

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

U.S. DEPARTMENT OF THE ARMY, ARMY
CONTRACTING COMMAND, ROCK ISLAND,
ILLINOIS

And

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 15, AFL-CIO

Case No. 20 FSIP 047

DECISION AND ORDER

This case, filed by the United States Department of the Army, Army Contracting Command, located in Rock Island, Illinois (Agency) under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, concerns one article in dispute in the parties' successor collective bargaining agreement (CBA) over merit promotions. The Agency's mission is to provide responsive, optimal contracting solutions supporting the Nation's Warfighters. In this respect, the Agency provides support of the acquisition requirements to diverse customers all over the world, including Army Commands, agencies, activities, joint task forces, foreign military sales customers, police, and other criminal justice customers.

The American Federation of Government Employees, Local 15, AFL-CIO (Union) represents 462 bargaining unit employees located at the Rock Island, Illinois Army Contracting Command. The bargaining unit mostly consists of contract specialists; procurement analysts; information technology specialists; budget analysts; and secretaries. The parties' current CBA went into effect in January 2012, for a three-year duration. Since that time, the agreement has been subject to one-year rollovers and remains in effect until the parties reach a new agreement.

BARGAINING AND PROCEDURAL HISTORY

On October 12, 2016, the Union provided the Agency notice of its intent to renegotiate the parties' CBA. The parties signed off on ground rules in September 2017, and decided to reopen 28 out of 36 articles in the current CBA. The parties initiated successor CBA negotiations in March 2018. The parties bargained on the following dates in 2018: March 26 and 28; April 1, 2, 12, 17, and 19; May 1, 3, 8, 10, 15, and 29; June 5, 7, 12, 14, 19, 21, and 26; July 26 and 31; August 2, 28, and 30; October 25; and November 1, 6, 13, 20, and 29. The parties bargained in 2019 on the following dates: February 5, 7, 19, 26, and 28; March 12, 14, 19, 21, 26, and 28; April 2, 4, 11, and 18; May 7, 9, 14, and 28; June 11, 13, and 18; August 1, 13, 15,

27, and 29; September 3, 5, 12, 17, 19, and 24; October 1, 8, 10, 15, 17, and 29; November 7, 12, 14, 19, and 21; and December 3, 10, 12, 17, and 19.

The parties reached agreement on 27 out of the 28 opened articles. The parties could not reach agreement over Article 17, Merit Promotion. The parties asked the Federal Mediation and Conciliation Service (FMCS) for assistance in resolving Article 17. FMCS Mediator John Weathers provided mediation assistance on January 14 and 21, and February 3 and 4, 2020. The parties reached agreement over several provisions within Article 17, but could not reach agreement over section 9, the candidate evaluation process used by management when filling a vacancy under the merit promotion procedures. Therefore, on March 9, 2020, Mediator Weathers released the parties from mediation. On May 4, 2020, the Agency filed a request for Panel assistance in the instant case.

On July 21, 2020, the Panel asserted jurisdiction over the Agency's request for assistance and ordered the parties to a Written Submissions procedure, with their statements of position due August 3, 2020, and their rebuttal statements due August 10, 2020. Both parties timely provided their statements of position. The Agency timely provided its rebuttal statement, while the Union did not provide its rebuttal statement until August 11. However, the Union advised the Panel that there was a power outage in the area that prevented the Union from sending its rebuttal via email. The Agency affirmed the Union's claim. The Panel will consider the document.

I. POSITIONS OF THE PARTIES

a. Agency's Position

The Agency explains that under the current merit promotion process, management conducts a job analysis and identifies the selection criteria it will use to evaluate candidates for a position. Candidate resumes are then reviewed and provided a numerical score, using the selection and evaluation criteria. After the resumes are scored, the process requires the selecting official to conduct interviews. If there are fewer than 10 candidates, all candidates must be interviewed. If there are more than 10 candidates, the top 10 candidates will be interviewed. If the Agency desires to fill more than one position by the vacancy announcement, the number of candidates interviewed will increase based on the number of positions available. Criteria scores may be either numeric or adjectival, so long as the same method is used throughout the process. The candidate with the highest interview score is expected to be selected. If there is a tie, then the resume scores are used to break the tie.

