



National Council of HUD Locals
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFFILIATED WITH AFL-CIO
Council 222 P.O. BOX 9762 ALEXANDRIA, VA 22304

VIA ELECTRONIC MAIL

March 21, 2025

To: Scott Turner, Secretary
Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

From: Antonio Gaines, President, AFGE National Council 222 of HUD Locals

**RE: National Grievance Against the Department of Housing and Urban Development
Concerning the Constructive Reduction In Force Commenced on or about February
14, 2025.**

STATEMENT OF GRIEVANCES

Pursuant to the provisions of Article 51 of the Collective Bargaining Agreement (“CBA”), the AFGE National Council of HUD Locals 222 (“Union”) is filing this National Grievance against the Department of Housing and Urban Development (“HUD” or “Agency”). On or about February 14, 2025, the Agency commenced a mass termination of bargaining unit employees (“BUE”). The Union has filed requests for information seeking, *inter alia*, the total number of bargaining unit employees removed, and additional details, but has not yet received a response from the Agency. The Union reserves the right to supplement this National Grievance based upon the discovery of new evidence or information of which it is not presently aware, or otherwise, as necessary.

Based on the information available to the Union at the time of the filing of this National Grievance, it is clear that the Agency has improperly conducted a reduction-in-force (“RIF”) in violation of the parties’ CBA, including but not limited to, Articles 4, 6, 33, 49 and 53 of the CBA, the Federal Service Labor-Management Relations Statute (“Statute”), including but not limited to 5 U.S.C. §§ 7116(a)(1), (a)(5), (a)(7) and (a)(8), and all other relevant articles, laws, regulations, and past practices not herein specified.

Congress enacted 5 U.S.C. § 3502 with specific requirements an agency must follow if it needs to conduct a RIF. Congress delegated to OPM the authority to promulgate regulations that agencies must follow in implementing a RIF. 5 U.S.C. § 3502(a). OPM’s long-standing regulations for implementing RIFs, at 5 C.F.R. Part 351, require that agencies follow RIF regulation “when the release of an employee is required because of ...[a] reorganization[.]” 5 C.F.R. § 351.201(a)(2). The regulations define a reorganization as “the planned elimination, addition, or redistribution of functions or duties in an organization.” 5 C.F.R. § 351.203. The statutory requirements for RIFs apply to “each employee in or under an Executive agency,” except Senior Executive Service, Senate confirmed appointments, and the FBI and DEA Senior Executive Service. 5 U.S.C. § 3501(b). OPM’s RIF regulation similarly covers all employees in

executive branch agencies and contains no exclusions for probationary employees. (Compare 5 C.F.R. § 351.202(b) (excluding from RIF procedures Senior Executive Service positions and appointments requiring Senate confirmation)).

Specifically, on February 13, 2025, OPM officials met with federal agency leaders and directed them to carry out probationary termination actions as part of the broader effort to restructure and downsize the federal workforce.¹ The following day the Agency issued mass termination notices to bargaining unit employees asserting the actions were taken “*as part of a workforce restructuring of the Agency.*” The terminations were, moreover, sweeping, and indiscriminate such that they amounted to a RIF undertaken in violation of the legal and bargained-for requirements governing RIFs.

The Union therefore brings the following charges:

1. The Agency’s Removal of BUEs Amounts to an Improper Constructive RIF

The mass removal of probationary employees on or about February 14, 2025, represents a constructive RIF. The Agency’s notices to BUEs provided:

“[a]fter careful consideration, the Agency is terminating your employment as of the date of the transmission of this email, during your trial period as part of a *workforce restructuring of the Agency.*”

The available evidence indicates that the Agency improperly used the probationary status of BUEs to accomplish a RIF without affording the BUEs the substantive rights and due process they are entitled to by law. The Agency’s stated reason that the employees were terminated is because workplace restructuring of BUEs. The Federal Circuit defined a ‘reduction in force’ as an “administrative procedure by which agencies eliminate jobs and reassign or separate employees who occupied the abolished positions.” See *Tippins v. U.S.*, 93 F.4th 1370, 1375 (Fed. Cir. 2024). This definition encompasses workforce restructuring as a form of reorganization. The Agency has not based the terminations on individual assessments of employees but rather has made sweeping mass indiscriminate removals of BUEs. Those mass removals—made because of the restructuring of the Agency—are a constructive RIF and are unlawful for the reasons stated below.

