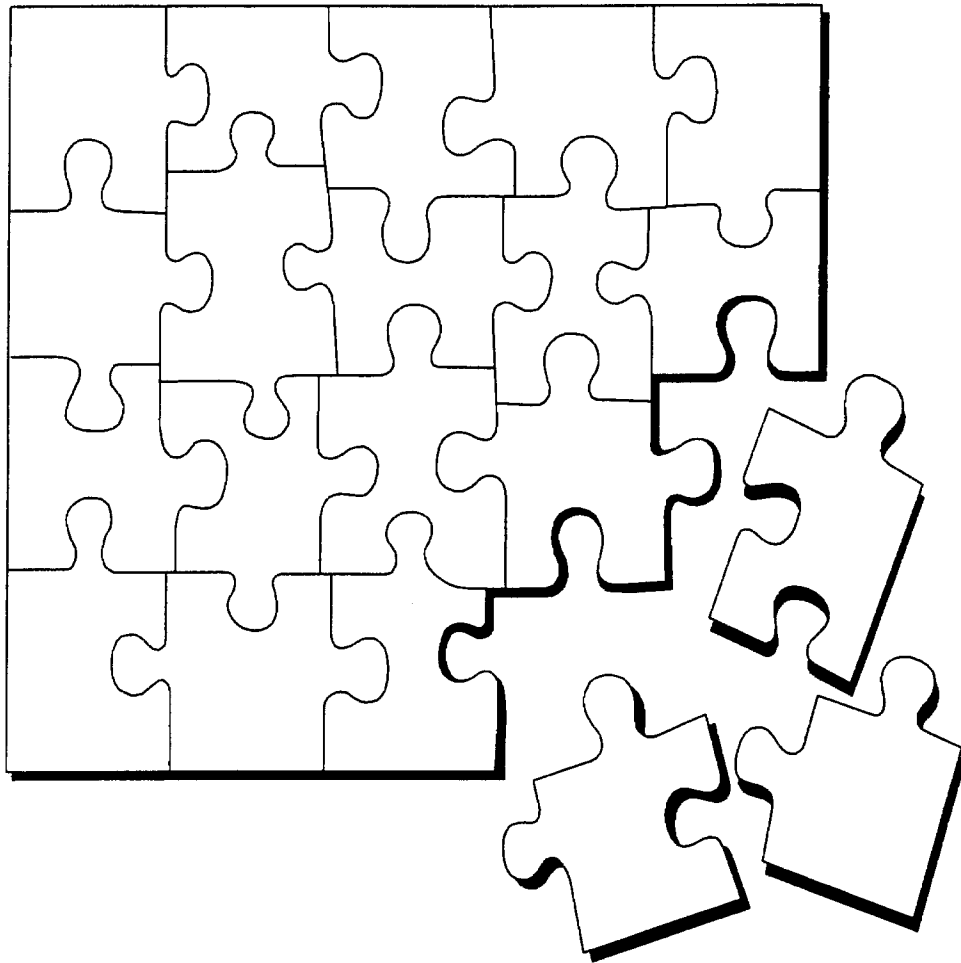


CENTRAL REGION MAINTENANCE SUBCONTRACTING WORKBOOK¹



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In general terms the right to subcontract is one that belongs to management, absent any specific contract restrictions. See, Elkouri and Elkouri, How Arbitration Works, (4th Edition, 1985) at pages 537-538. However, subcontracting is frequently a subject of arbitration as it requires a delicate balance between “the employer’s legitimate interest in efficient operation and effectuating economies on the one hand and the Union’s legitimate interest in protecting the job security of its members and the stability of the bargaining unit on the other.” Id. at page 538.

* * *

In achieving a balance between competing interests on the part of the employer and the union when it comes to subcontracting, fundamental notions of good faith and fairness must be considered. Indeed, subcontracting out work that bargaining unit employees believe belongs to them goes to the very core of the employer-employee alliance and can often threaten that important relationship:

Job security is an inherent element of the labor contract, a part of its very being. If wages is the heart of the labor agreement, job security may be considered its soul. Those eligible to share in the degree of security the contract affords are those to whom the contract applies . . . The transfer of work customarily performed in the bargaining unit must therefore be regarded as an attack on the job security of the employees whom the agreement covers and therefore on one of the contract’s basic purposes.

Elkouri and Elkouri, supra, at page 549, quoting New Britain Mach. Co., 8 LA 720, 727 (1947).

[I90T-1I-C 94056229/94056230, L.E. Stallworth, pp 28-30]

SUBCONTRACTING ISSUES

VIOLATIONS OF ARTICLE 32 AND THE ADMINISTRATIVE SUPPORT MANUAL

Disputes between the parties about the subcontracting of bargaining unit work hinge on the decisional process by which the Service reached the point of subcontracting for the performance of the work rather than assigning the work to bargaining unit employees. As clear as it may be that such a decision rests with the Service, it is equally clear that the parties have negotiated standards by which that decision is supposed to be governed and by which it may be judged. Additionally, the Service itself has established specific limitations on the exercise of this decisional process by its field managers. The parties have long recognized that not only does Article 32 provide the fundamental standards by which all subcontracting must be governed, but also that the terms of the Administrative Support Manual (ASM), subchapter 53, regulate these decisions as well.

For this reason the grievance on subcontracting should cite Article 32 of the National Agreement as well as ASM 535.111 or 535.112 as having been violated by subcontracting our work. Article 32 contains general language while the ASM provides specific language governing management's contractual requirements when it makes a subcontracting decision. Several arbitrators who have dealt with subcontracting disputes have noted that the language of the ASM is more specific than that of Article 32. Even where the Service may be able to show that it did give the requisite *due consideration*, it is also required to meet the standard set by the ASM language. This fact is well supported by Step 4 settlements between the parties.

And consider the logic of national level arbitrator Richard I. Bloch:

Analysis

The current labor agreement between the parties contains no prohibition, per se, on subcontracting of work. However, Article 32 sets forth certain procedural constraints concerning notification, meeting and discussion of the matter with the union as well as the employer's obligation to give "due consideration" to a variety of factors, including costs and efficiency, among other things. Assuming good faith compliance with the procedural requirements of Article 32, the Postal Service is otherwise unimpeded in the subcontracting process. Those requirements are not to be taken lightly. If they are not satisfied, "no final decision on whether or not such work will be contracted out" may be made.

[H4C-NA-C 39, October 20, 1987]

In case H8C-NA-C 25, November 9, 1981, Richard Mittenthal defined one of the most critical terms of Article 32. The dispute arose over a decision by the Service to subcontract the highway movement of mail, rather than to have bargaining unit employees perform the work. While it arose under an earlier version of Article 32, its interpretation of the Service's obligation to ***give due consideration*** stands as definitive:

[Mittenthal quoting *Mittenthal*:] "Unfortunately, the words 'due consideration' are not defined in the National Agreement. Their significance, however, seems clear. They mean that the Postal Service must take into account the five factors mentioned in Paragraph A in determining whether or not to contract out surface transportation work. To ignore these factors or to examine them in a cursory fashion in making its decision would be improper.

To consider other factors, not found in Paragraph A, would be equally improper. The Postal Service must, in short, make a good faith attempt to evaluate the need for contracting out in terms of the contractual factors. Anything less would fall short of 'due consideration.'

"Thus, the Postal Service's obligation relates more to the process by which it arrives at a decision than to the decision itself. . .
[pp.5,6]

NEVER FORGET -

In exchange for the only material element workers bring to the bargain - **work** - an employer agrees to certain concessions.

- *The collective bargaining agreement **does not grant** any rights to the employer. It may memorialize a recognition by the parties that certain of the employer's inherent rights continue, in spite of the bargain and in spite of other specific concessions. But other than a minor statement to that effect, the agreement delineates, at virtually every point, rights ceded to the workers.*
- **Article 32 does not grant a right to subcontract bargaining unit work.**
The Postal Service had this right - to determine what work would be allocated to the bargaining unit and what work would not - as an *inherent right*, not subject to being granted by the workers to the employer. When the Service negotiated with the Union the terms of Article 32, it ceded its inherent right. It negotiated, instead, specific limitations upon the circumstances under which subcontracting of bargaining unit work might be permissible.

Section 1. General Principles

- The Employer will give due consideration to public interest, cost, efficiency, availability of equipment, and qualification of employees when evaluating the need to subcontract.
[Article 32, Subcontracting]

This clause must be understood as a bar to subcontracting, a specific and serious restriction on the Postal Service's right. It is a concession by the Service that its exercise of subcontracting procedures will occur only within the parameters of a certain standard.

This represents a recognition by the parties of the workers' right to be secure in their jobs and to be protected against loss of employment by arbitrary decision or abuse of discretion in the removal of work from the bargaining unit.

