



Collective Bargaining II:

Negotiation Skills

PARTICIPANT GUIDE

Field Services and Education Department

July 2017



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ABOUT THE COURSE

Welcome to AFGE's *Introduction to Collective Bargaining II: Negotiation Skills* course. This training is designed to be a hands-on practicum of negotiations strategy, skill, and techniques to assist you in bargaining with your agency.

The Participant Guide is divided into several sections. Section 1 includes the PowerPoint presentation used in each module. Section 2 of the Guide provides detailed information on a real-life case study scenario that will be used in a collective bargaining simulation. The Appendices includes a strategic plan template for collective bargaining and a summary of common negotiation tactics.

AFGE's Collective Bargaining website will also continue to post updates and updated documents as they progress: www.afge.org/collectivebargaining. For information regarding future trainings, see the Field Services and Education Department (FSED) website at <https://www.afge.org/index.cfm?Page=FieldServicesandEducation>.

Agenda

Day 1

Introduction to Strategic Bargaining
Team Assignments
Local Supplemental Bargaining Preparation

Day 2

Local Supplemental Bargaining
Negotiation Strategies and Tactics
Council Elections/Bargaining Team/WGs

Day 3

Council Bargaining Preparation
Council Bargaining (Ground Rules w/ IBB)
Council Bargaining Debrief

Day 4 (2 instructors/2 locations)

Council Bargaining/Working Groups
Council Bargaining/Ratification
Council Bargaining Debrief and Next Steps
Next Steps: Mediation, Impasse, Negotiability

SECTION 1:

COURSE POWERPOINT PRESENTATION

Slide 1



Slide 1 features the AFGE logo on the left, which consists of a blue square with the letters 'AFGE' in yellow, a yellow map of the United States, and three yellow figures holding hands. To the right of the logo, the text 'Collective Bargaining II:' is written in a blue, italicized font, followed by 'Negotiation Skills' in a larger, bold blue font. Below the text are four small images: a group of people at a bargaining table, a person holding a 'Protect VA Whistleblowers' sign, a group of people in a meeting, and two people at a desk. At the bottom, the text 'AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO' is centered, with a small '1' on the right.

Slide 2



Slide 2 features the AFGE logo on the left. To the right, the text 'Course Objective' is written in a blue font. Below this, the objective is stated: 'Demonstrate how to effectively use Big Enough to Win Bargaining techniques and strategies to turn planning, process, and people into power at the bargaining table.' Below the text are the same four small images as in Slide 1. At the bottom, the text 'AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO' is centered, with a small '2' on the right.

Slide 3



Course Overview

- Course Structure
- Materials/Resources
- Assignments



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Slide 4



Housekeeping

- Breaks and lunch
- Location of bathrooms and emergency exits
- Ground Rules
 - Participate and Share
 - Mutual Respect
 - Parking Lot
 - Honor Time

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Slide 5



Introductions

- Name
- Current Position
- Local/Agency/Council
- Experience in Collective Bargaining
- Burning Question

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Module 1: Introduction to Strategic Bargaining



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Slide 7

Definition of Negotiation

Negotiation is a process in which people work together to come to an agreement about one or more issues in dispute.

Negotiation between the Union and Management is referred to as *collective bargaining*.





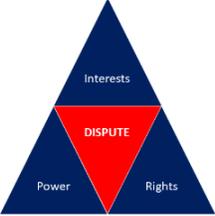
Slide 8

Elements of a Dispute

Interests: Needs, desires, concerns underlying a position.

Rights: Independent standards (CBA, law, past precedent, etc.) that establish precedent, fairness, etc.

Power: Capacity to force a position on another party. Can be a threat and/or action.



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Slide 9

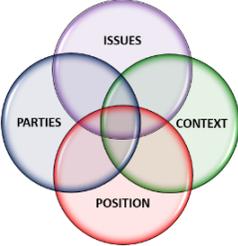
Factors that affect Negotiation

Issues: What is the topic or problem in dispute? Is it simple or complex? How important is it to each party?

Parties: What is the relationship? Trust level? Information sharing? Is power equal or unbalanced?

Context: What influence/support exists in the environment away from the table?

Position: One party's solution to an issue. What does each side see as the resolution?



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Slide 10

How Do You Measure Success in Negotiations?

Cost: How much time, energy, money and/or other resources are spent on resolving the dispute?

Outcome: How satisfied are the parties with the outcome of the negotiations?

Relationship: What is the effect of the negotiations on the relationship over the long term?



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What is Strategic Bargaining?

- Strategic bargaining is a process which can be adjusted to fit the experience level of the different negotiation team members.
- It builds upon other disciplines and doctrines used by organized labor to influence a successful outcome for the bargaining unit employees.



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Strategic Bargaining

Strategic Bargaining embraces and capitalizes on the principles of AFGE's "Big Enough to Win" strategy.

- Building on the Power of "the Union"
- Energizing New Leaders
- Energizing and Activating Current Members
- Energizing and Activating Potential Members



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Strategic Bargaining

- A strategic bargaining strategy can be applied to both term and mid-term negotiations.
- Systems and structures developed for a strategic bargaining strategy can also be deployed to use in legislative grassroots mobilization efforts.
- And it encourages activism and involvement by members.



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Slide 14

Strategic vs. Reactive Bargaining

- Reactive bargaining makes it difficult to establish bargaining support structures.
- Efforts are rushed.
- Research and outreach for information is limited.
- Management often dictates or controls when and how bargaining is done.



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Service Model vs. Organizing Model



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Slide 16

Effective Locals: Service vs. Organizing Model

Unions can operate in one of two ways:

- Service Model
- or
- Organizing Model



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The Service Model

A Service Model Union is a fee-for-service organization. The members pay fees (dues) for the union's services, such as bargaining and grievance representation.

- The Union is little more than a service provider.
- The Union is seen as a third party entity.
- The Service Model does not build ownership or involve the rank and file membership in Union activities, such as collective bargaining.



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The Organizing Model

An Organizing Model Union is run by the members around issues and activities that matter to them.

- The Union not seen as a third party.
- The Union is recognized as an organization of employees working together to help each other.
- Power, mobilization, and issue development comes from the members.



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Bargaining: Organizing vs. Servicing Model

Collective bargaining is more effective with Organizing Model Unions:

- Collective bargaining involves power and leverage.
- The main resource for Unions is their membership.
- Members may have connections with the community, managers, and others who can influence the Agency.
- A bargaining team must communicate with membership to identify the most important issues.



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Strategic Bargaining Assessment



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START WITH A BASIC ASSESSMENT

- How is bargaining viewed?
- What is your experience level?
- What resources do we have to work with?
- What do we hope to achieve?
- Who are we bargaining with?



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ATTITUDE TOWARDS BARGAINING

How do you view bargaining?



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ATTITUDE TOWARDS BARGAINING

Every Negotiating Team must bargain with an eye towards:

- Building a stronger contract
- Building a relationship with management that will better serve the members
- Building the strength of unit



Slide 24

Changing how Collective Bargaining is viewed

- *By the Union*
 - We don't bargain in a bubble
 - We bargain at the table - we win away from the table
- *By the Employees*
 - This is our process
 - This is a chance to be engaged
 - This is a chance to have a voice
- *By the Agency*
 - This is a collaborative process, we need mutual agreement
 - We are partners in this process, we must learn to work together



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Experience Level and Training

- What kind of bargaining experience exists on the team?
- Where do our strengths lie?
- What other skills/experience would be useful when bargaining?
- Do we need any specific type of training?



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Experience Level and Training

- What kind of bargaining experience exists on the Agency team?
- How have they bargained in the past?
- What relationships exist within the Agency that can assist the Union?



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Resources

- Membership
- District
- Other Locals
- Council
- National
- Outside groups or coalitions



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Strategic Bargaining Process

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Bargaining Preparation

1. Identify Goals
2. Bargaining team training and assignments
 - Communications and Community Outreach
 - Organizing
 - Legislative
 - Research
 - Notes and Records
3. Pre-Bargaining Prep and Ground Rules
4. Research
5. Contract Proposal Preparation

Negotiations

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Strategic Bargaining Process Goals and Objectives





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Goals and Objectives

To have a plan, we need to know what we want and what we hope to achieve. What are our goals to improve:

- Contract language
- Labor management relationship
- Internal communications
- Community and legislative outreach
- Membership growth/organizing goals in campaign





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Goals vs. Objectives

- Goals are broad
- Goals are general intentions
- Goals are intangible
- Goals are abstract

- Objectives are narrow
- Objectives are precise
- Objectives are tangible
- Objectives are concrete



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How are Goals and Objectives Important?

If we find ourselves moving away from the plan, we need to ask if the action helps us achieve a goal.

- Is achieving the goal tied to a specific task or action?
- If so, what action?
- Are there multiple tasks or actions tied to the goal?



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Example: Better Contract Language

In order to obtain this objective, there are a series of tasks to be completed:

1. Research
2. Bargaining Survey
3. Information Request
4. Communicate and Mobilize



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Strategic Bargaining Process Bargaining Team: Working Groups



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Communications Working Group

- 1) Nominate/appoint working group
- 2) Train working group
- 3) Develop working group strategic plan for the following tasks:
 - Issue identification/topics
 - Schedule and distribute bargaining updates
 - Development newsletters, press releases, petitions
 - Develop and coordinate Op/Ed pieces and media outreach
 - Develop coordination with groups and organizations with shared interests



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Organizing Working Group

- 1) Nominate/appoint working group
- 2) Train working group
- 3) Develop working group strategic plan for the following tasks:
 - Development of issue organizing message
 - Workplace mapping
 - Scheduled organizing events to coincide with bargaining dates
 - Updated local official contact in AFGE MyLocal
 - Draft phone-tree for organizing committee work
 - Develop bargaining specific organizing literature



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Legislative Working Group

- 1) Nominate/appoint working group
- 2) Train working group
- 3) Develop working group strategic plan for the following tasks:
 - Coordinate support for issue-based lunch and learns
 - PAC events
 - Outreach to nearby Locals, Central Labor Councils, State Federations, customer advocacy organizations (VFW, AARP, etc.)
 - Work with Legislative Department on issue advocacy



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Research Working Group

- 1) Nominate/appoint working group
- 2) Train working group
- 3) Develop working group strategic plan for the following tasks:
 - Review contract articles
 - Review grievances, ULPs, and arbitrations
 - Review negotiability issues
 - Review impasse options
 - Review budget



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Notes and Records Working Group

- 1) Nominate/appoint working group
- 2) Train working group
- 3) Develop working group strategic plan for the following tasks:
 - Note keeping
 - Record keeping
 - Tracking proposals
 - Maintaining bargaining history



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Strategic Bargaining Process Pre-Bargaining Preparation



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Pre-Bargaining Preparation

All teams must know the following:

- Bargaining law (5 USC Chapter 71, etc.)
- Contracts (CBA, Supplements, MOAs)
- Membership needs and goals
- Relationship between laws and contract language goals
- Labor-management relationship
- Management team and their interests



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Pre-Bargaining Preparation: Resources

Bargaining prep means identifying early on what resources the bargaining team will need from the District, Council and from different Departments at AFGE:

- Communications Assistance
- Organizing Assistance
- Legislative Assistance
- Research and Training from FSED



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Pre-Bargaining Preparation: Budget

