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**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)	
)	
American Federation of Government)	
Employees, Local 1403,)	
)	PERB Case Nos. 09-UC-01 and 11-RC-01
Union,)	
)	
and)	
)	Opinion No. 1305
American Federation of Government)	
Employees, Local 2725,)	
)	
Union,)	
)	
and)	
)	
District of Columbia Housing Authority,)	
)	
Agency,)	
)	

ORDER FOR MEDIATION

I. Statement of the Case:

This consolidated case involves a Petition for Unit Clarification, PERB Case No. 09-UC-01, filed by the American Federation of Government Employees, Local 2725 (“AFGE Local 2725”) on February 20, 2009; and a Recognition Petition, PERB Case No. 11-RC-01, filed by the American Federation of Government Employees, Local 1403 (“AFGE Local 1403”) on March 30, 2011. Both petitions were filed pertaining to potential representation of employees within the District of Columbia Housing Authority (“DCHA”).

DCHA filed a document styled "Response [of DCHA] to the Petition for Unit Clarification". ("Response to Petition"). After receiving DCHA's response in PERB Case No. 09-UC-01, the Board scheduled the matter for a hearing. The hearing, however, was postponed at the request of the parties, pending settlement of disputes between DCHA and AFGE 2725.

On March 30, 2011, AFGE Local 1403 filed its Recognition Petition.¹ PERB directed that a notice be posted concerning AFGE Local 1403's Recognition Petition. DCHA submitted comments and supplemental comments pertaining to AFGE Local 1403's Petition. On July 28, 2011, AFGE Local 2725 filed a Petition for Intervention in AFGE Local 1403's Recognition Petition. On August 8, 2011, the Board administratively reviewed and deferred action on AFGE Local 2725's Intervention Petition:

The Board defers action on the Petition pending the results of negotiations between DCHA and AFGE 2725. The Petition[er], however, has not: (1) provided the showing of interest required by Board Rule 508(a); or (2) asserted that it is the "incumbent exclusive representative" of the employees in the proposed bargaining unit, as required by Board Rule 508(b).

On February 6, 2012, DCHA submitted a settlement agreement dated December 22, 2011. The agreement states, in pertinent part, that:

The undersigned District of Columbia Housing Authority ("DCHA") and AFGE Local 2725 (Local 2725) (collectively referred to as the "Parties") hereby agree that all issues concerning the above-referenced group grievance, along with **any related action**, are hereby resolved under the terms and conditions set forth below in this agreement . . .

* * *

. . . This Settlement Agreement resolves all known or potential issues between the Parties arising out of the Grievance or **any related dispute**, now or in the future. This **also resolves any action or complaint filed by the Union related to the same issues pending before the Public Employee Relations Board.** This Agreement is in complete resolution and settlement of the Grievance on behalf of Local 2725 and each Adjusted Employee identified in the Group identified in this Agreement with regard to all []issues, common law claims, contract disputes, grievances, actions and disputes between the Parties concerning the compensation of the Adjusted Employees. The terms and

¹ At this period in time, AFGE 2725 and DCHA continued to indicate to the Board that settlement discussions were continuing, and continued to request postponement of a Board hearing.

conditions of the individual employee's respective settlements are provided in Addendum 1 through 40. In consideration of the settlement agreement, the mutual covenants, promises, releases, and agreements contained herein, and intending to be legally bound, Local 2725 and the group of grievants, along with all individual Adjusted Employees agree to withdraw their group grievance against the DCHA and **any related complaint pending before the Public Employee Relations Board with prejudice.** This Agreement shall be governed by, and construed in accordance with, the laws of the District of Columbia, including the Comprehensive Merit Personnel Act. This Agreement represents the entire agreement and understanding between and among the Parties with respect to the subject matter hereof, and it supersedes any and all discussions and settlement offers relating thereto.

(Settlement agreement at p. 2, emphasis added).

On February 9, 2012, the Board issued a letter to party representatives for DCHA and AFGE Locals 1403 and 2725, verifying settlement of PERB Case No. 09-UC-01 and requested additional information from the representative for AFGE Local 1403 pertaining to the Recognition Petition in PERB Case No. 11-RC-01.

