66 FLRA No. 152

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
COUNCIL OF PRISON LOCALS 33
LOCAL 506
(Union)

and

UNITED STATES
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
FEDERAL CORRECTIONAL COMPLEX
COLEMAN, FLORIDA
(Agency)

0-NG-3117

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DECISION AND ORDER
ON NEGOTIABILITY ISSUES

July 23, 2012

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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 a negotiability appeal filed by the Union under § 7105(a)(2)(E) of the Federal Service Labor-Management Relations Statute (the Statute), and concerns the negotiability of nine proposals.[1] The Agency filed a statement of position (SOP), and the Union filed a response.[2] The Agency did not file a reply.

For the reasons that follow, we: (1) dismiss, without prejudice, the petition as to Proposal 9; (2) find Proposal 1 within the duty to bargain; (3) find Proposal 2, as a whole, outside the duty to bargain; (4) sever the third sentence of Proposal 2 and find that sentence within the duty to bargain; and (5) find Proposals 3 through 8 outside the duty to bargain.

[1] During the post-petition conference, the parties renumbered the proposals for clarity, and the Union modified the wording of all of the proposals, except for Proposal 5. *See generally* Record of Post-Petition Conference. For purposes of this decision, we use the numbers and wording of the proposals as modified at the conference.

[2] In addition, as discussed further below, the Authority issued an Order to Show Cause, to which the Union filed a response.

II. Background

The facility at issue here is a maximum-security penitentiary. *See* Record of Post-Petition Conference (Record) at 1. The prisoners' recreation yard (the yard) is bordered by a buffer zone, called the "compound." *See id.* at 1-2. After the Agency decided to install two metal detectors (compound detectors) in the compound, on the north and south sides of the yard, respectively, the Union submitted to the Agency the proposals at issue here. *See id.* at 1.

III. Preliminary Issue

During the post-petition conference in this case, the parties agreed that Proposal 9 relates to Case No. AT-CA-12-0002, a pending unfair labor practice (ULP) charge. *See* Record at 2. In addition, the Agency argued that Proposal 6 relates to the pending ULP charge, but the Union disputed this argument. *See id.* Subsequently – relying on § 2424.30(a) of the Authority's Regulations (§ 2424.30(a))[3] – the Authority issued an Order to Show Cause (Order) directing the Union to show cause why its petition should not be dismissed, without prejudice, as to Proposals 6 and 9.

The Union filed a response (show-cause response) to the Order, arguing that neither Proposal 6 nor Proposal 9 is directly related to the pending ULP. *See* Show-Cause Response at 1. With respect to Proposal 6, the Union contends that the ULP charge involves a "unilateral change that took place when management took down the existing awning that covered a portion of the metal detector" at the penitentiary. *Id.* at 2. According to the Union, Proposal 6 "makes no mention of this partial awning, nor its construction, existence, or removal," and "only addresses the control measures (turnstiles) used by the . . . officers at the metal detecting area, utilizing the x-ray machine and viewing, monitoring and control panel." *Id.*

With respect to Proposal 9, the Union contends that the intent of the proposal "was to negotiate the size of the . . . awning" that existed before the Agency allegedly committed the ULP by unilaterally removing it. *Id.* In this regard, the Union contends that the removal of the awning "occurred after the Union had already filed th[is] negotiability appeal," and, thus, "the ULP had nothing to do with the original intent of [P]roposal 9 regarding the size of the awning and appropriate lighting and was in response to an occurrence after the fact." *Id.* at 3. Further, the Union states that although it "believes that the awning was previously mutually agreed upon," the parties "never agreed on the size of the awning, the use of lightning rods[,] and the lighting for under the

[3] The pertinent wording of § 2424.30(a) is set forth below.

awning." *Id.* According to the Union, the latter issues "are the issues the Union would like to negotiate." *Id.*

Section 2424.30(a) provides, in pertinent part, that

> where an exclusive representative files [a ULP] charge . . . , and the charge . . . concerns issues directly related to the petition for review . . . , the Authority will dismiss the petition for review. The dismissal will be without prejudice to the right of the exclusive representative to refile the petition for review after the [ULP] charge . . . has been resolved administratively.

5 C.F.R. § 2424.30(a).

The ULP charge alleges that the Agency violated § 7116(a)(1) and (5) of the Statute when:

> On or about September 9, 2011, the [Agency] . . . unilaterally changed working conditions for bargaining unit employees without notifying the Union. Specifically, management unilaterally took down an awning that was covering a metal detector on the compound at [the penitentiary]. Management did not notify the Union of this change. Further, management acted in bad faith because *issues concerning this particular awning are currently before [the Authority]* . . . .

Response, Attach. 12, Charge in Case No. AT-CA-12-0002 (Charge) at 1 (emphasis added).

Proposal 6 addresses: the setup of the areas of the compound where the compound detectors are located (the compound-detector areas), the use of turnstiles to access those areas, and the use of x-ray machines.[4] Record at 6. Nothing in the ULP charge addresses these issues, and nothing in Proposal 6 addresses the awning. In addition, there is no claim, or record evidence, that the ULP proceeding could resolve issues that relate to Proposal 6. Accordingly, we find that Proposal 6 is not directly related to the ULP charge, and we address the negotiability of that proposal below.

[4] The wording of Proposal 6 is set forth below, in section VI.

Unlike Proposal 6, Proposal 9 expressly addresses awnings.[5] Specifically, it would require the Agency to construct an awning with certain specifications. In addition, as stated above, the ULP charge alleges that the Agency "acted in bad faith because issues concerning this particular awning" – i.e., the awning at issue in the ULP – "are currently before [the Authority]" in the instant negotiability appeal. Charge at 1. In these circumstances, we find that Proposal 9 is directly related to the ULP charge, and we dismiss the petition, without prejudice, as to Proposal 9.

IV. Proposal 1

A. Wording

> Inmates will be required to turn in all watches that do not clear the metal detectors. This will be accomplished through a deadline of sixty (60) days from the date of completion of negotiations. If any inmate is caught not complying with this mandate their watch will be confiscated and considered contraband. Management will ensure all watches sold through commissary will be able to pass through the metal detector without activating the alarm.

Record at 2.

B. Meaning

Proposal 1 concerns the wearing of watches by inmates who must pass through the compound detectors. *See* Record at 2. The parties agree that the proposal requires the Agency to: (1) require inmates to turn in any watch that does not clear the compound detectors (prohibited watches) within sixty days; (2) confiscate and treat as contraband any prohibited watch that is not turned in; and (3) ensure that no prohibited watches are sold through the commissary. *See id.* at 2-3. The parties also agree that the proposal's sixty-day deadline would begin to run as soon as the parties reach agreement on Proposal 1, regardless of whether the parties have reached agreement on any other pending proposals. *See id.* at 3.

[5] Proposal 9 provides:

> An awning with at least one ceiling fan will be constructed. The awning should cover the entire work area of the metal detector screening site. This area should have appropriate lighting for visibility when natural light is not adequate enough. This will ensure as well as enhance staff safety.

Record at 9.

C. Positions of the Parties

1. Agency

The Agency contends that Proposal 1 affects management's right to determine internal security practices under § 7106(a)(1) of the Statute because it requires the Agency "to no longer sell and to no longer allow inmates to have, wear, or purchase [prohibited watches] that the Agency has determined [are] allowable in the institution." SOP at 10. Specifically, the Agency argues that "the determination of what is and is not contraband . . . is inherently an[] internal security decision." *Id.* at 9.

