



VI. NEGOTIABILITY APPEALS (NEG) - PART C OF THE SURVEY

Negotiability appeals are filed by a union acting as an exclusive representative in two situations. A union may file a petition for review with the Authority following management's determination that a bargaining proposal is outside management's duty to bargain. Alternatively, a union may file a petition for review with the Authority following management's disapproval of a contract provision upon which agreement has already been reached based upon management's determination that the provision is contrary to law. 63 respondents indicated they had participated in negotiability appeals that were filed or decided in 1996 and/or 1997. These respondents were asked to address issues related to negotiability appeals case handling procedures, quality of service provided by an Authority employee, Authority decisions and initiatives.

A. NEG Case Handling Procedures

When the Authority receives a negotiability appeal, it issues an acknowledgment order and a checklist to assist the parties in meeting any procedural requirements. In question C1, 63 respondents indicated participation in NEG appeals in 1996/1997 and were identified from the case tracking system of FLRA as having been a participant. Only these latter respondents were asked to complete the remainder of the questions in Part C.

84% (53) of respondents who participated in negotiability appeals that were filed or decided in 1996/1997 received an acknowledgment order. Asked "to what extent did the acknowledgment order and the checklist clarify the requirements for processing the case?," 47% of 51 respondents indicated to a great extent, 41% stated to a little or some extent, and 12% said not at all. There was little difference between agency and union respondents. Of 23 respondents, 61% marked to a great extent to the question, "to what extent did the Order to Show Cause explain the information needed to complete the appeal?," 35% stated to a little or some extent, and 4% said not at all. There were too few agency respondents to make a comparison between agency and union respondents. 40% (21) of those respondents who received an acknowledgment order, also, received an order to show cause. See Table 28.

B. Quality of Service Provided by Authority Employee

Respondents were asked to assess the quality of service provided by an employee in the Authority's Office of Case Control with whom they had communicated. Only those respondents who communicated with an employee in the Authority's Office of Case Control (21) were asked to answer these questions. There were too few agency respondents to make a comparison between agency and union respondents. The responses were positive. Of 21 respondents, 76% agreed with the statement, "the Authority employee was courteous and professional," 10% neither agreed nor disagreed, and 14% disagreed. Of 20 respondents, 70% agreed with the statement, "the Authority employee was knowledgeable about the Statute, regulations and case processing procedures," 15% neither agreed nor disagreed, and 15%



TABLE 28
NEG CASE HANDLING PROCEDURES

	<u>Number of Respondents</u>	<u>To a very great/Great Extent</u>	<u>To a little/Some Extent</u>	<u>Not at all</u>
C1. Did you participate in any negotiability appeals that were filed or decided in 1996 and/or 1997?				
Total Respondents Who Answered Yes:			63	
C2a. Did you receive an acknowledgment order and a checklist in a negotiability appeal?				
Total Respondents Who Answered Yes:			53	
C2b. To what extent did the acknowledgment order and the checklist clarify the requirements for processing the case?				
Negotiability Appeals	51	47%	41%	12%
Role Represented before FLRA				
Agency	18	44%	56%	0%
Union	31	52%	45%	3%
C2c. Did you receive an Order to Show Cause?				
Total Respondents Who Answered Yes:			21	
C2d. To what extent did the Order to Show Cause explain the information needed to complete the appeal?				
Negotiability Appeals	23	61%	35%	4%
Role Represented before FLRA				
Agency	7	43%	57%	0%
Union	16	69%	25%	6%

disagreed. Of 20 respondents, 65% agreed with the statement, “the Authority employee provided clear and prompt answers to my questions,” 25% neither agreed nor disagreed, and 10% disagreed. Of 20 respondents, 70% agreed with the statement, “the Authority employee gave no indication of favoring one party’s position over another’s,” 20% neither agreed nor disagreed, and 10% disagreed. See Table 29.

