

**FEDERAL SERVICE IMPASSES PANEL
REQUEST FOR ASSISTANCE**

INSTRUCTION: File an **original and one copy** of this request (including attachments) with the Executive Director, Federal Service Impasses Panel, 1400 K Street, NW, Washington, DC 20424-0001. Also serve a copy of the request (with attachments) on the other party to the dispute and on the mediator, and submit a written statement of such service to the Executive Director. Telephone number (202) 218-7790; Fax Number (202) 482-6674.

Form Approved:
OMB No. 3070-0007

Date: **September 13, 2011**

1. This is a request to the Panel, filed under title 5 of U.S. Code and the Panel's regulations to:
(Check One)
 - (a) Consider a negotiation impasse.
 - (b) Approve a joint request for a binding arbitration procedure to resolve a negotiation impasse.
 - (c) Consider an impasse resulting from an agency determination not to establish or terminate a compressed work schedule under the Federal Employees Flexible and Compressed Work Schedules Act.

2. (a) Name of Agency Department of Housing and Urban Development
(b) Address 451 7th Street, SW, Washington, DC 20410
(c) Person to Contact Helen R. Kanovsky Title General Counsel
(d) Phone No. 202-708-2244
(e) Fax No. 202-708-3389

3. (a) Name of Labor Organization AFGE Local 476
(b) Address 451 7th Street, SW, Room 3143, Washington, DC 20410
(c) Person to Contact Eddie Eitches Title President
(d) Phone No. 202-402-2098
(e) Fax No. _____

4. Description of Bargaining Unit Employees in HUD Headquarters and Washington Field Office

5. Number of Employees in Bargaining Unit 1156 Date Labor Agreement Expires n/a

6. (a) If term 1(a) is checked, attach information containing (1) the issues at impasse and requesting party's summary position thereon; (2) the number, length, and dates of negotiation and mediation sessions held; (3) the name and address of the mediator; and (4) the FMCS case number, if known.

- (b) If item 1(b) is checked, attach information containing (1) the issues at impasse; (2) the number, length, and dates of negotiation and mediation sessions held; (3) the name and address of the mediator; (4) the FMCS case number; (5) the issues to be submitted to the arbitrator; (6) a statement as to whether any of the proposals to be submitted to the arbitrator contain questions concerning the duty to bargain and a statement of each party's position concerning such questions; and (7) the arbitration procedures to be used.
- (c) If item 1(c) is checked, attach information containing (1) the number, length, and dates of negotiation sessions held; (2) the schedule or proposed schedule which is the subject of the agency's determination; (3) the agency's written determination and the finding on which the determination is based, including, in a case where the finding is made by a duly authorized delegatee, evidence of a specific delegation of authority to make such a finding; (4) a copy of any collective bargaining agreement between the parties and any other agreements concerning alternative work schedules; and (5) a summary of the position of the initiating party with a respect to the agency's determination.

7. (a) Name of Individual Filing this Request Eddie Eitches
 Title President
- (b) Address 451 7th Street, SW, Room 3143, Washington, DC 20410
- (c) Signature Eddie Eitches
- (d) Phone No. 202-402-2098
- (e) Fax No. _____

8. If this is a joint labor-management request.
- (a) Name of Other Individual Filing This Request _____
 Title _____
- (b) Address _____
- (c) Signature _____
- (d) Phone No. _____
- (e) Fax No. _____

FLRA Form 14

Public reporting burden for this collection of information is estimated to average ½ hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions for reducing the burden to Federal Service Impasses Panel, 1400 K Street, NW, Washington, DC 20424-0001; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20523. This form is not valid unless an OMB control number is displayed on the form.

I certify that I have also served a copy of this request (with attachment) on the other party to the dispute, Helen Kanovsky. Eddie Eitches

6. (a) *If term 1(a) is checked, attach information containing (1) the issues at impasse and requesting party's summary position thereon; (2) the number, length, and dates of negotiation and mediation sessions held; (3) the name and address of the mediator; and (4) the FMCS case number, if known.*

Background: Personnel in the HUD Office of General Counsel (OGC) were moved from their tenth (top) floor office space in the HUD Headquarters Weaver Building when parts of the roof fell into the building. Some of these personnel were moved to other floors within the Weaver Building, and the majority was moved to the nearby Capitol View Building. HUD is using space in the Capitol View Building as "swing space" through which Weaver Building personnel will be moved while the Weaver Building undergoes renovations. Those renovations and related moves are separate from and independent of the OGC move in question.

Because of plans to move personnel from other offices into the Capitol View Building due to the renovations, HUD has determined that it is necessary to move the OGC tenth floor personnel to other temporary space. The majority of OGC employees moving into the Portals Building had already been moved once to the Capitol View Building.

The planned renovation-related moves of personnel from the Weaver Building to the Capitol View Building are expected to last four months for each group of people moved. Before the actual moves, HUD and the Union signed an agreement, Local Supplement 51.