On February 24, 2012, AFGE Local 2725 submitted a letter indicating that PERB Case No. 09-UC-01 has not been settled. Specifically, the Union alleged:

... Local 2725 and DCHA have reached a settlement that resolves most of the Union's concerns about which positions should be in the bargaining unit. (The parties continue to disagree regarding three positions.) Mr. Slaughter sent the Board a copy of a settlement agreement resolving a related grievance. The agreement names employees holding positions that AFGE, Local 1403 now seeks to represent. In that agreement, DCHA recognizes that these employees are part of AFGE, Local 2725's bargaining unit and agrees to make payments to those employees to bring them up to the appropriate pay scale—as negotiated by AFGE, Local 2725.

On February 29, 2012, DCHA responded to AFGE Local 2725's February 24, 2012 letter, denying AFGE 2725's assertions. On May 8, 2012, AFGE Local 2725 submitted a pleading styled "AFGE, Local 2725, AFL-CIO's Notice of Partial Withdrawal of Petition and Request for a Briefing Schedule or, in the Alternative, for a Hearing Date" ("Notice of Partial Withdrawal"). AFGE Local 2725's Notice of Partial Withdrawal states that the Union requests

to withdraw claims associated with Paragraph Six (6) of the Petition for Unit Clarification, but not the remaining issues.²

II. Discussion

At issue in both matters submitted by AFGE Local 1403 and AFGE Local 2725 is the representation of certain employees of DCHA. The Board has identified the following disputed issues. In PERB Case No. 09-UC-01, AFGE Local 2725 asserted that in PERB Certification No. 8R013, as amended April 14, 1998, that the employees represented by the Union at DCHA are:

All employees of DCHA, excluding public safety personnel, the security force, management officials, confidential employees, supervisors (including housing managers), and any employee engaged in personnel or labor-management relations work in other than a purely clerical capacity.

Relevant to the instant dispute, the petition in PERB Case No. 09-UC-01 requests that the unit include the following positions, which were excluded from the AFGE 2725 bargaining unit:

- A. Management Analyst, Office of the General Counsel.
- B. Staff Assistant, Office of the General Counsel.
- C. Two Paralegal Specialist Positions in the Office of the General Counsel.
- D. Two Positions-Senior Counsel, Office of the General Counsel.
- E. Associate General Counsel, Office of the General Counsel.
- F. Assistant General Counsel, two positions, Office of the General Counsel.

The Board's review of the December 22, 2011 Settlement agreement finds that only one employee in the position of Paralegal Specialist, for which AFGE Local 2725 sought representation, was listed in the agreement.

In PERB Case No. 11-RC-01, AFGE Local 1403 seeks exclusive recognition as the representative for the unit described as including:

All professional attorneys, paralegals and non-professional employees of the Office of General Counsel, District of Columbia Housing Authority.

and excluding:

² Paragraph Six of the Petition for Unit Clarification concerns the "Method of Moving Employees from Non-Union Pay Scale to Union Pay Scale. (Petition for Unit Clarification p. 3).

All management officials, supervisors, confidential employees, employees engaged in personnel work other than in a purely clerical capacity, and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

(Recognition Petition at p. 1)

Based upon the foregoing, it is clear that AFGE Local 1403's Recognition Petition and AFGE Local 2725's Petition for Unit Clarification seek to represent the same employees of the Office of General Counsel for DCHA.

Pursuant to Board Rule 558.4, this matter must proceed to the mandatory mediation process. In addition, the cases are to be consolidated where the outcome of each case directly impacts the other. As a result, the Board directs that this consolidated matter, PERB Case Nos. 09-UC-01 and 11-RC-01, be submitted to mediation, specifically to resolve disputes among the parties related to the appropriateness of either union to act as the exclusive bargaining unit representative for the employees affected by the petitions.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Board's Executive Director shall refer the American Federation of Government Employees, Local 1403's Recognition Petition and American Federation of Government Employees, Local 2725's Petition for Unit Clarification (each involving the District of Columbia Housing Authority) to mediation.
2. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 26, 2012

CERTIFICATE OF SERVICE

This is to certify that the attached Order in PERB Case Nos. 09-UC-01 and 11-RC-01, Slip Opinion No. 1305 was transmitted *via* U.S. Mail and e-mail to the following parties on this the 6th day of August, 2012.

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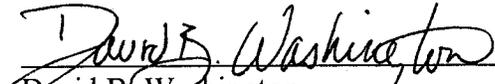
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