

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

ENVIRONMENTAL PROTECTION AGENCY

And

NATIONAL TREASURY EMPLOYEES UNION

Case No. 20 FSIP 009

DECISION AND ORDER

This case concerns a request for Panel assistance filed by the Environmental Protection Agency (EPA or Agency) involving the negotiations of the ground rules for the parties' successor collective bargaining agreement (CBA) between it and the National Treasury Employees Union (NTEU or Union). This dispute was filed pursuant to §7119 of the Federal Service Labor-Management Relations Statute (the Statute). The Federal Service Impasses Panel (Panel or FSIP) asserted jurisdiction over this dispute and directed the matter to be resolved in the manner discussed below.

BARGAINING AND PROCEDURAL HISTORY

The EPA's mission is to promote and protect the environment throughout the entire nation. The Union represents approximately 2,185 professional and non-professional employees who encumber a variety of mostly GS-7 through -14 positions (such as investigators, staff attorneys, and administrative assistants) in 4 locations: Washington, DC (Headquarters location); Cincinnati (approximately 4 employees); Kansas City (Region VII), and San Francisco (Region IX). The Parties' 2015-CBA has expired, but continues to bind the Parties until they reach a new agreement.

On July 25, 2019, the EPA provided NTEU notice of its intention to terminate the 2015-CBA. The Parties commenced bargaining over the ground rules for term bargaining on September 5, 2019. The Parties exchanged proposals 10 times (5 each) via email. In addition, the Parties have had four negotiation sessions in September and October 2019, three of which were attended by a mediator from the Federal Mediation and Conciliation Services (FMCS). Final offers were exchanged in October 2019. On

October 23, 2019, the Agency filed the request for FSIP assistance. In December 2019, the Panel asserted jurisdiction over all of the issues in the Agency's request for assistance except the provisions regarding severability of matters subject to a negotiability appeal. The Parties were ordered to an Informal Conference with Member Riches in Washington, DC. The Informal Conference was conducted on February 25, 2020. While the Parties were able to initial off on some items, many outstanding provisions remained unresolved. Member Riches asked the parties to submit Written Submissions for the full Panel to consider.

Outstanding Subjects following the Informal Conference:

- Preamble and Section I
- Scheduling
- Breaks
- Caucus
- Travel Costs and bargaining team members
- Role of Chief Negotiator
- Exchange of initial proposals
- New proposals and Amended proposals
- Official time for bargaining team members
- SMEs and Observers
- Non-unit representatives
- FSIP
- Signing of the agreement
- Ratification
- Agency head review
- Packaging of multiple articles
- Hard copies of proposals and documentary evidence
- Communications between Union bargaining team members
- Encompassing the full ground rules agreement

PARTIES ARGUMENTS AND PANEL DECISIONS

- Preamble (Section I.d)

Agency: This ground rules agreement is effective when signed by both parties.

Union: This agreement will become effective upon Agency Head Review or on the thirty-first (31st) calendar day after execution, whichever comes first.

The **Agency** contends that the ground rules are effective once the parties sign them while the Union contends they are not effective until after Agency Head Review. Relying on 5 USC 7115 (b)(5)¹, the Agency argues that once the agreement is signed it

¹ The duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation—

should be effectuated, even before the agreement is put forth for Agency Head Review. The Agency argues that the Union's proposed language (which provides for Agency Head Review) would provide for the potential for unnecessary delay.

The **Union** proposes that the agreement will not be effectuated until after Agency Head Review. The Statute states at 5 U.S.C. § 7114(c)(1) that "an agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency." The Statute then provides the process for Agency Head Review in Section 7114(c)(2) and (3), stating that the agency head is required to approve the agreement within thirty (30) days of the date of its execution if the agreement is in accordance with the provisions of the statute and other applicable laws, rules, or regulations, and that if the agency head fails to approve or disapprove the agreement within the 30-day window, the agreement **takes effect and becomes binding** on the parties. The Union argues that the Agency is attempting to conflate two events that occur in the Statute for closing out the bargaining process, resulting in an attempt to effectuate the agreement prior to the legal date of effectuation under the Statute. The Union argues that their proposal simply follows the statutory language dictating when an agreement takes effect.

