



FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C. 20424

OALJ 22-02

DEPARTMENT OF THE AIR FORCE
MARCH AIR RESERVE BASE, CALIFORNIA

RESPONDENT

AND

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 3854, AFL-CIO

CHARGING PARTY

Case No. SF-CA-20-0019

Cara Krueger
For the General Counsel

Kathryn E. Price, Capt, USAF
For the Respondent

Aaron Harrison
For the Charging Party

Before: CHARLES R. CENTER
Administrative Law Judge

DECISION ON SUMMARY JUDGMENT

Motions for summary judgment filed under § 2423.27 of the Authority's Rules and Regulations are governed by the same principles as motions filed under Rule 56 of the Federal Rules of Civil Procedure. *Dep't of VA, VA Med. Ctr., Nashville, Tenn.*, 50 FLRA 220, 222 (1995). Summary judgment is appropriate when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56. Although the Respondent asserts that there are facts in dispute, after reviewing the motion, response and the exhibits attached thereto, I find that summary judgment is appropriate as the relevant material facts necessary to reach a decision in this matter are not in dispute. Therefore, no hearing will be conducted and the General Counsel's motion for summary judgment is **GRANTED**.

STATEMENT OF THE CASE

This is an unfair labor practice proceeding under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. §§ 7101-7135, and the revised Rules and Regulations of the Federal Labor Relations Authority (Authority/FLRA), 5 C.F.R. parts 2423 and 2429.

On October 15, 2019, the American Federation of Government Employees, Local 3854, (Union/Charging Party) filed an unfair labor practice (ULP) charge against the Department of the Air Force, March Air Reserve Base, California (Respondent). The charge alleged that the Respondent refused to bargain in good faith when it implemented a unilaterally drafted contract on October 11, 2019 without bargaining upon any of the provisions therein.

After investigation, a Complaint and Notice of Hearing was issued by the Regional Director of the San Francisco Region on May 21, 2021, alleging that the Respondent violated 5 U.S.C. § 7116(a)(1) and (5) when it refused to bargain in good faith and violated § 7116(a)(5) when it interfered with bargaining unit employees in the exercise of the their rights.

On June 15, 2021, the Respondent filed an Answer in which it admitted certain allegations within the Complaint, but denied any violation of the Statute and asserted that it “acted reasonably and in good faith under the circumstances, given the laws, Executive Orders, regulations, policies, and guidance that were in effect at the time.”

On September 23, 2021, the General Counsel filed a motion for summary judgment and to postpone the hearing indefinitely with GC Exhibits 1a-d, and 2 through 24, totaling 191 pages attached. The Respondent filed a response on September 30, 2021, supported by Exhibits 1 through 3. On October 4, 2021, an Order postponing the hearing set for October 19, 2021, was issued.

Based upon the extensive pleadings presented by the parties, I find that the Respondent violated § 7116(a)(1) and (5) of the Statute when it failed to finish the negotiation of ground rules for the bargaining of a new CBA, conducted no negotiations upon a new contract and unilaterally implemented a new contract that changed the conditions of employment for the bargaining unit, including a provision placing limits upon whom the Union could name as an officer and who could be its representative for bargaining. In support of this determination, I make the following findings of fact, conclusions of law, and recommendations.

FINDINGS OF FACT

The Respondent is a federal agency within the meaning of § 7103(a)(3) of the Statute. Answer ¶2. The American Federation of Government Employees, Local 3854, AFL-CIO, is a labor organization within the meaning of § 7103(a)(4) of the Statute and is the exclusive representative of employees at Respondent. *Id.* at ¶3.

