



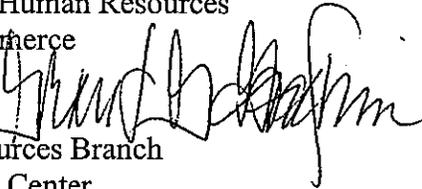
UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
National Processing Center
Jeffersonville, IN 47132-0001

September 15, 2010

MEMORANDUM FOR William J. Fleming

Acting Deputy Chief, Human Capital Officer and
Acting Director for Human Resources
Department of Commerce

Through:

Grant G. Goodwin 
Chief, Human Resources Branch
National Processing Center

From:


Annette Kendle
Labor Relations Officer
National Processing Center

In accordance with your memorandum dated September 10, 2010, the interim agreement has been resigned and the parties have incorporated your recommended changes. Therefore, attached is our resubmitted interim agreement between the U.S. Census Bureau, National Processing Center and the American Federation of Government Employees (AFGE) Hagerstown, Maryland. Once approved, this interim agreement will remain in effect until a collective bargaining agreement at the level of exclusive recognition is negotiated and effective.

If you have any questions, please contact me on 812-218-3321.

Attachments

MEMORANDUM OF AGREEMENT
BETWEEN
U.S. CENSUS BUREAU
NATIONAL PROCESSING CENTER
AND
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
HAGERSTOWN TELEPHONE CENTER

1. This Memorandum of Agreement is an interim agreement between the American Federation of Government Employees, AFL-CIO (the Union) and the United States Census Bureau, National Processing Center, Hagerstown Telephone Center (the Agency), and applies to all bargaining unit employees represented by the Union at Hagerstown.

2. Both parties acknowledge the rights conferred on Unions and Management in Title VII of the Civil Service Reform Act (i.e., the Federal Service Labor Management Relations Statute).

3. **Dues Authorization.** Dues withholding deductions will be processed in a timely manner, normally within two pay periods of receipt of a completed SF-1187, Request for Payroll Deductions for Labor for Labor Organization Dues received in the Labor Relations Office.

Termination of Allotment. Census shall terminate a unit member's allotment: 1) as of the beginning of the first full pay period following receipt of notice that exclusive recognition has been withdrawn from the Union; 2) at the end of the pay period during which the member is separated from NPC or by other personnel action is removed from the Unit; 3) as of the beginning of the first full pay period following 1 year from the beginning of the allotment, or each subsequent anniversary date, following receipt of the member's written revocation.

4. AFGE Agent will notify the NPC Labor Relations Officer in Jeffersonville, Indiana, in writing of all persons designated as Union representatives, and will provide ongoing written notice of any changes or modifications that occur. Only those Union representatives designated in writing will be recognized by the Agency.

5. In accordance with 5 USC 7131(d), the Agency will provide Union representatives with a reasonable amount of official time to conduct representational activities. Union representatives and bargaining unit employees must request and get approval for the use of time from the

appropriate supervisors prior to taking official time. Union representatives and bargaining unit employees shall record all time spent pertaining to Labor Management Relations in accordance with Agency procedures and time codes on the Jeffersonville Activity Reporting System (JARS).

GRIEVANCE PROCESS – Hagerstown Telephone Center

Section 1. Purpose. The purpose of this process is to provide an interim process for the timely consideration of the grievances of employees, the Union, or the Agency. The Employer and the Union agree that every effort will be made by Management and the aggrieved party(s) to settle complaints at the lowest possible level with the authority to grant relief sought. Reasonable time during work hours will be allowed for employees and Union representatives to discuss, prepare for, and present complaints. Employees and representatives who wish to use such time must receive prior approval from their supervisor before taking such time.

