

ARTICLE 41: PROFESSIONAL LIABILITY INSURANCE

POLICY

41.1 The Parties agree that accessibility to affordable and adequate professional liability insurance is a concern for Agency employees. Accordingly, pursuant to Section 636 of the Treasury, Postal Service and General Appropriations Act, 1997 (contained in Public Law 104-208), the Agency will implement a Professional Liability Insurance Premium Reimbursement Program for management officials and supervisors. Reimbursement is limited to 50 percent of the cost of the eligible employee's annual Professional Liability Insurance premium.

DEFINITIONS

- 41.2 Professional Liability Insurance is defined as insurance which provides coverage for the following:
- a. legal liability for damages because of injuries to other persons, damage to their property, or other damage or loss to other persons, including the expenses of litigation and settlement, resulting from or arising out of any tortuous act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of the individual's official duties as a qualified employee; and,
 - b. the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding, including any investigation or disciplinary proceeding, relating to any act, error, or omission of the covered individual while in the performance of the individual's official duties as a qualified employee, and other legal costs and fees relating to any administrative or judicial proceeding.
- 41.3 Supervisor: An individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority.
- 41.4 Management official: An individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency.

ELIGIBILITY

- 41.5 Foreign Service Officers who are overseas as heads of post or serving as the Director of an Agricultural Trade Office and other FSO's so determined by the SPO are eligible to participate in this reimbursement program.

PROCEDURE

- 41.6 Eligible employees may apply for reimbursement by submitting a completed SF-1164: "Claim for Reimbursement for Expenditures on Official Business" and attaching the Insurance Premium Statement with acceptable proof of payment, such as a canceled check, insurance statement/receipt, or Federal payslip showing payments made in full to:

The Performance Management, Benefits, and Awards Branch
HRD/FSA/USDA
Stop 0595
1400 Independence Avenue, SW
Washington, DC 20250-0595

IRS

- 41.7 The Internal Revenue Service has advised that employee reimbursement made under a properly administered Professional Liability Insurance program may be excluded from gross income under section 132(d) of the Tax Code and exempt from the withholding and payment of employment taxes. However, employees should consult their individual tax advisors if they need additional specific information.

PROGRAM TERMINATION

- 41.8 The Parties recognize that continuation of this program is dependent upon available funds within the FAS budget. The Employer will review the availability of funds as part of its annual budget process. Should the Employer believe a change in the program is warranted, the Employer will provide AFSA/FAS with a written statement describing the change, and negotiate if requested.
- 41.9 FAS reserves the right to terminate the program upon the announcement of reduction in force and/or furlough actions that may be necessitated by budget or ceiling constraints or other constraints beyond the control of FAS.