BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Director Office Of Personnel Management

Federal Grievance Arbitration Practices Need More Management Attention

With expansion of the labor-management relations program, binding arbitration has become an important procedure for adjudicating employee grievances in the Federal sector. Use of this arbitration has increased since passage of the Civil Service Reform Act of 1978 and is expected to continue to do so.

GAO believes that Federal grievance arbitration practices can be improved. More management attention is needed in the areas of cost accountability, cost effectiveness, monitoring and evaluation, use of Federal arbitrator rosters, and training in grievance arbitration practices.

GAO makes recommendations to the Office of Personnel Management where changes and/or improvements can be made in the management of grievance arbitration processes.

FPCD-81-23

MAY 5, 1981

Request for copies of GAO reports should be sent to:

U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are $3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are $1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FEDERAL PERSONNEL AND
COMPENSATION DIVISION

B-203039

DLG00925

The Honorable Donald J. Devine
Director, Office of Personnel
Management

Dear Dr. Devine:

This report discusses the use of binding arbitration in adjudicating employee grievances. We initiated this review to study and assess the efficiency of agencies' grievance arbitration procedures, including the use of arbitrators since passage of the Civil Service Reform Act of 1978. We are concerned that, if certain practices continue, the costs and time frames associated with grievance arbitration may be greater than necessary.

This report contains recommendations to you on pages 17, 18, 22, 25, and 28. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations. This written statement must be submitted to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report. A written statement must also be submitted to the House and Senate Committees on Appropriations with an agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Director, Office of Management and Budget, and to the Acting Director, Federal Mediation and Conciliation Service.

Sincerely yours,

Clifford I. Gould

Clifford I. Gould
Director

A 8C00044

GENERAL ACCOUNTING OFFICE
REPORT TO THE DIRECTOR,
OFFICE OF PERSONNEL
MANAGEMENT

FEDERAL GRIEVANCE ARBITRATION PRACTICES NEED MORE MANAGEMENT ATTENTION

D I G E S T

Binding arbitration has become an important procedure for adjudicating Federal employee grievances since the expansion of the Federal labor-management relations program. The Civil Service Reform Act (CSRA) of 1978 guarantees about 2.1 million non-postal Federal employees the right to bargain collectively and establishes procedures for resolving grievances.

Binding arbitration is the Federal bargaining unit employees' final recourse for resolving grievances and disputes. In 1978, prior to CSRA, there were about 460 binding arbitrations in Federal agencies. Since passage of CSRA, binding arbitrations increased to about 560 in fiscal year 1979 and to about 700 in fiscal year 1980. Both management and union representatives expect this trend to continue.

GAO reviewed the grievance arbitration systems at 6 agencies and reviewed 17 negotiated labor agreements. Based on these reviews, GAO believes that Federal grievance arbitration practices can be improved. More management emphasis and attention is needed in the areas of cost accountability, cost effectiveness, monitoring and evaluation, use of Federal arbitrator rosters, and training.

Accounting for arbitration costs is needed to help prevent wasteful expenditures and to encourage cost saving practices and improve program management. The agencies GAO visited do not, nor are they required to, account for the costs associated with the grievance arbitration process.

A number of cost-effective practices which are currently used in the private sector can help reduce the costs and time frames in Federal grievance arbitration. These practices, used only to a limited extent in the Federal sector,

FPCD-81-23

include expedited arbitration, permanent arbitrator panels or umpires, consolidated or representative grievances, and limited use of transcripts and post-hearing briefs.

Expedited arbitration is designed to simplify the legal process and reduce the cost and time associated with arbitration. It is especially useful for many discipline, appraisal, and promotion grievances. The Office of Personnel Management (OPM) estimates, however, that only about 12 percent of newly negotiated labor agreements contain expedited arbitration provisions.

Use of permanent arbitrator panels or umpires can shorten arbitration time frames because the arbitrator becomes very familiar with the operating environment of the parties. Panels or umpires are particularly helpful in situations where the parties have relatively high numbers of arbitrations. However, they are used in less than 4 percent of the arbitrations in the Federal sector.

The use of consolidated or representative grievances is a practice that can more efficiently handle similar grievances at lower steps of the grievance process or at arbitration. OPM estimates that about 37 percent of Federal labor agreements negotiated with agencies covered by CSRA contain provisions for consolidated or representative grievances.

Arbitration hearing transcripts and post-hearing briefs are routinely used in many Federal sector arbitration cases. However, these practices are often expensive and contribute to delays in case processing. While exact figures are not available, the Federal Mediation and Conciliation Service (FMCS) has estimated that in public and private sector arbitrations, transcripts are used in 26 percent of the cases, and post-hearing briefs are used in over 68 percent of the cases.

OPM has the reponsibility for providing policy guidance and technical assistance to Federal agencies for labor-management relations, including grievance arbitration practices. OPM can do

more to require agencies to account for grievance arbitration costs, provide policy guidance and technical assistance to agencies, and promote greater use of cost-effective practices.

The agencies visited have not developed formal, systematic methods of monitoring and evaluating their grievance arbitration systems. In addition, the agencies do not collect the information needed to perform the monitoring functions. Labor-management representatives generally do not know the number of formal grievances that have been filed and therefore do not have an effective means of determining which activities are having problems. As a result, management's ability to take corrective action is limited. OPM, in its role of promoting an efficient and effective Federal work force, should require agency management to monitor and evaluate their grievance arbitration processes in order to identify problem areas and be better prepared to meet current and forthcoming labor relations challenges.

Arbitrators handling Federal sector cases should be familiar with the work environment of the parties and the applicable Federal laws, rules, and regulations. FMCS is an independent Federal agency which provides to parties in a dispute a list of experienced professional arbitrators from which the parties can choose the one they desire.

While FMCS is the source for over 90 percent of all arbitrators used within the Federal sector, it does not routinely submit lists of arbitrators experienced in Federal arbitration to Federal parties; yet, this is one method of helping to insure that these parties receive the highest quality arbitrators available. The increasing number of Federal sector arbitrations requires an expanded roster, a project which currently has low priority within FMCS.

It is important that management personnel be well trained in labor relations and grievance arbitration. How well the parties prepare and

present their case has a bearing on the quality of the arbitrator's decision. Training can also help to reduce the number of formal grievances filed. However, GAO's work indicates that Federal management personnel may not be adequately or appropriately trained and that available training may not sufficiently emphasize efficient and effective means of using grievance arbitration.

RECOMMENDATIONS

GAO recommends that the Director, OPM:

--Require agencies to account for the total costs associated with the grievance arbitration process and to report annually to OPM on these costs.

  This annual report should include the number of formal grievances filed, number of grievances going to arbitration, arbitration-related costs, and management-related costs.

--Provide guidance and technical assistance to agencies and management personnel on cost-effective grievance arbitration procedures.