The Union's proposal follows the Statute in providing for Agency Head Review prior to the effectuation of the agreement. The Agency's proposal seems to ignore that statutory obligation to conduct (or at least provide for the opportunity to conduct) Agency Head Review prior to considering an agreement effective and binding upon the parties. The Panel orders the Parties to adopt the Union's proposal:

This agreement will become effective upon Agency Head Review or on the thirty-first (31st) calendar day after execution, whichever comes first.

- Schedule of negotiations (Section IIa)

Agency - Bargaining will be conducted for ten (10) one-week bargaining sessions over an eighteen (18) week period. The first two (2) bargaining sessions will be contiguous and conducted virtually over the first two (2) weeks of the eighteen (18) week schedule. The following eight (8) bargaining sessions will be scheduled with efforts towards scheduling the sessions non-contiguously. Should non-contiguous sessions not be attainable, sessions will be scheduled contiguously. In no event will sessions be scheduled beyond the 18-week period. Sessions will be conducted face-to-face over the remaining sixteen (16) weeks of the eighteen (18) week schedule. Either party may invite the Federal Mediation and Conciliation Service to attend the final two (2) weeks of face-to-face bargaining.

(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

Union - Bargaining will be conducted for ten (10) one-week bargaining sessions over an eighteen (18) week period. The first two (2) bargaining sessions will be contiguous and conducted virtually over the first two (2) weeks of the eighteen (18) week schedule. The parties will make every effort to schedule the remaining eight (8) bargaining sessions non-contiguously, but agree that unforeseen scheduling conflicts may necessitate contiguous sessions. The eight (8) bargaining sessions will be conducted face-to-face over the remaining sixteen (16) weeks of the eighteen (18) week schedule. The parties will schedule the dates within that time frame. Either party may invite the Federal Mediation and Conciliation Service to attend the final two (2) weeks of face-to-face bargaining.

The Parties agree that bargaining will be conducted for ten (10) one-week bargaining sessions over an eighteen (18) week period, and that the first two (2) sessions will be contiguous and conducted virtually. This means that the remaining eight (8) one-week bargaining sessions will be conducted throughout a sixteen-week period. The Parties also agree that the remaining eight (8) one-week sessions will be conducted face-to-face, however, given the current Coronavirus Pandemic, the Panel has determined that it will amend the format in which the bargaining will be conducted during the Pandemic. Finally, the Parties agree that efforts should be made by both Parties to ensure that the remaining eight (8) bargaining sessions will be scheduled non-contiguously. The **Agency** contends that they need language that makes it clear that some of the remaining eight (8) one-week bargaining sessions may need to be contiguous in order to complete bargaining within the eighteen (18) weeks, as the parties have agreed. The **Union** argues that their language provides for clarity when the Parties may need to schedule non-contiguous weeks for bargaining; when there are “unforeseen scheduling conflicts”. The Panel believes that language is vague and does not provide any clarity. The Panel orders a modified provision:

Bargaining will be conducted for ten (10) one-week bargaining sessions over an eighteen (18) week period. The first two (2) bargaining sessions will be contiguous and conducted virtually over the first two (2) weeks of the eighteen (18) week schedule. The remaining eight (8) bargaining sessions will be scheduled with efforts towards scheduling the sessions non-contiguously. The eight (8) remaining bargaining sessions will be conducted face-to-face (unless the bargaining occurs during the Coronavirus Pandemic, in which case the bargaining will be conducted virtually) over the remaining sixteen (16) weeks of the eighteen (18) week schedule. Either party may invite the Federal Mediation and Conciliation Service to attend the final two (2) weeks of bargaining.

- Negotiations (Sections III.a. and III.b.)

Agency –

Face-to-face meetings may be attended virtually by bargaining team members. With cooperation and 7 days' notice from the attendee, the Agency will ensure virtual attendance logistics when negotiations are on Agency property.

