

Department of the Interior Departmental Manual

Effective Date: 6/24/04
Series: Personnel Management
Part 370: Departmental Personnel Program
Chapter 711: Labor-Management Relations

Originating Office: Office of Human Resources

370 DM 711

1.1 **Purpose.** This chapter provides Departmental policy for the Labor-Management Relations Program within the Department of the Interior (DOI).

1.2 **Scope.** This policy applies to all bureaus and offices where a union holds (or is seeking to hold) an exclusive recognition.

1.3 **Authority.** Chapter 71 of Title 5, United States Code: The Federal Service Labor Management Relations Statute (FSLMRS or the Statute)

1.4 **Policy.** It is the policy of the Department for management officials to meet their obligations under the FSLMRS, which establishes a legal right for Federal employees to organize and bargain collectively with Agency management, through labor organizations, over the conditions of their employment. Management officials are expected to apply the provisions of the FSLMRS so as to promote cooperative labor-management relations that further the mission and goals of the Department. The DOI labor-management relations program is founded on the belief that labor unions are effective channels of communication with significant groups of employees and that prompt and equitable settlement of disputes can be best accomplished at the local level by utilizing flexible and informal procedures.

1.5 **Definitions.**

A. Federal Service Labor-Management Relations Statute (FSLMRS or Statute). The law upon which the Federal labor relations program is based. Found in Chapter 71 of Title 5 of the U.S. Code, it includes the rights and obligations of the parties - management, unions and employees.

B. Federal Labor Relations Authority (FLRA or Authority). The independent agency responsible for administering the Statute.

C. Management Official. An individual employed by an agency whose duties and responsibilities require or authorize the individual to formulate, determine, or influence the policies of the agency.

D. Unfair Labor Practice (ULP). A violation of any of the provisions of the Statute.

E. Labor Organization. An organization composed in whole or in part of employees, in which employees participate and pay dues, and which has the purpose of dealing with an agency concerning grievances and conditions of employment, except for organizations specified in 5 U.S.C. 7103(a)(4)(A)-(D).

F. Conditions of Employment. Personnel policies, practices and matters affecting working conditions, except for those policies, practices and matters relating to political activities prohibited under Title 5, Chapter 73, Subchapter III, relating to the classification of any position, or to the extent such matters are specifically provided for by Federal statute.

G. Basic Collective Bargaining Agreement. The written primary agreement establishing the terms and conditions of employment governing the relationship between agency management and a labor organization (exclusive representative). This term does not include supplements dealing with wages and pay matters or practices negotiated pursuant to Section 704 of Public Law 95-454 and Section 9(b) of Public Law 92-392.

H. Exclusive Representative – Any labor organization which is certified as the *exclusive representative* of employees in an appropriate unit pursuant to section 7111 of the Statute, or was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit on the basis of an election or on any basis other than an election, and continues to be so recognized in accordance with the provisions of the FSLMR.

I. Bargaining Unit - A grouping of employees that a union represents or seeks to represent and that the FLRA finds appropriate under the criteria of the FSLMRS (community of interest, effective dealings, efficiency of operations) for collective bargaining purposes. Certain types of employees cannot be included in units, such as management officials and supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity, employees engaged in intelligence, counterintelligence, investigative or security work which directly affects national security, and employees engaged in administering the provisions of the FSLMRS.

1.6 Responsibilities.

A. Assistant Secretaries. The responsibilities of the Assistant Secretaries with respect to labor-management relations are included in the delegation of authority for personnel management in 205 DM 8. In general, these responsibilities have been delegated to bureau and office human resources officers who are responsible for labor relations program implementation within their respective organizations.

B. Director, Office of Human Resources. Oversees the Department's labor-management relations program and is responsible for the following and all other implied duties related to administering the labor-management program:

(1) Representing the Department with the headquarters offices of those labor unions with whom the Department has a National Consultation Relationship (NCR), the Federal Labor Relations Authority, the Office of Personnel Management, other Federal or non-Federal agencies, and associations or organizations, in matters affecting the policy and statutory or regulatory responsibilities of the Department in such matters.

(2) Coordinating with the Office of the Solicitor on legal matters relative to the labor-management relations program, including issues involving pending litigation or which require legal expertise and/or guidance.

(3) Guiding, supporting and directing bureaus and offices in any phase of bureau activities dealing with labor-management relations matters, except that legal issues, including proposed or pending litigation, shall be coordinated with the Office of the Solicitor.

(4) Establishing procedures to ensure the prompt receipt of information, reports, and correspondence as determined by the Office of Human Resources (PPM) regarding significant labor-management issues, and in coordination with the Office of the Solicitor on legal issues.

(5) Reviewing and approving basic collective bargaining agreements and amendments and revisions to such agreements.

(6) Establishing Departmental labor-management programs and policies designed to promote labor-management cooperation for the purpose of furthering the mission and goals of the Department and to decrease costs associated with adversarial relationships.