--Encourage agencies to

  (1) attempt negotiating expedited arbitration and consolidated or representative grievance procedures into subsequent labor agreements,

  (2) use permanent arbitrator panels or permanent umpires for binding grievance resolution, and

  (3) limit the use of arbitration hearing transcripts and post-hearing briefs.

--Require agencies to monitor and evaluate their grievance arbitration processes. OPM should provide technical assistance and guidance to help agencies meet this requirement.

--Require agencies to assess their current labor relations training programs, determine their training needs, and provide needed training--especially in the areas of cost-effective grievance arbitration practices. OPM should periodically followup with agencies to insure compliance.

--Emphasize to agencies the importance that they should give labor relations training under the requirements of CSRA.

--Work with the Director FMCS to expand FMCS's roster of qualified Federal sector arbitrators.

--Encourage agencies to routinely request Federal sector arbitrator panels from FMCS's Federal arbitrator roster.

Tear Sheet

Contents

ABBREVIATIONS

AAA	American Arbitration Association
CSRA	Civil Service Reform Act
FLRA	Federal Labor Relations Authority
FMCS	Federal Mediation and Conciliation Service
GAO	General Accounting Office
MSPB	Merit Systems Protection Board
OMB	Office of Management and Budget
OPM	Office of Personnel Management

CHAPTER 1

INTRODUCTION

The Civil Service Reform Act (CSRA) of 1978, Public Law 95-454, establishes, for the first time in law, a labor-management relations program for nonpostal Federal employees. The act guarantees about 2.1 million Federal employees 1/ the right to bargain collectively through their chosen representatives and establishes procedures for adjudicating complaints and enforcing rights established by its provisions.

CSRA affected collective bargaining and arbitration in the Federal sector. It expanded the scope of issues subject to the negotiated grievance procedures (and thus arbitration) and mandated that grievance arbitration be binding. The importance of binding arbitration is that an arbitrator's decision, unless appealed to and modified by the Federal Labor Relations Authority (FLRA), is generally the final authority for resolving management and union grievances. Stronger resolution methods do not exist.

The Congress, in passing CSRA, declared that collective bargaining is in the public interest because it

--safeguards the public interest,

--contributes to the effective conduct of public business, and

--facilitates and encourages the amicable settlements of disputes over conditions of employment between employees and their employers.

The expanded scope of issues subject to the negotiated grievance procedure and thus arbitration, coupled with the increasing use of Federal sector binding arbitration, suggests that Federal sector grievance arbitration is just beginning to emerge. In 1978, for example, prior to CSRA, the Office of Personnel Management (OPM) 2/ recorded 460 binding arbitrations in Federal agencies. Since passage of CSRA, binding arbitrations increased to about 560 in fiscal year 1979, and to about 700 in fiscal year 1980. Both management and union representatives, as well as OPM, the Federal Mediation and Conciliation Service (FMCS), and FLRA, expect this trend to continue.

1/Over 1 million non-postal employees in more than 50 Federal agencies are represented by 87 labor unions and organized in more than 3,000 bargaining units.

2/Formerly the Civil Service Commission.

BACKGROUND

The first formal labor-management relations policy for the Federal sector was established by Executive Order 10988 in 1962. In 1970 this order was replaced by Executive Order 11491 which, among other things, established a central authority, the Federal Labor Relations Council, to administer the labor relations program. This 1970 order also introduced several additional third parties, including the Assistant Secretary of Labor for Labor-Management Relations, the FMCS, and the Federal Service Impasses Panel, to assist in resolving various Federal labor-management disputes.

Federal labor-management relations continued to be governed by Executive Order 11491 and the amendments thereto until January 1979, when the order was replaced by the Federal Service Labor-Management Relations Statute, 1/ which was embodied in title VII of the CSRA.

The Congress approved the President's Reorganization Plan No. 2 of 1978, effective January 1, 1979. Reorganization Plan No. 2 abolished the Civil Service Commission and established in its place OPM, the Merit Systems Protection Board (MSPB), and the Office of the Special Counsel. It established the FLRA and abolished the previous Federal Labor Relations Council. CSRA became effective on January 11, 1979, incorporating the organizational changes made by Reorganization Plan No. 2 and clarifying the division of authorities and responsibilities among the new agencies.

OPM, as a primary agent for the President, carries out his responsibility for managing the Federal work force. OPM aids the President in preparing civil service rules and advises him on actions to promote an efficient civil service. OPM's role is to promote, strengthen, improve, and represent management. Executive Order 11491 directed the Civil Service Commission (now OPM), in conjunction with the Office of Management and Budget (OMB), to establish and maintain a program for developing policy to guide agencies on Federal labor-management relations. With the passage of CSRA, OPM now has this responsibility. OPM provides policy guidance, technical assistance, training, and information to Federal agencies on labor-management relations--including grievance arbitration. OPM also consults with labor organizations on the Government-wide personnel rules and regulations it issues. OPM assists agencies in cases before FLRA which may have Government-wide labor relations impact.

1/Chapter 71 of title V of the U.S. Code and related amendments to the Back Pay Act, 5 U.S.C. 5596(b).

FLRA is an independent, bipartisan, and neutral third party for resolving labor-management relations disputes in the Federal Government. FLRA's role is to provide leadership in establishing policies and guidance for Federal labor-management relations. Its responsibilities include deciding policy questions, negotiability disputes, exceptions to arbitration awards, representation cases, and unfair labor practice complaints.

FMCS is an independent Federal agency established by title II of the Labor-Management Relations Act of 1947. FMCS is charged with the responsibility of preventing or minimizing those interruptions in the free flow of commerce, which grow out of labor disputes, and of assisting parties, through conciliation and mediation, in the settlement of such disputes. In addition, FMCS makes its services available as a last resort for settling grievance disputes arising over the application and interpretation of existing collective bargaining agreements. FMCS, on request, provides to the parties in a dispute a list of experienced professional arbitrators who meet minimum requirements established by FMCS. FMCS does not charge a fee for this service; however, the arbitrators directly charge involved parties for their services. FMCS is the largest source of arbitrators in the Federal sector.

The American Arbitration Association (AAA) is a private nonprofit organization established to aid professional arbitrators by providing legal and technical services. Like the FMCS, AAA provides, on request, lists of qualified arbitrators to labor organizations and employers, including Federal sector parties. The AAA charges a fee for its services.

FEDERAL SECTOR GRIEVANCE ARBITRATION: HOW IT WORKS AND HOW MUCH IT COSTS

Under CSRA, negotiated labor agreements must contain procedures for settling grievances. These procedures are generally the only ones available to unions and employees, with certain legislated exceptions, and are subject to binding arbitration for disputes not satisfactorily settled by the negotiated grievance process. However, FLRA has determined that agreements containing advisory arbitration on the effective date of CSRA may continue in force unless either party desires otherwise. According to OPM, as of July 1, 1980, about 88 percent of the negotiated agreements under CSRA contained binding arbitration.