Additionally, the Agency argues that Proposal 1 is not a negotiable appropriate arrangement under § 7106(b)(3) of the Statute. First, the Agency argues that the proposal is not an "arrangement" because it "does not seek to mitigate any adverse effects from management's decision to add" the compound detectors. *Id.* at 12. In particular, the Agency asserts that, prior to the addition of the compound detectors, inmates were already required to pass through metal detectors and correctional officers (officers) were required to physically search an inmate wearing any item – including a watch – that set off the detectors. *Id.* at 12-13. Similarly, the Agency asserts that the proposal is not "tailored" because it would ban prohibited watches throughout the prison, and would therefore "benefit . . . every officer in the institution who has to monitor a metal detector," not only the officers who monitor the compound detectors. *Id.* at 13. The Agency acknowledges that the amount of time that the officers spend outside due to the installation of the compound detectors has "increased slightly," but disputes the Union's claim that the amount is substantial. *Id.* at 5.

Second, the Agency argues that even if Proposal 1 is an arrangement, it is not appropriate because it "excessively interferes" with, and "abrogates," the right to determine internal security practices. *Id.* at 15-16. Specifically, the Agency argues that the proposal "leaves management no discretion whatsoever" to decide "what is and is not contraband as it relates to inmates[']watches." *Id.* at 15.

Finally, the Agency argues that Proposal 1 is contrary to management's right to assign work under § 7106(a)(2)(B) of the Statute because it is intended to reduce the amount of time officers spend monitoring inmate movements, and "if management wants . . . officers to spend 3.5 hours on the compound each day dealing with inmate movements, it has the statutory right to do so." *Id.* (citing *AFGE, AFL-CIO, Local 1815*, 29 FLRA 1447, 1450-51 (1987)).

2. Union

The Union argues that the Agency "fails to support its . . . arguments with an explanation of how management's rights . . . are affected," and that, as a result, the Authority should find that Proposal 1 does not affect management's right to determine its internal security practices. Response at 8-9 (citing *U.S. Dep't of Veterans Affairs, Med. Ctr., Coatesville, Pa.*, 56 FLRA 966, 971 (2000); *NFFE, Local 2050*, 36 FLRA 618, 639-40 (1990) (*NFFE*)).

Further, the Union argues that Proposal 1 is an appropriate arrangement. *Id.* at 10-12. First, the Union argues that Proposal 1 is tailored because it mitigates adverse effects that flow from management's installation of the compound detectors by reducing the time officers must spend searching inmates whose watches otherwise would set off those detectors. *See id.* at 10-11. In particular, the Union asserts that changes in inmate movements necessitated by the installation of the compound detectors cause "bottleneck[s]" at the entrances to the compound-detector areas that have "drastically impacted movement time" and pose a risk to the safety of officers monitoring the detectors. *Id.* at 11. In this regard, the Union contends that because the compound detectors now require "as many as 700" inmates to be gathered waiting to clear the detectors, which are monitored by only three officers, "officers could easily become trapped in the event of a disturbance." *Id.* at 40. As a result of the bottleneck, the Union also contends that inmates have more opportunities to "use the tactic of overcrowding the [compound] detector stations en masse hoping to avoid screening by overwhelming the assigned officers." *Id; see also* Petition at 5 (alleging that inmates try to increase the "confusion" of the clearing process "in order to defeat the clearing process."). Additionally, the Union notes that the compound detectors are the only metal detectors in the prison that are located outdoors, thereby "placing officers at the mercy of . . . climate conditions . . . [such as] excessive cold and heat, rain, wind, and episodic lightening." Response at 10. Thus, according to the Union, reducing the time officers spend physically searching inmates whose watches set off the compound detectors mitigates the adverse effects flowing from the installation of those detectors. *See id.* at 10-11.

In addition, the Union argues that the arrangement is appropriate because its benefits to employees outweigh the burdens placed on management. *See id.* at 12. In support of this argument, the Union quotes an Agency memorandum that sets forth standard procedures for metal-detector screening (screening standards), and warns about the "nuisance alarms" that are created when a metal detector is triggered by "harmless . . . metal objects such as . . . watches." *Id.* at 7

(quoting Response, Attach. 2, "Screening with Walk-Through Metal Detectors" (Screening Standards) at 3). The Union notes that the Agency's screening standards encourage a "zero tolerance rule" for these nuisance alarms when screening inmates in a correctional setting. *Id.* (quoting Screening Standards at 3) (internal quotation marks omitted). Further, the Union asserts that "[e]very nuisance search provides inmates an opportunity to circumvent the screening process, a tactic commonly used by inmates to defeat security measures." *Id.* at 11. Thus, according to the Union, Proposal 1 is consistent with the Agency's internal security objectives, and the Agency has failed to explain how the proposal interferes with management's rights. *See id.* at 7-9.

Finally, the Union argues that the Authority should reject the Agency's argument that Proposal 1 affects the Agency's right to assign work because the Agency "fails to support its § 7106(a) arguments with an explanation of how management's rights . . . are affected." *Id.* at 8-9 (citing *NTEU*, 60 FLRA 367, 380 (2004); *U.S. Dep't of Transp., Fed. Aviation Admin., Wash., D.C.*, 55 FLRA 322, 326-27 (1999)).

D. Analysis and Conclusions

1. Proposal 1 affects management's right to determine internal security practices under § 7106(a)(1) of the Statute.

Management's right to determine internal security practices includes the authority to determine the policies and practices that are part of an agency's plan to secure or safeguard its personnel, physical property, or operations against internal and external risks. *E.g.*, *AFGE, Local 1547*, 63 FLRA 174, 175-76 (2009). Where an agency shows a link or reasonable connection between its security objective and a policy or practice designed to implement that objective, a proposal that conflicts with the policy or practice affects this management right. *Id.* at 176. In deciding whether a proposal affects management's right to determine its internal security practices, the Authority does not examine the merit of the practices adopted by an agency. *See AFGE, Local 171, Council of Prison Locals 33*, 64 FLRA 275, 277 (2009) (*Local 171*). Further, a federal correctional facility has special security concerns that may not be present at other work locations. *E.g.*, *AFGE, Council of Prison Locals 33*, 65 FLRA 142, 145 (2010) (*Council 33*).

The Authority has held that, because "[m]anagement's rights under [§] 7106 include not only the right to act, but also the right not to act," management's right to determine internal security practices includes an agency's right "to determine that it will not take action against . . . specific threats." *NFFE*, 36 FLRA at 632. Under Proposal 1, the Agency would lose the discretion to decide whether the additional physical searches necessitated by prohibited watches warrants forbidding inmates from wearing those watches. Rather, the Agency would be required to confiscate prohibited watches and treat them as contraband. Because Proposal 1 would affect the Agency's decision "not [to] take action against . . . [the] threat" posed by prohibited watches, *id.*, we find that Proposal 1 affects management's right to determine internal security practices under § 7106(a)(1) of the Statute.