The Agency asserts that its proposal for Article 17, section 9 provides a process that is similar to what is currently used to evaluate employees for a promotion. Specifically, the Agency states that under its proposal, management will still conduct a job analysis to develop the selection and evaluation criteria and follow a predetermined process when evaluating candidates. The difference is that the Agency seeks to move from the current singular evaluation process required for every selection to developing evaluation plans specific for each vacancy announcement. This means that management will be able to determine which evaluation tools to use on a vacancy-by-vacancy basis. The Agency asserts that vacancy-specific evaluation plans allow management to develop the most efficient process, taking into consideration the type of

position that will be filled, the grade, the number of vacancies to be filled, and the Agency's need to reduce the amount of time it takes to fill a vacancy and to obtain the most qualified candidates.

Under the Agency's proposal, the crediting plans for each vacancy announcement will be prepared in advance and identify the specific evaluation tools to be used (e.g., resume review, interviews, and/or supervisory/performance feedback). At a minimum, the Agency states that resume reviews will be used as an evaluative tool; however, the Agency seeks to have the discretion as to whether to conduct interviews. The Agency also seeks to have the discretion to be able to use written supervisory input, performance evaluations, and references as evaluation tools that can be incorporated into the crediting plan. Finally, the Agency seeks to use an adjectival rating method where candidates are rated based upon proficiency levels, considering all of the candidate information obtained through the chosen evaluation tools. This differs from the current process where resumes and interviews are rated separately and numerically.

The Agency contends that maintaining the existing merit promotion evaluation system is not efficient, as there are 20 different job series with multiple different grade levels within those series that the Agency may need to fill at any given time. As a result, the Agency states that it needs flexibility to determine how to evaluate employees. The Agency asserts that this flexibility is reflected in its proposal with language that states it "may" interview candidates and it "may" consider supervisory comments, performance evaluations, and references. The Agency contends that flexibility is critical, yet it is not addressed in the Union's proposal.

The Agency asserts that the Union did not explain why it believes interviews should be mandatory, instead focusing on the adjectival rating method in its statement of position. The Agency states that an adjectival rating system is an important part of its proposal, but its main interest in its proposal is the ability to develop vacancy-specific evaluation plans in which management will identify whether or not interviews, supervisor comments, performance evaluations, and references will be used.

The Agency also states that the Union did not express any rationale for the inclusion that the panel members must be grades GS-13 to GS-15, which is a change from the current process. The current process, and the Agency's proposal indicates that the panel members must be at or above the grade level of the position that is being advertised. The Agency contends that it should not be restricted in who it wants to assign to the panel. For example, if the Agency is advertising a position, such as a GS-11 and the subject matter expert (SME) is a GS-11, the Agency argues that it should be permitted to have the SME on the panel.

i. Interviews

The Agency seeks to make interviews used to evaluate candidates for a promotion a discretionary part of the merit promotion process. For example, the Agency contends that management can anticipate based upon the position to be filled and the grade level of the position, whether the vacancy advertisement will receive a high volume of candidates. With some vacancies, the Agency contends that it does not want to be locked into interviewing candidates because the hiring process will become very lengthy and delay the Agency's ability to hire a candidate in a timely manner.

The Agency asserts that its interest to expeditiously select candidates is consistent with the Army's goals of reducing civilian hiring time. In this respect, the Agency states that a memorandum in 2019, from then Secretary of the Army and now the Secretary of Defense, Mark Esper stated that the "number one priority regarding Army Civilian employees is reducing civilian time-to-hire to below 60 days."¹ The Agency states that in 2017, it had a total of 29 merit promotion actions and the average number of days the Agency had the referral list prior to making a selection was approximately 76 days. The Agency contends that its delay in making a selection was due to the required interview process that impacted the total time it took to fill a position, which was approximately 184 days.² The Agency states that the average time to fill a position in 2020 has been approximately 105 days.³

ii. Numeric vs. Adjectival Ratings

The Agency seeks to use an adjectival scoring system to rate candidates for a promotion as opposed to a numerical rating system. With a numerical rating system, the Agency contends that each proficiency level has a point range associated with it (e.g., 0-25 is no experience; 26-50 is minimal; 51-70 is moderate; 71-85 is substantial; and 86-100 is extensive). The candidates experience and qualifications are then evaluated and assigned a numerical score. Each criterion used to evaluate the candidates is scored separately, then added up to determine a total score. It is expected that that the candidate with the highest score will be selected for the vacancy.

Under an adjectival rating system, the candidate is more broadly assigned an actual proficiency level rating (e.g., minimally, moderate, substantial, extensive), as opposed to a score. The Agency will use all information available to determine the overall rating for each candidate, e.g., resume, interview if conducted, and any supervisory input. In the end, the candidate with the highest proficiency level rating is expected to be selected. If the top candidates have the same adjectival ratings, the selecting official will need to articulate why the selectee was the best fit and how they aligned to the desired attributes specified in the crediting plant.

