

IN THE MATTER OF ARBITRATION BETWEEN:

American Federation of Government, Employees (AFGE), Council of HUD Locals 222, UNION,	}	Issue: Fair and Equitable Grievance
v.	}	Case No. 03-07743
U.S. Department of Housing & Urban Development, AGENCY.	}	Arbitrator: Dr. Andrée Y. McKissick, Esq.

SUMMARY OF IMPLEMENTATION MEETING

This Arbitrator met with the Parties on June 12, 2014 to discuss the progress of the Parties with the implementation of the January 10, 2012, Opinion and Award (the "Award") in the above captioned matter. Present for the Agency were: Tresa A. Rice, Esq., Javes Myung, Esq., Jim E. Fruge by phone, and Mike Anderson. Present for the Union were Michael J. Snider, Esq. and Jacob Y. Statman, Esq., from Snider & Associates, LLC, and Carolyn Federoff, EVP, from AFGE Council of Locals, 222. This is the third Summary of Implementation Meeting, the first two having been issued on March 14, 2014, and May 17, 2014, respectively. Both prior Summaries are hereby incorporated by reference and remain in full force and effect.

As stated in prior Summaries, this Arbitrator has instructed the Parties to make substantial progress on identifying class members. The Parties were instructed that based upon this Arbitrator's Award, as an example, all GS-1101 employees at the GS-12 level from 2002 to present were to be promoted, per the Back Pay Act and CBA, with back pay and interest, as of their earliest date of eligibility. As a simple subset that should be easily identifiable, this Arbitrator instructed the Parties to identify all PHRS employees, who would comprise the first set of class members. The Union stated that it provided its list of PHRS class members to the Agency in early May 2014. It requested feedback from the Agency, in compliance with this Arbitrator's Summary, on multiple occasions. The Agency did not and has not disagreed with the Union's PHRS class member listing,

nor has it proposed an alternative methodology of identifying those class members. Consistent with the Award, this Arbitrator expects the Parties to work together to compile a list of PHRS employees from the annual employee listings provided by the Agency so that concrete progress could be achieved by the next implementation meeting. As noted on prior occasions, this Award is to be interpreted broadly so as to include the maximum amount of class members as possible.

Despite these factors, and the untimeliness of the Agency's request, the Agency has requested yet another thirty (30) days to provide a response to the Union's lists of eligible employees that encumbered PHRS and CIRS positions, including explanation as to how it constructed the list(s) and if applicable, why it disagrees with the Union's list(s) and the Union's methodology, which this Arbitrator approved and discussed in the prior Summary. Initially, the basics of a new Agency proposal were discussed, mostly by Mr. Fruge by phone. This Arbitrator noted that the Agency's new proposal, as described by Mr. Fruge, does not comport with the Award, prior Summaries or with this Arbitrator's prior instructions to the Parties.

This Arbitrator further reminded the Agency that any use of location, vacancies or any other limiting factor would not comport with the Award. This Arbitrator did allow the Agency one last opportunity to compile a list of PHRS and CIRS employees who should be promoted with back pay, and permitted that the Agency be provided thirty (30) days from the date of the June 12, 2014 meeting to present their PHRS and CIRS lists. This Arbitrator's Award, which is final, must be fully followed. It is expected that the Award is to be implemented by the Agency as written, and as clarified through the meetings and subsequent Summaries. The Parties shall discuss the Union and Agency PHRS and CIRS lists, if they differ. After discussion of the lists, the Parties will present to this Arbitrator a Stipulation signed by the Parties to be submitted to the Arbitrator after they meet. The Stipulation should list all eligible PHRS and CIRS employees, the amount of back pay and interest due each, and a date by which the retroactive promotions, recalculated

retirement annuities (as applicable), back pay and interest will be paid to each. Any disagreement between the Parties shall be submitted to this Arbitrator in writing for consideration.

The Union noted during the meeting that it was not receiving advance information prior to monies being disbursed to its Bargaining Unit Members, and the problems arising therefrom. This Arbitrator ordered the Agency that at least one week prior to the issuance of any monies to affected class members that the Agency shall provide the Union with the details of who is being paid, for what time period, the gross payment, and all applicable deductions and withholdings.