Negotiated labor agreements contain grievance procedures involving a number of successively higher steps which correspond to higher management decisionmaking levels. At each of these steps management can render a decision. If not satisfied with the decision, the grievant/union can appeal it to the next higher step. In these grievance procedures the first step is generally at the first-line supervisor level and culminates with binding arbitration.

The agreements set time limits for processing a grievance through the various steps. These time frames can generally be extended on an individual basis by mutual agreement of the parties. Failure on the part of the union/grievant to meet the time frames renders the grievance moot, while failure on management's part generally allows the grievance to be moved to the next higher step in the procedure.

Grievance arbitration has become a method for peacefully settling labor-management disputes over the interpretation and application of labor agreements. Under this arrangement the parties to a labor agreement select an arbitrator to hear and decide the dispute. The parties generally accept the arbitrator's decision as final and binding.

Parties can obtain a list of arbitrators, from FMCS or AAA. From this list, the parties select an arbitrator. Once an arbitrator is selected, an arbitration hearing is conducted on a mutually agreed-to date. At the hearing, witnesses, facts, and exhibits are presented by the parties. Hearing transcripts may be used and post-hearing briefs are usually filed. After the hearing's conclusion, the arbitrator normally has a specified period within which a decision must be rendered. This period is 30 days for an AAA-supplied arbitrator and 60 days if selected through FMCS (unless the parties' labor agreement provides otherwise). These periods are established by AAA and FMCS rules. The above set of procedures is the most common form of arbitration and is generally referred to as conventional arbitration.

Either party to arbitration under CSRA may file an exception to the arbitration award with FLRA on the basis that the award is contrary to any law, rule, or regulation. If FLRA finds the award is deficient, it can take action to make the award conform to the requirements of CSRA and applicable laws, rules, or regulations. If neither party files an exception within 30 days of the award, the award becomes final and binding.

A number of factors can contribute to the ultimate cost of any given arbitration. The arbitrator's fees and expenses constitute the more easily identified costs. Other costs include money spent by the parties for investigating facts; preparing exhibits, hearing transcripts, and post-hearing briefs; and paying administrative fees. (See p. 8 for greater discussion of arbitration costs.)

Arbitrators' fees typically range from $150 to $300 a day for each day of hearing and each day of study time required for preparing the award. In addition to the fee, arbitrators usually are entitled to reimbursement for travel, hotel, and incidental costs. Based on 1980 data, which combines both public and private sector arbitrations, FMCS statistics show that the average arbitration hearing took 1 day, and that travel and study time

amounted to 2 days. FMCS data for this same period shows the average arbitrator fee was $884 for each arbitration and $128 for expenses.

IMPORTANCE OF GRIEVANCE ARBITRATION SYSTEMS TO LABOR RELATIONS

Although negotiating a national labor contract involves long, hard, and tedious work by both management and unions, signing the agreement does not necessarily reduce labor conflict or produce harmonious labor-management relations. Signing the agreement only signifies that both parties have reached accord over the terms and conditions of employment. Once negotiated, the agreement must be implemented and administered in accordance with the meaning and intent of the negotiating parties.

Contract administration--putting the agreement into practice at the operating level--is primarily the responsibility of management. Because it is sometimes difficult for managers to effectively apply the agreement's provisions in conducting their operations, Federal unions "police" the agreement to make sure the agencies adhere to the provisions of the agreement.

The grievance arbitration system is the key to effective contract administration and sound labor-management relations. The system provides employees and unions with the means to air their complaints concerning the agency's administration of the contract and any other work-related problems. The system provides the agency with a means to solve employee/union problems and to identify and correct weaknesses or poor contract administration. By resolving employee complaints, improving its administration of the contract, and correcting problems, the agency can enhance the labor-management relationship and reduce grievances, thereby improving employee morale and operating efficiency.

OBJECTIVES, SCOPE, AND METHODOLOGY

With the recent expansion of the Federal labor-management relations program, arbitration has become an important procedure for adjudicating employee grievances. Our objectives were to study and assess the efficiency of agencies' grievance arbitration procedures, including the use of arbitrators under CSRA, and to identify areas needing improvements. Much of our work concentrated on reducing costs and time frames associated with grievance arbitration.

Our work included interviewing officials at OPM, FLRA, FMCS, AAA, the Department of Labor, and the Federal Service Impasses Panel. We selected the following six Federal agencies and unions with the largest number of Federal employees represented by collective bargaining agreements for inclusion in our work.

Agencies

--Department of the Navy
--Department of the Army
--Department of the Air Force
--Veterans Administration
--Department of Health and Human Services
--Department of the Treasury

Unions

--American Federation of Government Employees, AFL-CIO
--National Federation of Federal Employees
--National Treasury Employees Union
--National Association of Government Employees
--Metal Trades Department, AFL-CIO (includes Metal Trades Councils)
--International Association of Machinists and Aerospace Workers, AFL-CIO

For field visits, we selected one activity, within each of the following agencies, from among those activities having the highest number of arbitrations during calendar years 1978 and 1979.

Department of the Army
Aberdeen Proving Ground Command
Aberdeen, Maryland

Department of the Navy
Mare Island Naval Shipyard
Vallejo, California

Department of the Air Force
Tinker Air Force Base
Oklahoma

Veterans Administration
Veterans Administration Hospital
Asheville, North Carolina

Department of Health and Human Services
Social Security Administration
Headquarters Central Office
Baltimore, Maryland

Department of the Treasury
Internal Revenue Service
Fresno Service Center
Fresno, California

We reviewed the grievance arbitration systems at the 6 activities, examined 17 negotiated labor agreements, and discussed the systems with both management and union representatives. At these six activities, we determined (1) what procedures were being followed, (2) what type of control data was being collected, (3) whether cost-effective grievance arbitration practices were in use, and (4) whether the grievance systems were being monitored and evaluated.

To identify problems and issues within current grievance arbitration procedures, we attended arbitration seminars jointly sponsored by FMCS, FLRA, and AAA. We also conducted literature searches, examined longstanding negotiated labor agreements, interviewed State and local government officials, and observed arbitration proceedings in the Federal sector.

CHAPTER 2

NEED FOR COST ACCOUNTABILITY AND THE USE OF COST-EFFECTIVE GRIEVANCE ARBITRATION PRACTICES

The total cost of Federal labor relations is currently unknown and costs associated with grievance arbitration are largely unaccounted for. Management accountability for the costs associated with the grievance arbitration process is needed to insure good program management. Without this accountability, management has no way of knowing where the dollars are going, how much is being spent, or where changes are needed. Cost accountability can also help management determine the efficiency of its grievance arbitration processes.

Furthermore, a number of grievance arbitration practices currently used in the private sector, which can help reduce the costs and time frames associated with grievance arbitration, are generally not being used in the Federal sector.

