

In the Matter of

DEPARTMENT OF HEALTH AND HUMAN  
SERVICES  
REGION 8  
DENVER, COLORADO

and

CHAPTER 235, NATIONAL TREASURY  
EMPLOYEES UNION

Case No. 14 FSIP 64

ARBITRATOR'S OPINION AND DECISION

Chapter 235, National Treasury Employees Union (NTEU or 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 (HHS), Region 8, Denver, Colorado (Employer).

Following investigation of the request for assistance, arising from negotiations over the relocation of approximately 150 bargaining unit employees from One Denver Place to the Byron Rodgers Federal Building (Byron Building),<sup>1/</sup> the Panel ultimately determined that the dispute should be resolved through mediation-arbitration with the undersigned, Panel Executive Director H. Joseph Schimansky.<sup>2/</sup> In its procedural determination letter, the parties were also informed that if a complete settlement of the issues at impasse were not reached during

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<sup>1/</sup> The two locations are a little over one block from one another. Region 8 moved from the Byron Building to its current location at One Denver Place in 2010. After the completion of renovations, Region 8 is scheduled to move its operations back to the Byron Building in mid-February 2015.

<sup>2/</sup> Initially, Panel Chairman Mary Jacksteit was designated as the mediator-arbitrator. Due to unforeseen circumstances, she was unable to conduct the proceeding.

mediation, a binding decision would be issued to resolve them. In addition, the Panel ordered the Employer to:

[M]aintain the *status quo* while the matter is pending [], i.e., limit on-going construction at the Byron Rogers Federal Building to the extent necessary to preserve [the mediator-arbitrator's] ability to resolve the impasse on the basis of the Union's proposals should the Union prevail on the merits of the issues.<sup>3/</sup>

On May 27, 2014, the Employer submitted a motion requesting that the Panel reconsider its order that the Employer maintain the *status quo*. Unlike the FLRA, however, there are no provisions in the Statute or the Panel's regulations authorizing motions for reconsideration of Panel orders. Therefore, as the duly designated Panel representative assigned to handle this matter, the Employer's motion for reconsideration is hereby denied.

Consistent with the Panel's procedural determination, on June 3, 2014, I conducted a mediation-arbitration proceeding with representatives of the parties at the Employer's offices in One Denver Place. During the mediation phase, the parties were unable to resolve their dispute over the issues at impasse.<sup>4/</sup> Thus, I am required to issue a final decision imposing terms in accordance with the Statute and 5 C.F.R. § 2471.11 of the Panel's regulations. In reaching this decision, I have considered the entire record, including the parties' pre-hearing submissions. The record was closed at the end of the hearing on June 3 and there were no post-hearing briefs.

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<sup>3/</sup> See the Federal Labor Relations Authority's (FLRA) decision in U.S. Immigration and Naturalization Service and National Border Patrol Council, American Federation of Government Employees, AFL-CIO, 59 FLRA 69 (1999), which authorizes the Panel to take such action if an employer intends to implement changes in working conditions prior to the completion of bargaining.

<sup>4/</sup> The parties were able voluntarily to resolve an issue concerning the workspace of Office of Assistant Secretary of Health (OASH) unit employees, however, prior to the mediation-arbitration proceeding.

### BACKGROUND

The mission of HHS is to help provide the building blocks that Americans need to live healthy, successful lives. HHS is headed by the Secretary who is the chief managing officer for its family of agencies, including 11 operating divisions (OPDIVs), 10 regional offices, as well as the Office of the Secretary. Region 8 is responsible for accomplishing HHS's mission in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. The Union represents a nationwide consolidated bargaining unit of approximately 12,378 employees in several of HHS's OPDIVs. These employees encumber various health-related, medical, and support staff professional and non-professional, primarily General Schedule, positions. The parties are governed by a national collective bargaining agreement (NCBA) that is due to expire on October 1, 2014.

In spring 2013, the Employer informed the Union of its intent to relocate its offices, and employees, to the Byron Building. Employees currently occupy one floor at One Denver Place; after the move to the Byron Building, they will occupy four smaller floors. As relevant here, the 11th floor will house three of HHS's OPDIVs: the Health Resources and Services Administration (HRSA), the Administration for Children and Families (ACF), who will also have space on the 8th floor, and the Office of the Assistant Secretary for Health (OASH). There also will be a fourth entity on the 11th floor that is unrelated to this dispute.