2. Proposal 1 is an appropriate arrangement under § 7106(b)(3) of the Statute.

When considering whether a proposal is within the duty to bargain under § 7106(b)(3) of the Statute, the Authority applies the analysis set forth in *National Association of Government Employees, Local R14-87*, 21 FLRA 24 (1986) (*KANG*). Under this analysis, the Authority first determines whether the proposal is intended to be an arrangement for employees adversely affected by the exercise of a management right. *Id.* at 31; *see also U.S. Dep't of the Treasury, Office of the Chief Counsel, IRS v. FLRA*, 960 F.2d 1068, 1073 (D.C. Cir. 1992). To establish that a proposal is an arrangement, a union must identify the effects or reasonably foreseeable effects on employees that flow from the exercise of management's rights and how those effects are adverse. *See KANG*, 21 FLRA at 31. The claimed arrangement must also be sufficiently tailored to compensate employees suffering adverse effects attributable to the exercise of management's rights. *See AFGE, Nat'l Council of Field Labor Locals*, 58 FLRA 616, 617-18 (2003) (citing *NAGE, Local R1-100*, 39 FLRA 762, 766 (1991)). However, the Authority has held that proposals "intended to eliminate the possibility of an adverse effect, may constitute appropriate arrangements negotiable under [§] 7106(b)(3)." *NTEU, Chapter 243*, 49 FLRA 176, 191 (1994) (*Chapter 243*). In particular, such "prophylactic" proposals will be found sufficiently tailored in situations where it is not possible to draft a proposal targeting only those employees who will be adversely affected by an agency action. *See AFGE, Local 1770*, 64 FLRA 953, 959-60 (2010) (*Local 1770*) ("prophylactic" provisions that would eliminate anticipated adverse effects for *all* employees negotiable where agency "failed to establish how the provisions could be tailored more narrowly").

Here, the Union asserts that the Agency's decision to install the compound detectors has adversely affected officer safety by creating bottlenecks at the entrances of the compound-detector areas. Response

at 11. According to the Union, these bottlenecks reduce the effectiveness of the clearing process, increase risks to the safety of the officers, and increase the amount of time officers spend outdoors "at the mercy of . . . climate conditions." *See id.* at 7-12; Petition at 5. Although the Agency disputes the allegation that officers spend substantially more time outdoors monitoring inmate movements as a result of the installation of the compound detectors, it concedes that the time officers spend conducting these duties has increased at least "slightly" as a result of the change. SOP at 5. Moreover, the Agency does not address the other adverse effects alleged by the Union, such as the bottlenecks and the corresponding threats to the safety and effectiveness of the screening procedure at the compound detectors. As a result, the Agency has conceded that these adverse effects flow from the installation of the compound detectors. *See* 5 C.F.R. § 2424.32(c)(2) (failure to respond to an assertion raised by other party will, where appropriate, be deemed a concession to that assertion). Because Proposal 1 is intended to reduce nuisance alarms triggered by prohibited watches, thereby moving inmates through the compound-detector bottlenecks more quickly, we find that the Union has demonstrated that Proposal 1 ameliorates the adverse effects of the Agency's exercise of its right to determine internal security practices by installing the compound detectors.

The Agency claims that the proposal is not tailored because it might "benefit . . . every officer . . . who has to monitor a metal detector" – not just the officers who work at the compound detectors. SOP at 13. But the proposal is "prophylactic" in nature, *Local 1770*, 64 FLRA at 959-60, because it is "intended to eliminate the possibility" of inmates arriving at the compound detectors wearing watches that set off nuisance alarms and impede the screening process, *Chapter 243*, 49 FLRA at 191, thereby causing the bottlenecks and their corresponding adverse effects on officers at the compound detectors. Accordingly, we find that the Union has demonstrated that Proposal 1 is a sufficiently tailored arrangement.

If the Authority finds a proposal to be an arrangement, then the Authority will determine whether it is appropriate or whether it is inappropriate because it excessively interferes with management's rights. *KANG*, 21 FLRA at 31. In doing so, the Authority weighs the benefits afforded to employees under the arrangement against the intrusion on the exercise of management's rights. *Id.* at 31-33. The Authority has found proposals not to excessively interfere with management's right to determine internal security practices where the agency fails to sufficiently explain the burden the proposal would place on the exercise of that right. *E.g.*, *NFFE*, 36 FLRA at 628; *NFFE, Local 2050*, 35 FLRA 706, 711-12 (1990) (*Local 2050*). Relatedly, the Authority has found a provision to be an appropriate arrangement where it reflected an existing security practice and the agency failed to explain how maintaining that practice was "burdensome." *Patent Office Prof'l Ass'n*, 41 FLRA 795, 839-40 (1991).

With respect to the benefits that Proposal 1 would afford employees, banning prohibited watches would reduce the delays, inefficiencies, and security risks caused by nuisance alarms at the compound-detector bottlenecks. Further, this benefit is consistent with the Agency's internal security objectives, as evidenced by the Agency's screening standards, which encourage a "zero tolerance rule" for nuisance alarms. Response at 7 (quoting Screening Standards at 3) (internal quotation marks omitted).

With respect to the burdens on management's right to determine internal security practices, the Agency asserts that the proposal "leaves management no discretion whatsoever to make the internal security decision as to what is and is not contraband as it relates to inmates[']watches." SOP at 15. But the Agency does not explain what security objectives it intends to further by allowing inmates to wear, or buy in the commissary, watches that do not clear metal detectors. Further, the proposal does not prohibit the Agency from banning any contraband. The Agency does not explain why Proposal 1 – which leaves the Agency's existing contraband policies intact except that it prohibits inmates from wearing an additional type of item that triggers nuisance alarms – is particularly burdensome.

Because the Agency fails to offer any evidence or make any specific arguments explaining how the proposal burdens management's ability to determine internal security practices, we find that the unexplained burden is outweighed by the proposal's benefits to employees. *See, e.g. NFFE*, 36 FLRA at 628; *Local 2050*, 35 FLRA at 711-12. Therefore, we find that Proposal 1 is an appropriate arrangement for the exercise of management's right to determine internal security.

3. Proposal 1 does not affect management's right to assign work under § 7106(a)(2)(B) of the Statute.

Management's right to assign work encompasses 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. *E.g.*, *AFGE, Local 3529*, 56 FLRA 1049, 1050 (2001). According to the Agency, Proposal 1 affects the Agency's right to assign work because it is intended to reduce the amount of time officers spend monitoring inmate movements, and "if management wants

compound officers to spend 3.5 hours on the compound each day dealing with inmate movements, it has the statutory right to do so." SOP at 15. But nothing in the proposal precludes management from assigning officers to spend 3.5 hours a day dealing with inmate movements, or otherwise affects management's right to determine the particular duties to be assigned, when work assignments will occur, or to whom or what positions the duties will be assigned. Accordingly, we find that the Agency has not demonstrated that Proposal 1 affects management's right to assign work.

For the foregoing reasons, we find Proposal 1 within the duty to bargain.

V. Proposals 2, 3, 4, 5, and 7[6]

A. Wording

Proposal 2

> A block and mortar Compound Officer's station, or comparable building materials, will be constructed on the compound. This should be constructed near one of the metal detector areas. The Metal Detector Station on the opposite side of the compound should have a secure area to be used as a control center for controlling inmate movement through the metal detector area, enclosed in a chain link fence, or something comparable.

Record at 3.

Proposal 3

> The building will have the same or similar dimensions as the compound offices at both the Low and Medium facilities. This building should accommodate a computer with LAN access and a printer. An enclosed bathroom with a sink and toilet, a refrigerator, and microwave [sic]. It will also have a secure holding area for inmates that cannot or refuse to clear the metal detector. This office will also serve as a storage area for all pertinent equipment for the compound post to perform their jobs, e.g., hand held metal detector, ALCO sensor blower, multi battery charger, hand held ground scanning metal detector, shovels, etc. First responder equipment, e.g. rescue knife, flex cuffs, flex cuff cutter, defibrillator, video recording camera, digital camera, crime scene tape, evidence bags, and gurney [sic]. This building should have its own HVAC system. A communication system should be provided in the office of the metal detector station areas to communicate directly to other Towers and Control Center.

