


Slide 1



**Federal Labor Relations
Authority**

*Negotiability In Depth:
Management Rights
and Beyond*

August 17, 2017

The slide features a light blue header with the title 'Federal Labor Relations Authority' in bold black text. To the right of the title is the official seal of the Federal Labor Relations Authority, which is circular and contains a shield with a torch and a scale. Below the header, the main content is on a grey background. The title of the presentation, 'Negotiability In Depth: Management Rights and Beyond', is written in a blue, italicized serif font. The date 'August 17, 2017' is also in a blue, italicized serif font and is positioned in the lower right corner of the grey area.

Negotiability Disputes

Disagreement between a union and an agency concerning the **legality** of a proposal or a provision



- 5 C.F.R. § 2424.2(c).

Slide 3

Framework

Under the Statute, parties are obligated to bargain over proposals concerning bargaining-unit employees' conditions of employment, provided that the proposals are not inconsistent with:

- federal law,
- government-wide regulation, or
- an agency rule for which there is a compelling need.

- 45 FLRA 603, 606-07.

Framework

Under the Statute, parties are obligated to bargain over proposals concerning **bargaining-unit employees' conditions of employment**, provided that the proposals are not inconsistent with:

- federal law,
- government-wide regulation, or
- an agency rule for which there is a compelling need.

Slide 5

Conditions of Employment

§ 7103(a)(14)

Personnel policies, practices, and matters, established by rule, regulation, or “otherwise,” affecting working conditions

Exceptions

- “Political activity” under the Hatch Act
- Classification matters
- Matters “specifically provided for by [f]ederal statute”

Exceptions: 5 U.S.C. § 7103(a)(14)(A)-(C).

- Hatch Act: 5 U.S.C. §§ 7321-7326.
- Classification matters: 5 C.F.R. § 511.101.
- Matters “specifically provided for by [f]ederal statute”: next slide.

“Specifically Provided For”

- ◉ Reference to matter not enough
- ◉ Agency must have no discretion
- ◉ Example where established:
 - 57 FLRA 373, 383 (wage rates for GS employees)
- ◉ Example where not established:
 - 56 FLRA 664, 665-66 (law concerning Ag’s optical and dental plan preserved Ag’s discretion to negotiate over that matter)

Note on Agency Discretion

If an agency has discretion over a matter, then it must bargain over proposals concerning that matter

- But, if discretion is “sole and exclusive,” it would be contrary to law to require bargaining over that matter

Authority examines the plain wording and legislative history of the statute or reg

- Examples = “without regard to the provisions of any other law” or “notwithstanding any other provision of law”

- Discretion: *e.g.*, 55 FLRA 1, 4-5.
- Sole and Exclusive discretion: *e.g.*, 59 FLRA 331, 346, 351.
- Authority examines plain wording: 58 FLRA 246, 248-50; 47 FLRA 884, 895.
- If a government-wide regulation is at issue, the Authority may also consider the interpretation of the agency that promulgated the regulation. *E.g.*, 59 FLRA 331, 341-45.

Sole and Exclusive

Department of the Air Force v. FLRA, 844 F.3d 957 (2016)

- DC Circuit stated that a statute need not contain “phrases like ‘notwithstanding any law’ to place a subject outside an agency’s duty to bargain.”



- “Given Congress’s focus [in Title 10] on defining a military benefit, which has nothing at all to do with terms and conditions of civilian employment, it would have had no reason to include a ‘notwithstanding’ clause exempting that benefit from” laws such as the Statute.

Conditions of Employment

The Authority considers two factors in deciding whether a proposal involves a condition of employment:

1. Whether the matter proposed to be bargained pertains to bargaining-unit employees; and
2. Is there a “direct connection” between the matter and the *work situation or employment relationship* of the unit employees?

- Two-part test: *Antilles*, 22 FLRA 235, 236-37.

In this a Condition of Employment?

Is there a “direct connection” between the matter and the *work situation/employment relationship* of the employees?