### ISSUES AT IMPASSE

The parties essentially disagree over whether: (1) any HRSA unit employees on the 11<sup>th</sup> floor should have private offices and, if so, the size of the offices; (2) there should be additional "phone booth" rooms on the 11<sup>th</sup> floor<sup>5/</sup>; and (3) ACF unit employees should be permitted to reserve their own conference rooms without management's involvement. They also disagree over the total height and composition of workstation panels.

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<sup>5/</sup> "Phone booth" rooms are approximately 48 sq. ft. in area and contain a conference table, chairs, and a telephone.

## POSITIONS OF THE PARTIES

### 1. The Union's Position

The Union's preferred outcome regarding workspace for HRSA employees on the 11<sup>th</sup> floor of the Byron Building is that "all NTEU bargaining unit employees at HRSA who have a private office [] continue to have a private office of at least 100 square feet of space when they move." In the alternative, however, it proposes that the Employer:

Create five private offices for HRSA non-management program staff, with priority placement in these offices given to those employees who telework the least number of days each pay period. Ties will be resolved by the following formula: (3 X Number of Years with HRSA) + (2 X Number of Years of Federal Service).

In addition, it also proposes that:

HRSA employees placed in open workstations will be allowed to telework up to 3 days per week and continue to have the right to work an AWS [], with the only requirement to be in the office a maximum of one day per week.

The Agency will add an additional two phone booths in or near HRSA space on the 11<sup>th</sup> floor.

With respect to the 8<sup>th</sup> floor:

In ACF, conference rooms will be placed on a shared drive accessible by ACF bargaining unit employees, so that they can reserve their own conference rooms without the need to contact management or ACF administration. All conference rooms will be reserved in this manner on a first come basis.

On the issue of workstations, the Union's proposed wording is that "all workstation panels [] be 66 inches in height, with 48 inches of fabric panel and the remaining 18 inches of frosted glass."

In support of its proposals, the Union states that private offices for HRSA unit employees is a long-standing past practice that predates their current location at One Denver Place. It is

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necessary to retain the practice at the Byron Building for HRSA employees if they are to continue to perform their jobs effectively. In this regard, one of the Union's witnesses, a HRSA Program Analyst who recently moved to temporary swing space at the Parklawn Building in Rockville, Maryland, testified that her current workstation is "identical" to what the Employer is proposing HRSA employees be relegated to at the Byron Building. She used to have face-to-face meetings but now performs her duties almost exclusively via teleconferences with a minimum of 10 customers on each call. Where there once were 25 employees in her work area there now are 3 times that many occupying the Employer's preferred open-space design. Because she has to speak clearly enough to be heard while on conference calls, colleagues have complained about the volume of her conversations. In addition, everyone in the office has to cope with the sound of vacuum cleaners used by the custodial staff, co-workers walking into colleagues' cubicles, and the distractions created by numerous people routinely going in and out of the workspace. In recognition of how difficult it has become for her to perform her duties at her workstation her supervisor has approved her requests for additional telework days. If, however, she performs a program review at home on a Thursday, for example, she must come in to the office on Friday, a normal telework day, so the accommodation has been of limited value.

A second HRSA employee, who is a GS-13 Public Health Analyst administering the National Health Service Corps, testified that she has always been in a private office. Much of her work also is performed through conference calls sometimes requiring difficult conversations where people can become angry, and she routinely handles personally identifiable information (PII) that is more likely to become compromised in the open-office design proposed by the Employer. Now she is able to close the door to her private office when she has these conversations and can lock the door to protect PII appearing on her computer screen. Under the Employer's plan she will have to go to a conference room or a phone booth room to conduct her conference calls, and the use of a phone booth room would require her to waste 30 to 40 minutes logging into three different computer systems. The witness also is concerned that the open-office design will be distracting due to increased noise and visual movements of others, unnecessarily adding time to her work assignments and making her job more difficult. Finally, she pointed out that, other than in ACF where employees have never had private offices, HRSA is the only OPDIV in the Employer's floor plan where employees will no longer have them, a development she believes "is unfair and unreasonable."