Section 2. Definitions. A grievance is any complaint:

- (a) By an employee concerning any matter relating to his/her employment;
- (b) By the Union concerning any matter relating to the employment of any employee in the unit;
or
- (c) By an employee, the Union, or the Agency concerning:
 - (1) The effect or interpretation, or a claim of breach of this interim agreement;
 - (2) Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

Section 3. Exclusions. This grievance process shall not apply with respect to any grievance concerning:

- (1) Any claimed violation related to prohibited political activities;
- (2) Retirement, life insurance, or health insurance;
- (3) A suspension or removal for national security reasons;
- (4) Any examination, certification, or appointment;
- (5) The classification of any position which does not result in the reduction in grade or pay of a unit employee;

- (6) Termination of employees serving a probationary period;
- (7) Non-adoption of a suggestion or failure to receive a performance award, or other type of honorary or discretionary award;
- (8) A notice of proposed disciplinary, adverse, or performance based action;
- (9) Non-selection from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion;
- (10) The content of published agency policy or regulation that is consistent with Government wide rules, laws or regulations;
- (11) An oral caution or oral admonishment;
- (12) Counseling of a bargaining unit employee; counseling is intended to inform employees orally or in writing of their responsibilities with regard to attendance, performance, and/or conduct, and identify areas of needed improvement. Counseling is not discipline nor will it be used as part of progressive discipline. The purpose of counseling is to help employees who are experiencing attendance, performance, and/or problems before discipline becomes necessary.
- (13) An action which terminates a temporary promotion;
- (14) Supervisory determination of Critical Job Elements and performance standards.

Section 4. Grievant's Rights. This interim negotiated process shall be the only administrative process available to the Union and bargaining unit employees for resolving grievances. If an employee wishes to present a grievance on his/her own behalf, a representative of the Union will be given the opportunity to be present at any meeting with the Agency concerning the grievance. This right of grievance presentation without Union representation does not extend to arbitration which may be invoked only by the Union on the employee's behalf. Employees may request Union representation at any time during the grievance process. The designation of a Union representative must be in writing.

Section 5. Employee Options. In three areas: (1) discrimination complaints; (2) removal or reduction in grade for unacceptable performance; and (3) adverse actions (removal, reduction in grade for other than unacceptable performance, suspension for more than 14 days, and furlough for 30 days or less) employees have the option to use either this negotiated process or a statutory appeals procedure, but not both. Employees exercise their option when they file a formal complaint of discrimination, timely notice of appeal under the appropriate appellate procedure or file a timely grievance in writing under this process.

Section 6. Grievance Consolidation. If two or more employees initiate identical grievances (where the basis for the grievance and corrective action being sought are identical), the Union, if it has been designated as the representative, will call the employees together and have them

select one of the grievances for processing. The decision made on the grievance selected for processing will be equally applicable to all of the other identical grievances.

Section 7. Grievant's Rights. Any unit employee, or group of unit employees, retains the right to present a grievance to the Employer under this Article without the intervention of the Union, as long as the adjustment of the grievance is not inconsistent with this Memorandum of Agreement and the Union has been given the opportunity to be present during the grievance proceeding. In presenting a grievance under this section, an employee is bound by, and may avail himself/herself of, all provisions of this process, except that the employee may not invoke arbitration over any issue.

Section 8. Representation. A unit employee may, at any stage of a grievance, request and obtain representation by the Union. When an employee chooses to be represented by the Union, a written designation of representative (copy attached) shall be submitted to the deciding official. After that, all written correspondence related to the grievance shall be addressed to the representative with a copy to the employee. Union representatives may receive, but shall not solicit complaints or grievances from unit employees during duty hours. Where the employee exercises his/her right to a representative under this Article, the Employer reserves the right to designate a fourth person to be present as well at any grievance meetings.

Section 9. Timeliness. Failure of the grievant or the Union to proceed with a grievance within any of the time limits specified in this agreement shall render the grievance void or settled on the basis of the last decision given by the Agency, unless an extension of time limits has been agreed upon. Failure of the Agency to answer a grievance within the time limits prescribed in each step shall allow the grievant or the Union to proceed to the next higher step of the process, unless an extension of the time limits has been agreed upon by the Parties. The Party requesting an extension of time will document such agreement in writing and provide a copy to the deciding official.

