65 FLRA No. 81

UNITED STATES
DEPARTMENT OF THE AIR FORCE
AIR FORCE MATERIEL COMMAND
(Agency)

and

INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS
LOCALS F-78, F-88 & F-211
(Union)

0-AR-4433

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DECISION

December 22, 2010

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Before the Authority: Carol Waller Pope, Chairman, and Thomas M. Beck and Ernest DuBester, Members

I. Statement of the Case

This matter is before the Authority on exceptions to an award of Arbitrator Ann C. Wendt filed by the Agency under § 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and part 2425 of the Authority's Regulations. The Union filed an opposition to the Agency's exceptions.

The Arbitrator found that, by not staffing each aircraft rescue fire fighting (ARFF) vehicle with at least three persons, the Agency violated an applicable Agency instruction, the parties' command labor agreement (CLA) and two local supplemental agreements (LSAs). For the following reasons, we dismiss the Agency's exceptions in part and deny them in part.

II. Background and Arbitrator's Award

The Agency dispatches pairs of ARFF vehicles to combat aircraft fires. Award at 10. As relevant here, the Agency previously staffed each ARFF vehicle with three persons. *Id.* The Agency then began dispatching pairs consisting of vehicles staffed with three persons and one person, respectively, at three of its bases (AFBs). *Id.* at 10, 14. The Union filed a grievance alleging that this action violated: Articles II, XXV, and XXX of the CLA; Department of Defense Instruction (DoDI) 6055.06; and the National Fire Protection Association (NFPA) 403 standard.[1] *Id.* at 9-14. The grievance was unresolved and submitted to arbitration, where the Arbitrator framed the issue as: "Did the [Agency] violate the [CLA], DoDI 6055.06, and/or (if applicable) NFPA 403, by reducing staffing on its [ARFF] vehicles, and if so[,] what is the remedy?" *Id.* at 1.

First, the Arbitrator found that the Agency violated Article II, Section 1 of the CLA by reducing the number of personnel per ARFF vehicle below the minimum standard set forth in DoDI 6055.06 without following proper deviation procedures. *Id.* at 16. In this regard, she determined that the Agency's rights under Article IV, Section 1 of the CLA "do[] not negate [its] obligation to comply with established procedures."[2] *Id.* at 17. Second, the Arbitrator determined that the Agency's actions violated Article XXV, Section 1 of the CLA because "redu[cing] manning of ARFF vehicles creates a safety hazard for the bargaining unit members." *Id.* at 17. In this connection, she found that "the 'two-in, two-out' rule [set forth in 29 C.F.R. § 1910.134] explicitly pertains to the firefighters[,]" and therefore, "[a] minimum of two ARFF vehicles manned with a driver/pumper and two fire fighters is essential to begin [an] initial fire fighting attack."[3] *Id.* She further found that, "contrary to the Agency's assertion that the safety of firefighters, flight crew [and] passengers [of] the aircraft [at the AFBs] is [its] first concern[,]" the

1. The relevant provisions of the CLA and DoDI 6055.06 are set forth in the appendix to this decision. As the Arbitrator did not rely on NFPA 403 in her award, we do not address it further.

2. Article VI, Section 1 of the CLA mirrors § 7106 of the Statute. Award at 5-6.

3. The parties do not dispute that Article XXV of the CLA requires the Agency to comply with DoDI 6055.06. DoDI 6055.06 Section 6.8 incorporates the "two-in/two-out" provisions of 29 C.F.R. § 1910.134, which states, in pertinent part:

(4) Procedures for interior structural firefighting. . . . [T]he employer shall ensure that:

> (i) At least two employees enter the [immediately dangerous to life or health (IDLH)] atmosphere and remain in visual or voice contact with one another at all times;
> (ii) At least two employees are located outside the IDLH atmosphere[.]

Union Ex. 6 at 8; 29 C.F.R. § 1910.134.

staffing reduction posed a safety risk to each of these parties. *Id.* Third, the Arbitrator determined that the Agency violated Article XXX, Section 3 of the CLA by "ma[king] an arbitrary decision in the interest of budget reductions." *Id.* Finally, she found that LSAs negotiated at two of the three affected AFBs "stem[] from the CLA[,]" and that the Agency's reduction of staffing levels below the minimum requirements of DoDI 6055.06 violated provisions in each of those agreements.[4] *Id.* at 17-18.