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A third Union witness, a member of the bargaining team who is a GS-13 Public Health Analyst in the Office of Regional Operations and currently works as a HRSA liaison for the State of Colorado, among other things, performs research and conducts webinars. She is concerned about the 54-percent reduction in her workspace under the Employer's floor plan for the Byron Building and the adverse impact the loss of privacy will have on her ability to conduct research. In addition, her review of existing literature supports her conclusion that HRSA has not fully considered how the numerous distractions associated with open-office design will affect its employees' ability to perform their duties and morale. In this regard, the average space utilization rate for HRSA is "significantly lower" than the other OPDIVs and Office of the Secretary Staff Divisions (OSSDs) in Region 8. During the first "test fits" of the Employer's proposed plans in July 2012 various HHS OPDIVs and OSSDs were originally on different floors at the new location. According to the witness, there subsequently was a "land grab" by the other OPDIVS and OSSDs that left HRSA with a much smaller footprint than it was entitled to, and the Union was given no input concerning the final floor plan created by the Employer in July 2013. While representing to the Union that the floor plan could not be changed, as late as May 29, 2014, the Union was informed that 4 or 5 employees in ACF would be moved from the 8<sup>th</sup> floor to the 9<sup>th</sup> floor. At the same time that HRSA unit employees were told they would no longer have private offices and were now going to occupy 64 sq. ft. cubicles, workspace of 250 sq. ft. or more was reserved for agency heads. In her view, it is unfair to put agency heads in larger offices at the expense of bargaining unit employees.<sup>6/</sup>

With respect to conference rooms on the 8<sup>th</sup> floor, an ACF GS-13 Program Specialist testified on behalf of the Union that the number provided under the Employer's floor plan is inadequate. Her work with customers is "one-on-one," with 90 percent of her time being spent on the telephone. It is

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<sup>6/</sup> Based on data provided by the Employer, the witness calculated that the average square footage for HRSA employees at the Byron Building, including joint use space, is 175.37; in contrast, among other OPDIVs and OSSDs, employees in the Administration for Community Living (ACL) have an average square footage of 196.21 under the Employer's floor plan, those in OASH have an average of 191.65, those in the Office of the General Counsel (OGC) have an average of 215.56, and those in the Office of the Regional Director (ORD) have an average of 261.01 sq. ft.

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difficult enough to reserve one of the six conference rooms in the current location, and employees rarely gain access to, and are discouraged from using, the conference room adjacent to the ACF Regional Administrator's (RA) office. The Employer's floor plan for the 8<sup>th</sup> floor of the Byron Building also places a conference room adjacent to the ACF RA's office which unit employees will be discouraged from using, reducing available conference room space. Moreover, the floor plan includes two "walking workstations"<sup>7/</sup> which a majority of unit employees who were surveyed did not favor, and whose space could be put to far better use as a conference room.

In summary, the Union urges the Arbitrator to adopt its proposal that HRSA unit employees retain private offices on the 11<sup>th</sup> floor of the Byron Building for all of the reasons cited by its witnesses, including the ongoing experience of employees at HRSA's Parklawn location where the open workspace design has proved to be too noisy and too distracting for them to perform their jobs. In addition, providing private offices of 100 sq. ft. is still a 30-percent reduction in the workspace these employees currently have. In the Union's view, this meets the Employer's interest in complying with the various directives issued by the Obama Administration regarding "freezing the footprint" of Executive Branch departments and agencies when managing their real property usage and spending. Unlike the Employer's floor plan, however, the imposition of its proposal would not reduce HRSA's footprint "on the backs of employees." The Arbitrator should dismiss management's claim that requiring changes to its unilaterally imposed floor plan would be too costly at this late date because the Employer has initiated between 10 to 20 "change orders" to its plan already, including the one that occurred on May 29, 2014. Altering the Employer's floor plan by adding two phone booth rooms in or near HRSA space on the 11<sup>th</sup> floor is warranted to provide additional confidential space. The Union's proposal permitting ACF unit employees to reserve their own conference rooms on the 8<sup>th</sup> floor without the need to contact management or ACF administration should be adopted because of the difficulties they currently experience and those they anticipate under the Employer's floor plan.<sup>8/</sup> It

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<sup>7/</sup> "Walking workstations" or "walkstations," permit employees to burn calories while accomplishing work they would normally do seated.

<sup>8/</sup> During the arbitration portion of the proceeding, the Union conceded that employees who require a conference room with

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also should be imposed in consideration of the Union's willingness to withdraw its previous conference room proposals.

