

In the Matter of

DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT  
NEW ORLEANS HUD OFFICE  
NEW ORLEANS, LOUISIANA

and

LOCAL 3475, AMERICAN FEDERATION  
OF GOVERNMENT EMPLOYEES, AFL-CIO

Case No. 08 FSIP 7

### **ARBITRATOR'S OPINION AND DECISION**

Local 3475, American Federation of Government Employees (AFGE), AFL-CIO (Union) filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, between it and the Department of Housing and Urban Development (HUD), New Orleans HUD Office, New Orleans, Louisiana (Employer).

After an investigation of the request for assistance, which arises from bargaining over the temporary relocation of HUD employees to the Herbert Federal Building and the renovation of the Hale Boggs Federal Building, the Panel directed the parties to mediation-arbitration with the undersigned. Accordingly, on February 4, 2008, a mediation-arbitration proceeding was held in New Orleans, Louisiana, with representatives of the parties. During the mediation phase, the parties were not able to voluntarily resolve any of the outstanding issues. In reaching this decision, I have considered the entire record in this matter, including the parties' final offers, pre-conference written submissions, and oral statements of position.

### **BACKGROUND**

The Employer's mission is to provide programs that address America's housing needs, improve and develop the Nation's communities, and enforce fair housing laws. The Union represents approximately 60 professional and non-professional employees at the New Orleans HUD Office. The HUD/AFGE National Agreement (NA) covering these employees expired in 1998. The

parties, however, have rolled over the NA since 1998 and continue to follow its terms and conditions.

### **ISSUES AT IMPASSE**

The parties disagree over numerous issues involving the temporary relocation to the Herbert Federal Building and the renovation of the Hale Boggs Federal Building, including the scope of their negotiations, Union office space, equipment and parking, accommodations for disabled employees, and improvements to the temporary "swing space" while the Hale Boggs Federal Building is being renovated.

### **POSITIONS OF THE PARTIES**

#### 1. The Union's Position

The following are the Union's proposals:

(1) *Status quo* until the Union has received accurate, complete Article 5 notices; all complete and accurate data required by Article 5, Section 5.04; and the Union has bargained through impasse.

(2) Management will bargain over any and all changes in working conditions implemented by Management since 2006 without bargaining; changing Tia Evans from Secretary to Customer Service Rep; removed Earl Randall from NOLA list of employees; removed Randall from CPD; move Crystal Taylor-Jones to hard wall office; move employees into hard wall offices - Disaster Reps & Environmental offices; hiring unannounced personal friends in PIH, w/out name on PERS or the Union.

(3) Management shall provide a decent, safe, efficient and sanitary work environment for HUD NOLA employees, visitors, and HUD clients, at all times.

(6) Any and all space plans shall comply with HUD Handbook 2200.01, Supplements 33, 33a, 41, and 69, and Labor Relations (Davis-Bacon) ODOC and EMAD employees assigned hard wall offices since 1995, will retain their hard wall offices as past practices since 1977 and per Negotiated Agreements and space plans signed by ASC#2, Management and the Union in 2004. Removal from hard wall offices is a change in practice since

1977, and EMAD and ODOC responsible for personal data, including Soc. Sec. #, salaries, addresses, complaints.

(8) The Union Office will be cleaned, upgraded per the sidebar agreement between HUD Headquarters and AFGE Council 222, and the Union Office will be relocated to the 11<sup>th</sup> Floor of the Hale Boggs Building.

(17) Management agrees to provide the Union with any and all evidence, records, and documents verifying space alterations are cost effective.

(18) Management agrees that since the Union was not given any prior pre-decisional input in the space plans, any opportunity to participate in the planning process of the space alterations, and the office relocation plans were not provided to the Union prior to approval by Marvel M. Robertson, it is understood the Union will not be concurring to any office relocation/space plans.

(20) Management and the Union will negotiate the systems furniture workstation standards to ensure all employees receive equal space; see Supplement 69 and HUD Handbook 2200.01.

(21) The Union Office will be upgraded with a 21 inch monitor, an assigned laptop, new speaker phone with same options as the Field Office Director, lockable file cabinets, an upgraded printer, an upgraded fax machine, copier, scanner and the office will receive the same cleaning and vacuuming as received by the Field Office Director; maintain Union's 21 as is per negotiated supplements.

