



September 16, 2008

DOUG A. TULINO
VICE PRESIDENT, LABOR RELATIONS

SUBJECT: Management Advisory – Grievance Settlement and Arbitration Award
Payments (Report Number HM-MA-08-002)

This report presents the results of our self-initiated review of U.S. Postal Service grievance settlement and arbitration award payments. Our objective was to determine whether selected grievances should have been resolved prior to monetary settlements or arbitration awards (Project Number 08YG021HM000). The review focused on the 10 highest paid grievance settlements or arbitration awards for fiscal year (FY) 2007, which totaled \$43.4 million and represented 27 percent of all payments in FY 2007 (\$161.2 million). This review addresses strategic and financial risk factors. Click [here](#) to go to Appendix A for additional information about this review.

Conclusion

Early Resolution of 10 Highest Paid Grievances

We could not determine if all 10 highest paid grievances in FY 2007 should have been resolved prior to monetary settlement or arbitration award. Specifically, settlement documents for four of the 10 grievances did not contain sufficient information to make this determination. The grievance case files may have contained more information; however, we did not review the case files, due to the age of the grievances and the likelihood that there were no systemic issues indicating they should have been resolved earlier.

Arbitrator awards for five of the 10 grievances, however, indicated they could not be resolved sooner because of contract interpretation differences and disagreements over specific remedies. The remaining grievance award indicated resolution could have been completed sooner, based on the arbitrator's opinion that the Postal Service intentionally violated the contract. Click [here](#) to go to Appendix B for a list of the 10 grievances. Click [here](#) to go to Appendix C for our detailed analysis of this issue.

Identification of Grievance Payments and Costs

Postal Service management could not easily determine the top 10 grievance payments in FY 2007 because there was no central source for recording grievance payment information by grievance number. The significant amount paid for grievance settlements and awards justify the need for a central source. Management plans to enhance the Grievance Arbitration Tracking System (GATS) to centralize all grievance payment information by early FY 2009.

We recommend the Vice President, Labor Relations:

1. Formalize and obtain funding for the enhancement of the Grievance Arbitration Tracking System to centralize all grievance payment information as soon as possible.

We could not determine the associated grievance costs for steward time, arbitrator costs, and labor relations staff salaries for each of the 10 grievances. Management did not attribute these costs to each grievance because they did not believe it was necessary or cost-effective. Management did, however, capture these costs monthly and as year-to-date annual figures, which were \$115.7 million in FY 2007. We believe management's current practice of tracking total costs and its ability to monitor grievance activity at various levels of the grievance-arbitration process should provide sufficient information to manage these associated costs. Therefore, we are not making a recommendation regarding this issue.

Management's Comments

Management agreed with the finding that they could not easily determine the top 10 grievance payments. Management also agreed with the recommendation and plans to enhance the GATS by January 30, 2009, and develop cost reports. Management also agreed that the four settlement documents did not contain sufficient information to determine whether all 10 grievances should have been resolved prior to monetary settlement. They stated that arbitrator decisions and settlement awards do not contain sufficient background information to gain a full understanding of the grievances and that a thorough review of all 10 case files would have been necessary to achieve the audit objective. Management further stated they did not agree with the arbitrator's opinion in one award, that resolution could have occurred sooner. Click [here](#) to go to Appendix D to see management's comments in their entirety.

Evaluation of Management's Comments

The U.S. Postal Service Office of Inspector General (OIG) considers management's comments responsive to the recommendation and the actions should resolve the issue identified in the report.

The OIG considers the recommendation significant, and therefore requires OIG concurrence before closure. Consequently, the OIG requests written confirmation when corrective actions are completed. This recommendation should not be closed in the follow-up tracking system until the OIG provides written confirmation that the recommendation can be closed.

We appreciate the cooperation and courtesies provided by your staff. If you have any questions or need additional information, please contact Chris Nicoloff, Director, Human Capital, or me at (703) 248-2100.

E-Signed by Darrell E. Benjamin, Jr. 
VERIFY authenticity with ApproveIt.