As a remedy, the Arbitrator directed the Agency to either "[i]mmediately restore [the] minimum manning of ARFF vehicles to three (driver/pump operator and two fire fighters) per ARFF vehicle" or "[u]ndertake a risk analysis concerning the reduced manning, propose a time table [for] when the manning will be restored to meet the criteria of the DoDI 6055.06, request an appropriate waiver and notify the [U]nion of the waiver's status." *Id.* at 19. She also retained jurisdiction "until both parties notify the Arbitrator that one of the two remedy options is implemented." *Id.*

III. Positions of the Parties

A. Agency's Exceptions

The Agency asserts that the Arbitrator exceeded her authority "to the extent that her award focused in part on the safety [of] aircrews and passengers of Air Force aircraft." Exceptions at 5.

The Agency also asserts that the award is based on several nonfacts. *Id.* at 6-11. In this connection, the Agency maintains that the Arbitrator erred in finding that: (1) the Agency "made an arbitrary decision in the interest of budget reductions" by reducing the number of personnel per ARFF vehicle; (2) the LSAs were valid supplements to the CLA; (3) reducing the number of staff assigned to particular vehicles is inconsistent with the "two-in, two-out" rule incorporated into DoDI 6055.06; and (4) DoDI 6055.06 requires that a minimum of three persons be assigned to each ARFF vehicle. *Id.* Additionally, the Agency asserts that the Arbitrator erred by "ignor[ing] uncontroverted testimony that the Agency utilizes companies and cross staffing as well as mutual aid agreements to meet the requirements of DoDI 6055.06." *Id.* at 8.

Next, the Agency contends that the award fails to draw its essence from the parties' agreement. *Id.* at 5-6. In this connection, the Agency argues that the award is based on the Arbitrator's finding that the Agency violated LSAs that, according to the Agency, are not incorporated into the CLA. *Id.* at 6.

Finally, the Agency maintains that the award excessively interferes with management's rights under § 7106(a) of the Statute. *Id.* at 11-13. Specifically, the Agency asserts that the award interferes with management's rights to determine its organization, assign work, and determine its internal security practices by requiring the Agency to immediately restore minimum manning of ARFF vehicles to three persons per ARFF vehicle and, therefore, eliminating the Agency's discretion to determine how many firefighters to deploy and their optimal use at the scene of fire. *Id.* The Agency also asserts that the award interferes with management's right to determine the number of employees. *Id.* at 11.

B. Union's Opposition

The Union contends that the Arbitrator did not exceed her authority because she awarded relief only to persons encompassed within the grievance. Opp'n at 11. In this connection, the Union contends that the Arbitrator's comment regarding the impact of staffing changes on non-unit employees was a "fleeting discussion" that "was not in any way [the] basis for the award[.]" *Id.* at 12.

With respect to the Agency's nonfact exceptions, the Union argues that all of the findings challenged by the Agency were disputed at the hearing, and, moreover, are not clearly erroneous central facts, but for which the Arbitrator would have reached a different result. *Id.* at 15-22.

The Union also argues that the Agency has not demonstrated that the award fails to draw its essence from the parties' agreement. *Id.* at 13-14. In this regard, the Union asserts that, even if the LSAs are not valid supplements to the CLA, the award is not deficient because it is also based on the Arbitrator's finding that the Agency violated the CLA. *Id.* at 13.

Finally, as to management's rights, the Union disputes the Agency's claim that the award affects the rights cited by the Agency. *Id.* at 23-27. However, the Union maintains that, to the extent that the award does affect those rights, the award is not deficient because: (1) DoDI 6055.06 has the force and effect of law and, thus, constitutes an applicable law within the meaning of § 7106(a)(2) of the Statute; (2) the award provides a remedy for a

4. The relevant provisions of the LSAs are set forth in the appendix to this decision.

violation of Article II of the master agreement, a contractual provision negotiated pursuant to § 7106(b)(1); and (3) the award enforces a procedure and/or appropriate arrangement under §§ 7106(b)(2) and 7106(b)(3), respectively. *Id.* at 27-33.

