices and procedures.

7. Demonstrated an understanding of the relevant regulated industry (for example, a particular fishery, marine shipping and transportation, civilian satellite technology, oil, manufacturing).

8. Demonstrated the ability and willingness to undertake a unique or difficult problem or project not necessarily in the attorney's normal or current field of practice. Examples of activities that would be evaluated for the purposes of satisfying this criterion include, but are not limited to, Law of the Sea Accession, interagency MOU work groups, and office-wide work groups.

9. Demonstrated the willingness to be a team player by assisting others in handling excessive workloads or time critical or complex assignments.

10. Demonstrated the ability to apply knowledge and understanding of the Agency's policies and legal positions in day-to-day legal practice.

11. Demonstrated the ability to analyze and solve complex, critical, unique or sensitive legal or policy issues and create solutions.

12. Demonstrated the ability to communicate effectively, orally and in writing, agency legal and policy positions intra-and extra-murally (e.g. to NOAA GC, clients, constituents, other federal and state agencies).

13. Demonstrated the ability to utilize effectively office computer systems and available legal research tools, including the ability to conduct legal research through use of Westlaw, Lexis, or the Internet.
14. Demonstrated the ability to review documents efficiently (e.g. in a timely manner, focusing on substance, not on trivia).

15. Demonstrated the ability to work independently without supervision, while understanding when to raise an issue to superiors.

16. Demonstrated the ability to train others and pass on knowledge or experience.

17. Demonstrated the ability to identify important legal, factual, or technical issues and focus on an appropriate legal or policy response.

18. Demonstrated the ability to organize group efforts and provide leadership and effective communications within such groups.

19. Demonstrated the ability to work effectively with, as applicable to that attorney's practice area, the Department of Commerce General Counsel, the Department of Justice, and other federal and state agencies.

20. Demonstrated the ability to apply knowledge and skills to increasingly uncertain, complex, sensitive and longer range legal and policy issues.

21. Demonstrated the ability to maintain a professional demeanor regardless of circumstances.

22. Demonstrated the ability to work effectively and courteously with paralegal and support staff.

23. Demonstrated the ability to support an Agency decision in a professional manner regardless of the attorney's own opinion or position.

24. Demonstrated the ability to comply with Departmental and Agency policies, procedures, and practices.

25. Demonstrated the ability to distinguish between legal and policy advice, to communicate that difference, and to present legal options.