Darrell E. Benjamin, Jr.
Deputy Assistant Inspector General
for Support Operations

Attachments

cc: Laurie A. Hayden
Katherine S. Banks

APPENDIX A. ADDITIONAL INFORMATION

BACKGROUND

The national agreements with the four major unions¹ require the Postal Service and the unions to “observe in good faith” the grievance-arbitration process to settle or withdraw grievances at the lowest level whenever possible. The national agreements signed by senior Postal Service management and the four union presidents include grievance-arbitration procedures that Postal Service management, bargaining unit employees,² and union representatives must follow. These procedures allow bargaining unit employees (also referred to as craft employees)³ and the unions to resolve workplace disputes, disagreements, complaints, and concerns.

The grievance-arbitration process generally consists of four steps⁴ for resolving grievances. The first step usually requires bargaining unit employees who feel aggrieved to discuss the issues with their immediate supervisors. Employees may also seek union assistance at this step. If the employee and supervisor do not reach a resolution, the employee can file a formal grievance through the union, or the union can do so on its own initiative. The next three steps involve formal discussions with appropriate management and union representatives at the local, regional, or national level. The fourth step is available only at the national level and is used when a case of national contract interpretation is at issue. The process also allows appeals of unresolved grievances to arbitration, where an arbitrator selected by the Postal Service and union makes a binding decision.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to determine whether selected grievances should have been resolved prior to monetary settlements or arbitration awards. The review focused on the 10 highest paid grievance settlements and arbitration awards for FY 2007. These 10 grievances accounted for \$43.4 million of the \$161.2 million (27 percent) in grievance and arbitration award payments for FY 2007.

To determine whether the selected grievances should have been resolved prior to monetary settlements or arbitration awards, we obtained from Postal Service Labor Relations staff copies of the 10 highest paid grievance settlements or arbitration awards in FY 2007, award descriptions, and grievance payment amounts.

¹ The four major unions that negotiate with the Postal Service are the American Postal Workers Union (APWU), the National Association of Letter Carriers (NALC), the National Postal Mail Handlers Union (NPMHU), and the National Rural Letter Carriers' Association (NRLCA).

² Bargaining unit employees are represented by a union and include city and rural letter carriers, clerks, mail handlers, special delivery messengers, maintenance employees, and motor vehicle operators.

³ Employees are organized along craft lines. The APWU represents clerks, motor vehicle operators, building and equipment maintenance personnel, and vehicle maintenance personnel; the NALC represents city delivery carriers; the NPHMU represents mail handlers; and the NRLCA represents rural delivery carriers.

⁴ The APWU, NPHMU, and NRLCA refer to the various levels as Step 1 through Step 4. The NALC refers to the levels as Step A and Step B, and as informal and formal.

We reviewed grievance information in GATS, as well as the arbitration decisions and settlement documents, to identify the reason for the settlements and awards and determine whether the resolutions could have been made earlier.⁵ Four of the settlement documents we reviewed contained information on how the award settlement would be implemented, but did not contain background information on the case history. We elected not to review the case files because of the age of the grievances (3 to 16 years old) and the likelihood that there were no systemic issues indicating they should have been resolved earlier.

We also obtained responses from the Vice President, Labor Relations, to questions concerning why casual-in-lieu-of (CILO)⁶ cases filed after the Das decision⁷ were not settled earlier and what the Postal Service did to address the Das decision. Finally, we verified the cost figures for all grievance payments in FY 2007, which we obtained from the Labor Relations staff with data provided by the OIG's Computer Assisted Assessment Techniques team.

We relied on GATS and the Pay Data File System for our data analysis. We did not test controls over these systems. However, previous OIG reports related to these systems did not reveal weaknesses that would impact our review. We believe the data is sufficiently reliable to support our conclusions and recommendation.

We conducted this review from March through September 2008 in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Inspections*. We discussed our observations and conclusions with management officials on August 14, 2008, and included their comments where appropriate.

⁵ In conducting this review, the OIG relied on the facts described in arbitration awards and settlement agreements rather than attempting to interpret information in district case files.

