



DEPARTMENT OF VETERANS AFFAIRS
ASSOCIATE DEPUTY FOR LABOR-MANAGEMENT RELATIONS
WASHINGTON DC 20420

JUN 08 2004

William Wetmore
Chair, Grievance and Arbitration Committee
National Veterans Affairs Council, #53
American Federation of Government Employees, AFL-CIO
VA Medical Center – Bldg. 12-2, Suite 007
Salem, VA 24153

Re: National Grievance re "Tentative Proposals"

Dear Mr. Wetmore:

I am in receipt of your grievance dated May 25, 2004, regarding what you have termed "tentative proposals." This letter is intended to initiate informal communication pursuant to Article 42, Section 11.B. of our Master Agreement. Should we be unable to resolve the grievance informally, I will provide a formal response to the grievance within the time period specified in our agreement.

Your grievance suggests that VA's Chief Negotiator declared during our West Palm Beach session that VA would be changing its approach to negotiations "in retaliation for" AFGE's failure to provide a full set of initial proposals. This is not an accurate characterization of what the Chief Negotiator said, nor of what has occurred thus far in negotiations.

What VA proposed on a tentative basis was to reserve some subjects addressed by Article 25 – Parking and Transportation to local negotiation. VA's intent in this regard is evidenced in management's fourth proposal on Article 25, presented to AFGE during our afternoon session on April 29, 2004. In that proposal, VA attempted to address concerns AFGE had raised by listing specific parking-related issues that would be subject to local bargaining, including parking space for local union officials. Because AFGE has not provided proposals on local negotiations or on use of official facilities -- which might address issues related to parking for union officials -- management knew there could not be a meeting of the minds on all of the material terms in its proposal. For that reason, the management team specified in its proposal that the section on local negotiations was "tentative pending receipt and discussion of the balance of the Union's initial proposals." As VA's Chief Negotiator clarified in the discussion that followed her presentation of management's proposal on Article 25, management wanted to avoid giving the impression of reaching agreement on articles some terms of which required reference to proposals not yet provided by AFGE. This was not a "retaliatory position," as your grievance alleges, but merely a realistic and legally supportable one, as agreement cannot be reached where material terms remain unresolved. See, e.g., Internal Revenue Service Philadelphia District Office and National Treasury Employees Union, Chapter 22, 22 FLRA 245 (1986).

VA was and remains prepared to sign any proposal on which agreement is reached. When proposals expressly incorporate terms from other proposals not yet on the table, however, there can be no agreement reached. To clarify this rather obvious point was our Chief Negotiator's intent in making the comments you refer to in your grievance, and I regret that you ascribed a different meaning to her remarks. Please be

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William Wetmore

assured that VA is sincere in its desire to reach agreement as quickly and efficiently as possible on all of the issues in our reopened agreement.

I hope that this clarification and analysis are helpful to you. I encourage you to call me to discuss this matter further, and remain optimistic that we can resolve your grievance on an informal basis.

Sincerely yours,



Ronald E. Cowles



JUL 09 2004

William Wetmore
Chair, Grievance and Arbitration Committee
AFGE National VA Council
Board of Veterans Appeals
VA Central Office
811 Vermont Ave. N.W.
Washington, DC 20420

Re: National Grievance re: "Tentative Proposals"

Dear Mr. Wetmore:

I am now prepared to provide a formal response to your grievance dated May 25, 2004, regarding what you have termed "tentative proposals".

As I noted in my letter of June 8, 2004, VA is, as always, prepared to sign any proposal on which agreement is reached. Where, however, a proposal expressly incorporates material terms from another article on which AFGE has provided no proposal, no agreement is possible. It is for this reason that we have been anxious to receive the balance of your initial proposals so as to enable the parties to reach agreement as quickly and efficiently as possible on all of the issues in our reopened agreement.

The remedy requested in your grievance is that VA "be... compelled to offer only proposals that they [sic] are prepared to sign if agreement is reached on them ... [and make] an open written declaration that VA will not retaliate against AFGE for the use of negotiated means of resolving disputes". While we disagree with your characterization of events described in the grievance, we certainly are prepared to sign any proposals on which agreement is reached. Moreover, we can assure you that management did not file its unfair labor practice charge in retaliation for AFGE's use of the negotiated grievance procedure, but rather in exercise of the Agency's statutory rights under 5 U.S.C. § 7116(b)(5). Consistent with our conduct to date, VA will never retaliate against the Union for exercising its negotiated rights, but will -- when necessary -- exercise its own rights when the Union fails to negotiate in good faith.

Sincerely yours,

Ronald E. Cowles
Associate Deputy Assistant Secretary
for Labor-Management Relations