COST ACCOUNTABILITY FOR GRIEVANCE ARBITRATION NEEDS MORE EMPHASIS

Most Federal agencies we visited could only estimate their grievance arbitration costs. At the agency headquarters level, only two of the six agencies visited collected some cost information for arbitration during any given period of time. These costs, however, were limited to accounting for arbitrators' charges and transcript costs.

The following example indicates the potential significance of arbitration costs and the importance of accounting for them. The United States Postal Service, although not covered by CSRA, is unique among Federal employers in that it has the largest unionized work force (about 585,000 employees as of February 1981). During the 3-year period ended July 1978 (which is the most current data available), the grievance arbitration processing costs for the Postal Service alone were estimated to have ranged between $40 million and $143 million for management. Processing costs include management's time and arbitrators' charges.

In 1972 the Civil Service Commission (now OPM) and OMB issued joint guidelines for the "Management and Organization of Agency Responsibilities Under the Federal Labor-Management Relations Program." These guidelines emphasized the need for Federal managers to allocate resources for labor relations and encouraged agencies to develop estimates of planned labor relations activities and associated expenditures. These estimates would include the annual salary cost of agency personnel involved in activities directly related to labor relations, training costs, third-party procedure expenses (which would include costs associated with arbitration),

consulting fees, and staff travel expenses. The guidelines also stressed the need for (1) preparing plans and resource estimates required to achieve labor relations goals, (2) developing a systematic approach for planning agency labor relations training (discussed further in chapter 5), and (3) conducting an annual review and evaluation of the labor relations program.

According to OPM officials, agencies generally have not followed these guidelines. Only one of the six agencies we visited estimated the agency's costs for management's time and arbitration preparation and presentation. None of the six activities visited actually accounted for the costs of preparing and representing the activity in arbitration. In addition, these activities have not accounted for the personnel costs of processing grievances through the various steps of the grievance process. Labor-management relations officials at the six agency headquarters said that there is no requirement to account for the costs of grievance arbitration and that the 1972 guidelines are not being followed because neither OPM nor OMB has emphasized the need to do so or provided necessary follow-up. In addition, according to these officials, limited resources have hindered the agencies' ability to follow the guidelines.

Greater cost accountability is needed to help assure efficiency and to encourage cost saving practices. Presently, accountability is made more difficult because labor relations costs--including grievance arbitration costs--at the activity level are usually included in the overall budget for the personnel management or employee relations functions. Some agency officials said that grievance arbitration costs are unpredictable and generally beyond their direct control, since they are dictated by the number of grievances filed by employees/unions.

The costs to management associated with grievance arbitration systems may include the following:

--Arbitrator charges.

--Administrative fees paid to obtain an arbitrator.

--Cost of facilities used in arbitration proceedings.

--Management time spent for preparing and presenting the arbitration case (including administrative support services).

--Union representative's time for preparing and presenting the case, when paid for by management.

--Witness time when paid for by management.

--All travel costs, except those charged by the arbitrator, for which management paid.

--The costs for pre- and post-hearing briefs.

--The costs for arbitration hearing transcripts.

--Attorney's fees which can be paid for by management, under recent decisions by the FLRA.

In addition, there are other costs associated with grievance processing and arbitration that are difficult, if not impossible, to measure. These include

--lost productive time, and

--costs associated with reduced operating efficiency or effectiveness where labor-management conflicts exist.

The unions may incur similar types of costs. However, not all agencies and unions will incur all of the above costs. For example, these parties will not pay administrative fees if they select an arbitrator from FMCS. If an arbitrator is selected through AAA, however, administrative fees will be paid by both parties. Generally, arbitrator's fees, including travel expenses and the cost of transcripts, are shared equally by the parties.

OPM officials said that they realize the importance of accounting for grievance arbitration costs. OPM is revising the 1972 guidelines, in part, to reflect the increased emphasis on labor relations accorded by the CSRA and to reaffirm the importance of cost accountability. OPM will issue these revised guidelines in 1981.

COST-EFFECTIVE GRIEVANCE ARBITRATION PRACTICES NEED GREATER EMPHASIS

A number of practices, currently used in the private sector and to some extent in the Federal sector, have helped to reduce the costs and time frames of grievance arbitration. These practices include: expedited arbitration, permanent arbitrator panels or umpires, consolidated or representative grievances, and limited use of transcripts and post-hearing briefs. We believe these practices can be used to a greater extent in the Federal sector.

Expedited arbitration

Expedited arbitration is designed to simplify the legal process and reduce the costs and length of time associated with conventional arbitration. Expedited arbitration has particular application to those grievances which are generally considered routine in nature, needing an arbitrator's decision based on case facts, and not generally involving substantive contract interpretation. This type of arbitration is tailormade for many discipline, appraisal, and promotion grievances.

The Federal sector does use expedited arbitration, but OPM estimates that only about 12 percent of the newly negotiated labor agreements being added to their files as of December 1, 1979, contain provisions for expedited arbitration. Among the 6 agencies we visited,

--3 of the agencies provide for expedited arbitration in 6 of 196, 12 of 104, and 4 of 33 labor agreements respectively;

--2 agencies do not know how many of their labor agreements contain provisions for expedited arbitration; and

--1 agency does not provide for any expedited arbitration.

Our work at 6 field activities, covering 17 labor agreements from among the top 6 Federal unions, revealed that only 1 agreement provided for expedited arbitration.

In the private sector the parties in many industries, 1/ as well as parties within the New York State government and in the U.S. Postal Service, have established expedited arbitration, when possible, to reduce the high costs and long delays of conventional arbitration. 2/ The effects can be dramatic. For example, under one procedure, awards which previously took 2 or 3 years--or even longer--to be rendered are now rendered within 30 to 90 days of the events giving rise to the grievance.

In order for expedited arbitration to be used successfully, the parties should understand its limitations and potential liabilities as well as its benefits. The reduced cost and time frame benefits are obtained by (1) eliminating the need for hearing transcripts and post-hearing briefs, (2) providing for bench decisions without an arbitrator's written opinion if the parties desire, or (3) providing for an arbitrator's expeditious written decision and opinion (generally within a minimum specified time period of between 1 to 5 days after the close of the hearing) if the parties desire. Potential limitations include the following:

--Expedited arbitration decisions are not appealable to higher authority.

1/These private industries include the theatre, the waterfront, the railroad, breweries, newspaper publishing, paper manufacturing, steel production, and appliance manufacturing.

2/Michael F. Hoellering, Speech presented at the 27th Annual Winter Meeting of the Industrial Relations Research Association; San Francisco, California; December 28, 29, 1974.

--Expedited arbitration decisions are not precedential and therefore may not be cited in subsequent cases.

