

# Small Office Issues

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**LOCAL MEMORANDUM  
OF UNDERSTANDING  
For Offices Without a  
Local Union Structure**

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Between  
**American  
Postal Workers  
Union, AFL-CIO**

And  
**U.S. Postal Service**

**February 24, 2008  
November 20, 2010**

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

RE: LMOU FOR OFFICES WITHOUT A LOCAL  
UNION STRUCTURE

I. PREAMBLE

This Local Memorandum of Understanding (LMOU) was discussed and developed by the parties pursuant to the MOU Re: LMOUs for Offices Without a Local Union Structure, agreed upon in the 2006 National Agreement. It is entered into by and between the United States Postal Service (Employer) and the American Postal Workers Union (Union) and shall become effective thirty (30) days from the date signed by the parties and will extend through the life of the 2006-2010 National Agreement.

II. DEFINITIONS

A "local union structure" is defined as a chartered union local acknowledged by the Union at the national level, with established officer structure, including but not limited to, a local president, local vice-president, secretary-treasurer and properly certified shop steward(s).

### III. APPLICABILITY

This model LMOU shall be applicable to offices of the United States Postal Service, wherever located throughout the nation, where:

1. there is no local union structure; and
2. there are APWU represented employees.

This model LMOU shall not supercede existing LMOUs currently in effect, unless the local Employer and State President or National Business Agent agrees to replace their current LMOU with this model LMOU. If both parties do not agree to replace the existing LMOU, then the existing LMOU shall stand for the duration of the 2006 National Agreement.

**1. Additional Or Longer Wash Up Periods  
(Item 1)**

Wash-up time, if applicable, will be administered in accordance with Article 8.9 of the National Agreement.

**2. Guidelines For Curtailment OR Termination of  
Postal Operations (Item 3)**

When the decision has been reached to curtail or terminate postal operations, to the extent possible, the Employer will notify the Regional APWU Coordinator or designee of this determination. The Regional APWU Coordinator or designee will provide the installation head in writing with the name and contact information, as soon as practicable.

**3. Formulation Of Local Leave Program  
(Item 4)**

The local leave program shall be administered in accordance with Article 10 of the 2006 National Agreement and Section 510 of the Employee and Labor Relations Manual (ELM).



**4. The Duration of The Choice Vacation Period(s) (Item 5) and Determination Of The Maximum Number Of Employees Who Shall Receive Leave Each Week During The Choice Vacation Period (Item 9)**

- a. The maximum number of days off during choice vacation is governed by Article 10, Sections 3.D.1 and D.2 of the 2006 National Agreement.
- b. A choice vacation calendar will be placed on the employees' bulletin board no later than February 1.
- c. Choice vacation selections shall be made by seniority, among all APWU represented bargaining unit employees.
- d. Choice vacation period shall be from April 1 through November 30.
- e. February 15, shall be the final date for employees to submit their request(s) for choice vacation period(s). If the employee desires a copy of the approved leave request, the employee must submit the request in duplicate.

- f. For choice vacation selections only, one (1) APWU represented bargaining unit employee will be allowed off each week during the choice vacation selection period.
  
- g. In order to maintain the efficiency of its operations and to ensure that APWU represented bargaining unit employees are afforded maximum opportunity for choice vacation selections, consistent with Paragraph 4.a above, the APWU and the USPS agree to backfill, if deemed necessary, for vacationing bargaining unit employees by utilizing the following pecking order:
  - 1. Qualified APWU bargaining unit employees at the straight-time rate of pay, in the installation;
  
  - 2. APWU bargaining unit employees at the straight-time rate of pay from other installations pursuant to the Hub Clerk MOU, if practical;
  
  - 3. Postmaster Relief (PMR) from other installations. Note that PMR usage, in this instance is for the sole purpose of annual leave coverage during the choice vacation period and in this limited circumstance only, may be utilized to work the window operations. This agreement cannot be

cited in any forum as a basis for arguing that the PMR position or PMR work is within or should be within the bargaining unit and does not in any way change the definition of PMR as outlined in ELM Section 419.3, modify the national award in Case No. Q94C-4Q-C 96081517, acknowledge the duties assigned are bargaining unit work nor acknowledge that the PMR position should be in the bargaining unit.

- h. The installation head/designee shall post the approved vacation schedule no later than March 1.
- i. Upon request, the installation head/designee will provide the APWU Regional Coordinator/designee with a copy of the completed vacation planning schedule.

**5. The Determination Of The Beginning Day Of An Employee's Vacation Period (Item 6)**

The choice vacation period shall start on the first day of the employee's basic work week pursuant to Section 10.3.E of the 2006 National Agreement. Exceptions may be granted by agreement among the employee, the union representative and the Employer.

**6. Whether Employees At Their Option May Request Two Selections During The Choice Vacation Period, In Units Of Either 5 Or 10 Days (Item 7)**

Employees may request two selections during the Choice Vacation Period in units of five (5) and ten (10) days or one selection of fifteen (15) days, pursuant to Section 10.3.D of the 2006 National Agreement. The total leave approved cannot exceed the ten or fifteen days above.

**7. Whether Jury Duty And Attendance At National Or State Conventions Shall Be Charged To The Choice Vacation Period (Item 8), and Annual Leave To Attend Union Activities Requested Prior To Determination Of Choice Vacation Schedule Is Part Of The Total Choice Vacation Plan (Item 20)**

- a. Pursuant to Section 10.3.F of the 2006 National Agreement, an employee who is called for jury duty during the employee's scheduled choice vacation period or who attends a National, State or Regional Convention (Assembly) during the choice vacation period is eligible for another period provided this does not deprive any other employee of first choice for scheduled vacation and does not interfere with the needs of the service.