IV. Preliminary Issue

Under § 2429.5 of the Authority's Regulations, the Authority will not consider issues that could have been, but were not, presented in the proceedings before the arbitrator.[5] *See, e.g., U.S. Dep't of the Air Force, Air Force Materiel Command, Robins Air Force Base, Ga.*, 59 FLRA 542, 544 (2003). In its exceptions, the Agency argues that the award, by requiring the Agency to "restore minimum manning of ARFF vehicles to three persons per ARFF vehicle[,]" violates management's rights to determine the organization and internal security practices of the Agency. Exceptions at 11-13. However, there is no indication in the record that the Agency raised arguments with respect to these rights before the Arbitrator.[6] The record establishes that the Agency could have done so, as the Union specifically requested as a remedy that the Arbitrator "hold that the [DoDI 6055.06] imposes minimum per-vehicle staffing of three personnel, and order the [Agency] to comply with DoDI 6055.06." Union's Post-Hearing Brief at 19. Moreover, the Agency did specifically raise arguments with respect to management's rights to assign work and determine the number of employees before the Arbitrator. *See* Award at 9. As the arguments concerning management's rights to determine organization and internal security practices could have been, but were not, raised below, we find that § 2429.5 bars the Agency from raising them in its exceptions. Accordingly, we dismiss these exceptions.

V. Analysis and Conclusions

A. The Arbitrator did not exceed her authority.

Arbitrators exceed their authority when they fail to resolve an issue submitted to arbitration, resolve an issue not submitted to arbitration, disregard specific limitations on their authority, or award relief to persons who are not encompassed within the grievance. *See U.S. Dep't of the Navy, Naval Base, Norfolk, Va.*, 51 FLRA 305, 307-08 (1995).

The Agency alleges that the Arbitrator exceeded her authority "to the extent that her award focused in part on the safety [of] aircrews and passengers of Air Force aircraft." Exceptions at 5. We construe this argument as a claim that the Arbitrator exceeded her authority by awarding relief to non-grievants. Although the Arbitrator found that the reduction in ARFF staffing "poses a serious safety issue in the context of the fire fighters, the crew and passengers of the aircraft and to the Agency[,]" Award at 17, there is no indication in the award that the Arbitrator extended relief to aircrews, passengers or any other persons not encompassed within the grievance. *Id.* at 19. Accordingly, the Agency has not demonstrated that the Arbitrator exceeded her authority, and we deny the exception.

B. The award is not based on nonfacts.

To establish that an award is based on a nonfact, the appealing party must show that a central fact underlying the award is clearly erroneous, but for which the arbitrator would have reached a different result. *See NFFE, Local 1984*, 56 FLRA 38, 41 (2000). However, the Authority will not find an

5. The Authority's Regulations concerning the review of arbitration awards, as well as certain related procedural Regulations, including 5 C.F.R. § 2429.5, were revised effective October 1, 2010. *See* 75 Fed. Reg. 42,283 (2010). As the Agency's exceptions in this case were filed before that date, we apply the prior Regulations.

6. Member Beck disagrees with his colleagues that these matters were not raised before the Arbitrator. As to the right to determine its organization, the Agency discusses "staffing" and "cross-staffing" throughout its post-hearing brief. Agency Post-Hearing Brief at 19, 31, 35, 39, 40, 43. The Arbitrator notes that the Agency argued that it has "the right to determine the personnel by which activity operations shall be conducted." Award at 9. The Authority has held that an agency's right to determine its organization encompasses staffing determinations and the distribution of responsibilities. *AFGE, Local 2004*, 56 FLRA 660, 661 (2000). As to the right to determine internal security practices, the Agency argued to the Arbitrator that any restriction on its ability to reduce staffing interfered with the management rights that are outlined in Article IV of the CLA. Award at 9, 17. Article IV, Section 1.a. of the CLA essentially repeats the same rights that are set forth in § 7106, including the right to determine internal security practices. *See* J.Ex. 1 at 7. In *United States Department of the Army, United States Army Signal Center, and Fort Gordon, Fort Gordon, Georgia*, we determined that "restricting [an] Agency's authority to staff a fire truck with fewer firefighters" affects an agency's "right to determine internal security practices under § 7106(a)(1)." 58 FLRA 511, 513 (2003). Accordingly, Member Beck would address (and deny) the Agency's right to determine organization and internal security exceptions for the same reasons that the right to assign work exception is denied.

award deficient on the basis of an arbitrator's determination of any factual matter that the parties disputed at arbitration. *See id.* Moreover, where the party in opposition contends that a matter alleged to be a nonfact was disputed before the arbitrator, and the excepting party does not argue to the contrary, the Authority has found no basis for finding the award deficient as based on a nonfact. *See U.S. Dep't of Energy, Nat'l Energy Tech. Lab.*, 64 FLRA 1174, 1175 (2010) (*Nat'l Energy*).

The Union contends that all of the matters raised in the Agency's nonfact exceptions were disputed at arbitration. *See* Opp'n at 15-22. The Agency does not argue to the contrary. Accordingly, consistent with *Nat'l Energy*, 64 FLRA at 1175, we deny the nonfact exceptions.