The parties must determine if expedited arbitration is desirable and beneficial. Professor Walter Gellhorn, 1/ a noted arbitrator, has stated:

> "What is called 'expedited arbitration' of a grievance should instead be identified as 'normal arbitration,' in my opinion. The cumbersome kind, with a transcript, briefs, and all the trimmings, should be denominated 'protracted arbitration' or, even more cuttingly, simply as 'the lawyers' friend.' Few grievances generate evidential problems of such complexity as to becloud the arbitrator's mind. Few arguments about the meaning of contract terms are so subtle that they cannot be grasped unless what has been said orally is repeated in writing. Few controversies are comfortable for the parties to continue living with while the arbitrator's decision is postponed because he must await the delivery of a transcript and post-hearing briefs. Few matters worth taking to hearing deserve to be so imperfectly prepared that the parties' representatives cannot speedily and succinctly state their case, present factual data, and make closing arguments. So I am all for the expedited procedure. It serves the basic purpose of grievance arbitration because it encourages an economical, quick, and understandable decision." 2/

Management officials at the activity level gave various reasons for not using expedited arbitration. The reasons include (1) the fear that the unions will take more cases to arbitration at less cost, (2) the belief that regular arbitration allows more time for case preparation, and (3) that the past practice of using conventional arbitration has been satisfactory. These officials, however, could not provide any examples of actual bad experiences or results from using expedited arbitration.

1/Professor Gellhorn is a member of the National Academy of Arbitrators. The Academy is a prestigious organization of recognized arbitrators who have demonstrated their excellence in arbitration.

2/"Expedited Arbitration," Proceedings of the New York University Twenty-Eighth Annual Conference on Labor, May 19-21, 1975, (New York University, 1976), p. 325.

At the six agency headquarters, labor-management relations officials generally agreed that expedited arbitration is a good procedure which they will try to make greater use of in the future. Benefits cited include reduced costs and time frames.

FMCS officials stated the Federal sector should make greater use of expedited arbitration. To encourage this use, FMCS has recently developed a model expedited arbitration procedure for Federal parties to use as a starting point for negotiating expedited arbitration. According to FMCS officials, since the model's development, one agency has negotiated expedited arbitration into a master contract as a local option. Another agency has also proposed expedited arbitration in its current negotiations.

Permanent arbitrator panels or umpires

Using permanent panels of arbitrators or a permanent umpire has several advantages which contribute to the efficiency and effectiveness of the arbitration process. Under the permanent panel arrangement the parties select a limited number of arbitrators to serve for the life of the parties' negotiated agreement. Arbitrators are assigned cases on a strict rotation basis as established by the parties. The permanent umpire arrangement is similar to the above except that the parties agree to use one specific arbitrator during the negotiated agreement's term. Both arrangements can shorten arbitration time frames and costs and increase the quality of arbitrator decisions because the arbitrator becomes extensively familiar with the operating environment of the parties. The need to bring an arbitrator "up-to-speed" each time there is a need for arbitration is thereby eliminated. These arrangements are particularly useful when the parties have high volumes of arbitrations.

In addition to the aforementioned advantages, there are other benefits to using permanent panels or umpires. Noted authorities on arbitration, Frank Elkouri, Professor of Law, University of Oklahoma, and Edna Asper Elkouri, Juris Doctor with Honors, George Washington University Law School, have stated the following:

> "Permanent arbitrators make awards available for the guidance of the parties. Cases which do not involve new issues or new situations are likely to be settled at early stages of the grievance procedure since the parties know how the arbitrator has decided similar disputes. Thus one effect of a decision covering a disputed point may be its application by the parties themselves to other disputes involving the same issue. The awards of a permanent arbitrator

generally will be consistent with one another, thus avoiding the confusion that sometimes results from having two or more temporary arbitrators rule on similar issues." 1/

According to FMCS, permanent panels or umpires are used in many private sector businesses such as the steel, mining, automotive, needletrade, and airline carrier industries. In 1 automotive corporation during a recent 1-year period, only 17 of 45,000 grievances went to arbitration because, according to officials at FMCS, the permanent umpire understood his obligation to and the environment of the parties so well that his clear and concise arbitration opinions established case law. Thus, most grievances were resolved before arbitration.

Our review indicates that the Federal sector rarely uses permanent panels or umpires. According to OPM, as of July 1, 1980, 2,035 Federal sector binding arbitration awards had been issued for which the source of the arbitrator is known. In 96 percent or 1,950 of the cases, the arbitrators were selected from FMCS, AAA, or State agencies. The remaining 4 percent of the cases would include, but is not limited to, the use of permanent panels or umpires. At the 6 Federal activities chosen for our study, only 2 of the 17 labor agreements we reviewed (1 for each of 2 separate activities) contained a provision for permanent panels of arbitrators. In one agreement the provision was used in conjunction with expedited arbitration, while in the other it was used for selecting arbitrators in conventional arbitration.

Officials at those activities where labor agreements did not provide for permanent panels or umpires said that labor relations representatives at these activities

--did not want permanent panels or umpires because they feared arbitrators would become too familiar with the activities' operations and end up splitting their decisions between the parties,

--opposed permanent panels or umpires because they desired to "pick and choose" arbitrators, and

--believed the parties were too "leary" of each other to use panels or umpires.

In addition, at two activities the unions were either not familiar with this practice or felt it would be biased toward management. At the remaining two activities, however, the unions

---

1/Frank Elkouri and Edna Asper, "How Arbitration Works" (Washington, D.C.: Bureau of National Affairs, 1977).

favored its use for discipline cases, to reduce arbitration time frames, and to increase arbitrators' knowledge of the work situation.

Labor-management relations officials at the six agency headquarters generally agreed that using permanent arbitration panels or umpires is a good idea, one they plan to advocate in the future. Benefits cited included familiarity with issues and area, reduced costs, and quicker decisions.

Consolidated or representative grievance

The consolidated or representative grievance is another practice that can be used to more efficiently handle grievances whether at the lower steps of the grievance procedure or at arbitration. Grievances that are the same or are substantially similar are consolidated into one grievance, or one grievance is selected as representative of the group. The consolidated or representative grievance is then processed throughout the remainder of the system, including arbitration if necessary. The decision is then applied to all other grievances in question, thereby reducing the time and cost of grievance processing and arbitration. (The consolidated or representative grievance should not be confused with a "class" grievance which is normally filed by the union over a specific incident or action that affects many employees.)

According to OPM, as of July 1, 1980, 37 percent of the 2,391 labor agreements negotiated with agencies covered by the CSRA contained provisions for consolidated or representative grievances. These agreements cover 436,107 or 43 percent of the 1,008,068 CSRA bargaining unit employees. Only 1 labor agreement of the 17 at the 6 activities we visited contained such a provision.

In the U.S. Postal Service, the parties have recognized the value of consolidated or representative grievances by negotiating a memorandum of understanding to accommodate such grievances. The effects have been positive. For example, in one 1977 instance, the union filed 709 grievances covering 4 issues. Just prior to arbitration the parties selected one grievance for each of the four issues as being representative of the others. All 4 grievances were arbitrated at 1 arbitration hearing; the decisions were respectively applied to all 709 grievances. As a result, time, money, and effort were greatly reduced.

