



# National Council of HUD Locals

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
AFFILIATED WITH AFL-CIO

## Council 222

July 28, 2011

Memorandum for: James Reynolds, Deputy Director, Labor and Employee Relations

From: Carolyn Federoff, Council Representative, AFGE Council 222

Subject: Confirmation of Grievance of the Parties – Fair & Equitable II  
Request for Information

By memorandum dated June 17, 2011 (copy attached), AFGE Council President Russell Varnado advised the Agency of violations of the HUD/AFGE Agreement and a decision of arbitrator McKissick regarding the filling of vacancies. This memorandum followed several other communications with members of Management regarding these problems, including via electronic mail on March 23, 2011 and June 29, 2011 (copies attached). Although Management has repeatedly advised of an interest in resolving this issue, it has taken no action to do so.

By this memorandum, we are confirming that AFGE Council 222 has filed a Grievance of the Parties for violation of the HUD/AFGE Agreement and the September 29, 2009, decision of arbitrator Andree McKissick. The Agency continues to violate the same sections of the Agreement found to be violated in the McKissick decision.<sup>1</sup> These include: Article 4, Sections 4.01 and 4.06, Article 9, Section 9.01; and Article 13, Section 13.01.

As remedy, we ask that all affected employees, past and present, be made whole, that the Union be reimbursed its attorneys fees, and such other relief as may be just.

Pursuant to the Agreement at Section 22.15, we seek a written response within thirty days.

To assist in the investigation the scope of this grievance, please provide the following information:

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<sup>1</sup> The FLRA remanded the remedy back to arbitrator McKissick to “formulate an alternative remedy.” The FLRA specified, however, that it was leaving the “arbitrator’s finding of an underlying violation...undisturbed.” HUD and AFGE Council 222, 65 FLRA 433, at 436.

1. Copies of all Bargaining Unit vacancy announcements issued by the Agency since February 7, 2011, with promotion potential to or above GS-13;
2. For each vacancy announcement identified above, a list of all bargaining unit employees who applied and were found to be qualified; and
3. For each vacancy announcement identified above, the name of the person selected, and whether that person was selected from the internal announcement or the DEU announcement.

Your response to this Request for Information within thirty days will be appreciated. We reserve the right to amend the Grievance of the Parties based upon our investigation.

Attachments

cc: Russell Varnado, President  
AFGE Council 222



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**Council 222**

June 17, 2011

Memorandum for: Janie Payne, Chief Human Capital Officer, OCHCO

From:  Russell Varrado, President, AFGE Council 222

Subject: Vacancy Announcement H11-DE-487861-DMWz, et al.

Violation of HUD/AFGE Agreement and Arbitrator Decision

It has come to our attention that the agency is advertising multiple vacancies for Portfolio Management Specialists. The subject advertisements violate the HUD/AFGE Agreement and an Arbitrator's decision involving HUD and AFGE Council 222. To resolve this, your office must take immediate steps to amend and extend the vacancy announcements. We also request that employees who have applied under the un-amended vacancy announcement be considered without having to apply again under the amended announcement.

The subject vacancy announcements advertise the position of Portfolio Management Specialist at GS-11. The promotion potential of the position is GS-13. The journey-level of all or almost all employees presently engaged in the duties of the position is a GS-12. Employees who have reached the journey-level will be required to take a down-grade to GS-11 in order to be eligible in the future for promotion to GS-13.

AFGE Council 222 filed a national Grievance of the Parties in November 2002 alleging violations of the HUD/AFGE Agreement when the agency engaged in this same pattern of behavior—advertising positions with promotion potential to the GS-13 level at grade levels below the current journey-level. The arbitrator found that this and other practices violated the HUD/AFGE Agreement at Article 4, Sections 4.01 and 4.06, and Article 13, Section 13.01. See *FMCS 03-07743 at pp. 13-15*.<sup>1</sup>

To remedy the violations, your office must amend and extend the subject vacancy announcements. The "Series and Grade" must be amended to include GS-12.

The internal announcements must also be extended for a new 14 day period. Furthermore, we request that the amended vacancy announcements provide that applications under the earlier announcement will be considered under the amended announcement without further application.