Testing of the virtual system will occur on a mutually agreeable date at least 2 weeks in advance of the first virtual negotiation session with the various locations of the Union bargaining team. Those locations will be disclosed to the Agency ahead of that time.

Union -

Testing of the virtual system for virtual bargaining pursuant to Section II.a will occur on a mutually agreeable date at least 2 weeks in advance of the first virtual negotiation session with the various locations of the Union bargaining team. Those locations will be disclosed to the Agency ahead of that time.

The Parties have agreed (Section II) to virtual bargaining for the first 2-week bargaining session. The Parties have also agreed to conduct the remaining eight (8) bargaining sessions face-to-face. The Agency's proposed language provides for attendance at the face-to-face sessions by virtual attendance. The **Agency** argues that virtual attendance is a cost savings, which of course it is. However, the parties have already agreed that the 8 sessions will be face-to-face. The Agency's language seems to an attempt to change its commitment to face-to-face. While the Parties have committed to face-to-face sessions, the bargaining members should have the option to attend the face-to-face sessions virtually, if they need to. The Parties should support that option, but not requirement. The **Union's** language makes it clear that the Parties have committed to face-to-face, except for the first 2-week session. The Panel will order a modified proposal that provides the option for bargaining team members to join virtually, at their choosing. The Panel orders the Parties to adopt a modified provision:

Face-to-face meetings may be attended virtually at the option of the bargaining team members. With 7 days' notice from the attendee, the Agency will ensure virtual attendance logistics when negotiations are on Agency property.

Testing of the virtual system for virtual bargaining, pursuant to Section II.a or pursuant to the request of the bargaining team member, will occur on a mutually agreeable date at least 2 weeks in advance of the negotiation session with the bargaining team member. The bargaining team member's locations will be provided by the team member to the Agency ahead of that time to facilitate the testing.

- Bargaining Team Travel Costs (Section IV.a.)

Agency –

The Parties shall bear all travel costs for their respective team members for any Face-to-Face meetings reflected in the schedule above.

Union –

Generally, the parties will bear the costs of their own travel and per diem except that the Employer will pay for travel and per diem for two (2) bargaining unit employees selected by the Union to participate in all face-to-face negotiations, including negotiations following disapproval of the agreement on agency head review, mediation and any impasse procedure conducted pursuant to 5 USC § 7119 or other provisions of 5 USC § 7101, et seq. Such travel and per diem (which includes lodging, meals and incidentals) will be reimbursed in accordance with the Federal Travel Regulations.

The crux of the dispute is over the cost for travel and per diem for bargaining team members to attend bargaining sessions. The Agency proposes that each party bare the cost of their own bargaining team members. The **Agency** argues that such an arrangement constitutes a reasonable and efficient use of taxpayer funds. While the Agency will pay for its bargaining team members to travel into Washington, DC in order to participate in negotiations, they have proposed that the Union should pay for its own bargaining team members. The Agency even suggests that the Union could save money by engaging union leaders from Washington, DC as team members; however, the Union has already indicated that some of its members will be from the field facilities. The Union could also provide the option for its field members to participate virtually. The Agency also relies on Executive Order 13837 to support its position that it is prohibited² from providing reimbursement for this Union travel. And finally, the Agency cites a number of recent Panel decisions (17031 and 18017) where the Panel ordered that each party pay their own respective travel.

The Union proposes that the Agency pay for travel and per diem for two bargaining unit employees selected by the Union to participate in all face-to-face negotiations. The **Union** argues 1) it is within the interest of the United States that the Agency assist the Union in paying travel and per diem expenses for the purpose of term bargaining; 2) the Union has the proper financial incentive to reach an agreement with the Agency; and 3) the Union has made significant cost-saving concessions during bargaining to reduce the costs of term bargaining.