On March 26, 2001, the Respondent and Union entered into a collective bargaining agreement which became effective on May 4, 2001. GC Ex. 2. The duration provision in Article 3,

Section 3 of the 2001 CBA provided that if neither party sought renegotiation it would automatically renew for a 3-year period. *Id.*

On February 14, 2019, the Respondent notified the Union of its intent to renegotiate the 2001 CBA. GC Ex. 3. As a result, the previously renewed CBA would expire on May 4, 2019. *Id.* On June 5, 2019, the Respondent notified the Union that the articles involving its “core rights, operational rights and permissiverights” of the expired CBA had expired and would not be negotiated as part of the new contract. GC Ex. 4. The Respondent identified seventeen articles or sections from the prior CBA that it believed were terminated effective May 4, 2019. *Id.*

The next step in the negotiation of a new CBA occurred on August 30, 2019, when the Union, through its chief negotiator, sent proposed ground rules to the Respondent. GC Ex. 5, 6. The Respondent replied on September 5, with an email containing their proposed ground rules attached. GC Ex. 7, 8. The Union replied back the same day, indicating that its representative would be out of town through the following week but would respond to Respondent’s proposed ground rules within two weeks. GC Ex. 9, 24.

On Tuesday, September 17, 2019, the Respondent advised the Union that negotiations needed to move forward on the new contract even though ground rule negotiations were not completed and provided the Union with a complete set of its substantive proposals for the new contract. GC Ex. 10, 11. The Union replied the same day, indicating that it did not want to begin negotiation upon a new CBA before ground rules were established and rejecting the proposal that negotiations be conducted by a single representative for each side. GC Ex. 12. Two days later, the Union provided counterproposals to the Respondent’s ground rules of September 5. GC Ex 13, 14.

On September 24, 2019, the Respondent replied with an email and memorandum entitled “Ground Rules and Labor-Management Agreement - Agency’s Last Best Offers.” GC Ex. 15.

The memorandum included the following language:

6. Request to Sign - Management requests a union response as to whether or not they will sign the *Last Best Offer - Ground Rules*, no later than 1200 on 1 October 2019.

7. If Management does not receive a response, or if the response is that AFGE Local 3854 does not sign the *Last Best Offer - Ground Rules*, or if AFGE Local 3854 does sign the *Last Best Offer - Ground Rules*, substantive Labor-Management Agreement negotiations will resume according to the terms of those Ground Rules. This includes the requirement that the union provide management with complete written proposals for a new Labor-Management Agreement via email in Word format within 7 work days of the Ground Rules taking effect, in no event later than 1200 on 10 October 2019.

8. Request to Sign - Following implementation of the Ground Rules, if management does not receive complete written proposals or counter-proposals for a new Labor-Management Agreement from the union within 7 work days or by 1200 on 10 October 2019, whichever comes first, management requests a union response as to whether or not they will sign the

Last Best Offer - Labor-Management Agreement, no later than 1201 on 10 October 2019.

9. If Management does not receive a response, or if the response is that AFGE Local 3854 does not sign the *Last Best Offer - Labor-Management Agreement*, or if AFGE Local 3854 does sign the *Last Best Offer - Labor-Management Agreement*, the new Labor-Management Agreement will be distributed to employees in the Bargaining Unit and implemented effective 11 October 2019. GC Ex. 15.

The email included a second memorandum reflecting the Respondent's final offer for the ground rules. GC Ex. 16. Respondent also included its September 17 CBA proposals which Respondent explained now constituted its last best offer for the new contract. GC Ex. 15.

On September 30, the Union sought clarification of the Respondent's ground rule proposals. GC Ex. 17. The Union wanted to confirm that its chief negotiator would be allowed official time during negotiations. *Id.* The Respondent did not reply and the Union made a second inquiry on October 1. GC Ex. 18. On October 2, The Respondent replied but provided no clarification. GC Ex. 19. Instead, it declared that "Our final offer is clearly written. Your attempt to make it otherwise is obvious and unwelcome." *Id.* The Union rejected the Agency's ground rules proposal on October 2. GC Ex. 20.

On October 8, 2019, the Union made another attempt to negotiate over ground rules, offering a compromise on the number of negotiators. GC Ex. 21. The Union indicated it was willing to have three team members, rather than the five initially proposed, and expressed optimism about the parties ability to resolve all issues related to the ground rules. *Id.*

On October 10, the Union requested that the Respondent not move forward with the planned implementation of the new CBA and requested a meeting to discuss the situation. GC Ex. 22. On October 16, the Union inquired about reports that the CBA had been implemented and again expressed willingness to negotiate over their differences. GC Ex. 23. The Respondent implemented the unilaterally drafted new contract on October 11, 2019. GC Ex. 15; GC Ex. 1(c). That unilaterally drafted new contract contained the following language in Article 3, Section 3:

...the Parties recognize and agree that it is in the best interest of the employees that Union officials in the Local be current employees of the recognized bargaining unit at the agency. Retired and former employees, or persons with no agency affiliation at all, may not serve as Union officials nor may they negotiate on behalf of bargaining unit employees or operate on March Air Reserve Base. GC Ex. 11.

POSITIONS OF THE PARTIES

General Counsel

The General Counsel (GC) asserts that the Respondent refused to negotiate in good faith with the Union by unilaterally implementing a new contract that was drafted by the Respondent and upon which no negotiations were conducted in violation of § 7116(a)(1) and (5) of the Statute. The GC also contends that one of the provisions in the contract unilaterally drafted by the Respondent involves a permissive bargaining topic negotiable only at the election of the

Union and its inclusion interferes with, restrains, and coerces bargaining unit employees in the exercise of their rights in violation of § 7116(a)(1) of the Statute. The GC submits that the appropriate remedy for the violations is a cease and desist Order, the posting of a notice of violation, and imposition of a status quo ante remedy that requires the parties to comply with the 2001 CBA until a new agreement is approved.

Respondent

The Respondent contends that its unilateral implementation of a new contract which it prepared without negotiation did not violate the Statute because it was reasonable under the circumstances and that it did not interfere with the Union's rights when that contract mandated that Union officers be current employees of the Respondent and prohibited non-employees from negotiating on behalf of bargaining unit employees or operating at Respondent's location. The Respondent asserts that it was the Union who bargained in bad faith upon the ground rules for the negotiation of a new CBA and that their refusal to negotiate justified the unilateral implementation of a contract it drafted without bargaining or negotiation because it constituted a waiver of their right to bargain. The Respondent argues that if summary judgment is appropriate and a violation of the Statute was committed, that the remedy requested by the GC is not appropriate because its withdrawal from permissive topics covered by the 2001 CBA on June 5, 2019 was lawful. Thus, any status quo ante remedy should only require the parties to abide by the provisions that cover mandatory bargaining topics.

ANALYSIS

A. The Respondent Bargained in Bad Faith

The Respondent's brazen contention that it was reasonable to unilaterally implement a new contract that it drafted with no bargaining, negotiation or input from the Union is so ridiculously absurd that it even tramples upon the recommended time periods recognized as reasonable in Executive Order (EO) 13836. Instead of recognizing that the parties were still within the six week period deemed reasonable for the negotiation of ground rules in Section 5(a) and engaging in negotiations upon ground rules, the Respondent made a last best offer¹ and told the Union to agree to them or else. Aside from demonstrating that the Respondent did not approach negotiations with a sincere resolve to bargain in good faith, this action ignored the EO's directive that:

Any negotiations to establish ground rules that do not conclude after a reasonable period (established as six weeks in the same provision) should, to the extent permitted by law, be expeditiously advanced to mediation

¹ Respondent's indication that the Agency's last best offer incorporated the Union's counter proposals to ground rules on page 5 of its brief is an outright misrepresentation of fact, as demonstrated by the later acknowledgement on page 9 that only "many" were incorporated. Furthermore, the "many" did not include essential disagreements over negotiable matters including the number of negotiators and the provision of official time for negotiation and preparation.

and, as necessary, to the Panel². EO 13836(5)(a).

In this case, the Respondent did not negotiate, attempt to mediate, or declare an impasse that would have allowed the Panel to establish ground rules for substantive negotiations. Instead, only thirty days after the first ground rule proposals were exchanged, it unilaterally implemented its last best offer for ground rules on October 1 when the Union did not agree to them within the time period mandated by the Respondent. Rather than comply with the directive of the EO to engage in negotiation, mediation and impasse resolution upon the ground rules, the Respondent uses the EO to present a specious argument that the Union's failure to provide the substantive proposals for a new CBA which the Union had already prepared, evidenced bad faith on the part of the Union justifying unilateral implementation of a new contract.

The timeline of the ground rule negotiations in this case is not difficult to understand or to assess relative to the time periods declared as reasonable in the EO. The Respondent gave notice of its intent to renegotiate the existing CBA on February 19, 2019. Six months after that declaration of intent required by the CBA, the initial step in the negotiation process was actually initiated by the Union on August 30, 2019, when it sent its proposed ground rules to the Respondent. Only after that, did the Respondent make its first step towards negotiation of a successor CBA by providing ground rule proposals to the Union on September 5, 2019. Then, having engaged in no negotiation upon the ground rule proposals, the Respondent sent its substantive proposals for a successor CBA to the Union on September 17, 2019. On September 19, eight working days after receipt of the Respondent's proposed ground rules, the Union provided counterproposals to the Respondent's proposed ground rules. At that point, a total of fourteen working days had elapsed from the time the Union took the initiative to start ground rule negotiations on August 30. Rational as it would have been, the Respondent did not initiate negotiations over the conflicting ground rule proposals at that point.

Instead, on September 24, only seventeen work days after the Union provided the first ground rule proposals, the Respondent, with no prior negotiation, mediation, or declaration of impasse upon ground rule negotiations, made its last best offer upon the ground rules and told the Union that they could either accept those ground rules by October 1, and begin negotiation upon the substantive provisions of the new contract, or that the substantive proposals it provided on September 17 were its last best offer for the new contract and they would be implemented on October 10, 2019. In short, the Respondent gave the Union the ultimatum that they had to accept the ground rules mandated by the Respondent and submit their substantive proposals for the new contract within seven work days, or that its unilaterally drafted contract would be implemented. If, under these facts, the Respondent can with a straight face make the argument that it engaged in good faith bargaining upon ground rules or that the Union waived its right to bargain, that ability can only be explained by an excessive use of Botox.

Although Section 5(c)(ii) of the EO from which the Respondent attempts to cobble a justification for its patently illegal behavior contains a provision that allows an agency to consider implementation of a "new contract, memorandum, or other change in agency policy"

² Panel is recognized as the Federal Service Impasses Panel (FSIP) in Section 3(d)(ii) of the EO.

when failure to comply with the duty to bargain in good faith delays or impedes bargaining, that provision does not extend to the negotiation of ground rules which is covered by Section 5(a). Furthermore, Section 5(c)(i) of the EO also directs an agency to consider filing an unfair labor practice (ULP) as the first option and the use of 5(c)(ii) is available only when “the collective bargaining representative does not offer counter-proposals in a timely manner.”³ Therefore, even if the Respondent could demonstrate that the Union failed to negotiate ground rules in good faith, under Section 5(a) it was limited to attempting mediation, declaring impasse, or pursuing a ULP for bad faith bargaining upon ground rules. Furthermore, the only actions required by the EO were pursuit of mediation and then declaration of impasse and seeking assistance from FSIP. The guidance of Section 5(c)(i), indicates the Respondent could consider filing a ULP, but does not mandate that it undertake that action.

An agency cannot evade its obligation to bargain in good faith over ground rules by insisting that that substantive proposals be submitted prior to the negotiation of ground rules.⁴ As the Authority recognized in *EPA* case, determining the number of negotiators present for each side and resolving the use of official time for negotiation are legitimate matters of concern to the Union and bargaining unit employees, and bargaining over ground rules is part of determining “reasonable times and convenient places” as required by § 7114(b)(3) of the Statute even when an agency is only changing a procedure.⁵ The matters the Union’s ground rule proposals addressed in this case were similar to those present in *EPA*, and Respondent’s issuance of a unilateral ultimatum rather than bargaining over those matters evidenced that it was the Respondent who did not approach ground rule negotiations with a sincere resolve to bargain in good faith.

Because EO 13836 did not give the Respondent a legitimate basis for failing to bargain over the ground rules for the negotiation of a successor contract or for unilaterally implementing a new contract the Respondent’s conduct violated § 7116(a)(1) and (5) of the Statute.

B. The Respondent’s Unilaterally Drafted and Implemented Contract Contained an Illegal Provision

There is no dispute that the new contract prepared by the Respondent and unilaterally implemented without any negotiation with the Union contains the following provision in Article 3, Section 3:

...the Parties recognize and agree that it is in the best interest of the employees that Union officials in the Local be current employees of the recognized bargaining unit at the agency. Retired and former employees, or persons with no agency affiliation at all, may not serve as Union officials nor

³ It should also be noted that the EO allots as reasonable four to six months for the negotiation of a term agreement and the parties in this case were nowhere close to exceeding that reasonable period when the Respondent unilaterally implemented a new contract under the guise of bad faith negotiation that unduly delayed or impeded bargaining.

⁴ *Environmental Protection Agency*, 16 FLRA 602, 613-14 (1984) (*EPA*)

⁵ *Id.*

may they negotiate on behalf of bargaining unit employees or operate on March Air Reserve Base.

It is well-established that no party is required to negotiate on permissive subjects.⁶ As such, a party may not insist to impasse on a permissive topic of bargaining.⁷ Proposals infringing on the right to designate a party's own representatives are permissive in nature and outside the scope of required bargaining.⁸ Article 3, Section 3 of Respondent's unilaterally drafted and implemented contract requires that Union officials be current employees of the Respondent and prohibits non-employees from negotiating on behalf of bargaining unit employees or operating at the Respondent. Therefore, Article 3, Section 3 is permissive in nature. Accordingly, Respondent violated the Statute by implementing a new contract that addressed permissive bargaining topics which the Union was not required to negotiate.

Furthermore, agencies and unions have the right to designate their respective representatives when fulfilling their responsibilities under the Statute.⁹ A party's right to designate its own representative is a statutory right under § 7114 of the Statute.¹⁰ Consequently, an attempt to interfere with a party's designation of representative violates § 7116(a)(1) of the Statute.¹¹ Article 3, Section 3 of Respondent's unilaterally drafted and implemented contract dictates who can serve as a Union officer and representative. As such, the article interferes with the Union's statutory right to designate its own representatives and by unilaterally implementing this provision the Respondent violated the Statute. The Respondent's brief candidly admits that the provision "...appears to be a permissive topic..." but argues, with no citation to authority that its intent was tied to management's right to determine internal security.

However, as R. Ex. 1 makes clear, there are other ways for the Respondent to deal with access to sensitive information other than infringing upon the Union's statutory rights and such trampling is not justified simply because it makes it easier for the Respondent to deal with those issues. Likewise, the Respondent's argument that the illegal provision did not interfere with the Union's rights because the Respondent never relied upon the provision to cease dealing with the Union President is without merit. The fact that the Respondent repudiated its own unilaterally drafted provision by continuing to deal with the non-employee Union President does not make the provision any less illegal. The inclusion of this provision in the unilaterally drafted contract violated § 7116(a)(1) of the Statute, and that alone made the unilateral implementation thereof improper.

REMEDY

The Authority has broad discretion under the Statute to fashion appropriate remedies

⁶ *U.S. Dep't of Treasury, IRS, Wash., D.C.*, 37 FLRA 1423, 1431 (1990).

⁷ *AFGE, Local 3937*, 64 FLRA 17 (2009).

⁸ *Patent Office Prof'l Ass'n*, 21 FLRA 580,587 (1986); *Am. Fed'n of Gov't Employees, AFL-CIO*, 4 FLRA 272, 274 (1980).

⁹ *Dep't of Veterans Affairs., Ralph H. Johnson Med. Ctr., Charleston, S.C.*, 57 FLRA 495, 498 (2001); see also *Fed. Emergency Mgmt. Agency, Headquarters, Wash., D.C.*, 49 FLRA 1189, 1200-01 (1994).

¹⁰ *Internal Revenue Service, Washington, DC*, 39 FLRA 1568, 1574 (1991).

¹¹ *Fed. Aviation Admini., Washington, DC*, 20 FLRA 548, 562 (1985).

for unfair labor practices.¹² The Authority has determined that absent special circumstances, status quo ante is appropriate when an agency implements a change without fulfilling its obligation to bargain.¹³ A return to the status quo ante ensures that the obligation to bargain is not rendered meaningless.¹⁴

The traditional remedies of a cease and desist order and notice to employees, along with a return to the status quo are appropriate in this case.¹⁵ However, the Respondent is correct when it contends that the GC's request that the parties be ordered to comply with the 2001 CBA does not constitute a return to the status quo. The parties CBA expired on May 4, 2019, and on June 5, 2019, the Respondent gave the Union notice that it was withdrawing from those portions of the expired agreement that were permissive subjects of bargaining.

Upon the expiration of a collective bargaining agreement, it is well established that a party may seek to renegotiate its terms, and the parties have an obligation to engage in such negotiations upon request.¹⁶ If neither party seeks to renegotiate, then the mandatory terms of the agreement continue in effect, and the parties may rely on and enforce such provisions.¹⁷ Given that the 2001 CBA had expired and the Respondent gave notice that it would no longer comply with terms within the expired agreement that involved permissive subjects of bargaining, returning bargaining unit employees to the status they had before the new contract was unilaterally implemented means the Respondent only has to comply with those provisions within the 2001 CBA that cover mandatory terms. Thus, the Respondent is directed to comply with all mandatory terms of the expired CBA and must engage in negotiations for a successor CBA to replace the expired CBA. The purpose of this remedy is to return bargaining unit employees adversely affected by Respondent's improper unilateral implementation of a new contract to the situation in which they would have been had the improper action not occurred.¹⁸

The Respondent is also directed to post at all locations used for communication with employees the attached Notice to All Employees signed by the Commander, 452d Mission Support Group, March Air Reserve Base, California.¹⁹ In addition, a copy of the signed

¹² See *National Treasury Employees Union v. FLRA*, 910 F.2d 964 (D.C.Cir.1990) (en banc) (*NTEU v. FLRA*).

¹³ *Fed. Deposit Ins. Corp.*, 41 FLRA 273, 279(1991); *US Dep't of Health & Human Serv. Soc. Sec. Admin., Seattle, Wash.*, 37 FLRA 880, 891 (1990); *Dep't of the Navy, Puget Sound Naval Shipyard, Bremerton, Wash.*, 35 FLRA 153, 155-56 (1990).

¹⁴ *Dep't of Veterans Affairs, Veterans Admin. Medical Ctr., Veterans Canteen Serv., Lexington, Ky.*, 44 FLRA 179, 191 (1992); *US Army Adjutant General, Publications Ctr., St. Louis, Mo.*, 35 FLRA 631, 634-35 (1990).

¹⁵ See *F.E. Warren Air Force Base, Cheyenne, Wyoming*, 52 FLRA 149, 161 (1996) (Warren).

¹⁶ *United States Patent and Trademark Office*, 57 FLRA 185, 191-92 (2001).

¹⁷ *United States Dep't of the Air Force, HQ Air Force Materiel Command*, 49 FLRA 1111, 1121 (1994); *Dep't of Health and Human Servs., Soc. Sec. Admin.*, 44 FLRA 870, 881 (1992)

¹⁸ *Nat'l Fed. Of Fed. Employees, Local 1827*, 49 FLRA 738, 748 (1994); see *Dep't of Health and Human Svcs., Social Security Admin., Dallas, Tex.*, 32 FLRA 521, 525 (1988).

¹⁹ *U.S. Dep't of Veterans Affairs*, 56 FLRA 696, 699 (2000).

notice must be electronically distributed to all bargaining unit employees at March Air Reserve Base, California.²⁰ The distribution must include acknowledgement that the contract unilaterally drafted and implemented on October 11, 2019, is rescinded, and that the mandatory terms of the 2001 CBA will remain in effect and be followed until a successor CBA is negotiated and agreed upon.

CONCLUSION

The Respondent committed multiple violations of § 7116(a)(1) and (5) of the Statute when it failed to negotiate ground rules for bargaining over a successor CBA and improperly and unilaterally implemented a new contract on October 11, 2019, that infringed upon the Union's right to determine its officers and bargaining representatives. Accordingly, the General Counsel's Motion for Summary Judgment is **GRANTED**. It is recommended that the Authority adopt the following order:

ORDER

Pursuant to Section 2423.41(c) of the Rules and Regulations of the Authority and Section 7118 of the Federal Service Labor-Management Relations Statute (Statute), the Department of the Air Force, March Air Reserve Base, California (Respondent) shall:

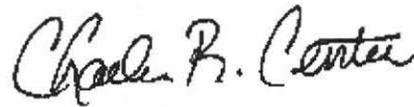
1. Cease and desist from:
 - (a) Enforcing the unilaterally drafted contract it improperly implemented on October 11, 2019.
 - (b) Refusing to bargain with the American Federation of Government Employees, Local 3854, AFL-CIO over ground rules for and the negotiation of a successor collective bargaining agreement;
 - (c) Interfering with the Union's right to designate its own representatives;
 - (d) In any like or related manner interfering with, restraining, or coercing bargaining unit employees in the exercise of their rights assured by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:
 - (a) Rescind the unilaterally drafted contract improperly implemented on October 11, 2019;
 - (b) Abide with the mandatory terms of the expired 2001 CBA until a successor agreement is approved;
 - (c) Negotiate in good faith with the American Federation of Government Employees, Local 3854, AFL-CIO over a successor collective bargaining agreement;

²⁰ *US. Dep't of Justice, Fed. BOP, Fed. Transfer Ctr., Okla. City, Okla.*, 67 FLRA 221 (2014).

- (d) Post at its facilities copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Commander, 452d Mission Support Group, March Air Reserve Base, California, and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and all other places where notices to employees are normally posted. Reasonable steps should be taken to ensure that such Notices are not altered, defaced, or covered by any other material.
- (e) In addition to the physical posting of paper notices, the Notice shall be distributed electronically through email, to all bargaining unit employees by the Commander, 452d Mission Support Group, March Air Reserve Base, California, and the email accompanying the Notice shall state, "The Federal Labor Relations Authority has found that the Department of the Air Force, March Air Reserve Base, California violated the Federal Service Labor-Management Relations Statute and has ordered us to distribute this notice. The contract that was unilaterally drafted and implemented on October 11, 2019, is rescinded. The mandatory terms of the expired 2001 CBA will remain in effect until a new successor CBA is executed".
- (f) Pursuant to Section 2423.41(e) of the Authority's Rules and Regulations, notify the Regional Director, San Francisco Region, Federal Labor Relations Authority, in writing within thirty (30) days from the date of this Order as to what steps have been taken to comply.

Issued, Washington, D.C., October 21, 2021



CHARLES R. CENTER
Administrative Law Judge

NOTICE TO ALL EMPLOYEES
POSTED BY ORDER OF THE
FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of the Air Force, March Air Reserve Base, California, violated the Federal Service Labor-Management Relations Statute (the Statute) and has ordered us to abide by this notice:

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT unilaterally implement changes in working conditions prior to bargaining with the American Federation of Government Employees, Local 3854, AFL-CIO (Union) to the extent required by law or unilaterally draft and implement a new contract without negotiation unless permitted by law.

WE WILL NOT refuse to negotiate in good faith with the Union over a successor collective bargaining agreement.

WE WILL NOT interfere with the Union's right to designate its own representatives.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights assured by the Statute.

WE WILL rescind the unilaterally drafted and implemented contract without negotiation on October 11, 2019, and abide by the mandatory terms of the 2001 Collective Bargaining Agreement until a new successor Collective Bargaining Agreement is approved.

WE WILL resume bargaining with the Union over a successor Collective Bargaining Agreement to the expired 2001 CBA.

Department of U.S. Air Force,
March Air Reserve Base, California

Dated: _____

, Commander
452d Mission Support Group

This Notice must remain posted for sixty (60) consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director, San Francisco Region, Federal Labor Relations Authority, whose address is: 1301 Clay St., 1180 N, Oakland, CA 94162, and whose telephone number is: (415) 356-5000.