C. Collaboration and Alternative Dispute Resolution Services (CADR)

The FLRA provides collaboration and alternative dispute resolution services (CADR) to parties in pending negotiability appeals to help them resolve the negotiability appeal without a formal decision by the Authority on its merits. Those respondents who were contacted by a facilitator responded to these questions (32). There were too few respondents (less than 10) to the question C4c1 to C4c4 to draw any meaningful conclusions on CADR. See Table 30.

Of 26 respondents, 92% agreed with the statement, “the CADR facilitator explained the



CADR program and intervention services, and 8% disagreed. There were little differences between agency and union respondents. Of 25 respondents, 80% agreed with the statement, “the CADR facilitator explained what would happen to the case if I agreed to a meeting with CADR assistance,” 8% neither agreed nor disagreed, and 12% disagreed. Of 11 agency respondents, 73% agreed, and of 14 union respondents 86% agreed. Of 24 respondents, 79% agreed with the statement, “the CADR facilitator responded to my questions and concerns about the CADR program,” 13% neither agreed nor disagreed and 8% disagreed. Of 10 agency respondents, 70% agreed and of 14 union respondents 86% agreed.

Respondents were asked, “Did you agree to participate in this process?” Of 15 respondents, 58% said that agreed to participate in the CADR process. There were not enough agency participants to evaluate the differences between agency and union participants. Of 10 respondents, 30% agreed with the statement, “I would use CADR assistance again,” 30% neither agreed nor disagreed, and 40% disagreed.

Comments. C4. Did you agree to participate in the negotiability appeal? Explain your decision to participate or not participate. (These are examples only; they do not represent a systematic representation of the comments. See Appendix B for the complete set of comments.) (1) We believed it would help narrow the issues in dispute; however, the other party refused to participate. (2) Simple question not suited for compromise. (3) Other side refused to cooperate. (4) Basically, all we needed to resolve was to talk about the issues. They made that possible. (5) Issue was unprecedented. Required a level precedent to be established. (6) The installation did not want to settle. They wanted a decision. (7) We favor ADR. (8) I thought we had to.

D. Authority Decisions

If the parties are unable or unwilling to use CADR’s services, the Authority’s Members decide the negotiability appeal and issue a decision. Almost all NEG participants (97%) were a party or represented a party in a case decided by the Authority in 1996/1997. Beliefs about the Authority decision yielded the following results. There were no individual respondents. See Table 31.



TABLE 29
QUALITY OF SERVICE PROVIDED BY AN AUTHORITY EMPLOYEE

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C3a The Authority employee: was courteous and professional.				
Negotiability Appeals	21	76%	10%	14%
Role Represented before FLRA				
Agency	5	80%	20%	0%
Union	16	75%	13%	12%
C3b The Authority employee: was knowledgeable about the Statute, regulations and case processing procedures.				
Negotiability Appeals	20	70%	15%	15%
Role Represented before FLRA				
Agency	5	60%	20%	20%
Union	15	73%	14%	13%
C3c The Authority employee: provided clear and prompt answers to my questions.				
Negotiability Appeals	20	65%	25%	10%
Role Represented before FLRA				
Agency	5	60%	20%	20%
Union	15	67%	27%	6%
C3d The Authority employee: gave no indication of favoring one party's position over another's.				
Negotiability Appeals	20	70%	20%	10%
Role Represented before FLRA				
Agency	5	80%	0%	20%
Union	15	67%	27%	6%



TABLE 30
QUALITY OF SERVICE PROVIDED BY AN AUTHORITY EMPLOYEE

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C4a1 The CADR facilitator: explained the CADR program and intervention services.				
Negotiability Appeals	26	92%	0%	8%
Role Represented before FLRA				
Agency	11	91%	0%	9%
Union	15	93%	0%	7%
C4a2 The CADR facilitator: explained what would happen to the case if I agreed to a meeting with CADR assistance.				
Negotiability Appeals	25	80%	8%	12%
Role Represented before FLRA				
Agency	11	73%	18%	9%
Union	14	86%	0%	14%
C4a3 The CADR facilitator: responded to my questions and concerns about the CADR program.				
Negotiability Appeals	24	79%	13%	8%
Role Represented before FLRA				
Agency	10	70%	20%	10%
Union	14	86%	7%	7%
C4b Did you agree to participate in this process?				
	<u>Participated in CADR Process</u>		<u>Dispute Resolved</u>	
Negotiability Appeals	15		2	
	58%		13%	
Role Represented before FLRA				
Agency	5		0	
	46%		0%	
Union	10		2	
	71%		17%	



