

MEMORANDUM FOR: Mark Zaltman, Human resource Specialist, Employee and Labor Relations Supervisor, OCHCO

FROM: Perry Casper, Chief Steward, AFGE HUD Council of Locals #222

SUBJECT: Invocation of Arbitration for Council Parties Grievance on MFRT First Consideration

Council #222 is in receipt of the Departmental Response dated October 27, 2014 to the Council Grievance on Multifamily Reorganization affected employees failure to receive First Consideration in Merit Staffed positions.

Following up on our conversation of October 29, 2014 AFGE HUD Council of Locals #222 is presenting this written notification to invoke arbitration on the Multifamily Reorganization Grievance regarding First Consideration of affected Multifamily employees in Merit Staffing of positions.

It is the Unions understanding that a standing panel of (three) arbitrators is to be used. The Council will be happy to join in a meeting to call and assign the next arbitrator to this arbitration along with requesting dates of availability for all parties.

Please let me, Perry Casper, Chief Steward for Council #222 know at 971-222-2628 or via e-mail. You may also copy or contact Council #222 President Holly Salamido and Vice- president Sal Viola regarding any actions to be taken and any questions or concerns regarding this action.

Attached with this notice is a short response to the Departments Grievance Response that notes some of the reason(s) for the Council continuing this issue to arbitration.

cc:

Holly Salamido, President AFGE HUD Council #222
Sal Viola, Vice-President, AFGE HUD Council #222
Michael Anderson, Chief Human Capital Officer
Jackie Mercer-Hollie, OCHCO

AFGE HUD Council #222
Comments Regarding
Invoking Arbitration
MFRT First Consideration

There are a number of reasons the AFGE HUD Council is seeking to pursue this complaint. Much of the problem is a belief that there is a clear misunderstanding on the part of the Department to the requirement for First Consideration. FLRA Case law equates the term first consideration to the same meaning as priority consideration. Changing the words to first is not something that changes the meaning. This is repeated in many cases as that thought process is carried forward. HUD's own Departmental Policy on Merit Staffing makes it clear that consideration is a process to be conducted before a best qualified list is created not after. At most HUD on occasion considered affected multifamily employees only after they were first considered to be best qualified candidates. None of this process of merit staffing is addressed or considered in the Departmental response.

As HUD notes in the response, the instructions for this Supplemental First Consideration process was slow on being developed. Most importantly it was not presented and trained to merit staffing personnel. To claim its use, when it was not in many cases even known to exist, makes it hard to fathom that the mere creation of a notice actually created a fair consideration process.

While consideration is just that, consideration, not selection, the likelihood of selection based on the negotiated process should have demonstrated an advantage to affected multifamily employees. In the use of this process no such affect occurred. It may be argued that many program areas rebelled against a negotiated process that was not explained and no instruction to HUD in general was provided by upper management to use and make this process effective. HUD basically, created a situation where any good faith negotiations were negated by the implementation of the process to make it all but worthless in reality. Upper management of HUD failed to be actively involved in making this Reorganization have a real and workable solution for employees. Shame on HUD but shame on the union for the misplaced trust. This was a single program area that had no buy-in from the Department in general to make the negotiated processes work.

The department confuses Merit Staffing with other processes associated with reassignments. All parties involved with the merit process have only merit processes to consider. A job opening at a higher grade that is being merit staffed does not preclude employees from applying under the merit staffing process. Since this first consideration was tied to merit staffing of jobs the consideration should have been applied in all merit staffing situations. The response only proves the point that HUD has refused to use the consideration in all merit staffing situations. The Union will also be presenting evidence that management representatives actually claimed to apply first consideration only to reassignments.

The Council finds it hard to believe that the Department would claim to investigate itself with regards to violations of merit staffing once this issue was brought to your attention. That investigative information will be interesting but other than indication of an investigation no findings were listed.

In general, the list of names was not required to be listed since HUD has access to all names of all individuals who applied under merit staffing processes. Any investigation should include the Department listing all applicants, separating out all affected multifamily applicants, and determining which were given consideration. Making sure to be considered with which affect Multifamily employees were given consideration at all, which were given consideration only after a selecting official had a complete best qualified list in front of them, and which employees received no consideration. The reason for no consideration would not matter at this point.

The Council will look forward to a third party interpretation to correct this situation and remedy the violations. I can only imagine the damage to an affected HUD employee that was not considered and was forced to relocate.