Id. at 4.

Proposal 4

> The officer's [s]tation should have a large viewing window towards the metal detector screening site, as well as the recreation yard. These viewing windows should be protected by one-way mirror tint and security bars. Additionally, spot mirrors should be adequately placed within the metal detector area to ensure visibility which ultimately enhances staff safety.

Id. at 5.

Proposal 5

> The building should be constructed to include Safe Haven standards.

Petition at 13.

Proposal 7

> The Compound Officer's [s]tation must include at least one entrance and exit onto the compound. Each door should have a window with tint and bars for staff safety.

Record at 7-8.

B. Meaning

The parties agree that the first two sentences of Proposal 2 are intended to require the construction of a compound officer's station (officer's station) of block and mortar, or comparable building materials, on the compound. Record at 3-4. In addition, the Union explains that, under the third sentence of Proposal 2, the compound-detector area on one side of the compound

[6] As these five proposals present similar legal issues, we address them together.

"should" – but is not required to – have a secure area to be used as a control center for controlling inmate movement through the compound-detector area, enclosed in a chain link fence, or something comparable. *Id.* at 4. The Agency disagrees with this explanation and states that the sentence requires a secure area for use as a control center. *See id.*

Where the parties disagree over the meaning of a proposal, the Authority looks first to the proposal's wording and the union's statement of intent. *E.g.*, *NAGE, Local R-109*, 66 FLRA 278, 278 (2011). If the union's explanation of the proposal's meaning comports with the wording, then that explanation is adopted for the purpose of construing what the proposal means and, based on that meaning, deciding whether the proposal is within the duty to bargain. *Id.* Here, the third sentence of Proposal 2 states that a compound-detector area "should" have a secure area. Record at 3. The Union's explanation of the proposal – that it does not require such an area – is consistent with the plain wording of the proposal. Accordingly, we adopt the Union's explanation for purposes of assessing the negotiability of Proposal 2.[7]

In addition, the parties agree that: (1) Proposal 3 is intended to address the dimensions and contents of the officer's station provided in Proposal 2, *see id.* at 5; (2) Proposal 4 discusses certain contents of that station, *see id.* at 6; (3) Proposal 5 addresses how that station will be constructed, *see id.*; and (4) Proposal 7 addresses, among other things, the structure of that station, *see id.* at 8.[8]

C. Positions of the Parties

1. Agency

The Agency argues that Proposal 2 is contrary to management's right to determine internal security practices. SOP at 19-24. According to the Agency, "the design, construction[,] and layout of a [f]ederal [c]orrectional [i]nstitution goes to the very heart of internal security and the very heart of what the Bureau of Prisons was created to do." *Id.* at 22-23. In this regard, the Agency asserts that the Bureau of Prisons "has teams of employees whose sole job it is to design the safest and most secure institutions in which to incarcerate inmates and keep them, employees[,] and the general public safe." *Id.* at 23. The Agency asserts that it has "made a very clear decision as to how the institution is designed and laid out in order to provide the safest environment for inmates and officers," *id.* at 22, and "[p]art of the internal security plan of the institution is to keep a clear and unobstructed view of the entire compound/recreation [area] from [the guard tower,] which is located in the middle of the compound," *id.* at 32. Specifically, the Agency contends that "[m]anagement has made a decision to keep the compound area free from any obstructions that could aid an inmate in escaping, committing an assault or otherwise engaging in illegal or non-allowed conduct in that area." *Id.* at 32-33. The Agency argues that Proposal 2 would interfere with this internal security plan because it would "decrease the visibility of the . . . [o]fficer [in the guard tower (the tower guard)] in the event of an altercation and/or disturbance." *Id.* at 22. Further, the Agency claims that the Authority had previously found that a proposal requiring an agency to construct a permanent "shelter" on the grounds of federal correctional institution affected management's right to determine its internal security practices. *Id.* at 23-24 (citing *AFGE, Local 1030*, 57 FLRA 901, 902 (2002) (*Local 1030*)).

In addition, the Agency alleges that Proposal 2 is not an appropriate arrangement because it is neither an arrangement nor appropriate. *See id.* at 27-35. In the latter regard, the Agency maintains that the burden on the Agency – "the requirement that it must build a permanent building in the middle of a federal correctional institution" – "so undermines the safety and security of the institution that it not only excessively interferes, but completely abrogates management's right to determine internal security." *Id.* at 32. The Agency further maintains that the proposal would prevent the Agency from "determining where and how the compound officers perform their job," and that "such [a] burden on management far outweighs the benefits to . . . employees." *Id.* at 35. In addition, the Agency contends that Proposal 2 is contrary to management's rights to determine the methods and means of performing work under § 7106(b)(1). *See id.* at 24-35.

In addition, the Agency argues that Proposals 3, 4, 5, and 7 are contrary to management's rights to determine internal security practices and to determine the methods and means of performing work. *See id.* at 19-27. The Agency also argues that these proposals are not appropriate arrangements. *Id.* at 27-35.

2. Union

The Union claims that Proposal 2 does not affect management's right to determine internal security practices. *See* Response at 22. With regard to the

[7] Our interpretation of the meaning of this proposal, unless modified by the parties, would apply in other disputes, such as arbitration proceedings, where the construction of the proposal is at issue. *E.g.*, *ACT, Evergreen & Rainier Chapters*, 57 FLRA 475, 477 n.11 (2001) (Chairman Cabaniss dissenting).

[8] We note that the Agency disagrees with various aspects of the Union's explanation of the meaning of these proposals. *See* Record at 5-9. As these disagreements do not affect our analysis of the negotiability of these proposals, we find it unnecessary to resolve those disputes.

Agency's claim that it has teams of experts who determined the safest design for the penitentiary, including keeping the compound-detector area free from obstructions, the Union asserts that those teams "do not work [within the penitentiary]," and that, when those teams designed the penitentiary, their designs did not include many of the security structures that now exist. *Id.* at 18 n.16. In addition, the Union claims that "[a] building or structure [of] the size that the Union has suggested[] would not seriously have an adverse effect on the ability of the [tower guard] to observe a disturbance on" the yard. *Id.* at 19. The Union also maintains that "these types of buildings or structures have been deemed negotiable by the Agency in the past and the Agency did not claim, at that time, that [the buildings] interfered with [its] right to determine internal security." *Id.* at 18-19. The Union further contends that Proposal 2 does not affect management's right to determine the methods and means of performing work. *Id.* at 20-22.

Additionally, the Union argues that Proposal 2 is an appropriate arrangement. *See id.* at 34-38. Specifically, the Union claims that the proposal "addresses the construction of an appropriate shelter for the . . . officers who are currently exposed to the outside elements for an extended [period] of time." *Id.* at 34. The Union further claims that the benefits of the proposal include: (1) providing officers "an opportunity to perform a host of activities, both professional and personal," *id.* at 34; (2) bringing the Agency in compliance with the parties' agreement which, according to the Union, provides that "[s]helter for outside posts for use of employees during inclement weather will be negotiated locally," *id.* at 34-35; (3) protecting the officers from overexposure to extremely high temperatures, *id.* at 34-37; and (4) allowing the officers to supervise inmate activities and respond from a centralized location, *id.* at 34. The Union also contends that Proposal 2 is not contrary to management's rights to determine the methods and means of performing work. *See id.* at 19-24, 34-38.

Finally, the Union contends that Proposals 3, 4, 5, and 7 do not affect management's rights and that they are appropriate arrangements. *See id.* at 19-22, 38-40, 42.