Develop budget for bargaining, including (but not necessarily limited to):

- Newsletters
- Bargaining updates and mailings
- Lunch and learn costs
- Travel
- Organizing incentives
- T-shirts and buttons



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Strategic Bargaining Process Ground Rules



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Strategic Bargaining: Ground Rules

- Provides an outline of negotiation events
- Determines the Union's official time
- Establishes the rules of engagement
- Sets the calendar for negotiations
- Determines location of negotiations
- Indicates how negotiations are viewed by management
- Opportunity for favorable positioning



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Strategic Bargaining: Ground Rules

Items to consider:

- Location of negotiations
- Official time for negotiations
- Official time for preparations
- Schedule for negotiations
- Size of bargaining teams
- Observers
- Subject Matter Experts
- Cost
- Administrative
- Logistics



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Strategic Bargaining: Ground Rules

Procedures to consider:

- Caucuses
- Impasses
- Ratification prior to agency head review
- Ensure reasons for disapproval at agency head review would be provided
- Payment/reimbursement



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Strategic Bargaining Process Research



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Slide 50

Strategic Bargaining: Research

- Membership needs and priorities
- Grievances, ULPs, MOUs, LSA during previous CBA
- Agency team – bargaining style and experience
- Agency budget and priorities



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Strategic Bargaining: Research

- Pre-drafted arguments to various analytical framework doctrines
- AFGE resources
- FLRA guidance
- FSIP decisions
- CyberFEDS



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Strategic Bargaining: Research



Bargaining Calendar of Events

- Effective date of current agreement
- Window for reopening agreement specified in determination letter
- Date demand to bargain sent/received
- Time needed to draft proposals
- Timing of workplace actions and events



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Strategic Bargaining Process Proposal Development



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Slide 54

Step One – Bargaining Survey

1. Draft Bargaining Survey
2. Distribute Bargaining Survey
3. Collect Bargaining Survey
4. Review Bargaining Survey to Identify:
 - Common issues that appear often
 - Novel issues that appear infrequently but are worthy of note
 - Bargaining issues versus concerns/suggestions
 - Issues to be addressed through representation
 - Compare results to initial goals – do goals need to be expanded?



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Step Two – Research

Research proposals based on:

- Bargaining goals
- Membership survey results
- Leadership knowledge and experience
- Prior grievances, MOAs, and disputes
- Changes in federal workplace standards
- Contract language/guidance from similar contracts, Bargaining for the Future



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Step Three – Strategize

The bargaining team should talk, before furnishing the agency with any contract proposals, to identify:

1. Aspirational and bottom line positions on each Article up for negotiation
2. Strategy regarding Article in regards to:
 - Communications and mobilization
 - Plan for moving from starting position to final position
3. Common goals and needs of both parties
4. Areas of potential compromise and tradeoffs



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Step Four – Draft

Proposal language should be drafted and reviewed by the full team after:

- Research has been done
- Needs assessed
- Goals identified
- Aspirational and bottom line positions discussed, and
- Bargaining strategies established



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TO BIG TO WIN

Strategic Bargaining Process Communicate, Mobilize and Organize



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Helping people every day of the year

THE SUN NEVER SETS ON LOCAL 1156

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Slide 59

Communicate – No Blackouts!

Never agree to Agency's request to eliminate or limit your ability to communicate with your members during bargaining!



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Slide 60

Communicate with Employees

- **COMMUNICATE WITH EMPLOYEES**
 - PRE-NEGOTIATION – Survey/Meetings
 - DURING NEGOTIATIONS – Inform and Action
 - POST NEGOTIATION – Ratification
- How do we communicate with employees now?
 - Is it working?
 - Is there something we need to include in the CBA?



A photograph showing two men in a meeting. One man, wearing a white shirt, is handing a document to another man wearing a blue shirt. They are standing in front of a building.



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Slide 61

Communication: Outreach

- Members
- Employees
- Other Unions
- Community Groups



A photograph of two men standing in front of a building. They are holding blue signs that read "Veterans for a Strong VA". They are wearing dark shirts and caps.



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Benefits of Mobilization

- Leverage at the table
- Builds investment in the contract
- The bargaining unit will have more input and know that they have a voice
- The bargaining unit will feel ownership of the process



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Mobilize: Members Own the Contract

- Contract will be easier to ratify because the BU fought to make it happen.
- Changes how employees view the process and their rights.
- BU will see the relationship between activism, gains at the table, and rights at work.
- Workplace action builds power at the table, but is also an organizing tool.



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Mobilize: Workplace Actions

- Coordination with other nearby/related AFGE Councils and locals for potential support
- Messaging to explain goals, needs and struggles
- Informational picketing
- Button wearing
- Petitions
- Letter writing campaign



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Mobilize: Workplace Actions

- Make the union and negotiations visible in the workplace
- **Practice** and **share** SSMS (“stupid stuff management says”)
- Use Council/Local **mapping** to identify
 - Where specific issues of importance are to employees
 - Where you need to organize around negotiations
 - Who you can depend on to mobilize workplace actions



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Mobilize = POWER



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Slide 67

Organize: Workplace Actions

- Establish Organizing goals
- Identify and recruit workplace leaders
- Make sure the organizing message:
 - relates to negotiations
 - links directly to membership concerns
- Create organizing calendar with events



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Slide 68

Organize: Workplace Actions

- Collect and maintain up-to-date contact information for the bargaining unit
- Target employees who have shown an interest in how negotiations are going
- Deliver newsletter, bargaining updates
- Maintain and work phone trees for updates, events, and actions



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Slide 69

Organize: Deliver a Message

- 800 person bargaining unit with 100 members, outdated contract, no changes favorable to employees in years
- Union demands to bargain and solicits for employee input
- Host organizing events and adds 400 members
- *What's the message to management?*



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Organize: Deliver a Message

- Organizing occurs during negotiations
- Workplace visibility of the union increases
- New members added on a regular basis
- Membership level grows past 50%
- Union power at the bargaining table increases



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Strategic Bargaining Plan Development



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Plan Development

- Goal
 - Action(s)
 - Link To Bargaining Process
 - Resources
 - Research
 - Admin Support
 - Organizing
 - Communication/Outreach
 - Workplace Actions
 - Budget



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Slide 73

Plan Development: Add Detail

- WHO – responsible party, group, committee
- WHAT – specific action
- WHERE – location
- WHEN – dates, time frame, calendar
- WHY – link to objective
- HOW – resources, budget



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TURN PROCESS INTO STRATEGY

PLAN TRAIN
PREPARE

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Slide 1



Module 2: Negotiation Methods



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Slide 2



Negotiation Methods Traditional Bargaining



Slide 3

Stages of Traditional Bargaining

- **Preliminary Stage**
 - Establish negotiator identity
 - Establish tone for negotiations
- **Information Stage (Initial proposal/offer)**
 - Questioning
 - Listening
 - Offers
 - Control Response



Slide 4

Stages of Traditional Bargaining

- **Competitive/Distributive Stage (Claiming value of position/proposal)**
 - Value claiming
 - Concessions
 - Deal with adversity
 - Power bargaining
- **Closing Stage (Finalizing options of what can work)**
 - Less concessions
 - Increased need for reciprocation
 - Patience and calculated silence



Slide 5

Stages of Traditional Bargaining

- **Cooperative/Integrative Stage (Maximizing the value of agreement)**
 - Advancing interests of all Parties
 - Direct discussions
 - Preserve credibility
 - Explore all alternatives prior to Final Agreement
 - Leave opponent thinking they got a good deal
 - Get it in Writing



Slide 6

Effective Negotiation Techniques

- Preparation, preparation, preparation
- Establish rapport
- Attitudinal bargaining: reward cooperation, confront adversarial approach
- Control your response
- Find and use leverage



Slide 7

TO BIG TO WIN

Negotiations Methods Interest-based Bargaining



Slide 8

What is Interest-Based Bargaining?

Interest Based Bargaining (IBB) is an approach to collective bargaining that is designed to help parties express, understand and build agreements around shared interests, concerns or desires.



Slide 9

What is Interest-Based Bargaining?

Interest based bargaining is a bargaining method aimed at “expanding the pie,” meaning each party can get a bigger slice without having one side gain at the expense of the other.

Joint problem solving is intended to provide bigger slices for everybody.



Slide 10

What is Interest-Based Bargaining?

IBB is also referred to as:

- *Win-Win Bargaining*
- *Mutual Gains Bargaining*
- *Principled or Interest-Based Negotiation*
- *Interest-Based Problem Solving*
- *Best Practice or Integrative Bargaining*



Slide 11

What is Interest-Based Bargaining?

The Difference Between Adversarial Bargaining and IBB

- In traditional “adversarial” bargaining, parties dig into their positions and exchange demands.
- In IBB, the parties focus on understanding the problem and identifying the interests that underlie each side’s issues, needs, and wants.



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What is Interest-Based Bargaining?

- IBB is a process that enables traditional negotiators to become “joint problem-solvers.”
- IBB assumes that mutual gain is possible and that solutions which satisfy mutual interests are more durable.
- The parties should help each other achieve a positive result.



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What is Interest-Based Bargaining?

IBB has 3 distinct goals:

- 1) To reach a mutually desired and durable result
- 2) To reach agreement efficiently and fairly
- 3) To keep the relationship intact



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Slide 14

Six Principles of Interest-Based Bargaining

- 1) Sharing relevant information is critical for effective solutions.
- 2) Focus on issues, not personalities.
- 3) Focus on the present and future, not the past.
- 4) Focus on the interests underlying the issues.
- 5) Focus on mutual interests, and helping to satisfy the other party's interests as well as your own.
- 6) Options developed to satisfy those interests should be evaluated by objective criteria, rather than power or leverage.



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What is required to be successful?

- Evidence of labor-management cooperation during the past contract term.
- Sufficient time remaining prior to contract expiration to complete the sequence of decision-making about IBB, training and application of the process.
- Willingness of the parties to fully share relevant bargaining information.
- Willingness to forgo power as the sole method of "winning."
- Understanding and acceptance of the process by all participants and their constituents.



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IBB: Getting Started

- Training with IBB experienced facilitator
- Joint meeting of the participants and mediators to reach agreement on ground rules and protocols
- Bargaining begins with discussion of issues and interests



Slide 17

IBB: Training

IBB begins with formal training by a facilitator. The participants must accept the principles and assumptions that underlie the process, and follow the steps and use the techniques during negotiations to be successful.



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Slide 18

IBB: Joint Start-up Meeting

With a decision to proceed, mediators facilitate a joint meeting of the participants to reach agreement on ground rules and protocols under which the bargaining will be conducted, an exchange of the issues to be negotiated, and steps for a transition to traditional bargaining if the IBB process breaks down.



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IBB: The Process

- Problem solving is about resolving underlying interests.
- Interests are your needs, concerns, or desires behind a particular problem.
- The “why” behind the problem.
- Interests drive any negotiated outcome if a problem is to be really resolved.



The diagram shows an iceberg floating in water. The tip of the iceberg, which is above the water line, is labeled 'Positions' and contains the text 'I WANT'. The much larger part of the iceberg, which is submerged below the water line, is labeled 'Interests Needs & Desires' and contains the text 'I WANT, BECAUSE...'. This visualizes that while positions are what is stated, interests are the underlying reasons.