⁶ Casual employees may not be employed in lieu of full or part-time employees. Casual employees instead are used as a supplemental work force, limited to two 90-day terms of casual employment in a calendar year and may also be reemployed during the Christmas period for not more than 21 days.

⁷ In his August 29, 2001, award, Arbitrator Shyam Das provided an interpretation of the union agreement (which became binding) that stated the Postal Service could employ casual employees only as a limited-term supplemental work force and not in lieu of career employees.

PRIOR AUDIT COVERAGE

We identified two previous OIG reports related to the grievance and arbitration process.

Report Title	Report Number	Final Report Date	Report Results
<i>Postal Service and Union Labor Relations</i>	LH-AR-03-012	September 30, 2003	The Postal Service did not fully implement most prior OIG suggestions or recommendations related to resolving grievances as early as was practical. Management stated they had taken action on some OIG recommendations but could not unilaterally implement all of the recommendations because of contract obligations.
<i>White Paper on the Nature of Grievances and the Initiatives Taken to Reduce and Prevent Them</i>	HM-OT-05-001	September 30, 2005	<p>The Postal Service established a new performance-based pay system to evaluate and hold Postal Service managers and supervisors accountable for improving the labor-management climate.</p> <p>The Postal Service experienced a decline in the number of grievances filed, as well as the number of backlogged grievances by the four major unions.</p>

**APPENDIX B. TOP 10 GRIEVANCE SETTLEMENT AND
ARBITRATION AWARD PAYMENTS IN FY 2007**

Redacted

APPENDIX C. DETAILED ANALYSIS

Early Resolution of 10 Highest-Paid Grievances

We reviewed 10 settlement agreements and / or arbitration awards provided by management, as well as available grievance documentation in GATS. We could not determine whether four of the 10 grievances should have been resolved prior to monetary settlement because the settlement agreements did not contain sufficient background information to make this determination. Grievance case files for the four settlements may have contained more information; however, based on the age of the grievances (3 to 16 years) and the likelihood that there were no systemic issues signifying they should have been resolved earlier, we did not review the case files.

We determined that five of the 10 grievances could not be resolved prior to monetary settlement or arbitration award because of contract interpretation differences and disagreements over specific remedies. For example, in one grievance, the parties could not agree whether the issue should be heard at the national level. In another, the parties could not agree whether the issue was jurisdictional or an improper cross-craft assignment. The remaining grievance award indicated that resolution could have been made sooner based on the arbitrator's interpretation of the facts and her opinion that the Postal Service intentionally violated the contract because it did not use casual employees as a limited-term supplemental workforce.

We determined that six of the 10 grievances were CILO cases,⁸ and three of those six grievances were filed before the 2001 Das award decision. We questioned why these grievances were not resolved immediately after the Das award, since that decision was considered binding. The Vice President, Labor Relations, told us the Das award resolved the interpretation of the contract language in dispute, but rendered no standard monetary remedy for the parties to apply to grievances held pending his decision. Because a specific remedy was not identified, and because the union advanced many different arguments with a wide variety of remedy demands, the Postal Service had to analyze and evaluate each CILO grievance separately.

Additionally, the Vice President, Labor Relations, described steps taken by the Postal Service to comply with the Das award, which included:

- A series of teleconferences with area Human Resources and Labor Relations managers to review the Das award decision in-depth and provide instructions on how to address grievances held pending the Das award outcome.
- An August 2002 letter to all area Human Resources managers, advising that in FY 2003, all mail handler or carrier casuals used to perform APWU craft duties must be designated as specified in the Das award.

⁸ Payments for the six CILO grievances totaled \$28.8 million, representing 66 percent of the total costs for the 10 grievances (\$43.4 million) and 18 percent of all payments in FY 2007 (\$161.2 million).

- Contract negotiation changes in 2006 with the APWU, NPMHU, and NALC designed to eliminate future CILO grievances. The APWU contract now allows the Postal Service to have a casual complement not to exceed 6 percent of the total number of career employees within a given district. The NPMHU contract allows for a 12.5 percent casual cap on an installation basis. The NALC contract replaced the casual work force entirely with transitional employees.

