



Ashaki Robinson, PhD
President

American Federation of Government Employees
National Council of HUD Locals 222

Affiliated with AFL-CIO

451 7th Street, SW, Suite 3240
Washington, DC 20410

Phone: (202)-674-7787
E-mail: prezrob476@gmail.com

VIA ELECTRONIC MAIL

September 10, 2026

MEMORANDUM FOR: Daniel Raymond, Branch Chief
Employee and Labor Relations

FROM: Ashaki Robinson, PhD /s/
President
AFGE Council of HUD Locals 222

SUBJECT: Council 222 Objection to Application of Performance
Management Changes to FY2026

Council 222 objects to the Department's stated intention to apply portions of its revised performance management system to the FY2026 appraisal year.

This issue is separate from the Council's objection that the September 1 Article 49 notice is deficient. Even if HUD corrects the deficiencies in its Article 49 notice, there remains a separate question as to whether HUD has the authority to apply these changes to FY2026 at all.

According to the September 1 notice, HUD intends to apply three changes to FY2026:

1. Standardized distribution of ratings;
2. Revised Reviewing Official procedures; and
3. Conclusion of Ratings of Record from the negotiated grievance procedure.

FY2026 is already nearly complete. Employees have spent this appraisal year performing under the performance management system, performance plans, procedures, and negotiated provisions already in place.

The September 1 notice does not identify any provision of revised 5 C.F.R. Part 430 that requires HUD to apply these three changes to FY2026.

That distinction matters.

If Part 430 requires HUD to make a particular change during FY2026, HUD needs to identify the specific requirement and explain why that requirement displaces the existing negotiated provisions of the CBA.

If Part 430 does not require the change and HUD is instead choosing to make it as part of its revised Performance Management Policy, that presents a different issue. HUD cannot simply use a new agency policy to replace matters already covered by the Parties' existing Agreement.

Standardized Rating Distribution

HUD states that standardized rating distribution will apply to FY2026 ratings.

The Council has not been provided anything establishing that Part 430 requires HUD to impose a new rating distribution on FY2026 employees at the end of an appraisal year they have already performed under the existing system.

Nor has HUD adequately identified what distribution it intends to apply, at what organizational or aggregate level it will be applied, or how it will affect FY2026 ratings.

Employees should not spend an appraisal year performing under one established framework only to have a new rating methodology imposed at the end of that year unless HUD can establish the authority requiring that result.

Council 222 objects to application of a new standardized rating distribution to FY2026 unless HUD identifies the specific authority requiring its application to FY2026 and establishes how that requirement applies notwithstanding the existing CBA.

Reviewing Official Procedures

The same concern exists with the proposed changes to Reviewing Official procedures.

The existing CBA addresses the performance appraisal process and the procedures applicable to bargaining-unit employees. HUD has not identified a provision of Part 430 requiring the Department to replace the negotiated Reviewing Official procedures for FY2026.

A regulatory change that permits HUD to structure a process differently is not the same as a regulatory requirement that HUD change an existing negotiated procedure.

If HUD contends otherwise, it needs to identify the specific regulatory requirement.

Until then, the Council's position is that the existing negotiated procedures continue to govern FY2026.

Negotiated Grievance Procedure

The Council also objects to HUD's stated intention to exclude FY2026 Ratings of Record from the negotiated grievance procedure.

This issue is particularly significant because the revised regulation itself addresses existing collective bargaining agreements.

Section 430.208(k) limits the use of negotiated grievance procedures to challenge Ratings of Record, but expressly makes that limitation subject to 5 U.S.C. § 7116(a)(7).

The Council's negotiated grievance procedure existed before this regulatory change. HUD's September 1 notice does not explain how the new regulation permits HUD to remove an existing negotiated grievance right from the current CBA during its term, much less apply that change to FY2026 ratings.

The Council therefore does not agree that the Department may simply delete or disregard the existing negotiated grievance provision for FY2026 based on the revised regulation.

If HUD contends that the existing CBA provision is no longer enforceable, HUD needs to identify the specific legal basis for that position and explain how it has accounted for the regulation's express reference to 5 U.S.C. § 7116(a)(7).

The Existing CBA Still Matters

The Department's September 1 notice appears to treat the issuance of revised Part 430 regulations and HUD's adoption of a new Performance Management Policy as though those events automatically reopen existing negotiated provisions.

The Council does not agree.

The parties already negotiated performance management, awards, WGIs, and grievance procedures in the existing CBA. Those matters do not become open for renegotiation simply because HUD would now prefer to administer them differently.

Where a matter is already covered by the Agreement, the existing negotiated language continues to govern unless controlling law or Government-wide regulation requires otherwise or the parties mutually agree to modify the Agreement.

If HUD believes a particular CBA provision has been invalidated by the revised regulation, HUD must identify the provision and the authority that produces that result. A HUD policy decision is not the same thing as a legal requirement.

FY2026 Was Already Conducted Under the Existing System

There is also a basic problem with changing the rules at the end of the appraisal year.

Part 430 treats performance management as a process that occurs throughout an appraisal period. Performance plans are established, employees perform under those plans, performance is monitored, and employees are ultimately rated on their actual performance during the designated appraisal period.

FY2026 employees have already performed virtually the entire appraisal period under the existing framework.

The Council has not identified anything in revised Part 430 requiring HUD to take discretionary features of a new performance management system and apply them at the end of an appraisal year already conducted under the existing negotiated system.

If HUD contends that the regulation requires otherwise, the Department needs to identify where.

Council's Position

Council 222 objects to implementation of the identified FY2026 changes unless and until HUD establishes that they are required to be applied to FY2026 notwithstanding the existing CBA.

Specifically, HUD should identify:

1. The provision of law or Government-wide regulation that requires each proposed FY2026 change;
2. Whether HUD considers each change mandatory or a matter of agency discretion;
3. The existing CBA provision, if any, that HUD contends can no longer remain in effect;
4. The authority for that conclusion;
5. The specific authority requiring standardized rating distribution to be applied to FY2026;
6. The authority requiring revised Reviewing Official procedures to be applied to FY2026; and
7. The basis for HUD's position that FY2026 Ratings of Record may be removed from the negotiated grievance procedure despite the language of 5 C.F.R. § 430.208(k) and 5 U.S.C. § 7116(a)(7).

Until HUD provides that information and establishes its authority to make these changes, Council 222 does not agree that the Department may apply them to FY2026.

Nothing in this objection prevents Council 222 from fulfilling its bargaining obligations concerning changes that are properly subject to bargaining. Likewise, the Council's submission of a demand to bargain or preliminary proposals concerning other portions of the September 1 notice does not constitute agreement that these FY2026 changes are permissible, does not waive the Council's covered-by position, does not consent to reopen the existing CBA, and does not waive any grievance or other contractual or statutory remedy.

The Council is addressing this now because FY2026 is ending and these issues need to be resolved before HUD applies a new process to employees' FY2026 ratings.

Please provide the Department's response before implementing any of the identified FY2026 changes.