C. The award draws its essence from the parties' agreement.

In reviewing an arbitrator's interpretation of a collective bargaining agreement, the Authority applies the deferential standard that federal courts use in reviewing arbitration awards in the private sector. *See* 5 U.S.C. § 7122(a)(2); *AFGE, Council 220*, 54 FLRA 156, 159 (1998). Under this standard, the Authority will find that an arbitration award is deficient as failing to draw its essence from the collective bargaining agreement when the appealing party establishes that the award: (1) cannot in any rational way be derived from the agreement; (2) is so unfounded in reason and fact and so unconnected with the wording and purposes of the collective bargaining agreement as to manifest an infidelity to the obligation of the arbitrator; (3) does not represent a plausible interpretation of the agreement; or (4) evidences a manifest disregard of the agreement. *U.S. Dep't of Labor (OSHA)*, 34 FLRA 573, 575 (1990). The Authority and the courts defer to arbitrators in this context "because it is the arbitrator's construction of the agreement for which the parties have bargained." *Id*. at 576. Moreover, the Authority has held that where an arbitrator bases an award on separate and independent grounds, an excepting party must establish that all of the grounds are deficient in order to demonstrate that the award is deficient. *See, e.g., U.S. Dep't of the Treasury, IRS, Oxon Hill, Md.*, 56 FLRA 292, 299 (2000) (*Oxon Hill*).

The Agency contends that the award fails to draw its essence from the parties' agreement because it is based on a finding that the Agency violated LSAs that, according to the Agency, are not incorporated into the CLA. Exceptions at 6. However, in addition to her findings regarding the LSAs, the Arbitrator also found that the Agency violated the CLA. *See* Award at 18; *Oxon Hill*, 56 FLRA at 299. The Agency has not challenged the Arbitrator's interpretation of the CLA, which provides a sufficient basis for the award. Therefore, the finding of a CLA violation provides a separate and independent basis for the award, and, even assuming that the Arbitrator erroneously relied on the LSAs, the Agency's essence exception provides no basis for finding the award deficient. Accordingly, we deny the exception.

D. The award is not contrary to § 7106(a)(2)(B) of the Statute.

When an exception involves an award's consistency with law, the Authority reviews any question of law raised by the exception and the award de novo. *See NTEU, Chapter 24*, 50 FLRA 330, 332 (1995) (citing *U.S. Customs Serv. v. FLRA*, 43 F.3d 682, 686-87 (D.C. Cir. 1994)). In applying the standard of de novo review, the Authority assesses whether an arbitrator's legal conclusions are consistent with the applicable standard of law. *See U.S. Dep'ts of Def., Dep't of the Army & the Air Force, Ala. Nat'l Guard, Northport, Ala.*, 55 FLRA 37, 40 (1998). In making that assessment, the Authority defers to the arbitrator's underlying factual findings. *See id.*

The Authority recently revised the analysis that it will apply when reviewing management-rights exceptions to arbitration awards. *See U.S. EPA*, 65 FLRA 113, 115 (2010) (Member Beck concurring) (*EPA*); *FDIC, Div. of Supervision & Consumer Prot., S.F. Region*, 65 FLRA 102 (2010) (Chairman Pope concurring). Under the revised analysis, the Authority will first assess whether the award affects the exercise of the asserted management right.[7] *EPA*, 65 FLRA at 115. If so,

7. Member Beck agrees with the conclusion to deny the Agency's contrary to management's right to assign work exception. He does not agree, however, with his colleagues' analysis of the contrary to law exception insofar as they address the question of whether the award affects the exercise of an asserted management right. For the reasons discussed in his Concurring Opinion in *EPA*, 65 FLRA 113, Member Beck would conclude that, where, as here, the Arbitrator is enforcing a contract provision that has been accepted by the Agency as a permissible limitation on its management's rights, it is inappropriate to assess whether the provision itself is an appropriate arrangement or whether it abrogates a § 7106(a) right. *Id.* at 120; *see also U.S. Dep't of Health and Human Services, Off. of Medicare Hearings and Appeals*, 65 FLRA 175, 177

then, as relevant here, the Authority examines whether the award enforces a contract provision negotiated under § 7106(b). *Id.* When an award affects a management right under § 7106(a)(2) of the Statute, the Authority may also examine whether the award enforces an applicable law. *Id.* at 115 n.7.

