



DEPARTMENT OF VETERANS AFFAIRS
DEPUTY ASSISTANT SECRETARY FOR
HUMAN RESOURCES MANAGEMENT AND LABOR RELATIONS
WASHINGTON DC 20420

AUG 04 2008

Jacqueline M. Sims, Esq.
Assistant General Counsel
AFGE-NVAC
80 F Street, NW
Washington, DC 20001

Re: Grievance Response and Counter-Grievance

Dear Ms. Sims:

I am writing to respond to AFGE-NVAC's June 27, 2008, National Grievance re: USA Staffing and to present the Department's Counter-Grievance on the same subject.

Response to National Grievance

As your June 27, 2008, National Grievance notes, USA Staffing is a web-based staffing system that the Office of Personnel Management (OPM) operates and licenses to other Federal agencies to use. USA Staffing automates a number of tasks associated with an agency's recruitment process such as: creating vacancy announcements, rating and ranking job applicants, notifying applicants of the status of their applications, etc.

USA Staffing differs from OPM's external recruitment portal, USAJOBS, which allows Federal agencies to post external vacancy announcements on a website that is visible to prospective applicants world-wide. While USAJOBS is a website available to anyone who is interested in applying for Federal employment, USA Staffing is an automated system used by agencies that have procured licenses from OPM to automate various stages of the recruitment process.

VA and other Federal agencies have been using USAJOBS to advertise all types of vacancies for over ten years. By contrast, VA is not yet using USA Staffing to process online applications for bargaining unit positions. As was noted by management at the VA Medical Center in Fargo, ND, in the local grievance response and related correspondence cited in your National Grievance, VA facilities use USAJOBS for external job announcements that may be published simultaneously with internal announcements. While the VA-AFGE Master Agreement governs areas of consideration for internal recruitments, that Agreement does not govern external

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Jacqueline M. Sims, Esq.

recruitment or prohibit management from recruiting both internally and externally for a bargaining unit position.¹ The Department's use of USAJOBS to advertise vacancy announcements to external candidates is thus not a violation of the VA-AFGE Master Agreement, and the June 27, 2008, National Grievance is denied on that basis.²

Counter-Grievance

While the Department has not yet begun to use USA Staffing to automate processing of internal applications for positions in the AFGE bargaining unit, the Department disagrees with AFGE-NVAC's assertions that the use of USA Staffing for such positions would require renegotiation of Article 22 of the VA-AFGE Master Agreement and cannot be negotiated as a mid-term change.

First, while the USA Staffing system does automate the rating and ranking of applicants, the automated rating and ranking of candidates for a particular vacancy can be reviewed and, where appropriate, overridden by subject matter experts such as an HR specialist or a merit promotion panel. The Department is willing to negotiate with AFGE-NVAC a procedure that would allow the HR specialist to use the automated system to do his or her portion of the recruitment work but would retain the panel process called for in Article 22. Moreover, the Department is also willing to negotiate with AFGE-NVAC an internal announcement and application process that would

¹ Article 22, Section 8.b. of the VA-AFGE Master Agreement provides that "[p]rior to considering candidates from outside the AFGE bargaining unit, the Employer agrees to first consider internal candidates for selection." Section 8.c. of that Article defines areas of consideration for internal candidates. Neither of these provisions, however, prevents VA management from advertising a bargaining unit position externally nor from filling such a position externally after considering internal candidates. The Federal Labor Relations Authority has consistently held that a proposal that would prohibit external recruitment is non-negotiable. See, e.g., *NTEU and DHHS, Region 10*, 7 FLRA 727 , 728-29 (1982); *NTEU and Dept. of Energy*, 9 FLRA 158 , 158-59 (1982); *AFGE Local 738 and Dept. of Army, Combined Arms Ctr.*, 39 FLRA 872 , 874 (1991); *AFGE Local 85 and VAMC, Leavenworth*, 32 FLRA 210 , 219 (1988) (Proposal 12); *NAGE Local R5-165 and Tennessee Air Nat'l Guard*, 35 FLRA 886 , 886-87, 890 (1990); *Ft. Knox Teachers Ass'n and Ft. Knox Dependent Schools*, 19 FLRA 878 , 881 (1985); *AFGE Council of Prison Locals, Local 3974 and Dept. of Justice, Fed. Bureau of Prisons, FCI McKean*, 48 FLRA 225 , 227-28 (1993).

² The statement circulated at the Beckley, WV VAMC to the effect that "HR will ... soon be switching over to USA Staffing ..." announces the Department's intention to eventually automate the staffing process. That intention is by no means unknown to AFGE-NVAC, as the correspondence and conversations referenced on pages 2-4 of the June 27, 2008 National Grievance makes clear. There is nothing in the Beckley announcement to indicate that the Beckley VAMC or any other VA facility has, to date, implemented USA Staffing to fill vacancies within the AFGE bargaining unit, and in fact VA Central Office has issued repeated guidance to field facilities that USA Staffing should not be used to fill bargaining unit positions.

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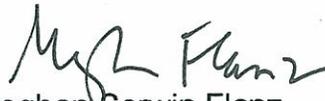
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preserve the substantive procedures required by Article 22 while allowing the Department to automate and expedite the recruitment process generally. We do not believe that Article 22 prohibits automation of the duties performed by HR specialists, who are excluded from the AFGE bargaining unit pursuant to 5 U.S.C. § 7112(b) (3), nor that anything in Article 22 or in the July 2003 ground rules governing the ongoing VA-AFGE Master Agreement renegotiation prohibits mid-term bargaining over a procedure for automating the recruitment process in a manner that is consistent with the substantive procedures of Article 22. The Department thereby grieves AFGE-NVAC's refusal to bargain over the impact and implementation aspects of USA Staffing as a mid-term item in accordance with Article 44, Section 2 of the VA-AFGE Master Agreement.

As a remedy, the Department requests that AFGE-NVAC's National Mid-Term Bargaining Committee provide available dates to commence bargaining on USA Staffing within thirty (30) days and proceed with bargaining so that the Department can implement USA Staffing for positions in the AFGE-NVAC bargaining unit no later than January 5, 2009.

This is a National Grievance and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions regarding the Department's counter-grievance, please feel free to contact me at (202) 461-4122.

Sincerely yours,



Meghan Serwin Flanz
Deputy Assistant Secretary for
Labor-Management Relations