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IN REPLY REFER TO:

DANIEL MINAHAN  
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MEMORANDUM

August 26, 2005

TO: John Nelson, Treasurer, AFGE Local 2040

FROM: Dan Minahan, Esq.  
Minahan and Shapiro, PC 

SUBJECT: Official Time to Perform Duties as Treasurer

The Authority has found that proposals were negotiable as it relates to official time granted to Union officials to prepare reports required by 5 USC 7120. AFGE Local 2823 and VARO, Cleveland, 2 FLRA 4 (1979). Official time granted to Union officials to prepare IRS reports and for preparation and maintenance of records required of the Union by federal agencies is also negotiable. NTEU and Department of Treasury, IRS, 38 FLRA 1366 (1991) (Proposal 1) and NTEU and Department of Treasury, BATF, 45 FLRA 339 (1992) (Provision 4).

Official time to perform Treasurer Record Keeping Duties is covered under contractual provisions and Authority case law as cited above. The contract provisions include Article 3, Section 1; Article 9, Section 1; Article 9, Section 2, paragraph A; Article 9 Section 2, paragraph A(14) which concerns the preparation of labor-management reports. Case law, as cited above, indicates that all record keeping requirements that are imposed on the Agency employee (the Treasurer) by other Federal Agencies such as the Department of Labor and Internal Revenue Service are considered to be Union representational activities; and Article 9, Section 3, paragraphs A, B, and E.

In the absence of any written agreement between the parties concerning official time for the above-mentioned activities by Union officials, the Authority will consider past practice as the deciding factor concerning whether official time granted for these purposes should be continued. I understand that you have been given at least 2 hours per day for these activities and sometimes, more. The past Treasurer also utilized, at a minimum, 2 hours per day, up to 4 hours a day for these activities.

Management cannot change the past practice unilaterally. It must give the Union advance notice of and the opportunity to bargain if it wants to change the long established past practice. If bargaining does take place, management must maintain the status quo until there is an agreement reached or until the Federal Services Impasse Panel decides the issue.

I hope that this memorandum clarifies the issue you raised and if you have further questions, please do not hesitate to contact me.