866 F.2d 1443

- On the Agency premises
- Paid for by Agency
- Used to recognize employees and foster a productive work relationship
- Agency required those who did not attend picnic to work their regular shift



7 FLRA 123

Proposal: “Employer agrees to grant off-duty personnel hunting and fishing recreation at headquarters, in accordance with California State Fish and Game Regulations”

Conditions of Employment: Other Types of Employees

Four groups of non-unit personnel:

1. employees in other bargaining units;
2. supervisors;
3. non-supervisory employees not in any bargaining unit; and
4. non-employees

- 952 F.2d 1434, 1442 (D.C. Cir. 1992)

Employees in Other Bargaining Units

- ◉ If the proposal *directly determines* conditions of employment of employees in other units: **prohibited subject**
- ◉ Principle of exclusive recognition

- 65 FLRA 1052, 1054

Supervisors

- ◉ Proposals that directly implicate supervisors' conditions of employment are **permissive subjects** of bargaining
- ◉ Cannot be disapproved by Agency head and are enforceable in arbitration

Negotiability In Depth: Management Rights & Beyond 8/17/2017 13

- The Statute does not expressly prohibit bargaining over matters that directly implicate the working conditions of managers and supervisors. Thus, there is no clear statutory basis for concluding that bargaining over such matters is prohibited. 52 FLRA 677, 681; *e.g.*, 61 FLRA 336, 339; 52 FLRA 677, 682.

Non-Employees/ Employees Not in Any Unit

- ◉ Proposals directly implicating working conditions of non-employees or employees not in any bargaining unit are **outside duty to bargain** unless they “vitally affect” unit employees’ conditions of employment.
- ◉ Is the proposal’s effect on unit employees’ conditions of employment “significant and material, as opposed to indirect or incidental”?

- 952 F.2d at 1442-43.
- *E.g.*, 64 FLRA 723, 727; 58 FLRA 344, 348.

Framework

Under the Statute, parties are obligated to bargain over proposals concerning **bargaining-unit employees' conditions of employment**, provided that the proposals are not inconsistent with:

- federal law,
- **government-wide regulation, or**
- **an agency rule for which there is a compelling need.**

Summary

- Duty to bargain over BU employees' conditions of employment
- Bargaining over supervisors' conditions of employment = permissive
- Bargaining over conditions of employment of employees in other units = prohibited
- Bargaining over conditions of employment of non-employees or employees not in a unit = outside duty to bargain
 - Unless the proposal vitally affects BU employees = mandatory
- Statute leaves an Agency with discretion = must bargain, but with sole and exclusive discretion = can't bargain.

Government-wide Rule or Regulation

§ 7117(a)(1)

Proposals and provisions that are inconsistent with a government-wide rule or regulations are outside duty to bargain

“Government-wide”: Rules, regulations, and official declarations of policy that are generally applicable throughout the federal government and are binding on the federal agencies and officials to whom they apply

- ◉ If CBA preceded gov’t-wide regulation, CBA governs until it expires
 - Exception: gov’t-wide regulations that implement 5 U.S.C. § 2302 (prohibited personnel practices)

- *E.g.*, 53 FLRA 403, 416.
- CBA preceded: *e.g.*, 65 FLRA 817, 819.
- 60 FLRA 398, 399 n.6 (Government-wide regulations, other than regulations implementing 5 U.S.C. § 2302, do not control over conflicting provisions in an agreement if the agreement was in effect before the date the regulation was prescribed).

Agency Rules and Regulations

§ 7117(a)(2)

Proposal or provisions that are inconsistent with an agency rule or regulation are within the duty to bargain unless the agency shows that there is a “compelling need” for its rule or reg

- The compelling-need exception does not apply if the union involved “represents . . . a majority of employees in the issuing agency or . . . subdivision” to whom the rule/reg applies.

- 5 U.S.C. § 7117(a)(3); see 68 FLRA 407, 408-09.

Slide 18

“Compelling Need”

- Test under 5 C.F.R. § 2424.50:
 - Essential, not merely helpful or desirable, to accomplishment of mission or execution of functions of Ag or primary national subdivision in a manner that’s consistent with requirements of effective and efficient government;
 - Necessary to ensure maintenance of basic merit principles; or
 - Implements a mandate to the Ag or primary national subdivision under law or outside authority, which implementation is essentially nondiscretionary in nature.
- Claim must be resolved in negotiability proceeding.
 - *But see* 67 FLRA 34 (compelling-need assertion cannot completely preempt bargaining process)

- Claim must be resolved in negotiability proceeding: *e.g.*, 49 FLRA 534, 542.
- An agency must demonstrate that its regulation is essential, as distinguished from helpful or desirable, to the accomplishment of its mission or execution of its functions in a manner that is consistent with the requirements of an effective and efficient Government. *Id.*

Do Not Look to Prior Agreements or Existing Policies to Determine Negotiability

- ◉ Prior agreement doesn't mean it's within the duty to bargain now
- ◉ Nor does the fact that proposal reflects an existing Ag policy or practice (e.g., Ag regulation).