The Agency contends that assigning a numerical score to non-quantitative information can result in arbitrary differences between candidates. In this respect, the Agency states that there is no way to define the accuracy of a numerical score when candidates are describing a vast array of experiences. Conversely, the Agency states that an adjectival rating is a more meaningful and reliable way to identify a candidate's overall proficiency level. The Agency asserts that under this rating system, employees will not be dismissed from consideration due to a minimal point difference that would not exist using adjectival ratings. In addition, the Agency states that evaluating candidates by a description is more defensible as opposed to explaining why one candidate received a score of 73 and the other a score of 72, especially when the candidate's experiences are different.

The Agency argues that the Union's statement of position incorrectly states that an adjectival rating system does not rate candidates against evaluation criteria. The Agency asserts

¹ Agency Att. 4.

² Agency Att. 7.

³ Agency Att. 8.

that it never expressed such an approach, nor would it comply with law. The Agency contends that the adjectival rating system uses job evaluation criteria to rate candidates. The evaluation criteria are the desired attributes identified for the vacant position. Each adjectival rating level is defined by the degree of desired attributes or abilities identified in the evaluation plan. This is the same as under a numerical rating, but without the assignment of a number value to the criteria. The difference between the two is that the adjectival rating method assigns a single descriptive rating that considers all of the candidate's information as evaluated against the identified evaluation criteria, as opposed to rating the candidate in a multi-step process based on the different sources of evaluation information (e.g., resume, interview, supervisor input).

The Agency further asserts that the Union's argument that an adjectival rating system is subjective is without merit. In this respect, the Agency states that assigning a number value to non-quantifiable information is subjective. The Agency states that there are no objective criteria upon which to gauge what should be a 72, or what should be an 85. However, it states that adjectival ratings can be more objectively verified because the rating level is broader and not a discrete number. The Agency contends that this rating will not only benefit the Agency by ensuring that the most qualified candidates are selected, but also the employees. In this respect, the Agency asserts that that candidates with a significant amount of experience listed in their resumes will not be removed from consideration simply because they did not interview well. Instead, the candidates entire application package will be considered by the Agency.

iii. Supervisory Comments, Evaluations, and References

Finally, the Agency's proposal allows the selecting official to use written supervisory comments, performance evaluations, and reference information as optional evaluative tools within the crediting plan. The Agency believes that this information can be critical to identifying the best qualified candidate and it should be available to the selecting official for consideration. The Agency states that this information would not be separately rated under the Agency's proposal, but instead used to determine the overall proficiency rating for each candidate.

The Agency acknowledges that the Union's last best offer provides management with the option to use this information at its discretion, but requires management to assign a numeric value to it. Further, the Agency states that the Union's section (e) proposal removes the ability of management to use this tool to evaluate employees because it requires management to only use interview and resume scores to determine the best qualified candidate. The Agency states that its goal is to develop a meaningful rating system that incorporates all candidate information, as opposed to encapsulating information obtained from various evaluation methods.

b. Union's Position

The Union asserts that its proposal is intended to continue the promotion procedures in place with some clarification and modifications to the status quo language that is memorialized in the parties' current CBA. The Union states that the current Article 17, section 9 language specifies that either a numeric or adjectival rating may be used; however, the Agency has consistently used numeric ratings. Therefore, the Union proposes that the Agency will use a numeric score to evaluate the candidates for a merit promotion.

The Union contends that the parties have used the language in the section 9, which is also contained in the Union's proposal, to evaluate candidates for a merit promotion for the past 25 years. The Union states that this process has resulted in fair and open competition that is evident by there being only a small number of grievances and complaints over the thousands of selections made. The Union asserts that the language in its proposal affords management with the discretion and flexibility to make selections, while ensuring that the evaluation process is fair. Conversely, the Union argues that the Agency did not explain how continuing to use the current process would impair its ability in the selection process.

i. Numeric vs. Adjectival Ratings

The Union states that its objection to using the adjectival rating system for merit promotions is because it is subjective. The Union argues that this is not the best way to evaluate candidates. Instead, it states that under the current procedure, management may use a combination of the two scoring systems to evaluate candidates. For example, the crediting plan can detail the types of experience, qualifications, and training and certifications a candidate must have to achieve various scores. The scores can then be used to determine what proficiency level the candidates fall under in the crediting plan. The panel members can then evaluate the candidates using both scoring systems based on the information that they receive from the candidates.