According to OPM, unions generally do not want to consolidate grievances early in the procedure, but instead want to consolidate just prior to arbitration. Some labor relations representatives believe that if the union does not consolidate early in the procedure, it should incur the costs for processing each grievance individually. However, management must also spend additional money unnecessarily in these instances. Labor relations officials at

the six agency headquarters said that they generally favored using consolidated or representative grievances, especially when the number of grievances is high.

Arbitration hearing transcripts and post-hearing briefs

Arbitration hearing transcripts and post-hearing briefs 1/ are routinely used in many Federal sector arbitration cases. These transcripts and briefs are often expensive and contribute to delays in processing cases.

While exact figures are not available, FMCS estimates that transcripts cost approximately $3 per page (a transcript may run 250 pages for each hearing day) and briefs average between $500 and $780 per case.

The following examples indicate that transcripts and briefs are not only expensive, but also contribute to delays in case processing:

--When a transcript is requested by one party, the other may feel it needs one as well.

--When either of the parties requires a transcript, the arbitrator may then feel obliged to refer to it in preparing the opinion.

--The availability of the transcript may increase the likelihood that the parties will want an opportunity to file post-hearing briefs.

--Briefs require the arbitrator to spend more time studying the case.

Four of the six activities we visited routinely used hearing transcripts, while the remaining two did not because the parties generally viewed their use as not beneficial and too expensive. Where routinely used, the unions maintained that the transcripts were unnecessary except in cases of major or national impact. Management, however, generally wanted to use transcripts in case they wanted to appeal an arbitrator's decision and for reference material in filing post-hearing briefs. In most cases, attorneys initiated the use of transcripts. In only one activity was their use made mandatory by the labor agreement.

1/A post-hearing brief is a written summary of a party's position that is filed with the arbitrator after the formal arbitration hearing.

Post-hearing briefs were also extensively used at five of the six activities visited. At one activity it was not known why briefs were used, and at another, which had both conventional and expedited arbitration, briefs were used only in conventional arbitration at the request of the arbitrator. At the remaining three activities, management initiated the use of briefs because

--attorneys viewed briefs as a necessary legal practice,

--management wanted the opportunity to update the information presented in the hearing and/or reorder or emphasize certain aspects of a case, and

--management wanted more time to prepare closing arguments.

Although exact figures are not available, FMCS statistics (for the year 1978) on all private and public arbitration show that transcripts were used in 25 percent of the cases, while post-hearing briefs were used in 67 percent of the cases.

We are not advocating that briefs and transcripts be eliminated completely; both the potential liabilities and benefits of their use need to be considered. It is up to the parties to decide when they should be used. For example, viable alternatives to transcripts do exist and include the use of tape recorders, arbitrator's notes, and exhibits. Yet these alternatives may not be feasible if the case is complicated, lengthy, or has a high probability of being appealed to a higher authority.

CONCLUSIONS

Agencies need to account for their grievance arbitration costs to help prevent wasteful expenditures and to better manage their grievance arbitration processes. In addition, a number of grievance arbitration procedures currently used in the private sector, which can help reduce costs and time frames, could be used more often in the Federal sector. OPM needs this cost information to monitor agencies' efficiency and, where appropriate, provide technical assistance. OPM's plans to revise the joint 1972 guidelines, thereby reaffirming the importance of cost accountability, is a good starting point. It is important that OPM lead the way in promoting greater use of cost-effective procedures to reduce the cost and time of grievance arbitration.

RECOMMENDATIONS

We recommend that the Director, OPM:

--Require agencies to account for the total costs associated with the grievance arbitration process and to report annually to OPM on these costs. This annual report should include the number of formal grievances filed, number of

grievances going to arbitration, arbitration-related costs, and management-related costs.

--Provide guidance and technical assistance to agencies and management personnel on cost-effective grievance arbitration procedures.

--Encourage agencies to

(1) attempt negotiating expedited arbitration and consolidated or representative grievance procedures into subsequent labor agreements,

(2) use permanent arbitrator panels or permanent umpires for binding grievance resolution, and

(3) limit the use of arbitration hearing transcripts and post-hearing briefs.

CHAPTER 3

FEDERAL SECTOR GRIEVANCE ARBITRATION

SYSTEMS NEED TO BE MONITORED AND EVALUATED

A grievance arbitration system is generally considered efficient and effective when grievances are resolved at the lowest possible level and in a prompt, fair, and equitable manner. While the parties we contacted generally recognize these objectives, most do not know how well their grievance arbitration systems operate since they have not developed methods to monitor and evaluate systems in use. In addition, agencies generally do not collect the basic "control" information needed to monitor and evaluate the systems.

BASIC INFORMATION IS NEEDED

Monitoring and evaluation at the activity level is essential because it is at this level that most problems and grievances originate and their settlements ultimately implemented. However, before monitoring and evaluation can occur, certain basic or "control" information is needed. Addressing this need for information, Mollie H. Bowers, former Assistant Professor, College of Business and Management, University of Maryland states:

> "* * * it is not sufficient to rely merely upon the total number of complaints as the measure of effectiveness in grievance administration. The aggregate figures should be broken down to reveal grievance activity for each area of supervision. Grievances should also be categorized by the type of complaint involved and by the level at which settlement has been achieved for the agency as a whole and for each supervisor. Data on the time elapsed between initiation and final resolution of a grievance should be collected and related to each of these categories." 1/

Ms. Bowers also points out that a high rate of grievances does not necessarily mean that problems exist in the labor-management relationship or contract language; nor does a low rate of grievances necessarily indicate sound contract administration.

Analyzing grievances is a more complex task than it may appear to be on the surface. For this reason, a grievance control

---

1/Mollie H. Bowers, "Contract Administration in the Public Sector," (Chicago: International Personnel Management Association, 1976).

log is an essential tool for keeping track of grievances, analyzing issues, identifying the responsible union stewards and activity managers, controlling time limits, and determining the level at which grievances are ultimately resolved.

Despite the importance of control information, none of the activities we visited had adequate control logs and several had none. More specifically, of the three activities which had grievance control logs, none tracked processing time frames and two did not track grievances through all formal steps of the process. Furthermore, at one of the activities, the labor relations group prepared grievance reports for higher management but did not know what was done with the reports because no feedback was received. The labor relations group said they assumed that some of the information was used for comparing their grievance actions with those of other similar activities. Without feedback, however, they did not know their relative standing and the areas needing improvement. At another activity, grievance information was merely recorded in the log; it was not analyzed in any way.

Labor-management relations officials at the six agency headquarters said that control information is not being collected on a consistent basis for use by headquarters. These officials generally believed this information would alert management to trends and issues needing their attention.