C. Heads of Bureaus and Offices are Responsible for:

(1) Implementing the DOI labor-management relations program consistent with this chapter and the Statute.

(2) Establishing a point-of-contact for labor-management relations at the headquarters level if a collective bargaining relationship(s) exists in the bureau or office.

(3) Ensuring the requirements for notification and coordination with the Department, as described in this chapter, are met.

(4) Providing information and/or data to the Department, as requested, for DOI's use and/or for responding to OPM or other Federal or non-Federal agencies.

1.7 Negotiations. Prior to commencing negotiations for new or modified collective bargaining agreements subject to review by the Director, Office of Human Resources, the management representatives shall notify the appropriate bureau headquarters labor relations office, which shall in turn notify the Office of Human Resources, Labor/Employee Relations and

Quality of Work-Life Division (PPM-Labor Relations or the Department) that contract negotiations are anticipated.

A. Renewal. At least ten (10) days prior to the commencement of the open period in a collective bargaining agreement (the period prior to the termination date of the contract during which either management or the union may notify the other of their desire to reopen or terminate the agreement), local management must review the contract and determine if there are any conflicts between its provisions and applicable laws, Executive Orders, regulations of other appropriate authorities outside the Department, or Departmental policy issued after the contract was executed (except for provisions preserved for bargaining under Section 704 of Public Law 95-454 and Section 9(b) of Public Law 92-392). If a conflict exists, the management officials at the negotiating level will take appropriate steps to reopen the agreement and correct the situation or provide the Director, Office of Human Resources, with the reasons the agreement was not reopened. Once complete, the agreement must be submitted to PPM-Labor Relations for review as described in 1.8 below.

B. Exceptions to DOI Rules/Regulations and Compelling Need Assertions.

(1) Management may bargain only on rules or regulations issued at or below the level of recognition. Unless specifically granted, Management must obtain an exception to bargain on proposals which conflict with rules or regulations issued at the Departmental level. If management wishes to request specific exceptions to DOI Departmental Manual issuances, either after reviewing proposals or during negotiations, the servicing human resources office, through the bureau human resources office, will submit a memorandum to PPM describing the reasons for the request for exceptions. Only the Director, Office of Human Resources, or his/her designee, may grant exceptions to Departmental Manual issuances to permit negotiations on specific proposals.

(2) If deemed appropriate, denial of a request for an "exception" may cause the Department to declare the bargaining proposal nonnegotiable based on a "compelling need" for the rule or regulation and to support this determination if contested with the FLRA.

(3) Requests for exceptions to other Department-wide rules or regulations must also be coordinated with PPM.

1.8 Departmental Review. In accordance with 5 U.S.C. 7114(c), all newly negotiated basic collective bargaining agreements and subsequent changes to those agreements (amendments) must be submitted to PPM-Labor Relations for review and approval using the following procedures:

A. Whenever practical, PPM-Labor Relations shall receive an advance (courtesy) copy of any agreements nearing execution. Such submissions may be made by e-mail, facsimile, express mail or hand delivery.

B. PPM-Labor Relations must receive the original executed (signed and dated by the parties to the contract) collective bargaining agreement and two (2) copies for review within

three (3) business days of contract execution. A copy of the executed agreement must also be sent to the bureau headquarters labor relations office. Unless the ground rules specifically state otherwise (for example, that the contract must be signed by a specific management official at or above the level of exclusive recognition), the date of execution is considered to be the date the last union or management signature is obtained; the contract should not be dated until ALL necessary signatures are obtained.

C. As required by Statute, PPM-Labor Relations will complete its review within 30 days and issue a letter of approval or disapproval to the originating office.

(1) Whenever statutory deficiencies are discovered, PPM-Labor Relations will endeavor to notify the parties and the bureau headquarters labor relations office prior to the expiration of the 30-day review period to provide the parties an opportunity to correct the deficiencies and avoid disapproval. PPM-Labor Relations will be available for consultation and assistance during this time.

(2) If the parties agree to changes which will bring the agreement into compliance prior to the expiration of the 30-day review period, replacement pages initialed by representatives for both parties must be provided.

D. Once printed, one copy of any approved collective bargaining agreement(s) must be forwarded within 10 days to PPM-Labor Relations for recordkeeping purposes.

1.9 Supplements to Basic Collective Bargaining Agreements. Supplements (i.e., wage supplements and/or memoranda of understanding that are NOT incorporated into the term agreement) to basic collective bargaining agreements will be signed and dated by the appropriate labor-management negotiating committees and by the management officials exercising authority at the bargaining level.

A. The original supplement and a sufficient number of copies, as determined by the bureau, will be forwarded within three (3) working days after execution (or as determined by the bureau) through normal bureau channels to the appropriate administrative authority at Bureau Headquarters for approval. A copy of all executed supplements must also be sent to PPM-Labor Relations which will notify the bureau of any violations of Departmental policies or regulations. Approvals of supplements must be made within 30 calendar days from the date of signature at the bargaining level, unless the ground rules state otherwise.