Finally, on the issue of the height and composition of workstation panels, the Union contends that its proposal should be imposed to resolve the parties' dispute because 66" panel heights and frosted glass would provide an additional measure of privacy for employees that is unjustifiably lacking under the Employer's proposal. While some employees already have 66" panels, the Employer's concern about noise in the current location led it to request the installation of a White Noise soundproofing system in the Byron Building. Thus, by its own admission, the Employer recognizes that employees need more privacy to accomplish their jobs duties. Combining higher workstation panels with frosted, rather than clear glass, would further maximize employees' ability to perform their work without inhibiting the flow of air and natural light. Conversely, the Employer's claims that 60" panel heights and clear glass would make an appreciable difference in air circulation and the ability of interior offices to receive natural light should be rejected. If these are real concerns the Employer should explain why its floor plan for the 9<sup>th</sup> floor, for example, has exterior private offices. Topping workstation panels with clear glass also would create a "fishbowl atmosphere" that employees oppose and would make it more difficult to accomplish HHS's mission.

## 2. The Employer's Position

The Employer opposes the construction of private offices of any size for HRSA unit employees on the 11<sup>th</sup> floor as well as the construction of any additional phone booth rooms. In addition, it essentially contends that the Union's proposal concerning the reserving of conference rooms by ACF unit employees on the 8<sup>th</sup> floor should be withdrawn. As to the issue involving workstations, it proposes that "all employees in workstations [] have a 48" partition with an extension of 12" clear material."

As a preliminary matter, the Employer renews a contention it raised during the initial investigation of the Union's request for Panel assistance, and again during the mediation-arbitration proceeding, that the parties never reached impasse over the issue of whether HRSA unit employees should continue to have private offices, rather than be required to move into open

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videoconferencing capability should perhaps have priority in the use of conference room space.



workstations, when they are relocated to the Byron Building. In essence, based on its version of the bargaining history that preceded the Panel's assertion of jurisdiction over the issue, the Employer submits that "it would be an unlawful interpretation of applicable statutes to allow the facts here to be interpreted as evidencing that the parties were at impasse at the time the FSIP asserted jurisdiction and subsequently held mediation/arbitration on this matter."<sup>9/</sup> In addition, it argues that the Union's alternative final offer that "employees going to workstations must be given additional telework, is nonnegotiable both because it is a covered matter and because it interferes with management's right to determine the methods and means of performing its work."<sup>10/</sup> For these reasons, the Employer contends that "FSIP assertion of jurisdiction of this matter must be reversed."

On the merits of the issue of private offices for HRSA unit employees, it is important to understand that management made its determination to implement an open workstation design out of necessity, specifically, to reduce the budgetary impact of the relocation in accordance with the requirements of recent Obama Administration initiatives concerning Federal real property. In this regard, one of the Employer's witnesses, an HHS Realty Specialist directly involved with the General Services Administration (GSA) in the planning and execution of the relocation to the Byron Building, testified that the most important of these initiatives is set forth in a March 14, 2013, Memorandum to all Executive agencies from the Office of Management and Budget (Management Procedures Memorandum No. 2013-02), which implements OMB Memorandum M-12-12 Section 3: Freeze the Footprint. Consistent with Memorandum No. 2013-02, which requires Executive agencies to ensure that their total square footage remains at their FY 2012 baseline level, HHS issued a policy requiring an overall usable space utilization rate 170 sq. ft. per employee for any future office relocations.

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<sup>9/</sup> "HHS' Renewed Motion in Opposition to FSIP Assertion of Jurisdiction" was sent via email on June 6, 2014, to the Panel representative who conducted the initial investigation of the Union's request for assistance, the Union's chief representative, and the undersigned.

<sup>10/</sup> The Employer's covered-by argument was also raised during the arbitration hearing but its management's rights claim is presented for the first time in its June 6, 2014, motion.

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While the Employer's floor plan for the Byron Building comports with these directives and policies, adoption of either of the Union's proposals requiring the construction of 100 sq. ft. private offices for HRSA unit employees would not. As attested to at the hearing by the GSA Project Manager for the relocation, given the structural peculiarities of the Byron Building, only 7 100 sq. ft. offices would fit into the HRSA space designed to accommodate 13 employees. Imposition of the Union's proposals, therefore, would lead to "all kinds of design problems" that essentially mandate the drawing up of new floor plans affecting other OPDIVs, at a minimum for the 11<sup>th</sup> floor, that could require up to 14 months to complete - the amount of time it took to create the Employer's current floor plan. The expenditure of additional funds would be required even to procure new drawings. This also could interfere with the funding for the entire relocation project, \$9 million of which is coming from money made available by Congress under the American Recovery and Reinvestment Act (ARRA) of 2009. Under that law, the funding will no longer be available after September 30, 2015. The lease at the current location expires at the end of February 2015, and any extensions beyond that point would cost an additional \$8,000 per month. In sum, the Union's proposals should not be adopted because doing so inevitably would interfere with the project's final move-in date of mid-February 2015 and cost the Agency, and ultimately the taxpayer, funds that far outweigh the benefit to a relatively small number of bargaining unit employees.