An arbitrator from a Modified Panel states:

Article 32.1 has been defined by several national awards. A review of these awards serves to develop standards applicable to the case at bar. In case no. H8C-NA-25, Richard Mittenthal stated that the Postal Service must take into account all factors in Article 32.1.A in order to make a good faith attempt to evaluate the need to contract work. Such consideration relates to the decision-making process, not the decision itself, so that an incorrect decision does not per se mean a lack of "due consideration." In case nos. H4V-NA-84-87 and H7C-NA-C-1, 3, 5, Carlton J. Snow notes that the five criteria in Article 32.1.A are not weighted and that cost is not the predominant factor. Thus there may be times when contracting work is contractually permissible even if cost is greater than if the work is done by the Postal Service.

And in case E7T-2N-C 21843, November 19, 1990, Arbitrator Wayne E. Howard addressed the significance of the specific language of the ASM and its relationship to Article 32:

It is a well-established rule of contract interpretation that specific provisions of a collective bargaining agreement take precedence over general provisions. Thus, Section 535.111 of the ASM which specifically governs the subcontracting of maintenance of postal equipment takes precedence over Article 32 of the Agreement which on its face is to be taken as a general principle. Therefore, the controlling principles found in Section 535.111 are that bargaining unit employees are to perform such repair work with two exceptions, if the Union view is accepted, namely, unavailability of capable employees and complex work, and three exceptions if the Service view is accepted, with the addition of "whenever possible" exception contained in the introductory language of Section 535.111.

A careful matching of these exceptions with the facts surrounding the subcontracting clearly evidences that none of the above exceptions was met by the Service.

[pp.6,7]

As you can surmise from the above, Article 32 contains procedural restrictions on the Postal Service's right to subcontract our work while the language of the ASM provides the specific language governing each subcontracting issue.

Our burden is to demonstrate that the Postal Service failed to comply with its general contractual requirements (Article 32 violation) and that it failed to comply with its specific contractual requirements (ASM violation). Our burden can only be satisfied by conducting a thorough and complete investigation prior to filing a grievance, and by properly framing the dispute in the context of the grievance. The investigation should start, in accordance with Articles 17 and 31, with the request for all information used by the Postal Service in making its decision to subcontract bargaining unit work.

*Remember, it is the Service's **decisional process** that is crucial to the issue.*

Follow-up requests for information are usually necessary and must be pursued. And the dispute must address the Service's failures to execute the process properly as well as the validity (or lack thereof) of alleged determinations made by the Service.

Management's burden is to provide evidence of having given due consideration to the five Article 32 factors prior to reaching its decision to subcontract. Again, documentation of the Service's process are not automatically provided to the Union. **THE UNION MUST MAKE WRITTEN REQUEST FOR THESE DOCUMENTS WITH THE UNION'S REQUEST FOR INFORMATION FORM.** Article 32 notification requirements have been interpreted for many years to apply exclusively to discussions at the national level on nationally let subcontracts.

TIMELINESS

It is important to know **when** management has made a decision to subcontract bargaining unit work. Normally the Union at the local level does not become aware that bargaining unit work has been subcontracted until after the subcontractor has begun the work. And although the Service is not normally obligated to notify the Union at the local level, sometimes the Service does provide advance notification that it has made the decision to subcontract bargaining unit work. This **may** be properly viewed as the triggering event for the purpose of filing a grievance.

Please note: In the absence of a local, citable settlement or agreement requiring management to provide advance notification of its subcontracting decisions, there is no requirement for notification of management's subcontracting decisions at the local level. Article 32's notification requirement applies **only** to national level subcontracting.

It is important for the Union to make certain inquiries in situations where local management informs the Union of a future subcontracting situation. The Union must ascertain if the decision to subcontract has been finalized or is just under consideration.

- If the Service informs the Union that the decision to subcontract has not been made but is still under consideration, the Local must send a written acknowledgment to management stating just that, and requesting confirmation that a final decision has not yet been made.
- Management cannot violate the Agreement by merely *considering* its subcontracting option. It is the final decision to subcontract bargaining unit work that is subject to challenge through the grievance procedure.

Consider the language of Arbitrator Harvey Nathan in regional arbitration case C7T-4Q-C-32235 regarding the application of timeliness in a subcontracting situation.

I agree with the Service. On August 21, 1990, the Union knew that at least some of what it claimed to be bargaining unit work was being done. It inquired and was told that the sidewalks would be repaired (sealant applied) and that the sweeping, which the Union focused on, lasted for only ten minutes. The Union decided not to pursue the grievance regarding the sweeping, nor to grieve the application of the sealant. Thereafter the Union learned that in addition to the sidewalk, the outer brickwork on the building would be waterproofed. It then, on September 11, 1990, asked for a copy of the contract. It did not grieve the waterproofing at that time. Yet it had all of the information that it needed to file a grievance. It did not know the amount paid under the subcontract, but the Union saw the work being done and when it finally filed the grievance, in February, 1991, it simply asked that the amount of the contract be paid to the custodians. While at the second step it asked for a specific amount, this was not necessary for filing the grievances. The Union knew exactly what was being done and had enough information with which to determine whether there had been violation of the National Agreement. As for the actual contract, that could have been sought at step 2, and a failure to produce that document at that stage would then have simply become a part of the underlying grievance.

A purpose of firm time limits in filing grievances is to insure that the problem can be addressed while the actions at issue are fresh or fluid. It is much harder to resolve problems after they have become fixed or have been completed. While it would be speculative to suggest that anything could have been done about this subcontract had the Union filed in a timely manner, it should be noted that the actual contract was not signed by the Postal Service until September 5th, two weeks after the first grievance was filed. Under the circumstances of this case, the conclusion that the grievance was not timely filed is unavoidable, and the grievance must be dismissed.

The above citation is an example of a case in which sitting on one's hands or failing to pursue on the merit was viewed to be essentially the same as failing to process the grievance according to Article 15 time limits.

ARTICLE 17 REPRESENTATION

Section 3. Rights of Stewards

When it is necessary for a steward to leave his/her work area to investigate and adjust grievances or to investigate a specific problem to determine whether to file a grievance, the steward shall request permission from the immediate supervisor and such request shall not be unreasonably denied.

In the event the duties require the steward leave the work area and enter another area within the installation or post office, the steward must also receive permission from the supervisor from the other area he/she wishes to enter and such request shall not be unreasonably denied.

The steward, chief steward or other Union representative properly certified in accordance with Section 2 above may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists and shall have the right to interview the aggrieved employee(s), supervisors and witnesses during working hours. Such requests shall not be unreasonably denied.

ARTICLE 31 UNION-MANAGEMENT COOPERATION

Section 3. Information

The Employer will make available for inspection by the Union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement, including information necessary to determine whether to file or to continue the processing of a grievance under this Agreement. Upon the request of the Union, the Employer will furnish such information, provided, however, that the Employer may require the Union to reimburse the USPS for any costs reasonably incurred in obtaining the information.

Requests for information relating to purely local matters should be submitted by the local Union representative to the installation head or his designee. All other requests for information shall be directed by the National President of the Union to the Vice-President, Labor Relations.

Nothing herein shall waive any rights the Union may have to obtain information under the National Labor Relations Act, as amended.

APPROACHING THE REQUEST FOR INFORMATION

In order to position the Union to address the Service's **decisional process** employed in the determination to subcontract bargaining unit work, requests for information must be handled carefully.

1. Request that the Service provide the Union all information, documentation, records, data, correspondence, etc. that was **considered in the process of making the decision** to subcontract the work in dispute. And request the name of the Postal Service official who made the decision.

Based on the response management provides to this initial request, it will be necessary to make certain decisions about how to further pursue this information.

2. Review the supplied documentation to see if it demonstrates the Service has met its Article 32 obligation - i.e., due consideration of the Article 32 factors.
3. Respond in writing to the employer identifying the documents you received. (See the example form below.)
4. If you believe information that ***should exist*** was not provided, then notify management in writing of the documentation that was not received. For example, if the information provided gives no evidence that a cost comparison was performed (i.e., the difference between in-house and subcontract), request specifically that the Service provide evidence of its cost comparison; if the documentation does not include a full statement of the scope of the work, request that the Service provide it; if there is no indication that the Service determined what tools and equipment would be needed to perform the job, ask for this information; etc.
5. If the Service asserts it has provided everything in its possession or is unable to obtain further information, then notify management in writing of the inadequacy of the information. And **MAKE ANOTHER WRITTEN REQUEST FOR THE INFORMATION**, asserting the expectation that local management should attempt to obtain appropriate information from its source.
Remember – If the Service met its contractual obligation to give due consideration to the Article 32 factors prior to making the decision to subcontract, then the information you are seeking already exists and is readily available.
6. At this point, based on the information provided, if the grievance has not already been initiated, it should be filed, relying on the information provided – or the lack thereof.
 - A. If the Service has failed or refused to provide relevant information, this failure will become the keystone of the grievance.