2. The Agency’s Actions Violate the Parties’ CBA.

The Agency violated, and continues to violate, the parties’ CBA. The procedures for executing a RIF are outlined in Article 33. The Agency violated Article 33 by, *inter alia*, failing to identify the specific reason for the RIF and other contractually required content, failing to provide proper notification to the Union, failing to properly notify employees, failing to minimize adverse impacts, and generally failing to abide by the additional bargained-for terms of Article 33. The Agency has completely disregarded its contractual obligations.

¹ Ted Oberg, Trump administration tells federal agencies to fire probationary employees, NBC4 (Feb. 13, 2025), <https://www.nbcwashington.com/news/president-trumppolitics/opm-federal-agencies-probationary-employees-trump-administration/3844634/>. (last visited 3/6/2025).

The Agency's actions also violate additional portions of the CBA, including but not limited to the following articles: Article 4 – Rights and Obligations of the Parties; Article 6 – Employee Rights; Article 49 –Midterm Bargaining; Article 53 – Duration and Distribution of the Agreement; as well as any other affected article of the CBA even if not herein specified.

3. The Agency's Action Violate Law, Rule, and Regulations.

The Agency's actions violated, and continue to violate, law, rule, regulation, and policy, including but not limited to 5 U.S.C. § 3502 and 5 CFR § 351.201 et seq. The Agency failed to follow these laws and regulations in conducting its constructive RIF. These regulations are also expressly referenced and incorporated in Article 33 of the CBA.

4. The Agency Committed Unfair Labor Practices Under 5 U.S.C. §§ 7116(a)(1), (5), (7), and (8).

a. The Agency committed a ULP by repudiating the CBA.

By ignoring the bargained-for procedures to conduct RIFs under the CBA, the Agency has repudiated the parties' CBA, which is an institutional injury to the Union. Article 33 clearly defines the parameters controlling a RIF, and the Agency entirely disregarded Article 33 in its sweeping terminations of BUEs on or about February 14, 2025. The Agency's actions represent a clear and patent breach which goes to the heart of the CBA. This includes, but is not limited to, the Agency's failure to provide appropriate notice to employees, failure to provide appropriate notice to the Union, failure to minimize adverse impacts, and failure to abide by the additional provisions of Article 33. The Agency's actions serve as a wholesale rejection of Article 33.

b. The Agency committed a ULP by unilaterally changing and establishing the procedures to conduct a RIF of probationary employees without bargaining.

The Agency's actions of altering and ignoring the terms of the parties' CBA regarding RIF procedures without first bargaining reflect a failure to bargain in good faith. The Agency has a duty to bargain with the Union over the changes to the contractual RIF procedures, yet it unilaterally and hastily acted without engaging in bargaining.

c. The Agency committed a ULP by bypassing the Union and dealing directly with the bargaining unit employees.

The Agency unlawfully bypassed the Union by dealing directly with BUEs involving the procedures and execution of the RIF. The Agency must bargain with the Union regarding any proposed changes or alterations to the bargained-for RIF procedures. The Agency failed to provide the appropriate notice to the Union, failed to bargain regarding the changes to RIF procedures and implementation, and instead directly communicated with BUEs regarding the RIF.

The Union respectfully requests the following remedy:

1. Return to status quo ante, rescission of the improperly issued notices, and make whole relief for all affected bargaining unit employees;
2. That the Agency provides the names of probationary employees that were initially terminated on February 14, 2025, and a final report of those employees who were fully reinstated in adherence to the Temporary Restraining Order (TRO) decision made by United States District Judge James K. Bredar on March 13, 2025.
3. That the Agency fully comply with all terms of the parties' CBA and all laws, rules, regulations, and policies;
4. That the Agency bargain in good faith;
5. That the Agency distribute to all bargaining unit employees an electronic notice and make conspicuous postings in the bargaining unit employees' places of work that the Agency has committed unfair labor practices, a description of the Agency's violations of the Statute, and a statement that it will cease and desist from committing further violations;
6. Reasonable attorney's fees and costs;
7. All other relief deemed appropriate.

Signed,

/s/ Antonio Gaines

Antonio Gaines

President, AFGE Council of HUD Locals 222

American Federation of Government Employees, AFL-CIO

STATEMENT OF SERVICE

I hereby certify that a genuine original version of this grievance was served upon the addressee via electronic mail on this date, March 21, 2025

s/ Antonio Gaines

Antonio Gaines

President, AFGE National Council of HUD Locals 222

American Federation of Government Employees, AFL-CIO