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IBB: Interests vs. Positions

- **Position:** one party's proposed solution to an issue; the how.
- A position statement:
 - focuses on a particular solution,
 - makes a demand, and
 - sets up confrontation before the problem has been clearly defined.



A circular inset image shows a person in a yellow shirt standing at the front of a meeting room, pointing towards a screen. Several people are seated at tables in the foreground, looking towards the presenter.



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Slide 21

IBB: Interests vs. Positions

Converting positions to interests:

If a demand, solution, proposal, or position appears on your interest list, convert it to an interest by asking what *problem* it is trying to solve or what *concern* it is intended to address.



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Slide 22

IBB Process

<p>Identify Issue (Issue Statement)</p> <ul style="list-style-type: none">• Parties identify topic or problems	<p>Evaluate Options</p> <ul style="list-style-type: none">• Feasible – legal, affordable, workable, understandable?• Beneficial – satisfy important interests, better than what you have today?• Acceptable – fair and equitable, pass Agency head review?
<p>Identify Interests</p> <ul style="list-style-type: none">• Identify each side's needs/wants and determine which are mutual• Identify separate and/or conflicting interests	<p>Agree on Solutions</p> <ul style="list-style-type: none">• Consensus – all members agree or "A decision everyone can live with"• Write up the agreement
<p>Develop Options for solutions that involves interests</p> <ul style="list-style-type: none">• Utilize joint brainstorming• Refine list: eliminate duplicates, consolidate similar options	



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Slide 23



Techniques, Tactics & Strategies Interest-based Bargaining





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Slide 24

IBB: Effective Negotiation Techniques

- Focus on issues – not personalities or the past
- Describe the problem, don't accuse or assign motivation
- Focus on interests – not positions
- Understand interests – don't judge them
- Defer evaluation during the option-generating stage
- Evaluate options with standards





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IBB: Effective Negotiation Techniques

- Share Information
- Respect the role and responsibility of others – listen
- Be open to reasoned argument
- If you dissent – explain why and propose alternate solutions or suggest how to modify existing solutions
- Be willing to change your mind
- Sustain the relationship and process



Slide 26

IBB: Building Consensus

- Listen actively
- Encourage others to participate
- Share information
- Don't change your mind to get along
- Yield to reason not pressure
- Listen to all ideas



Slide 27

IBB: Building Consensus

- Don't bargain
- Work collaboratively
- Combine ideas creatively
- Don't argue for an idea just because it's yours
- Look for mutual gains approaches



27

Slide 28

INTEREST-BASED BARGAINING

What are the challenges to applying IBB in your bargaining process?

Can those challenges be overcome?



28

Slide 3

Stasis Theory: History and Background

- Developed in Ancient Greece and Rome
- Four core elements:
 - **Facts:** what happened
 - **Definition:** meaning or nature of the issue
 - **Quality:** seriousness of the issue
 - **Policy:** plan of action
- Where exactly do we disagree?
- Goal is to avoid people talking past one another



Slide 4

Stasis Theory: Facts

- Did something happen?
- What are the facts?
- Is there a problem/issue?
- How did it begin/what are its causes?
- What changed to create the problem/issue?
- Can it be changed?
- Where did we obtain our data, are the sources reliable?
- How do we know the sources are reliable?



Slide 5

Stasis Theory: Definition

- What is the nature of the problem/issue?
- What exactly is the problem/issue?
- What kind of problem/issue is it?
- Is it part of a broader class of things or events?
- What are its parts and how are they related?
- Who/what is influencing our definition of the problem/issue?



Slide 6

Stasis Theory: Quality

- Is the issue a good thing or a bad thing?
- How serious is the problem/issue?
- Whom might it affect (stakeholders)?
- What happens if we do nothing?
- What are the costs of solving the problem/issue?
- Who or what is influencing our determination on how serious the issue is?



Slide 7

Stasis Theory: Policy

- Should action be taken?
- Who should be involved in helping solve the problem/address the issue?
- What should be done about the problem?
- What needs to happen to solve this problem/address this issue?
- Who/what is influencing our determination of what to do about this problem/issue?
- How/why are these sources influencing our decision?



Slide 8

Stasis Theory: Example

Tina's grievance:

- **Fact:** Tina has been late three times this week. *Union and Agency agree – stasis.*
- **Definition:** Late arrival is a violation of the personnel policy. *Union and Agency agree – stasis.*



Slide 9

Stasis Theory: Example

Tina's grievance:

- **Quality:** Tina has made up the time she arrived late by staying after hours. *Union – the issue is less serious than someone who is late without making up the time. Agency – late arrival is a serious issue and making up the time is not allowed. = Core area of disagreement.*
- **Policy:** What discipline will Tina be given? *Union and Agency agree that the policy book states that discipline for tardiness should be reasonable based on the seriousness of the offense – stasis.*



Slide 10

STASIS THEORY & NEGOTIATIONS

*How could the bargaining process be improved by applying **stasis theory**?*



SECTION 2: COLLECTIVE BARGAINING SCENARIO DOCUMENTATION

- I. Agency Notification of Policy Change and Supporting Documents**

- II. Council 2100 Official Time and Telework Case History**

I. Agency Notification of Policy Change and Supporting Documents

- Agency Notification of Realignment of Security and Budget Policy
- DIS Telework Management Directive
- DIS F-1129 Telework Agreement

Notice of Security and Budget Policy Realignment

U.S. Department of Important Stuff
1919 Connecticut Avenue, NW
Washington, D.C. 20008-1114

DATE: May 30, 20__

MEMORANDUM FOR: President, AFGE Council 2001

FROM: Jon Imawatchin, Office of the Deputy Assistant Secretary
Ms. Marinda Agencia, Director, Office of Regulatory Affairs

RE: Union Notification-Security and Budget Policy Realignment

This communication serves as notification pursuant to applicable provisions of the DIS/AFGE Agreement of several changes to AIS policy with regard to security issues related to telework employees and to the use of official time by designated union representatives agency-wide.

OVERVIEW OF CHANGES

Telework

The agency is making a series of updates to our existing policies to improve the security of our information systems and the efficiency of our operations. While telework can provide benefits to our operation, most importantly as an integral component of the agency's continuity of operations plan (COOP), it can also provide an opportunity of vulnerability which can lead to damaging effects on the public, our employees and our mission. To ensure the security of the DIS mission, mandatory site inspections are now required for employees who are currently engaged in or will engage in telework status for the Agency. Proposed revisions to *Article 45 - Telework* of the expired DIS/AFGE Master Labor Agreement can be found in Appendix A of this Notice. All proposed changes are within the express authority of DIS management to determine the mission, budget, organization, number of employees and internal security practices per §7106(a)(1) of 5 USC Chapter 71.

Official Time

Official time, broadly defined, is paid time Federal employees spend performing representational work for a bargaining unit in lieu of their regularly assigned work. The recently expired DIS/AFGE Master Labor Agreement provided language that allowed the Council President to have 100% official time and that a reasonable amount of official time to be provided for other union officials. To ensure that our operations are meeting the appropriate benchmarks for cost allocations and reporting requirements, the Agency is proposing a clarification of the appropriate allocation of official time for representational purposes under 5 U.S.C. Chapter 71.

RATIONALE

Telework

As of 20__ , there have been over 125,000 cyberattacks on Federal government agencies and operations. While Telework can provide significant benefits to employees, there are inherent risks in the use of personal equipment in performing government work on duty. Within DIS, employees, contractors, business partners, vendors, and/or others use enterprise telework or remote access technologies to perform work from external locations. Per NIST guidance, all DIS components and their associated technologies, including organization-issued and bring your own device (BYOD) client devices, should be secured against expected threats as identified through threat models.¹ Enforcement of this action requires a stringent approach to telework to ensure that home offices are operating at the highest security level possible. Accordingly, DIS is taking appropriate steps to strengthen our policies regarding telework.

Official Time

Per the guidance of the General Accountability Office (GAO) and the Office of Personnel Management (OPM), the Department has a responsibility to accurately collect data on the requisite hours that are used for Official Time by union representatives. As noted in the October 2014 GAO report on *Labor Relations Activities: Actions Needed to Improve Tracking and Reporting of the Use and Cost of Official Time*, agencies that do not have a specified number of hours could be at greater risk for abuse of official time.² Accordingly, the Agency is proposing several changes to better quantify and evaluate the use of official time for union representation.

IMPACT ON PERSONNEL

Telework

There will be no impact on employees who are not working in a telework capacity. Individuals who have requested or currently work in a telework status will be minimally affected by this change in policy.

Official Time

There will be no impact on employees who are not serving as union representatives. Individuals who are currently designated as union representatives will be minimally affected by this change in policy.

SCHEDULE OF IMPLEMENTATION

All the policy changes described herein are scheduled to be implemented within the next sixty

¹ (National Institute of Standards and Technology, 2016)

² (General Accountability Office, 2015)

(60) days by no later than July 1, 20__.

If you have questions, please contact Earl Weaver, Director, Administrative Office, at 777.555.9999 or Jim Imawatchin, Senior Advisor, Employee & Labor Relations, at 777.555.9991.

References:

General Accountability Office. (2015). *Labor Relations Activities: Actions Needed to Improve Tracking and Reporting of the Use and Cost of Official Time*. Washington, DC: GAO.

National Institute of Standards and Technology. (2016). *Guide to Enterprise Telework, Remote Access, and Bring Your Own Device (BYOD) Security*. Gaithersburg: U.S. Department of Commerce.

Appendix A

ARTICLE 45 – TELEWORK

1. GENERAL

- 1.1. Telework is a voluntary program that may be authorized when an employee's officially assigned duties can be performed at an alternate location and the criteria specified in this article can be met. The purpose of this Article is to ensure that eligible employees may participate in telework to the maximum extent possible without diminishing employee's performance or mission accomplishment. **Participation in a telework arrangement is not an employee entitlement or right.**
- 1.2. The parties recognize that both core and episodic/situational telework arrangements benefit employees and the Agency by, among other things providing for continuity of operations (COOP). Teleworkers may be called upon to telework during times of COOP and are responsible for being familiar with Agency and workgroup COOP plans and individual expectations during COOP events.
- 1.3. Teleworkers may not provide care of children and/or other family members during work hours while participating in a telework arrangement; teleworkers must make other arrangements for dependent care.
- 1.4. USDIS employees who telework continue to be bound by DIS standards of conduct and policies while working at the alternative worksite and/or using government furnished equipment. Unless otherwise specifically addressed herein, all conditions of federal employment, performance of assigned duties, adherence to applicable policies, participation in required training, and satisfaction of standards of conduct apply in full measure. **Alleged or apparent breaches thereof may subject an employee to formal management review (to include investigation) and appropriate disciplinary procedures.**
- 1.5. Employees with a disability who are not eligible or approved for telework under the Telework Program may be entitled to telework as a form of reasonable accommodation under USDIS MD 4090-1, and may apply for telework under those separate procedures.

