

June 24, 2003

Department of the Treasury
Financial Management Division
1500 Pennsylvania Avenue NW
Room 1310 G Suite 20-East
Washington DC 20220

Mr. Dennis Shea
President's Commission on the US Postal Service
1120 Vermont Avenue, NW
Washington DC 20036

Re: Transmittal of Analysis of United States Postal Service Grievance Procedures
Contract Number: GS-22F-0001J
Delivery Order Number: 001 (TBARR)

Dear Mr. Shea:

Pursuant to the contract referenced above, attached please find an analysis of grievance procedures of the United States Postal Service.

Thank you for this opportunity to be of service.

Very truly yours,

Jerry P. Roscoe
ADR Associates, LLC

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I. Introduction and Scope

Executive Order No. 13278 established the President's Commission on the United States Postal Service (the Commission) for the purpose of examining the state of the United States Postal Service (USPS) and to prepare and submit a report articulating a proposed vision for the future of the USPS and recommending the legislative and administrative reforms needed to ensure the viability of the USPS.

In fulfilling its mission, the Commission is to consider the future role of the USPS, the flexibility that the USPS should have to change prices, control costs, and adjust service in response to market forces, rigidities in cost or service that limit the efficiency of the postal system, the ability of the USPS to maintain service over the long term, the extent to which postal monopoly restrictions continue to advance the public interest, and the most appropriate governance and oversight structure for the USPS.

The Commission contracted with ADR Associates, LLC in Washington, DC to provide assistance in evaluating the procedures utilized by the USPS and its four major unions in resolving employee grievances, in developing recommendations for improving such procedures, and in eliminating the existing backlog of unresolved grievances.

This report addresses four areas: 1) analysis of the procedures currently utilized by the USPS and its four major unions in resolving employee grievances, 2) comparison of these procedures with recognized "best practices" for alternative dispute resolution processes, 3) provision of specific recommendations for improving existing grievance resolution procedures, and 4) specific recommendations on how best to expedite the existing backlog of grievances filed with the four major postal unions.

II. Methodology

This report is based upon a review of current literature, interviews with relevant officials at both the USPS and the four major postal unions, interviews of academicians and professionals with recognized subject matter expertise, and review of studies or reports which preceded this report.

Literature reviewed included the 1994 and 1997 GAO reports on the status of Labor Relations, the Outline for Discussion: Concepts for Postal Transformation submitted to Congress in October 2001 and the USPS Office of Inspector General February 14, 2003 Draft Audit Report – Postal Service and Union Labor Relations (Report Number LH-AR-03-DRAFT), (hereinafter the “OIG Draft Audit Report”).

Interviews, discussions, or email correspondence was conducted with: Steven Goldberg¹, Christina Sickles Merchant², and LaMont Stallworth³. Interviews were also conducted with corporate and union officials from outside the Postal Service and USPS officials and officials within the four major unions: the American Postal Workers Union (APWU), the National Association of Letter Carriers (NALC), the National Postal Mail Handlers Union (Mail Handlers) and the National Rural Letter Carriers Association (Rurals).

Interviews were conducted according to a set interview protocol. Information obtained in the interview, discussion and correspondence processes was synthesized and juxtaposed with contractual bargaining agreement procedures in order to identify differences between contractual provisions and actual practices.

Additional searches were conducted to locate and identify comparable entities operating pursuant to a collective bargaining agreement. Their approaches to the use of ADR to expedite and resolve grievance processes, and reduce backlogs, were cataloged and compared to approaches identified in current literature. This enabled an identification of what were characterized as “best practices” of ADR in the collective bargaining context.

Once “best practices” were identified, they were compared to the various processes and practices followed by the USPS and its four major unions. The comparison generated an analysis of the differences between the provisions of the USPS/Union contracts, the practices engaged in, and their relationship to what were considered to be “best practices.” This comparison served as the basis for the recommendations that followed.

¹ Stephen Goldberg is a nationally recognized authority on alternative dispute resolution processes. A pioneer in the use of mediation as an alternative to arbitration, he has mediated many labor and civil disputes and served as a special master to mediate complex civil litigation in the U.S. District Court for the Northern District of Illinois.

² Christina Sickles Merchant is a highly experienced dispute resolution consultant most widely known for her work in fostering sustainable partnerships between labor and management in the private, public and international arenas. She co-authored a popular book entitled *Designing Conflict Management Systems: A Guide to Creating Productive and Healthy Organizations*, Jossey-Bass Publishers, Inc., 1996, which won the Best Applied Book Award of 1997 from the International Association of Conflict Management.

³ Lamont Stallworth is Associate Professor at the Institute of Industrial Relations, Loyola University. He is the founder and chairman of the Center for Employment Dispute Resolution.

III. Analysis of the Current Labor Relation Grievance Process

The Process

Generally, the grievance process of the four major unions includes the following five steps: 1) the oral grievance; 2) the written grievance; 3) the written appeal of the grievance; 4) the national level review of grievances involving an interpretation of the union’s national agreement and; 5) the arbitration. The following charts summarize the procedures for each of the four unions.

GAO Grievance Process	APWU (American Postal Workers Union) Step 1	NALC (National Association of Letter Carriers Informal Step A	Mail Handlers Step 1	Rural Letter Carriers Step 1
STEP 1: Oral Grievance				
Employee or union steward discusses grievance with the supervisor – within 14 days .	Employee (can be accompanied & represented by steward/ union rep) discuss w/ immediate supervisor – within 14 days learning of its cause. Employee or union can represent - within 14 days of becoming aware of facts. Can also file class action – mgmt designates appropriate employee rep.	Employee (can be accompanied & represented by steward/ union rep) discuss w/ immediate supervisor – within 14 days learning of its cause. Union can initiate grievance w/in 14 days of becoming aware of facts. (Employee not needed to participate). Union can file grievance affecting more than one employee.	Employee (can be accompanied & represented by steward/ union rep) discuss w/ immediate supervisor – within 14 days learning of its cause. Union can initiate grievance w/in 14 days of first becoming aware of facts. (Employee not needed to participate). Union only can file grievance if an incident occurs involving 1+ employee. Individual employee’s filing will be consolidated into same grievance. Multiple grievances improperly filed for same incident/issue, union shall consolidate all such grievances.	Employee (can be accompanied & represented by steward/ union rep) discuss w/ immediate supervisor – within 14 days of learning of its cause. For Union class grievance or other disciplinary actions, only steward or union rep is the only one to meet with the appropriate supervisor within 14 days of learning of its cause.
Supervisor Oral Decision - within 5 days .	Steward, or other Union rep or employer has authority to settle or withdraw grievance (part or whole) Supervisor settles grievance.	Steward or other union representative or employer has authority to resolve (part or whole). Supervisor has authority to resolve grievance. ↓	Supervisor has authority to resolve/settle grievance. Steward or other union rep has authority to settle or withdraw all or part of grievance.	Parties have 10 days to resolve grievance.

