U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

OFFICE OF FIELD POLICY MANAGEMENT

May 1, 2026

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

Via: Sal Viola, Chief Steward, AFGE Council 222

FROM: Michael C. Lawyer, Director of Customer Service, Field Policy Management (FPM) MICHAEL LAWYER

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SUBJECT: Response to Grievance of the Parties: Involuntary Detail of Davis-Beacon Labor Standards (DBLS) Bargaining Unit Employees to Program Analyst Position

In accordance with HUD/ AFGE Collective Bargaining Agreement ("CBA" or "Agreement"), Article 51, Grievance Procedures, this memorandum serves as response to the Grievance of the Parties ("GOP"), that was received April 2, 2026, regarding;

I. Alleged Violations:

This grievance arises from Management's decision to impose an involuntary detail of DBLS bargaining unit employees to Program Analyst positions without advance written notice to the Union, without pre-decisional engagement, without a specified end date in the directive, and without good-faith impact and implementation bargaining before the action took effect. The Union further grieves the Agency's reassignment of affected employees under a Program Analyst position framework and the imposition of changed performance expectations during the current appraisal period without satisfying contractual and regulatory requirements.

This action violates the CBA, including but not limited to Articles 26 (Details and Temporary Promotions), 25 (Position Classification), 49 (Mid-Term Bargaining), 30 (Performance Appraisal), 4 (Rights and Obligations of the Parties), and 3 (Labor Management Forum), as well as applicable federal law and regulations under 5 U.S.C. Chapter 71 (Federal Service Labor-Management Relations Statute) and 5 CFR Part 511 (Classification under the General Schedule).

II. Statement of Facts

On March 12, 2026, Management issued written notice directing DBLS bargaining unit employees to a Program Analyst detail effective March 22, 2026. Based on the information available to the Union, this directive: (1) provided only ten (10) calendar days' notice; (2) contained no specified end date or duration for the detail; (3) imposed a new set of duties under the Program Analyst position framework that differ substantially from the employees' permanent DBLS positions (which involve enforcement of Davis-Bacon Labor Standards, wage determinations, and related HUD construction/labor compliance functions); (4) did not document the action in accordance with CBA requirements; (5) provided no advance written notice to the Union or opportunity for pre-decisional involvement; and (6) unilaterally altered performance expectations and standards for the affected employees during the current appraisal period without prior discussion or bargaining.

No voluntary opportunities were offered, no operational justification tied to temporary needs was provided in advance, and the action was implemented without impact-and-implementation bargaining. The affected employees remain in the bargaining unit represented by AFGE Council 222.

III. Relevant Contract Provisions

The following CBA provisions (HUD/AFGE Council 222 Agreement) are directly applicable:

Article 4 Rights and Obligations of the Parties & Article 3 Labor Management Forum

Pre-decisional involvement to the fullest extent practicable (without regard to negotiability).

• Union entitled to notice and representation in formal discussions concerning changes in conditions of employment.

Article 24 (Merit Promotion and Internal Placement) (cross-reference)

Reiterates the definition of "detail" as a temporary assignment with return rights.

Article 25 Position Classification

• Section 25.02 (Position Descriptions): Employees are entitled to a "complete and accurate position description" stating major duties. "Upon request, the Union will be provided the opportunity to review, make recommendations and present evidence concerning change in a position description."

Section 25.04: Management must notify the Union in writing (within 10 days) of any changes to duties/responsibilities due to reorganization or classification changes.

Article 26 Details and Temporary Promotions

• Section 26.01 (Definitions): "Detail A detail is the temporary assignment of an employee to a different position or a different set of duties for a specified period, with the employee returning to his/her regular duties at the end of the detail, as the employee continues to be the incumbent of the position from which detailed."

• Section 26.02 (Documentation): "Details in excess of thirty (30) days shall be documented and maintained as a permanent record in the employee's Official Personnel Folder (OPF)."

• Section 26.03 (Appropriate Use): Details shall be used only "to meet temporary needs of the Department's work program" (e.g., unusual workload, special projects, change in mission). Management must consider volunteers where feasible.

Article 30 Performance Appraisal

- Performance standards and expectations must be clearly communicated at the beginning of the appraisal cycle. Significant mid-cycle changes to standards/expectations that affect appraisal outcomes are subject to mid-term bargaining (cross-referenced with Article 49).

Article 49 Mid-Term Bargaining

Section 49.01: The Department must bargain in good faith on proposed changes to conditions of employment not covered by the Agreement.

Section 49.02 (Notice): Written notice to the Union "at the earliest practicable time, but no less than fifteen (15) days before implementing any change," including description of the change and impact.

Sections 49.03 49.05: Parties must negotiate impact and implementation; good-faith efforts required; bargaining completed prior to implementation where feasible.

IV. Applicable Federal Regulations and Law

• 5 U.S.C. § 7116(a)(5): It is an unfair labor practice for an agency to "refuse to consult or bargain in good faith" or fail to provide the exclusive representative the opportunity to bargain over changes in conditions of employment.

• 5 U.S.C. § 7114(a)(1): The Union is the exclusive representative and entitled to act for, and negotiate on behalf of, all bargaining unit employees.

• 5 U.S.C. § 7106(b)(2) (3): While the Agency has authority to assign work (including details), it must bargain the impact and implementation of such actions.