The Union contends that a candidate's qualifications and experience may differ greatly from other candidates in terms of their experience and qualifications. The Union states that these differences do not get captured in an adjectival rating system using a descriptive label such as acceptable, good, or excellent. The Union asserts that an adjectival rating system will merely describe whether the applicants are within a range of experience rather than capturing the exact experience level as denoted by the numerical rating system. The Union states that the rating official should look at the candidates' resumes and interview responses and assign a numeric score to the candidate.

ii. Interviews

With respect to the interview process, the Union states that the Merit Systems Protection Board (MSPB) has found that interviews are significant to the hiring process.⁴ The Union states that under the Agency's proposal, there would be no interviews and little evaluation. The Union contends that this is not consistent with the MSPB hiring practices and 29 CFR Part 1607, Uniform Guidelines on Employee Selection Procedures.

The Union further states there have only been five vacancy announcements, resulting in 15 promotions in the last two years in which the Agency has used the merit promotion evaluation procedures. The Union contends that any additional strain on Agency resources as a result of using the current evaluation process is minimal based on the number of positions it has advertised. The Union argues that the Agency's evidence, which references a SME who

⁴ Union rebuttal, p. 3: *Evaluating Job Applicants: The Role of Training and Experience in Hiring*, U.S. Merit Systems Protection Board, p. 18 (2014).

discussed the merit promotion process during the parties' negotiations, does not explain whether there were 29 vacancy announcements in 2017, or just 29 employees promoted under one or two vacancy announcements. The Union argues that it is more likely that there were 29 promotions and not 29 separate vacancy announcements based off of the limited number vacancy announcements that the Agency filled in the last two years.

II. ANALYSIS AND CONCLUSION

The areas of disagreement between the parties' last best offers concern: 1) candidate interviews; 2) rating method; and 3) use of written supervisory input and/or comments, performance evaluations, and references. The Agency proposes that it have the discretion to determine whether to interview employees and use supervisory input and performance ratings and references to evaluate candidates for a merit promotion. The Agency also proposes that it use an adjectival rating system to evaluate candidates. The Union proposes that the Agency use interviews to evaluate candidates for a merit promotion, use a numerical score to rate and rank the candidates, and permit the use of supervisor input or the candidate's performance evaluation in the numeric form.

a. Interviews

The Panel will impose the Agency's proposal. The current merit promotion evaluation process, which the Union proposes to maintain, requires the Agency to conduct interviews of the highest scoring applicants based on their resumes. The Union argues that any burden on the Agency conducting interviews is minimal because there have only been five vacancy announcements, resulting in 15 promotions in the last two years. While there may have only been a handful of vacancy announcements in the last two years, the Agency may have to interview dozens of candidates depending on the number of applicants that apply for a position. This can result in significant delays to the Agency's ability to promote an employee.

The Agency demonstrated that under the current system it has resulted in a 184-day hiring process in 2017,⁵ and a 105-day hiring process in 2020, as a result of it being required to interview applicants.⁶ The Agency provided support for eliminating the interview requirement by referencing the Secretary of Defense's statement that his number one priority for civilian employees in 2019, was to reduce the hiring time to below 60 days.⁷ Based on the data provided by the Agency, the current hiring procedures will not allow the Agency to achieve that goal.

The Union argues that the Agency's proposal will result in no interviews; however, that statement is untrue, as the Agency's proposal permits it the ability to assess whether to conduct an interview based on the advertised position. There may be times when the Agency determines that interviewing candidates will be beneficial to the hiring process, in which case its proposal permits it that latitude. Conversely, the Agency may determine that, for example, based on the likely number of candidates it will receive for a position, that interviews are not advantageous to administering the hiring process in an effective and efficient manner. Ultimately, the Agency

⁵ Agency Att. 7.

⁶ Agency Art. 8.

⁷ Agency Art. 4.

should have the discretion to determine the best method to evaluate candidates for a promotion. This flexibility should reduce the amount of time required to hire candidates and help the Agency achieve the Secretary of Defense's goal.

