AFGE Council 238’s 2020 Collective Bargaining with EPA
AFGE Council 238’s Negotiations

- A Unilateral Management Imposed Directive (UMAD) or the “Directive” was imposed on the AFGE Bargaining Unit of about 7500 employees in July 2019
- Bargaining began 1/7/2020 and ended 3/13/2020
- AFGE Council 238’s Lead Negotiator was John Howard from AFGE National’s Field Services Office
- Cathie McQuiston, AFGE National’s Deputy General Counsel and Designated Representative for EPA Council 238 served as co-lead for the bargaining team
AFGE Council
238
Bargaining Team Members

Steve Calder - EPA Region 1
Britta Copt - EPA Region 8
Eric Esler - EPA Region 9
Ed Guster - EPA Region 2
Undine Kipka - EPA Region 1
Dianna Myers - EPA Region 4
Marie Owens-Powell - EPA Region 3
What Is At Stake

• If this contract is not ratified, the UMAD will remain in effect until 2026 (7 years)
• Every article that the team tentatively agreed (TA’d) is an improvement over what was imposed by the agency
• The entire contract as a single document and as presented here is up for ratification—parts or provisions cannot be altered
Next Steps

• 11 contract articles were tentatively agreed (TA’d) to by AFGE and the Agency during the negotiation period prior to mediation
• The 4 articles where agreement was not reached went through mediation
  • 2 additional articles were TA’d during mediation
  • Partial agreement was reached on official time and grievance procedure
• Articles not resolved in mediation go to impasses proceedings.
  • The Federal Services Impasses Panel (FSIP) decision is final
  • AFGE and the Agency can reach agreement anytime before FSIP rules
Ratification Process

• The 13 contract articles tentatively agreed (TA’d) to by AFGE and the Agency are presented to members for ratification.

• These TA’d articles must go through ratification to become effective.

• Ratification is a process by which a union contract is accepted by the union members.

• Ratification consists of a majority vote by AFGE Council 238’s thirteen Locals. Each local will have one vote.

• Once these TA’d articles are ratified, we will be able to get relief from the UMAD.
Articles with Tentative Agreement

- Career Ladder – Not covered in UMAD
- Position Classifications – Not covered in UMAD
- Leave – Section 1A only
- Awards – Not covered in UMAD
- Employee Rights – Not covered in UMAD
- Alcohol and Drug Free Workplace – Not covered in UMAD
- Health and Safety – Not covered in UMAD
- Union Rights and Duties – Not covered in UMAD
- Dues Deductions
- Duration
- Telework
- Work Schedules
- Use of Agency Facilities

13 TA’d articles
Career Ladder

Article not Covered in the UMAD – Entire Article is a Gain for AFGE

Initial agency proposals had no responsibilities for supervisors

New contract requires:
• Supervisors to discuss job requirements and expectations with employees
• Timely supervisory decisions and feedback to employees
Position Description and Classification

Article not Covered in the UMAD – Entire Article is a Gain for AFGE

Under the new contract:

• Position descriptions must be provided and will normally be uploaded to the employee’s eOPF
  • Agency proposed that employee had to ask for a current PD
  • Agreed language makes it an affirmative requirement that agency update and provide PD

• Agency is required to amend or rewrite permanent changes when changes are made as a result of reorganization or if OPM standards are changed
Leave

• Only Section 1A of the Article was open for negotiation
• Now lists examples of “extenuating circumstances” and allows the employee to contact the supervisor as soon as practicable if employee cannot contact supervisor prior to start of tour of duty
Awards

Article not Covered in the UMAD – **Entire Article is a Gain for AFGE**

- Awards Board Shall Include an AFGE Representative
- If Regions establish a local Board, AFGE is invited and can provide input
- Agency must provide amounts and allocation of Awards
- Employee awards information will be provided monthly
Employee Rights

Article not Covered in the UMAD – Entire Article is a Gain for AFGE

The new contract includes language for:

• Treating employees with respect
• A workplace free of harassment & discrimination
• Employee rights under statutory law
• Prohibited Personnel Practices
• Preventing the agency engaging in Union animus and recording of protected activity
• Rights to obtain information
Alcohol and Drug Free Workplace

Article not Covered in the UMAD – **Entire Article is a Gain for AFGE**

- Covers Agency and Employee Responsibilities
- Outlines Random Testing Procedures
  - “Reasonable Suspicion” Testing
- Methods and Procedures for Testing
- Confidentiality and Safeguarding Information
- EAP Counseling Services for Employees and Families at No Costs
- Agency not required to discipline employee who self reports addiction/problem
Health and Safety