1. The award affects management's right to assign work under § 7106(a)(2)(B) of the Statute.[8]

The right to assign work under § 7106(a)(2)(B) of the Statute includes the right to determine the particular duties to be assigned, when work assignments will occur, and to whom or what positions the duties will be assigned. *See U.S. Dep't of the Treasury, U.S. Customs Serv., El Paso, Tex.*, 55 FLRA 553, 558 (1999) (citation omitted). In addition, the Authority has found that requiring an agency to assign work to more employees than the number it would otherwise choose affects the right to assign work. *U.S. Dep't of Justice, Bureau of Prisons, Metro. Det. Ctr. Guayabo, P.R.*, 57 FLRA 331, 333 (2001) (Chairman Cabaniss dissenting) (*DOJ*) (citing *AFGE, Local 3807*, 54 FLRA 642, 646 (1998)).

Here, the award requires the Agency to assign firefighting duties to a minimum of three persons per ARFF vehicle, and therefore, at least six persons per pair of vehicles, despite the Agency's desire to staff them with a total of four persons per pair. Award at 10, 19. As the award requires the Agency to assign work to more employees than the number it would otherwise choose, we find that the award affects management's right to assign work. *See DOJ*, 57 FLRA at 333.

2. The award enforces an appropriate arrangement under § 7106(b)(3) of the Statute.

In determining whether the award enforces a contract provision negotiated under § 7106(b)(3), the Authority assesses: (1) whether the contract provision constitutes an arrangement for employees adversely affected by the exercise of a management right; and (2) if so, whether the arbitrator's enforcement of the arrangement abrogates the exercise of the management right. *EPA*, 65 FLRA at 118. In concluding that it would apply an abrogation standard, the Authority rejected continued application of an excessive interference standard. *Id.* at 113.

The Arbitrator found that reducing the number of staff per ARFF vehicle "poses a serious safety issue" and "multiplies the safety and health risks for all who are on the scene" by "immboliz[ing] some of the ARFF vehicles" at the scene of a fire. Award at 17. In so doing, she essentially found that the Agency's exercise of its right to assign work adversely affected the grievants. Here, the agreement provisions, as interpreted and applied by the Arbitrator, require the Agency to comply with all applicable regulations and instructions, including DoDI 6055.05. *Id.* at 16, 18-19. The Arbitrator found that "[t]o mitigate [safety] risks[,] it is essential that ARFF vehicles be manned in accordance with . . . DoDI 6055.06." *Id.* at 17. Thus, we find that the agreement provisions, as interpreted and applied the Arbitrator, ameliorate the adverse affects flowing from the exercise of management's right to assign work and, therefore, are arrangements.

With regard to whether the arrangements are appropriate, the Agency argues that the award excessively interferes with management's right to assign work.[9] Exceptions at 11-13. However, as stated above, the Authority no longer applies an excessive interference standard to determine whether an arrangement is appropriate. *See EPA*, 65 FLRA at 118. Rather, the Authority applies an abrogation standard, which assesses whether the arbitration award "precludes [the] agency from exercising" the affected management right. *Dep't of the Treasury, U.S. Customs Serv.*, 37 FLRA 309, 314 (1990). The Agency does not assert that the award precludes the Agency from exercising its right to assign work.

n.3 (2010), *and U.S. Dep't of Transp., Federal Aviation Adm.*, 65 FLRA 171, 173 n.5 (2010). The appropriate question is simply whether the remedy directed by the Arbitrator enforces the provision in a reasonable and reasonably foreseeable fashion. *EPA*, 65 FLRA at 120 (Concurring Opinion of Member Beck); *see also FDIC*, 65 FLRA at 107. Member Beck would conclude that the Arbitrator's award is a plausible interpretation of the parties' agreement and deny the exception.

8. We note that the Agency also contends that the award affects management's right to determine the number of employees under § 7106(a)(1). Exceptions at 11. However, as the Agency makes no argument in support of its claim, we deny this exception as a bare assertion. *See U.S. Dep't of Homeland Sec., U.S. Customs & Border Prot., Port of Seattle, Seattle, Wash.*, 60 FLRA 490, 492 n.7 (2004).

9. Although the Agency cites the abrogation standard set forth in *Department of the Treasury, United States Customs Service.*, 37 FLRA 309 (1990), it argues only that the award excessively interferes with management's rights. Exceptions at 11-12.

Moreover, the award specifically allows the Agency the option of continuing to staff ARFF vehicles with fewer than three persons, provided that it obtains a waiver via the procedures set forth in DoDI 6055.06. Therefore, we find that the arrangement is appropriate within the meaning of § 7106(b)(3) of the Statute.