- B. Always remember, one of our objectives is to shift the burden of proof to the Service. We are entitled to do this because the Service had the affirmative obligation to give **due consideration** to the Article 32 factors, and only the Service can give proof of having done so.
7. There are basically two possible scenarios that develop by this point.
- A. The Service credibly asserts it has provided all documentation that exists regarding the decisional process employed in reaching the determination to subcontract. More practically speaking, the Service will have acknowledged it has no documentation or other evidence relative to the Article 32 factors.
 - 1. This enables the Union to focus largely on the Service's failure to meet its obligations under Article 32.
 - 2. In this circumstance, the Union **does not** pursue a grievance on the Service's failure to provide information about the subcontract decision.
 - B. The Service demonstrates that it will not or cannot produce relevant and available information that would document the decisional process.
 - 1. Here, the Union must grieve the Service's failure to provide information relevant and necessary to our ability to address the issue of the grievance.
 - 2. The Union must argue in the subcontracting grievance that the Service's failure to provide information must foreclose its right to defend its decision (ref. Article 15, Section 2). The Union must also argue in the primary grievance that the Service's **failure to prove** that it met its Article 32 obligation must be construed against the Service as evidence that, in fact, the Service failed the Article 32 requirements and - as a consequence - also failed to establish what is required by the applicable terms of the ASM.

REQUEST FOR INFORMATION -- DOCUMENT RECEIPT

The following information was requested from _____, on _____

for grievance number _____, which concerns _____

[illegible]

Steward's Name

Steward's Signature

Date _____

Summary

Make all your requests for information in writing to the installation head or designee as required in Articles 17 and 31 of the National Agreement and as established by local custom or practice.

You must file a denial of information grievance over any documentation that management will not provide. We cannot claim at a later date that the denied information was important to our subcontracting case if we have no record of a denial of information request on hand or a written claim in the grievance papers (Step 2 Appeal, Corrections and Additions, and/or Step 3 Appeal). Not only must the Union be able to document having made its requests for information, we must also document what we received and what efforts we made to further pursue information we sought. Failure to pursue a grievance on the Service's failure to provide information could cause a good grievance to be lost in arbitration.

Consider Arbitrator Miles's rationale to deny our grievance in case C94T-1C-C 98002582 because of his perception that the Union failed to pursue requested information relative to its subcontracting grievance:

Basically, with regard to the Union's request for information, it appears that Mr. Reed was willing to provide the information but did not have it. He requested the information from Ms. Lambert and Mr. Harry Smith of Administrative Services. According to the "cc mail" response from Mr. Smith, Mr. Reed was asked to "have the Union send their request to us, in writing, outlining specifically what information they want and reasons for the request." The record of evidence is devoid of any further attempt by the Union to obtain such information. Thus, it is my considered opinion that this was not a situation where the Postal Service refused the Union's request, rather it asked for a more specific request in writing to be submitted to Administrative Service. Apparently, such was not done.

Failure of management to fully provide information requested by the union may not be deemed a sufficient basis to require that the grievance be sustained solely for that reason. The union still must establish the validity of its claim with adequate evidence that bargaining unit employees could have performed the work that was subcontracted, i.e. the bargaining unit was available, had the equipment available to perform the work, was qualified to perform the work, and could have done so more economically.

Management's failure to produce requested relevant documents prohibits it from producing these documents and/or arguments at the arbitration table. Management's decision not to provide requested relevant information represents the forfeiture of its right to submit evidence and documents that support its subcontracting decision.

- It is only the Service who possesses records that might give evidence to its decisional process.
- It is only the Service who is in position to articulate to the union, when the union challenges its action, what went into that decisional process.
- It is only the Service who can prove that it did or did not exercise the decision to subcontract within the parameters by which that decision is limited.

In large part, the Union's proof of violation of the agreement is the Service's failure to produce evidence of what it did to reach the decision to subcontract our work.

INFORMATION YOU MUST MAKE EVERY EFFORT TO OBTAIN PRIOR TO PROCESSING YOUR GRIEVANCE

*N.B.: Never allow the grievance to become untimely
because of delays in the effort to secure evidence.*

In addition to the information provided by the Service relative to your request(s) for information about the Service's decisional process, there is other evidence you must gather in order to properly address the issue. Remember, the decisional process is critical, but the Union must also be prepared to demonstrate that the work belongs to the bargaining unit and that we could have done it.

1. Copy of the **COMPLETE CONTRACT**, to include the cost for parts and labor. Sometimes parts and labor are figured separately. Unless your request is specific, you might not get all the information you need for your grievance. The complete contract should also include a full statement of the scope of the work.

Should management claim that they:

- 1) do not have the contract,
 - 2) cannot obtain a copy of the contract, or
 - 3) offer any other excuse for not providing a copy of the contract;
- then

YOU MUST FILE A GRIEVANCE PROTESTING THE DENIAL OF RELEVANT INFORMATION WHICH IS NECESSARY FOR THE PROCESSING OF THE SUBCONTRACTING GRIEVANCE.

2. Identify the type of equipment involved and the nature of work being subcontracted. Specifically what type of bargaining unit work was subcontracted? Was it postal equipment maintenance, plant equipment work, or custodial service?
3. Which Maintenance position(s) had the right to perform the work and had previously performed the same or similar work?
 - A. Identify the appropriate occupational groups and their incumbents.
 - B. Document the level and step of each employee.
 - C. Show the current base wage and overtime wage for each named employee.
 - D. Document employee training records and possession of licenses (if applicable) to show training and qualification to perform the work which was subcontracted.
 - E. Develop work records (e.g., timekeeping reports, supervisors' tour reports, etc.) to prove our maintenance members were **available** to perform the work during the time frame of the subcontracting.
 - F. If the Service asserts there was an immediate need for the work, develop documentation to prove otherwise or to prove employees were engaged in low priority work during the time of the subcontract performance.

- G. Document prior instances in which maintenance employees in the office had performed same or similar work.
 1. Copies of completed work orders.
 2. Copies of any preventive maintenance routes that include the same tasks involved in the subcontracted work.
 3. Parts inventory, if the stockroom has the parts or tools.
 4. Any paper work that shows bargaining unit employees have previously performed the work. This may include written statements by employees attesting to their own performance of the same work.
 5. Because some smaller offices do not maintain written records of work performed, a statement from the appropriate employee(s) as to the work performed may be the only records available.
4. Were any tools or equipment of unique or specialized nature, or which the Service did not have, needed to perform the task?
 - A. If yes, identify the special tools or equipment.
 - B. Were these items readily available to the Service? If yes, then be prepared to prove not only that we could have rented the items, but we also must furnish the cost of the tool or equipment rental.
 - C. Are our members qualified to use the specialized tools or equipment? If yes, then furnish proof.
 - D. Did the contractor furnish their own tools and equipment or were items furnished by the Postal Service?

IF THE SERVICE SUPPLIED TOOLS, EQUIPMENT OR PARTS THEN THE COST OF THESE ITEMS ***SHOULD HAVE BEEN*** INCLUDED IN THE COST OF THE SUBCONTRACT.

5. Were any special qualifications needed that our people did not possess?
 - A. If yes, identify them. A requirement for special qualifications, such as a clause that requires electrical work to be performed by a licensed electrician in a building not owned by the Postal Service, could be a valid reason for permitting the subcontracting.
 - B. Generally work performed by Postal Service employees on property owned by the Postal Service is not subject to local or state licensing requirements. We should be prepared to prove that our people have performed the same work (where this is an issue) without having licenses or certificates.
 - C. If maintenance craft employees do possess applicable licenses or certificates, document these.
6. What were the Postal Service's specific reasons for subcontracting bargaining unit work?
 - A. This should be determined by interviewing the person alleged by the Service to have been responsible for making the decision.

- B. Regardless where the statement of reason comes from, our effort must be to limit the Service to its own statements. This will help prevent the Service from developing its case at the time of the arbitration hearing.
7. Did the work have to be completed within a certain time frame?
- A. This claim requires the Local to analyze the facts and documents management provides to support the claim. We cannot simply dismiss this type of claim, as it goes directly to whether bargaining unit employees were available to perform the subcontracted work.
 - B. When management makes this claim, the Union must make a written request for the documentation and/or evidence relied upon by the Service to support its position. For example, it is reasonable for the Union to request that management explain the reasons the bargaining unit employees could not perform the work in the same time frame. Provided the Union requests, management must also produce the documents it relied upon in making its decision.
8. Does a warranty exist for the equipment being subcontracted?
If yes, then GET A COPY. The importance of the warranty will have to be determined after receipt of the warranty.
- A. It is not uncommon for the Service to assert it had no choice but to have a vendor perform certain work in order to protect a warranty. This usually comes into play where the Service makes a purchase of equipment and installation is alleged to be included in the purchase.
 - B. Do not simply take the Service's assertion as fact. ***Demand proof.***
9. A copy of the complete ***authorized*** (signed) staffing package for the office, which should include MMO-028-97 (or its predecessor document) and all supporting documentation. These documents identify the equipment we maintain -- *Plant Equipment* and *Mail Processing Equipment* -- as well as the number of bargaining unit employees required in each area.

NOTE: Is the facility understaffed? Does the work that is being subcontracted appear in the staffing package? Has any grievance been filed protesting the staffing package? If yes, what is the status of the grievance?

- 10. Copy of the ***current complement*** (seniority lists) for all occupational groups having the skills to be assigned to the subcontracted work.
- 11. Only if the Postal Service claims that it considered cost prior to making its decision to subcontract should you make a request for a copy of the Postal Service's COST COMPARISON for the work that was subcontracted.
 - A. The cost comparison should include ***all*** costs.
 - 1. Subcontractor's wages, taxes, profit and other overhead.