	Supervisor oral Decision to union rep – within 5 days (or parties agree to extend past 5 day period).		Supervisor oral Decision to union rep – within 5 days (or parties agree to extend past 5 day period).	
Union Appeal - 10 days.	<p>Union appeal – 10 days.</p> <p>Appeal in writing to include:</p> <ul style="list-style-type: none"> - detailed statement of facts - contentions of the grievant - particular contractual provisions - remedy sought. 	<p>Union appeal – 7 days from informal discussion.</p> <p>Must complete Joint Step A Grievance Form (Informal Step A portion).</p>	<p>Union appeal – within 10 days.</p> <p>Completion of standard grievance form that will include:</p> <ul style="list-style-type: none"> - detailed statement of facts - contentions of the grievant - particular contractual provisions - remedy sought. 	<p>Union appeal – within 7 days (can be extended by mutual agreement).</p> <p>Must include copies of the joint grievance file and Step 2 appeal form.</p>
GAO Grievance Process	APWU (American Postal Workers Union)	NALC (National Association of Letter Carriers)	Mail Handlers	Rural Letter Carriers

GAO Grievance Process STEP 2: Written Grievance	APWU (American Postal Workers Union) Step 2	NALC (National Association of Letter Carriers) Formal Step A	Mail Handlers Step 2	Rural Letter Carriers Step 2
<p>Standard grievance form with installation head or designee - filed in writing. Installation head and union steward or rep meet within 7 days.</p>	<p>Step 2: Standard grievance form with installation head or designee - filed in writing. 20 or fewer employees: employer designates a Step 2 official outside of the installation and notifies Step 1 rep. Must file within 14 days of the date union or employee first learned of its cause. This is only for discrimination and health and safety cases. (Art. 2 & 14). Installation head meets with steward or union rep. within 7 days following receipt of Step 2 appeal. (May be extended by mutual agreement).</p>	<p>Formal Step A: Submit a Joint Step A Grievance Form directly with the installation head - within 14 days of date when union or employee learned of its cause. This is only for discrimination or health and safety cases. Installation head or designee meet with steward or union rep within 7 days following receipt of Joint Step A Grievance Form (parties can agree on date extension). Grievant represented by steward or a union rep. – they have authority to resolve grievance. Installation head or designee has authority to resolve grievance (whole or part).</p>	<p>Step 2: Grievance initiated this step must be filed within 14 days of date employee first learned of its cause. Installation head or designee meets with steward or union rep. within 7 days following receipt of Step 2 appeal (parties can agree on date extension). Grievant represented by steward or union rep. who has authority to settle or withdraw grievance. Installation head or designee has authority to grant or settle the grievance (whole or part).</p>	<p>Step 2: Filed with manager of HR. Grievant represented by steward or a union rep. Employer’s Step 2 reps. will meet with appropriate state steward or designee to resolve grievance – within 10 days of receipt. Any settlement or withdrawal shall be in writing</p>
<p>Installation head provides decision to union rep. – within 10 days.</p>	<p>Settlement or withdrawal shall be in writing or noted on standard grievance form. 10 days to make a decision if agreement – not reached, extension requested and granted in writing. Incomplete, inaccurate facts - 10 days to transmit written statement with corrections or additions.</p>	<p>Resolution shall be in writing or noted on Joint Step A Grievance Form. Joint Step A Grievance Form completed and Formal Step A decision is made day of meeting (unless date mutually extended).</p>	<p>Following resolution, parties involved shall meet within 7 days of receipt of resolution (or agreed upon extension date) Settlement or withdrawal of grievance shall be in writing or noted on standard grievance form, furnished to Union rep – within 10 days after meeting (unless date</p>	<p>Employer’s decision furnished to the state steward or designee in writing – within 7 days after Step 2 meeting (or agreed upon extension date).</p>

			mutually extended). Incomplete, inaccurate facts – union has 10 days of receipt of Step 2 decision to transmit written statement with corrections or additions.	
Union appeals installation head's decision – within 15 days .	Union appeal to Step 3– within 15 days of employer's decision (to appeal adverse decision)(unless appeal extension granted). Grievances appealed directly to arbitration processing center within 30 days after receipt of employer's Step 2 decision.	Union may appeal impasse to Step B within 7 days of date of decision.	Union appeal – within 15 days of employer's decision (unless appeal extension granted).	Union appeal – within 10 days after receipt of employer's decision (or agreed upon extension date).
GAO Grievance Process	APWU (American Postal Workers Union)	NALC (National Association of Letter Carriers	Mail Handlers	Rural Letter Carriers

GAO Grievance Process STEP 3: Written Appeal	APWU (American Postal Workers Union) Step 3	NALC (National Association of Letter Carriers) Step B	Mail Handlers Step 3	Rural Letter Carriers Step 3
Union files written appeal to Area Office's director of HR.	Appeal to adverse decision in Step 2 in writing to appropriate management official at Grievance/Arbitration Processing Center.	Appeal submitted in writing to Step B team with copy of Formal Step A form and any documentation .	Appeal to adverse decision in Step 2 in writing to the appropriate management official at the Grievance/Arbitration Processing Center.	Appeal to adverse decision in Step 2 in writing to Employer's Step 3 rep.
Union's area rep. meets with PS designated rep – within 15 days .	Grievant represented by a union's regional rep. or designee. Discussion held within 15 days after appeal.	Step B team review appeal and issue joint report of decision and findings – within 14 days of receipt of appeal (unless mutually extended).	Grievant represented by a union's regional rep. or designee. Parties' meeting held at respective PS office – within 15 days after appeal.	Grievant represented by the union's Executive Committeeman, or appropriate designee. Rep. shall not be Step 2 rep unless the rep. is an Area, or assistant state steward or state steward Meeting of parties' reps. to discuss grievance – within 15 days after appeal. Discipline or discharge – management rep. shall be person with no direct connection with case, who is at a higher management level than Employer's Step 2 rep.
Decision provided to union rep – within 15 days .	Union rep. has authority to settle or withdraw grievance (in whole or part). Employer's rep. has authority to grant grievance (in whole or part).	Step B team may resolve grievance; declare impasse; hold grievance pending resolution of a national level case; remand grievance.	Union rep. has authority to settle or withdraw grievance (in whole or part). Employer's rep. has authority to grant grievance (in whole or Part).	Employer provides written decision to the union's rep. – within 15 days after parties have met (or agreed extension).

	<p>Parties' reps. have authority to return grievance to Step 2 level for further development of facts – meet within 7 days after grievance returned to Step 2.</p> <p>Employer's written decision provided to union's Step 3 rep. – within 15 days after parties have met (or agreed extension).</p>	<p>Authority to return the grievance to Formal Step A. If remanded, parties' reps. meet within 7 days of return to Formal Step A.</p>	<p>Parties' reps. have authority to return grievance to Step 2 level for further development of facts – meet within 7 days after grievance returned to Step 2.</p> <p>Employer's written decision provided to union's Step 3 rep. – within 15 days after parties have met (or agreed extension).</p>	
<p>Union appeal decision to arbitration – within 21 days.</p>	<p>Union appeal to arbitration – within 21 days after receipt of Employer's Step 3 decision.</p>	<p>Union's National Business Agent (NBA) or designee appeal an impasse directly to arbitration at the Grievance/Arbitration Processing Center – within 14 days of receipt of Step B impasse.</p>	<p>Union at Regional level can appeal adverse decision directly to arbitration at the Regional level – within 21 days after receipt of Employer's Step 3 decision.</p>	<p>Union appeal to arbitration at the area level – within 21 days after receipt of Employer's Step 3 decision.</p> <p>Letter of appeal to Step 4 or to arbitration (as appropriate) with copy of Step 3 decision.</p>
<p>GAO Grievance Process</p>	<p>APWU (American Postal Workers Union)</p>	<p>NALC (National Association of Letter Carriers)</p>	<p>Mail Handlers</p>	<p>Rural Letter Carriers</p>