(24) Management will comply with ADA, the Rehabilitation Act of 1973, Executive Order 13164, HUD's AEP/AE/EEO/Diversity Policy, Supplement 41, HUD 7855.1, the HUD/AFGE Agreement, and past practices of listing all employee designated handicapped since 1995, including Robert Cheek, Laurabelle Combre, Barbara Gardsbane, Denise Delay, and all other employees with obvious, declared and obvious handicaps.

(25) Management will seek employee parking at the Hale Boggs Building; management will issue parking to the Union using same rules used by Robertson to park free since 1995.<sup>1/</sup>

The Union contends that its proposals are necessary because the Employer has failed to comply with the NA, HUD Handbook 2200.01, HUD's Administrative Services Policy, and various negotiated Supplements. The Employer has not provided accurate space plans, including the actual workstations it plans to install, failed to verify that the temporary space is safe and clean, and has removed the hard wall offices that have been in use since 1977. These actions have taken place without pre-decisional input and bargaining. Management also has failed to provide reasonable accommodations for handicapped employees, especially with respect to parking. Finally, the parties have a sidebar agreement requiring the Union office to be upgraded that the Employer refuses to acknowledge.

## 2. The Employer's Position

In addition to the issues over which it contends the parties have reached tentative agreement, the Employer proposes the following wording:

Management agrees to enhance the working environment at the temporary swing space in the Herbert building by completing the following:

1. Lease desks and privacy panels for each workstation, and install electrical and telephone outlets in the area.
2. Install a security card reader system.

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<sup>1/</sup> Initially, there were 26 Union proposals on separate issues concerning the Employer's decision to temporarily relocate employees and renovate the New Orleans HUD Office. During mediation in October 2007, the parties appear to have tentatively agreed on 14 of the issues addressed by the Union's proposals. Subsequent to mediation, the Union withdrew an additional proposal. The Employer alleges, and the Union denies, that the parties reached a tentative agreement over the issues addressed in Union Proposals 8 and 24.

3. The HUD Project Management Division will also have the space painted and carpet cleaned prior to the relocation of staff into this area.
4. A copier and fax machine will be provided in the swing space.
5. Although there is a Snack Bar on the same floor as the temporary space, a "Break Area" is also provided for HUD employees in the swing space. A refrigerator from the Boggs Federal Building will be transported for use in the swing space. Microwave ovens are available in the Snack Bar.

Preliminarily, the Employer argues that Union Proposals 1, 2, 6, 17, 18, 20, 21 and 25 are outside its duty to bargain for various reasons. Union Proposal 1 is non-negotiable because management provided the Union with Article 5 notice on July 13, 2007, amended the notice on August 10, 2007, and provided an updated list of employees affected by the move to the Union on September 5, 2007. Union Proposal 2 is "not in the scope of these negotiations" because it does not concern changes in working conditions resulting from the Article 5 notice issued on July 13, 2007. Union Proposals 6, 17, 20, 21 and 25 are covered by the parties' NA, HUD Handbook 2200.01, and/or Supplements 33 and 69. In this regard, the NA specifically addresses what the Union is entitled to regarding office equipment and services, Union parking, and the medical certificate needed to substantiate parking for handicapped employees; the Employer is complying with the requirements of the NA and all applicable HUD policies and procedures. Finally, Union Proposal 18 is non-negotiable because the Employer has complied with its obligations under the NA by inviting the Union and the Space Committee to numerous meetings and soliciting input from the Union during the development of the plans.

Union Proposal 3, involving the "swing space" in the Herbert Federal Building, is the only remaining negotiable Union proposal. The Employer's corresponding final offer should be adopted on this issue because it adequately addresses the Union's concerns by providing a decent, safe, efficient and sanitary work environment for employees. Management's "good faith and commitment to improving working conditions for the employees in New Orleans" is demonstrated by the fact that it requested, and has been approved to receive, the additional funding necessary to implement its final offer. Moreover, contrary to the Union's contentions, the General Services

Administration has conducted an air quality inspection at the swing space to identify any corrective actions that may be warranted.

**CONCLUSION**

Having carefully considered the arguments and evidence presented in this case, I conclude that the dispute should be resolved on the basis of the Employer's final offer. In my view, it addresses the Union's concerns regarding the temporary relocation of unit employees to the Herbert Federal Building. With respect to the renovations at the Hale Boggs Federal Building, the Union's proposals primarily involve the enforcement of its contractual agreements, a matter that is more appropriately raised in other forums.

**DECISION**

The parties shall adopt the Employer's final offer.

Joseph C. Whitaker  
Arbitrator

February 26, 2008  
Shreveport, Louisiana