B. Authority to approve supplements concerning wage rates only may be delegated by the bureau to the appropriate authority.

1.10 Negotiability Appeals. PPM-Labor Relations must be promptly informed of any negotiability appeals filed by a union in response to management's written allegation that a bargaining proposal is non-negotiable under the FSLMRS.

A. Initial notification by the office making the allegation, along with a copy of the written allegation, must be forwarded to PPM-Labor Relations within three (3) business days after issuance of the allegation of nonnegotiability.

B. Copies of all appeal documents submitted by the Union, or FLRA Orders received by the local office, must be submitted to the PPM-Labor Relations within three (3) business days of receipt.

C. Prior to filing statements of position or responses to union replies, the local office and/or bureau headquarters office must consult with PPM-Labor Relations. PPM-Labor Relations will coordinate with the Office of the Solicitor.

D. Copies of all documents served on the FLRA must be sent to the Director, Office of Human Resources.

1.11 Other Third-Party Matters.

A. Representation Issues. PPM-Labor Relations must be notified by the bureau labor relations office and/or management of any organizing efforts and must be sent a copy of all representation petitions filed by a labor organization(s). PPM-Labor Relations must also be notified by the bureau labor relations office and/or management of any pending elections, and copies of any Certifications of Representation issued by the Authority must be sent to PPM-Labor Relations within three (3) business days after receipt by the local parties. PPM-Labor Relations will promptly notify OPM and request a bargaining unit status code which, once assigned, will be provided to the headquarters and local offices. In cases where there is doubt as to whether the unit that a labor organization seeks to organize is an appropriate unit under the Statute and a hearing may be necessary, PPM-Labor Relations must be promptly notified for consultation.

B. Arbitration/Impasses. Normally, notification to the Department of pending arbitrations before an arbitrator or impasse resolution before the Federal Service Impasses Panel (FSIP) is not required. However, in the event the bureau labor relations office has concerns regarding the case and/or does not believe there is adequate expertise to address the matter, the office will consult with PPM-Labor Relations and/or Office of the Solicitor and a joint decision as to how to proceed will be made. Bureaus should use good judgment in determining if and when the Department should be notified of pending issues (i.e., issue that could have Department-wide implications). Arbitration decisions which management wishes to appeal to the FLRA must be brought to the attention of PPM-Labor Relations and the Office of the Solicitor prior to such filing for consultation/recommendation.

C. Unfair Labor Practices. Normally, notification to the Department of unfair labor practice (ULP) charges is not required. However, in the event a formal complaint is issued by the FLRA and/or the case is scheduled to go before an Administrative Law Judge (ALJ) and the bureau labor relations office has concerns regarding the case and/or does not believe there is adequate expertise to address the matter, the office will consult with PPM-Labor Relations and/or Office of the Solicitor and a joint decision as to how to proceed will be made. Bureaus

should use good judgment in determining if and when the Department should be notified of pending ULP issues (i.e., issue that could have Department-wide implications.). ALJ decisions which management wishes to appeal to the Authority (or appeals of FLRA decision to a circuit court) must be brought to the attention of PPM-Labor Relations and Office of the Solicitor prior to such filing for consultation/recommendation.

D. Notification. Once rendered, a copy of all third-party decisions issued by the FLRA will be provided to PPM-Labor Relations, which will forward a copy to the Solicitor's office, for recordkeeping/information purposes and/or possible appeal to the court (ULP or negotiability cases) subject to the approval of the Department of Justice and the Solicitor General.

1.12 National Consultation Rights. If requested, labor unions which qualify under the criteria established by the FLRA's regulations must be granted National Consultation Rights (NCR) by the Department (or those bureaus which have authority to formulate substantive changes in conditions of employment, or have functions national in scope that are implemented in field activities).

A. Any new or amended matters affecting Department-wide policy must be transmitted to the PPM-Labor Relations prior to issuance. Should consultation be required, the PPM-Labor Relations shall coordinate notification and transmittal of materials to the appropriate union officials.

B. Any labor organization having NCR with the Department will be informed of the proposed change and be permitted reasonable time (normally 15 days) to present its views and recommendations regarding the change. If provided, any union comments must be considered by the Department before taking final action and the labor organization providing the input must receive a written statement of the reasons for taking the final action.

1.13 Communication with Special Organizations. The exclusive recognition of labor unions does not affect the special relationship the Department has with other lawful organizations, such as professional groups or employee organizations provided for in 5 CFR Part 251. However, consultations with these organizations should not be on matters of general labor management policy and should be limited to matters within the direct interest of members of the organization. Consultation/discussion may not concern matters which may impact general working conditions of bargaining unit employees, unless the exclusive representative has been given an opportunity to be present at such discussions.