GAO Grievance Process STEP 4: National Level Review Involving Interpretation of Union's National Agreement	APWU (American Postal Workers Union) Step 4	NALC (National Association of Letter Carriers) Interpretive Step	Mail Handlers Step 4	Rural Letter Carriers Step 4
<p>Union has 21 days to refer matter to national level of the union and the PS (Postal Service). National union rep. and PS HQ meet – within 30 days.</p>	<p>Parties meet at the National level – no later than 30 days after initiating dispute. Employer has right to file national dispute. Union rep. has authority to <i>settle</i> or <i>withdraw</i> dispute (in whole or part). Employer's rep. has authority to <i>grant</i> or <i>settle</i> dispute (in whole or part). Parties shall meet within 15 days after dispute returned to Step 3 (Step 3 procedures will apply).</p>	<p>Parties shall meet at the National level – no later than 30 days after initiating dispute. Union rep. has authority to settle or withdraw dispute (in whole or part) Employer's rep. has authority to <i>resolve</i> dispute (in whole or part). Parties shall meet within 15 days after dispute returned to Step B (Step B procedures will apply).</p>	<p>Parties meet at the National level – no later than 30 days after filing appeal. Union rep. has authority to <i>settle</i> or <i>withdraw</i> dispute (in whole or part). Employer's rep. has authority to <i>grant</i> or <i>settle</i> dispute (in whole or part). Parties shall meet within 15 days after dispute returned to Step 3 (Step 3 procedures will apply).</p>	<p>Parties meet at the National level – no later than 21 days after appeal Step 3 decision.</p>
<p>PS issues written decision – within 15 days.</p>	<p>National level written decision rendered within 15 days of meeting.</p>	<p>National level written decision rendered within 15 days of meeting.</p>	<p>Written decision by Employer will be rendered within 15 days of meeting.</p>	<p>Employer issues written decision within 15 days after meeting (unless agreed upon extension).</p>
<p>Union appeal – 30 days.</p>	<p>Failure to reach decision/agreement within 60 days of initiation of dispute, union may appeal to national arbitration within 30 days after.</p>	<p>Failure to reach decision/agreement within 60 days of initiation of dispute, union may appeal to national arbitration within 30 days after.</p>	<p>Union can appeal to arbitration at the National level within 30 days after receipt of Employer's Step 4 decision.</p>	<p>Failure to reach decision, National President of the union can appeal to arbitration at the national level – within 30 days after receipt of Employer's Step 4 decision.</p>

GAO Grievance Process STEP 5: Arbitration	APWU (American Postal Workers Union) Step 5	NALC (National Association of Letter Carriers) Arbitration	Mail Handlers Step 5	Rural Letter Carriers Step 5
Arbitrator selected; hearing scheduled under terms of National Agreement.	Request for arbitration shall be submitted within the specified time limit of appeal. All decisions of an arbitrator will be final and binding.	Request for arbitration shall be submitted within the specified time limit of appeal. All decisions of an arbitrator will be final and binding.	No grievance arbitrated at National level except when timely written notice of appeal is given by union to the Employer. All grievances appealed will be placed on the appropriate pending arbitration list in the order in which appealed. All decisions of arbitrator will be final and binding.	Request for arbitration shall be submitted within the specified time limit of appeal. Union has 60 days from date of referral to certify case to be scheduled for arbitration at earliest date possible except for discharge cases, which are to be certified within 15 days .

Step 1: The Oral Grievance Process

Oral Discussion with the Supervisor

Essentially, all four major unions follow identical steps in this informal phase of the grievance process. During this phase, the employee orally discusses the grievance with his/her supervisor within 14 days of the action which gives rise to the grievance. In all four unions, a steward or union representative can accompany and represent the employee at this meeting with the supervisor. The APWU, NALC, and Mail Handlers, however, can initiate a grievance and represent the employee without the employee's presence within 14 days of becoming aware of the facts.

Class Actions

All four unions can file a class grievance action if the grievance affects more than one employee. However, a couple of distinctions exist. If multiple grievances are improperly filed for the same incident/issue, the Mail Handlers consolidates all of these grievances. For a Rurals class grievance or other disciplinary actions, only a steward or union representative meets with the appropriate supervisor within 14 days of learning of its cause.

Supervisor's Oral Decision

The supervisor must provide an oral decision to the union representative within five days (or longer if parties agree to extend past the five day period). For the Mail Handlers, the parties, meaning the employee and the immediate supervisor, have 10 days to resolve the grievance.

Union Appeal of Supervisor's Decision

Once a decision is rendered, the union can appeal in writing within seven to ten days, depending on the union. Both the APWU and Mail Handlers have 10 days to appeal the supervisor's decision; the NALC allows only seven days from the informal discussion and RURALS seven days. However, the Rurals' time frame can be extended by mutual agreement. This appeal occurs at **Step 2**.

Step 2: The Written Grievance Process

If grievances are not resolved at Step 1, then all four unions have the right to formally appeal the supervisor's Step 1 decision in writing at **Step 2 (or NALC's Formal Step A)**. Standard grievance forms are filled out and subsequently filed and the installation head or his/her designee then meets with the union steward or representative, for three of the four unions, within seven days of the filing of the written grievance.

The Grievance Filing and Meeting with the Installation Head

For APWU grievances, in an associate post office of 20 or fewer employees, the employer designates a Step 2 official outside of the installation and notifies the Step 1 representative. This person becomes the Step 2 official. Discrimination and health and safety grievances at Step 2 must be filed within 14 days of the date the union or employee first learned of its cause. The installation head meets with the steward or union representative within seven days following receipt of the Step 2 appeal (the number of days can be extended by mutual agreement).

An NALC Step 2 grievance (**Formal Step A**) includes submitting a Joint Step A Grievance Form directly with the installation head within 14 days of the date when the NALC or the employee first learned of its cause for discrimination and health and safety grievances only. Like the APWU and the Mail Handlers, the installation head or his/her designee meets with steward or union representative within seven days following receipt of a Joint Step A Grievance Form (the parties can agree on an extension date). The grievant must be represented by a steward or a union representative with authority to resolve the grievance.

A Mail Handlers grievance follows the same process as the APWU and the NALC, with few exceptions. A grievance initiated at **Step 2** must also be filed within 14 days of the date the employee first learned of its cause. The installation head or his/her designee meets with the steward or union representative within seven days following receipt of a Step 2 appeal (the parties can agree on an extension of the date). The steward or union representative with authority to *settle* or *withdraw* the grievance represents the grievant. The installation head or his/her designee with authority to *grant* or *settle* the grievance, in whole or in part represents USPS management.

Somewhat unique, a Rurals grievance can be filed by the employee (in writing) in a **Step 2** process with the manager of HR. But like the other unions, the grievant can be represented by steward or a union representative. The other slight difference is that the USPS Step 2 representatives meet with the appropriate state steward or designee to resolve the grievance, within 10 days of receiving the written grievance.