HRSA has made a determination that the level of privacy provided by its open workstation design is sufficient to ensure that its employees can perform the functions of their jobs. HRSA's Region 8 employees are not unique in this regard. Memoranda of Understanding (MOU) recently have been reached with NTEU chapters in Region 10 (Seattle, Washington), and at HHS's Parklawn Building in Rockville, Maryland, where, among other things, it was agreed that all HRSA unit employees will be assigned cubicles. While the Union argues that eliminating private offices in Region 8 would have an adverse impact on the affected employees, it fails to consider the effect on the morale of a far greater number of HRSA employees located in other areas of the country if either of its private office proposals are adopted. Nor is the Employer oblivious to the need for privacy. That is why it has designated ample conference and phone booth room space on the 8<sup>th</sup> and 11<sup>th</sup> floors where employees can conduct confidential telephone conversations without interruptions. The Employer's concern about the work environment is further demonstrated by its decision to invest money in

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better walls and sound mitigation equipment at the new location, and to use funding provided under the ARRA to install doubled-paned windows that maximize natural lighting and minimize street noise.

The Employer opposes the Union's proposal that ACF unit employees be permitted to reserve their own conference rooms on the 8<sup>th</sup> floor on a first come basis, without management involvement, because the same arrangement has failed in the past. In its view, if employees need to use one of the two 8<sup>th</sup> floor conference rooms that have videoconferencing capability they should have "absolute priority" in doing so. Management must maintain control of this scheduling function because "someone must adjudicate" conflicts between employees when they arise.

Workstation panels should be a total of 60" in height and topped by clear, rather than frosted material, for a number of reasons. First, the lower the total height of the panels, the greater the amount of natural light that would enter interior office areas. Clear material at the top of the panels also would facilitate the amount of natural light entering those interior office areas, whereas opaque panels would impede natural light. Second, heating and air conditioning (HVAC) in the Byron Building will be provided through a "chilled beam" system relying on convection rather than forced air. The effectiveness of such systems depends upon decreasing obstructions to air circulation to the maximum extent possible. Workstation panels that are 60" in height, instead of the 66" proposed by the Union, would ensure the optimal effectiveness of the HVAC system. Finally, as noted by its Realty Specialist, GSA administers a program referred to as "Total Workplace" that allows OPDIVS to pay for rent over a 5-year period without interest. To be eligible for the program, HRSA must install panel heights no higher than 60". Since the Union's proposal would make HRSA ineligible to receive the benefits of this program, something HRSA can ill-afford financially, the Employer's proposal should be adopted.

#### CONCLUSION

Turning to the Employer's motion that the Panel's determination to assert jurisdiction over the issue of private offices for HRSA unit employees be "reversed," after carefully reviewing its submission, I conclude that it identifies no new facts or circumstances that the Panel was unaware of when it made its initial determination. Accordingly, the motion is

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hereby denied. As to the Employer's claim that the Arbitrator is without authority to impose the Union's alternative private office proposal because the subject of telework is covered by the parties' NCBA, it is unnecessary to address the matter because, on the merits of the parties' dispute, I am not persuaded that either of the Union's private office proposals should be adopted.

At the outset, I note that the passion with which the Union presented its position on this issue during the mediation-arbitration proceeding appeared to be fueled, in part, by its conviction that the Employer has disrespected its role as exclusive representative during the parties' negotiations over the relocation. It is not the function of an interest arbitrator under the Statute, however, to decide impasses on the basis of whether one side or the other behaved badly during the process - there are other, more appropriate forums for making such judgments. The function of an interest arbitrator is to assess dispassionately the merits of the parties' positions on the basis of the facts as he or she finds them and, in the absence of a voluntary settlement, to balance the interests of the parties' to the maximum extent possible in rendering a decision. In the circumstances of this case, I am convinced that the disruption the adoption of either of the Union's private office proposals would cause to the relocation schedule, and the increase in costs to the taxpayer, outweigh the benefits to HRSA unit employees. In this regard, as explained by GSA's Project Manager at the hearing, the structural limitations of the 11<sup>th</sup> floor are such that even as few as five 100 sq. ft. private offices on the perimeter of the building would require the entire floor to be redesigned, including the workspace of entirely different OPDIVs.<sup>11/</sup>

There is another equally important reason that the imposition of private offices for HRSA unit employees is unwarranted. The Federal workplace has changed dramatically in recent years with increasing numbers of employees, including those in Region 8, working from home or at an alternative worksite, and enjoying regular days off under a variety of family-friendly flexible and compressed work schedules. Unions rightly have been in the forefront advocating the positive

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<sup>11/</sup> The Union's proposal to include two additional phone booth rooms on the 11<sup>th</sup> floor also would cause similar, though less drastic, redesign problems. I also am not persuaded they are necessary, given the number of conference rooms on the Employer's floor plan.