D. Analysis and Conclusions

1. Proposal 2 affects management's right to determine internal security practices.

The standards for assessing whether a proposal affects management's right to determine internal security practices are set forth *supra* section IV.D.1. In addition, as relevant to Proposal 2, and as pointed out by the Agency, the Authority has previously held that, where supported by a showing of a reasonable connection to internal security considerations, a proposal concerning the construction of a shelter for officers on the grounds of a correctional facility affects management's right to determine internal security practices. *See Local 1030*, 57 FLRA at 902.

Here, the Agency argues that "[p]art of the internal security plan of the institution is to keep a clear and unobstructed view of the entire compound/recreation [area] from [the guard tower]," SOP at 32, and, thus, "[m]anagement has made a decision to keep the compound area free from any obstructions that could aid an inmate in escaping, committing an assault[,] or otherwise engaging in illegal or non-allowed conduct in that area," *id.* at 32-33. We find that the Agency has shown a sufficient link or reasonable connection between (a) its security objective of preventing inmate escapes, assaults, or other illegal or non-allowed conduct and (b) its practice of minimizing obstructions on the compound.

Although the Union questions the merits of the Agency's design teams' layout determinations, *see* Response at 18 n.16, as stated previously, in deciding whether a proposal affects management's right to determine internal security, the Authority does not examine the merit of the practices adopted by an agency. *Local 171*, 64 FLRA at 277. As for the Union's claim that, in previous negotiations, the Agency did not object to similar proposals on internal security grounds, the Authority has held that an agency's previous agreement to a proposal that is similar to the disputed proposal in a negotiability case is not relevant to a decision as to whether the disputed proposal is within the duty to bargain. *See AFGE, Local 1836*, 62 FLRA 369, 371 (2008). Therefore, the Union's arguments do not provide a basis for rejecting the Agency's internal security claims.

By requiring the Agency to construct an officer's station on the compound, Proposal 2 would conflict with management's practice of minimizing obstructions on the compound. Accordingly, we find that Proposal 2 affects management's right to determine internal security practices. *See, e.g., Local 1030*, 57 FLRA at 902.

2. Proposal 2 is not an appropriate arrangement.

The standards for assessing whether a proposal is an appropriate arrangement are set forth *supra* section IV.D.2. Even assuming that Proposal 2 constitutes an arrangement, we find, for the following reasons, that it excessively interferes with the Agency's right to determine its internal security practices.

See AFGE, Local 3937, 66 FLRA 393, 396-97 (2011) (*Local 3937*) (Member DuBester dissenting in part as to a different proposal) (concluding that, even assuming the proposal constituted an arrangement, it was not an appropriate arrangement because it excessively interfered with the exercise of management's right to determine its internal security practices).

The Union alleges that the benefits of Proposal 2 include: (1) providing officers "an opportunity to perform a host of activities, both professional and personal," Response at 34; (2) bringing the Agency in compliance with the parties' agreement which, according to the Union, provides that "[s]helter for outside posts for use of employees during inclement weather will be negotiated locally" *id.* at 34-35; (3) protecting the officers from overexposure to extremely high temperatures, *id.* at 34-37; and (4) allowing compound officers to supervise inmate activities and respond from a centralized location. *Id.* at 34.

As for the burdens on management's rights, Proposal 2 would significantly burden the Agency's ability to ensure that the compound has the design and layout that the Agency deems safest for both staff and inmates. Specifically, it would require the Agency to build a permanent building in the compound, despite the Agency's internal security determination to keep the compound area free from obstructions that could aid inmates in escaping, committing assaults, or otherwise engaging in illegal or prohibited conduct in that area. In addition, it is undisputed that requiring the Agency to build this permanent building would decrease the tower guard's visibility of the compound and thereby impede responses to altercations and other disturbances in the compound. In this regard, although the Union argues that the tower guard uses, and could continue to use, cameras to monitor the compound, the Union also concedes that "there are numerous areas on the . . . [y]ard . . . that are paramount to 'blind spots' [that] cannot easily be observed" by the tower guard. *Id.* at 19. Further, the Agency alleges, and the Union does not dispute, that the proposal would prevent the Agency from "determining where and how the compound officers perform their job" to the extent that it would require the Agency to allow officers to perform their duties from within the officers' station. SOP at 35.

Weighing the alleged benefits to employees against the significant burdens on management's right to determine internal security practices – and taking into account the nature of the institution as a maximum-security prison, *see Council 33*, 65 FLRA at 145 – we find that Proposal 2 excessively interferes with management's right to determine internal security practices and, thus, is not an appropriate arrangement.

Because we have found that Proposal 2 excessively interferes with management's right to determine internal security practices, the proposal is outside the duty to bargain even if it is an appropriate arrangement for the exercise of management's rights to determine the methods and means of performing work. *See AFGE, Local 1164*, 66 FLRA 112, 117 n.10 (2011) (*Local 1164*). Accordingly, we find it unnecessary to address the Agency's arguments regarding management's rights to determine methods and means, and the Union's claim that Proposal 2 is an appropriate arrangement for the exercise of those rights.

3. We grant the Union's request to sever the third sentence of Proposal 2 and find that the severed sentence is within the duty to bargain.

The Union requests that the Authority sever and consider separately the third sentence of Proposal 2, which is italicized below:

> A block and mortar Compound Officer's station, or comparable building materials, will be constructed on the compound. This should be constructed near one of the metal detector areas. *The Metal Detector Station on the opposite side of the compound should have a secure area to be used as a control center for controlling inmate movement through the metal detector area, enclosed in a chain link fence, or something comparable.*

Record at 3 (emphasis added). The Agency opposes severance because, according to the Agency, the third sentence "is dependent upon the building of the . . . [officers'] station and cannot be analyzed separately." SOP at 16 n.7.

As relevant here, "[s]everance means the division of a proposal . . . into separate parts having independent meaning, for the purpose of determining whether any of the separate parts is within the duty to bargain." 5 C.F.R. § 2424.2(h) (emphasis deleted). "In effect, severance results in the creation of separate proposals[,] . . . [and] applies when some parts of [a] proposal . . . are determined to be outside the duty to bargain." *Id.* A union "must support its [severance] request with an explanation of how the severed portion(s) of the proposal . . . may stand alone, and how such severed portion(s) would operate." *Id.* § 2424.25(d). Generally, a union meets this burden, and the Authority will grant the union's severance request, if the union

explains how each severed portion may stand alone and operate independently. *See NATCA*, 61 FLRA 341, 343 (2005) (*NATCA*).

Here, the Union has explained how the third sentence of Proposal 2 has a separate meaning, and can operate independently, from the first two sentences. *See* Record at 3-4. In this regard, while the first two sentences of Proposal 2 address the construction of the officers' station, the third sentence addresses creating a "secure area" in the compound-detector area on one side of the compound, and provides that the secure area should be "enclosed in a chain link fence, or something comparable. *Id.* at 4. The Union does not state, and there is no basis for finding, that the "secure area" is necessarily the physical, block-and-mortar officers' station discussed in the first two sentences of the proposal. Accordingly, we grant the Union's request to sever the third sentence of Proposal 2. *See NATCA*, 61 FLRA at 343.

In arguing that the severed sentence is outside the duty to bargain, the Agency "specifically incorporates" the arguments that it makes regarding Proposals 3 through 7. SOP at 16 n.7. As discussed previously, the severed sentence of the proposal uses the word "should," and we have adopted the Union's explanation that the severed sentence does not require that the compound-detector area have a secure area. Record at 3. The Agency does not explain how, absent such a requirement, the sentence is outside the duty to bargain. Accordingly, we find that the Agency has not demonstrated that the sentence is outside the duty to bargain, and we find it within the duty to bargain.

