

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

DEPARTMENT OF AGRICULTURE  
RISK MANAGEMENT AGENCY  
KANSAS CITY, MISSOURI

and

LOCAL 858, NATIONAL FEDERATION OF  
FEDERAL EMPLOYEES, FEDERAL DISTRICT 1,  
INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE WORKERS,  
AFL-CIO

Case No. 07 FSIP 9

**DECISION AND ORDER**

The Department of Agriculture, Risk Management Agency, Kansas City, Missouri (Employer), filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider an impasse under the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, between it and Local 858, National Federation of Federal Employees, Federal District 1, International Association of Machinists and Aerospace Workers, AFL-CIO (Union).

After an investigation of the request for assistance concerning ground rules for negotiations over a successor collective-bargaining agreement (CBA), the Panel determined that the parties' dispute should be resolved through single written submissions. The parties were informed that after considering the entire record, the Panel would take whatever action it deems appropriate to settle the impasse, which could include the issuance of a *Decision and Order*. Written statements were made pursuant to this procedure and the Panel has now considered the entire record.

**BACKGROUND**

The Employer, formerly known as the Federal Crop Insurance Corporation, promotes, supports and regulates sound risk-

management solutions to preserve and strengthen the economic stability of the American agriculture producer. The Union represents a bargaining unit consisting of approximately 120 professional and non-professional employees assigned to the Kansas City, Missouri, office. The parties' most recent CBA went into effect on September 20, 1990; it has been rolled over, and will remain in effect until replaced by a successor agreement.

### **ISSUES AT IMPASSE**

The parties disagree over three provisions in a ground rules agreement: (1) the time frames for the parties to exchange their proposals for a new CBA and when contract bargaining should begin; (2) official time and assurances against reprisal for serving as Union representatives during the bargaining process; and (3) a requirement that the parties fully disclose during negotiations the rationale for their proposals.

### **POSITIONS OF THE PARTIES**

#### **1. Bargaining Schedule**

##### **a. The Employer's Position**

The Employer proposes that the parties simultaneously exchange their initial proposals 15 days after the signing of the ground rules agreement; contract bargaining would commence 10 days after the exchange of initial proposals. In support of its position, the Employer contends that its proposal would provide the parties with a reasonable amount of time to fashion their proposals for contract bargaining. It notes that during the summer of 2006, the parties participated in interest based bargaining (IBB) in an effort to jointly develop wording for certain articles in a new CBA; through that process each side already has explored its interests. Therefore, the parties should not need much time after the signing of a ground rules agreement to develop their proposals, exchange them, and commence bargaining.

##### **b. The Union's Position**

The Union proposes that the parties simultaneously exchange their initial contract proposals 90 days after the signing of the ground rules agreement; negotiations would commence 60 days after the exchange of initial proposals. The Union maintains that the provision would establish reasonable time frames given that the current CBA is nearly 17 years old and it will take

time to assess the changes that are needed and draft new wording to bring the agreement up to date. Furthermore, the Union bargaining team members have critical agency work to perform and, because of that, they must have time to both perform their agency functions and their duties as members of the Union bargaining team. The time frames proposed would enable Union bargaining team members to accomplish both tasks. In this regard, during ground rules negotiations it was necessary to schedule bargaining sessions around key mission activities, which caused negotiations to be drawn out so as not to impact "the mission critical dates of the agency." Thus, longer time frames would help Union team members to continue to balance agency work and bargaining obligations and help place the Union team on a more equal footing with a management team that has a full time human resources specialist who is skilled in contract procedures and bargaining.

### **CONCLUSIONS**

Having carefully considered the arguments presented by the parties on this issue, we shall order them to exchange their initial contract proposals 30 business days after signing the ground rules agreement, and to commence negotiations 20 business days after the exchange of initial proposals. In our view, expansion of the time frames beyond those proposed by the Employer is warranted given that the parties will be bargaining a successor CBA that may require significant changes. Moreover, the extent to which the parties may have drafted some of their contract proposals as a result of IBB during the summer of 2006 is unclear.