- Prior agreement doesn't = negotiable: 61 FLRA 554, 557.

Framework

Under the Statute, parties are obligated to bargain over proposals concerning **bargaining-unit employees' conditions of employment**, provided that the proposals are not inconsistent with:

- **federal law**,
- **government-wide regulation**, or
- **an agency rule for which there is a compelling need.**

Summary

- Proposal that is inconsistent with government-wide rule or reg. = outside duty to bargain
- Proposal that is inconsistent with internal agency rule = within duty to bargain
 - unless agency establishes compelling need for that rule (rare exception)

Management Rights: General Principles

- ◉ 7106(a)(1) – not limited by “applicable laws”
- ◉ 7106(a)(2) – limited by “applicable laws”
- ◉ 7106(b)(1) – permissive
- ◉ All include right to not act
- ◉ All limited by 7106(b)(2) and (3)
- ◉ Proposal/provision may involve more than one right or exception – Authority addresses only those raised

Slide 22

Management Rights: § 7106(a)(1), *Mission*

- Case by case
- What mission includes/doesn't include
- Generally not “how carried out”
- But when part of mission = serve public, proposals/provisions regarding hours office is open may affect

- *E.g.*, 58 FLRA 341, 342; 59 FLRA 159, 163.
- Examples: 49 FLRA 333, 349; 22 FLRA 868, 869.

Management Rights: § 7106(a)(1), *Budget*

Affected if either:

1. Proposal/provision prescribes particular programs to be included in budget, or amount to be allocated in budget; or
2. Ag makes “substantial demonstration that an increase in costs is significant and unavoidable and is not offset by compensating benefits.”

Increase in costs, by itself, not enough

- 61 FLRA 113, 116.
- 66 FLRA 124, 125.
- Second part of test considers only “compensating benefits” of a tangible, monetary nature – not intangible, non-monetary benefits like improved employee morale, 47 FLRA 980, 998, and looks at the proposal or provision relative to organizational level to which it applies, 44 FLRA 18, 30.

Management Rights: § 7106(a)(1), *Organization*

- ◉ Determine Ag's administrative and functional structure, including relationship of personnel through lines of authority and distribution of responsibilities for delegated and assigned duties
- ◉ Includes rights to determine
 - how organization will be divided up into sections and
 - where, geographically, agency will operate

- 63 FLRA 530, 532.
- 58 FLRA 175, 178.
- 56 FLRA 444, 449.

Management Rights: § 7106(a)(1), *Number of Employees*

- Total number actually employed
- Different from “numbers” of employees assigned to organizational subdivisions, work projects, or tours of duty under § 7106(b)(1)

- *E.g.*, 46 FLRA 298, 316-17.

Management Rights: § 7106(a)(1), *Internal-Security Practices*

- Determine policies and practices that are part of Ag's plan to secure or safeguard its personnel, physical property, or operations against internal and external risks
- Ag must show link, or reasonable connection, between its security objective and agency policy or practice designed to implement that policy/practice, and that proposal or provision conflicts with policy/practice
- Authority doesn't review merits of Ag's policy/practice



- *E.g.*, 66 FLRA 929, 931.

Management Rights: § 7106(a)(2)(A), *Hire Employees*

- ◉ Hire Employees:
 - Includes the right to decide whether to fill positions



- 62 FLRA 93, 94-95.

Management Rights: § 7106(a)(2)(A), *Assign Employees*

⊙ Assign Employees:

- Is the right to assign employees to positions
- Both initial hiring and post-hiring, such as reassignments, temporary assignments, or details
- Also duration of assignments
- Determine qualification and skills needed for positions, and judge whether particular employees possess them

- Assign to positions: 62 FLRA 508, 510.
- Initial hiring and post-hiring: 65 FLRA 911, 913.
- Duration of assignments: 61 FLRA 209, 218.
- Determination qualifications: 62 FLRA 508, 510.

Management Rights: § 7106(a)(2)(A), *Direct Employees*

○ Direct Employees:

- Supervise and guide employees and determine quantity, quality, and timeliness of work
- Establish performance standards and evaluate/hold employees accountable under those standards
- Select particular methods of supervision (e.g., spot checks)
- NOT the right to decide whether to reward performance that's already been evaluated

- Supervise & guide: 65 FLRA 509, 511.
- Perf. Standards: 63 FLRA 450, 453.
- Methods of supervision: 62 FLRA 15, 17.
- Not rewards: 63 FLRA 505, 508.

