

In the Matter of

SOCIAL SECURITY ADMINISTRATION
MANHATTAN DISTRICT OFFICE
NEW YORK, NEW YORK

SOCIAL SECURITY ADMINISTRATION
MANHATTAN CARD CENTER
NEW YORK, NEW YORK

and

LOCAL 3369, AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES, AFL-CIO

Case Nos. 11 FSIP 69 & 70

ARBITRATOR'S OPINION AND DECISION

Local 3369, American Federation of Government Employees, AFL-CIO (Union) filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, between it and the Social Security Administration, Manhattan District Office and Manhattan Card Center, New York, New York (Employer, SSA or Agency).

After an investigation of the request for assistance, which arises from bargaining over the Employer's decision to relocate the District Office to a new building and open a new Card Center on a separate floor of the new building, the Panel directed the parties to mediation-arbitration with the undersigned. On September 14, 2011, a mediation-arbitration proceeding was held in New York, New York with representatives of the parties. Immediately prior to and during the mediation phase of the process, the parties resolved four of the five outstanding issues. Accordingly, one issue remained for resolution by arbitration. In reaching this decision, I have considered the entire record in this matter, including the parties' final offers and post-conference written statements of position.

BACKGROUND

The Employer's mission is to administer retirement, Medicare, disability, survivor, and supplemental security income programs. At the national level, the Union represents a consolidated bargaining unit consisting of approximately 50,000 employees. In the Manhattan District Office, there are approximately 26

bargaining unit employees who hold positions as claims representatives, service representatives and technical experts. District Office employees meet with members of the public to process claims for benefits and handle a variety of matters pertaining to entitlement issues. Card Center employees process all original and replacement social security number card requests through in-person interviews. The parties are covered by a National Agreement (NA) that was to have expired on August 15, 2009, but has been extended until a successor agreement is implemented.

ISSUE AT IMPASSE

The parties disagree over whether the District Office should make additional workspaces available in the back of the office for employee use.

POSITIONS OF THE PARTIES

1. The Union's Position

The Union's final offer on the issue at impasse is as follows:

Three non-interviewing workstations will be installed in the unused area surrounding the space marked "ADM office" in the plans provided by AFGE. These desks will be equipped with telephones and computers. Any Bargaining Unit Employee (BUE) will have access to the workstations when not interviewing. The availability of these workstations will not be affected by staffing changes.

a. An employee may request to work in an unassigned Permanent Workstation at the Barrier Wall (PWBW) and/or any unoccupied workstations not facing a barrier wall when not interviewing. All unassigned PWBW workstations will be equipped with telephones and at least fifty percent of these workstations will be equipped with working computers. If there are more requests than available workstations, the Union and Management will create a schedule based on fair and equitable standards for use of the space by the BUE.

b. If the staffing of the District Office (DO) increases and new employees are assigned to the currently unassigned desks in the PWBW area or within the center of

the floor plan, both parties understand that the unassigned workstations may no longer be available for the BUE request. Management will advise AFGE in advance and bargain the use of any remaining available desks.

In support of its proposal, the Union asserts that the empty space surrounding the Assistant District Manager's (ADM) office on the Agency's floor plan would accommodate the relocation of three empty workstations in the existing office to the new office. The relocation of the three empty workstations would create three additional unassigned workstations for employees to use when they are not interviewing. Inasmuch as the three workstations will be located away from the interviewing and reception area, the Union notes that, unlike Management's proposal, the three unassigned workstations will remain for use by bargaining unit employees.

The Union argues that past practice in the Downtown District Office and throughout the New York Region allows bargaining unit employees to use unassigned workstations in the non-interviewing (back-end) area to do their back-end workload, special projects and personal actions. Because the overwhelming majority of the bargaining unit employees' workload and personal actions are done via computer, the Union argues that each unassigned workstation should have an SSA computer and that bargaining unit employees should have access to, and use of, the unassigned workstations and the SSA computers in accordance with Article 26, Section 8E of the NA.

