



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

OCT 27 2014

MEMORANDUM FOR: Perry H. Casper, Chief Steward, AFGE Council 222
FROM: *Karen Newton Cole*
Karen Newton Cole, Deputy Chief Human Capital Officer, A
SUBJECT: Grievance of the Parties Concerning First Consideration

This responds to the Grievance of the Parties dated September 4, 2014. On September 29, 2014, you and Mark Zaltman, Employee and Labor Relations Branch Chief, Branch 1, met by telephone to discuss the grievance. During that discussion, you and Mr. Zaltman agreed that the official date of filing of the grievance was September 14, 2014. On October 15, 2014, at Mr. Zaltman's request in your absence, Holly Salamido, President, AFGE Council of HUD Locals 222, agreed to extend the time frame for the Department to respond to the grievance until October 24, 2014.

The grievance alleges the misapplication of the process of First Consideration in the merit staffing process as agreed to in number 37 of Supplement 135 to the current HUD/AFGE Agreement. This supplement concerns the ongoing Multifamily Reorganization/Transformation. Although the grievance lists numerous allegations of violations of the First Consideration provision, the grievance does not specify the merit staffing actions in which First Consideration allegedly was not applied appropriately, the names of alleged disadvantaged employees and the names of alleged offending management officials. However, the Department has conducted its own investigation of the Union's allegations.

From the allegations which the Union made in the grievance, the Department identified two issues which merited being addressed.

1. First Consideration was not applied to internal merit staffing actions.
2. First Consideration was applied in a manner that would not allow the recipient of First Consideration to be considered for a promotion to a higher grade than the recipient already held.

Regarding No. 1, beginning on June 26, 2014, First Consideration was applied to all merit staffing actions in commuting areas in which Multifamily employees held positions which were subject to relocation or elimination resulting from the Multifamily Reorganization/Transformation. The Department issued instructions to selecting officials for vacancies in program areas outside of Multifamily Housing. These instructions required the selecting officials to consider the adversely affected Multifamily employees first before considering the candidates on the regular merit promotion list. It should be noted that this process does not guarantee the selection of an employee eligible for First Consideration. It only

guarantees that the employee will be considered first. The Department reserves the discretion to select or not to select an employee eligible for First Consideration for appropriate reasons.

However, from the time of the signing of Supplement 135, February 13, 2014, through June 25, 2014, the Department did not have procedures in place for providing First Consideration for eligible employees. Those Multifamily employees who were eligible for First Consideration and who applied for appropriate vacancies during this period were adversely affected. They are entitled to a remedy.

Regarding No. 2, First Consideration only applies to a reassignment to a position at the same grade which the employee already holds. The purpose of First Consideration is to provide a Multifamily employee who is being relocated with the potential opportunity to remain in their current office in a different program area. It was never intended to provide an advantage over other employees in competition for a position at a higher grade level. It should be noted that number 37 of Supplement 135 appears in the supplement under the heading entitled "Reassignment." There is no mention of an advantage in promotion procedures for Multifamily employees in number 37 nor in any other provision of Supplement 135. When applying for promotion under the merit staffing procedures, Multifamily employees are subject to the same competitive placement rules as are all other employees.

In conclusion, the Department has found merit in this grievance as First Consideration was not appropriately applied for vacancies which occurred from February 13, 2014, through June 25, 2014. When merit staffing procedures are not appropriately applied, the appropriate remedy is the granting of a Priority Consideration to those employees who were adversely affected. This relief is granted.

If the Union is not satisfied with this decision, the Union may refer this grievance to arbitration in accordance with the procedures set forth in Article 23 of the current HUD/AFGE Agreement. Such referral must be made within 20 days of this decision. If the Union refers this grievance to arbitration, please notify Mark Zaltman at 312-913-8557 or by email at mark.zaltman@hud.gov.

cc:

Holly Salamido

Mark Zaltman