2. POSITION ELIGIBILITY

The Agency will determine which positions are suitable for telework. **The Agency will review these determinations on a regular, recurring basis to ensure that positions are included in the telework program to the extent possible and will communicate any determination changes to affected employees. The Agency may, at any time, determine or re-determine whether a position is suitable for telework.**

3. EMPLOYEE ELIGIBILITY

An employee must meet the following eligibility requirements:

- Employee is in a position that has been designated as suitable for telework;
- The employee is performing at least at the “Achieved Expectations” level or its equivalent in each of his or her core competencies and performance goals;
- The employee has signed a written telework agreement;
- The employee has completed all mandatory telework training;
- Unless waived by the telework Approving Official, the employee’s conduct has not resulted in disciplinary action within the last year;
- The employee has not been disciplined for being absent without leave (AWOL) within two years before the telework application;
- The employee has not been disciplined for violating 5 CFR 2635.704 (Standards for Ethical Conduct for Employees of the Executive Branch, Use of Government Property);
- Unless waived by the telework Approving Official, the employee has worked in his or her current position/assignment for at least one year;
- The employee’s record of attendance shows no pattern of leave abuse; and
- The employee is not under a letter of leave restriction.

4. TYPES OF TELEWORK

4.1. Telework may be defined as core, episodic/situational, or ad hoc as described below. The Agency will determine the types of telework and the number of hours for which telework is available for each position. The number of hours of telework is based upon workload requirements, ability to maintain effective communications in the workplace, implementation of new work processes, and accomplishment of the mission of the Agency. **The Agency has the sole discretion to determine the number of hours per week a teleworker is approved to work.**

- Core Telework. The employee teleworks on a routine, regular, and recurring basis one or more hours per pay period.
- Episodic or Situational Telework. The employee teleworks on an occasional, non- routine, irregular basis. Episodic or situational telework for COOP and emergency response purposes will be executed in accordance with applicable procedures.
- Ad hoc (intermittent) Telework. Occasional, one time, or irregular Telework by an employee typically for a day, or a block of hours, to work on projects or assignments that may be effectively performed away from the traditional worksite.

5. TELEWORK APPLICATIONS AND AGREEMENTS

An eligible employee's request to telework for a specific period of time will be approved to the maximum extent possible, as long as approval does not diminish employee performance or agency operations.

5.1. Application.

5.1.1. In order to participate in any type of telework as described above, an employee must submit a telework application. Employees may apply for telework **during the five (5) business days** prior to the beginning of a quarter by completing Form F-1129, *Telework Program Application*. Quarters begin the first work day in January, April, July, and October. An employee who is on leave or TDY during the entire application period may apply in advance or within two (2) days of returning to work. The application timeframes may be waived by management for compelling unforeseen circumstances that prevented timely submission.

5.1.2. Employees must include Section III of Form F-1129, *Employee Certification of Safety for the Telework Program* with the telework application.

5.2. Decision.

Within sixty (60) working days of receipt of the telework application, the employee's immediate supervisor, or designee, will provide a written decision to the employee by completing Section II of the F-1129 Telework Application. The supervisor or designee will maintain the signed original Agreement; in addition, the employee should retain a copy for his or her records. If an application is denied, the reason for denial will be documented on the Form F-1129 and a copy will be provided to the employee.

5.3. Denials Due to Agency Constraints.

When it is not possible for Management to approve all telework requests due to a lack of government furnished equipment, employees will be ranked according to performance to determine which schedules will be approved. The employee's performance level will be determined by the final rating on his or her most recent rating of record. If an employee does not have a rating of record, the employee's supervisor may, at his or her discretion, issue an interim rating.

5.4. Expiration.

Individual telework agreements will expire one calendar year after the date specified in Section I of the Form F-1129, *Telework Application*.

6. GOVERNMENT FURNISHED EQUIPMENT (GFE)

- 6.1. In addition to office supplies routinely used at the traditional worksite, the Agency will provide necessary GFE, as determined by the Agency, to accomplish work assignments.
- 6.2. Supervisors may approve administrative time for employees to resolve issues related to GFE such as training, installation, configuration, and repair services, consistent with existing management policies as applied at the traditional worksite.

7. COSTS

Apart from furnishing and maintaining GFE, the Agency will not be responsible for operating costs (such as telephone line usage fees, internet installation or connection fees, monthly services charges), maintenance, or any other costs incurred by the employee as a result of participation in the telework program.

8. ALTERNATIVE WORKSITE

8.1. Minimum Requirements.

Employees must have a designated workspace or workstation for performance of their work. Employees are responsible for ensuring that the alternative worksite:

- Has telephone access;
- Has high-speed internet access; and
- Has a designated location in which GFE and/or Sensitive but Unclassified (SBU) materials must be stored under lock and key when not in use. Examples of sufficient access control measures include a locked room, desk drawer, safe, and/or file cabinet.

These requirements may be waived **or expanded** at the discretion of the Supervisor/Manager depending on the specific nature of the work to be performed at the alternative worksite.

8.2. Handling Sensitive Materials.

8.2.1. Teleworkers must comply with the Privacy Act of 1974 (the "Privacy Act"), codified in 5 U.S.C. § 552a, by ensuring that sensitive data are not disclosed to anyone except those who are authorized access to such information and have a need-to-know in order to perform their duties. Employees must demonstrate that the appropriate administrative, technical and physical safeguards are available at the telework locations to ensure the security and confidentiality of records protected by the Privacy Act.

8.2.2. Files, materials, and equipment shall be handled in accordance with the Agency policies for safeguarding property and sensitive information. If an employee transports A-files, B-files or receipt files to the alternative worksite, before leaving the traditional worksite, he or she must update the National File Tracking System (or its equivalent) to reflect that the files are located at the employee's alternative worksite. Additionally, all A-files, B-files or receipt files must be manifested.

8.2.3. Employees may not remove classified data from the traditional worksites to alternative worksite locations.

8.3. REPORTING TO THE TRADITIONAL WORKSITE

8.3.1. Employees who Telework must be available to work at the traditional worksite on Telework days if necessitated by work requirements. Requests by employees to change scheduled Telework

8.3.2. days in a particular week or bi-weekly pay period may be accommodated by the supervisor consistent with mission requirements.

9. Employer Request.

9.1.1. Employees may be required to report to their traditional worksite for scheduled trainings, conferences, or meetings, or to perform work on a short term basis that cannot otherwise be performed at the alternative worksite or accomplished via telephone or other reasonable alternative methods. When requested, employees who telework must be available to report to the traditional worksite on telework. **Supervisors will make every effort to provide at least 4 hours' notice in such cases.**

9.1.2. **When advance notice of 4 hours or more is not possible, employees may be provided a reasonable amount of time to report to the traditional worksite.** Employees should make every effort to report as soon as possible but no later than one hour from the time of the request. With good and sufficient reason, the time for reporting may be extended. In cases where employees are called into the traditional worksite after the start of their scheduled workday, travel time to the traditional worksite will be considered duty time.

10. Employee Request.

Requests by the employee to work at the traditional worksite on scheduled telework days may be accommodated by the supervisor consistent with mission requirements and workspace availability. A permanent change in the telework arrangement must be reflected in the form of a new telework agreement.

11. Work Interruption.

11.1. Before participating in the telework program, all employees and their immediate supervisors will identify tasks that could be completed at the alternative worksite when there is a temporary limitation related to working at the alternate worksite, such as a local power failure, that impacts an employee's ability to complete work on an assigned project.

11.2. Employees will promptly inform supervisors whenever problems such as equipment failure, power outages, and telecommunications difficulties adversely affect their ability to work at the alternative worksite. In such cases, the employee may be required to report to the traditional worksite or, if requested by the employee and approved by the supervisor, may take appropriate leave.

12. SUSPENSION OR TERMINATION OF TELEWORK AGREEMENT

12.1. Procedures.

12.1.1. Supervisors or managers may suspend or terminate a telework agreement for the reasons specified below. Unless legitimate business reasons dictate otherwise, the supervisor or manager will provide written notice to the employee **at least ten (10) days** before suspension or termination of a telework agreement. The written notice of suspension or termination will inform the employee when he or she may re-apply for or resume telework.

12.1.2. An employee may terminate a telework agreement for any reason by giving written notice to his or her supervisor **at least fourteen (14) calendar days** in advance. In such cases, the employee may be assigned a temporary workspace at the traditional worksite until such time as permanent workspace becomes available.

12.1.3. Regardless of which party initiates termination, the reason for termination will be documented in Section 2 of the Form F-1129, Telework Program Application.

13. Reasons.

13.1.1. Managers or supervisors may suspend or terminate participation in telework for the following reasons:

- a) The employee no longer meets the eligibility requirements;
- b) The employee has breached the telework agreement;
- c) The telework arrangement diminishes Agency operations;

14. Performance standards are not being met;

14.1. If the employee is subjected to a Performance Improvement Plan (PIP), the employee's participation in the telework program will be terminated.

14.1.1. Managers or supervisors will comply with the Performance Management System Article of this Agreement before suspending or terminating the employee's participation in telework.

- 14.2. On two or more occasions, the employee fails to contact a manager or supervisor **within one (1) hour of the manager's or supervisor's request.** Either party may make contact by phone or email, however, if contact is made by phone and the party is not reached, the individual initiating contact should leave a voicemail indicating the date and time of the call. Employees are expected to be as available at the alternate worksite as they are at the traditional worksite.
- 14.3. Reassignment causes a change of work such that the duties cannot reasonably be performed at the alternate worksite. If the reassignment of job duties is permanent, then the telework agreement must be terminated. If the reassignment is temporary, the supervisor or manager may suspend participation in telework for the duration of the project or assignment. Upon completion of the temporary assignment, the employee may resume telework under the original agreement without submitting a new application, provided that the agreement has not expired. The supervisor or manager will determine whether a telework agreement is terminated or suspended as a result of reassignment on a case-by-case basis.
- 14.4. The alternate worksite did not pass a site inspection.
- 14.4.1. When an alternate worksite fails to pass a site inspection, a supervisor will notify the employee of the failure to pass the site inspection and provide the employee with a copy of the inspection results. At the same time, the supervisor will notify the employee of the intent to suspend or terminate the telework agreement **ten (10) days from the date of the notification.** The supervisor will provide the employee with two copies so that the employee may provide one copy to a Union representative if so desired. However, if the notification is by e-mail, only one copy of the notice need be attached to the e-mail and the employee may print out an extra copy to provide to a Union representative if so desired.
- 14.4.2. Employee rebuttals will be submitted to their immediate supervisor for consideration **no later than five (5) calendar days** after issuance of the negative site inspection report. Employees may ask a Union representative for assistance in preparing a rebuttal. The supervisor has discretion to extend the rebuttal period for good cause.
- 14.4.3. The supervisor will make a final determination **no later than twelve (12) calendar days** after receipt of any rebuttal received or, if no rebuttal received **within five (5) calendar days** of the initial notice of failed inspection.
- 14.4.4. If the reason the alternate worksite did not pass a site inspection poses immediate threat to the employee's safety or reveals a failure to comply with privacy protection requirements, the employee may be required to return to the traditional worksite even during the rebuttal period. The employee must be given a reasonable period to make necessary arrangements.

15. EARLY DISMISSALS AND OFFICE CLOSURE

Telework allows a greater number of Federal employees to work during emergency situations and allows the Federal Government to maximize operational efficiency to the extent practicable without compromising the safety of its employees and the general public during emergency situations.

16. Emergency Closure of Traditional Worksite.

16.1.1. If the traditional worksite closes due to an emergency a telework-ready-employee (an employee with an approved telework agreement and the work and equipment necessary to perform duties) is required to telework consistent with Agency policy.