4. We dismiss the petition as to Proposals 3, 4, 5, and 7.

Where the Authority has found a proposal outside the duty to bargain, and that other proposals are "inextricably intertwined" with the former proposal, the Authority has dismissed the petition as to the latter proposals. *See IFPTE, Local 49*, 52 FLRA 813, 821 (1996). We have found Proposal 2 outside the duty to bargain insofar as it requires construction of the officers' station. Proposals 3, 4, 5, and 7 relate to the details and structure of that station, *see* Record at 4-8, and, thus, are inextricably intertwined with the nonnegotiable requirement in Proposal 2. Therefore, we dismiss the petition as to Proposals 3, 4, 5, and 7.

VI. Proposal 6

A. Wording

> The metal detector area will include a minimum of one walk-through metal detector. The north side of the compound will be accessed through turnstiles (one at the entrance and one at the exit) that can be controlled by the compound officer within the compound office/secure area. The south side of the compound will be accessed through turnstiles (one at the entrance and one at the exit) that can be controlled by the compound officer within a compound office/secure area. An x-ray machine (to x-ray all inmate carried items that need to be searched: legal materials, water coolers, extra shoes, laundry bags with laundry, etc) will be installed by the metal detector on both the north and south sides. The viewing monitor and control panel should be located inside the compound office/chain linked secure area.

Record at 6.

B. Meaning

The parties agree that the first three sentences of Proposal 6 would require the Agency to establish: (1) "chute[s]" encompassing the two compound detectors; (2) turnstiles at the entrance and exit of each chute; and (3) control panels for the turnstiles. Record at 7. The parties also agree that the fourth sentence of Proposal 6 would require the Agency to install an x-ray machine by each metal detector, and that inmates would pass items through the x-ray machines. *See id.* Further, the parties agree that the fifth sentence of Proposal 6 would require the Agency to install control panels for the x-ray machines. *Id.*[9]

C. Positions of the Parties

1. Agency

The Agency asserts that the proposal is contrary to management's right to determine internal security practices. SOP at 19, 57. For support, the Agency makes the same arguments regarding the right to determine layout of the penitentiary, and avoiding the addition of obstructions, that it makes in connection with Proposals 2, 3, 4, 5, and 7. *See supra* section V.C.1. In addition, the Agency asserts that "requir[ing] . . . the Agency . . . [to] install two x-ray machines . . . undermines the safety and security of the institution." SOP at 66. The Agency contends that, "[a]s part of its

[9] The parties also disagree regarding the meaning in certain respects. *See* Record at 7. As these disputes over meaning do not affect our analysis of the negotiability of this proposal, we find it unnecessary to resolve those disputes.

internal security plan, management has made a decision that officers must continually observe, hear, pat down[,] and interact with inmates on a daily basis." *Id.* at 33. In this regard, the Agency contends that: "[d]aily and routine interaction with inmates is one of the most important ways officers . . . are able to prevent, handle[,] and react to situations that arise in a correctional environment, both emergency and routine;" and "[m]anagement wants its . . . officers outside with the inmates as they pass through the [compound] detectors to, among other things, observe their body language, listen to their voices, pat them down as necessary[,] and generally interact with" them. *Id.* at 33-34. According to the Agency, "[m]anagement has determined[,] based on [this] correctional and internal security judgment, that this interaction is of the utmost importance at keeping the institution as safe and secure as possible." *Id.* at 34.

The Agency also asserts that Proposal 6 is not an appropriate arrangement. *See id.* at 29-30. Finally, the Agency argues that Proposal 6 is contrary to management's rights to determine the technology, methods, and means of performing work. *See id.* at 24, 57.

2. Union

The Union argues that Proposal 6 is not contrary to management's right to determine internal security practices, *see* Response at 22, and, instead, is an appropriate arrangement, *see id.* at 34. The Union repeats several of the arguments regarding the adverse effects of installing the two new compound detectors that it made in connection with Proposal 2. *See supra* section V.C.2. In addition, with respect to the first three sentences of Proposal 6, the Union claims that installing turnstiles will allow officers to control the flow of inmates, *see* Response at 41, and make the compound-detector areas safer, *see id.*, without "overwhelming the assigned officers," *id.* at 40. In this regard, the Union argues that installing turnstiles will prevent inmates from sneaking past officers who are inspecting other inmates who have set off an alarm, and this will "lead to increased staff and institution safety." *Id.*

With respect to the fourth and fifth sentences of Proposal 6, the Union contends that, "[p]resently, inmates are allowed to carry various items which may contain metallic objects . . . onto the . . . yard." *Id.* at 41. According to the Union, "[o]ften these items are too voluminous for staff to properly search by hand when they fail to clear the [compound] detector." *Id.* The Union claims that requiring x-ray machines will "provide additional safety" to the officers because it will allow officers to "safely isolate a violator without exposing themselves to an inmate in possession of a weapon(s) or other dangerous contraband." *Id.* In addition, the Union contends that the officers who search the inmates are also required to control the flow of inmate traffic, and Proposal 6 would benefit them because it would "increase the efficiency" of searches. *Id.*

Finally, the Union argues that Proposal 6 is not contrary to management's rights to determine the technology, methods, or means of performing work. *See id.* at 20-22.

D. Analysis and Conclusions

1. Proposal 6 affects management's right to determine internal security practices.

The standards for assessing whether a proposal affects management's right to determine internal security practices are set forth *supra* section IV.D.1. Here, the Agency argues that it has "made a very clear decision as to how the institution is designed and laid out in order to provide the safest environment for inmates and officers," SOP at 22, and "[p]art of [its] internal security plan . . . is to keep a clear and unobstructed view of the entire compound [and] yard" from the guard tower, *id.* at 32. The Agency's current layout does not include "chutes" around the compound detectors or the use of turnstiles to control the flow of inmates in and out of the compound-detector areas. Record at 7. We find that the Agency has shown a sufficient link or reasonable connection between (a) its security objective of designing the layout of the penitentiary in the safest and most secure way possible and (b) its practice of not using "chutes" around the compound detectors or using turnstiles to control the flow of inmates through the compound-detector areas.

By requiring the Agency to build "chutes" around the compound detectors and to use turnstiles to control how inmates move through the compound-detector areas, Proposal 6 conflicts with the Agency's internal security practice. Accordingly, we find that the proposal affects management's right to determine internal security practices.

In addition to its internal security plan "to keep a clear and unobstructed view of the entire compound [and] yard" from the guard tower, SOP at 32, the Agency further contends that it "has made a decision that officers must . . . pat down and interact with inmates," *id.* at 33, and that "this interaction is of the utmost importance at keeping the institution as safe and secure as possible," *id.* at 34. Thus, the Agency has a practice of minimizing obstructions in the penitentiary and requiring officers to physically search inmates when necessary. We find that the Agency has shown a sufficient link or reasonable connection between (a) its security objectives of keeping

the institution as safe as possible and (b) declining to add additional x-ray machines in the compound.

By requiring the Agency to add x-ray machines in the compound, Proposal 6 conflicts with the Agency's internal security practice. Accordingly, we find that the proposal affects management's right to determine internal security practices in this respect as well.

2. Proposal 6 is not an appropriate arrangement.

The standards for assessing whether a proposal is an appropriate arrangement are set forth *supra*, section IV.D.2. For the following reasons, even assuming that Proposal 6 is an arrangement, we find that it is not appropriate because it excessively interferes with management's right to determine internal security practices.