2. Cost of parts, tool rental, etc. This includes any tools or parts that the Service supplies the contractor.
- B. Also look for the Service's inclusion of administrative costs.
1. Frequently, the Service will claim administrative costs for in-house performance - such as, hours of Maintenance Support Clerks in ordering materials, tracking hours, etc. and hours of supervisors.
 2. However, the Service seldom shows the costs of administering the subcontract - which should include the cost of EAS employees who let the subcontracts and who monitor performance.
12. The Union should complete our own cost comparison.
- A. This should be constructed on more than one in-house hourly wage rate model.
1. Construct one showing straight time hourly wage rates.
 2. Construct one showing overtime hourly wage rates.
 3. And finally use the Service's published hourly wage comparison figures, which include wages and benefits. These are the figures the Service itself is supposed to use for cost comparisons.
- B. Utilize appropriate prevailing wage rates for the skilled trade positions that the subcontractor uses to determine the labor costs for the subcontracting.
1. Attempt to verify through information requests that the subcontractor actually paid prevailing wage rates to its employees. If the subcontract falls under federal law, the subcontractor is obligated to keep track of its hours and wages paid and to make this information available to the Service upon request.
 2. The important factor here is that, if the subcontractor's bid represents a cost lower than federal wage requirements would have dictated, we need to present this element to show that the subcontract – if less expensive than in-house performance – was made so illegally.

“GET IT IN WRITING”

This is an extremely important part of your investigation. Please note that in many cases the decision to subcontract was made by someone outside the facility many months prior to a subcontractor beginning the work. In these situations it is important to recognize that local management may not be able to respond to the Union's requests for information. However, local management's inability to respond does not in any way adversely impact our grievance ***unless you permit it.***

Local management is required by the National Agreement to either provide the information we seek or forward the request to the person who can provide the information – such as, the person who made the decision to subcontract. Only that person can tell us the factors he or she considered prior to making the decision to subcontract. Any documents or arguments created after the decision to subcontract was made must be viewed as flawed due to the fact that the content of this material could not have been considered prior to the decision to subcontract.

It is not unusual for the Postal Service to assert certain reasons for subcontracting in its Step 2 grievance denial. Such an assertion may present some problems if not addressed properly. As stated above, regardless when local management informs us of the reasons for subcontracting bargaining unit work, it is the Union's burden to challenge those reasons. In the case where the decision to subcontract is made by someone outside the facility, we must not accept at face value local management's reasoning. We must determine whether local management is providing information based on actual knowledge of the subcontracting decision or if it is creating its own version of the subcontracting decision. This can only be determined by conducting a thorough investigation which includes requesting the specific information identified above and also discussing the relevance of the information that has been provided. This discussion must address when and by whom consideration was given to relevant factors and the stated position used to support the subcontracting decision.

When the Service produces its only explanation of the decisional process in its Step 2 response to the grievance, the Union must challenge this explanation through a properly constructed *corrections and additions* document. We cannot allow the Service to enter such information into the record of the grievance unchallenged. Remember, any information relevant to the decisional process should have existed long before the subcontract was let, well before the subcontract was performed. We were entitled to have received this information through information requests much earlier than a Step 2 decision. Generally, we take the position that such an explanation must be viewed as self-serving and unreliable. We must demand that the Service produce evidence contemporaneous to the time when the decision was actually made. Mere assertions made in defense of the subcontract well after its execution prove nothing.

CONTRACT PROVISIONS and GOVERNING REGULATIONS

ARTICLE 32 SUBCONTRACTING [1998 - 2000]

Section 1. General Principles

- A. The Employer will give due consideration to public interest, cost, efficiency, availability of equipment, and qualification of employees when evaluating the need to subcontract.

[see Memos, pages 343, 345, 346]

- B. The Employer will give advance notification to the Union at the national level when subcontracting which will have a significant impact on bargaining unit work is being considered and will meet to consider the Union's views on minimizing such impact. No final decision on whether or not such work will be contracted out will be made until the matter is discussed with the Union.

ADMINISTRATIVE SUPPORT MANUAL [Issue 12, June 1998]

535 Maintenance Service Contracts

535.111 Postal Equipment

Maintenance of postal equipment should be performed by Postal Service personnel, whenever possible. Exceptions are:

- a. Where capable personnel are not available.
- b. When maintenance can be performed by contract and it is economically advantageous.
- c. When a piece of equipment is a prototype or experimental model or unusually complex, so that a commercial firm is the only practical source of required maintenance expertise.

535.112 Facility and Plant Equipment

Contract service is encouraged for Postal Service-operated facility and plant equipment maintenance, when economically advantageous.

535.12 Procurement of Contracts

535.121 General

See 71 for guidance and restrictions concerning the purchase of required services.

535.122 Existing Contracts

When proposing a major revision to provisions of an existing contract, consider submitting the proposal to the purchasing service center.

535.13 National Agreement Considerations

Installation heads must be knowledgeable about Article 32, Subcontracting, of the National Agreement with the postal unions, before considering contract maintenance service.

535.2 Contract Criteria

535.21 Removal of Ashes and Rubbish

Contract service may be authorized when the municipality or lessor is not obligated to provide removal services. When contractors are required to use Postal Service-owned equipment, such as crane hoists or elevators to remove ashes and rubbish from the premises, they must use the equipment according to safety rules established by the postmaster. The postmaster must have this equipment inspected periodically to ensure its safe operating condition.

535.22 Cloth and Laundry Service

Contract service may be authorized when necessary.

535.23 Window Cleaning, Lawn and/or Grounds Maintenance, and Snow and Ice Removal

Contract service may be authorized when it is economically advantageous.

535.24 Air Conditioning Service

Contract service may be authorized for facilities in which the Postal Service is responsible for operating and maintaining certain types of air conditioning equipment. Handbook MS-24, Heating, Cooling, and Ventilating, specifies instructions for use of air conditioning contract maintenance service. This handbook:

- a. Must be followed by post offices with central air conditioning systems using chillers, water cooling towers, and air handlers.
- b. Is available to offices with self-contained units with compressors rated at 5 tons or above, if the Postal Service is responsible for maintenance of the air conditioning equipment.

535.25 Elevator, Escalator, and Dumbwaiter Service

535.251 Operation

Contract service may be authorized for facilities in which the Postal Service is responsible for operating and maintaining elevators, escalators, or dumbwaiters. The Postal Service has this responsibility in all Postal Service-owned facilities. In leased facilities, the Postal Service generally has routine maintenance responsibility and sometimes has repair and replacement responsibility. In questionable cases, review the lease (see 535.111).

535.252 Maintenance

Routine maintenance of this equipment (inspection, adjusting, cleaning, oiling, and greasing) requires highly technical skills. Post offices that do not have employees with these skills should request authority to procure the necessary maintenance service under contract with a qualified elevator maintenance company.

EQUIPMENT TYPES

The Administrative Support Manual² (ASM) establishes definitions of *postal equipment* and *plant equipment*. Subsequent provisions (535.111 and 535.112) regulate subcontracting of work differently for each of the two types of equipment.

531.21 Definitions

The following definitions apply:

- a. Plant equipment — the building's physical structure, utilities, and environmental systems.
- b. Postal equipment — a broad range of equipment used either directly or indirectly in moving the mail and for providing customer services (includes scales, stamp vending machines, collection boxes, letter and flat sorting and canceling machines, containers; and fixed mechanization, such as, but not limited to, conveyors, parcel sorters, and sack sorters).

Within the meaning of *Postal Equipment* the Service further specifies what constitutes each of several subcategories of equipment type.

534 Postal Equipment Maintenance

534.1 Types of Equipment

534.11 Mail Processing Equipment

This consists of all mechanization (both fixed and nonfixed) used to convey, face, cancel, sort, or otherwise process for delivery all classes of letter and bulk mail. Examples: optical character readers, single and multiple position letter-sorting machines, ZIP mail translators, facer-cancelers, edger-stackers, edger-feeders, parcel and sack-sorting machines, bulk belt and portable powered conveyors, canceling machines, and twine-tying machines.

534.12 Customer Service Equipment

This consists of equipment such as stamp and commodity vending machines, scales, bill changers, self-service postal center equipment, and money order machines.

534.13 Delivery Service Equipment

This consists of equipment such as label imprinters for central markup, label makers, letter boxes, and centralized forwarding systems.

534.14 Support Equipment

This consists of equipment such as Postal Source Data System (PSDS) equipment, electronic time clocks, and maintenance working equipment such as fork-lift trucks, vertical-lift equipment, powered shop equipment, and containers.

These definitions are important. Properly identify the equipment for which a subcontract has been let as either *postal* or *plant* equipment and utilize the appropriate ASM provisions that govern — either **535.111 Postal Equipment** or **535.112 Facility and Plant Equipment**.