~~16.1.2. Supervisors may exercise their authority to grant excused absence to teleworking employees on a case-by-case basis.~~

16.1.3. If the traditional or alternative worksite other than the employee's home is subject to early dismissal due to an emergency, employees who are on scheduled telework during that timeframe who are able to perform their assigned work at the alternate worksite, are expected to continue working or request appropriate leave, unless instructed otherwise by the designated Supervisor/Manager.

~~17. Non-Emergency.~~

~~17.1.1. When the office announces an early dismissal of employees for non-emergency conditions such as on the day prior to a federal holiday, employees who are scheduled to telework during that same time will not be excused from work/telework.~~

18. ALTERNATIVE WORKSITE INSPECTIONS

18.1. Alternate worksite inspections are an important aspect of safeguarding sensitive personally identifiable information (SPII) utilized during telework. Whenever SPII in hard copy or paper form is present at an alternate work site, inspections of the alternate worksite are required as a rule of conduct for verification of privacy stewardship at the alternate work site.

18.2. Alternate worksite inspections will **be random and** during the employee's duty hours. The Agency may notify the employee of the inspection prior to arrival at the alternate worksite.

19. SHARED WORKSPACE

Telework participants may be required to share workspace at the traditional worksite with other staff members or be assigned to varying work stations on the days they work at the traditional worksite.

Appendix B

ARTICLE 37 – UNION RIGHTS AND RESPONSIBILITIES

Section 1.0 Exclusive Representation

Pursuant to 5 U.S.C 7114 (a)(1), the Union has the right to represent bargaining unit employees and to designate representatives for the purpose of collective bargaining, the filing of grievances and such other employee-management relations activities as are in accordance with applicable law and regulation.

Section 2.0 Representation Requirements

Section 2.1 Formal Discussions

A. Pursuant to 5 U.S.C. 7117(a) (2) (A), the Union shall be given the opportunity to be represented at any formal discussion between one or more employees it represents and one or more representatives of the Agency concerning any grievance (to include settlement discussions) or any personnel policy or practice or other general condition of employment. This right to be represented does not extend to informal discussions between an employee and a supervisor concerning a personal problem, counseling, or work methods and assignments.

B. The representative designated by the Union will be given advance notice of any formal discussion that is to be held. If that official or designee is not available, the Agency shall contact the Local Union President. This advance notice will be given unless management has been prevented from doing so due to an emergency. Except in an emergency, situations involving a meeting with a large group of employees (such as a meeting with a Branch, Division or Office), the Union should receive reasonable notice **at least one-hour** prior to the meeting.

C. If requested by the attending union representative prior to the start of the formal discussion, the agency management representative will ask the union representative to introduce himself/herself to the group. Furthermore, the agency management representative may ask the union representative if they have any comments or statements prior to the conclusion of the meeting. The union representative will have full participatory rights during the meeting to the extent accorded to other employees.

Section 2.2 Investigatory Examinations

A. As provided in 5 U.S.C. 7114 (a) (2) (B) and Section 10.1 of Article 5, Employee Rights, the Union has the right to be represented at any examination of an employee in the bargaining unit by a representative of the Agency in connection with an investigation if—

1. The employee reasonably believes that the examination may result in disciplinary action against the employees; and
2. The employee requests representation.

B. The Union will determine which representative will be assigned to any particular investigatory examination

Section 3.0 Union Responsibilities

Section 3.1

The Union, as the exclusive representative, is responsible for representing the interest of all employees in the unit it represents without discrimination and without regard to labor organization membership. This responsibility extends only to those matters in which the union is the exclusive representative; specifically, the collective bargaining, grievance, and arbitration processes.

Section 3.2

The Union is not required to represent or assist employees in any other matters, such as proposed adverse actions, Merit systems Protection Board (MSPB) appeals, Equal Employment Opportunity complaints, Workers Compensation claims and other appeal procedures.

Section 4.0 Designation of Representatives

Section 4.1

Union representatives shall be designated by the Union and shall be recognized as employee representatives subject to the provisions of this Agreement.

Section 4.2

An up-to-date list of representatives for all levels of the bargaining unit will be supplied to the Chief, Workforce Relations Division, Office of Human Resources, within 30 days from the effective date of this Agreement, as provided in Article 39, Negotiations, and at least annually thereafter. Unless included on this up-to-date listing, employees will not be considered representatives or be entitled to official time under the provisions of this Agreement. The Union must identify all representatives selected after the effective date of this Agreement in writing to the Agency before they may be recognized as employee representatives.

Section 5.0 Official Time

Section 5.1

Official time for designated union representatives will be authorized as follows:

A. Council President will be authorized 50% official time for the performance of Department of Important Staff representational matters and to participate in Department level initiatives as requested by the Department.

B. The Council Vice President will be authorized 25% official time for the performance of Department of Important Staff representational matters.

C. All other representatives will be authorized reasonable official time for the performance of Department of Important Staff representational duties. **A maximum bank of official time hours will be determined at each component through local supplemental bargaining.**

Section 5.2 Appropriate Uses of Official Time

A. The following are considered appropriate activities for use of official time:

1. To confer with employees or groups of employees with respect to any matter for which remedial relief may be sought pursuant to the terms of this Agreement, including exploratory meetings to determine whether or not it is appropriate to seek remedial relief.
2. To investigate, prepare, and present grievances.
3. To prepare witnesses for third party cases where the Agency and the Union are a party to the matter.
4. To prepare a reply to a notice of proposed disciplinary, adverse or unacceptable performance action when the Union is designated as the employee's representative.
5. To prepare for arbitration, present arbitration cases, and for any purposes required by the arbitrator after the hearing (e.g. writing post-hearing briefs).
6. To meet with an AFGE National staff representative who has been designated to represent the Union in a grievance, arbitration, or Unfair Labor Practice (ULP) charge and for which the Agency is a party.
7. To participate in a Federal Labor Relations Authority investigation or hearing as a representative of the Union when the Agency is a party to the matter.
8. To prepare and maintain record and reports required of the Union by the Agency or by other Federal oversight entity.
9. To review and prepare correspondence which is related to the administration of this Agreement.
10. To attend formal discussions and investigatory meetings.

NOTE – Official time will only be authorized as prescribed by Federal law and regulation.

B. Official time shall not be used for any activities relating to the internal business of the Union (including the solicitation of membership, elections of Union officials, and collection of dues).

5.3 Official Time Requests

A. Requests for use of official time for representational purposes shall be made by providing the fully completed form **at least three (3) days** in advance to the Union Representative's immediate supervisor. Approved use of Official Time shall be recorded on the Union Representative's time sheet **and in the automated Time and Attendance database.** The Agency will give a prompt response regarding requests for official time if the request is timely submitted by the Union. **The Union will respond to Agency requests for documentation on the use of official time within 24 hours.**

B. Travel on official time and per diem will be authorized for Union representatives who are Department of Important Staff employees for:

1. Term negotiations;
2. Representatives for mutually agreed upon meetings with the Agency;
3. Other travel may be approved as authorized in this Agreement.

5.4 Training

A. Union officials will be allowed reasonable official time for Union-sponsored training.

B. In order to be approved, official time for training on the administration of this contract and other mutually beneficial purposes will normally be requested **at least 30 days** prior to the proposed training and the agenda and stated purpose is subject to approval by the Chief, Workforce Relations Division (DIS-1214). Examples of training that may be of mutual benefit are contract negotiation and administration, grievance processing and information relating to relevant Federal personnel/labor relations laws, regulations and procedures. **New representatives will be allowed up to 20 hours of training within their first year. After the first year, a representative may be approved 8 hours for such training. Reasonable requests for annual leave in conjunction with this official time for training may be approved.**

C. The Agency will make timely decisions regarding requests for official time for training if the request is timely submitted by the Union in advance of the date or dates of the training, reserving the right to change that decision if there are compelling and overriding work exigencies. If the travel is authorized by an official government travel order, reimbursement for any fees associated with the cancellation of such travel will be paid in accordance with Federal Travel Regulations.

Section 6.0 Facilities and Services

6.1 Office Space, Furnishings, and Equipment

A. AFGE Council 2001 may be authorized a union office space at Department of Important Staff facilities in the

following locations:

Washington, DC (Headquarters); Tucson, AZ (PAS); Dayton, OH (ADM); San Antonio, TX (ESQ), and Charleston, SC (EXT).

B. Where union office space is not provided, representatives will be provided, upon request, access to private space within the vicinity of the work area for purposes of meeting with and consulting with bargaining unit employees on representational matters.

C. The parties may negotiate procedures for use of electronic bulletin boards during supplemental bargaining in accordance with Article 39, Negotiations.

D. The Agency will provide the union with lockable bulletin boards in numbers and locations determined by supplemental bargaining in accordance with Article 39, Negotiations.

Section 6.2 Communication

A. Email - The Union may communicate with Agency officials, bargaining unit employees, neutral third parties, AFGE staff, or members of the public via the Agency's e-mail system. The Union will comply with all security measures enforced on other users. **The Agency reserves the right to alter this arrangement for security reasons.**

1. The Union may send messages to more than one recipient at one time under the same restrictions that Agency management applies to itself.
2. The Union will be judicious in the use of attachments to e-mail messages. Attachments will be kept to a reasonable size.
3. Consistent with 18 USC 1913, electronic mail transmissions shall not be used to urge or promote lobbying activities by employees who do not serve as Union representatives, either in support of or in opposition to any legislation or appropriation of Congress.

Section 6.3

All use of Department of Important Staff equipment is subject to the requirements of COMDTINST 53751.B, (Limited Personal Use of Government Office Equipment).

Section 7.0 Employee Data

Upon request, the Agency will provide the Council 2001 President a sortable electronic file including the names, grade and step, position titles, and division and/or duty station of all bargaining unit employees.

Section 8.0 Details and Reassignments of Union Representatives

The Union will normally be given notice at least 8-hour notice in advance before detailing or reassignment of a Union officer, official, or representative outside of their representational area.

Telework Directive

I. Purpose

This Directive establishes the Department of Important Stuff (DIS) telework policy.

II. Scope

A. This Directive applies to all civilian DIS employees meeting the definition of “employee” as defined in title 5, United States Code (U.S.C.) § 2105.

B. This Directive supersedes Directive 100-04, Telework Directive.

III. Authority

Public Law (P.L.) 111-292, “Telework Enhancement Act of 2010,” December 9, 2010, as codified in Chapter 65 of Title 5 of the United States Code.

IV. Responsibilities

- A. **DIS Chief Human Capital Officer (CHCO):**
1. Establishes the DIS policy and guidance related to telework, consistent with all applicable laws, regulations, Executive Orders, and DIS policies.
 2. Ensures all DIS Components comply with this Directive.
 3. Designates a DIS Telework Managing Officer (TMO) to implement the telework program DIS-wide.
 4. Comply with 5 U.S.C. § 6506 (d), submitting an annual report to the Chief Human Capital Officer’s Council.