The Decision of the Installation Head

For APWU and Mail Handlers Step 2 grievances, the USPS must reach a decision within 10 days and submit it in writing to the respective union representative while the NALC requires a decision on the date of the meeting, unless the date is mutually extended. For Rurals Step 2 grievances, the USPS decision should be furnished to the NRCLA state steward or designee in writing within seven days after the Step 2 meeting (or agreed upon extension date). If a decision is not reached in APWU and Mail Handlers grievances, an extension can be requested and granted in writing.

At Step 2, a settlement or withdrawal for an APWU or a Mail Handlers grievance must be in writing or noted on the standard grievance form or for an NALC grievance on the Joint Step A Grievance form. In contrast to the other unions, however, if there is a resolution of a Mail Handlers Step 2 grievance, the parties involved meet within seven days (or agreed upon extension date) of the receiving the resolution. The settlement or withdrawal of the grievance must be in writing or noted on a standard grievance form, and furnished to the Mail Handlers representative within 10 days after meeting (unless given a mutually extended date).

If no resolution occurs of an APWU or an Mail Handlers grievance, and there are incomplete or inaccurate facts, the respective union is given 10 days from the receipt of Step 2 decision to transmit a written statement with corrections or additions.

Union Appeal of the Installation Head Decision

The NALC may appeal an impasse to Step B within seven days of date of decision. The RURALS can appeal the adverse decision within 10 days and the APWU and Mail Handlers within 15 days of the USPS adverse decision (unless an appeal extension is granted). APWU grievances are then appealed directly to the appropriate grievance or arbitration processing center within 30 days after receipt of the USPS Step 2 decision.

Step 3: The Written Appeal of the Grievance Process

An appeal of an adverse decision at Step 2 occurs in **Step 3 (or NALC's Step B)**. Generally, for all four unions this process first involves the union filing a written appeal to the USPS Area Human Resources Manager or designated area representative and within 15 days of the written appeal, the union area representative meets with the USPS designated area representative. Next, the USPS decision is provided to the union representative within 15 days of the meeting. Last, the union may appeal the USPS Step 3 decision to arbitration within 21 days.

The Written Appeal Filing and the Meeting with the Designated Area Representative

The APWU and the Mail Handlers share identical procedures in that appeals of adverse Step 2 decisions must be in writing and sent to the appropriate management official at the Grievance/Arbitration Processing Center. The Rurals follow a slightly different procedure in that the written appeal is sent to the USPS Step 3 representative. As part of a Memorandum of Understanding (MOU) between the APWU and the USPS in the 2001-2003 National Agreement, when a Step 2 grievance is incorrectly appealed in a timely manner by the APWU to move to Step 3 rather than arbitration, the USPS management will consider timeliness as a waiver of the grievance. Moreover, USPS management has the right to raise the timeliness issue if the APWU cannot establish a timely appeal to Step 3. See CBA Art. 15.2 Step 2 (h) MOU at p. 317.

The APWU and the Mail Handlers grievant can be represented by the respective union's regional representative or designee and this discussion must be held within 15 days after the written appeal is received. The NLRCA grievant can be represented by the Rurals Executive Committeeman, or appropriate designee. However, the NLRCA grievant cannot use the same representative as used in Step 2 unless the representative is an Area, or assistant state steward or state steward. The parties' representatives meet to discuss the grievance within 15 days after the appeal. In cases of disciplinary action or discharge, the USPS management representative must be a person with no direct connection with the case, who is at a higher management level than USPS management's Step 2 representative.

The NALC Step 3 grievance process differs substantially from the other unions. As part of this process, the NALC submits the Step 3 grievance appeal in writing to the Step B team with a copy of Formal Step A representation. The NALC grievances may only be processed by the Step B team. This team is comprised of one management and one NALC representative--both jointly trained and certified by the national parties to act as Step B representatives for their district.

The NALC Step B team reviews the appeal and issues a Joint Report of decision and findings within 14 days of receipt of appeal (unless mutually extended).

The Decision of the Designated Area Representative

The APWU and Mail Handlers representatives have the authority to settle or withdraw grievances (in whole or in part). Likewise, the USPS representative has the authority to settle the grievance in whole or in part. The parties' representatives have authority to return the grievance to Step 2 level for further development of the facts; however, they must meet within seven days after a grievance is returned to Step 2. The USPS management's written decision must be provided to the respective union's Step 3 representative within 15 days after parties have met (or by an agreed upon extension). The Rurals Step 3 grievance requires a written decision in 15 days as well.

The NALC Step B team may resolve grievances; declare impasse; hold grievances pending resolution of a national level case; and remand grievances. They also have the authority to return the grievance to the Formal Step A. If remanded, the parties' representatives meet within seven days of the return to the Formal Step A (Step2).

The Appeal of the Designated Area Representative Decision to Arbitration

The APWU, Mail Handlers and Rurals' appeal to arbitration should take place within 21 days after receipt of USPS Designated Area Representative's Step 3 decision. The NALC's National Business Agent (NBA) or designee appeals an impasse directly to arbitration at the Grievance/Arbitration Processing Center within 14 days of receipt of Step B impasse.

Step 4: The National Review and Interpretation of the National Agreement

In the final step prior to arbitration, **Step 4 (or NALC's Interpretive Step)**, the four unions refer the Step 3 grievance from the area/region to the national level of both of the parties, the union and the USPS management. This referral must occur within 21 days. And, within 30 days following this referral, the national union and the USPS national management meet. Next, the USPS national management issues a written decision within 15 days. Last, the unions have 30 days in which to appeal the decision to national arbitration.

Referral of Matter to National Level and Meeting of the National Management

For the four unions, the matter is referred within 21 days. However, The RURALS not only refer the matter but also meet with USPS management at headquarters within the same time frame. The APWU, along with USPS management move to Step 4 by meeting at the National level no later than 30 days after initiating the Step 3 (or NALC's Step B) dispute. The APWU, NALC and MAIL HANDLERS representatives have the authority to settle or withdraw a dispute in whole or in part; the USPS management representative has the authority to grant or settle a dispute in whole or in part. The parties for these three unions must meet within 15 days if a dispute is returned to Step 3 (or NALC's Step B). Step 3 (or NALC's Step B) procedures then apply.

Written Decision of USPS

For all four unions, the USPS management renders a National level written decision within 15 days of the meeting.

Appeal of the Decision of Management at the National Level

If the USPS management fails to reach a decision or agreement within 60 days of initiation of dispute, the APWU and NALC may appeal within 30 days to national arbitration. Thirty days after receipt of the USPS management Step 4 decision, the MAIL HANDLERS can appeal to national arbitration. Similarly, if there is a failure to reach a decision, the National President of the RURALS can appeal to arbitration at the National level within 30 days after receipt of the USPS management Step 4 decision.

Withdrawal of Grievances from Regional Arbitration

Both the APWU and the Mail Handlers in Memoranda of Understanding (MOU) within their most recent National Agreements (2000-2003, 2000-2004, respectively) include a provision in which the parties agree to withdraw a grievance from regional arbitration and refer it to Step 4. If the case is non-interpretive, it will be returned directly to regional arbitration. The case will be

returned to be heard before the same arbitrator initially scheduled to hear the case at the time of the referral to Step 4. Additionally, the APWU's MOU states that unless another case is scheduled to be heard that date by the arbitrator, the party who refers the case bears the full cost of the arbitration.

Step 5: The Arbitration

This final **arbitration** phase involves the selection of the arbitrator and scheduling of hearings following the terms of the four unions' National Agreements.