TABLE 30 Continued
 QUALITY OF SERVICE PROVIDED BY AN AUTHORITY EMPLOYEE

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C4c1 Effectiveness of the CADR assistance: all parties had the opportunity to define the issues and present their interests.				
Negotiability Appeals	9	45%	33%	22%
Role Represented before FLRA				
Agency	2	50%	50%	0%
Union	7	43%	29%	28%
C4c2 Effectiveness of the CADR assistance: when necessary, the facilitator clarified the key issues.				
Negotiability Appeals	9	45%	22%	33%
Role Represented before FLRA				
Agency	2	50%	50%	0%
Union	7	57%	14%	29%
C4c3 Effectiveness of the CADR assistance: the appropriate amount of time was devoted to the issues.				
Negotiability Appeals	9	34%	33%	33%
Role Represented before FLRA				
Agency	2	50%	50%	0%
Union	7	43%	29%	28%
C4c4a The facilitator: was neutral.				
Negotiability Appeals	9	45%	33%	22%
Role Represented before FLRA				
Agency	2	50%	50%	0%
Union	7	43%	29%	28%
C4c4b The facilitator: helped generate realistic options for resolving the dispute.				
Negotiability Appeals	9	11%	67%	22%
Role Represented before FLRA				
Agency	2	0%	50%	50%
Union	7	14%	71%	14%



TABLE 30 Continued
QUALITY OF SERVICE PROVIDED BY AN AUTHORITY EMPLOYEE

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C4c4c The facilitator: was knowledgeable about the Statute, regulations and relevant case law.				
Negotiability Appeals	9	22%	45%	33%
Role Represented before FLRA				
Agency	2	0%	50%	50%
Union	7	29%	43%	28%
C4c5 I would use CADR assistance again.				
Negotiability Appeals	10	30%	30%	40%
Role Represented before FLRA				
Agency	2	50%	0%	50%
Union	8	25%	38%	37%

Of 37 respondents, 62% agreed with the statement, “the Authority decision: accurately presented the facts of the case,” 19% neither agreed nor disagreed, and 19% disagreed. There was essentially little difference between agency and union respondents. Of 37 respondents, 76% agreed with the statement, “the Authority decision explained the issues in the case,” 3% neither agreed nor disagreed, and 21% disagreed. There was essentially little difference between agency and union respondents. Of 37 respondents, 65% agreed with the statement, “the Authority decision explained the arguments in the case,” 16% neither agreed nor disagreed, and 19% disagreed. Of 15 agency respondents, 73% agreed and of 21 union respondents, 57% agreed. Of 37 respondents, 54% agreed with the statement, the Authority decision decided the issues raised by the parties,” 19% neither agreed nor disagreed, and 27% disagreed. Again, there was essentially little difference between agency and union respondents.

There were some negative responses about timeliness. Of 35 respondents, 23% agreed with the statement, “the Authority decision was issued in a timely manner,” 14% neither agreed nor disagreed, and the majority (63%) disagreed. There also was a difference between agency and union respondents; of 14 agency respondents, only 7% agreed with the statement, and of 20 union respondents, 35% agreed.

There were also some positive response as well. Of 37 respondents, 70% agreed with the statement, “the Authority decision explained the reasons for the conclusions reached,” 6% neither agreed nor disagreed, and 24% disagreed. There was essentially little difference between agency and union respondents.

However, of 36 respondents, only 39% agreed with the statement, “the Authority decision resolved the dispute between the parties,” 11% neither agreed nor disagreed, and 50% disagreed.