- B. **Component Heads or Their Designees:**
1. Support telework within their respective Components, consistent with accomplishing their missions.
 2. Establish Component-specific telework guidelines to implement this Directive within their respective Components.
 3. Ensure telework implementation is coordinated among all Component program offices with a shared responsibility for an effective telework program.
 4. Designate a Component representative to serve as the telework point of contact for the DIS TMO on all matters related to telework.
 5. Ensure employees are notified of their eligibility to telework.
 6. Establish specific parameters regarding the process for recalling employees to their regular worksite, to include the amount of notice to be provided to an employee.
- C. **Executive Director, Headquarters Human Resources Management and Services** assumes the responsibilities listed under section IV.B. for all support Components with the exception of the National Importance Fund Directorate (NPPD), the Office of Importance General (OIG), and the Federal Importance Training Center (FITC).
- D. **Heads of NPPD, OIG, and FITC** assume the responsibilities listed under section IV.B. for their respective support Component.
- E. **DIS Telework Managing Officer (TMO):**
1. Serves as an advisor for agency leadership, including the CHCO, on telework issues.
 2. Serves as the primary point of contact for the U.S. Office of Personnel Management (OPM) on telework issues.
 3. Serves as a resource for managers and employees on telework matters.
 4. Monitors and assesses Component telework implementation, and provides consultative assistance to Components on matters related to telework.
 5. Develops and administers a DIS-wide tracking system for

compliance with internal and external telework reporting requirements, and prepares reports for OPM and other oversight agencies.

V. Policy and Requirements

- A. **Telework Availability:** It is DIS policy to make telework available to eligible employees to the maximum extent possible without diminished employee performance or agency operations.
- B. **Telework Benefits:** Telework can be an effective strategy for accomplishing the DIS mission and maximizing government operations during emergencies; recruiting and retaining talent; enabling employees to better manage their work and family/life obligations; and achieving cost savings for both the Department and employees. Telework can also benefit the environment by decreasing energy consumption, traffic congestion, and pollution.
- C. **Continuity of Operations:** Telework is an integral part of DIS plans for continuing operations during all emergencies and events, including pandemic health crises, localized acts of nature, accidents, technology-related emergencies, and natural or man-made disasters. During any period that DIS is operating under a continuity of operations plan, that plan supersedes this Directive.
- D. **Management Approval:** Telework participation is not an employee entitlement or right. Telework is an additional method that management may utilize to accomplish work; therefore, telework participation is within the discretion of management, consistent with DIS and Component telework policies.
- E. **Voluntary Participation:** Employee participation in the Telework Program is voluntary. While participation in the Telework Program is voluntary, once an employee elects to telework, compliance with the requirements of a written telework agreement is not. An employee covered by a telework agreement may telework outside of his/her normal schedule because of a mission imperative, or during temporary emergency or closure situations, provided such requirement is addressed in the telework agreement.

- F. **Notification of Telework Eligibility:** Supervisors notify employees of their eligibility to telework.
- G. **Telework Eligibility:** All DIS positions are eligible to be considered for telework except for those that require on a daily basis:
1. Direct handling of secure materials determined to be inappropriate for telework by the Component Head, and/or
 2. Performance of on-site activity that cannot be handled remotely or at an alternate worksite.
- H. **Limitations on Telework Eligibility:** Employees who are subject to the limitations included in 5 U.S.C. § 6502 (a)(2) are ineligible for telework, independent of the duties of their position.
- I. **Telework Participation:**
1. To be able to telework, an employee's position is identified by management as "telework eligible" and the employee is approved by his/her supervisor or other designated approving official for telework participation.
 2. Components may establish additional Component-specific participation criteria (performance, conduct, etc.).
- J. **Telework Agreements:** In accordance with 5 U.S.C. § 6502 (b)(2), a signed agreement between the supervisor and employee is needed for participation in any telework arrangement.
- K. **Denial or Termination of Telework Agreements and Appeals:**
- Components are mandated to report to the Office of the Chief Human Capital Officer all denials or terminations of telework agreements, including the reasons for the denials or terminations. Denials or termination of telework agreement must be in writing and include the basis for denial or termination, which is limited to participation criteria and/or business-related, operational needs, and, in the case of termination, failure to meet the terms and conditions of the telework agreement. If the employee wishes to appeal the denial or termination, he/she uses either the negotiated grievance procedure (if in a bargaining unit and if applicable) or the administrative grievance procedure.

- L. **Dependent Care:** Telework is not a substitute for dependent care. Teleworkers make other arrangements for dependent care.
- M. **Telework Training:** In accordance with 5 U.S.C. § 6503, eligible employees and supervisors of eligible employees must complete telework training before the employee's telework commences. Employees who have been teleworking on a regular basis before the effective date of this Directive may be exempted from this requirement.
- N. **Equal Treatment:** In accordance with 5 U.S.C. § 6503 (a)(3), teleworkers and non-teleworkers are treated the same for purposes of work requirements, performance management, awards and recognition, training opportunities, promotion, and other acts of managerial discretion.
- O. **Return to Regular Worksite:** Management reserves the right to require a teleworker to return to the regular worksite on his/her scheduled telework day(s), based on business-related, operational needs.
- P. **Supplemental Telework Guidance:** Telework guidance developed by OHS Components, support Components, or individual offices, comply with this Directive.

VI. Questions

Address questions or concerns regarding this Directive to the Office of the Chief Human Capital Officer.

**U.S. Department of Important Stuff
Office of The Secretary**

TELEWORK PROGRAM APPLICATION

SECTION I. TELEWORK AGREEMENT

This Telework Agreement between _____ (OPDIS) and _____ (Employee) describes the terms and conditions of participation in the Telework Program.

1. Employee participation in the Telework program is voluntary and not a guaranteed right, and the employee will adhere to all applicable guidelines and policies.
2. Employees participating in the Telework program may be required to work during unscheduled Telework instances, such as inclement weather, emergency building closures and/or when the Agency is operating under a Continuity of Operations plan (COOP).
3. During the hours the employee is on duty at the Alternate Duty Station (ADS), he/she must be accessible by telephone and e-mail at all times.

4. Frequency (check one): Regular Episodic/Situational

a. For Regular Telework: A regular Telework employee will report to the Official Duty Station (ODS) or ADS as indicated on the schedule below. The employee’s compressed work schedule (if applicable) is also noted.

Week 1	ODS	ADS	AWS Day Off	Week 2	ODS	ADS	AWS Day Off
Monday				Monday			
Tuesday				Tuesday			
Wednesday				Wednesday			
Thursday				Thursday			
Friday				Friday			

b. For Episodic/Situational Telework: Approval of this agreement by the OPDIS enables the Employee to participate in the Telework program. However, the Employee must obtain approval in advance from his or her management for each episodic Telework situation.

5. For employees who are on 100% telework, outside of the geographic location of their ODS (50 miles), their ADS will serve as their ODS.

6. The employee’s ADS is located at: _____

The telephone number, Blackberry number, cell phone number and/or fax number (as applicable) of the employee’s approved ADS worksite are:

The employee’s government-furnished workstation ID (e.g., DIS123456) is: DIS _____

7. The employee agrees to provide a work area adequate for the performance of official duties. This includes, but is not limited to, assuring that the home’s electrical system is adequate for the use of Government-owned equipment, safeguarding Government-owned equipment and information from children and pets, and providing smoke detectors.

8. The requirements and procedures for the employee’s time and attendance reporting at the ADS are the same as at the ODS. Requests to use leave or credit hours must be made in accordance with established office procedures and the applicable provisions of Department policies and Union agreements, including obtaining supervisory approval prior to using leave or credit hours.

9. Any overtime or compensatory time must be approved by the employee's supervisor in advance. By signing this Agreement, the employee understands that the OPDIS/Staff Division/Office will not compensate unapproved overtime work.
10. Participation in the Telework program can be suspended or terminated, as appropriate, for failure to comply with or meet the provisions of this Agreement, or for other good and sufficient reasons.

I have a valid virtual private network (VPN) account: Yes No

I have received Telework training: Yes No

I have completed annual information security training: Yes No

I have completed annual privacy awareness training: Yes No

I hereby certify that I have read and understand this Agreement and agree to adhere to all requirements.

Employee's Signature: _____ **Date:** _____

SECTION II. TELEWORK APPROVAL DETERMINATION

Recommendation: Approve Disapprove

Reason for recommending disapproval (if applicable): _____

Recommending Official: _____ Date: _____

Final Determination: Approve Disapprove

Reason for Disapproval (if applicable): _____

Approving Official: _____ Date: _____

SECTION III. EMPLOYEE CERTIFICATION OF SAFETY FOR THE TELEWORK PROGRAM

This checklist is to be completed only if the proposed alternative worksite is in a private residence. This checklist is designed to assess the overall safety of the designated work area of the alternative worksite. Each applicant should read and complete the self-certification safety checklist. Upon completion, the checklist should be signed and dated by the applicant and submitted to the immediate supervisor.

Applicant Name: _____ Date: _____ Telephone: _____

Address, Telephone, and Location of Alternative Worksite: _____

Describe the Designated Work Area:

1. Are stairs with four or more steps equipped with handrails? () Yes () No () N/A
2. Are aisles, doorways, and corners free of obstruction? () Yes () No () N/A
3. Are file/storage cabinets arranged so that open doors/drawers do not create obstacles?
() Yes () No () N/A
4. Is the office space neat, clean, and free of combustibles? () Yes () No () N/A
5. Are phone lines, electrical cords, and surge protectors secured under a desk or alongside a baseboard? () Yes () No () N/A
6. Are circuit breakers/hoses in the electrical panel properly labeled? () Yes () No () N/A
7. Is electrical equipment free of recognized hazards that could cause physical harm (e.g., frayed, loose and/or exposed wires, bare conductors, etc.?) () Yes () No () N/A
8. Does the building's electrical system permit grounding of equipment (i.e., have a three-prong receptacles)? () Yes () No () N/A
9. Is there a smoke alarm and clear access to a fire extinguisher? () Yes () No () N/A

By signing this document, the applicant certifies that all of the above applicable questions were answered in the affirmative or, if answered in the negative, that the applicant will take all necessary corrective actions to eliminate any hazard prior to beginning telework.

Applicant's Signature and Date: _____

II. Council 2100 Official Time and Telework Case History

- Official Time Grievance (October)
- Official Time Grievance (May)
- Telework Arbitration Decisions

LOCAL 1002 GRIEVANCE

DATE: October 1, 20__
TO: Edward Van Halen
Director
Labor-Management Relations
U.S. Department of Important Stuff
100 Jefferson Avenue
Dayton, OH 10001

FROM: Charles Achebe
President, AFGE Local 1002

SUBJECT: **Grievance in the matter of the Department of Important Stuff failure to comply with 5 U.S.C. §7131(d) and Master Labor Agreement Article 37, Section 5.1, 5.2, and 5.3 concerning the assignment and negotiation of official time.**

STATEMENT OF CHARGES

Pursuant to the provisions of Article 33 of the Master Agreement between the Department of Important Stuff (DIS) and the American Federation of Government Employees (AFGE), Local 1002 (Union) is filing this grievance against the DIS and all other associated DIS officials and/or individuals acting on behalf of the DIS for violations as it relates to Article 37, Section 5. Section 5.1, 5.2, 5.3 and 5.4 of the Master Agreement concerning assignment and use of official time. This grievance is timely because it has been submitted within fifteen (15) days of the act or occurrence in question.

Specifically, on or about September 18, 20__, the DIS, by and through its representatives and/or agents, has denied the Union its right to use official time under U.S.C. §7131(d) by failing to allocate official time to a union official participating in a joint labor-management committee (forum).