For the foregoing reasons, we find that the award enforces an appropriate arrangement under § 7106(b)(3) of the Statute, we and deny the Agency's management rights exception.[10]

VI. Decision

The Agency's exceptions are dismissed in part and denied in part.

10. In light of this finding, it is not necessary to address the Union's arguments regarding § 7106(b)(1) and (b)(2) of the Statute, or its claim that DoDI 6055.06 is an applicable law within the meaning of § 7106(a)(2).

APPENDIX

Article II, Section 1 of the CLA states, in pertinent part:

> Within the context of [the Statute], it is agreed and understood that in the administration of all matters covered by the [CLA] and any [LSAs] thereto, the [Agency], the Union and unit employees are governed by applicable[,] existing and future laws and government-wide and Department of Defense (DOD) policies and regulations.

Award at 5.

Article XXV, Section 1 of the CLA provides, in relevant part:

> The Employer will assure that safe and healthful working and living conditions are provided for bargaining unit employees that are consistent with the provisions of applicable laws and regulations. The Parties agree that the AFMC Fire and Emergency Services Program shall comply with applicable DoD instructions, Air Force Instructions, NFPA Standards, OSHA Regulations and other applicable laws and regulations.

Id. at 6.

Article XXX, Section 3 of the CLA, provides, in pertinent part:

> The Employer agrees that the workplace will be free from arbitrary and capricious actions and decisions by supervisors. Decisions and/or actions taken by the Employer will be in accordance with applicable laws, rules[,] regulations and negotiated agreements.

Id.

Article X, Section 4 of the LSA between Wright-Patterson AFB and the International Association of Fire Fighters (AFL-CIO) Local F-88 states, in relevant part:

> The Employer agrees to staff and operate all required fire apparatus pursuant to the provisions of higher authority, law, rule, and regulations. The Employer agrees to negotiate with the Union of their desire to

> reduce the manning/staffing levels below the minimum requirements.
>
> *Id.*

Article XI, Section 6 of the LSA between the Oklahoma City Air Logistics Center Fire Department, [Tinker AFB] and the International Association of Fire Fighters (AFL-CIO) Local F-211 provides, in relevant part:

> The Employer agrees to staff and operate all required fire apparatus pursuant to the provisions of higher "authority" law, rule and regulation. The Employer agrees that any deviation to the minimum staffing requirements established by [the DOD] and the Department of the Air Force will only be accomplished after a waiver has been granted by the Secretary of the Air Force and/or his/her designee. The Employer further agrees to notify the Union in writing of their desire to reduce the manning/staffing levels below the minimum requirements.

Id. at 7.

DoDI 6055.06, provides, in pertinent part:

> 6.8. Immediately Dangerous to Life or Health (IDLH). Implement procedures to plan and respond to emergencies to IDLH atmospheres using established standards, local conditions' risk considerations, and the requirements of Part 1910.134 of 29 CFR . . . including the two-in/two-out provisions for interior structure and aircraft fires.
> . . . .
>
> 6.16. Deviation from Minimum Requirements. Deviation from minimum requirements increases risk. Conscious, informed decisions must be made to accept the risk posed by the deviation at an appropriate leadership level.
>
> 6.16.3. Long-Term Deviations. Long-term deviations are not expected to be remedied. Essentially long-term deviations waive the requirements of this Instruction. Document long-term deviations from minimum requirements in a document that contains:
>
> 6.16.3.1. An assessment of the risk caused by the deviation.
>
> 6.16.3.2. A description of measures to address the increased risk caused by the deviation.
>
> 6.16.3.3. A communication strategy for informing those affected . . . that a deviation has occurred and the measures being taken to minimize the risk of the deviation.
>
> 6.16.3.4. Approval by the applicable DoD component head. The approval shall contain clear statements that the approver has accepted the increased risk caused by the deviation and that the approval is not valid for more than 3 years. If the approval authority changes, deviation shall be briefed to the new approval authority. Expiring approval may be reviewed provided all steps in the approval process are reaccomplished or revalidated.

DoDI 6055.06, TABLE E3.T1 provides, in pertinent part:

MIMIMUM LEVEL OF SERVICE OBJECTIVES-OPERATIONS

PROGRAM ELEMENT	STAFF
ARFF	
Unannounced First Arriving Company	3
Announced First Arriving Company	3

Union Ex. 6 at 8, 10-11, 23.