Requests for arbitration from all four unions must be submitted within the specified time limit of appeal. All decisions of an arbitrator will be final and binding. All Mail Handlers grievances appealed are placed on the appropriate pending arbitration list in the order in which they are appealed.

The Rurals have 60 days from date of the referral to national arbitration to certify the case to be scheduled for arbitration at the earliest possible date except for discharge cases, which are to be certified within 15 days.

The Mail Handlers as part of an MOU in the 2000 National Agreement revised the grievance arbitration procedure with the intent of providing increased responsibilities on the parties' representatives to resolve disputes at the local level in a timely manner. Test sites were established. Parties at the national level meet quarterly to review the process of the tests. Before the tests, the USPS management provides the Mail Handlers at the national level with specific data for the test sites related to (the total number of grievances applied in Step 2 in both contract and discipline categories) and their present position. The MOU also identified types of grievances that would go to expedited arbitration.

In a recent MOU (March 2003 MOU CBR, p.59), the APWU and the USPS management agreed to conduct a review beginning March 1, 2003 and ending May 30, 2003 of all pending arbitration cases and Step 3 grievances at the Area/Regional level. They also agreed to jointly establish teams created solely to review all pending arbitration cases and Step 3 grievances and advocate the cases not resolved during the review. The Area/Regional parties were to meet with all individuals participating in the review to outline the expectations. At the end of the review process, the parties agreed to a scheduling process through December 30, 2003, unless extended by the parties, which includes:

- Adhering to specific principles regarding the arbitration process.
- Where time permits, a minimum of two regular and three expedited arbitration cases will be heard before an arbitrator per date;
- Arbitration cases will be reviewed and scheduled in a particular manner by facility/installation followed by all cases within that district moving to the next district only after all cases are either settled or scheduled for arbitration within the current facility/installation.
- Using central locations for arbitration hearings when appropriate and possible, to ensure that the maximum number of cases is arbitrated.
- Advocates, with few exceptions, will not be able to move expedited cases to regular arbitration without advance approval.

- National level disputed will be jointly identified and disseminated to the Area/Regional parties to ensure that any grievances regarding these disputes are held at Step 2, pending final decision at the national level.
- This memorandum does not disrupt any existing modified grievance/arbitration program, unless the parties mutually agree.
- Area/ regional parties will develop programs and devise methods to address the issues of grievance backlogs and grievance in-flow.

The NALC, in a MOU within the 2001-2006 National Agreement, agreed to establish a four member National Task Force to evaluate the impact of modifying the handling of the arbitration process in order to reduce costs and improve efficiency. The task force, comprised of two members from the USPS and two from the NALC, are authorized to test alternate methods of administering the arbitration process (e.g. district arbitration panels, centralized scheduling center) but may not implement them without agreement of the NALC President and the VP of Labor Relations. Progress is reported on a quarterly basis.

The Process in Practice

Both the Unions and the USPS management agree that a large number of pending arbitration cases is indicative of a problem in the relationship between the parties. It is important to note that both the USPS management and the unions recognize that every facility has a different relationship—some work well while others do not. They believe that for the Postal Service structure that exists (e.g., regions and districts in every corner of the country, with different management styles and workplace cultures), this is not extraordinary; relationships at the local, regional and national levels vary. The four major unions meet with the current Postmaster General on a regular basis - a step in right direction; however, meetings between the unions and USPS management do not routinely occur at every field location.

The USPS and the unions agreed that one important measure of the quality of the relationship is the number of cases that do not settle before arbitration. Other disinterested observers also agree that a large number of pending arbitration cases is a sign of problems. Some of these problems include: building frustration into day-to-day relationships because pending issues are not resolved for years; uncertainty regarding what the correct procedures are if they are a subject of a grievance; continued tensions because neither party wants to jeopardize its position in a pending case and overall, a continued “boiling and bubbling” which acts to distract performance in the workplace.

While it is true that USPS has a very large workforce and the bargaining units of the NALC and the APWU are large (approximately 260,000 and 300,000 respectively), the number of APWU pending arbitration cases is large both absolutely and as a percentage of members in the bargaining unit. It is important to point out that while other unions generally represent a single craft, the APWU is an amalgamation of five unions that came together as a result of the Postal Reform Act. The APWU represents Maintenance, Clerks and Motor Vehicle employees, with roughly 200 different position descriptions. These numbers may reflect, in part, the vast needs and interests of this diverse membership. However, figures were not available to determine whether there are many individual members filing on a multitude of claims or many individuals filing on relatively few issues or a few claimants filing repeatedly. The USPS management stated that trends are situational depending, in large part, on management decisions. If there is a

disciplinary change or USPS management has a disagreement with the local unions, the numbers of grievances increase.

The number of Step 2 grievances is perhaps a measure of the relationship among supervisors, employees and union leaders. The following charts show the number of second step grievances and pending arbitration cases for the four major unions.

APWU (American Postal Workers Union)		
Fiscal Year	2nd Step Grievance Appeal	Pending Arbitration
FY1999	137,504	91,561
FY2000	116,247	65,035
FY2001	134,178	78,209
FY2002	115,065	89,784
FY2003*	56,839	83,745
<i>*Data through AP07</i>		

NALC (National Association of Letter Carriers)		
Fiscal Year	2nd Step Grievance Appeal	Pending Arbitration
FY1999	46,372	17,734
FY2000	51,037	19,350
FY2001	48,659	15,513
FY2002	29,164	9,906
FY2003*	16,500	8,846
<i>*Data through AP07</i>		

NPMHU (The National Postal Mail Handlers Union)		
Fiscal Year	2nd Step Grievance Appeal	Pending Arbitration
FY1999	28,281	4,729
FY2000	30,109	5,528
FY2001	31,607	6,135
FY2002	33,533	7,122
FY2003*	17,288	7,602
<i>*Data through AP07</i>		

NRLCA (National Rural Letter Carriers' Association)		
Fiscal Year	2nd Step Grievance Appeal	Pending Arbitration
FY1999	2,483	44
FY2000	3,412	56
FY2001	3,504	73
FY2002	6,567	22
FY2003*	2,855	155
<i>*Data through AP07</i>		

Source: USPS Labor Relations Management, May 2003

Step 2 Grievances Not Resolved

Our discussions with USPS management and the four major unions revealed that all parties recognize the need for resolution early in the grievance process. However, for three of the four unions, cases are not being resolved at the lowest possible level. The number of step two cases between the APWU and the USPS has ranged from about 137,504 cases in FY1999 to 115,065 in FY2002, the last year for which we have complete data.

While not as large in absolute numbers, the number of pending step 2 cases between the Mail Handlers and the USPS went from 28,281 in FY 1999 to 33,533 in FY 2002. Given that the Mail Handlers bargaining unit is approximately 50,000 members these numbers also demonstrate a large number of grievances for the size of the bargaining unit.

The numbers for the NRLCA also may indicate some problems. In FY 1999, the NRLCA had pending 2,483 step two grievances and in FY 2002 6,567.

In contrast, in FY 1999 NALC had filed 46,372 Step 2 grievances and 29,164 grievances in FY 2002. Given that the NALC bargaining unit is approximately 260,000, these numbers, supported by our discussions with USPS management and the NALC, imply that the relationship, while perhaps not perfect, has improved over time and that step two grievances are a much smaller percentage of NALC members than either the APWU or the Mail Handlers.