Section 10. Nullification. The parties further agree that where, in the case of an individual employee grievance, the employee dies, resigns, or is otherwise separated from the unit before a decision is reached on his/her grievance, the grievance shall be nullified except where a question of back pay is involved.

Section 11. Grievance Process. When a complaint cannot be resolved at the lowest level, the negotiated grievance process shall be the only administrative process used for resolving grievances.

The interim negotiated grievance process will contain three levels.

Step One. The grievance must be initiated within 15 days after the act or specific incident giving rise to the grievance or after the employee becomes aware of being aggrieved. The grievance shall first be taken up with the Branch Chief or designee at the Hagerstown Telephone Center. Grievances are documented on the Grievance Record, Form

NPC-689, which is completed by the aggrieved employee, his/her representative, and the deciding official. The Grievance Record is intended to supplement the employee's presentation of the grievance. Where the employee exercises his/her right to a representative, the Employer reserves the right to designate a fourth person to be present as well. The deciding official shall render a decision within 15 days from the presentation of the grievance.

Step Two. If the grievance is not satisfactorily resolved at Step One or is not subject to Step One resolution, the grievant may file a Step Two grievance with the Director, National Processing Center (or designee). This is considered a formal appeal. The grievance must be filed in writing within 15 days after completion of Level One. The grievance shall be directed to the Director, NPC, with one copy to the Labor Relations Office. The Director (or designee) will determine within 7 days following receipt whether the requirements of this Article have been met.

If a grievance has been improperly filed under this step, it shall be remanded to the grievant or representative, if any, with a specific statement as to the deficiencies. The grievant or representative shall then have 10 additional days to file the grievance properly. Should the grievant or representative fail to remedy the deficiencies within the 10 days, and absent any further extension of the time limit, the grievance shall be nullified.

Grievances at Step Two and/or Three must:

- (a) be in writing;
- (b) be identified as a Step Two or Three grievance;
- (c) be within the scope of the grievance process;
- (d) specify when and in what manner the grievance arose;
- (e) cite the specific act or incident which gave rise to the grievance, or the specific MOA provision, law, rule, or policy allegedly violated;
- (f) specify, when appropriate, the corrective action sought by the grievant;
- (g) identify, where not already designated under Step One, the grievant's designated representative, if any;
- (h) be accompanied by a copy of the Grievance Form, NPC 689, where appropriate;
- (i) state, whether or not the grievant or Management has taken any action under the grievance process Step One, the date such action was completed, and furnish the name of the official, if any, to whom the grievance was referred; and
- (j) be signed by the grievant.

Upon receipt, the Director, NPC, or his/her designee, shall contact the Branch Chief, or other official, if any, to whom the grievance was last referred, and shall request from such official a memorandum setting forth fully the circumstances surrounding that grievance and the steps taken to resolve it. The grievant shall be given an opportunity to review and comment upon this memorandum. The Director, NPC (or designee), will contact the grievant or his/her representative, if any, no later than 14 days after the grievance has been accepted to begin the investigative process. The deciding official shall render a decision within 30 workdays after this discussion.

Step Three. If the grievant is dissatisfied with the decision on the grievance at Step Two, the grievant may then, within 15 days after receipt of that decision, file an appeal by directing a copy of the grievance, together with a letter of appeal, to the Associate Director for Field Operations at U.S. Census Bureau, 4700 Silver Hill Road, FB 3 Room 2027, Suitland, MD 20746, with a copy simultaneously forwarded to the Labor Relations Officer, National Processing Center. The Associate Director, or designee, shall review the grievance and shall, if necessary, contact appropriate officials or employees, as well as the grievant and his/her representative, if any. The deciding official shall render a written decision within 30 workdays after receipt of the appeal.

In cases where relief is offered either in whole or in part under any Step, the grievant/representative will within 10 days state in writing to the appropriate deciding official, when relief is acceptable, that the grievance will be dropped upon receipt of relief.

Union Grievances. The matter shall be taken up informally with the lowest-level Management official with authority to grant the relief sought. If the official with such authority is above the branch chief level, the Union may proceed to Step Two. In the case of a Union grievance, the grievance will be referred to the Director of NPC, in writing, within 30 days of the specific act or incident.