Management Rights: § 7106(a)(2)(A), *Layoff & Retain Employees*

○ Layoff & Retain Employees:

- Separate rights
- Layoff = Includes right to conduct reduction in force and decide what positions to abolish & retain
- Retain = Establish policies or practices that encourage or discourage employees from remaining employed

- Separate rights: *see* 58 FLRA 344, 345.
- Layoff: *e.g.*, 27 FLRA 467, 477-79; *see also* 65 FLRA 911, 913.
- Retain: voluntary-separation-incentive pay, *e.g.*, 67 FLRA 85, 87, or substitutes for special rates, *e.g.*, 60 FLRA 839, 841-42.

**Management Rights: § 7106(a)(2)(A),
*Suspend, Remove, Reduce in Grade or Pay***

- ◉ Suspend employees
- ◉ Remove = determining which positions to vacate, or sequence of vacating positions
- ◉ Reduce in grade or pay = Ag's right to take actions against employee for a particular offense

- Suspend: *e.g.*, 19 FLRA 647, 650.
- Which positions to vacate: 11 FLRA 475, 482; Sequence of vacating positions: 3 FLRA 3, 5-6.
- Right to take actions against employee for particular offense: 53 FLRA 539, 579.

Management Rights: § 7106(a)(2)(A), *Discipline*

- ◉ For both performance- and nonperformance-related conduct
- ◉ Investigate and determine appropriate investigative techniques
- ◉ Decide which evidence to rely on
- ◉ Decide penalty

- Perf. & non-perf.: 65 FLRA 142, 145.
- Investigate & techniques: 60 FLRA 124, 127.
- Which evidence: 61 FLRA 341, 346.
- Penalty: 53 FLRA 625, 679.

Management Rights: § 7106(a)(2)(B), *Assign Work*

- ◉ Determine particular duties to be assigned, when work assignments will occur, and to whom/what positions assigned
- ◉ Establish qualifications and skills, decide whether employees meet them
- ◉ Does not include decision whether to reward performance
- ◉ Not affected merely because proposal/provision requires Ag to take some action

- Particular duties, when, to whom: 66 FLRA 819, 823.
- Qualifications: 61 FLRA 97, 99.
- Not rewards: 63 FLRA 505, 508.
- Not affected because requires some action: 64 FLRA 443, 447.

Management Rights: § 7106(a)(2)(B), *Contract Out & Determine Personnel*

- ◉ Contract out = affected by proposals/provisions that delay contracting out, or require cost study beforehand
- ◉ Determine personnel = decide employees to whom work will be assigned

- Contracting out delay: 60 FLRA 595, 597.
- Contracting out cost study: 48 FLRA 168, 204.
- Determine personnel: 61 FLRA 371, 373.

**Management Rights: § 7106(a)(2)(C),
*Make Selections to Fill Positions***

- ◉ Select from: (1) among properly certified candidates for promotion; or (2) any other appropriate source
- ◉ Decide qualifications, skills, and abilities needed for position and determine whether applicants have those
- ◉ Affected by proposals that limit sources of selection
- ◉ Proposals that expand sources do not affect

Negotiability In Depth: Management Rights & Beyond 8/17/2017 35

- Decide qualifications, determine whether applicants have: 61 FLRA 618, 622.
- Affected by limitations on sources: 56 FLRA 1046, 1048.
- Expanding sources don't affect: 61 FLRA 226, 229.

Management Rights: § 7106(a)(2)(D), *Carry Out Mission in Emergencies*

- ◉ Includes rights to:
 - Independently assess whether emergency exists; and
 - Decide what actions are needed to address it.

- ◉ Example: Proposals/provisions that preclude management from acting until a particular individual declares an emergency

- Independently assess & decide what actions needed: 58 FLRA 549, 551.
- Requiring particular individual to declare: 31 FLRA 131, 132.

§ 7106(a)(2) Limitation: “Applicable Laws”

- ◉ When agency claims proposal or provision affects § 7106(a)(2) rights, Authority asks whether proposal/provision enforces an “applicable law”

APPLICABLE LAWS

Lawfully enacted statutes (but not *The Statute*), the U.S. Constitution, controlling judicial decisions, executive orders issued pursuant to express statutory authorization, and regulations having the force and effect of law

- 61 FLRA 201, 206.
- See *Dep't of the Treasury, IRS v. FLRA*, 494 U.S. 922 (1990) (discussing the meaning of “applicable laws”).