We believe there may be a couple of reasons why the number of grievances between the NALC and the USPS is significantly less than with the other unions, especially the APWU. The USPS management and the NALC recognized that they shared a common interest in wanting to conduct business differently. Since the late 1990s, the parties have concentrated on solving their grievance process problems. They have changed the entire grievance process as they believe that “justice delayed is justice denied.” USPS management and the NALC negotiated a completely restructured process to address the root causes of grievances and reduced the hearing steps from three to two. This process focused on correcting problems at the earliest level. It replaced Article 15 with a new process that was test piloted in 19 districts in 1998 for a year and a half and was implemented nationwide by the end of fiscal year 2001. Article 15 was rewritten during the national negotiations of the 2001-2006 National Agreement to include a collaborative team

review concept at Step 3. This Team is jointly trained and certified by the USPS management and the NALC.

This new approach shortened the length of time in the process from 118 days to 95. The NALC believes that, by moving away from a “win-lose” confrontational process to one of attempting to mutually solve problems they would represent the interests of their members better and save money which could be available for wages.

Second, the NALC and USPS management also developed a Joint Contract Administration Manual (JCAM), jointly produced by the union and management and distributed it to all work locations. When a dispute arises, the supervisor and union shop steward are required to consult this document. The JCAM enables supervisors and shop stewards to resolve many issues at the earliest possible step, by providing a comprehensive and authoritative interpretation of the collective bargaining agreement in areas where there is no disagreement between the national parties as to the meaning and intent of the contract. The Mail Handlers followed shortly thereafter and similarly developed a Joint Contract Interpretation Manual.

The OIG Draft Audit Report has a more complete analysis of the numbers and trends and basically concludes that the number of grievances that are appealed to Step 2 are high. They have thus concluded that the USPS and at least some of the unions are not following the agreed upon procedures.

Time Limits Within Each Step Exceeded

While the OIG Draft Audit Report points out that the average number of days that grievances remained open exceeded the time limits within the National Agreements, our discussions with the parties offers a rationale. (The OIG Draft Audit Report at p.10, 11.) The OIG Draft Audit Report states, for example, that the average number of days that cases remained open at Step 1 is 288 days as opposed to the contractually agreed upon time limit of 14 days. The parties suggest that for some cases the delay might represent an agreement between the parties that could result in a settlement at some future time. Some reasons given for these delays are: holding cases in abeyance until a precedent setting case is decided; awaiting instructions or an agreement between the parties on contract interpretation; and agreement between the parties that a delay might allow for a case to be settled for other reasons. The March 2003 MOU between the APWU and the USPS that addresses the backlog of pending arbitration cases and Step 3 grievances will, if adhered to, address many of the time frame issues but both parties must be committed and follow through.

We agree when the OIG contends that there are negative attitudes and behaviors exhibited by some USPS managers and union representatives. Our discussions with both the USPS management and the unions revealed that both sides perceive this problem. The USPS and the APWU each view the other side as unable or unwilling to follow through on their promises. This fundamental lack of trust must be addressed. We also agree with the OIG that there are few incentives to encourage parties to reach agreements and few penalties for when agreements are not reached.

High Number of Grievances Pending Arbitration

In FY 1999, the APWU had 91,561 cases pending arbitration, that number in FY 2000 decreased by about one-third to 65,035; however, in FY 2002 the number was back up to 89,764.

The NALC had 17,734 pending arbitration cases in FY 1999 and that number had decreased to 9,906 in FY 2002. On the other hand, the Mail Handlers trend has gone up. In FY 1999, there were 4,729 cases pending arbitration and in FY 2002 that number increased to 7,122 pending cases.

The NRLCA had 44 cases pending arbitration in FY 1999 and 22 cases in FY 2002. One reason for this relative low number of pending arbitration cases is that the Rurals, unlike the other unions, has a “loser pays” provision in its collective bargaining agreement. This creates an incentive for the parties to carefully evaluate each case before taking it to arbitration. The “loser pays” provision is a long-standing provision in the collective bargaining contracts that NRLCA has with the USPS.

It is clear that many cases do not settle at the lowest appropriate level. This large number of cases indicates that the grievance arbitration process is ineffective for several reasons. The February 2003 OIG Draft Audit Report cited the following reasons:

- ◆ The overall process is too expensive and not efficient.
- ◆ It takes too long to resolve grievances and decide arbitrations.
- ◆ Cases at Step 3 of the process are “rubber stamped” and forwarded to arbitration needlessly and
- ◆ There are no incentives or penalties to reduce grievances and no accountability for “bad decisions” made regarding grievances.

We have heard much of the same from our discussions with the unions and the USPS management.

The OIG has stated that the number of grievances not settled and other measures of grievances is too high. OIG believes that these measures are a “strong indicator that significant efforts have not been made to improve labor-management relations between the Postal Service and its unions.” (OIG Draft Audit Report LH-AR-03 at p.12)

Grievance Mediation Unsuccessful

As part of a 1997 MOU between the APWU and the USPS a pilot mediation program was implemented to address the grievance/arbitration backlog; prevent future reoccurrences through improving the labor management relationship; and address root causes. (See GAO Report on the U.S. Postal Service: Little Progress Made in Addressing Persistent Labor Management Problems, October 1997 GAO/GGD-98-1, p.69 citing MOU 5/8/97). The pilot program was short-lived due to lack of participation. There was a degree of success with a co-pilot mediation program, also part of the 1997 MOU, but employees were not interested in participating.

According to the USPS management, the perception by employees about mediation is that it is a diminution of what they are all about. In this MOU, they also negotiated accelerated arbitration in which performance clusters (districts) with the largest docket of cases pending arbitration would be given sufficient resources (arbitrators, advocates, and hearing dates) and a mutually agreed upon compressed time frame. The MOU also provided that the backlog would be monitored quarterly and the process re-implemented until the backlog was eliminated.

The appended charts show the numbers of pending arbitration cases for each of the four unions.

IV. Outline of Best Practices

Sources for the survey of best practices for the purpose of this report focused primarily on the four major unions and the United Postal Service. It was reasoned that this study should identify not only the challenges presented by the relationships of the USPS with its four unions, but also the functional aspects of the grievance procedures employed. To the extent that best practices are currently being successfully demonstrated, they will be incorporated into the findings and conclusions of this study.

Other sources for the survey of best practices were selected for the comparison they offer in similar situations. The criteria used included the existence of collective bargaining agreement relationships, a scale of operation and size proportional to that of the USPS, and the existence of one or more ADR components to the grievance procedures.

Finally, the subject matter experts identified in this report were contacted and asked to identify entities that could be used to exemplify best practices.

We conducted a brief survey of collective bargaining agreements with grievance procedures that experts identified as innovative and which tended to result in the settlement of grievances in a way that both parties could agree was reasonable and efficient.

We recognize that the USPS is unique. No other organization has the scope and size of the USPS. Further, its public function, government ownership, public service mandate and continent-wide scale are distinctive. The historical relationship of the USPS to its unions is one of controversy and the struggle for power, not unlike other organizations. It is our belief, however, that if the USPS is to begin to successfully dig out of the costly quagmire based in part of its handling employee dissatisfaction, it must look to other organizations' experiences for guidance and ideas.