Management Grievances. Management grievances will be filed by the Director, NPC (or designee). In the case of a Management grievance, the grievance will be referred to the on-site Union representative or a Union official designated by the AFGE National (or designee), within 30 days of the specific act or incident.

Upon receipt of a Management grievance, the Union Representative, or designee shall meet with the grievant no later than 10 days after the grievance has been accepted for the purpose of attempting to resolve the grievance. The Union Representative or designee shall render a written decision within 15 days after this meeting.

Step 4 - Arbitration. If the Agency and the Union fail to settle any grievance under this grievance process, such grievance, upon written request by either the Agency or the Union within 15 calendar days after issuance of the final decision may be submitted to arbitration.

Section 1. Within 7 calendar days from the date of the request for arbitration, the party invoking arbitration will request the Federal Mediation and Conciliation Service to provide a list of 7 impartial persons from within the local geographical area who are qualified to serve as arbitrators. The party request the list will be responsible for any fees involved in requesting such a list. The parties will meet within 7 calendar days after receipt of such list. The Agency and the Union will each strike one arbitrator name from the list of 7 and will repeat this procedure until one name remains who will be the selected arbitrator. The party invoking arbitration will strike first.

Section 2. If the parties fail to agree on a joint submission of the issue for arbitration, including any threshold issues, each will submit a separate submission and the arbitrator will determine the issue(s) to be heard. The submission of the issue(s) for arbitration will be done once the arbitrator has been selected, and will be submitted prior to the hearing. When a threshold issue is present, either party can ask the arbitrator to rule on the threshold issue based on written briefs. Either party may also request that the arbitrator rule on the threshold issue prior to holding a hearing on the merits of the grievance.

Section 3. The arbitrator's fee and the expense of the arbitration, will be the responsibility of the losing party. If there is a split decision, the parties will share the costs equally.

The arbitration hearing will normally be held on the Agency's premises during the regular day shift hours of the basic workweek. All participants in the hearing who are bargaining unit employees will be in a duty status.

Section 4. The arbitrator will be requested to render his/her decision as quickly as possible after the conclusion of the hearing or after submission of closing briefs, if applicable.

Section 5. The decision and award of the arbitrator will be final and binding except that either party may file an exception to the award as provided in 5 U.S.C. Section 7122.

Section 6. Any dispute over the application of an arbitrator's award will be returned to the arbitrator for settlement, including remanded awards.

Section 7. When a formal hearing is used, verbatim transcription will be utilized if mutually agreed to by both parties. The cost of this transcription service will be equally divided between the designated Agent and the Agency. If not mutually agreed to, either the Agency or the Union may utilize verbatim transcription at their own expense. If either party desires a transcript of the proceedings, that party will bear the expense of the transcript. If both parties desire a transcript, the parties will share the cost.

Section 8. The arbitrator has full authority to award reasonable attorney fees in accordance with applicable laws and regulations where an employee is found to have been affected by an unjustified or unwarranted personnel action.

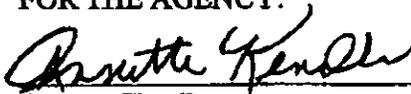
Section 9. The arbitrator will not in any manner or form whatsoever, directly or indirectly add to, detract from, or in any way alter the provisions of this MOU.

Section 10. All time limits in this arbitration procedure may be extended by mutual consent.

The terms of this agreement are not precedential and may not be relied upon by either party as justifying the same or similar terms in any subsequent negotiations.

This agreement becomes effective upon signature by both parties and will remain in effect until a collective bargaining agreement at the level of exclusive recognition becomes effective.

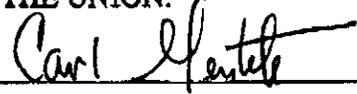
FOR THE AGENCY:



Annette Kendle
Labor Relations Officer

September 10, 2010
Date

FOR THE UNION:



AFGE

9/10/10
Date