The actions taken by the Postal Service may be the reason for the dramatic decrease in the number of open CILO grievances in the last 8 years. For example, in January 2000, 6,633 grievances were classified as CILO cases, but as of May 15, 2008, 600 CILO grievance cases were open. In addition, during this period, almost three times as many CILO grievances (285) were denied by arbitrators compared to those sustained (107).

Identification of Grievance Payments and Costs

Postal Service management could not easily determine the top 10 grievance payments in FY 2007. In addition, management could not provide the associated costs for the 10 highest-paid grievances, such as steward time, arbitrator costs, or salaries for Labor Relations staff.

The Postal Service's December 2007, *Strategic Transformation Plan 2007 Update* states that all support functions examine their activities to streamline processes and eliminate noncritical expenses. It further states that major areas of focus in this effort include standardizing information technology and centralizing accounting and personnel transactions. We believe good business practices also require the use of sound methodologies for budgeting, recording, and reporting financial data related to the Postal Service's labor management issues, including costs associated with grievance and arbitration proceedings. This was emphasized in the two prior OIG reports on this issue. In addition, the significant amount paid for grievance settlements and awards justify the need for a central source.

Management explained that the difficulty and delay in determining total FY 2007 grievance settlement and award payments occurred because there was no central source for recording payment information by grievance number, and because of the need to verify some paid amounts through the Payroll Data System. Specifically, lump-sum grievance settlement and arbitration award payments are processed and tracked in GATS. However, payments involving hour adjustments⁹ are manually processed at the Eagan Accounting Service Center. A Labor Relations official stated in a June 13, 2008, letter to union officials that the Postal Service plans to enhance the GATS to process hour-adjustment payments by early FY 2009. In addition, he stated that when the

⁹ A grievance hour adjustment is a payment to an employee based upon a hypothetical estimate of the amount of compensation the recipient would have received in the absence of the personnel action deemed unjustified or unwarranted through settlement or by a third party. Because of its flexibility, claims typically referred to as "make whole" remedies are usually calculated through this method.

processing of hour adjustment payments is automated, they anticipate bargaining unit jobs will be impacted as redundancies are eliminated.

The significant amounts paid in FY 2007 for grievance settlements and awards (\$161.2 million) support the need for a central source. We believe the proposed GATS enhancement will allow the Postal Service to quickly and accurately determine grievance cost payments by fiscal year, and will increase efficiency and reduce costs.

Regarding the \$115.7 million in associated grievance costs, management explained they did not attribute associated grievance costs such as steward time, arbitrator costs, or labor relations staff salaries to specific grievances because they did not believe it was necessary or cost-effective. Instead, these costs were available only as monthly and year-to-date annual figures. For example, the Time and Attendance Control System does not require that stewards charge their time to individual grievances. Management also stated arbitrators' costs are not broken out by individual grievances; instead, the invoices might include several hearing dates for different grievances. Further, Labor Relations personnel do not spend 100 percent of their time processing and resolving grievances; therefore, the Postal Service would incur salary costs regardless of whether grievances were filed. We believe management's current practice of tracking total costs on an annual basis and its ability to monitor grievance activity at various levels of the grievance-arbitration process should provide sufficient information to manage these associated costs.

APPENDIX D. MANAGER'S COMMENTS

DOUG A. TULINO
VICE PRESIDENT, LABOR RELATIONS



September 11, 2008

Lucine Willis
Director, Audit Operations
1735 North Lynn Street
Arlington, VA 22209-2020

SUBJECT: Grievance Settlement and Arbitration Award Payments
(Report Number HM-MA-08-DRAFT)

This is to provide formal comments concerning the subject draft audit report.

The OIG stated that the objective of this review was to determine whether selected grievances should have been resolved prior to monetary settlements or arbitration awards. To conduct its review, the OIG requested a list of the ten highest cost grievance payouts in fiscal year (FY) 2007, along with copies of the grievance decisions and settlements. In its report, the OIG provided one recommendation, and it was noted as significant.