Article not Covered in the UMAD – **Entire Article is a Gain for AFGE**

- Provides for AFGE participation on Health and Safety Committees at national and local levels
- Requires Agency to provide personal protective equipment
- Provides for indoor air quality testing
- Provides for access to Safety Data Sheets
- Provides for employees’ participation in immunizations programs
- Provides for AFGE notification of and the right to accompany inspectors
Union Rights

Article not Covered in the UMAD – Entire Article is a Gain for AFGE

• This article gives bargaining unit employees, those serving as union officials, the right to:
  • Form, join or assist any labor organization or refrain from any such activity, freely and without fear of penalty or reprisal
  • Act for a labor organization in the capacity of a union representative
  • Engage in collective bargaining with respect to conditions of employment through representatives chosen by employees
  • Represent employees in formal and Weingarten meetings, as well as, attend employee orientation; and
  • Prohibits the agency from interfering with, restraining, or coercing any employee in the legitimate exercise of their rights as union representatives
Use of Agency Facilities

- UMAD stripped AFGE of agency office space, telephone, computer, email, bulletin boards and other equipment.

- New contract allows AFGE reasonable use of:
  - Conference/meeting rooms - without LER approval
  - Agency internal mail services and email to communicate announcements, newsletters, and educational materials to BUEs
  - Scanners, copiers, fax, computers, telephones and bulletin boards; also allows
  - Agency intranet page* to list national and local union official’s contact information
  - Lockable file cabinet or a small closet, for storage, at no cost to the agency, in otherwise unused agency space
Dues Deductions

What the UMAD Imposed
• Required consistent dues amount across all Locals
• Agency could automatically cancel a Member’s dues deductions without their consent

What AFGE Gained
• Returned authority to set dues to members of each Local
• Members can voluntarily withdraw from Union anytime after 1-yr of signing an 1187*
Duration

What the Agency Imposed

• 7-year contract term
• Imposed future bargaining rules that were prejudicial to union

What AFGE Gained

• Shortened to a 5-year term
• After 2 years, either party can reopen up to 2 existing or new Articles
• Between 24 months to 48 months after contract in effect, either party may reopen the Dues Deduction Article if law or guidance changes on submission of SF-1188s after members first anniversary date
• Future bargaining rules set by mutual agreement at that time
Work Schedules

- UMAD gave supervisors complete and unreviewable discretion to set and approve work schedules
- New contract includes more flexibilities in work schedules
  - Better core hours—9:30am-2:30pm
  - For Maxiflex schedules, core hours don’t apply on second Friday of pay period
  - Work schedule decisions by management are grievable and arbitrable
  - Minimized formerly required multiple documentations/permissions required for schedules
Telework

- Imposed contract gave management complete and unreviewable discretion over telework
  - limited regular telework to one day per week
- New contract allows for regular telework of up to **two days per week** based on employee’s work schedule
- Holidays, leave and travel days do not count against telework days
- Telework decisions can be grieved and arbitrated
- No request for telework will be unreasonably denied
- Supervisor must provide reasons for denial of telework in writing
Partial Grievance Article

- Parts of Grievance Article were modified or deleted, and those changes are part of ratification [numbers in parenthesis are references to UMAD section]
  - Added rights for excepted service employees for adverse actions (15)
  - Deleted section barring grievances on decisions by Office of Hearing and Appeals (18)
  - Modified so can grieve violations of law re: RIF (19)
  - Deleted bans on grievances regarding:
    - FLSA grievances (17)
    - Official time (23)
    - Telework (27)
    - Work schedules (28)
    - Scope of grievance article (29)
Partial Official Time Article

• Parties agreed on following sections:
  • Section 1 (no change)
  • Delete Sections 7 and 8 in UMAD (subjects covered in other articles that were added back into the contract)
  • These changes are part of ratification
Articles/Sections at Impasse

- **Negotiated Grievance Procedures**—remaining issues agency wants to prohibit from grievance procedure
  - **Awards/Incentive Pay**
    - Agency wants a complete ban; union allows exclusion, but agency must comply with law, reg and contract in making decisions
  - **Ability to grieve and arbitrate removals**

- **Official Time**
  - Amount of official time union is entitled to use and how it is calculated
  - Agency refuses to acknowledge that the Executive Orders don’t foresee calculating official time bank hours including USC 7131 (a), (c) and (d)
Ratification Timeline/Process

• Presidents will vote on ratification on June 10, 2020 at a special meeting.
  • Prior to that date, Locals will carry out their process to determine how the President will vote at the special meeting.
  • Each Local gets one vote.
• Once contract ratified, those articles/sections go through Agency Head Review (AHR) (required by law)
  • Agency has up to 30 days to complete AHR
• When AHR complete, those provisions ratified become effectively immediately
  • Do not have to wait for other issues to be resolved through impasse procedures, which could take several months.