Further, the USPS has collective bargaining contracts with four major unions. As described above and as shown by the numbers of grievances and pending arbitration cases, the grievance procedure with each of the unions differs in some significant respects.

The USPS established an EEO mediation pilot program in 1996, and by 2000 the REDRESS EEO mediation program was implemented nation-wide for unrepresented employees. The purpose of the program was to address the large and growing number of informal and formal EEO complaints. The program was also designed to empower employees to solve their own disputes at the lowest possible level without losing any of their rights to a formal decision, if desired.

Based upon USPS evaluations, most employees and managers find REDRESS mediation a useful and empowering method of resolving disputes. If the USPS is able to involve its unions in a similar effort to solve disputes, it may also empower the unions and employees, resolve grievances, and create a less contentious work environment. Given the demonstrated success of the REDRESS program at the USPS, there appears to be a reasonable basis for a successful grievance mediation program as well.

Below are examples of grievances procedures that contain ADR “best practices.”

American Airlines and the Association of Professional Flight Attendants

The union initiated changes to its traditional collectively bargained grievance procedure in response to a “huge” backlog of pending arbitration cases (number of backlog was 700 – 800 cases). The union felt the arbitrations were expensive and members were unhappy with delay. The employer was not happy with the backlog either.

According to the union, the philosophy and focus of the new grievance procedure is to solve problems at the lowest level. The parties no longer label an employee problem with a management decision a grievance but rather a “dispute”. When there is a problem or an issue, the employee files a Notice of Dispute (NOD).

The revised process is as follows:

Step 1 is for the employee to notify the immediate supervisor. The agreement provides that the parties will exchange documents and information about the matter as soon as possible based on the principle of open exchange of information. The matter can obviously settle at the first, informal step.

Step 2 provides that if the employee and the union disagree with the result from Step One, a Dispute Resolution Conference is conducted. The Union, the employee, and management meet with an in-house trained facilitator. The facilitator is another management employee, but not in the management chain-of-command of the disputing parties. The facilitator meets with the parties to facilitate their settlement discussions. If the parties are unable to settle the dispute, the facilitator is required at the conclusion of the Dispute Resolution conference to issue a written recommendation to settle the matter. The recommendation must be made either at or within a certain number of hours of the conclusion of the Conference. The Union prefers that the facilitator make her/his recommendation immediately.

The parties then have up to ten days to accept or reject the Recommendation. If the Union and the employee disagree and still wish to grieve the matter, the Union has up to thirty (30) days to submit the grievance to the System Board, an arbitration panel set up under the Railway Labor Act. The parties have also changed the arbitration procedures under the System Board by reducing the number of arbitrators from two from each side to one from each side and one neutral.

The Union believes that these changes have had a major impact on the relationship by reducing the backlog of pending arbitration cases. The Union also believes that its members are much

happier with the new system as the reduction in the backlog means that there is little delay – the employee has her or his case heard and decided quickly.

Southern California Gas Company and the UWUA

The first step in the grievance procedure is a meeting between the employee, the union and the appropriate local management representative. Within 10 working days of the meeting, management gives the union a brief written statement of the decision reached. If there is still a dispute, upon request, the Company’s Human Resources representatives and the union will meet during Step 2. If there is not an agreement at Step 2, the Union may file a written request for arbitration.

Step 4 of the grievance procedure is Alternative Dispute Resolution. This section is set out below as it is an example of some “best practices” in labor management grievance procedures.

Step 4: Alternative Dispute Resolution

The parties recognize the need to resolve grievances and protest of disciplinary actions whenever possible in order to avoid the expense and delay associated with arbitration. Therefore, the parties enter into this Agreement to use mediation and expedited arbitration, where mutually agreed to by the parties, to resolve pending arbitration cases as well as grievances and protests of discipline that may arise during the term of this Agreement.

Mediation

1. Within 90 days of the ratification of this Agreement, the parties will meet to select mediators to hear cases under this procedure. The mediator will continue to serve by mutual agreement of both parties.
2. Within 30 days of the selection of mediators the parties will meet to identify those pending cases which the parties agree will be processed through this mediation procedure. Discharge cases which the parties agree to mediate shall be scheduled first, in the order in which the cases were filed to arbitration.
3. Following disposition of cases pending as of the date of this Agreement, or which have been filed pending resolution of the backlog cases, the parties shall process future cases by scheduling a Mediation Conference to be held at the earliest available date of a mediator within thirty (30) days of the Union’s request for arbitration, except for cases in which either party requests that mediation be bypassed.
4. If no settlement is reached during the Mediation Conference, the mediator shall provide the parties with a written advisory opinion within three (3) days, briefly stating the grounds therefore, unless both parties agree that no opinion shall be provided. Otherwise, the grievance may be scheduled for arbitration in accordance with Article VI (Grievance/Arbitration Procedure).
5. In the event that a grievance that has been mediated subsequently is arbitrated, no person serving as a mediator between these parties may serve as an arbitrator. Nothing said or done by the mediator may be referred to at arbitration. Any settlement

proposal made by either party at the Mediation Conference shall not be referred to at the arbitration hearing.

6. The parties agree to share equally in the costs associated with mediation.

7. The assessment of costs for mediation cases which have been appealed to arbitration under Article VI of the collective bargaining agreement shall be as follows:

Non-Discipline Cases:

(A) If the Union fails to accept the mediator's recommendation, it may appeal the case to arbitration. If the arbitrator renders the same or less favorable decision than the mediator recommended, the full costs of that arbitration are then paid by the Union. If, however, there is a more favorable ruling than the mediator's recommendation, then the cost is split equally between the parties.

(B) If the Company fails to follow a mediator's recommendation and receives the same or less favorable decision from a subsequent arbitration, the Company pays the full cost of that arbitration. If the arbitrator's award is more favorable to the Company than the mediator's recommendation, then the cost is split equally between the parties.

Discipline Case:

(A) If the mediator's recommendation upholds the discipline in whole or in part, the Union may appeal the case to arbitration. If the arbitrator concurs with the mediator's recommendation, the Union will pay the full cost. However, if the arbitrator reduces the discipline lower than the mediator's recommendation or eliminates it, the costs will be split between the parties.

(B) If the mediator recommends reducing or eliminating the discipline and the Company refuses to accept the mediator's recommendation and the case is moved to arbitration and then if the arbitrator reduces the discipline to the same degree as the mediator or less or between the parties.

(C) Payment shall include full costs for cases appealed from mediation and shall include the full cost of the arbitrator, court reporter, and transcript and meeting facility if applicable. Each party's own costs shall not be included in this assessment.

8. Payment shall include full costs for cases appealed from mediation and shall include the full cost of the arbitrator, court reporter, and transcript and meeting facility if applicable. Each party's own costs shall not be included in this assessment.

TVA and IBEW

The parties have agreed to grievance mediation as a voluntary step before going to arbitration in their contract. According to the union representative, the parties now almost always mediate. The parties agreed to establish the grievance mediation program because arbitration is expensive, causes delay, and can foster a "win-lose" attitude between the parties. Grievance mediation has

shown to be much less expensive, about 10% of the cost of arbitration, and there is little delay in the system. The parties use the same mediator in all cases, so that individual has become very knowledgeable about the parties, the contract, and the work environment. This mediation step in the grievance procedure started as an experiment, but it has worked so well and the parties are so pleased with the results that now they use it routinely. When the parties established this process they had a backlog of 100 cases and now they have no backlog.

