



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C., 20410

Office of the Chief Human Capital Officer
Employee and Labor Relation Division

September 14, 2026

TO: Dr. Ashaki Robinson, President, AFGE Council 222

FROM: Dan Raymond, Director, Employee & Labor Relations Division

DANIEL
RAYMOND
Digitally signed by
DANIEL RAYMOND
Date: 2026.09.14
08:36:51 -0700

SUBJECT: Response to Allegation of Article 49 Deficiency

Management acknowledges receipt of the Council's September 10, 2026, memorandum concerning the Department's September 1, 2026, Article 49 notice regarding proposed changes to Articles 30, 31, 32, and 51 of the Collective Bargaining Agreement.

As an initial matter, Management has attached and is providing the Council with the existing link to the current HUD Performance Management Policy referenced in the September 1 notice:

[\[https://www.hud.gov/sites/documents/4301chch.pdf\]](https://www.hud.gov/sites/documents/4301chch.pdf)

Management notes that the current Performance Management Policy has also been continuously available to Council 222 representatives through HUD@work. Accordingly, the current policy has not been unavailable to the Council or its representatives. Nevertheless, the Department is providing the document and link directly in response to the Council's September 10th memorandum to ensure that the Council has direct access to the policy as it reviews the proposed changes.

Providing the handbook and link at this time does not constitute an agreement with the Council's characterization of the September 1st notice as deficient or an admission that the September 1st notice was insufficient under Article 49.

The September 1st notice identifies the specific provisions of Articles 30, 31, 32, and 51 that the Department proposes to modify, describes the nature and purpose of the proposed changes, identifies the relationship of the changes to revised 5 C.F.R. Part 430 and HUD's revised Performance Management Policy, and identifies the applicable implementation framework and timing. The proposed supplements and Performance Management Policy provide additional detail concerning the proposed performance management framework.

Management recognizes that the Council may have questions or differing views concerning the legal basis for particular changes, the extent to which a particular change

is required by Government-wide regulation, and whether particular provisions of the existing Agreement are affected by applicable law or regulation. Those issues, including the Council's position concerning the scope of any bargaining obligation, may be addressed through the Article 49 process. Management does not agree that Article 49 requires the Department to provide a separate, provision-by-provision legal analysis of each proposed change as a prerequisite to the Council determining what proposals or positions it wishes to advance through bargaining. The Department has provided notice of the proposed changes and the basis for the revised performance management framework. The Council may identify the specific provisions or changes it believes are subject to bargaining and present its proposals and supporting positions in accordance with Article 49.

With respect to the Council's concerns regarding standardized rating distribution, the revised Reviewing Official process, the revised performance-rating framework, the ODAP process, and the other proposed changes, Management has identified these matters in the September 1st notice and accompanying proposed supplements. Management will consider any timely Union proposals or requests for appropriate arrangements concerning those changes consistent with Article 49 and applicable law.

Management also notes the Council's stated position that it will timely submit any demand to bargain and preliminary proposals it believes are appropriate. Management will review and respond to any such proposals consistent with its obligations under the Agreement and applicable law. Management does not agree with the Council's assertion that the existing Agreement may be treated as categorically controlling over the proposed changes simply because the subject matter is addressed somewhere in the Agreement. Management reserves its position regarding the application of the covered-by doctrine, the negotiability of particular proposals, the existence and scope of any bargaining obligation, and the effect of applicable law and Government-wide regulation on existing contractual provisions.

Nothing in this response should be construed as an admission concerning the negotiability of any particular proposal, the existence or scope of any bargaining obligation, whether any provision of the existing Agreement is inconsistent with or superseded by applicable law or Government-wide regulation, or whether any particular matter is covered by the Agreement. Management expressly reserves all rights and positions in those respects.

Management expects the parties to proceed under the Article 49 process and will address timely Union proposals and positions as they are presented.