Finally, the Union argues that the Agency's proposal is not consistent with MSPB hiring practices and 29 C.F.R. Part 1607, Uniform Guidelines on Employee Selection Procedures. First, the report published by MSPB that the Union cites to, *Evaluating Job Applicants: The Role of Training and Experience in Hiring*, indicates that interviews *may* be useful for predicting job performance.⁸ The Uniform Guidelines on Employee Selection procedures found in 29 C.F.R. Part 1607 also indicates that the use of interviews *may* be beneficial to determine the best qualified candidate for the position. However, nothing in the Guidelines, nor the MSPB report indicates that an agency must hold an interview in order to select an employee for a promotion. Further, as previously indicated, the Agency's proposal does not foreclose the possibility of interviewing candidates. Instead, it permits it the discretion to determine the best evaluation method to use during the hiring process. Thus, on balance, the Agency's proposal is the better approach and, therefore, the Panel will adopt it.

b. Numeric vs. Adjectival Ratings

The Panel will impose modifying language. The current rating process that it used to evaluate candidates for a promotion permits the Agency the ability to use a numeric or adjectival scoring system. The Agency proposes to eliminate the numeric scoring system from the merit promotion evaluation procedures, while the Union proposes to eliminate the adjectival scoring method. The Agency argues that using a numeric system can result in arbitrary differences between candidates, since there is not an exact way to define the numeric score of qualifying data, such as past experience or interview performance. The Union argues that the adjectival rating system is subjective and will not result in the Agency selecting the best candidate for the position. Neither party provided support for their arguments.

The Agency did not provide any data to support the notion that using an adjectival rating style has contributed to a large number of disputes between the parties over the Agency's selection procedures, or has resulted in the Agency selecting employees not suitable to the position. Conversely, the Union indicated that there have been very few grievances over the Agency's promotion procedures during the term of the parties' CBA. This may be due to the fact that the Agency, as the Union stated, has used the numeric rating system to predominately score applicants, or it might be due to the Agency using a combination of the two scoring systems. It is not clear from either party's position.

The Union, however, makes a convincing argument that it may be beneficial to use a numeric rating system in conjunction with an adjectival rating during the selection process. For example, it may be more conducive for management to assign a score to an employee resume, interview, or performance evaluation, compared to assigning a proficiency level, such as minimal or successful, which may not capture the exact level of experience of the employee. Or, management could assign a score to each proficiency level and the total scores can then be used

⁸ Union rebuttal, p. 3: *Evaluating Job Applicants: The Role of Training and Experience in Hiring*, U.S. Merit Systems Protection Board, p. 18 (2014).

to determine which candidate is selected. For example, the Agency may want to assign a candidate with no prior experience 0-25 points; minimal experience 26-50 points; moderate experience 51-70 points; substantial experience 71-85 points; and extensive experience 86-100 points. Further, under the Agency's section (d) proposal, it contemplates adding up the resume and interview scores (if any) to determine the total score of the application. Permitting the Agency the ability to assign a score to various evaluation criteria is consistent with its own proposal.

As a result of neither party demonstrating support for their proposal, the Panel will modify the Agency's section (b) and (c) language in bold below, which will permit the Agency sole discretion to use either the numeric or adjectival rating system when evaluating candidates for a position as follows:

- b. The panel will review the resumes of all applicants on the referral list and will identify the best qualified applicants based upon resume criteria, using an adjectival **or numeric** resume score. The Agency has sole discretion to determine which rating system to apply.
- c. The panel may interview the best qualified applicants using an adjectival **or numeric** interview score.


c. Supervisory Comments, Evaluations, and References

The Panel will adopt the Agency's proposal. Both parties agree that the Agency may use supervisory input, performance evaluations, and references during the selection process to evaluate candidates for a promotion. However, the Union's proposal only permits the use of such documentation if the Agency uses a numeric rating to assess the value of this information. Then in contradiction with its proposal, the Union's section (e) proposal does not permit management the ability to add the scores assigned to this information when calculating the employee's total application score, precluding the use of such information. The Agency's proposal will allow it the necessary discretion to determine whether to use this supplemental information during the evaluation process and how to rate the information when evaluating candidates.

Finally, the Union did not explain the proposed requirement that panel members must be at least a GS-13 grade level and why the Agency's proposal does not satisfy its concerns, which requires panel members to be at least the same grade as the position advertised. As a result, the Panel will require the parties to follow the Agency's proposal.

ORDER

Pursuant to the authority vested in the Federal Service Impasses 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

October 19, 2020
Washington, D.C.