² For purposes of this workbook, the provisions come from Issue 12 of the ASM dated June 1998. The use of these provisions is not meant to prejudice any position of the APWU in case H0C-NA-C-19007, which is the Union's challenge to the changes made to Chapter 530 of the ASM as identified in the Postal Service's letter of November 29, 1991.

CLEANING SERVICES

Cleaning Services are defined in Section 112 of the MS-47 Handbook, entitled "Housekeeping Postal Facilities".

112 This handbook provides procedures for determining staffing and scheduling for the building services maintenance work force. The task of this group includes cleaning and preventive maintenance of the building and grounds that make up the physical plant.

The contractual language governing the subcontracting of cleaning services is found in Section 535.26 of the Administrative Support Manual. These provisions have been altered by several successive National Agreements. The currently applicable terms appear in the ASM and at page 343 of the 1998 - 2000 National Agreement.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
UNITED STATES POSTAL SERVICE AND THE
AMERICAN POSTAL WORKERS UNION,
AFL-CIO**

MAINTENANCE CRAFT

Re: Subcontracting Cleaning Services

The parties agree that the following language will be incorporated into paragraph 535.261 of the Administrative Support Manual.

.26 Cleaning Services

.261 Authorization

- a. **In a new facility or when** a vacancy as a result of an employee's voluntary attrition is identified in an independent installation or in a station and/or branch of an independent installation, the following sequential steps will be taken to determine whether or not a contract cleaning service may be utilized:
 - (1) **Measure** the square footage of the interior area, using procedures identified in **handbook MS-47, Housekeeping-Postal Facilities**. **Then divide that measurement** by 18,000 **and round off the** resulting number to four (4) decimal places;
 - (2) **Measure** the square footage of the exterior paved and unpaved area, **to be serviced** using the procedures identified in the MS-47 handbook. **Then divide that measurement** by 500,000 **and round off the** resulting number to four (4) decimal places;
 - (3) **Add** the numbers obtained in steps 1 and 2 together. If the resulting number is less than ONE (1), a contract cleaning service may be used to perform the required work.
- b. If the determination is made to utilize a contract cleaning service, the local APWU President will be provided a copy of the above computations.

- a. The formula applies to replacement facilities or existing facilities with extensions or modifications.
- d. Post Offices, or stations/branches which contract cleaning services under previous criteria may continue to do so.

During negotiation of the 1998-2000 National Agreement, the parties agreed to the definition of "voluntary attrition":

What is the definition of "voluntary attrition"?

Answer: If the employee bids out, is promoted, quits, retires, or dies.

This may be found in the Article 38 Questions and Answers document separately distributed after publication of the National Agreement.

While the Memorandum of Understanding provisions govern the subcontracting of the full scope of custodial cleaning services in a small office, other types of subcontracting of custodial work also may occur -- such as, rubbish removal, window cleaning, lawn care, snow removal, etc. These are generally governed by the other terms of the ASM, referenced above. It should also be noted that the parties reached settlement on June 28, 1993, of a national dispute in case **H7T-3D-C 22868** concerning the ***subcontracting of lawn maintenance***, which is still controlling on this type of work.

SUMMARY

(The following is excerpted from a brief written as closing argument in the arbitration of a subcontracting grievance. While some portions are particular to the instant grievance it represented, the arguments presented here should be noted for their applicability to other subcontracting grievances.)

The specific contract language of Section 535.111 and/or 535.112 of the ASM along with the general language of Article 32 Section 1.A of the National Agreement are the relevant Contractual provisions governing the subcontracting of bargaining unit work as it relates to the facts of this grievance. The language contained within these two Sections and Article 32 must be used together when determining whether the Postal Service violated the National Agreement at the time it made the decision to subcontract the bargaining unit work in dispute. As such, any right the Postal Service may have to subcontract bargaining unit work for Postal Equipment and/or Plant Equipment has been substantially restricted through negotiation at the Headquarters level.

The Postal Service may argue that Article 32 of the Agreement, by itself, allows for this type of subcontracting; however, as stated above, the specific language of Section 535.111 and/or 535.112 of the ASM, which permits subcontracting of this type of work only under certain conditions, contains the more restrictive and controlling language in this situation. It is also well established through arbitrable precedent that the Postal Service must give and provide more than simple lip service to the due consideration factors identified in Article 32 prior to making the decision to subcontract bargaining unit work. Thus the Postal Service must demonstrate with evidence that exceeds the clear and convincing standard that it gave good faith consideration to the factors contained in Article 32 with the production of evidence and documents that predated and support the decision to subcontract. In this case, the Postal Service failed to provide requested relevant information so that the Union could determine if the Postal Service had indeed given good faith consideration to the subcontracting factors. As such, any testimony and/or documents, etc. not previously supplied by the Postal Service must be rejected.

The Union will show that management's reason for subcontracting the work in dispute has not been supported by evidence of the application of the good faith

consideration principles such as economical factors as required by Section 535.112 of the Administrative Support Manual.

The Postal Service did not supply the Union with a cost comparison, a copy of the contract and other requested information. The Postal Service, by its failure to provide requested relevant information for this grievant, has forfeited its contractual right to submit any such documents today. To permit the Postal Service to submit evidence, documents etc. at this late date would be a violation of the National Agreement. The Service simply can not withhold relevant information that was within its possession at the lower steps of the grievance procedure.

The Union will show maintenance employees were qualified and available to perform this work. The Union will show that the Postal Service failed to provide any evidence that it gave due consideration to any of the factors identified in Article 32 or Section 535.111 and/or 535.112 of the ASM were considered prior to making the decision to subcontract. In light of local management's decision not to provide all documentation, such as but not limited to evidence that cost was considered prior to making the decision to subcontract the work in dispute, as required by Section 535.111 and/or 535.112 of the ASM, the arbitrator must draw a negative inference from the Postal Service's refusal to provide this relative information. The Union maintains that the Postal Service violated the Agreement by subcontracting the bargaining unit work in dispute.

SUMMARY OF SUBCONTRACTING ARBITRATION AWARDS

Arbitrator Thomas J. Germano in case **E1T-2W-C-18967** addresses management's Article 3 argument and addresses the idea that the specific language of the ASM on subcontracting takes precedence over the general language of Article 32.

On page 13 he states,

First, its reliance on Article 3 of the National Agreement is misplaced since the rights granted to management in that article are "subject to the provisions of this Agreement and consistent with applicable laws and regulations". The contract Article which incorporates the provisions of all handbooks, manuals and published regulations to the Agreement, providing of course that they contain no language that conflicts with the National Agreement.

* * *

Since it is a well-established rule of contract interpretation that specific provisions of a collective bargaining agreement take precedence over general provisions, Section 535.111 of the ASM which specifically governs the subcontracting of maintenance of postal equipment takes precedence of Article 32 of the Agreement which provides only general principles in this regard.

As to the appropriate remedy, Arbitrator Germano awarded that the employees who would have normally performed the work would be compensated at the overtime rate for the amount of hours worked by the contractor.

Arbitrator Wayne E. Howard in case **E7T-2N-C 21843** also addresses the issue of the specific language of ASM 535 overriding the general provisions of Article 32 with the following language (page 6):

It is clear that under Article 19 of the Agreement, the provisions of Section 535.111 of the ASM are entitled to Agreement status so long as they are not in conflict with the Agreement. Section 535.111 does not necessarily conflict with the provisions of Article 32 of the Agreement, but it does set up additional standards for subcontracting of the maintenance of postal equipment.

It is a well-established rule of contract interpretation that specific provisions of a collective bargaining agreement take precedence over general provisions. Thus, Section 535.111 of the ASM which specifically governs the subcontracting of maintenance of postal equipment takes precedence of Article 32 of the Agreement which on its face is to be taken as a general principle.

Arbitrator Arnold Ordman in case **C4T-4F-C 8761** provides language ASM 535 in relation to subcontracting on pages 10 and 11 as follows:

Certainly, argument would be superfluous here to demonstrate that management should have utilized its own personnel to do the subject work under Section 535.111. Neither of the exceptions applies. Capable personnel were available and no special equipment, not readily available, was needed. Similarly, it is demonstrably clear that outside contract service would not be economically advantageous as Section 535.112 provides.

As to the appropriate remedy Arbitrator Ordman awarded compensation at the overtime rate for the hours each of the grievants would have worked had the work been assigned to them.

Arbitrator James E. Rimmel in case **E4T-2J-C 34489** agreed that maintenance to mail and relay boxes fell under the provisions of Section 535 of the Administrative Support Manual with the following language on page 7 and 8:

I believe collection and relay boxes more appropriately fall in the category of postal equipment as opposed to facility and plant equipment. It seems reasonable to conclude that mail and relay boxes, which are used in the normal day-to-day work of the Postal Service, would fit the definition of postal equipment. This being the case Paragraph 535.111 of the Manual as quoted above becomes controlling. When such provisions are reviewed, it becomes apparent that the maintenance of such equipment should be performed by Postal Service personnel whenever possible. There are two exceptions provided, (1) when capable personnel are not available and (2) when a piece of equipment is so complex that a commercial firm would be the only practical source of required maintenance expertise. Obviously mail boxes and the type of work performed on such do not fall within the second category. Therefore, the question becomes whether or not capable personnel were available to perform the work in question.