OIG Finding: The OIG noted it "could not determine if all 10 highest paid grievances in FY 2007 should have been resolved prior to monetary settlement or arbitration award." It stated "settlement documents for four of the 10 grievances did not contain sufficient information to make this determination" and opted not to review case files "based on the age of the grievances and the likelihood that there were no systemic issues indicating they should have been resolved earlier."

Management's Response: The OIG requested two types of documents for each of the 10 grievances we cited as the most expensive in FY2007: arbitrator decisions and settlement awards. Of these 10 grievances, half went to arbitration, so arbitration awards exist for five cases. The other five grievances resulted in settlements made before going to arbitration, so no arbitration award documents exist for these -- only settlement documents.

Arbitrators' decisions often include some background information that sets the stage for the decision. However, the information by no means represents all of the background material required to gain a full understanding of the grievance. Rather, the background information in an arbitration ruling represents the arbitrator's choice of the material he or she feels supports the award.

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Settlements rarely include case background, as their purpose is to outline the settlement details in response to an arbitrator's decision or as the result of an agreement achieved between both parties before arbitration occurs.

The OIG opted not to review these grievances' case files "based on the age of the grievances and the likelihood that there were no systemic issues indicating they should have been resolved earlier." However, we believe a thorough review of these case files would have been necessary to achieve the OIG's objective in this review.

Based on the information the OIG did review, Labor Relations would agree with its statement, "we could not determine if all 10 highest paid grievances in FY2007 should have been resolved prior to monetary settlement or arbitration award." They simply did not have enough information to make such a determination on any grievance.

OIG Finding: The OIG determined that five arbitrators' awards "indicated [the grievances] could not be resolved sooner because of contract interpretation differences and disagreements over specific remedies." They further stated "the remaining grievance award indicated resolution could have been completed sooner, based on the arbitrator's opinion that the Postal Service intentionally violated the contract."

Management's Response: The cases the OIG stated that couldn't be resolved sooner were the only cases with arbitrator decisions. As we have stated, an arbitrator's decision is not intended to capture all information needed to understand the case background but only that information the arbitrator considers important or relevant to his/her decision. The arbitration award in which the OIG stated resolution could have occurred sooner based on the arbitrator's opinion was, in fact, just that—her opinion and interpretation of the facts. Postal management was not of the same opinion.

The OIG did not come to any conclusions for the other cases that reached settlement without going to arbitration because the documents they reviewed did not contain background material to help them formulate an opinion.

OIG Finding: The OIG stated "the Postal Service could not easily determine the top 10 grievance payments because there was no central source for recording grievance payments by grievance number."

Management's Response: Labor Relations agrees this information was not easily retrievable because grievance payouts are currently manually processed through Payroll for hour adjustments using PS Form 2240, *Pay, Leave, or Other Hours Pay Adjustment Report*, or automated in the Grievance Arbitration Tracking

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System (GATS) for lump sum payments. If a grievance award is processed manually in Payroll, the grievance number is not captured in the system or tied to the payout amount. Our new enhancement to GATS will make it possible to retrieve this type of information from one source.

Recommendation 1

Formalize and obtain funding for the enhancement of the Grievance Arbitration Tracking System to centralize all grievance payment information as soon as possible.

Response

Management agrees with this recommendation and plans to centralize all grievance payments in GATS with the implementation of an enhancement in FY2009.

Labor Relations is currently working with headquarters Payroll to move the manual processing of hours adjustments from PS Form 8230 to an automated function in GATS. When this implementation is released, all supervisors, who are now required to complete PS form 2240 for pay adjustments, will be required to enter these types of adjustments into GATS, tying the grievance information to the payout.

We will be implementing this functionality October 1, first as a pilot in the Connecticut District and then to the Northeast Area. We expect to roll it out nationwide by January 30, 2009. At that point, all grievance payments will be processed through GATS to payroll and tied to grievance number.

We appreciate the opportunity to respond to this draft report and are actively working to manage the impact and cost of grievances on this organization with the enhancement to the GATS and the development of cost reports that target trends.



Doug A. Tulino

cc: Lucine Willis
Kathy Banks
Headquarters Managers, Labor Relations
Area Managers, Labor Relations