The Union asserts that installing turnstiles will benefit officers because it will allow them to control the flow of inmates, *see* Response at 41, and make the compound safer, *see id.*, without "overwhelming" them, *id.* at 40. In this regard, the Union argues that installing turnstiles will prevent inmates from sneaking past officers who are inspecting other inmates who have set off an alarm, and this will "lead to increased staff and institution safety." *Id.* As for the installation of x-ray machines, the Union contends that the officers who search inmates are also required to control the flow of inmates through the compound-detector areas, and installing x-ray machines will increase the efficiency of searches. *See id.* at 41. In addition, the Union contends that using x-ray machines will allow officers to "safely isolate a violator without exposing themselves to an inmate in possession of a weapon(s) or other dangerous contraband." *Id.*

However, Proposal 6 would significantly burden the Agency's ability to ensure that the compound-detector areas have the design and layout that the Agency deems safest for both staff and inmates. Specifically, it would require the Agency to create "chutes" and install x-ray machines near the compound detectors, despite the Agency's internal security determination to keep the compound-detector areas free from obstructions. In this regard, it is undisputed that adding these obstructions to the compound-detector areas would decrease the tower guard's visibility of those areas and thereby impede responses to altercations and other disturbances. Although the Union argues that the tower guard uses, and could continue to use, cameras to monitor the compound, the Union also concedes that "there are numerous areas on the . . . [y]ard . . . that are paramount to 'blind spots' [that] cannot easily be observed" by the tower guard. Response at 19. Further, by requiring the installation of turnstiles in the compound, it is undisputed that the proposal requires the Agency to change the way in which it controls the traffic flow of hundreds of inmates through the compound-detector areas. *See id.* at 40-41. Moreover, by allowing the use of x-ray machines – which the Union contends is intended to alleviate the problem of having to do physical searches of inmates who have set off the compound detectors – it is undisputed that the proposal also burdens management's right to ensure that officers perform such physical searches. *See id.* at 41.

In sum, while Proposal 6 allegedly would provide officers with more control over inmate movements and make searches safer and more efficient, it would significantly burden management's right to determine internal security practices, because it would: (1) reduce visibility from the guard tower by adding physical obstructions to the compound-detector areas; (2) constrain the ways in which the Agency moves hundreds of inmates through those areas; and (3) constrain the Agency's ability to have officers perform physical searches of inmates. Weighing the alleged benefits to employees against the significant burdens on management's right to determine internal security practices – and taking into account the nature of the institution as a maximum-security penitentiary, *see Council 33*, 65 FLRA at 145 – we find that Proposal 6 excessively interferes with management's right to determine internal security practices and, thus, is not an appropriate arrangement.

3. We grant in part and deny in part the Union's request to sever Proposal 6, and we find that, both as a whole and as severed, it is not an appropriate arrangement.

The Union requests that "the fourth and fifth sentences [of Proposal 6] be severed from each other and from the rest of the proposal, and . . . assert[s] that each severed portion [can] operate independently." Record at 7. Severing the fourth and fifth sentences from the rest of the proposal would result in the following two proposals:

Proposal 6A

> The metal detector area will include a minimum of one walk-through metal detector. The north side of the compound will be accessed through turnstiles (one at the entrance and one at the exit) that can be controlled by the compound officer within the compound office/secure area. The south side of

> the compound will be accessed through turnstiles (one at the entrance and one at the exit) that can be controlled by the compound officer within a compound office/secure area.
>
> Proposal 6B
>
> An x-ray machine (to x-ray all inmate carried items that need to be searched: legal materials, water coolers, extra shoes, laundry bags with laundry, etc) will be installed by the metal detector on both the north and south sides. The viewing monitor and control panel should be located inside the compound office/chain linked secure area.

Id. at 6.

The Authority's standards for assessing severance requests are set forth *supra* section V.D.3. Here, the Union has explained the meaning and operation of how Proposal 6A can operate independently from Proposal 6B. *See* Record at 7. Specifically, Proposal 6A discusses the compound detectors and turnstiles, while Proposal 6B discusses x-ray machines and control panels for those x-ray machines. *See id.* Accordingly, we grant the Union's first severance request regarding Proposal 6, and separately consider Proposals 6A and 6B.

As for whether Proposal 6A is within the duty to bargain, that proposal would require the Agency to create "chutes" around the compound detectors, and to install turnstiles to control inmate flow. As stated previously, this allegedly would benefit employees by allowing officers to control the flow of inmates, *see* Response at 41, and make the compound-detector areas safer, *see id.*, without "overwhelming the assigned officers," *id.* at 40. But it also would burden management's rights to maintain visibility of the compound-detector areas from the guard tower and change the way in which inmates flow through those areas. Balancing the alleged benefits to employees against the burdens on management's rights – and taking into account the nature of the facility as a maximum-security penitentiary, *see Council 33*, 65 FLRA at 145 – we find that Proposal 6A excessively interferes with the right to determine internal security practices and, thus, is not an appropriate arrangement.

As for whether Proposal 6B is within the duty to bargain, that proposal would require the Agency to install x-ray machines near the compound detectors, as well as control panels for those x-ray machines. The Union asserts that this would benefit employees by increasing the efficiency of searches and allowing officers to "safely isolate a violator without exposing themselves to an inmate in possession of a weapon(s) or other dangerous contraband." Response at 41. As for the burdens on management's rights, the proposal would create additional obstructions in the compound-detector areas and would result in officers doing fewer physical searches of inmates. Balancing the alleged benefits to employees against the burdens on management's rights – and taking into account the nature of the facility as a maximum-security penitentiary, *see Council 33*, 65 FLRA at 145 – we find that Proposal 6B excessively interferes with the right to determine internal security practices and, thus, is not an appropriate arrangement.

As for the Union's request to further sever Proposal 6B, that request would result in the following two proposals:

> Proposal 6Bi
>
> An x-ray machine (to x-ray all inmate carried items that need to be searched: legal materials, water coolers, extra shoes, laundry bags with laundry, etc) will be installed by the metal detector on both the north and south sides.
>
> Proposal 6Bii
>
> The viewing monitor and control panel should be located inside the compound office/chain linked secure area.

Record at 6.

The Union has not explained how Proposal 6Bii can operate independently from Proposal 6Bi. In this regard, Proposal 6Bi discusses the installation of x-ray machines, and Proposal 6Bii discusses the placement of control panels *for those x-ray machines*. *See id.* As the Union has not demonstrated that Proposal 6Bii can operate independently from Proposal 6Bi, we deny this severance request.

For the foregoing reasons, we find that Proposal 6 – both as a whole and as severed into Proposals 6A and 6B – excessively interferes with management's right to determine internal security practices and, thus, is not an appropriate arrangement. As such, it is outside the duty to bargain even if it is an appropriate arrangement for the exercise of management's rights to determine the methods and means of performing work. *See Local 1164*, 66 FLRA at 117 n.10. Accordingly, we find it unnecessary to address the Agency's arguments regarding management's rights to determine methods and means, and the Union's claim that Proposal 6 is an appropriate arrangement for the exercise of those rights.

VII. Proposal 8

A. Wording

> The metal detector area will have enough clearance for the metal detector to work properly according to manufacturer's specifications. An emergency access gate will be installed leading from the metal detector area. This will enable the staff to safely remove any inmates from the metal detector area without allowing other inmates access at the same time.

Record at 8.