Noting recent times of limited resources and cutbacks and that there are numerous unassigned computers in various SSA offices, the Union maintains that Management's practice of not assigning a computer to an unassigned workstation cannot be condoned.

The Union contends that Management's proposal violates Article 3, Section 2A of the NA because it does not provide for the creation of a fair and equitable schedule when there are more requests than unassigned workstations. In addition, the Union asserts that Management's proposal violates the Union's rights under Article 4 of the NA and Chapter 71 of Title 5 U.S. Code as it does not call for an advanced bargaining notice if unassigned workstations are not available due to staffing increases.

2. The Employer's Position

The Employer's final offer is as follows:

An employee may request to work in an unassigned Permanent Workstation at the Barrier Wall (PWBW) workstation and/or [at an] unassigned desk for special projects. Management will give serious consideration to these requests. If the staffing for the DO increases, both parties understand that the formerly unassigned workstation and desks will no longer be available for these employee requests. Phones will be available at all unassigned workstations. The distribution of additional computers will be based on office need. Both parties understand that the distribution of additional computers will be determined by the Area Director based on his assessment of Area needs.

The Employer contends that there is no reason for employees not to work at their own permanently assigned workstation at the barrier wall. However, it proposes to seriously consider any request for an employee to work at a different unassigned workstation or an unassigned desk. The Employer maintains that its proposal provides flexibility for employees to temporarily move to other workspaces under limited circumstances, such as when an employee is working exclusively on a special project. Because employees already have permanent workstations assigned to them, it does not believe employees should have an automatic right to work at an unassigned workstation.

Management anticipates every workstation, assigned or not, will have a telephone available for use. However, with respect to the Union's request for a computer on every unassigned workstation, Management asserts that it cannot anticipate that every unassigned workstation will have a working computer and that it is not an efficient use of Agency resources. Because of limited resources and increasing workloads, the Employer maintains that there can be no implicit promise that all unassigned workstations will have a computer available for use, or that an unassigned back-end workstation will always be available. In fact, if the number of employees in an office increases, Management must utilize all available workstations to provide a permanent space for these employees. It notes that computers are purchased through the Central Office and Area Directors receive an allocation based on staffing needs.

Management argues that the Union's proposal, to create a schedule whenever there are more requests than available unassigned workstations, is impractical and unnecessary because all employees can work at their permanent workstations after closing the window shade.

CONCLUSION

Having carefully considered the arguments and evidence presented in this case, I conclude that the impasse should be resolved on the basis of a modified version of the Employer's final offer. Notwithstanding the Union's numerous assertions, it is undisputed that employees have access to computers at their permanent workstations and the record does not substantiate that additional access to computers is required. The Employer's proposal does not deny bargaining unit employees the use of unassigned workstations and does not indicate that employees will not be treated fairly and equitably. Moreover, there is no requirement that an agreement between the parties concerning the issue herein, or any other matter, must contain a bargaining notice. Finally, based on the Employer's arguable claim that the Union's proposal is not within its duty to bargain, I do not have the authority to impose it regardless of merit.

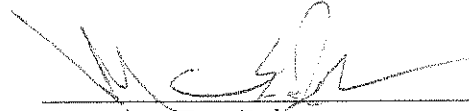
Accordingly, noting the above referenced legal limitations, I am persuaded that this impasse should be resolved by a modified version of the Employer's final offer that clarifies the process by which additional computers will be obtained.

DECISION

The parties shall adopt the following wording to resolve their impasse:

An employee may request to work in an unassigned Permanent Workstation at the Barrier Wall (PWBW) and/or at an unassigned desk for special projects. Management will give serious consideration to these requests. If the staffing for the DO increases, both parties understand that the formerly unassigned workstations and desks will no longer be available for these employee requests. Phones will be available at all unassigned workstations. Both parties understand that the distribution of additional computers will be determined by the Area Director based on his assessment of Area needs. The distribution of additional computers in each

office will be based on office need and made in accordance with Agency policy and procedure.



Marvin E. Johnson
Arbitrator

November 7, 2011
Silver Spring, Maryland