MONITORING AND EVALUATION CAN ENHANCE FEDERAL GRIEVANCE ARBITRATION SYSTEMS

Without basic grievance control information, formal methods of monitoring and evaluating the efficiency and effectiveness of grievance arbitration systems are not generally possible at either the activity or headquarters level. For example, only one of the six activities we visited had developed a method for monitoring and evaluating its grievance arbitration system. This method, however, lacked such basic information as processing time frames and the names of the management and union representatives who handled the grievances.

When formal methods for monitoring and evaluating do not exist, it is difficult to identify labor-management problems and their causes. More specifically, if labor-management representatives do not know the number of formal grievances filed, they cannot easily determine if activities are having problems. Labor relations authorities point out that if an entity's grievance arbitration caseload reaches or exceeds 10 percent of its initial formal grievance volume, the entity may have labor relations problems that need to be identified and solved. We were able to reconstruct this information for only two of the activities. At these activities arbitrations as a percent of formal grievances were 27 and 28 percent respectively for calendar years 1978 and 1979 combined.

Labor-management relations officials at the six agency headquarters said that monitoring and evaluation systems have not been established because they are not required. These officials generally believed this information would be very useful.

A prior GAO report to the Congress entitled "Improved Grievance Arbitration System: A Key to Better Labor Relations In the Postal Service" (GGD-80-12, November 28, 1979) shows the consequences which can be expected when monitoring and evaluating systems do not exist. In the Postal Service, conflict over certain contract issues increased, and the grievance arbitration system became overburdened with unnecessary grievances. As a result, grievance processing costs increased, impairing the ability of Federal managers to do their jobs as efficiently and effectively as possible.

To assist the Postal Service in identifying problems, a computerized monitoring system and a national reporting system were set up to audit the grievance arbitration procedures. The Postal Service reported that the computerized monitoring and national reporting systems would also help them focus on supervisory performance in labor relations matters.

The need for monitoring and evaluating Federal sector grievance arbitration systems is not new. A 1979 report, by George T. Sulzner, to OPM, entitled "The Impact of Labor-Management Relations Upon Selected Federal Personnel Policies and Practices," 1/ refers to a 1974 Civil Service Commission report entitled "Elements of Success in Federal Labor-Management Relations" which identified the need for systematic Federal sector grievance process monitoring and evaluation. In the 1979 report, Mr. Sulzner confirmed the continuing lack of monitoring and evaluation systems.

CONCLUSIONS

The agencies and activities reviewed have not developed formal, systematic methods for monitoring and evaluating their grievance arbitration systems. In addition, the activities do not collect the information needed to perform the monitoring functions. As a result, labor-management representatives do not know the number of formal grievances that have been filed

---

1/Professor George T. Sulzner conducted this research from August 1, 1977, through July, 1978. He was working in the Office of Personnel Management, then the U.S. Civil Service Commission, as a National Association of Schools of Public Affairs and Administration (NASPAA) Faculty Fellow, on leave from the University of Massachusetts/Amherst, where he is an Associate Professor of Political Science and Adjunct Faculty member of the Labor Relations and Research Center.

and therefore cannot effectively determine which activities are having problems. It is important that OPM in its role of promoting an efficient and effective Federal work force stress to agency management the importance of monitoring and evaluating their grievance arbitration processes. By identifying and correcting labor-managment problems, management could improve productivity and be better prepared to meet current and forthcoming labor relations challenges.

RECOMMENDATIONS

GAO recommends that the Director, OPM, require agencies to monitor and evaluate their grievance arbitration processes. OPM should provide technical assistance and guidance to help agencies meet this requirement.

CHAPTER 4

EXPANDING ARBITRATOR ROSTERS CAN ENHANCE THE QUALITY OF FEDERAL ARBITRATION

Nearly all agency and union officials we interviewed believed that arbitrators are not adequately experienced in Federal sector arbitration. Arbitrators handling Federal sector cases should be familiar with the work environment of the parties and the applicable Federal laws, rules, and regulations. However, panels of arbitrators having these qualifications are not routinely provided to Federal sector parties by FMCS. FMCS's roster of Federal sector arbitrators needs to be expanded and Federal parties should routinely request arbitrator panels from this roster. This would help insure that Federal sector parties are employing the highest quality arbitrators available for Federal sector arbitration.

FMCS IS THE SOURCE OF MOST FEDERAL SECTOR ARBITRATORS

The FMCS is the largest source of arbitrators within the Federal sector. According to OPM's information on known sources of arbitrators as of July 1, 1980, FMCS was the source for more than 90 percent of all Federal sector arbitrators. The AAA was the source for 1.8 percent, while other sources provided the remainder.

FMCS maintains rosters of arbitrators from which panels of arbitrators are provided to the parties on request. All arbitrators on the FMCS and AAA rosters must conform to the "Code of Professional Responsibility for Arbitrators of Labor Management Disputes" (approved by the Joint Steering Committee of the National Academy of Arbitrators, the FMCS, and the AAA). This code requires that:

> "An arbitrator must uphold the dignity and integrity of the Office and endeavor to provide effective services.
>
> "To this end, an arbitrator should keep current with the principles, practices, and developments that are relevant to his or her own field of arbitrator practice."

Furthermore, FMCS requires all arbitrators on its roster to meet certain minimum qualifications, including previous arbitration of at least five cases. The sole criterion FMCS uses to judge an arbitrator's Federal sector qualifications is a requirement that the arbitrator must have arbitrated at least one Federal

case. 1/ FMCS officials said that using arbitrators from the Federal sector roster would enhance the quality of Federal arbitration decisions.

According to FMCS officials, it is the policy of FMCS to identify arbitrators with special qualifications, such as experience in certain issues or industries. FMCS does not routinely submit arbitrator panels experienced in Federal sector arbitration to Federal parties. However, it will submit such a panel at the specific request of the parties. FMCS officials said that names of arbitrators from the Federal roster were not routinely provided to Federal sector parties since they did not want to limit the number of arbitrators from which to choose. FMCS officials told us that they are considering revising their policy to routinely supply Federal sector parties with arbitrators from the Federal roster. However, because of the increasing Federal arbitration workload, FMCS would need to expand their Federal roster of arbitrators.

Currently, FMCS has a roster of 281 arbitrators it considers qualified to arbitrate Federal sector cases. As of October 1, 1979, FMCS had completed a search of OPM's Labor Agreement Information Retrieval System which revealed 630 arbitrators who have arbitrated at least one Federal sector case. Although FMCS wants to determine who is interested in serving in the Federal sector and thus increase their roster of Federal sector arbitrators, staffing and budgetary constraints have delayed this project.

Nearly all agency and union officials interviewed complained that many arbitrators are not adequately experienced in Federal sector arbitration. Many of these parties believe, whether true or not, that some arbitrator decisions are, therefore, low in quality. We did not attempt to evaluate the legitimacy of these complaints or of any arbitrators' awards.