On page 9 he addressed the issue of the condition of the mail boxes with the following language:

The Service must take responsibility for the fact that the mail boxes were all in need of being painted at the same time. Simply stated, I believe that since the Service chose such an arguably short-sighted course of action, grievant should not be deprived of work which rightfully belongs to him provided for in his job description.

For the appropriate remedy, Arbitrator Rimmel awarded a make whole pay remedy.

Arbitrator Thomas J. Erbs in case **C7T-4C-C 6509** addressed the due consideration requirements of the USPS as follows:

Under the provisions of Article 32 the Postal Service agrees to give due consideration to the "public interest, cost, efficiency, availability of equipment, and qualification of employees when evaluating the need to subcontract.

Arbitrator Erbs found the appropriate remedy to be compensation to the grievants at the straight time rate in an amount equal to the number of hours worked by the subcontractor.

Arbitrator John C. Fletcher in cases **C7T-4D-C 21543, C7T-4D-C 21544 and C7T-4D-C 21545** addresses the due consideration requirements in Article 32 on page 9 as follows:

Article 32 requires that due consideration be given to a number of factors when the need to subcontract is being evaluated.In total this generalization does not demonstrate that:

1. the painting was done at a lower cost through the use of a subcontractor.
2. the efficiency of postal operations would have been impeded if the painting were done by Maintenance Craft employees and not the subcontractor,
3. the unavailability or cost of securing equipment dictated that a subcontractor be used, and
4. Maintenance craft employees were unqualified to do any of the work items required of the subcontractor.

Also there is no evidence on "public interest" one way or the other.

Article 32 obligates management to give due consideration to these factors when evaluating the need to subcontract. More than a self serving statement that due consideration was given is needed in instances, such as those under review here, where the decision to subcontract is challenged.
[underlining added]

As to an appropriate remedy Arbitrator Fletcher awarded that the involved employees were to be paid at the overtime rate as if they had performed the work.

Arbitrator Harvey A. Nathan in case **J87T-1J-C 90022669** addresses a Postal Service argument concerning application of the law as a reason to subcontract on pages 9 and 10 with the following language:

...Management claims that for the painting to be done on the premises it would have to bring the facility formerly used for painting up to federal safety and health regulations. However, this is standard operating procedure. Of course, federal safety and health standards have to be followed with painting the same as they have to be followed in all other postal operations involving equipment. Where there are vehicle emissions standards, postal vehicles must meet them. Where there are exposed machinery parts the regulations protecting employees must also be in place. And where subcontractors perform work on facility of plant equipment, such as HVAC work, they must also be in compliance with the appropriate safety and health standards. There is simply no explanation in this case as to why federal standards for painting are such that management can avoid the requirements of Section 535.111 merely because costs associated with this work would be incurred.

Arbitrator Elliott H. Goldstein in case **C7T-4M-C 34067** addresses the issue of the contractor's profits on page 18.

Profits must be considered as a cost to the purchaser, too.

In this context, I find that the profit margin charged to this Employer for the contracted work is indeed extremely relevant in any real cost comparison. Said another way, even if the labor cost factor was \$20.00 per hour for 10 hours work, and the materials were charged at \$836.00, the total cost of "going outside" the facility maintenance crew was still in excess of \$1,500.00. If labor charges were held to \$20.00 per hour, profit had to be approximately \$500.00, for the ten hours' work at issue, as I read the record. That "total cost" including profit to Dover should have been a basis of comparison with the cost of doing the work in-house at the \$30.00 plus per hour rate Mosciski calculated, if a fair and accurate result was desired. Costs here then do not favor contracting out, even if the contract was "one-time," because \$70.00 per hour for labor and profit is more than \$30.00 or so per hour for in-house personnel. I so rule.

Arbitrator Harvey A. Nathan in case **C0T-4J-C 2471** provides the following language concerning 1) Under staffing in relation to subcontracting, 2) No cost comparison, and 3) the lack of Article 32 considerations:

The Service contends that it considered efficiency, because the subcontracting was necessary to eliminate a backlog that its workforce could not handle. But to the extent that the backlog was the result of unjustified understaffing, the Service cannot use this manufactured "efficiency" to justify the contracting out. (Footnote 10 - In addition, the Service apparently disregarded the inefficiencies that would result when the Service ran short of parts for in-house repairs because it had sent its stock of parts to the outside

contractors for their use. However, the Union has failed to establish that the frequency, extent or severity of these parts shortages, so it is impossible to determine whether they would have weighted significantly against contracting out, even had they been duly considered.) (Footnote 11 - It should also be noted that the subcontracting contravened Maintenance Bulletin MMO-43-82....) Thus the Service violated Article 32 by failing to give due consideration to cost and the availability of its own qualified employees in contracting out the repair work in issue.

[page 14]

Moreover, the Service failed to give "due consideration" to the factors listed in Article 32. In particular, the Service offered a cost comparison that was prepared by former Superintendent Milewski after the grievance was filed. There is no evidence that any cost comparison or other consideration of cost was made prior to the subcontracting in issue here.

[page 12]

Arbitrator James P. Martin in case **C7T-4P-C 9080**, addresses the adverse impact imposed upon the Craft by subcontracting when under staffed on page on page 9 of his decision with the following rationale:

Whenever that position is filled, that employee has one year less seniority with the Postal Service than if he had been hired when the vacancy first occurred. This is the personal adverse effect upon a Custodian, when Arbitrator Whitney had been assured that no adverse effect had nor would occur. Further, the entire Maintenance Craft suffers wh The failure to fill the position has several adverse effects, one individual and one general. en its unit decreases in size, and the Union has a right not only to defend against individual adverse effects, but upon the effect of the entire bargaining unit being reduced in size.

Arbitrator James P. Martin also addresses the issue of "an emergency condition" to justify a subcontract in case **C1V-4A-C 36906** on page 9:

The claim of an emergency based upon efficiency is farcical: obviously, it would be the opinion of management that it could much more efficiently run the Post Office if the Union would take its Contract and go fishing. The Postal Service has been told numberless time that it may be efficient only within the limits of the contracts agreed to between it and the Union; this case illustrates an extreme example of management ignoring that message.

Arbitrator Edwin H. Benn in case **I90T-11-C 93036556** addresses the question of what constitutes an appropriate **remedy** for a subcontracting violation on pages 7 and 8:

The type of relief sought by the Union is more typical of a remedy in a subcontracting case. In those situations where an employer improperly subcontracts bargaining unit work, the employees have suffered a loss of work opportunities because strangers to the contract have performed work that otherwise would have been performed by the bargaining unit. That is not necessarily what is going on here. Work has not necessarily been removed from the craft members of the bargaining unit.

SOME REFERENCE MATERIAL SETTLEMENTS/HANDBOOKS

PRE-ARB SETTLEMENT - WEVODAU/FERGESON H7C-NA-C-25
STEP 4 DECISION - WEVODAU/OLIVER H1T-3A-C-26547

MMO-27-89 - HOURLY RATES FOR MAINTENANCE
MMO-20-94 - HOURLY RATES FOR MAINTENANCE
MMO-64-94 - HOURLY RATES FOR COMPUTING LABOR COSTS

ADMINISTRATIVE SUPPORT MANUAL - CHAPTER 530

MS-1	-	OPERATION AND MAINTENANCE OF REAL PROPERTY
MS-10	-	FLOORS, CARE AND MAINTENANCE
MS-21	-	ELEVATOR MAINTENANCE
MS-22	-	STREET LETTER BOX MAINTENANCE
MS-24	-	HEATING, VENTING AND COOLING
MS-39	-	FLUORESCENT AND MERCURY VAPOR LIGHTING
MS-43	-	GENERAL MAINTENANCE FOR MAIL HANDLING EQUIPMENT
MS-45	-	AREA MAINTENANCE OFFICE
MS-47	-	HOUSEKEEPING - POSTAL FACILITIES
MS-55	-	NEIGHBORHOOD DELIVERY AND COLLECTION BOXES
MS-58	-	MAINTENANCE PERFORMANCE CRITERIA
MS-63	-	MAINTENANCE MANAGEMENT CLASS A OFFICES
MS-70	-	INTRA-BMC CONTAINER-LIGHTWEIGHT
MS-110	-	ASSOCIATE OFFICE POSTMASTER'S FACILITIES MAINTENANCE GUIDELINES
RE-12	-	REPAIR AND ALTERATION SURVEYS
RE-13	-	REPAIR AND ALTERATION PROGRAM

HANDBOOKS RELATED SPECIFICALLY TO BULK MAIL CENTERS

MAINTENANCE SYSTEMS AND PROCEDURES (INTERIM HANDBOOK) ISSUED JANUARY OF 1975.