First, the Union argues that while the benefit of the Agency paying for the travel and per diem of the Union's bargaining members is not an entitlement, the FLRA has held that the benefit is an appropriate bargaining matter; not illegal. Therefore, the Union argues, Agencies are free to negotiate obligations to pay for these costs as long it is within the interest of the United States to do so. Further, the Union argues that because travel and per diem to participate in negotiations is an appropriate matter of bargaining, it is in the interest of the US. As such, the Agency should be directed to pay these expenses, as they have done in past negotiations. In sum, the Union argues that

² There is no case law to support that position.

because these expenses were in the US interest in the past, they continue to be and should be paid. The Union also argues that as Congress intends the parties to be equal at the bargaining table, the Agency should share the financial burden of bringing Union team members to the table.

Second, the Union argues that there remains a financial incentive to reach an agreement if the Agency pays for two for the Union's team members. The Union offers recent Panel cases (17031, 19001, and 18075) where the Panel ordered that the agency pay the travel and per diem of the Union team members. The Union distinguishes recent cases where the Agency was not ordered by the Panel to pay the expenses of the Union. In this case, the Union is seeking partial payment; assuming some of the costs themselves. It is the shared cost that incentivize the Union to reach agreement. Finally, the Union notes that they have made significant concessions throughout bargaining these ground rules in order to reduce costs.

The Union argues that the Agency should share their travel and per diem expenses because they have in the past and they are allowed to cover those expenses. However, the Union makes no argument or present evidence to demonstrate why they are unable to cover their own expenses, how the Union may be at a disadvantage if their expenses are not shared by the Agency, or how the sharing of expenses may help to expedient the closure of bargaining. As the Union didn't not provide justification or need for the benefit, the Panel orders that the Parties adopt the Agency's proposal:

The Parties shall bear all travel costs for their respective team members for any Face-to-Face meetings reflected in the bargaining schedule.

- Exchange of Proposals (Section IV.c, VII.a)

Agency -

IV.c Both parties will exchange all proposals at least one week prior to the beginning of negotiations. No additional articles will be opened except by mutual consent of the parties.

VII.a The parties will exchange written proposals in Word format indicating by tracked changes (or redline/strikeout) proposed changes, additions, and deletions to the language of the 2015 CBA at least seven (7) days prior to the beginning of negotiations.

Union –

IV. c. Both parties will exchange all proposals at least two weeks prior to the beginning of negotiations. No additional articles will be opened except by mutual consent of the parties.

VII.a. The parties will exchange written proposals in Word format indicating by tracked changes (or redline/strikeout) proposed changes, additions, and deletions to the language of the 2015 CBA at least fourteen (14) days prior to the beginning of negotiations.

The Agency has proposed that the parties exchange their proposals at least 1 week prior to bargaining begins, while the Union proposals that the exchange of proposals occur at least 2 weeks prior to bargaining begins. While the **Agency** argues that they are seeking to avoid delay in bargaining, they don't explain how the exchange time impacts what the parties will have already agreed to be the start of negotiations. The **Union** argues that requiring the parties to exchange proposals 2 weeks prior to bargaining will provide the parties sufficient time to review the proposals and be prepared to discuss those proposals when the parties come to the bargaining table for their first session; making for a more productive bargaining session. The Union's proposal offers longer time to review proposals and prepare for bargaining, while not extending the actual bargaining. Both Parties benefit. The Panel orders the Parties to adopt the Union's proposal:

IV.c. Both parties will exchange all proposals at least two weeks prior to the beginning of negotiations. No additional articles will be opened except by mutual consent of the parties.

VII.a. The parties will exchange written proposals in Word format indicating by tracked changes (or redline/strikeout) proposed changes, additions, and deletions to the language of the 2015 CBA at least fourteen (14) days prior to the beginning of negotiations.

- Official Time for Union Team Members (Section IV.h.)

Agency –

Members of the Union's negotiating team who are also bargaining unit employees will be authorized official time for negotiations pursuant to 5 U.S.C. § 7131(a) and existing agreements, including for attendance at mediation and impasse proceedings, during time the employee would otherwise be in duty status. Negotiation team members may spend caucus time during bargaining sessions (after the beginning of the negotiation session and prior to the conclusion of the negotiations session) on official time, consistent with § 7131(a), but time spent in such sessions will not otherwise alter or extend the bargaining schedule set forth in this agreement. To ensure team members are available for bargaining sessions, individual managers will consider reasonable requests for adjustments to employee work schedules. Official time will be recorded as "Term Negotiations." Each NTEU bargaining unit team member will be granted forty (40) hours of official time to prepare for term bargaining negotiations.

Union –

Each NTEU bargaining unit team member will be granted forty (40) hours of official time to prepare for term bargaining negotiations. Official time will be authorized for up to four (4) bargaining unit employees representing NTEU during each week of the negotiations and for travel to and from the negotiations during such time(s) as the employee would otherwise be in a duty status. Members of the Union's negotiating team who are also bargaining unit employees will be authorized official time for negotiations pursuant to 5 U.S.C. § 7131(a) and existing agreements, including for attendance at mediation and impasse proceedings, during time the employee would otherwise be in duty status. Official time will be recorded as "Term Negotiations." The Agency will ensure all Union bargaining team members are released for bargaining sessions. Negotiation team members may spend caucus time during bargaining sessions (after the beginning of the negotiation session and prior to the conclusion of the negotiations session) on official time, consistent with § 7131(a), but time spent in such sessions will not otherwise alter or extend the bargaining schedule set forth in this agreement.

There are two issues in dispute in this section: 1) Official Time for bargaining unit team members to travel to and from negotiations; and 2) release of bargaining unit team members to participate in the negotiations. The **Agency** rejects the Union's proposal to allow official time for Union representatives to travel to and from bargaining, arguing that the Union's proposal is contrary to the intentions of Executive Order 13837. The Executive Order prohibits reimbursement to employees for expenses incurred performing non-agency business. The Agency has argued that contract negotiations is non-agency business. The Agency offered no case law to support that position.

The **Union** argues that the Authority has long since held that the employee's right to official time to participate in negotiations also includes the right to official time for the travel to and from the negotiations. The Union argues that they are not waiving that permissive right through this bargaining. The Union cites 23 FLRA No. 100 (1986), a ULP case where the FLRA determined that the Agency violated the Statute when it refused to allow for official time to travel for negotiations. The history of the case involves the agency refusing to implement a Panel order to adopt the union's proposal in its national CBA that provided for official time for travel to negotiations. The Agency deemed the proposal ordered by the Panel to be non-negotiable. The Authority found the agency violated the Statute when it disallowed that provision on agency head review (i.e., it was not an illegal provision). During its denial of the Panel order, the agency, at the local level, refused to grant the union official time when two of its officials traveled for negotiations. The Authority determined that entitlement to official time by employee involved in representing the union included necessary travel time to and from negotiations that occurred during the employee's regular work hours. In other words,

under 7131 (a) of the Statute, participation in negotiations includes official time for travel to and from such negotiations.

The Agency has presented no authority for its position that they cannot provide for official time for travel to and from the negotiations. The Agency has presented no evidence that the Authority has changed its position that official time for travel to and from negotiations is permitted under 7131 (a) for the Statute. The Panel orders the Agency to grant official time to travel to and from negotiations.

The second outstanding issue in this section involves the release of bargaining team members to participate in negotiations. The **Agency's** proposal provides that reasonable requests to adjust work schedules will be granted to allow for participation in bargaining. The Union's proposal ensures that team members will be released. The **Union** reminds us that the CBA (Article 6, Section 5) provides for the release of representatives on official time. As the parties are unable to reach agreement on a different standard than is covered by the CBA, both parties are ordered withdraw their proposals regarding release on official time and follow the contract. The Panel orders the Parties to adopt the following language:

Each NTEU bargaining unit team member will be granted forty (40) hours of official time to prepare for term bargaining negotiations. Official time will also be authorized for up to four (4) bargaining unit employees representing NTEU for travel to and from face-to-face negotiations during such time(s) as the employee would otherwise be in a duty status. Members of the Union's negotiating team who are also bargaining unit employees will be authorized official time for negotiations pursuant to 5 U.S.C. § 7131(a) and existing agreements, including for attendance at mediation and impasse proceedings, during time the employee would otherwise be in duty status. Official time will be recorded as "Term Negotiations." Negotiation team members may spend caucus time during bargaining sessions (after the beginning of the negotiation session and prior to the conclusion of the negotiations session) on official time, consistent with § 7131(a), but time spent in such sessions will not otherwise alter or extend the bargaining schedule set forth in this agreement.

- Ratification (Sections VI a-d)

Agency -

a. The parties will sign the agreement within three (3) business days of agreement, notwithstanding those proposals pending a negotiability determination

b. If the Union elects to allow for ratification, it will inform the Agency of this within three (3) business days of the final signature between the parties.

c. Implementation will follow ratification by NTEU according to its bylaws and the approval of the agreement by EPA. Pursuant to NTEU's bylaws, the NTEU National President shall inform the Chapter Presidents when agreement has been reached on a Term Agreement. NTEU agrees that this will occur within three (3) business days from when the parties come to an agreement, notwithstanding those proposals pending a negotiability determination. The Chapters shall schedule a ratification vote within thirty (30) days after receipt of the notifications. NTEU will notify Management in writing of the results of the ratification vote no later than three (3) business days following the ratification vote. The date Management receives NTEU's written notice of ratification will begin the thirty (30) day period for Agency Head Review, pursuant to 5 U.S.C. 7114(c)(1), or when the time period for ratification has expired. Implementation will occur thirty (30) days following Agency Head Review.

d. If the Union fails to conduct a ratification vote or fails to notify the Agency it held a ratification vote (and the results), that lack of action will constitute an acceptance of the Agreement (absent any appeals filed prior to the ratification deadline).

Union –

Within five (5) workdays of the date that the text of the negotiated agreement is finalized, the NTEU National President shall inform the Chapter Presidents that when agreement has been reached on a Term Agreement. The Chapters shall schedule a ratification vote within thirty (30) days after receipt of the notification. NTEU will notify Management in writing of the results of the ratification vote no later than three (3) business days following the ratification vote. The date Management receives NTEU's written notice of ratification will begin the thirty (30) day period for Agency Head Review pursuant to 5 USC §7114 (c)(1). Implementation will occur thirty (30) calendar days following agency head approval of the agreement by EPA, or at another mutually agreeable time.

The Agency proposes time frames in an effort to keep the process moving forward through ratification, even if there are outstanding matters being challenged through negotiability challenges with the FLRA. The Panel declined to assert jurisdiction in this case over Agency proposals regarding clauses subject to negotiability appeals because they would allow the Agency to proceed to impasse over all language and articles that are not subject to negotiability appeal, obtain a Panel ruling on those matters, and ultimately implement only those proposals of the CBA that were tentatively agreed upon, leaving the negotiable proposals unresolved. The Panel advised the parties in its procedural determination letter in January 2020 that because neither party was able to offer case law where the FLRA has ruled that severing a negotiability-laced proposal from the rest of the bargaining and implementation is or is not a permissive subject, under Carswell, the Panel would have to refrain from addressing that proposal, allowing the parties to sort out the negotiability matter in a more appropriate forum. The Panel asserted jurisdiction over the rest of the provisions. The Panel's December 2019-

Procedural Determination should have been more clear. The Panel determined in its deliberations that it would decline jurisdiction on not only the severability of negotiations-laced proposals, but also the severability of ratification proposals and agency head review provisions. The Panel will refrain from ruling on these severability matters and withdraws its jurisdiction over these matters:

Va – d, VI.a., and VI.c.

The parties are otherwise in agreement over the procedure for moving the agreement through Ratification and Agency Head review. Therefore, the Panel orders the Parties to adopt the following:

The NTEU National President shall inform the Chapter Presidents when agreement has been reached on a Term Agreement. The Chapters shall schedule a ratification vote within thirty (30) days after receipt of the notification. NTEU will notify Management in writing of the results of the ratification vote no later than three (3) business days following the ratification vote. The date Management receives NTEU's written notice of ratification will begin the thirty (30) day period for Agency Head Review pursuant to 5 USC §7114 (c)(I). Implementation will occur thirty (30) calendar days following agency head approval of the agreement by EPA, or at another mutually agreeable time.

- Agency Head Review (Section VI.f)

Agency –

The head of the Agency shall approve the agreement within 30 days from the date the agreement is executed. In the event that any portion(s) of the articles are disapproved as a result of Agency Head Review, the entire agreement is disapproved. At that point, the Union or the Agency may elect to renegotiate the entire term contract or the portion(s) of the article that is disapproved. In the event that a discrete portion(s) of the article is (are) disapproved, the disapproved portion(s) may, by mutual agreement, be severed from the agreement and the approved portion of the agreement may, by mutual agreement, go into effect. The Agency will provide the Union with an explanation of why the agreement failed agency head review within seven (7) working days. Within fifteen (15) days of such notice, the parties will commence face-to-face negotiations for four (4) weeks. The parties may mutually agree to conduct such sessions contiguously. Such negotiations will be completed within sixty (60) days from the date the Agency provides the Union with an explanation of why the agreement failed agency head review. The parties will meet virtually or in person, and each party shall pay for its own travel. If after this four-session period the parties are unable to reach an agreement on any remaining issues, either party will request assistance from the FMCS. FMCS shall determine under what circumstances and in what manner it will provide service and assistance. Either party may request the assistance of the FSIP.

Union -

The head of the Agency shall approve the agreement within 30 days from the date the agreement is executed. In the event that any portion(s) of the articles are disapproved as a result of Agency Head Review, the entire agreement is disapproved. At that point, the Union or the Agency may elect to renegotiate the entire term contract or the portion(s) of the article that is disapproved. In the event that a discrete portion(s) of the article is (are) disapproved, the disapproved portion(s) may, by mutual agreement, be severed from the agreement and the approved portion of the agreement may, by mutual agreement, go into effect. The Agency will provide the Union with an explanation of why the agreement failed agency head review within seven (7) working days. Within fifteen (15) days of such notice, the parties will commence face-to-face negotiations for four (4) weeks. The parties may mutually agree to conduct such sessions contiguously. Such negotiations will be completed within sixty (60) days from the date the Agency provides the Union with an explanation of why the agreement failed agency head review. The parties will meet virtually or in person. If after this four-session period the parties are unable to reach an agreement on any remaining issues, either party will request assistance from the FMCS. FMCS shall determine under what circumstances and in what manner it will provide service and assistance. Either party may request the assistance of the FSIP.

The parties are in dispute as to who will pay the travel expenses for follow up bargaining, should parties reconvene to bargain face-to-face after disapproval on Agency Head Review. Similar to Section IV.a. The Panel orders the Parties to cover their own cost for travel to bargain. The Panel orders the Parties to adopt the Agency's proposal:

The head of the Agency shall approve the agreement within 30 days from the date the agreement is executed. In the event that any portion(s) of the articles are disapproved as a result of Agency Head Review, the entire agreement is disapproved. At that point, the Union or the Agency may elect to renegotiate the entire term contract or the portion(s) of the article that is disapproved. In the event that a discrete portion(s) of the article is (are) disapproved, the disapproved portion(s) may, by mutual agreement, be severed from the agreement and the approved portion of the agreement may, by mutual agreement, go into effect. The Agency will provide the Union with an explanation of why the agreement failed agency head review within seven (7) working days. Within fifteen (15) days of such notice, the parties will commence face-to-face negotiations for four (4) weeks. The parties may mutually agree to conduct such sessions contiguously. Such negotiations will be completed within sixty (60) days from the date the Agency provides the Union with an explanation of why the agreement failed agency head review. The parties will meet virtually or in person, and each party shall pay for its own travel. If after this four-session period the parties are unable to reach an agreement on any remaining issues, either party

will request assistance from the FMCS. FMCS shall determine under what circumstances and in what manner it will provide service and assistance. Either party may request the assistance of the FSIP.

ORDER

Pursuant to the authority vested in the Panel under 5 U.S.C. §7119, the Panel hereby orders the parties to adopt the provisions as stated above.



Mark A. Carter
FSIP Chairman

April 3, 2020
Washington, D.C.