

United States of America
BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of)
)
)

DEPARTMENT OF HEALTH AND HUMAN SERVICES)
SOCIAL SECURITY ADMINISTRATION)
BALTIMORE DISTRICT OFFICE)
BALTIMORE, MARYLAND)
)

and)

Case No. 92 FSIP 56

LOCAL 3302, AMERICAN FEDERATION)
OF GOVERNMENT EMPLOYEES, AFL-CIO)
)

DECISION AND ORDER

Local 3302, 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 Department of Health and Human Services, Social Security Administration, Baltimore District Office, Baltimore, Maryland (Employer).

After investigation of the request for assistance, the Panel directed the parties to meet with Chief Legal Advisor Donna M. Di Tullio for the purpose of resolving the issues at impasse concerning (1) parking spaces for employees; (2) subsidized parking; and (3) subsidized public transportation. The parties were advised that if no settlement were reached, Ms. Di Tullio would report to the Panel on the status of the dispute, including the parties' final offers, and her recommendations for resolving the impasse. After considering this information, the Panel would take whatever action it deemed appropriate to resolve the impasse, including the issuance of a binding decision.

On April 8, 1992, Ms. Di Tullio met with the parties in Baltimore, Maryland; during the conference, two of the issues were resolved.¹ She has reported to the Panel on the remaining issue based on the record developed by the parties. The Panel has now considered the entire record in the case.

¹ The issues settled concerned (1) parking spaces for employees and (2) subsidized parking.

BACKGROUND

The Employer provides the public with information concerning retirement, disability, and social security benefits and processes those claims. The Union represents 25 bargaining-unit employees in the Baltimore District Office who are part of a nationwide-consolidated unit consisting of approximately 48,500. Employees in the office hold such positions as claims representative, claims development clerk, and data review technician. The parties are covered by a master collective-bargaining agreement between the Social Security Administration (SSA) and the American Federation of Government Employees, AFL-CIO (AFGE) which is scheduled to expire in January 1993.

ISSUE AT IMPASSE

The issue concerns whether the Employer should provide a subsidy to employees who use public transportation to commute to and from work.²

POSITIONS OF THE PARTIES

1. The Union's Position

In essence, the Union proposes that the Employer provide a subsidy to all employees who commute to and from work via public transportation. The amount provided would be the maximum permitted by law.³ Should legislation subsequently be enacted which permits a higher subsidy, the parties would negotiate over the change. The Union argues that a transportation subsidy would provide an incentive for employees to use public transportation, thus aiding in efforts to reduce air pollution and traffic in urban areas. Also, since free parking is not available near the office, subsidized transportation would be a less expensive alternative for employees. Moreover, office staff turnover due to travel-related expenses of working downtown likely would be reduced and employee morale would improve. Furthermore, since SSA has a large budget

² Section 629 of Public Law 101-509 states that:

A Federal Agency may participate in any program established by a State or local government that encourages employees to use public transportation. Such programs may involve the sale of discounted transit passes or other incentives that reduce the cost to the employee using public transportation.

³Currently, the Internal Revenue Code allows a nontaxable subsidy for Federal employees of up to \$21 a month if they commute to work by public transportation; pending legislation may raise the cap to \$60 a month.

appropriated, it should be able to finance a subsidized transportation program, particularly when only 25 bargaining-unit employees would be involved. Finally, subsidies are an increasing trend; some 40 agencies offer this benefit, and more than 11,000 Federal workers currently receive some sort of allotment for public transportation.

2. The Employer's Position

The Employer contends that the Panel should direct the Union to withdraw its proposal. It maintains that the issue of subsidized public transportation already has been raised by AFGE at the national level; however, the Commissioner of SSA has determined that the agency cannot afford the cost at this time. Future negotiations over transit subsidies should be kept at the national level rather than have piecemeal bargaining involving only single offices. Using appropriated funds to finance the transportation subsidy, as the Union proposes, could jeopardize the programs for which the funds originally were intended. Furthermore, the law leaves it to the discretion of the agency whether to participate in a subsidy program.⁴

CONCLUSIONS

Having considered the evidence and arguments in this case, we conclude that the Union should withdraw its proposal. In our view, the Employer's contention that the subject of subsidized public transportation is better addressed at the national level has merit. Although AFGE already has raised the issue at the national level, where it was rejected by SSA due to budgetary constraints, we find that further negotiations over the matter should take place at the national level, for example, during term negotiations, as it is likely to have a broad impact on the entire bargaining unit.

ORDER


Pursuant to the authority vested in it by the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and because of

⁴Section 629(a) of Public Law 101-509 provides that "a Federal Agency may participate in any program ... that encourages employees to use public transportation." (Emphasis added.) Moreover, the Office of the General Counsel of the Federal Labor Relations Authority dismissed an unfair labor practice charge filed by AFGE concerning SSA's refusal to negotiate over participation in the public transportation subsidy program. The Regional Director determined that nothing in the law mandates that agencies implement its provisions. Department of Health and Human Services, Social Security Administration and American Federation of Government Employees, Case No. WA-CA-20104, (January 31, 1992); GC Ruling on Request for Review.

the failure of the parties to resolve their dispute during the course of the proceedings instituted under the Panel's regulations, 5 C.F.R. § 2471.6(a)(2), the Federal Service Impasses Panel under 2471.11(a) of its regulations hereby orders the following:

The Union shall withdraw its proposal.

By direction of the Panel.



Linda A. Lafferty
Executive Director

May 14, 1992
Washington, D.C.