



AFGE Council 222
10/20/2006 08:53 AM

To:
cc:
Subject: E:ALERT - UNION WINS ARBITRATION ON LATE AWARDS!



(<http://afgecouncil222.com>)

October 20, 2006

E:Alert - Union Wins Arbitration On Late Awards !

On October 18, 2006, Arbitrator Roger Kaplan ruled in favor of the Union in a national arbitration over HUD's continued failure to timely pay performance awards (Awards). The arbitrator ordered Management to: pay interest for all untimely Awards made in 2003, 2004 and 2005; pay attorney fees; and bear the cost of arbitration. Management has 30 days to appeal the decision to the FLRA. They have not advised us of their intentions in this regard.

AFGE Council 222 filed the national Grievance of the Parties in July 2005. The Grievance alleged that the Awards were late for 2005, and had been similarly late in previous years in violation of the HUD/AFGE Agreement at Article 11.

Management agreed that Awards were paid late. But they argued that the failure to pay Awards timely does not violate the Back Pay Act; therefore HUD has no obligation to pay interest or attorney fees.

The arbitrator found that a violation of the HUD/AFGE Agreement "constitutes an unjustified or unwarranted personnel action under" the Back Pay Act. He also found that the Back Pay Act requires that interest be paid: interest "shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made" (quoting the Back Pay Act).

Although the award of interest may be very small per employee, the cost to the Agency of this loss is great. In addition to the attorney and arbitrator fees, the agency has to individually determine the amount due every employee who received an Award in 2003, 2004 and 2005. In order to make this determination, they will have to: 1) identify who received Awards; 2) determine the date the employee received the Performance Evaluation as compared to the date the Agency made the decision to make Awards; 3) based upon the earlier of these two dates, calculate the date the Award should have been received; 4) determine the date the Award was received; 5) determine the amount of the Award; 6) calculate the amount of interest due for the delay; and 7) distribute that amount to each employee.

We sincerely hope this will deter Management from processing Awards late in the future.

We will keep you informed regarding any appeal or settlement of this matter. To read a copy of the decision, go to <http://www.afgecouncil222.com/grievances.html>, and look for the decision under [Awards Grievance](#).



Carolyn Federoff
President, AFGE Council 222