• 5 CFR § 511 (Position Classification) and OPM guidance: Position descriptions must

accurately reflect duties; unilateral changes that alter grade-controlling duties require proper classification processes and Union involvement.

• FLRA precedent (e.g., cases on changes with more than *de minimis* impact): Assignment to a different position with materially different duties and performance expectations constitutes a change in conditions of employment requiring notice and bargaining.

The Agency's failure to provide adequate notice (well below the 15-day contractual minimum), omit a specified end date, bypass documentation, and implement without bargaining violates both the CBA and the Statute.

V. Remedy Sought

The Union requests the following relief:

1. Immediately rescind the involuntary detail and restore all affected DBLS bargaining unit employees to their original positions, duties, position descriptions, and performance standards/expectations as they existed prior to March 22, 2026.

2. Provide full back pay and benefits (including any differentials, overtime, or other compensation lost) if the detail resulted in any adverse financial impact.

3. Engage in good-faith mid-term bargaining (per Article 49) on the impact and implementation of any proposed detail or reassignment, including pre-decisional involvement via the Labor Management Forum.

4. Issue a written notice to all affected employees and the Union acknowledging the violation and confirming restoration of original conditions.

5. Document any future details in accordance with Article 26 and maintain accurate position descriptions per Article 25.

6. Cease and desist from unilateral changes to conditions of employment without proper notice and bargaining.

7. Any other make-whole relief deemed appropriate, including attorney fees, costs, and interest where applicable.

Agency Response:

In the GOP, the Union did not request a meeting meet to discuss informal resolution under CBA 51.15(2). Next, I first sought to determine if the Union's GOP was submitted in accordance with the time limits laid out in Article 51, Section 51.15 of the CBA. Per this article/section, the

time limit for submitting a grievance of the parties is *"within forty-five (45) calendar days of the date or when the party became aware or should have become aware of the matter being grieved."* In reviewing your submitted GOP, the incident that caused the union to file this GOP occurred on or about March 12, 2026. The Union in turn filed its grievance on or about April 2, 2026, as such I consider this GOP timely.

In addressing the allegation of "Involuntary Detail of Davis-Bacon Labor Standards (DBLS) Bargaining Unit Employees to Program Analyst Positions", I reviewed the relevant HUD/AFGE CBA provisions and Applicable Federal Regulations and Law and I find there is no merit to the assertions levied against the Management and I am denying your grievance. The detail of impacted employees is covered by Article 26 of the HUD/ AFGE collective Bargaining Agreement (CBA). Under this article management is allowed to Detail or Temporarily Promote employees to meet temporary needs of the department's work programs when necessary services cannot be obtained by other means. Article 26 does not require the Agency to provide advance notice to the Union or engage in pre-decisional engagement regarding Details or Temporary Promotions. Moreover, Article 26, allows Management to carry out a temporary assignment of an employee(s) to a different position or a different set of duties for a specified period, with the employee returning to his/her duties at the end of the detail. Therefore I disagree with the Union's assertions.

Based on the above, my decision regarding the requested remedies is as followed:

1. Immediately rescind the involuntary detail and restore all affected DBLS bargaining unit employees to their original positions, duties, position descriptions, and performance standards/expectations as they existed prior to March 22, 2026.

   Decision: DBLS Bargaining Unit Employee will be returned to their original positions, duties, position descriptions, and performance standards/expectations at the conclusion of the detail. Impacted DBLS employees will be credited for their performance while on detail. No adverse performance actions will be taken against impacted DBLS employees due to their performance while temporarily detailed to Program Analyst Positions.

2. Provide full back pay and benefits (including any differentials, overtime, or other compensation lost) if the detail resulted in any adverse financial impact.

   Decision: The detail did not result in any adverse financial impact to the affected Bargaining Unit Employees, therefore this remedy is not applicable.

3. Engage in good-faith mid-term bargaining (per Article 49) on the impact and implementation of any proposed detail or reassignment, including pre-decisional involvement via the Labor Management Forum.

   Decision: Article 26 which covers "Details and Temporary Promotions does not require

Management to engage in pre-decisional discussion before temporarily detailing an employee to a different position or different set of duties. Moreover Article 49 which addresses midterm bargaining is silent with regards to Detail and Temporary Promotions. This remedy is therefore denied.

4. Issue a written notice to all affected employees and the Union acknowledging the violation and confirming restoration of original conditions.

   Decision: Concerning the DBLS temporary detail it is my determination that management complied with the provisions of Article 26, therefore no violation occurred. This remedy is denied.

5. Document any future details in accordance with Article 26 and maintain accurate position descriptions per Article 25.

   Decision: The Department agrees to document any future details in accordance with Article 26 and maintain accurate position descriptions in accordance with Article 25 of the HUD/ AFGE Collective Bargaining Agreement.

6. Cease and desist from unilateral changes to conditions of employment without proper notice and bargaining.

   Decision: The department reserves the right to exercise its managerial discretion to assign work and direct employees in accordance with the Federal Service Labor-Management Relations Statute, but agrees to provide notice and bargain in accordance with the HUD/ AFGE Collective Bargaining Agreement where applicable.

7. Any other make-whole relief deemed appropriate, including attorney fees, costs, and interest where applicable.

   Decision: No further relief is authorized.

If you are dissatisfied with my decision, arbitration may be invoked by the Union in accordance with Article 52 of the HUD/ AFGE Collective Bargaining agreement.