Contrary to this Arbitrator's prior orders, the Union further noted during the meeting that the Agency was not providing the Union with SF-50s, worksheets, or a list of the deductions or withholdings that were being taken out of payments to class members. Thus, this Arbitrator ordered that within two weeks from the meeting, the Agency is to inform the Arbitrator and Union as to the internal controls that have been put into place to ensure that the Union receives timely notifications of all payments made including all applicable and necessary withholding details. Moreover, within two weeks from the meeting, the Agency will inform the Arbitrator and Union about: (1) whether income tax has been taken out of retirees' payments; (2) whether retirement and/or TSP contributions have been deducted from the payments to current employees; (3) whether the Agency has paid its portion of any retirement and/or TSP payments to current employees; and (4) how interest is being calculated.

At the meeting the Union inquired about the status of the FY-2011 payments that, to date, have not been paid. This Arbitrator ordered, based upon the Agency's own timeline, that no later than the week of June 23, 2014, the Agency will inform the Arbitrator and the Union of the Status of the FY-2011 payments to the already eligible class members.

Despite this Arbitrator's prior Orders, the Agency has not responded to the Union's request to reach an agreement on a proposed earliest back pay date. As such, within two weeks from the

meeting, the Union and Agency will reach an agreement on the earliest back pay date, or will submit the matter to the Arbitrator for a decision.

At the meeting, the Union raised the concern that back pay calculations were not being conducted prior to the issuance of the SF-50, which could lead to math and payment errors not being caught until after payments had already been made. This Arbitrator ordered the Agency to remedy this problem by running all calculations and then meeting with the Union.

In May 2014, the Union filed a Request for Information pursuant to 5 U.S.C. § 7114(b). The Union noted that it had not yet received a satisfactory response to Request No. 1, which requested the contact information for all potential class members. This Arbitrator ordered that within three weeks from the meeting, the Agency was required to provide the Union with an acceptable database or list of the contact information for all possible class members.

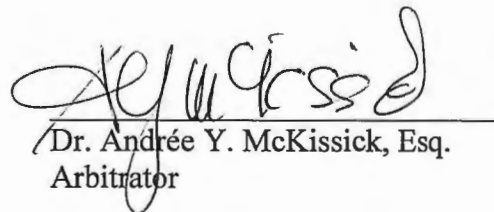
The Agency is reminded that it continues to be in violation of the prior Orders requiring that all six witnesses receive retroactive promotions and all back pay, interest and emoluments. The Agency also continues to be in violation of the Orders to submit all documentation pertaining to the retroactive promotions and payments, including but not limited to: copies of all forms, back pay and interest calculations, payment forms, forms showing adjusted retirement annuities, etc. These Orders are hereby extended to the additional eleven (11) employees that the Agency previously identified as eligible class members. Those eleven (11) employees are: (1) Brenda Crispino (Retired), (2) Steven Di Pietro, (3) Santo Duca, (4) Leroy Ferguson, (5) Gilbert Galinato, (6) James House, (7) Kaeron Masters-High (Retired), (8) Tammie Simmons, (9) Anne Trumbla, (10) Gwen White (Retired), and (11) Edward Williams, Jr. This Arbitrator expects to see substantial, concrete progress towards promotions, back pay and interest payments and recalculation of annuities for these employees in an expeditious matter, and full communication between the Parties during the calculations period and prior to communications with and payment to the employees.

The Union and Agency shall continue working to identify additional class members as set forth in the Award and as stated in the meeting, and shall keep the Arbitrator informed of their progress.

The Parties are to meet in person or by phone no less than two times prior to the next meeting, which will be on August 28, 2014, beginning at 10:00 AM. The Parties are to keep the Arbitrator apprised of progress and any impasses. It is expected that the Parties make substantial progress on their own so that concrete progress can be achieved by the time of the August 28, 2014 meeting.

The purpose of these meetings is to monitor implementation of this Arbitrator's January 10, 2012 Award. Nothing discussed or stated at the meeting or in this Summary should be construed as a new requirement or modification of the existing Award.

This Arbitrator shall continue to retain jurisdiction over this matter for all matters relating to implementation as well as an award of attorney fees, costs and expenses.



Dr. Andrée Y. McKissick, Esq.
Arbitrator

August 2, 2014