There was essentially little difference between agency and union respondents. To counter this somewhat negative view, of 37 respondents, 57% agreed with the statement, “I understood (even if I did not agree with) the Authority’s reasons for reaching the conclusions stated in the decision,” 8% neither agreed nor disagreed, and 35% disagreed. There was essentially little difference between agency and union respondents.

Comments. C7. How did the timeliness of the Authority’s NEG decision(s) affect your labor-management relationship(s)? (These are examples only. They do not represent a systematic representation of the comments. See Appendix B for the complete set of comments.) (1) Neutral. (2) Encouraged management to press harder to destroy union. (3) Allowed us to complete contract negotiations in a timely manner. (4) It appears that decisions are written for the “court” challenge rather than for the parties involved in the case. Decisions are far from timely. (5) Do not affect. (6) Once again, the lack of any kind of time line gave management the upper hand. (7) No decision rendered. (8) Adversely. (9) It took so long to get a decision that the parties had finished negotiating a new contract without getting a decision on issues connected with the previous contract.



TABLE 31
AUTHORITY DECISIONS

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C6a1 The Authority decision: accurately presented the facts of the case.				
Negotiability Appeals	37	62%	19%	19%
Role Represented before FLRA				
Agency	15	67%	20%	13%
Union	21	62%	14%	24%
C6a2 The Authority decision: explained the issues in the case.				
Negotiability Appeals	37	76%	3%	21%
Role Represented before FLRA				
Agency	15	80%	7%	13%
Union	21	71%	0%	29%
C6a3 The Authority decision: explained the arguments in the case.				
Negotiability Appeals	37	65%	16%	19%
Role Represented before FLRA				
Agency	15	73%	14%	13%
Union	21	57%	19%	24%
C6a4 The Authority decision: decided the issues raised by the parties.				
Negotiability Appeals	37	54%	19%	27%
Role Represented before FLRA				
Agency	15	53%	20%	27%
Union	21	57%	14%	29%
C6a5 The Authority decision: was issued in a timely manner.				
Negotiability Appeals	35	23%	14%	63%
Role Represented before FLRA				
Agency	14	7%	21%	72%
Union	20	35%	10%	55%



TABLE 31 Continued
AUTHORITY DECISIONS

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C6a6 The Authority decision: explained the reasons for the conclusions reached.				
Negotiability Appeals	37	70%	6%	24%
Role Represented before FLRA				
Agency	15	73%	0%	27%
Union	21	71%	5%	24%
C6a7 The Authority decision: resolved the dispute between the parties.				
Negotiability Appeals	36	39%	11%	50%
Role Represented before FLRA				
Agency	15	40%	7%	53%
Union	21	38%	14%	48%
C6b I understood (even if I did not agree with) the Authority’s reasons for reaching the conclusions stated in the decision.				
Negotiability Appeals	37	57%	8%	35%
Role Represented before FLRA				
Agency	15	54%	13%	33%
Union	21	62%	0%	38%

E. Authority Initiatives on Changing Negotiability Appeals Regulations

The Authority is considering revising its regulations regarding Negotiability Appeals. Of specific interest to the Authority was if agreement by the parties about what a proposal means would make it possible to receive a final negotiability decision in less time. This was also a skip pattern set of questions where only those involved were requested to answer the questions. (There were no individual respondents.) One issue addressed was whether the parties “should be required to agree on the meaning of the proposal.” Of 39 respondents, 24 or 62% said “Yes.” Of 17 agency respondents, 11 or 65% said “Yes,” while of 21 union respondents, 12 or 57% said “Yes.” The second issue addressed whether the parties “should be helped by a facilitator to agree on the meaning of the proposal.” Of 40 respondents, 30 or 75% said “Yes.” Of 17 agency respondents, 11 or 65% said “Yes,” and of 22 union respondents, 18 or 82% said “Yes.” See Table 32.

Of 39 respondents, 39% agreed with the statement, “it would be helpful if the Authority required the parties to participate in alternative dispute resolution procedures in a pending negotiability appeal,” 20% neither agreed nor disagreed, and 41% disagreed. There was essentially little difference between agency and union respondents.



TABLE 32
AUTHORITY INITIATIVES

C8a1 If agreement by the parties about what a proposal means would make it possible to receive a final negotiability decision in less time, should parties be: required to agree on the meaning of the proposal?				
	<u>Number of Respondents</u>	<u>Yes</u>	<u>No</u>	
Negotiability Appeals	39	24 62%	15 39%	
Role Represented before FLRA				
Agency	17	11 65%	6 35%	
Union	21	12 57%	9 43%	
C8a2 If agreement by the parties about what a proposal means would make it possible to receive a final negotiability decision in less time, should parties be: helped by a facilitator to agree on the meaning of the proposal?				
Negotiability Appeals	40	30 75%	10 25%	
Role Represented before FLRA				
Agency	17	11 65%	6 35%	
Union	22	18 82%	4 18%	
	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C8b It would be helpful if the Authority required the parties to participate in alternative dispute resolution procedures in a pending negotiability appeal.				
Negotiability Appeals	39	39%	20%	41%
Role Represented before FLRA				
Agency	16	37%	19%	44%
Union	22	36%	23%	41%



TABLE 32 Continued
AUTHORITY INITIATIVES

	<u>Number of Respondents</u>	<u>Agree/ Strongly Agree</u>	<u>Neither Agree nor Disagree</u>	<u>Disagree/ Strongly Disagree</u>
C8c1 A procedure, such as holding hearings, to establish facts in negotiability appeals would: increase the parties' understanding of the proposal being reviewed.				
Negotiability Appeals	39	57%	10%	33%
Role Represented before FLRA				
Agency	16	50%	13%	37%
Union	22	59%	9%	32%
C8c2 A procedure, such as holding hearings, to establish facts in negotiability appeals would: increase the Authority's understanding of the proposal being reviewed.				
Negotiability Appeals	39	77%	8%	15%
Role Represented before FLRA				
Agency	16	69%	6%	25%
Union	22	82%	9%	9%
C8c3 A procedure, such as holding hearings, to establish facts in negotiability appeals would: encourage informal resolution by the parties.				
Negotiability Appeals	39	59%	18%	23%
Role Represented before FLRA				
Agency	16	50%	13%	37%
Union	22	64%	23%	14%



Of 39 respondents, 57% agreed with the statement “a procedure, such as holding hearings, to establish facts in negotiability appeals would increase the parties’ understanding of the proposal being reviewed,” 10% neither agreed nor disagreed, and 33% disagreed. There was essentially little difference between agency and union respondents. Of 39 respondents, 77% agreed with the statement, “a procedure, such as holding hearings, to establish facts in negotiability appeals would increase the Authority’s understanding of the proposal being reviewed,” 8% neither agreed nor disagreed, and 15% disagreed. Of 16 agency respondents, 69% agreed, and of 22 union respondents, 82% agreed. Finally, of 39 respondents, 59% agreed with the statement, “a procedure, such as holding hearings, to establish facts in negotiability appeals would encourage informal resolution by the parties,” 18% neither agreed nor disagreed, and 23% disagreed. Of 16 agency respondents, 50% agreed, and of 22 union respondents, 64% agreed.

Comments. C9. Please add any comments about the Authority’s NEG appeals. (These are examples only. They do not represent a systematic representation of the comments. See Appendix B for the complete set of comments.) (1) I believe the greatest problem with the Authority at present is manpower. (2) I have no problem with existing system. (3) Decisions take too long. (4) Holding hearings will only further delay a slow process. (5) Work cases more quickly. (6) It is rights-based rather than interest-based, thereby putting the union at a disadvantage. (7) Another hearing sounds like another delay. Meetings do not solve problems - rulings do. (8) Agencies should not be permitted to disapprove entire contracts without explanation.