

## Bargaining Impasse Standard [51]

NOTE: The content of this document has not been reviewed by legal counsel, nor does it represent a consensus view of the Design Team or indicate any kind of preference among options presented to the Senior Review Committee.

### Summary Description:

This option provides standards to be used to resolve negotiation impasses between the parties under any labor relations system that is adopted.

### Key Features:

This option establishes specific criteria that third-parties must rely upon to resolve bargaining impasses between DHS and its union. Among other things, the standards would take into account management rights, fair and equitable treatment of employees, employee morale, the effective and efficient operation of the DHS mission, including the security of the homeland, and the conditions and contracts of employees performing similar work.

### Relation to Other Options:

These standards can be applied by any third party that is charged with resolving negotiations impasses. They will serve systems in which the third party has the ability of forging its own contract language to impose on the parties or those in which the third party must choose the proposal of one or the other party.

**Implications** (This section contains "possible advantages/benefits" and "possible problems/challenges" and "other implications" suggested by design team members. The views expressed in these "implications" represent the opinions of one or more members of the design team and therefore reflect sometimes opposing points of view. These opinions do not reflect the collective judgment of the entire design team on any of the issues addressed, nor have they been reviewed by legal counsel.):

#### Possible Advantages/Benefits

- Parties will know in advance what criteria to apply to their proposals in order to make them more likely to be adopted by a third party decision maker.

#### Possible Problems/Challenges

- Could have the effect of limiting management's right to determine how work is done and who does it.
- Standards might be in conflict with each other and do not appear to raise mission accomplishment to the highest level.

#### Other Implication

- The provisions of this option will have to be reviewed for consistency with the Homeland Security Act.

### Evaluation in Terms of Guiding/Design Principles:

#### Mission Centered

- Standards provide that proposals must provide for effective and efficient operation of the Agency to fulfill its mission, including maintaining the security of the Homeland.

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### Performance Focused

- Proposals must provide for effective and efficient operation of the Agency, and maintain high employee morale, which leads to higher performance.

### Contemporary and Excellent

- Proposals will be weighed against comparisons with employees performing similar duties. Provisions must be appropriate for an enterprise engaged in governance, as opposed to a profit-generating business.

### Generate Trust and Respect

- Proposals must provide for fair and equitable treatment of employees.

### Based on Merit System Principles and Fairness

- Proposals must provide fair and equitable treatment of employees.

## Detailed Description By System Component and System Element

L		Labor Relations System
System elements:		Summary description:
6	Negotiations	<ul style="list-style-type: none"> <li>• Any third party charged with resolving negotiation impasses will base its decision on the following standards:               <ul style="list-style-type: none"> <li>○ Provisions may not keep management from acting on subjects left to its sole discretion.</li> <li>○ The Party seeking change from the status quo has the burden of proving the desirability of its proposal.</li> <li>○ Provisions must provide for fair and equitable treatment of employees.</li> <li>○ Provisions must maintain high employee morale.</li> <li>○ Provisions must provide for the effective and efficient operation of the Agency's mission, including maintaining the security of the Homeland.</li> <li>○ Proposals will be compared with conditions and contract provisions of employees performing similar duties.</li> <li>○ Provisions must be appropriate for an enterprise engaged in governance.</li> </ul> </li> </ul>