Numerous Federal laws, rules, and regulations not applicable in the private sector place extra demands on arbitrators handling Federal cases. For example, in arbitrating cases involving any of the following--a reduction in grade or removal for unacceptable performance, removal or suspension for more than 14 days, reduction in pay, furlough of 30 days or less--the CSRA requires arbitrators to apply the same statutorily prescribed standards in deciding the case as would be applied if the matter had been appealed to the MSPB. Thus, the arbitrator must not only understand the parties' negotiated labor agreement and work environment, but must also know the statutorily prescribed standards within which the MSPB functions.

1/During our review we did not evaluate whether FMCS's criteria for judging an arbitrator's Federal sector qualification were adequate.

These extra demands make Federal sector arbitration unique. It is therefore important that Federal arbitrators be familiar with the Federal environment. To help arbitrators meet these extra demands, the FMCS, FLRA, and AAA jointly sponsor periodic seminars across the Nation to provide the latest developments in Federal sector arbitration. Attendance at these seminars is voluntary.

CONCLUSIONS

The quality of arbitration decisions can be enhanced if Federal parties select arbitrators from the FMCS Federal arbitrator roster. The increasing number of Federal arbitrations requires an expanded Federal sector roster, a project which currently has low priority within FMCS.

RECOMMENDATIONS

We recommend that the Director, OPM:

--Work with the Director, FMCS, to expand FMCS's roster of qualified Federal sector arbitrators.

--Encourage agencies to routinely request Federal sector arbitrator panels from FMCS's Federal arbitrator roster.

CHAPTER 5

ADDITIONAL TRAINING NEEDED IN GRIEVANCE ARBITRATION

It is important that management personnel be well trained in labor relations and grievance arbitration. According to FLRA and FMCS, how well the parties prepare and present their case has a bearing on the quality of the arbitrator's decision. Training can also help to reduce the number of formal grievances filed. Our work indicates, however, that Federal management personnel may not be adequately or appropriately trained, and that available training may not sufficiently emphasize the most efficient and effective grievance arbitration procedures.

NEED TO ASSESS LABOR RELATIONS TRAINING NEEDS

As previously stated, the joint 1972 guidelines stressed the need for labor relations training among Federal agencies. These guidelines, currently applicable, require agencies to (1) identify agency-wide labor relations training needs, (2) develop a program to meet these needs, and (3) annually evaluate the program's success. The guidelines point out that these program evaluations should be qualitative as well as quantitative and determine the efficiency of the training provided.

According to OPM officials, many agencies are generally not following these 1972 guidelines. Agencies are generally not assessing labor relations training needs. For example, at four of the six agencies selected for review, labor relations officials did not know if all labor relations personnel had received appropriate training or even how many individuals were responsible for preparing for and participating in arbitration proceedings. At the remaining two agencies, headquarters officials told us that all labor relations personnel had received appropriate training, but according to labor relations managers at the activities within these agencies, there are still labor relations personnel who do need training.

According to labor relations representatives at the six activities reviewed, there are labor relations personnel who need labor relations and/or grievance arbitration training but have not received it. For example, training has been basically nonexistent in 1 activity for the past 2 years, and, in another, no one in personnel or labor relations has received any formal training in negotiations or grievance arbitration since 1974. In 1974 the Chief of Personnel was the only individual to receive this type of training.

A number of labor relations personnel at these activities said that labor relations and grievance arbitration training for management personnel is needed. They believe that such training is necessary to acquaint management with the concepts of labor relations and effective grievance arbitration handling. At one activity we were told that such training was curtailed in 1978, and since then the activity has experienced a noticeable increase in grievances that should have been resolved at the first-line supervisor level. At another activity, a 1974 agency evaluation of personnel management concluded that lower level managers were not being trained in labor relations and recommended that training be provided. The Chief of Personnel at this activity told us that the need for this training still exists.

According to agency labor relations officials, training is needed in the area of grievance arbitration procedures. In addition, three of these officials said their agencies were not assessing training needs for the labor relations area. Agency and activity officials gave various reasons why needed training has not been provided. Some labor relations representatives cited general budget cuts and/or a lack of training funds as the primary reasons for lack of training. A shortage of travel funds was also mentioned. One activity said that internal agency reorganization removed the training responsibility from the labor relations group; another cited a lack of knowledge-on the activity's part--of when, where, and on what subject OPM training is offered. Some agency officials said that training has recently concentrated on merit pay, performance appraisals, and the Senior Executive Service.

According to labor relations authorities--Elkouri, Mollie H. Brown; representatives of OPM, FMCS, FLRA, AAA, and the Department of Labor--adequate and appropriate labor relations training is a basic prerequisite to a successful labor relations program. They also point out that such training is not a one-time item but is a continuing responsibility. Such training is necessary because agency management is responsible for interpreting, administering, and monitoring negotiated labor agreements.

TRAINING MUST PLACE MORE EMPHASIS ON COST-EFFECTIVE PRACTICES

In the Federal sector, OPM is responsible for providing labor relations training to meet the needs discussed above. However, responsibility for obtaining the training rests with each individual agency. Therefore, agencies may use the training services of OPM or obtain training for their labor relations personnel from other training sources.

At the activities we reviewed, training in contract negotiations and grievance arbitration, provided by both these sources, may not adequately cover the cost-effective aspects of grievance

arbitration. Labor relations personnel who had attended recent OPM negotiations and/or grievance arbitration training pointed out that the courses they attended only addressed and emphasized the processes or mechanics of negotiation or grievance arbitration, and did not discuss or stress cost-effective aspects.

A similar situation exists for in-house training. Four of the six activities provide in-house specialized labor relations training. Generally, cost-effective grievance arbitration practices are not covered in this training; one activity's training did introduce certain aspects but did not cover the advantages and disadvantages of their use.

We reviewed course material for OPM sponsored training and found that they did not stress cost-effective practices. OPM said, however, that they are currently studying labor-relations training and that Federal sector training may be modified dependent on the outcome of this study.

CONCLUSIONS

Because the joint 1972 guidelines for labor relations are generally not being followed by agencies, OPM needs to take agressive steps to assure compliance. Most agencies included in our review are not assessing labor relations training needs. Most agency officials agreed that their employees need grievance arbitration training. Training courses which are available do not emphasize the cost-effective practices which can be put to use in the grievance arbitration process.

RECOMMENDATIONS

We recommend that the Director, OPM:

--Require agencies to assess their current labor relations training programs, determine their training needs, and provide needed training--especially in the areas of cost-effective grievance arbitration practices. OPM should periodically followup with agencies to insure compliance.

--Emphasize to agencies the importance that they should give labor relations training under the requirements of the CSRA.

(964158)

AN EQUAL OPPORTUNITY EMPLOYER

UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE

THIRD CLASS