

## AFGE Council 222

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**Sent:** Monday, December 14, 2009 11:36 AM  
**Subject:** Three Arbitration Wins (Telework, Late EPPES Awards, External Hiring), OIG Recommendation For HUD, Employees Ideas Presented to HUD for Transformation



**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
NATIONAL COUNCIL OF HUD LOCALS 222  
THE PRESIDENT**

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### **DECEMBER 14, 2009 e:News**

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#### **1. Union presents employee ideas for HUD Transformation**

Stressing his interest in employee participation in the Strategic Planning process, the Deputy Secretary authorized union-led meetings in offices nationwide. Meetings were held in approximately 30 offices. Employees were asked to consider what positive changes could be made to transform the way HUD does business.

Armed with the input from employees, on December 9 and 10 members of the AFGE Council 222 Strategic Planning committee met with the new administration regarding the priority “transformation projects.” Although every office had a few items that were unique, employees more often expressed similar ideals.

Employees want access to program and systems training, as well as cross-programmatic training and an opportunity for rotations and reassignments. They want their supervisors and managers to develop quality human resource management skills, and to be held accountable for demonstrating these skills. They want career development and advancement opportunities. HUD employees want to see authority delegated to the level of responsibility, and IT systems that support people, rather than the other way around.

The co-chairmen of the committee are Gary Mongelli and Juan Evereteze, Regional Vice Presidents for Regions 8 and 2 respectively. After the December meetings, they expressed appreciation for the quality of questions and sincerity of interest the new administration demonstrated in the meetings. “I am pleased with the progress we have made so far and excited about the transition vision articulated by Deputy Secretary Sims yesterday,” RVP Evereteze said. “This is a good start.”

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#### **2. OIG recommends HUD allow employees to bid for PBCA work currently contracted-out**

In an Audit Report dated November 17, 2009, the Regional Inspector General for Audit, Region IX, concluded, “[w]hile using PBCAs may have a positive impact on the overall program, it was not the most cost-effective method of delivering the contract administration services.” PBCA contractors administer the Project Based Section 8 program for the Office of Multifamily Housing. The annual cost of the contracts now exceeds \$290 million. The Council estimates the cost is more than double what it would cost to do this work in house.

AFGE Council 222 has been fighting these contracts since their beginning in 1999. The Audit Report favorably

references a 2007 issue paper developed by the union that proposes a pilot project to compare both the cost and quality of the services as provided by HUD employees versus the PBCAs. In her response to the Audit Report, Carol Galante, Deputy Assistant Secretary for Multifamily Housing, advises that HUD will continue the PBCA contracts.

The Council met with AFGE specialists December 9 to consider what are our next steps. AFGE offered to assist the Council with stand-alone legislation in the U.S. House and Senate that would essentially implement the IG's recommendation to insource. The Council will consider AFGE's recommendation at its next Executive board meeting in January. To view Audit Report 2010-LA-0001 go to:<http://www.hud.gov/utilities/intercept.cfm?offices/oig/reports/files/ig1090001.pdf>.

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### **3. Arbitration Win #1 – Arbitrator finds “Telework is a right”**

Calling it a “Valentine’s Day massacre,” an arbitrator has overruled Management’s unilateral modification of telework schedules in the Indianapolis Office of Housing. The director, Eileen Mitcheltree, advised employees that she was “reassessing” approved telework agreements in September 2007. The arbitrator found that no actual reassessment was done. Rather, Director Mitcheltree rewrote all of the telework agreements, limiting employees to no more than one day telework per week, and advised employees on February 14 to accept the new agreement, or forfeit all telework. Arbitrator William Slonaker found, “Management’s attempt to force the employees into the appearance of acting “voluntarily” was fallacious, arbitrary and capricious.”

Finding that “telework is more than a privilege, it is an important right, provided by and subject to the terms of Supplement 3,” Arbitrator Slonaker observed,

It was clear from the testimony that Management considers teleworking as a privilege, not a right. While that may be accurate in a non-organized workplace, here Management’s characterization of teleworking as an optional privilege, impliedly to be dispensed at Management’s whim, is erroneous. Management’s attitude seems to have been that the employees should be thankful for any bit of teleworking Management might choose to give them. To accept Management’s characterization would imply that every provision of the Parties’ entire Agreement is optional, as though Management is being magnanimous when following any provision.

Management has appealed the decision to the Federal Labor Relations Authority, and the Council will continue to fight for implementation of this arbitration decision.

We are grateful to the Indianapolis employees who were willing to file grievances and insist upon their rights under the HUD/AFGE Agreement. We also congratulate Local President Robert Castillo and Council Chief Steward Perry Casper for their fine work in presenting this case through arbitration. To read the entire decision issued November 9, 2009, go to <http://www.afgecouncil222.com>

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### **4. Arbitration Win #2 – FLRA Upholds Decision Regarding Late EPPES Awards**

In a unanimous decision, the FLRA upheld Arbitrator Roger Kaplan’s finding that HUD failed to make timely payments of EPPES awards for 2003, 2004 and 2005, in violation of the HUD/AFGE Agreement. The arbitrator ordered the agency to pay interest to employees receiving delayed awards and to pay reasonable attorneys fees to the Union’s attorneys. The Union is in discussions with Headquarters about the best way to implement the decision.

AFGE Council 222 filed a national grievance of the parties in July of 2005, citing chronic delays in the payment of performance awards. We thank the attorneys at Snider and Associates for their assistance in this case. To read the FLRA decision, issued November 3, 2009, go to <http://www.afgecouncil222.com/grievances.html>.

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### **5. Arbitration Win #3 – Arbitrator finds Agency violated contract by hiring external applicants, “instead of promoting and facilitating the career development of internal employees.”**

In a case that has implications for grade parity throughout PIH, as well as Construction Analysts in Housing and Contractor Industrial Relations Specialists in ODOC, Arbitrator Andree McKissick has ordered the agency to increase the career ladder journey level from GS-12 to GS-13 and to consider employees for promotion under Section 13.13 of the HUD/AFGE Agreement. Council President Carolyn Federoff filed a national grievance of the parties in November 2002, alleging that the agency violated the HUD/AFGE Agreement when it hired external applicants for positions with greater promotion potential than current employees.

Arbitrator McKissick found that: 1) employees were “unfairly treated and were unjustly discriminated against” in

violation of Sections 4.01 and 4.06; 2) Management violated Section 9.01 when it failed to “fairly and equitably” apply classification standards; and 3) Management violated Section 13.01 when it “sought to hire external applicants, instead of promoting and facilitating the career development of internal employees.” HUD has filed an appeal with the FLRA. The Council is pursuing settlement pending a decision by the FLRA.

We thank the attorneys at Snider and Associates for their dogged persistence in this case. To read Arbitrator McKissick’s decision, issued September 29, 2009, go to <http://www.afgecouncil222.com/grievances.html>.

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*This edition of the AFGE Council 222 e:News was written and edited by Carolyn Federoff, past Council President, and Vice President of AFGE Local 3258. To become a member and support our continued good work, complete an SF-1187, and give it to your Local President. Don’t know who your Local President is? Go to <http://www.afgecouncil222.com/locals.html> for more information.*

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