ATTACHMENTS

- Parties' Proposals

Employer Proposal – Article 17 Merit Promotion:

a. Panel Members will be chosen by management based on the following:

- 1) Will be composed of at least three (3) members to include females and males;
- 2) Must be Federal employees, military or civilian serving at or above the level of the position being paneled for selection;
- 3) Must include at least one Subject Matter Expert (SME) for the position being paneled, and only one member from within the selecting officials immediate organization (e.g. if the directorate is the selecting official);
- 4) The approving official will not serve on the panel as he or she is accountable for the final selection.

b. The panel will review the resumes of all applicants on the referral list and will identify the best qualified applicants based upon resume criteria, using an adjectival resume score.

c. The panel may interview the best qualified applicants using an adjectival interview score.

d. Upon completion of the interview process, the selecting official / panel will add b and c above together to determine the total score. Management may include supervisory input / comments (which must be in writing and kept in the hiring packet), as well as performance evaluations and references into the selection process. It is from that final list the selecting official will select the candidates for promotion.

e. If selection is NOT made from the list of candidates provided by the panel, the Union may request the following: Request for Personnel Action (SF-52), vacancy announcement, complete referral list, selection statement, handwritten notes, crediting plan, and application material or other material identified in the applicant's qualifications and experience for the position in. Such requests shall be in writing and in accordance with 5 USC 7114(b)(4).

UNITED STATES
FEDERAL SERVICE IMPASSES PANEL

WASHINGTON D.C. 20424-0001

Re: U.S. Department of the Army,
Army Contracting Command
And
American Federation of Government
Employees, Local 15, AFL-CIO
Case No. 20 FSIP 047

The following represents the Union's (AFGE Local 15) Statement of Position for the proposal at issue Article 17 - Merit Promotion in the above captioned case. The Union's final offer is correctly stated in the Procedural Determination Letter for FSIP Case 20 FSIP 047 transmitted to the parties on July 27, 2020:

Union Proposal Article 17 – Merit Promotion

- a. Panel members will be chosen by management based on the following:
- 1) Will be composed of at least three (3) members to include, male and female, GS-13-GS-15;
 - 2) Must be Federal employees, Military or civilian serving at or above the level of the position being paneled for selection;
 - 3) Must include at least one Subject Matter Expert (SME) for the position being paneled, and only one member from within the selecting officials immediate organization (e.g. If the directorate is the selecting official);

- 4) The approving official will not serve on the panel as he or she is accountable for the final selection.
- b. The panel will review the resumes of all applicants on the referral list and will identify the best qualified applicants based upon the resume criteria using a **numerical** resume score.
- c. The panel **will** interview the best qualified applicants using a **numerical** interview score.
- d. The panel may use supervisory input (provided its documented and made part of the selection package), performance evaluations, and references may also be considered. In the event management decides to add a point value to a candidate's supervisory input request or the performance evaluation it should be in the **numeric** form.
- e. Upon completion of the interview process, the selecting official/panel will add b and c above to determine the total score. It is from this final list, the selecting official will select the candidates for promotion.
- f. If the selection is not made from the list of candidates provided by the panel, the Union may request the following; Request for Personnel Action (SF-52), vacancy announcement, complete referral list, selection statement, handwritten notes (taken by panel members), crediting plan, and application material or other material identified in the applicants qualifications and experience for the position. Such request shall be in writing and in accordance with 5 USC 7114(b)(4).

The Union's proposal is intended to continue the promotion procedures in place at this time although with some clarification or modification to the status quo language that is memorialized in the parties current Negotiated Agreement. The changes reflect more closely the agency's exclusive use of numerical ratings during evaluation of candidates for merit promotions. The current Negotiated Agreement Article 17, Merit Promotions, Section 9 Evaluating Candidates, shown below in relevant part, specifies that either a numeric or adjectival rating may be used, however the agency has consistently used numeric ratings.

Section 9. Evaluating Candidates. The selection process, excluding Delegated Examining Unit (DEU) and Army Careers With American (ACWA) and Expedited Hiring Authority (EHA) referral is as follows:

a. Prior to the referral being provided to either the panel or the selecting supervisor, the crediting plan including the resume and interview evaluation criteria and weighting scheme will be developed and approved by a level above the selecting supervisor;

b. The selecting official will submit the names of at least five (5) prospective panel members to a Human Resource supervisor who will designate three (3) panel members;

c. All panel members must be at least at the grade level of the selection. At least one (1) member will be a subject matter expert and at least one (1) member will be a female or minority; and

d. The scoring criteria for both the resume and interview will establish a range of scores for each level of identified proficiency.

e. Referral List: (1) Ten or Less Candidates: If there are ten (10) or fewer candidates on a referral list the selecting supervisor will receive the names and resumes of all the candidates from G1/HR. The selecting supervisor will review all resumes and interview all candidates using the approved interview criteria to make a selection. All reviews are conducted in the same manner to ensure consistency. The same set of questions will be used for each candidate. The selecting official will evaluate resume and interview responses and document their score.