Slide 38

Section 7106(b)

Negotiability In Depth: Management Rights & Beyond 8/17/2017 38

Section 7106(b)

- All rights in § 7106(a) are “subject to” § 7106(b), including:
 - § 7106(b)(1)
 - § 7106(b)(2)
 - § 7106(b)(3)



Negotiability Arithmetic

Conditions of Employment

- Exceptions to Conditions of Employment
 - Matters Inconsistent with Law, Rule, and Regulation
 - Management Rights
 - + Exceptions to Management Rights (§ 7106(b))
-

Mandatory Subjects of Bargaining

Section 7106(b)(1)

- **Permissive** (“at the election of” the Ag)
- Ag head cannot disapprove agreements unless otherwise unlawful
- Enforceable in arbitration
- Trumps § 7106(a) – lawful despite effect on (a) rights
- If also concerns § 7106(b)(2) or § 7106(b)(3), then mandatory (must bargain)

- 61 FLRA 336, 338, 339 (after parties reach agreement on § 7106(b)(1) matter, provision may not be disapproved during Ag-head review under § 7114(c) unless otherwise unlawful).
- 62 FLRA 90, 92 (once Ag elected to bargain over § 7106(b)(1) matter, bargaining permitted notwithstanding effect on exercise of § 7106(a) rights).

Numbers, Types, & Grades ...

- ◉ Numbers = increase, decrease, or maintain in organizational subdivision, work project, tour of duty
 - Different from “number” in § 7106(a)(1)

- 57 FLRA 424, 426.

Numbers, Types, & Grades ...

- ◉ Types = distinguishable classes, kinds, groups, or categories of employees or positions that are relevant to establishment of staffing patterns
- ◉ Grades = for example, GS levels

- Types: 52 FLRA 1024, 1032, 1034.
- Grades: *id.* at 1032 n.11.

... Assigned to Organizational Subdivision, Work Project, or Tour of Duty

- ◉ Organizational subdivision
- ◉ Examples = proposals/provision:
 - Involving centralization/ decentralization within agency
 - Staffing of subdivisions (but not establishing subdivisions)

- Centralization: 54 FLRA 1302, 1306.
- Staffing: 52 FLRA 794, 802; 55 FLRA 925, 928.

**... Assigned to Organizational
Subdivision, Work Project, or Tour of Duty**

- ◉ Work project = “particular job” or “task”
 - Example: Supervising inmates

- ◉ Tour of duty = the hours of a day (daily tour) and days of an administrative workweek (weekly tour) that constitute an employee’s regularly scheduled administrative workweek

- Work project: 55 FLRA 848, 853.
- Tour of duty: 57 FLRA 424, 426.

Technology of Performing Work

- ◉ Technology = the technical method that will be used in accomplishing or furthering the performance of the Ag's work
- ◉ Must show:
 - The technological relationship of the matter addressed by the proposal/provision to accomplishing or furthering performance of Ag's work; and
 - How the proposal/provision would interfere with the purpose for which the technology was adopted

- *E.g.*, 58 FLRA 273, 275.

Methods and Means of Performing Work

- ◉ Method = the way in which Ag performs its work – the “how”
- ◉ Means = any instrumentality – including an agent, tool, device, measure, plan, or policy – that Ag uses to accomplish, or further the performance of, its work – the “with what”
- ◉ Relative importance irrelevant

- 66 FLRA 112, 115.
- Examples: 66 FLRA 499, 502; 56 FLRA 69, 87-91.
- *But see* 64 FLRA 723, 725.

Methods and Means of Performing Work?

- ◉ Proposal: Legacy Customs Inspectors, Canine Enforcement Officers, and any other uniformed legacy Customs Officer will be permitted to wear cargo shorts when performing work in a Class 3 environment.
- ◉ Does the proposal affect the Agency's right to determine the methods and means of performing work?

- 61 FLRA 48.

Methods and Means of Performing Work

◉ Ask:

- 1) is there a direct or integral relationship between the Ag's chosen method/means and the accomplishment of the Ag's mission?; and
- 2) does the proposal/provision directly interfere with the mission-related purpose for which the method/means was adopted?

- 66 FLRA 639, 646.

Methods and Means of Performing Work?