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impact that increased telework and the use of alternative work schedules (AWS) have on the quality of employees' work life. Such benefits, however, do not come without tradeoffs. While the number of average sq. ft. per employee is decreasing, the widespread use of telework and AWS in Federal workplaces ensures that the number of employees actually at the worksite on any given day has also decreased. In my view, the Obama Administration's policy to freeze the Federal footprint is an inevitable part of this tradeoff because it saves taxpayers money, particularly in high rent urban areas. Although a union is entitled to reach impasse by refusing to agree voluntarily to the tradeoff, this third-party neutral is constrained to impose it in the current circumstances. In addition, there is documentary evidence in the record that the NTEU chapter representing employees at the Parklawn Building recently agreed that all 500 or so HRSA unit employees at that location will be assigned cubicles.<sup>12/</sup> The countervailing interests of HRSA unit employees in Region 8 who do not telework or use AWSs are not strong enough to warrant a different result.

On the issue of whether ACF unit employees should be permitted to reserve their own conference rooms without the need to contact management or ACF administration, the Employer argued, and the Union appeared to concede, that employees who need to videoconference should have priority in reserving the two conference rooms that have such capability. Consequently, given the difficulties that ACF employees have experienced in reserving conference rooms at the current location, and taking into account the parties' joint interest in ensuring that those who need to videoconference receive priority treatment, a modified version the Union's final offer will be imposed to resolve the parties' dispute over this issue.

With respect to the total height of workstation panels, in the same Parklawn MOU referenced above where the parties agreed that all HRSA unit employees will be assigned cubicles, they also agreed that the cubicles will have a total workstation height of 64" to 66". The two primary reasons cited by the Employer in Region 8 for imposing a total panel height of 60" were that HRSA would receive a financial benefit under GSA's "Total Workplace" program, and that the efficiency of the Byron

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<sup>12/</sup> The Employer also stated that the NTEU chapter in Region 10 in Seattle had agreed during recent relocation negotiations that all of the HRSA unit employees it represents also will be assigned to cubicles but that MOU was not entered into the record.

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Building's HVAC system would be improved. Although there is no reason to doubt the testimony of HHS's Realty Specialist in this regard, there is no documentary evidence in the record to substantiate the amount of the benefit. Moreover, HHS's willingness to provide workstation panels with a total height of 64" to 66" argues against treating Region 8 unit employees differently than those at the Parklawn Building. In light of the substantial savings that will be realized by HHS and the taxpayers by moving its unit employees into cubicles, and the inherent attractiveness of treating unit employees in the Byron and Parklawn Buildings consistently with regard to total workstation panel height, I will order that the total height of workstation panels be between 64" and 66". Finally, the Employer argued that topping the panels with glass rather than frosted material would permit more natural light to enter into interior office spaces. While this is undoubtedly true, I find that, when balanced against the unit employees' interest in greater privacy, the latter interest should prevail. Accordingly, in addition to imposing a total workstation height between 64" and 66", I will order that the top 18" of the panels be composed of frosted material.

#### DECISION

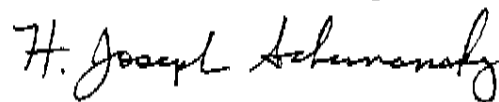
The Union shall withdraw its proposals for the 11<sup>th</sup> floor of the Byron Building.

The parties shall adopt the following wording to resolve their impasse with respect to the remaining issues:

In ACF, conference rooms will be placed on a shared drive accessible by ACF bargaining unit employees so that they can reserve their own conference rooms on a first come basis. Management's involvement will be limited to ensuring that employees who require videoconferencing capability receive priority treatment if conflicts arise.

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All workstation panels will be a total of 64" to 66" in height, with 48" of fabric panel and the remaining 18" of frosted material.



H. Joseph Schimansky  
Arbitrator

June 30, 2014  
Bethesda, Maryland