

In the Matter of

DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE  
INDEPENDENCE NATIONAL HISTORICAL PARK  
PHILADELPHIA, PENNSYLVANIA

and

LOCAL 2058, AMERICAN FEDERATION  
OF GOVERNMENT EMPLOYEES, AFL-CIO

Case No. 13 FSIP 165

ARBITRATOR'S OPINION AND DECISION

Local 2058, 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 the Interior, National Park Service, Independence National Historical Park, Philadelphia, Pennsylvania (Employer).

Following investigation of the request for assistance, arising from negotiations over a successor collective-bargaining agreement (CBA), the Panel determined that the dispute should be resolved through mediation-arbitration with the undersigned Panel Member. The parties were informed that if they were unable to reach a voluntary resolution during mediation, I would issue a binding decision to resolve the issues.

Consistent with the Panel's procedural determination, a mediation-arbitration proceeding was scheduled for February 13 and 14, 2014 in Philadelphia; however, due to a severe winter storm, which resulted in the closing of Government operations on February 13<sup>th</sup>, and the inability of most negotiating team members to travel into the city on February 14<sup>th</sup> because of the inclement weather, the mediation-arbitration proceeding was postponed. Nevertheless, on February 14, 2014, I was able, accompanied by representatives of the parties, to inspect work areas that were relevant to the issues in dispute. The proceeding was rescheduled, and convened by telephone conference on March 31, April 3, April 16 and April 23, 2014. During those sessions, the parties were able to resolve five of the six issues in dispute. The parties have submitted their final offers on the

sole unresolved issue, concerning the use of time clocks. In rendering my decision, I have considered the arguments, evidence and witness testimony presented by the parties in support of their respective positions.

### BACKGROUND

The Employer is responsible for preserving and protecting the Independence National Historic sites for the enjoyment of visitors; these sites include Independence Hall and the Liberty Bell. The Union represents approximately 168 General Schedule and Wage Grade (WG) employees who hold positions such as: grounds keepers, painters, electricians, HVAC technicians, custodians, museum curators, public administrators, secretaries, dispatchers, and park rangers. Seasonal workers also are included in the bargaining unit, and are employed primarily in the Asset Preservation and Maintenance division (APM division). The APM division has approximately 49 permanent bargaining unit employees and additional seasonal employees who typically work from April until October. The parties' current CBA, which was due to expire on February 28, 2010, has been extended until the successor agreement is implemented.

### ISSUE

#### 1. The Union's Position

The Union proposes the following:

Employees in the Asset Preservation and Maintenance (AP&M) division will not be required to use time clocks to record time and attendance. If management implements an electronic time and attendance procedure, the union will be entitled to negotiate the impact and implementation of that method. All other divisions will continue to use existing time and attendance procedures.

According to the Union, bargaining unit employees have identified this issue as the most significant one that requires change. It contends that time clocks were instituted many years ago only for employees in the APM division, all of whom are WG workers, as a result of tardiness issues management was having with one employee. That employee has retired but time clocks remain. Employees in all other divisions currently either use sign-in/sign-out sheets or self-certify their time using an online program called Quick Time. Maintenance workers resent

having to use time clocks because they view it as demeaning and have characterized it as a "class-bias" issue. There is a pervasive feeling among employees that, because they work in maintenance and generally are lower-paid, management believes they are not as trustworthy as other employees and, therefore, more safeguards are needed to determine the accuracy of their time and attendance. The Employer has not demonstrated why employees in the APM division - or any other division - should be subjected to a time-clock method for documenting time and attendance. Moreover, the Union has surveyed 10 local unions that represent employees in approximately 50 national parks and has not found a single one that requires employees to document their hours by using time clocks. It is an archaic system that has caused nothing but dissension among employees; it has been the focus of numerous grievances and unfair labor practice charges filed by the Union. It also has led to fights among employees in line to clock-in who were concerned they would not be able to avoid a penalty for tardiness. For all these reasons, the Union maintains that the practice should cease in the APM division and should not be instituted in other divisions, where it would "spread a cancer throughout the Park" and cause morale to go down. There is no reason to require all Park employees to use time clocks when management could achieve uniformity by simply removing a few time clocks in the APM division. The Union does not deny that there have been occasional instances of time-use fraud, but argues that the important question is whether the employees are getting the work done.