Criteria scores may be numeric or adjectival as long as the same method is used throughout the selection to ensure consistency. Evaluation criteria will be based on competencies and capabilities required in the position being filled.

The agency did not provide the Union with a justification for changing the status quo language above to exclusive use of adjectival ratings. Over the life of the Agreement and during

negotiations the agency did not articulate how or why the use of adjectival ratings would improve quality of the candidates being selected or how numerical ratings impair the selection process. The plain language in the Union's proposal documents the procedures the parties have used in some form or fashion for the past 25 years. This procedure is used in competitive promotion actions within the bargaining unit. The use of this defined process has to a great extent assured a fair and open competition. In the 25 years the parties have used these procedures there have only been a small number of grievances and complaints regarding any of the thousands of selections made using these procedures.

The Union submitted its proposal during negotiations to reflect how the selection and evaluation procedures have been used during the life of the Agreement. The procedures used by the agency to evaluate candidates included numerical scoring of the resumes and interviews. This procedure has been used for approximately 25 years. The plain language lays out the process and affords management with consideration and flexibility to make selections. It also gives some assurance that employees competing for promotions will understand and have confidence in the process. An excerpt from a crediting plan that was recently used by the Agency is shown below. This example illustrates the explanation the Union has given and provided in this Statement of Position. The full crediting plan is attached and identified as enclosure 1.

4. Evaluation Plan:

4.1 Overall Process:

4.1.1 This selection process supports a bargaining unit position, and is therefore subject to the provisions of Article 17 – “Merit Promotion” of the Negotiated Agreement between the ACC-RI and Local 15 of the American Federation of Government Employees.

4.1.2 Numerical scoring will be used in the resume and interview process defined below.

4.1.3 A resume review will be conducted by the Resume Review Panelists listed above IAW Article 17, utilizing the criteria and scoring definitions contained herein. Each of the three panel members will independently score each resume from 0-100 points. The Resume Panel Chairperson will collect each panel member's scoring of each candidate, confirm the total scoring for each candidate, and calculate the cumulative score of each candidate by adding together each panel member's total score. The total possible resume points available to be assigned to an individual candidate is 300. The Resume Panel Chairperson, IAW Article 17 and after determination of the appropriate number of candidates to refer, will provide the Selecting Supervisor an alphabetized listing and the resumes of the highest scored candidates. The Selecting Supervisor will not be provided the scoring results of any candidate.

4.1.4 The Selecting Supervisor will conduct an evaluation of the candidates, to include reviewing the resumes of the candidates and conducting interviews IAW the criteria contained within this plan, with the candidates referred by the Resume Review Panel Chairperson. The Selecting Supervisor will assign a numerical rating of the candidate's response to each interview question. The Selecting Supervisor will then sum the numerical score for each question. A candidate is required to score 71 points or above in the interview in order to be considered for selection.

4.1.5 The Selecting Supervisor will finalize their tentative selection decision(s) in a Selection Decision Statement documenting the rationale for the selection(s) and will forward the Selection Decision Statement to the Approving Official for review and approval.

The procedure allows the agency flexibility in determining the criteria to be used and provides for a fair evaluation of the candidates. The existing Agreement permits either a numerical or

adjectival rating of the criteria however the agency has used the numerical rating almost exclusively.

The Union's objection to using the adjectival rating for merit promotion involves several issues. Merit Promotion is the system by which entrance and advancement in the civil service is based on merit and fitness to be determined by competitive examinations and other objective criteria. The adjectival rating is subjective and does not require an evaluation. The rater just must read or listen then record which label they may decide to affix to a particular candidate's resume or interview response. They are not required to evaluate the candidates based on a comparison with the crediting plan.

The adjectival rating scheme uses descriptive ratings such as Excellent, Good, and Acceptable to describe a candidate. A numeric score is not assigned. The attached crediting plan shows a combination of the adjectival and numerical scoring currently used. The criteria listed in the crediting plan detail what types of experience, qualifications, and training/certifications a candidate must have to achieve the various scores. It allows the Agency panel members to independently rate two or more candidates at the Superior Level with points between 76-100. The use of an adjectival rating does not and would lead to many complaints. The following excerpt from the attached evaluation plan illustrates the Union's point:

4.2.2 Resume Panel Member Scoring Definitions:

- ***Superior Level: 76-100 Points Possible: Demonstrates, to an EXTENSIVE degree, the desired acquisition experience identified above.***
- ***Highly Acceptable Level: 51- 75 Points Possible: Demonstrates, to a SUBSTANTIAL degree, the desired acquisition experience identified above.***

• *Acceptable Level: 26-50 Points Possible: Demonstrates, to a MODERATE degree, the desired acquisition experience identified above.*

• *Minimally Acceptable: 0-25 Points Possible: Demonstrates, to a MINIMAL degree, the desired acquisition experience identified above.*

A candidate's qualifications and experience may differ vastly from others in terms of the types of experience and qualifications he or she has. This does not get captured in an adjectival rating using a descriptive label such as Excellent, Good or Acceptable. Then assignment of a numerical score distinguishes one candidate over another. The rater should be looking at the candidates' resumes or interview responses and scoring them based on criteria detailed in a crediting plan. The rater should evaluate the resume and interview responses and assign a numeric score to the metric detailed in the crediting plan. This crediting plan gives the rater a guide to follow as he or she rates the resume or interview responses.

Resume Review Scoring Considerations: Resume scoring consideration includes but is not limited to the following:

• *Candidate's experience successfully preparing acquisition strategy documents, acquisition plans, drafting multiple J&As;*

• *Exhibits experience in preparing solicitations and award documentation – demonstrating an understanding of various types of contracts and a spectrum of solicitation and contract formation experience;*

• *Preparing protest response positions;*

• *Experience addressing multiple contract administration issues that required analysis, research, and recommendation development by the candidate, such as contract delivery or*

performance challenges, management of engineering change proposals, oversight of contractor business systems, negotiation of cost or price changes, or analysis of cost vouchers or cost allow ability issues;

- *Candidate's experience building integrated and responsive working relationships with his/her customer base and stakeholders;*

- *Candidate's experience working with and leading a diverse group of people in a team environment and the business acumen to develop sound business based strategies or recommendations. The candidate's experience includes specific discussion of the results obtained with associated benefit of those results.*

- *Candidate's formal business related training (including that completed for his/her current level of certification) will be considered as part of their experience base. 4 Note: A resume should contain specific and not merely overarching general statements of experience or familiarity with a subject that fail to convey the experience gained, the learning obtained, or the accomplishments achieved specifically by the candidate.*

It is fair and requires the rater to evaluate the answers or the resume rather than just putting a label on them.

The agency does not want to have crediting plans that would effectively evaluate the candidates against a defined set of criteria. The agency does not want to assign a numeric score for the criteria used in a crediting plan and that is problematic. Employees have been satisfied with the current practice of numeric scoring of resumes and interviews to determine the best candidates and the eventual selectee.

Adjectival ratings are not accepted by themselves even for selection of contractors for government work. The GAO requires that the Government contracting agencies use an evaluation procedure and have sided with contractors in some appeals. GAO has said "For many years, GAO has held that adjectival ratings "are merely guides for intelligent decision-making in the procurement process." But the ultimate evaluation "should be based upon a qualitative assessment of proposals consistent with the solicitation's scheme." In addition, the number of strengths "assigned to proposals are not dispositive metrics for an agency to express a proposal's merit." See [Cyberdata Technologies, Inc., B-417084 \(Feb. 6, 2019\)](#). The Union has said the same here and it appears that managements concern with numeric scoring is that there have been a few grievances over the years. The relatively few grievances should not outweigh employees getting a fair review of their qualification and experience when seeking a promotion.

The Union asserts that the adjectival rating scheme is mainly used for comparing contractor bids in the government contracting realm to determine if their proposals meet the basic requirements of the government's need. It is not a good selection tool according to Government Accounting Office (GAO), it should be backed up by a scored qualitative review. In merit promotion it is best that an applicant understands how the scoring and selection was done so that questions are not left unresolved and the appearance of favoritism does not shroud the action. The employer's proposal would do just that. The employer proposes that no specific criteria would be used and that scores be in adjectival form. This does little to further confidence in the merit promotion process and leads to morale and dissatisfaction problems within the workforce.

If adjectival ratings are used in the merit promotion process it would merely describe whether any applicant or group of applicants are within a range of experience. The employer's proposal would not resolve the issue of who should be selected based on merit factors detailed in the crediting plan (see attached crediting plan). The numeric value assigned to an applicant's resume and interview answers require and are deserving of a fair process. The numeric scoring has worked and resulted in selection of a candidate or candidates who rise to the top with the highest scores.

“Signed”
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AFGE Local 15, ACC-RI