STATEMENT OF THE CASE

I. Background

5 U.S.C. §7131 provides statutory authority for exclusive representatives to utilize official time for purposes of representation. Sections (a) through (c) of the Act mandate statutory official time as a right under law for matters such as negotiation or attendance at an FLRA proceeding. Section (d) of the Statute allows the parties to reach additional agreements for the use of official time and reads:

(d) Except as provided in the preceding subsections of this section –

- (1) any employee representing an exclusive representative or
(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, **shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.**

The parties recognized the authority to negotiate official time under 5 U.S.C. §7131(d) in Section 5.1 of Article 37 of the Master Agreement which reads:

Official time for designated union representatives will be authorized as follows:

- A. Council President will be authorized 50% official time for the performance of Department of Important Stuff representational matters and to participate in Department level initiatives as requested by the Department.

B. The Council Vice President will be authorized 25% official time for the performance of Department of Important Stuff representational matters.

C. All other representatives will be authorized reasonable official time for the performance of Department of Important Stuff representational duties.

Article 37, Sections 5.2, 5.3 and 5.4 represent official time negotiated by the parties as part of the Agreement, which includes the appropriate uses of official time, the process for official time requests, and the use of official time for training.

II. Violation

On or about September 15, 20__, Donna Trump, Chief Employee/Labor Relations, DIS Administrative Division (ADM) invited members of AFGE Local 1002 to attend a face-to-face labor-management forum meeting in the Collaborate Room on September 25 at the Dayton, Ohio facility. Tony Morrison, Union Chief Steward, was among the invited parties.

On September 18, 20__ Mr. Morrison submitted a request to Nita Reagan, ADM Legal Counsel, for official time to attend the forum meeting for the applicable date. In an emailed response on the same day to Mr. Morrison, Ms. Reagan denied Mr. Morrison's use of official time to attend the meeting:

From: Tony Morrison
Sent: Friday, September 18, 20__ 11:33 AM
To: Nita Reagan
Subject: Request for Official Time Use on September 30

Pursuant to the invitation of Donna Trump, Chief Employee/Labor Relation, I am respectfully request to use official time to attend a labor-management forum s, DIS Administrative Division (ADM) on 30 September from 0900 - 1300 hours in the Collaborate Room.

From: Nita Reagan
Sent: Friday, September 18, 20__ 11:34 AM
To: Tony Morrison
Subject: Request for Official Time Use on September 30

No. Request is denied.

Mr. Morrison contacted Ms. Reagan by phone shortly thereafter to ask for clarification and reconsideration of his request. Ms. Reagan stated that attendance at a labor-management forum was not explicitly referenced under Master Agreement under Article 37 and therefore the request was denied.

Ms. Reagan's failure to approve Mr. Morrison's request for official time is a violation of the Master Agreement. As noted in Article 37, Section 5.1, item C, the parties contemplated that 5 U.S.C. §7131(d) provided a basis for negotiating official time in amounts that are reasonable, necessary, and in the public interest. The broad language used in item C includes all time connected with labor-management relations (LMR) meetings.

As a face-to-face forum between DIS management and union members, the Dayton forum meeting is exactly the forum a union official should and must receive official time to attend.

III. Remedy Requested

The Union asks that to remedy the above situation, the DIS agrees to the following:

- (1) To fully comply with 5 U.S.C. §7131(d) and Master Labor Agreement Article 37, Section 5;
- (2) To make whole any individual who was not properly granted official time as a result of this violation through the restoration of any leave;
- (3) To agree to any and all other remedies appropriate in this matter.

LOCAL 1002 GRIEVANCE

DATE: May 1, 20__
TO: Edward Van Halen
Director
Labor-Management Relations
U.S. Department of Important Stuff
100 Jefferson Avenue
Dayton, OH 10001

FROM: Charles Achebe
President, AFGE Local 1002

SUBJECT: **Grievance in the matter of the Department of Important Stuff failure to comply with 5 U.S.C. §7131(d), 5 U.S.C. §7114(a)(2)(a), and Master Labor Agreement Article 37, Section 5.1, 5.2, and 5.3 concerning the assignment and negotiation of official time.**

STATEMENT OF CHARGES

Pursuant to the provisions of Article 33 of the Master Agreement between the Department of Important Stuff (DIS) and the American Federation of Government Employees (AFGE), Local 1002 (Union) is filing this grievance against the DIS and all other associated DIS officials and/or individuals acting on behalf of the DIS for violations as it relates to Article 37, Section 5. Section 5.1, 5.2, 5.3 and 5.4 of the Master Agreement concerning assignment and use of official time. This grievance is timely because it has been submitted within fifteen (15) days of the act or occurrence in question.

Specifically, on or about April 28, 20__, the DIS, by and through its representatives and/or agents, has denied the Union its right to use official time under U.S.C. §7131(d) by failing to allocate official time to a union official participating in a formal discussion under 5 U.S.C. §7114(a)(2)(a).

STATEMENT OF THE CASE

IV. Background

5 U.S.C. §7131 provides statutory authority for exclusive representatives to utilize official time for purposes of representation. Sections (a) through (c) of the Act mandate statutory official time as a right under law for matters such as negotiation or attendance at an FLRA proceeding. Section (d) of the Statute allows the parties to reach additional agreements for the use of official time and reads:

- (d) Except as provided in the preceding subsections of this section –
- (1) any employee representing an exclusive representative or
 - (2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, **shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.**

The parties recognized the authority to negotiate official time under 5 U.S.C. §7131(d) in Section 5.1 of Article 37 of the Master Agreement which reads:

Official time for designated union representatives will be authorized as follows:

- A. Council President will be authorized 50% official time for the performance of Department of Important Stuff representational matters and to participate in Department level initiatives as requested by the Department.

B. The Council Vice President will be authorized 25% official time for the performance of Department of Important Stuff representational matters.

C. All other representatives will be authorized reasonable official time for the performance of Department of Important Stuff representational duties.

Article 37, Sections 5.2, 5.3 and 5.4 represent official time negotiated by the parties as part of the Agreement, which includes the appropriate uses of official time, the process for official time requests, and the use of official time for training.

V. Violation

On or about April 26, 20__ , Mr. Warren Buffett, Special Advisory Assistant to the Deputy Executive Administrative Director, DIS Administrative Division (ADM) held a meeting with several employees, including members of AFGE Local 1002 to attend a face-to-face meeting to discuss a possible office reorganization in the Collaborate Room on April 15th at the Dayton, Ohio facility. No union officials were notified of this meeting and none were in attendance. Tony Morrison, Union Chief Steward, heard of this meeting on April 20th, when two employees met with her to discuss their concerns over the possible reorganization and the fact that the union was not notified of this issue. As you may know, an Unfair Labor Practice charge was submitted on April 28th to the regional FLRA for a violation of 5 U.S.C. §7114(a)(2)(a) for bypass of the union's right to be notified and attend formal meeting between the agency and employees within the bargaining unit.

On April 27th__ Mr. Morrison submitted a request to Nita Reagan, ADM Legal Counsel, for official time to meet with Mr. Buffett on April 29th to discuss the issue. In a verbal conversation on the same day with Mr. Morrison, Ms. Reagan denied Mr. Morrison's use of official time to attend the meeting stating that since the meeting did not involve a formal discussion or grievance only a preliminary concept, official time could not be used and advised him that he could use his personal leave to attend the meeting, when Mr. Buffett was available to meet with him.

Ms. Reagan stated that attendance at this type of meeting was not explicitly referenced under Master Agreement under Article 37 and therefore the request was denied.

Ms. Reagan's failure to approve Mr. Morrison's request for official time is a violation of the Master Agreement. As noted in Article 37, Section 5.1, item C, the parties contemplated that 5 U.S.C. §7131(d) provided a basis for negotiating official time in amounts that are reasonable, necessary, and in the public interest. The broad language used in item C includes all time connected with a meeting on a possible reorganization which would accurately fall into the statutory definition of a formal discussion under 5 U.S.C. §7114(a)(2)(a).

VI. Remedy Requested

The Union asks that to remedy the above situation, the DIS agrees to the following:

- (4) To fully comply with 5 U.S.C. §7131(d), 5 U.S.C. §7114(a)(2)(a), and Master Labor Agreement Article 37, Section 5;
- (5) To make whole any individual who was not properly granted official time as a result of this violation through the restoration of any leave;
- (6) To educate employees, front line supervisors, human resource specialists, and labor relations specialists within DIS on the requirements of 5 U.S.C. §7114(a)(2)(a).
- (7) To agree to any and all other remedies appropriate in this matter.



AFL-CIO

American Federation of Government Employees

Department of Important Staff Council 2001

80 F Street

Washington, DC 20001

June 23, 20__

Mr. Joel Sternface
Acting Director
US Department of Important Staff
100 Jefferson Avenue
Washington, DC 10001

Subject: Arbitration Decisions on Telework at USDIS

- RE: 1. In the Matter of Arbitration between USDIS and AFGE Local 1003;
 Arbitrator Fair May 4, 20__
2. In the Matter of a Controversy Between AFGE Local 1002 (San Antonio) and USDIS,
 Texas Service Center: Allegations of violations of bargaining agreement related to Work at
 Home Program (telecommuting) (Arbitrator Giveachance, June 18, 20__)

Dear Mr. Sternface:

I am writing to express the views of the Union, pursuant to Article 45 of the master labor agreement (the *Agreement*), regarding the Agency's "moratorium" on expansion of the Telework programs in the four USDIS Service Centers in Dayton, OH; Tucson, AZ; San Antonio, TX; and Charleston, SC.

We are most appreciative of the opportunity the Agency has afforded the Union to participate five years ago in the development of a draft USDIS Management Directive on Telework. We look forward to the finalization and issuance of this Management Directive. We hope that this joint labor-management cooperation serves as a model for further cooperation, in keeping with the vision of your predecessor, Dr. Theresawasa Chanca. We remain concerned, however, by continued moratorium on the expansion of the Service Center Telework programs.

There are currently several Telework programs in effect in various USDIS offices, whether negotiated with the Local unions or established by past practice. Several years ago, former Service Center Operations Director Shutia Down imposed a moratorium on the expansion of the Telework programs at the four Service Centers. This moratorium does not affect Telework arrangements elsewhere (such as the fully-functioning program at the Administrative Appeals Office, USDIS Headquarters). Under the Service Center moratorium, employees previously enrolled in Telework are permitted to continue in the program; new applicants are not permitted.

Since its imposition, we have objected that the Service Center Operations moratorium was not negotiated with the Union. We have asked the Agency, on several occasions, to lift the moratorium and allow new employees to participate. The Agency has taken the position that no lifting of the moratorium could occur until the issuance of the USDIS Management Directive on Telework, which is still pending final approval.

Sir, we ask that you review and consider the two above-mentioned arbitration decisions, which have a clear bearing on this matter:

In his May 4, 20__ decision on the AFGE Local 1003 arbitration, Arbitrator Fair found that while OPM's Telecommuting Guidelines reserved to the Agency much discretion, the Agency does not have "unfettered discretion" that would allow it to ignore the Guidelines. Thus, the unilateral termination of the Telework program for "speculative", as opposed to "demonstrable" reasons, without providing notice and an opportunity to bargain is contrary to law and contract. Arbitrator Fair ordered the reinstatement of the Telework arrangements that had been terminated by the Agency.

