



# AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

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July 8, 2010

Eddie Eitches, President, Local 476  
451 7<sup>th</sup> Street, S.W., Suite 3143  
Washington, D.C., 20410

Dear Mr. Eitches:

This letter is in response to your April 2, 2010 request, pursuant to Article XIII, Section 8 of the AFGE National Constitution, for resolution of a dispute between Local 476 and its bargaining council, the National Council of HUD Locals (C-222).

## **Factual Background**

On or about September 17, 2009, Local 476 executed a memorandum of understanding ("MOU") with HUD's Office of the General Counsel. The MOU established a Career Ladder Evaluation Committee to "examine the existing career ladders for OGC Staff represented by Local 476." On or about November 24, 2009, C-222 Executive Vice President, Lisa Lowery, issued a memorandum directing you to cease and desist all activity with regard to the MOU.

On or about December 3, 2009, the C-222 Executive Board held its monthly meeting. The C-222 Executive Board discussed the issue of local supplemental agreements generally and the September 17, 2009 MOU in particular. The Executive Board reaffirmed its position that local supplemental agreements conform to the National Agreement and that locals seek approval from the Council for their agreements. Under Article XVII, Section 3 of the C-222 Constitution, locals must submit any local supplemental agreements to the Council Executive Board for approval. The Executive Board then voted to rescind the November 24, 2009 memorandum and to rescind an instruction to the agency not to implement the MOU. No further action was taken by the Executive Board with respect to the MOU.

On or about January 22, 2010, C-222 President Russell Varnado filed an unfair labor practice charge with the FLRA against the agency. The ULP alleged that the agency had bypassed the Council in its role as exclusive representative. The ULP accused agency management of contacting AFGE National in attempt to "force the Council to approve [the agency's] illegal actions."

On or about March 16, 2010, Executive Vice President Lowery issued a second memorandum directing you to cease and desist all activity related to the September 17, 2009

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MOU. The memorandum cited to the National Agreement with respect to the Council's authority as exclusive representative. The memorandum asserted that both you and agency labor relations had been informed, in September, that the MOU was, in the Council's opinion, "an invalid document." The memorandum cited provisions of the National Agreement and the C-222 Constitution and Bylaws that require Council approval of local supplemental agreements. The memorandum ended with a threat to bring internal disciplinary charges for any continuing action on the MOU.

### **Reasoning and Decision**

The MOU was for all intents and purposes a local supplemental agreement under the most recent, NEC-approved C-222 Constitution and Bylaws. As such it was subject to the approval of the Council Executive Board under Article XVII, Section 3 of the C-222 Constitution and Bylaws. You effectively submitted the MOU to the Council Executive Board at its December 3, 2009 meeting. The Executive Board voted to withdraw the cease and desist letter that sought to quash the MOU. The Council Executive Board took no further action with regard to the MOU. In essence, the Council Executive Board approved Local 476's MOU.

Since the Council Executive Board has approved Local 476's MOU, both the January 22, 2010 ULP and all communications to the Local 476 and the agency in contravention of the MOU, including the March 16, 2010 memorandum, must be withdrawn. By copy of this Decision, I direct Council President Varnado to effectuate these action by July 31, 2010, and to provide me with documentation of such actions by August 6, 2010.

If you have any questions, feel free to contact Deputy General Counsel, Chuck Hobbie in the General Counsel's Office, at (202) 639-6424.

Sincerely and in solidarity,



John Gage  
National President

cc: NVP Dwight Bowman  
C-222 Executive Board  
Russell Varnado (by certified mail)