B. Meaning

The parties agree that the first sentence of Proposal 8 would require that the compound detectors have enough clearance to operate properly, and that enough clearance refers to the specifications established by the manufacturers of the compound detectors. *Id.* The parties agree that the second sentence would require the Agency to install an emergency access gate within each compound-detector area. *See id.* The Union asserts that the second sentence is intended to "give compound officers the ability to remove safely and quickly any inmate out of the [compound-]detector area[s] if necessary, thereby ensuring the safety of officers and inmates." *Id.*

C. Positions of the Parties

1. Agency

The Agency asserts that Proposal 8 affects management's right to determine internal security practices. SOP at 36. In this regard, the Agency repeats the arguments that it made regarding Proposals 2 through 7 regarding the layout of correctional institutions. *See id.* at 21-24. In addition, the Agency asserts that, "[a]t this time, [it] has not chosen to have an emergency access gate as part of its security plan for securing the area around the [compound] detectors," and "has decided that it is more safe and secure to have limited access points, that can ultimately be [breached], entering and exiting the secure area." *Id.* at 39.

The Agency argues that Proposal 8 is not an appropriate arrangement. *See id.* at 40. The Agency asserts that the proposal would "force the Agency to change the secure access points to the [compound-]detector areas." *Id.* at 43. According to the Agency, the yard and facility were designed "based on an internal security determination as to what the safest way to control the flow [of] inmates would be." *Id.* Because the proposal would "[f]orc[e] the Agency to add an access point" by each compound detector, the Agency argues that the proposal places an excessive burden on management's right to determine internal security practices. *Id.* at 43-44. Further, according to the Agency, "[t]he Authority has previously found that a proposal which forces an Agency to change the access points to its facility not to be an appropriate arrangement." *Id.* at 43-44 (citing *Local 3937*, 66 FLRA at 397).

2. Union

The Union argues that Proposal 8 does not affect management's right to determine internal security practices. *See* Response at 46. The Union contends that "there are already nine access gates to the . . . yard," and officers to monitor the inmates, so it is "ridiculous" for the Agency to assert that adding one more access gate would result in inmates breaching security. *Id.* at 45.

In addition, the Union argues that Proposal 8 is an appropriate arrangement. *See id.* at 48. According to the Union, installing access gates would provide "more safety for officers," because it would allow officers to "remove . . . inmate[s] quickly and safely without disrupting the continuation of the institutional movement." *Id.* at 45. The Union argues that this would be safer than the current practice, whereby officers remove inmates "through . . . the entrance or egress gates, where all of the inmates are gathered waiting to pass [through] the [compound] detectors." *Id.* Moreover, the Union asserts, access gates will allow officers who "remove an inmate that is armed with a homemade weapon . . . to safely handle any such inmate(s)." *Id.* at 48.

D. Analysis and Conclusions

1. Proposal 8 affects management's right to determine internal security practices.

The standards for assessing whether a proposal affects management's right to determine internal security practices are set forth *supra* section IV.D.1. In addition, as relevant to Proposal 8, the Authority previously has held that, "where supported by a showing of a reasonable connection to internal security considerations, the determination of when and how employees gain access to agency facilities is within an agency's authority to determine its internal security practices." *Local 3937*, 66 FLRA at 395.

The Agency argues that determining the layout of the penitentiary is an internal security decision, and that the compound-detector areas were "built based on an

internal security determination as to what the safest way to control the flow [of] inmates would be during inmate moves." SOP at 43. According to the Agency, "[m]anagement has decided that it is more safe and secure to have limited access points, that can ultimately be [breached], entering and exiting the secure area." *Id.* at 39. We find that the Agency has shown a sufficient link or reasonable connection between (a) its security objectives of ensuring safe inmate moves and avoiding breaches of security and (b) its practice of limiting the number of access gates to the compound-detector areas.

Although the Union argues that the Agency's claims are "ridiculous as there are already nine access gates to the . . . yard," and adding one more will not present security concerns, Response at 45, as stated previously, the Authority does not review the merits of an agency's policy once the agency has established a reasonable link between its policy and its internal security objectives. *Local 3937*, 66 FLRA at 396. Therefore, the Union's argument does not provide a basis for rejecting the Agency's internal security claims.

As Proposal 8 would require the Agency to install an additional access gate, the proposal conflicts with the Agency's practice of limiting the number of access points. Accordingly, we find that Proposal 8 affects management's right to determine internal security practices.

2. Proposal 8 is not an appropriate arrangement.

The standards for assessing whether a proposal is an appropriate arrangement are set forth *supra* section IV.D.2. For the following reasons, even assuming that Proposal 8 is an arrangement, we find that it is not appropriate because it excessively interferes with management's right to determine internal security practices.

With regard to the benefits to employees, the Union argues that installing access gates would increase officer safety by allowing officers to "remove . . . inmate[s] quickly and safely," rather than the current practice of bringing inmates "through . . . the entrance or egress gates, where all of the inmates are gathered waiting to pass [through] the [compound] detectors." Response at 45.

With regard to the burdens on management, the proposal would burden management's right to determine the most secure layout of the compound, including limiting the number of access points to the area, as well as to determine the best way to structure the flow of inmates and to minimize the potential for inmate breaches of security.

Although Proposal 8 allegedly would have benefits for employees, these alleged benefits come at the expense of forcing the Agency to change how inmates can access the yard and the compound-detector areas, constraining the Agency's ability to determine how best to secure those areas. Weighing the alleged benefits to employees against the significant burdens on management's right to determine internal security practices – and taking into account the nature of the institution as a maximum-security prison, *see Council 33*, 65 FLRA at 145 – we find that Proposal 8 excessively interferes with management's right to determine internal security practices and, thus, is not an appropriate arrangement.

3. We grant the Union's severance request and find that Proposal 8, both as a whole and as severed, is contrary to management's right to determine internal security practices.

The Union requests that the Authority sever and separately consider, as a single proposal, the second and third sentences of Proposal 8,[10] which are italicized below:

> The metal detector area will have enough clearance for the metal detector to work properly according to manufacturer's specifications. *An emergency access gate will be installed leading from the metal detector area. This will enable the staff to safely remove any inmates from the metal detector area without allowing other inmates access at the same time.*

Record at 8 (emphasis added).

The Authority's standards for assessing severance requests are set forth *supra* section V.D.3. Here, the Union has explained the meaning and operation of how the second and third sentences of the proposal can operate independently from the first sentence. *See* Record at 8. Specifically, sentence one involves ensuring that the compound-detector areas have enough clearance for the compound detectors to work properly; sentences two and three involve the installation of emergency access gates. *See id.* Accordingly, we grant the Union's severance request.

[10] We note that the Union does not request that the Authority separately assess the negotiability of the first sentence. *See* Record at 8.

However, the severed portion of the proposal – requiring the installation of emergency access gates – is the same portion that we have found contrary to management's right to determine internal security practices. Thus, for the reasons discussed above, we also find that the severed portion is contrary to management's right to determine internal security practices and, thus, outside the duty to bargain.

For the foregoing reasons, we find that Proposal 8 – both as a whole, and as severed – is contrary to management's right to determine internal security practices. As such, it is outside the duty to bargain without regard to whether it also is an appropriate arrangement for the rights to determine technology, methods, and means under § 7106(b)(1) of the Statute. *See Local 1164*, 66 FLRA at 117 n.10. Thus, we find it unnecessary to address whether the proposal also affects, or is an appropriate arrangement for, those rights.

VIII. Order

The Agency shall, upon request or as otherwise agreed to by the parties, negotiate with the Union over Proposal 1 and the third sentence of Proposal 2. The petition for review is dismissed as to Proposal 2 as a whole, and as to Proposals 3 through 9.