The move of tenth-floor OGC personnel to the Portals Building is expected to have a duration of six months. Unlike the move to Capitol View, management unilaterally moved personnel to the Portals building without initiating negotiations or following procedures in the collective bargaining agreement (section 5.06).

(1) Issues at impasse:

(A) Reduction in size of work stations below that agreed upon in supplement 69 to the national contract or as provided for in Administrative Services Policy Handbook (HUD 2200.1), chapter 13, Space Management and Space Management Handbook (HUD 2216.1).

Management failed to negotiate with the Union regarding the size of the work stations that are assigned to OGC personnel moving to the Portals Building. Many of the employees are trial attorneys, entitled to up to 150 square feet of private office space per attorney, or up to 225 square feet for two attorneys. The attorneys had private offices in the Weaver Building. Other personnel, under the contract terms, are entitled to a minimum of 64 square feet per work station, or 56 square feet if there is not enough room to accommodate 64 square feet. **All bargaining unit employees**, whether attorneys or non-attorneys, are being moved to open (non-private) work stations of 42 square feet or less.

Management has termed this move an emergency situation. The Union disagrees with that characterization, because all personnel affected by the safety issues of the Weaver Building tenth floor already were moved off the tenth floor into alternative, safe space. This move is a matter of convenience for management. Management does not wish to lease more space, reconfigure leased space, or modify the planned sequence of renovation-related moves through the Capitol View swing space.

Management moved the affected personnel without completing negotiations. HUD management has a history of ignoring its obligations to the Union and to bargaining unit personnel with regard to space management. In December 2010, in partial resolution of a similar conflict, the FLRA ordered HUD to post Notices to Employees stating:

WE [the Department] WILL NOT fail and refuse to negotiate with the American Federation of Government Employees, Local 476, AFL-CIO (the Union), the exclusive representative of our employees, over negotiable proposals concerning the procedures and appropriate arrangements for bargaining unit employees adversely affected by the relocation of employee work areas.

HUD did not post those notices until the following March.

The Union would like HUD to negotiate in good faith regarding the move of OGC personnel to the Portals Building, and regarding all other moves of bargaining unit employees.

(B) Expanded flexibility in work schedules for personnel moved temporarily to office space in the Portals Building.

The Union understands the budget constraints that affect the acquisition of temporary space, and that the OGC move to the Portals Building is temporary, albeit long-term. The Union offered to accept the reduced work space if Management would agree to provide employees with greater flexibility in work schedules, as is offered to employees moved to the Capitol View Building. One of the reasons for providing expanded flexibility in scheduling is the severely reduced size of work stations from the negotiated agreement.

AFGE Local 476 and HUD Management had reached an agreement (Local Supplement 51) related to personnel moves to the Capitol View Building for a shorter period than the move to the Portals Building. That agreement states

Management agrees to provide employees with maximum flexibility in work schedules while assigned to swing space. This includes the availability of five-day-per-week telework and compressed schedules such as 10/4. Actual work schedules will be a matter of mutual agreement between the supervisor and the employee, subject to the grievance procedure.

The Union's position is that the same policies that apply to employees moved through the swing space in the Capitol View Building should apply to the personnel affected by the move to the Portals Building. Both are being used for similar purposes of temporary space. Furthermore, the current HUD Telework Policy (Handbook 625.1) provides for situational telework, that is, "project-oriented, non-recurring, and/or irregular telework."

If operational demands can be met, other circumstances may be considered as a reason for situational telework. Under such arrangements, the employee may work for a day or more at an alternative worksite. The supervisor will approve the exact number of days the employee will work from the alternative worksite. Examples for initiating a situational telework arrangement may include the following:

- i. An employee has a short-term work assignment that could be performed at an alternative worksite free from interruptions.

- ii. The official worksite is not usable, e.g., during office renovation projects, etc.
- iii. To accommodate the needs of the employee, if justified, and the employee has the ability to work from an alternative worksite. Managers are encouraged to consider these types of requests as soon as possible.
- iv. Since this is a temporary situation, the duration of telework is at the supervisor's discretion and does not have to meet the minimum requirement of regular telework, i.e., reporting to the office at least twice a week.

The Union has requested that Management recognize that the use of swing space in the Portals Building is the same as in the Capitol View Building. The Union requests that Management apply its telework policy to the current situation rather than refusing to permit expanded telework when employees are being moved to non-private, cramped work spaces. Were the Union not to include that clause that is included in Supplement 51, the Union will have committed an unfair labor practice by agreeing to fewer rights for OGC bargaining unit employees than for other similarly situated bargaining unit employees.

(2) Number, length, and dates of negotiation and mediation sessions held:

Two negotiating sessions: September 7 and 8, for up to four hours each. No mediation sessions held.

Local 476 requested that Management agree to mediation but HUD Management has refused.

(3) Name and address of the mediator: N/A

(4) FMCS case number: N/A