## **2. Official Time for Negotiations**

### **a. The Employer's Position**

The Employer proposes that:

Each of the three members of the Union negotiating team as described in Section IV will be granted 32 hours of official time per pay period for CBA negotiations. Employees serving as a Union representative will only be evaluated on the work performed outside of official time granted for negotiations and will not have his/her performance negatively impacted by the fact that he/she serves as a Union representative or by the fact that he/she used approved official time.

Its proposal addresses the Union's interests by ensuring that bargaining team members are not penalized for serving on the contract bargaining team. In addition, after factoring out the time the parties are scheduled for face-to-face negotiations each bi-weekly period, the proposal also provides each of the Union's three team members 21 hours of official time per pay period to prepare for bargaining for the duration of negotiations.

b. The Union's Position

The Union proposes the following:

All Union negotiating team members shall be provided official time for the preparation and conduct of negotiations in accordance with 5 U.S.C. 7113(a) [sic] and the Negotiated Agreement dated 9/20/90, Article VII. Union negotiating team members will complete and submit KCO 217 to request official time.<sup>1/</sup>

In support of its proposal, the Union contends that the parties should follow the Statute as well as the terms of the existing CBA article on official time.

**CONCLUSIONS**

After reviewing the parties' arguments and evidence on this matter, we conclude that the issue should be resolved on the basis of the Employer's final offer. The Union's proposal essentially would require the parties to follow the provisions of their 1990 official time article during their successor CBA negotiations. Nothing in that article, however, appears to relate to official time for bargaining a successor CBA.

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<sup>1/</sup> In its written submission, the Union abandoned its previous proposal that would have required the Employer to provide coverage for the agency work performed by members of the Union's bargaining team while they are involved in contract bargaining and preparation. The Union's final offer also appears to transpose numbers in its citation. It should refer to section 7131(a) of the Statute, which essentially entitles any employee representing a union in the negotiation of a collective bargaining agreement official time for such purposes during the time the employee would otherwise be in a duty status.

Furthermore, the Union's approach would leave its representatives without a specific allotment of hours for preparation during bargaining, an issue that is not governed either by the 1990 CBA or section 7131(a) of the Statute. The Employer's proposal, on the other hand, would provide a reasonable amount of official time to Union bargaining team members to prepare for negotiations during the period when the parties have direct contract negotiations, so we shall order its adoption.

### **3. Full Disclosure During Bargaining**

#### **a. The Employer's Position**

The Panel should order the Union to withdraw its proposal. It is unnecessary to include such a provision in the ground rules agreement as there is no evidence that the Employer previously has hidden its agenda from the Union during negotiations.

#### **b. The Union's Position**

The Union proposes that "(b)oth parties [] share their language and concerns at the table in order to resolve disputes." Including this provision in the parties' ground rules agreement would make the negotiations more efficient by encouraging the parties to be forthcoming with their concerns and, ultimately, may help them achieve voluntary resolutions.

### **CONCLUSIONS**

Having fully considered this issue, we shall order the Union to withdraw its proposal. The record fails to support the need for such wording, and it would be difficult to enforce.

### **ORDER**

Pursuant to the authority vested in it by the Federal Service Labor-Management Statute, 5 U.S.C. § 7119, and because of the failure of the parties to resolve their dispute during the course of proceedings instituted under the Panel's regulations, 5 C.F.R. § 2471.6(a)(2), the Federal Service Impasses Panel, under 5 C.F.R. § 2711(a) of its regulations, hereby orders the following:

1. **Bargaining Schedule**

The parties shall adopt the following wording:

The parties simultaneously will exchange initial proposals 30 business days after the signing of the ground rules by both parties. Negotiations will commence 20 business days after the exchange of initial proposals.

2. **Official Time for Negotiations**

The parties shall adopt the Employer's proposal.

3. **Full Disclosure during Bargaining**

The Union shall withdraw its proposal.

By direction of the Panel.

H. Joseph Schimansky  
Executive Director

May 15, 2007  
Washington, D.C.