INTERIM BULK MAIL CENTER MAINTENANCE STAFFING GUIDELINES AND CRITERIA, AUGUST 1979

SUBCONTRACTING ARBITRATIONS

NATIONAL INTERPRETIVE AWARDS

A8-NA-0375	Washington DC	Custodial Duties - MS47	Sustained
AB-NAT-6291	Washington DC	Postal unit operation, sale of stamps, repair of SSPU	Denied/ Sustained
H4T-3W-C-9682	St. Cloud FL	Custodial Duties	Sustained
H8C-NA-C-25	Washington DC	Subcontracting - Highway Movement of Mail	Denied
H4C-NA-C-39	Washington DC	Stamp Sales by Consignment	Denied
H4V-NA-C-84 - 87 H7C-NA-C-1/3/5	Washington DC	Highway Contracts	Denied
H7C-NA-C-96	Washington DC	Remote Video	Sustained
H0C-NA-C-6	Washington DC	Remote Video	Sustained

REGULAR REGIONAL AWARDS

E1T-2B-C-11911	Philadelphia BMC	Alterations & Repair work done at the BMC by carpenters from another installation	Denied
I94T-1I-C 97024296	Milwaukee WI	Asbestos - drilling holes in floor	Denied
C7V-4L-C-34655	Champaign IL	Auto Body and Fender Repair Work	Denied
H94T-1H-C 97080162	Ft. Lauderdale FL	Building equipment - installation of bollards (posts to guard equipment)	Sustained
E4T-2J-C 41542	Evansville IN	Building modification - installation of sawtooth platform	Denied
E1T-2B-C-12979	Philadelphia BMC	Carpentry, Painting, and Electrical Remodeling Cafeteria	Denied
DC-275-91 DC-22-92	Oklahoma City OK	Carpentry, Painting and Electrical Work	Denied Modified Panel
N1T-1J-C-7757	Springfield BMC	Carpentry, Modification of Interior Offices	Denied
H90T-1H-C-18829	St. Petersburg FL	Carpentry, Erect and Finish Interior Walls	Denied
H94T-1H-C-50930	St. Petersburg FL	Carrier Case Relocation	Denied
W0T-5K-C-7071	Billings MT	Cleaning Inside Walls	Denied

NOT-1N-C-2291	New Brunswick NJ	Cleaning Skylight Windows	Sustained
C90T-4C-C-95070081	Mansfield OH	Computers, Office. Preventive Maint. etc.	Sustained
C94T-1C-C 96031228	Philadelphia BMC	Construction - bulk belt conveyor	Denied
H90T-1H-C 95042994 H90T-1H-C 95050278 H90T-1H-C 95051123	Ft. Lauderdale FL	Construction	Denied
E7T-2N-C 21843	Cincinnati OH	Containers, (APC), Repair	Sustained
C0T-4J-C-2471	Milwaukee WI	Containers, (All types), Repair	Sustained
91-C-264 (MODIFIED PANEL)	Tulsa OK	Custodial Services	Sustained
E4T-2M-C 5030/5031 and 37204	Charleston WV	Custodial Services	Sustained
E4T-2D-C 9609	Baltimore MD	Custodial Services	Sustained
E4T-2D-C 9610	Baltimore MD	Custodial Services	Sustained
N4T-1G-C-33419	White River Junction VT	Custodial Services	Sustained
W7T-5R-C-7693	Tacoma WA	Custodial Services	Sustained
S7T-3A-C 27743	Fort Worth TX	Custodial Services	Denied
S7T-3A-C 27744	Fort Worth TX	Custodial Services	Denied
S7T-3A-C 27745	Fort Worth TX	Custodial Services	Sustained
N7T-1W-C 30365	Syracuse NY	Custodial Services	Sustained
S7T-3Q-C 31275	Monroe LA	Custodial Services	Sustained
N7T-1R-C-34318 N7T-1R-C-34815	Buffalo NY	Custodial Services (Including Snow Removal)	Sustained
S0T-3D-C-4577	Columbus GA	Custodial Services	Sustained
G90T-1G-C92041754	Austin TX	Custodial Services	Denied (Untimely)
I90T-1I-C-93030141	Kansas City MO	Custodial Services	Denied
C90T-4C-C-9336118	Crooksville OH	Custodial Services	Denied
C90T-4C-C-9336137	New Lexington OH	Custodial Services	Denied

I90T-4E-C-20272 I90T-4E-C-20273	Kansas City KS	Custodial Services	Denied
I90T-1I-C-93036556	Columbia MO	Custodial Staffing	Sustained
C90T-4C-C-93016219	Lima OH	Custodial Staffing	Sustained
C0T-4P-C-19373	Kansas City MO	Custodial Services	Sustained
I90T-1I-C-95013040	Milwaukee WI	Custodial Services That a contractor was more convenient is not a valid excuse to avoid having the work done by Maintenance Craft employees.	Sustained
B90T-1B-C-03046547	Syracuse NY	Delivery Bar Code Sorter (Martin Marietta) Arb. ruled there was no subcontracting; rather it was a modification to the original purchase contract.	Denied
E7T-2N-C 21984	Cincinnati BMC	Dock Door Repair	Denied
C7T-4M-C 34067	Flint MI	Dock Door Repair	Sustained
C0T-4S-C-20278*	Minneapolis BMC	Dock Door Springs	Sustained
S0T-3S-C-2340	Ft. Lauderdale FL	Dock Door Installation/Painting	Denied
I90T-1I-C-94052280*	Green Bay WI	Dock leveler - modification	Sustained
I90T-1I-C 95025581*	Minneapolis BMC	Dock leveler installation	Sustained
G90T-1G-C 93013317*	Houston TX	Dock lift repair - postal equipment	Sustained
I90T-1I-C-95003723* I90T-1I-C-95003726*	St. Louis BMC	Dock Seals & Dock Levelers	Sustained
E4T-2H-C-43747	Spartanburg SC	Doors, Installation of locks and deadbolts	Denied
C1T-4C-C-23371	Minneapolis BMC	Electrical Service Installation	Sustained
D90T-1D-C-34280 thru 34283	Roanoke VA	Electrical and Power Supply Installation for DBCS	Denied
C4T-4C-C-8761	Cincinnati OH	Electrical Work	Sustained
C7T-4C-C-6509	Minneapolis BMC	Electrical Work	Sustained
S7T-3U-C-39310	Corpus Christi TX	Electrical Work	Sustained

G90T-4G-C-9242885	Ft. Worth TX	Electrical Installation, Flat Sorter, Facer Canceler	Sustained
G90T-4G-C-9242703	Ft. Worth TX	Electrical Installation, Flat Sorter & Facer Canceler	Sustained
I90T-1I-C 93034497	Minneapolis BMC	Electrical installation - fire alarm	Sustained
I94T-1I-C 97024124	Omaha NE	Electrical work - rewiring, relamping	Denied
C7T-4G-C-0031903	Terre Haute IN	Elevator, Maintenance and Repair	Denied
I94T-1I-C 96063835	Milwaukee WI	Elevator maintenance	Denied (laches)
E7T-2N-C-37843	Cincinnati OH	Fabricating & Installing Safety Screens	Denied
G90T-4G-C-42702*	Ft. Worth TX	Furniture, Installation of Modular Furniture	Sustained
C0T-4R-C-18474	Sioux Falls SD	Furniture, etc., Moving Between Installations	Denied
I90T-1I-C-94052689	Omaha NE	Furniture, etc., Moving Between Installations	Denied
C1T-4K-C 35749	St. Louis BMC	HVAC, Air Conditioning	Sustained
S7T-3W-C-34282	Ft. Meyers FL	HVAC, Preventive Maintenance	Denied
W0T-5R-C-3230	Spokane WA	HVAC, Heater/furnace installation at station	Denied
G90T-4G-C-9317532	Houston TX	HVAC, Maintenance	Denied As Untimely
I90T-1I-C 94056229*	Minneapolis MN	HVAC - installation of A/C unit	Sustained
NOT-1N-C-9014	Kilmer GMF NJ	In-Plant Powered Vehicle, Maintenance to tenant yard sweepers	Sustained
C94T-1C-C 97047826*	Philadelphia BMC	Information - only issue decided was failure of Service to provide info.	Sustained
I94T-1I-C 97094734* I94T-1I-C 97094752	Minneapolis BMC	Information - Service denied request, claimed subcontract was national level	Sustained
C8T-4E-C-34116	Akron OH	Lawn Care	Denied
C4T-4Q-C 21051	St. Louis BMC	Lawn Care	Sustained
C4T-4P-C 32582	Springfield MO	Lawn Care	Denied