- ◉ A proposal requiring the agency to erect partitions between cubicles; the partitions would be at least 5 feet high.



- ◉ A proposal requiring the agency to permit employees to pick cubicles based on seniority.

- 59 FLRA 447.
- 64 FLRA 723.

Section 7106(b)(2) – “Procedures”

- ◉ Mandatory subjects – must bargain, despite effect on § 7106(a) or § 7106(b)(1)
- ◉ Look to Authority precedent

- *Compare 61 FLRA 209, 220, and 45 FLRA 270, 280 (procedure), with 70 FLRA 100, 104, and 68 FLRA 676, 679 (no procedure).*

Section 7106(b)(2) – “Procedures”

◉ Examples:

- Requiring advance notice of certain agency actions
- Requiring management to delay exercise of rights pending completion of bargaining or appellate processes

◉ But see:

- Precluding management from assigning employees certain duties
- Substantively limiting right to determine content of performance standards

- Advance Notice: 61 FLRA 209, 220.
- Delay Exercise: 61 FLRA 327, 331-33.
- Assignment of Duties: 47 FLRA 512, 520.
- Performance Standards: 56 FLRA 1115, 1116 n.2.

Procedures?

- ◉ Where Ag conducted random drug testing, a proposal imposing notice and procedural requirements when an employee has to provide a second sample for reasons outside the employee's control.
- ◉ Provision requiring Ag to provide Union with 24 hours notice before conducting investigatory interview of a bargaining-unit member.

- 45 FLRA 270, 277-80.
- 58 FLRA 128, 133-34.

Section 7106(b)(3) – “Appropriate Arrangements”

- ◉ “Appropriate arrangements for employees adversely affected by the exercise of any authority under” § 7106
- ◉ Mandatory subjects – must bargain, despite effect on § 7106(a) or § 7106(b)(1)
- ◉ Within duty to bargain even if it’s not a procedure under § 7106(b)(2)

- 66 FLRA 929, 940-41; 56 FLRA 69, 86-87.

Arrangements

- ◉ Must seek to mitigate adverse effects flowing from exercise of a management right
- ◉ U must identify effects or reasonably foreseeable effects that flow from management rights, & how they're adverse
- ◉ Can't be speculative or hypothetical

- Mitigate: 68 FLRA 676, 679-680.
- Reasonably foreseeable: 21 FLRA 24, 31.
- Can't be speculative or hypothetical: 67 FLRA 85, 87.

Arrangements

- ◉ Proposal/provision must be “tailored” to compensate/benefit employees suffering adverse effects due to management right
- ◉ But may be “prophylactic”

- “Tailored”: *compare* 66 FLRA 929, 940-41 (tailored), *with* 51 FLRA 1308, 1318-19 (not tailored).
- “Prophylactic”: 64 FLRA 953, 959-60.

Is Arrangement “Appropriate”?

- Test different for proposals and provisions.
- Proposals = “excessive interference”
 - Weigh burdens on exercise of management rights against benefits to employees
- Provisions = “abrogation”
 - Does the arrangement “waive” or preclude Ag from exercising affected rights?



- *But see* D.C. Cir.: arbitrary and capricious to apply two different standards

- Excessive interference: 21 FLRA 24, 31-32; *see also* 67 FLRA 316, 317-18.
- Abrogation: 65 FLRA 509, 513, 515. *But see* 739 F.3d 13, 20-21 (D.C. Cir. 2014).

Excessive Interference



The Authority weighs the proposal's burdens on the exercise of management rights against its benefits to employees.

Appropriate Arrangement?

- Ag has used two helicopters to inspect power lines – one maintained in North Dakota, one in South Dakota.



- Ag decided to eliminate the North Dakota helicopter (and helicopter-pilot position) and conduct all helicopter work out of South Dakota.

- 54 FLRA 642.

Appropriate Arrangement?



- Proposal 1: Retain one helicopter-pilot position at the North Dakota office.
- Proposal 3: Retain one helicopter-pilot position at the South Dakota office.

- 54 FLRA 642.

Appropriate Arrangement?



- Proposal: No patent examiner will be removed from the examining corps due to a conflict with a financial interest that existed prior to employment, or due to an agency-initiated change of work assignment, unless the conflict was knowingly concealed by the examiner during an inquiry by the agency.

- 53 FLRA 625, 677-81.

Management Rights Exercises



Slide 63

FLRA Jeopardy! Negotiability Edition



Thank you!

○ **Questions?**

○ **Evaluations**