V. Recommendations for Improving Existing Grievance Resolution Procedures

The major problem, based on the quantitative and qualitative information from the parties, is between the USPS and the APWU. As with any other relationship, it is impossible to point a finger and say definitively that the problem is wholly with one party or the other. Both parties are part of the problem and both parties must become part of the solution.

The USPS has been the subject of numerous studies and sets of recommendations regarding its relationship with the four major unions. While the USPS has addressed and even implemented some of the recommendations, it is important to point out that these efforts have not resulted in a significant reduction in either the number of second step grievances or the backlog of grievance cases pending arbitration with the APWU.

There are steps the USPS and the APWU can take to begin to address the problems and then eventually reduce the grievance backlog. The parties must look beyond the politics and a “win lose” attitude to solve this problem. Both the APWU and the USPS expressed an interest in attempting to resolve these problems, although both parties suggested that the other party is mostly responsible for the problems.

Basic Principles

In a fundamental sense, the problems defined in this and other reports begin and end with a lack of trust between the union and management. We have heard from both USPS management and APWU leadership that even when the parties are able to meet and negotiate settlements to problems at the national level, there is a lack of faith that the other party will be able or willing to live up to the agreements at a regional or local level. This distrust obviously has many root causes and a long history (as far back as 1994, for example, the GAO reported about the difficult labor relations environment at the USPS).

It appears to us that the parties have not decided that solving the grievance problem was more important than other objectives. Until the parties decide that solving the grievance backlog and instituting practices and procedures that minimize the incidence of future grievances is more important than their other concerns or issues, then it is unlikely that they will solve the problem.

First, the USPS must acknowledge that this fundamental problem must be addressed jointly with the union. It also requires that the unions acknowledge their responsibility to work with the USPS to repair difficult relationships in the interests of their membership. The GAO recognized this fundamental problem and attempted to address it by recommending the USPS Labor Management Summit. The Summit and the pre-Summit meetings were designed to bring the parties together to improve the relationship. We do not believe, based on what we have heard from the parties, that this Summit was particularly useful in assisting the parties to address problems with the grievance procedure.

Yet it is critically important for the parties, perhaps with assistance from outside neutrals, to jointly take responsibility for and design their own solutions to this problem. Any solution imposed from the outside without support from the parties cannot solve the problem. We believe that rather than the top down approach suggested by the GAO in the 1997 Report there should be a more bottom up approach by the USPS and the APWU by establishing regionally based pilot

programs. This requires leadership from the top of USPS management and APWU leadership, but implementation must occur where grievances are filed, at the facility-level.

Pilot projects are a good way to test the effectiveness of grievance mediation and other innovative programs as it enables the parties to begin to build trust slowly and enables USPS management and APWU membership to see the benefits. The pilot projects should be based on a team of national-level representatives who would be responsible for defining the reasons for the large number of grievances, identifying a productive approach to solve the problem, and implementing pilot projects to see the results. This regional pilot project should be with the full support from USPS management and the national elected leadership of the APWU. The parties should also consider the use of a neutral facilitator, from either FMCS or privately, to assist them to consider and design effective grievance mediation and other workplace improvement programs.

Recommendations

- 1. The USPS should promptly track more fully the costs of the current grievance system, including:**
 - Transactional costs
 - Payout to settle or as ordered by an arbitrator
 - The costs in both lost productivity and employee dissatisfaction from the effects of a troubled relationship on the organization.
- 2. The USPS and the APWU should promptly establish a pilot grievance mediation system designed to reduce the sources of grievances based on the following principles:**
 - A mandatory grievance mediation program including incentives for parties to settle similar to the American Airlines / Flight Attendants agreement.
 - Mediations should occur at the appropriate installation level.
 - The program should include the use of third-party neutral mediators.
 - The program should include jointly developed training for both union and management representatives.
- 3. The USPS and the APWU should jointly develop programs to encourage settlement at lowest possible level through training of managers and employees, public awareness materials, and clear direction from the top that settlement of problems and cooperative labor-management relations is a priority.**
- 4. USPS should be represented at the step two grievance meetings by Labor Relations, not Operations staff.**
- 5. USPS should establish incentives for managers to settle grievance cases and hold managers accountable for behavior that results in poor labor management relations.**
- 6. The USPS and the unions should continue and expand the current Expedited Arbitration process.**

7. **The USPS and the APWU should promptly develop a jointly written contract administration manual to be used to describe areas where the national parties have a common understanding and agreement on the meaning of specific language in the collective bargaining agreement. This joint contract manual should be provided to all facilities where APWU members work.**

VI. Recommendations on How to Expedite Backlog

Considering the history of the relationships of the parties, the most important element of resolution of this issue would be a commitment by all parties that removal of the backlog is a priority. If one or more parties perceive that the *status quo* is in their interest, whether or not it actually is, then any plan to reduce the backlog will be severely compromised. Thus, the first step is to convene a facilitated meeting with union and management representatives to address this issue, how and why it was created and more importantly, why it is in every party's interest to resolve it. Only then will a plan to remove the backlog have a real chance.

The second step to removing any backlog is to stop adding to the pile. While expediting current procedures, the parties should commit to the goal of processing all cases within a fixed period of time, with penalties for any side's failure to comply with applicable deadlines.

The goal of the third step would be to divert cases from arbitration, for it is probably unrealistic to believe that a backlog of this magnitude could be eliminated by arbitrating every case. We recommend that the USPS and the unions incorporate mediation components in the grievance process, even for cases that are far along in the grievance process. Many cases resolve late in the adversarial process, often because more information has been learned, but many times simply because of the passage of time. Although perhaps counterintuitive, mediations conducted at the later stages of adversarial processes still enjoy a significant resolution rate. Even the state and federal appellate courts, where not only have many cases already been mediated, but one of the parties has already received a favorable verdict in the court below, employ mediation with settlement rates in excess of 25%. It is conceivable that the USPS could achieve an even higher mediation settlement rate.

Given the size and scope of the current backlog, there would seem to be two viable approaches to its removal, either centralized or decentralized. A centralized effort would entail creation of a national team of postal service and union professionals whose mission it would be to resolve the claims through mediation and arbitration. There could exist a three step process whereby, prior to reaching the mediation phase, claims could be reviewed on paper and resolution recommendations made by the team. For this to have an impact, unions and management would need to agree to give to give such recommendations serious consideration. Cases for which resolutions were not accepted could be mediated. Only those cases not resolved through mediation would be arbitrated.

The decentralized effort would take advantage of the REDRESS structure currently in place. One advantage of this concept is that the USPS and unions already have available to them a cadre of trained and experienced neutrals, most of who are experienced in resolving postal service disputes. In addition, the resources to administer an effort to mediate the backlog are also in place. The staff that currently manages REDRESS could be provided the resources necessary to manage the backlog reduction effort, thus saving the cost of outside administration, as well as taking advantage of the reduced rates charged by REDRESS neutrals. To make the mediation effort more acceptable, the union and management could agree that only those mediators who have received high ratings from users (which include both counselees and management) would be eligible to mediate backlog cases.

Application of this three step process has great potential. These techniques have been employed with considerable success in both the public and private sectors, at considerable savings on time and costs, with greater satisfaction expressed by all parties. However, success remains predicated not only on the process, but the parties' commitment to its goals.

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