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<sup>1</sup> Management appealed the arbitrator's decision to the Federal Labor Relations Authority. The FLRA upheld the arbitrator's decision, but remanded the remedy for reconsideration. See *U.S. Dept of HUD and AFGE Council 222*, 65 FLRA No. 90, January 26, 2011. The FLRA decision does not impact the arbitrator's finding that this practice violates the HUD/AFGE Agreement.

Establishment of Office of Disaster management and National Security (ODMNS)

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Please contact me at your earliest convenience regarding this matter. I can be reached at 202/402-8033.

cc: Sandra Henriquez, Assistant Secretary  
Office of Public and Indian Housing

## **Federoff, Carolyn**

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**From:** Federoff, Carolyn  
**Sent:** Wednesday, March 23, 2011 12:27 PM  
**To:** Henriquez, Sandra B; Richman, Estelle B  
**Cc:** Varnado, Russell D  
**Subject:** Grade Parity in Public Housing  
**Attachments:** F&E FLRA Decision 1-28-11.pdf; PIH Gen Eng vacancies Mar 2011.pdf

Asst Secy Henriquez and COO Richman,

I raised a matter with Ms. Richman briefly in February, but have been waiting the resolution of the FY'11 budget before pursuing it further. The FY'11 budget hasn't been resolved, but PIH is in the midst of advertising a minimum of fifteen General Engineer positions with grade potential to the GS-13. Advertising the positions makes it important that I raise this sooner, rather than later.

Attached is a copy of a recent decision by the Federal Labor Relations Authority (FLRA) regarding a case the Union brought against HUD regarding grade parity. The FLRA set aside the arbitrator's award in the case, and remanded it back to the arbitrator for a new award, absent a settlement by the parties. I approached Ms. Richman in February and advised that the Union would be interested in working towards a settlement before returning to the arbitrator. Ms. Richman agreed.

The largest group of employees affected by the decision are in PIH. Essentially, the arbitrator found that the way Management conducted recruitment and hiring of positions with promotion potential to the GS-13 violated the HUD/AFGE Agreement. The FLRA did not set aside the arbitrator's decision in this regard. Rather, the FLRA set aside her award, or her method of making the harmed employees whole. There is agreement, however, that employees have been harmed.

The recent advertisement for General Engineers is exacerbating the harm. (A copy of the Union's webpage of HUD vacancies is attached. The General Engineer advertisements are towards the end.) These positions are being advertised as entry level, GS-9/11. The Engineers are being hired into some offices that currently only have PHRS-FMs, or Public Housing Revitalization Specialist-Facility Managers. Some of these employees are currently graded as GS-13. Others are capped at a GS-12. For those capped at the GS-12, they face the prospect of training and mentoring entry level employees who, within two or three years, will leapfrog over them and into senior positions.

I realize that, due to the buyout last year, PIH may not advertise for PHRSs. But there is nothing in the job that requires licensure as an engineer. The sense of injustice is palpable. We need to talk about resolving this long standing problem.

I have a small team to assist me in these negotiations—Juan Evereteze, Craig Vandervort and Cynthia McKnight. I request that we set aside some time soon to discuss this. Please let me know if you are available to discuss this.

Thank you for your consideration.

Carolyn Federoff  
AFGE Council 222  
617/994-8264

## Federoff, Carolyn

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**From:** Federoff, Carolyn  
**Sent:** Wednesday, June 29, 2011 7:30 PM  
**To:** Reynolds, James M; 'mike@sniderlaw.com'  
**Cc:** Biggs, William L; Varnado, Russell D  
**Subject:** Fair & Equitable GoP: remand to McKissick

Gentlemen,

I spoke with James this afternoon, and discussed the need to remand this matter to arbitrator McKissick for a new award. James advised that he will be in Tampa at main contract negotiations from July 11-22. He agreed that it would be best if the parties had a conference call next week to discuss this. I advised that I would link him with our attorney in this matter, Michael Snider, via email so that you could make necessary arrangements.

I will not be available next week (and out of cell phone range). I'll ask Will Biggs to please represent the Council during the conference call. Please copy him on your emails to each other. Council President Russell Varnado concurs.

Russell sent Janie Payne a memo regarding this matter last week. He is going to provide me with a copy to send to both of you tomorrow. It's my understanding that the memo specifically addressed what the union believes to be continuing violations with the recent announcement of positions in PIH at GS-11 with promotion potential to the GS-13 level.

Thank you, and I look forward to hearing of your progress.

Carolyn Federoff  
AFGE Council 222  
617/994-8264