On June 18, 20__, Arbitrator Givechance issued her decision on the above referenced arbitration with AFGE Local 1002. In her decision, Judge Givechance found that the Agency's current moratorium imposed on the four Service Center Telework agreements were contrary to law. The arbitrator was "unconvinced by the apparent defenses raised by the Agency – Mr. Ruthless July 20 directive to cease expanding telework and the purported preparation of a national management directive on telecommuting." The arbitrator wrote that he knew "of no authority that would permit a directive negating the negotiated telecommuting agreement because it lacked 'internal controls.'"

Further, Judge Givechance wrote that she did "not understand the Agency assertion that its imposed moratorium did not 'change employee working conditions.' The definition of that term is clearly broad enough to cover the Agency's imposed moratorium on telecommuting."

Judge Givechance cited the Congressional Conference report accompanying P.L. 106-346, § 359, which stated that "Each agency participating in the program shall develop criteria to be used in implementing such a policy and ensure that managerial, logistical, organizational, or other barriers to full implementation and successful functioning of the policy are removed." In the instant case, USDIS "developed "criteria" but then violated those criteria by failing to even process the applications, in effect, imposing new "barriers" to telecommuting participation." Judge Givechance quoted Arbitrator Robert T. Simmelkjaer, *Department of Education, Washington, D.C., and American Federation of Government Employees, Council 252* (DOE), 61 FLRA. 307 (Sept. 30, 2005), where Arbitrator Simmelkjaer stated that "arbitrary limits on flexiplace agreements are [contrary] to law and regulation." (see Vitaro, at page 32).

In rendering his Arbitrator's Opinion and Award, Judge Givechance found in favor of the Union's grievance, ordering the Texas Service Center to take immediate action to process the Telework applications of the affected employees.

In view of these two binding decisions, we would like to request that all current Telework arrangements be allowed to continue without change, unless negotiated with the Local unions as required by Article 45 of *Agreement*, and that the moratorium on the programs for the four Service Centers be rescinded, removing this further barrier to additional eligible employees entering these programs.

Sincerely,

AFGE 2001 Council President

APPENDIX A: Strategic Plan Template

Goals for Campaign

TASK	Complete By	Complete
Meeting to discuss Goals		
Determine goals for improvements on Federal employment standards		
Determine goals for improvements on labor management relationship		
Determine goals for improvements on contract language		
Determine goals for bargaining outreach/internal communications		
Determine goals for membership growth/organizing goals in campaign		

Contract Item Goals/Proposal Preparation

TASK	Complete By	Complete
Draft Bargaining Survey		
Distribute Bargaining Survey		
Collect Completed Bargaining Survey		
Align/Prioritize Goals with Bargaining Survey Results		
Determine positions on aspirational and bottom line positions on each Article up for negotiation, strategy regarding Article; common goals and needs of parties; and areas of potential compromise, tradeoffs		
Prepare Draft of Union Proposals		
Develop Model Language and Guidance		

Ground Rules and Pre-Bargaining Prep

TASK	Complete By	COMPLETE
Identify Bargaining Team		
Bargaining Team Training		
Nominate/appoint/elect Research Working group from bargaining team		
Nominate/appoint/elect Organizing Working Group from bargaining team		
Nominate/appoint/elect Communications Working Group from bargaining team		
Nominate/appoint/elect Outreach Working Group from bargaining team		
Demand to Bargain Letter		
Prepare Ground Rules Proposals		
Negotiate Ground Rules		
Amend Strategic Plan on Tentative Order of Proposals		
Amend Strategic Plan on Tentative Information Request Calendar		
Develop Budget for Bargaining, including (but not necessarily limited to) 1) travel, 2) lunch and learn costs, 3) organizing incentives, 4) newsletters, bargaining updates and mailings, 5) t-shirts and buttons		

Research

TASK	Complete By	Complete
Review and identify patterns from past negotiations with same or related parties; Management’s position on key issues; Details of recent settlements with management		
Review relevant contract language, grievances and arbitrations, past practice, and issues that have risen during life of previous contract; common goals of parties		
Identify mgmt. strengths and vulnerabilities, i.e., legal, legislative & regulatory, political & community relations; key management players and their roles, authority, personality and negotiating style; mgmt. strategies at the bargaining table, in other forums (filing ULPs, etc.) communicating with employees and the public		
Research Agency Budget		
Research on negotiability of Union proposals		

Update Research section of Strategic Plan as research questions arise

Communications

TASK	Complete By	COMPLETE
Develop communication strategy and schedule for communication events.		
Amend strategic plan for issue identification/topics and schedule of bulletin board updates, newsletters, petition planning, bargaining updates, steward outreach, Op/Ed and media outreach		

Update Communications section of Strategic Plan with above mentioned communications calendar

Organizing

TASK	Complete By	Complete
Amend strategic plan with schedule of Communications Working Group		
Develop issue organizing message, 2) workplace mapping, 3) schedule organizing events to coincide with bargaining dates, 4) Updated local official contact in for MyLocal, 5) draft phone-tree for organizing committee work to be performed		
Draft organizing leaflets/1187s for campaign		
Amend strategic plan with organizing events		

Update Organizing section of Strategic Plan with above mentioned organizing calendar

Outreach

TASK	Complete By	Complete
Draft outreach strategy, including but not limited to 1) Outreach to District coordinate support for issue based organizing lunch and learns, PAC events, 2) Outreach to nearby other locals, State Feds and CLCs near each bargaining location, to coordinate support for member mobilization, leafleting, informational pickets, 3) brainstorming for community outreach to faith leaders, issue specific advocacy organizations, 4) Outreach to LEG for legislative assistance		
Outreach to AFGE Locals near bargaining locations		
Outreach to CLCs and State Feds near bargaining locations		
Outreach faith leaders, issue specific advocacy organizations		
Contact LEG Dept. to develop bargaining specific issue strategy, event calendar, PAC events as needed		

Update Outreach section of Strategic Plan with above mentioned outreach calendar

Bargaining Calendar

TASK ³	Complete By	Complete
Tentatively agree to/sign off on two (2) Articles		
Tentatively agree to/sign off on two (2) more Articles		
Tentatively agree to/sign off on two (2) more Articles		
Tentatively agree to/sign off on two (2) more Articles		
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Tentatively agree to/sign off on two (2) more Articles		
Tentatively agree to/sign off on two (2) more Articles		
Tentatively agree to/sign off on two (2) more Articles		
Tentatively agree to/sign off on two (2) more Articles		

Update bargaining calendar section of Strategic Plan with the order of proposals

Wrap Up

TASK	Complete By	Complete
Tentative Agreement and draft completion		
FSIP Request (if warranted)		
Ratification		
Agency Head Approval		
Implementation		

³ If there are more or less Articles than included, Plan to be amended at same rate of progress

APPENDIX B: Common Negotiation Techniques

Introduction:

Negotiators often use different techniques to gain advantage and to influence the behavior of the opposition to achieve their objectives. While some bargainers may favor one technique, many may use multiple approaches to gain a strategic advantage in bargaining. Effective negotiators can identify, mitigate and/or use these techniques to achieve their goals in collective bargaining. Preparation is key to avoid being manipulated by the Agency's negotiating techniques. Having clearly defined goals and bottom lines, researching the Agency's primary interests and their negotiating team, can inoculate the Union from these tactics. The following is a list of several common negotiation techniques and how they can be mitigated.

Technique	Description	Response
Ambiguous Authority	Chief Negotiator indicates that s/he cannot make decisions but must defer to someone higher not at the table.	Clarify in ground rules the beginning that the Chief Negotiator has binding authority. If Agency resists, note this as bad faith bargaining situation until someone with authority can bargain.
Phony Facts	Agency alleges facts to dissuade the union from their bargaining position.	Some level of deception is inherent in bargaining. Verify than trust. Confront agency if it has provided false material facts and state that good faith bargaining requires accurate disclosure of the facts.
Size of Group	Use of outsize group to intimidate opposition.	A larger group can be a weakness and an opportunity to divide and conquer based on different interests.
Take it or Leave it	First offer is an ultimatum.	<ul style="list-style-type: none"> • Ignore the threat. Analyze viability of the proposal and respond. • Call out tactic. • Create a face-saving alternative to their proposal.

Extreme Initial Offers or Demands	Attempt to frame bargaining so that the opposing side is forced to start with large concessions.	There are three options: <ul style="list-style-type: none"> • Do not articulate initial offer until the Agency provides a reasonable offer. • Counter with extreme option. • Probe with questions to demonstrate that position is extreme and needs to be revised.
Personal Attacks	Agency attacks the personal character of the union chief negotiator or the team.	<ul style="list-style-type: none"> • Confront the opposing side directly with their behavior and note that it is not conducive to good faith bargaining. • Limit interactions until behavior is changed.
Stressful Situations	Agency uses uncomfortable seating, chairs, etc. to create an uncomfortable, intimidating environment.	<ul style="list-style-type: none"> • Directly address the issues. Identify what the problem is and work towards resolving the issue before proceeding with bargaining.
Nibble	Agency offers good preliminary terms, then come back and state that you cannot make the agreement until further concessions.	<ul style="list-style-type: none"> • Respond that you are relieved that the opponent has taken their offer back, push the other side to give more concessions.
Anger	Agency representative attempts to intimidate through angry outburst.	<ul style="list-style-type: none"> • Remain calm. Observe behavior and note how this behavior does not represent the agency well (guilt) and distracts from bargaining.
False Demand	Acting like something of great value to the Union (but not important to the Agency) is a major giveaway to get additional concessions from Union. It attempts to hide the bottom line of the Agency.	<ul style="list-style-type: none"> • Tentatively accept the offer, stay focused on your goals. • Research to identify Agency bottom line issues.
Consecutive Concessions	Agency organizes issues with least important issues first, most important last. Deadlocks on first issue then concedes, works towards most important and demands Union provides a reciprocal concession.	<ul style="list-style-type: none"> • Stay firm on the Union goals and do not retreat. • Ignore.

Threats	Agency warns of dire consequences if proposals are approved.	<ul style="list-style-type: none"> • Question the probability that the scenario would occur without an agreement • Focus on the negative impact of the “threat” on the Agency
Boredom/disinterest	Acting as if the Unions proposals are unimportant to intimidate/frustrate.	<ul style="list-style-type: none"> • Ask open-ended questions to gain participation and information.
Good cop/Bad cop	One Agency rep attempts to be understanding, while other takes hard line to make the Union concede.	<ul style="list-style-type: none"> • Focus on reasonable partner. • Call out tactic.
Yes....but....	Agency pretends it doesn’t understand, not able to negotiate effectively, but continues to block proposals until they are revised to meet their goals.	<ul style="list-style-type: none"> • Force the Agency to provide their proposals not just attempt to water down the Union proposals.
No	Agency refuses to agree to negotiate on a proposal.	<ul style="list-style-type: none"> • Question why the Agency will not negotiate on the issue or the proposal. • Ask for counterproposal. • Go to 3rd party.
Escalation	Negotiations traditionally move from initial high demands through concessions to a final lower settlement. This tactic reverses this approach to demand more from the Union.	<ul style="list-style-type: none"> • Call the tactic. • Ask for justification.

NOTES:

