

**66 FLRA No. 82**

AMERICAN FEDERATION  
OF GOVERNMENT EMPLOYEES  
LOCAL 405  
(Union)

and

UNITED STATES  
DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS  
FEDERAL CORRECTIONAL COMPLEX  
BUTNER, NORTH CAROLINA  
(Agency)

0-AR-4793

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DECISION

January 25, 2012

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Before the Authority: Carol Waller Pope, Chairman, and  
Thomas M. Beck and Ernest DuBester, Members

This matter is before the Authority on exceptions to an award of Arbitrator Phyllis Almenoff filed by the Union under § 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and part 2425 of the Authority's Regulations. The Agency filed an opposition to the Union's exceptions.

Under § 7122(a) of the Statute, an award is deficient if it is contrary to any law, rule, or regulation, or it is deficient on other grounds similar to those applied by federal courts in private sector labor-management relations. Upon careful consideration of the entire record in this case and Authority precedent, the Authority concludes that the award is not deficient on the grounds raised in the exceptions and set forth in § 7122(a).<sup>1</sup>

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<sup>1</sup> In addition to the exceptions discussed below, the Union argues that the award is based on a nonfact and that the Arbitrator was biased. Exceptions at 2, 14. These are recognized grounds for Authority review of an arbitration award. 5 C.F.R. § 2425.6(a)(2), (b)(1)(ii), (b)(2)(ii). Section 2425.6(e)(1) of the Authority's Regulations provides that an exception "may be subject to dismissal or denial if . . . [t]he excepting party fails to raise and support a ground" listed in 5 C.F.R. § 2425.6(a)-(c). 5 C.F.R. § 2425.6(e)(1); *Fraternal Order of Police, Pentagon Police Labor Comm.*, 65 FLRA 781, 785 (2011). As the Union does not provide any arguments for finding that the award was based on a nonfact or that the Arbitrator was biased, the Union has failed to support those exceptions. Accordingly, we deny them under § 2425.6(e)(1).

*See U.S. Dep't of Transp., Fed. Aviation Admin., Portland, Me.*, 64 FLRA 772, 774 (2010) (arbitrator's determination of procedural arbitrability of a grievance is not deficient when excepting party fails to establish that the determination is contrary to procedural requirements established by statute that apply to the parties' negotiated grievance procedure or is deficient on grounds that do not directly challenge the procedural-arbitrability determination); *U.S. Dep't of the Treasury, IRS, Oxon Hill, Md.*, 56 FLRA 292, 299 (2000) (award not deficient where arbitrator bases award on separate and independent grounds and excepting party fails to establish that all of the grounds are deficient).<sup>2</sup>

Accordingly, the Union's exceptions are denied.

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<sup>2</sup> One of the Union's exceptions challenges the Arbitrator's finding that the grievance was substantively nonarbitrable under § 7121(c)(5) of the Statute. However, the Arbitrator alternatively found that the grievance was procedurally nonarbitrable because it was time barred under the parties' agreement, *see* Award at 11, which provides a separate and independent basis for the award.