



Tips and Tidbits
Issue #: 4-2012



12 Apr 2012

Question: How are union successorship and accretion issues determined after organizational change that results in reorganization or realignment?

In a reorganization where two activities, each represented by a separate union, combine into a single unit, there is frequently a dispute as to which union represents the combined work force. The merging union argues that it retains exclusive representation of its employees since the new employer is a successor organization. The union for the gaining activity (or the gaining activity itself) claims the bargaining unit of the merging activity accretes into its unit. Resolution of these types of disputes cannot be accomplished by the parties as questions of representation are left to the sole discretion of the Federal Labor Relations Authority (FLRA), hereafter referred to as the Authority.

Although the Authority provides the analysis used in deciding representational matters where a reorganization raises questions of successorship and accretion, the analytic framework does not guarantee the predictability of their decision. Reorganizations, realignments or other significant personnel changes can create much confusion as to the appropriate representative bargaining unit. Typically, these disputes manifest themselves in one of three different arguments; (1) “successorship” where the bargaining unit would retain its recognition with the new organization; (2) “accretion” where the employees of one bargaining unit are included into a different previously existing bargaining unit; or (3) based on the change, the employees are no longer represented by the previous exclusive representative.

In determining successorship, the union files a petition after the reorganization claiming the new entity is a successor organization. The Authority will detail three factors it will evaluate in determining whether a new employing entity is the successor to the previous one. The union retains its status as the exclusive representative when:

- a. An entire recognized unit, or a portion thereof, is transferred and the transferred employees (a) are in an appropriate bargaining unit, under 5 United States Code 7112(a), after the transfer; and (b) constitute a majority of the employees in such unit;
- b. The gaining entity has substantially the same organizational mission as the losing entity, with the transferred employees performing substantially the same duties and functions under substantially similar working conditions in the gaining entity; and
- c. It has not been demonstrated that an election is necessary to determine representation.

In determining an accretion, the Authority is bound by the criteria for determining the appropriateness of a bargaining unit as set forth in 5 United States Code 7112(a)(1) and is narrowly applied. The Authority may determine a unit to be appropriate only if the determination will (1) ensure a clear and identifiable community of interest among the employees in the unit; (2) promote effective dealings with the agency; and (3) promote efficiency of the operations of the agency involved.

The Authority also examines where the employees have been organizationally and operationally integrated within the established organization and may look to see what impact the make-up of the unit would have on the agency's budget, whether there was a single personnel office, and if units operate under the same labor relations guidance. In rendering a decision on accretion (and appropriate bargaining units), the Authority is simply finding that the proposed unit is an appropriate unit.

For additional assistance or information concerning successorship vs. accretion of bargaining units, please contact your servicing CPAC L/MER Specialist.

BLANCHE D. ROBINSON

Human Resources Officer

Fort Benning CPAC

Phone: 545-1203 (Coml.); 835-1203 (DSN)

E-Mail: blanche.d.robinson.civ@mail.mil