

United States of America ,

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

DEPARTMENT OF DEFENSE
DEPARTMENT OF THE NAVY
PORTSMOUTH NAVAL SHIPYARD
PORTSMOUTH, NEW HAMPSHIRE

and

INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL ENGINEERS,
LOCAL 4

Case No. 17 FSIP 031

DECISION AND ORDER

The International Federation of Professional and Technical Engineers, Local 4 (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, 5 U.S.C. § 7119, between it and the Department of Defense, Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire (Agency or Employer).

Following an investigation of the Union's request for assistance, which involves a dispute over ground rules that would require the Agency to pay for the Union's travel expenses to third-party proceedings (such as the Panel),^{1/} the Panel determined that this matter should be resolved through written submissions with rebuttals. The parties were informed that, after considering the entire record, the Panel would take whatever action it deemed appropriate to resolve the dispute, which may include the issuance of a binding decision. The Panel has now considered the entire record, including the parties' final offers, written submissions, and rebuttal statements.

^{1/} The ground rules are in relation to a cubicle reorganization to accommodate approximately 30 new Information Technology (IT) hires.

BACKGROUND

The Agency is one of four government-owned shipyards dedicated to overhauling submarines. Its mission is to refurbish and update attack submarines. At the Shipyard, there are approximately 6000 employees, and 1600 bargaining-unit employees. The parties' collective-bargaining agreement (CBA) expired in 2014, but has been extended until a new agreement is reached. Negotiations over the CBA are currently ongoing.

Presently, there are 112 IT workers, of which 15 are recent hires. The Agency is planning to hire 15-18 additional workers. In order to fit cubicles for the new workers into the existing space, the cubicles will need to be reconfigured with smaller dimensions. In bargaining ground rules to negotiate the cubicle reorganization, the parties disagreed over one proposal related to travel costs for third-party proceedings.

ISSUE

The parties disagree over whether the Agency should contribute to the Union's major travel costs when the parties must travel for third-party proceedings, such as appearing before the Panel.

POSITIONS OF THE PARTIES

1. The Union's Position

The Union proposes that the Agency pay for the Union's major travel costs, including airfare and lodging, when the parties must travel for third-party proceedings. The Union proposes that the Union's travel be designated Official Government Business. The Union proposes that its full travel expenses, outside of per diem at the Temporary Duty (TDY) site, shall be paid by the Agency. The Union will pay its per diem expenses at the TDY site. Fifteen workdays prior to travel, the Agency shall inform the Union of the name and role of attending Agency team members. Approved Travel Orders should be provided to the Union five workdays prior to travel commencing. Travel should not be scheduled for weekends or federal holidays. The Union is allowed to have at least as many team members present as the Agency. The Union proposes that its team members be on official time. The Union believes its proposal creates an even playing field for negotiations with the Agency. The Union's offer to pay per diem at the site is offered in the spirit of compromise and inspired by Department of Agriculture, Animal

Plant Health Inspection Service, Plant Protection & Quarantine, Moorestown, New Jersey.^{2/} The Union feels it has been harmed in the past, when its comparatively smaller budget meant that it sent fewer representatives than the Agency to a Panel proceeding. The Union also argues that the Agency is able to take advantage of greater cost savings. The Union argues that the Agency's analogy to the parties splitting arbitration costs is unwarranted because, under certain circumstances, the Union can recoup arbitration costs.

2. The Agency's Position

The Agency proposes that the parties first jointly petition the third party to conduct the process telephonically and/or via VTC in order to be able to avoid travelling. If ordered to travel, the Agency proposes that it pay for the costs of its negotiators, and that the Union pay for the costs of its team. The Agency states that it will pay for the Union's travel costs if Agency-head disapproval leads to renegotiations. It states that the Union will pay its own costs when non-ratification leads to renegotiations. The Agency believes this is a fair proposal in that costs are split and each party is responsible for costs arising out of its own actions.

Adopting the Agency's proposal would put it in line with DOD, Defense Contract Audit Agency, Northeast Region, Lexington, Massachusetts,^{3/} which it cites as part of a good faith attempt to reimburse the Union for proceedings caused by Agency-head disapproval. Responsibility for fiscal restraint falls not just on the Agency but also on the Union. The Agency's proposal also fits with the CBA, Article 9, §7 in which the cost of grievance arbitration is split by both parties equally. The Agency argues that the Union has not justified its claims of financial hardship. The Agency explains that a cost comparison demonstrates that travel costs for both parties would be roughly equal.

In its view, the proposal will motivate the Union to reach voluntary agreement – which benefits the effective and efficient operations of the Shipyard. Ground rules must be designed to further rather than impede bargaining.

2/ 99 FSIP 111 (1999).

3/ 93 FSIP 171 (1994).

CONCLUSION

Having carefully considered the evidence and arguments presented in support of the parties' positions, the Panel has decided to adopt the language of the Agency's proposal in its entirety.

ORDER

Pursuant to the authority vested in it by the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and because of the failure of the parties to resolve their dispute during the course of 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, orders the parties to adopt the following to resolve the impasse:

In connection with attending any off-site negotiation sessions and third party proceedings, the Parties agree that the first and mutually desired option will be to conduct such sessions and proceedings via teleconference or VTC technology. In the event that the Parties are ordered to travel in connection with any off-site negotiation sessions and third party proceedings, in the spirit of complying with Executive Order 13,589 - Promoting Efficient Spending, the Parties will jointly petition the ordering entity to minimize travel expenses of the Parties by requesting such sessions and proceedings be conducted via teleconference or VTC technology. In the event that the Parties must travel in connection with any off-site negotiation sessions and third party proceedings, the Employer shall pay the travel expenses and per diem allowances for its negotiators related to mediation before FMCS as well as FSIP proceedings or binding arbitration. The Union shall pay the travel expenses and per diem allowances for its negotiators related to mediation before FMCS as well as FSIP proceedings or binding arbitration. The Employer shall pay such expenses and allowances, consistent with applicable law and regulations, for Union negotiators when Agency head disapproval of all or part of the agreement leads to renegotiations. The Union shall pay for its negotiators when non-ratification leads to renegotiations.

By direction of the Panel.

A handwritten signature in blue ink, appearing to read 'MAC', is positioned above the printed name.

Mark A. Carter
Chairman

September 12, 2017
Washington, D.C.