## 2. The Employer's Position

The Employer proposes the following:

All bargaining unit employees covered by this collective bargaining agreement will use time clocks in each division to record their arrival at the beginning of their work day and their departure at the end of their work day. Management agrees to engage in impact and implementation bargaining on this matter within 45 days of receipt of the union's proposal(s). Management will maintain the *status quo* for timekeeping procedures by division until execution of the new collective bargaining agreement.

The Employer proposes to utilize time clocks as the sole timekeeping method for all bargaining-unit employees. Time clocks have worked well in the APM division and utilizing them in other divisions would create a uniform method for documenting

time and attendance, which the Union claimed it wanted. To counter the Union's claim that time clocks currently are used only for the lowest-paid employees, the Employer notes that all APM division employees, including managers and supervisors, use time clocks to document their work hours. The use of time clocks is the best method for keeping track of employee work schedules in a 7-day-a-week operation where employees and their supervisors have varying starting times and different days off. For example, maintenance employees work on weekends, but supervisors routinely do not. Time clocks provide a reliable mechanism for determining who is at work. In addition, time clocks provide indisputable evidence when investigating whether employees are signing in too early or are chronically tardy.

#### OPINION

Having carefully considered the evidence and arguments presented by the parties, I conclude that the matter should be resolved by adopting the Union's proposal.

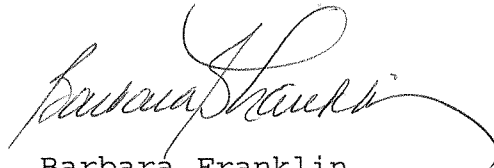
Both parties have put forth proposals that would apply uniformly to all employees of the Park, as the Union wants. However, in order to implement its proposal, the Employer would have to purchase and install time clocks for every location on the extensive grounds where employees work. Further, it could not begin to use the clocks to monitor arrival and departure times until the parties had concluded impact and implementation (I&I) bargaining on a range of issues that arose during the mediation phase of the proceeding. Pursuant to the Employer's proposal, it would not have to commence I&I bargaining until 45 days after the Union formulated its proposals regarding how the implementation of time clocks would affect the diverse group of bargaining unit employees throughout the Park. Meanwhile, during this period of installation and bargaining the APM employees would continue to be the only employees required to use time clocks, thereby perpetuating the feelings of discrimination, and resultant morale problems, that led to this dispute. I do not find this to be a fitting resolution of the dispute.

In contrast, under the Union's proposal time clocks would be removed immediately, which would eliminate an issue causing serious morale problems among the APM employees. This would not stop the Employer from implementing a unified system of monitoring employee arrivals and departures throughout the Park. But it could do so only after engaging in I&I bargaining with the Union. In this regard, I was not persuaded by the record created during this proceeding that there is reason to believe,

in the absence of time clocks, that the APM employees would engage in the type of fraud that necessitates such close monitoring of their arrivals and departures. However, immediate removal of the APM division time clocks would allow the Employer to determine whether the absence of an automated method of monitoring arrivals and departures in fact correlates with a deterioration in the APM division's work or evidence of time-use fraud by employees. In turn, if the Employer were to decide that a need exists for closer monitoring of the arrival and departure times of any of its employees this would provide a greater impetus to speed up the bargaining process. Moreover, the bargaining would then be based, to some extent at least, on demonstrated facts rather than speculation. Finally, during the mediation phase the Union made it clear that it would not object if the APM employees were required to account for their arrival and departure times in the same manner as other bargaining unit employees. Accordingly, if the Employer wants to implement sign-in/sign-out sheets for the APM division, as utilized elsewhere, this would be consistent with my decision.

#### DECISION

Pursuant to the authority vested in me by the Federal Service Impasses Panel under the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and its regulations, 5. C.F.R. § 7121.11(a), I hereby order the adoption of the Union's proposal.



Barbara Franklin  
Arbitrator

May 7, 2014  
Washington, D.C.