E4T-2F-C 33099	Lancaster PA	Lawn Care	Sustained
E4T-2E-C 48914	Lehigh Valley PA	Lawn Care	Sustained
C7T-4P-C-9080	Springfield MO	Lawn Care	Sustained
E7T-2A-C 13301	Philadelphia BMC	Lawn Care-Modified Panel	Sustained
E7T-2E-C-13473	Reading PA	Lawn Care	Denied
E7T-2G-C 23332	Sanford NC	Lawn Care	Denied
N7T-1W-C 26079	Syracuse NY	Lawn Care	Sustained
C7T-4L-C-26029	Champaign IL	Lawn Care & Snow Removal	Sustained
C7T-4U-C- 26532	Grand Junction CO	Lawn Care	Denied
C7T-4L-C-27956	Decatur IL	Lawn Care	Sustained
S7T-3Q-C 31264	Jackson MS	Lawn Care, Landscaping	Denied
N7T-1N-C 36124	Trenton NJ	Lawn Care	Sustained
S0T-3S-C-1977	Ft. Lauderdale FL	Lawn Care, Tree Trimming	Denied
H94T-1H-C 97078148	Ft. Lauderdale FL	Lawn mower repair	Denied
E1T-2W-C-18967	Syracuse NY	Letter Box Painting	Sustained
W1T-5C-C-19965	Alameda CA	Letter Box Painting	Denied
C4T-4F-C 17766	Sidney OH	Letter Box Slab Installation	Denied
E4T-2J-C-34489	Evansville IN	Letter Box Painting	Sustained
E7T-2N-C 21844	Cincinnati OH	Letter Box Painting, Strip/Primer	Denied
S7T-3W-C 27286	St. Petersburg FL	Letter Box Painting	Sustained
C90T-4C-C-95065735	Mansfield OH	Letter Box Painting	Denied
S0T-3Q-C-2316	Monroe LA	Letter Box, Installing Curbside Mail Boxes	Denied
W0T-5S-C-9035	El Paso TX	Letter Box Painting	Sustained
G90C-4G-C-24577	Ft. Worth TX	Letter Box Painting and Stripping	Sustained
J87-1J-C-22669	Flint MI	Letter Box Painting and Sandblasting	Sustained

I90T-1I-C 94023483	Kansas City MO	Letter box painting and sandblasting	Sustained
I90T-1I-C 96023145	Milwaukee WI	Letter box painting	Sustained
I90T-1I-C 96063841			
I90T-1I-C 96063847			
A90T-4A-C-14566	Brooklyn GMF	Letter box painting	Sustained
S7T-3U-C 39310	Corpus Christi TX	Letter case modification	Sustained
E7T-2N-C-19045	Cincinnati BMC	Lighting, Installation of High Bay	Denied
C7T-4U-C 30294	Denver BMC	Lighting, Relocation & Relamping	Denied
I94T-1I-C 97027266	Madison WI	Lighting - relamping	Denied
S1T-3T-C-20710	Oklahoma City OK	Locker Installation	Denied
J90T-4F-C-93020926*	Rockford IL	LSM, Dismantle (not an overhaul)	Sustained
D90T-1D-C-95015901	Charleston SC	Mail Processing Equipment, Mail-Sack Container Construction Lack of a cost comparison prior to the decision to subcontract; USPS cannot show consideration to cost was given.	Sustained
E7T-2A-C 10908	Philadelphia BMC	Modification, Mail Processing Equipment	Denied
C7T-4Q-C-34110	St. Louis BMC	Modification, Wall Panels	Sustained
C1V-4A-C-36906	South Suburban IL	Motor Vehicle Runs for Highway Mail Movement	Sustained
H90T-1H-C 94043513*	Orlando FL	Moving furniture and equipment	Sustained
H90T-4H-C-43576	Naples FL	NDCBU Installation	Denied
H90T-1H-C 95050276*	Hollywood FL	NDCBU Installation	Sustained
E4T-2L-C-50677	Columbus OH	NDCBU Lock Installation	Denied
W7T-5S-C-14281	El Paso TX	NDCBU Lock Installation	Denied
S7T-3W-C-27286	St. Petersburg FL	NDCBU Painting	Sustained
C7T-4P-C-28185	Kansas City MO	NDCBU Lock Installation	Denied
C7T-4G-C-33339	Indianapolis IN	NDCBU Painting & Maintenance	Denied
W0T-5G-C-2798	Corvallis OR	NDCBU Lock Installation	Denied
W0T-5S-C-3233	El Paso TX	NDCBU Lock Installation	Denied

W0T-5R-C-4573	Tacoma WA	NDCBU Painting	Denied
W0T-5S-C-9035	El Paso TX	NDCBU Painting	Sustained
W7T-5S-C-32984	Tucson AZ	Non-weight Bearing Walls, Installation	Sustained No Monetary Award
C7T-4N-C-11586	Chicago IL Overhaul Facility	Painting display frames and cases.	Denied
C7T-4D-C-21543 C7T-4D-C 21544 C7T-4D-C 21545	Chicago BMC	Painting	Sustained
G90T-4G-C 92042701	Ft. Worth TX	Painting floors in VMF	Sustained
I90T-1I-C 94056230*	Minneapolis MN	Painting - renovation of VMF interior	Sustained
I90T-1I-C 97075046	Minneapolis BMC	Painting parking lot stripes	Sustained
C7T-4D-C-32561	Chicago BMC	Painting	Denied
W0T-5R-C-1675	Spokane WA	Painting stripes on parking lot	Denied
W0T-5R-C 7071 W0T-5K-C 7072	Billings MT	Painting of Offices and Lobby of Station	Denied
J90T-4J-C-945366	Carpentersville IL	Painting, Interior Walls	Sustained
D90T-4D-C-94004922*	Louisville KY	Painting, Interior Walls	Sustained
E1T-2B-C-11909	Philadelphia BMC	Pull Cords, Towveyor Installation	Denied
I90T-1I-C-94054291*	Omaha NE	Remodeling building space	Sustained
I94T-1I-C 97117569	Madison WI	Remodeling battery room	Denied
I94T-1I-C 96045530	Minneapolis MN	Remodeling building space	Denied
H90T-1H-C-18829	St. Petersburg FL	Renovate Interior Walls & Install Acoustical Ceiling	Denied
H94T-1H-C 97080161	Ft. Lauderdale FL	Safe - lock repair	Sustained
I94T-1I-C 98009558	Minneapolis BMC	Security system - hardware installation	Sustained
C7T-4Q-C-32235	Carbondale IL	Sidewalk Repairs	Denied As Untimely
E4T-2F-C 9589	Pittsburgh PA	Snow Removal	Denied
C7T-4B-C 22381	Dearborn MI	Snow Removal	Denied

E7T-2M-C 40906	Charleston WV	Snow Removal	Sustained
S7T-3W-C 36631	St. Petersburg FL	Telephone System, Internal, Installation	Denied
C90T-1C-C 93044058	Philadelphia BMC	Towline Repairs - Included welding and concrete repairs. Work historically performed by employees at the BMC	Sustained
S4T-3T-C-15225	Oklahoma City OK	Welding	Denied
W7T-5F-C-32108	Phoenix AZ	Window washing - multi-story bldg.	Denied
N0T-1N-C-2291	New Brunswick NJ	Window washing - skylight windows	Sustained
I94T-1I-C 96075846	Des Moines IA	Window washing - specialized lift	Sustained

*In these cases a major contributing factor considered by the Arbitrator when awarding in the Union's favor was the Service's failure to provide information or to raise their subcontracting rights argument at Steps 1, 2, & 3.

STEP 4's RELATING TO SUBCONTRACTING ISSUES

H7C-NA-C 27	Washington DC	Custodial Duties (24 Hr. Rule)Pre-arbitration settlement. This decision affected twenty-three (23) facilities in three (3) regions.
A-S-1575/A-367	Ft. Lauderdale FL	Installation of new locks on apartment-type receptacles
H1T-4F-C 620	Cincinnati OH	ASM 535 applies to forklift and vert-a-lift repair
H7T-3C-C 21569	Memphis TN	ASM 535 vs. Article 32 replacing reflectors
H7T-3C-C 14397	Memphis TN	ASM 535 vs. Article 32 building equipment
H7T-4K-C 22603	Des Moines IA	ASM 535 vs. Article 32 contracting
H4T-3Q-C 19626	Kenner LA	ASM 535 applies to lawn care
H4T-4F-C 17766	Sidney OH	ASM 531 and 535 applies
H4T-4G-C 21613	Washington IN	ASM 535 applies to collection box painting
H4T-4F-C 5725	Cincinnati BMC	Art. 31 & 32 and ASM 535 applies to painting
H4T-4F-C 5726	Cincinnati BMC	Art. 31 & 32 and ASM 535 applies to painting
H4T-4C-C 7755	Minneapolis MN	Article 32 applies to painting
H4T-4P-C 20952	Springfield MO	ASM 535 applies to painting

H4T-4H-C 21048	Wichita KS	Article 32 applies to stripping parking lot
H4T-4A-C 16767	Kewanee IL	Custodial Duties-apply H4T-3W-C-9682
H4T-2B-C 9553	Philadelphia PA	ASM 530 applies to sprinkler repair
H7T-3D-C 22868	Montgomery AL	Lawn care
H4C-NA-C 5	Washington DC	NDCBU Customer Locks
H1T-3A-C 30709	Ft. Worth TX	NDCBU Installation
H1T-3A-C 29261	Temple TX	NDCBU Installation
H1T-3A-C 26547	Waco TX	NDCBU slab installation belongs to maintenance where sufficient manpower is available
H4T-3W-C-11259	Bradenton FL	Supervisors Installing Apt. Type Receptacle Locks

**ADDRESS ANY QUESTIONS YOU MAY HAVE CONCERNING THE ABOVE ITEMS
OR ANY OTHER CONTRACTUAL MATTERS TO**

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