

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

DEPARTMENT OF THE AIR FORCE
AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON, AFB, OHIO

and

LOCAL F-88, INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, AFL-CIO

Case No. 07 FSIP 36

DECISION AND ORDER

The Department of the Air Force, Air Force Materiel Command, Wright-Patterson, AFB, Ohio (Employer or WPAFB) and Local F-88, International Association of Firefighters, AFL-CIO (Union) jointly 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.

Following investigation of the request for assistance, which arose after the Employer was informed by an auditor that the 6-year practice of using appropriated funds to provide bottled water for employees in the Fire Protection Division (FPD) at WPAFB was unauthorized and must cease, the Panel determined that the parties' dispute should be resolved through single written submissions. They were informed that after considering the entire record, the Panel would take whatever action it deems appropriate to settle the impasse, which may 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's mission is to advance, integrate, and use technology to develop, acquire, and sustain weapons systems. The FPD provides structural and aircraft fire protection for

WPAFB.^{1/} The Union represents approximately 98 employees, who are part of a consolidated unit of approximately 300. Employees typically work as firefighters or fire protection inspectors, at grades GS-7 through -9. The parties are covered by a Command Labor Agreement (CLA) which expired on December 4, 2006; however, its terms will remain in effect until a successor agreement is implemented.

ISSUE AT IMPASSE

The parties essentially disagree over whether the Employer should continue to provide bottled drinking water for employees in the FPD at WPAFB.

POSITIONS OF THE PARTIES

1. The Employer's Position

The Employer proposes to continue purchasing bottled water for a period of 4 months. During this period, the Union and unit employees may be granted 4 hours of administrative time, upon request, to meet and decide whether they wish to arrange to purchase bottled water as a group and to work out the details of such an arrangement. Should 4 hours be insufficient, the Employer may, workload permitting, grant a request for additional administrative time. It is no longer necessary for the Government to purchase bottled water because the original problem that caused the practice to be established has been rectified. In this regard, in March 1999, the water at the installation was intermittently shut off without notice, leaving FPD personnel without access to water for drinking or cooking. The problem was solved, but the practice continued without question until May 2006. In addition, although the water in Fire Station 1 has an unpleasant taste and odor, it has been "tested three times per day" and "certified as potable." Under Comptroller General decisions, Federal appropriations law, and Air Force Instruction 65-601, "expenditures for bottled water are not permitted in circumstances such as these where water is safe and potable." Moreover, the cost of purchasing bottled water "is not insubstantial," approximately \$12,000 per year for all three fire stations. Finally, "fairness dictates that the practice should be discontinued, and affected employees should be treated the same as other employees in the unit."

^{1/} The FPD has three fire stations spread across the installation.

2. The Union's Position

The Union proposes that the Employer "continue the purchase of bottled water until such time as an acceptable alternative is agreed upon to correct the foul taste and odor." Its final offer should be adopted because a fire house "is a home-like environment where employees eat, sleep, and shower during their 48-hour shift." Working 48-hour shifts "precludes bringing water from home as was suggested as an alternative used by other base employees." The Employer's position that purchasing water is illegal "is not supported by any facts" and is merely "an interpretation of a regulation and guidelines." In this connection, "an expenditure that is not set forth in the appropriations is nevertheless permissible as a necessary expense." For example, the Employer has approved the use of appropriated funds to soften water. Therefore, "it would be reasonable to conclude that filtering or treating for odor and taste would be acceptable as well." While the Union's real goal is to "correct the poor taste and odor from the current water," short of such a solution, "providing the bottled water is a reasonable accommodation that should be continued."

CONCLUSION

Having carefully considered the evidence and arguments presented by the parties on this issue, we shall order the adoption of the Employer's proposal to resolve their impasse. Preliminarily, it is clear from the record that the practice of providing bottled water at no expense to employees was not established because of the odor and taste of the installation's drinking water, but for other reasons that no longer exist. In our view, therefore, the dispute must be evaluated in terms of which proposal provides the better basis for ending the practice. In this regard, we are persuaded that a 4-month transition period, with administrative leave for employees to decide alternative arrangements, is more reasonable than the Union's approach, where the purchase of bottled water with appropriated funds could continue indefinitely. The Employer's proposal also is consistent with the practice at other Federal agencies where employees either drink tap water or purchase their own bottled water, individually or through water clubs.

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. § 2471.11(a) of its regulations, hereby orders the following:

The parties shall adopt the Employer's proposal.

By direction of the Panel.

H. Joseph Schimansky
Executive Director

May 21, 2007
Washington, D.C.