- b. Annual leave approved to attend other union activities prior to the granting of Choice Vacation Period will be charged to the Choice Vacation Period.

**8. The Procedures For Submission Of Applications For Annual Leave During Other Than The Choice Vacation Period (Item 12)**

The remainder of the employee's accrued annual leave may be granted at other times during the year, as requested by the employee, if approved by the installation head/designee.

**9. Light Duty Assignments (Items 15, 16, 17)**

Light duty will be administered in accordance with Article 13 of the 2006 National Agreement.

**10. Overtime Desired List (Item 14)**

Overtime Desired List (OTDL) shall be established in accordance with Article 8 of the 2006 National Agreement.

**11. Employee Parking (Item 19)**

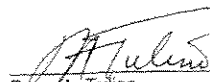
If available and authorized by the installation head, non-designated vehicle parking spaces may be utilized by APWU bargaining unit employees, on a first come, first served basis.

**12. Seniority, Reassignments and Posting (Item 22)**

When it is necessary to change, abolish and/or revert a duty assignment, the installation head/designee shall notify the APWU Regional Coordinator/designee, in writing of this determination.


This LMOU for MAL offices expires on November 20, 2010.

For the Employer:

  
\_\_\_\_\_  
Doug A. Tulino  
Vice President  
Labor Relations

Date: 1/25/08

For the Union:

  
\_\_\_\_\_  
William Burrus  
President  
American Postal Workers Union

Date: JANUARY 25, 2008

**IMPLEMENTATION AGREEMENT  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND THE  
AMERICAN POSTAL WORKERS UNION**

RE: LMOU FOR OFFICES WITHOUT A LOCAL  
UNION STRUCTURE

The parties agree that for the purposes of initial implementation of the LMOU for offices without a local union structure dated January 25, 2008, the following dates apply for 2008 only:

- Item 4.b will be changed to March 1
- Item 4.e will be changed to March 15
- Item 4.h will be changed to April 1

This MOU is intended for calendar year 2008 only and will expire on April 2, 2008.

For the Employer:

For the Union:



Doug A. Tulino  
Vice President  
Labor Relations

Date: 1/24/08



William Burrus  
President  
APWU

Date: 1/28/2008









Impact of Das Award

In

Case Q98C-4Q-C 01238942



**Impact of Das Award  
in  
Case Q98C-4Q-C 01238942**

**Supervisory Performance of Bargaining Unit Work in  
Offices with less than 100 Bargaining Unit Employees**

**Contract Language**

**Article 1.6.B “In offices with less than 100 bargaining unit employees, supervisors are prohibited from performing bargaining unit work except as enumerated in Section 6.1.A.1 through 5 above or when the duties are included in the supervisor’s position description.”**

**Management Position Descriptions**

Postmaster position descriptions in EAS 11 through 18 contain the following phrase:

**“May personally handle window transactions and perform distribution tasks as the workload requires.”**

Supervisor position descriptions in these offices generally state:

**“May personally perform certain non-supervisory tasks in order to meet established service standards, consistent with the provisions of Article 1, Section 6 of the National Agreement.”**

## **History**

All National Level Arbitrators have agreed Article 1.6 is clearly a work preservation clause for the bargaining unit which restricts the performance of bargaining unit work by supervisors.

This restriction is subject to limitations in the agreement in offices with less than 100 employees (i.e., when the duties are listed in the supervisor’s position description).

## **Garrett Award**

The language in Article 1, Section 6.B was first addressed at the national level in case AC-NAT-5221, which was decided in 1978 by Arbitrator Sylvester Garrett.

Neither the APWU position nor the USPS position was upheld by the Arbitrator.

The APWU argued, among other things, that a supervisor in a small office could spend no more than 15% of his or her daily work time performing bargaining unit work.

Garrett held, **“There is no support in the language of this provision for this suggestion.”**

The USPS argued that it was essentially free to re-write or replace all supervisory position descriptions and that it could, in effect, substitute supervisor's for bargaining unit personnel freely, even on a full-time basis.

Garrett held, **“1-6-B was not intended to authorize revision of supervisory position descriptions to include performance of bargaining unit work”** absent **“changes in relevant conditions or operating methods in a given office.”**

The Arbitrator went on to address the situation which existed in many of these small offices. That is where the supervisory position description already included performance of bargaining unit duties, but the amount of work performed by supervisors changed.

He stated: **“ 1-6-B grants no authority to substitute a supervisor for a bargaining unit employee . . . There is no way, therefore, that 1-6-B reasonably could be read to grant an unlimited license to eliminate Clerk hours by transferring Clerk work to supervisors . . . it is clear that the USPS errs in claiming an unfettered license under 1-6-B to assign Clerk duties to supervisors. . .”**

Garrett realized that his award could not be applied globally to all individual offices, except **“in light of all relevant facts applicable to that particular installation”**.

He went on to state that unless the parties could negotiate a global settlement to these issues, and that has not occurred, they would have to **“proceed with a detailed analysis of the pending grievances.”**

This means the issue would be settled or arbitrated based on facts in each individual office by regional level arbitrators, if necessary.

That is what occurred for a period of 23 years.

The union won some of these cases and lost some, based on the facts of each case. Most of the cases the Union prevailed on, as you would expect given the language in Garrett, involved offices where work historically done by the bargaining unit was shifted from the bargaining unit to supervisors.

There were also some regional arbitrators who held that when supervisors on a **“daily, regular and routine basis”** performed bargaining unit work, even if they had historically done so and there was no change or shift of work, it constituted a violation of 1-6-B.

Das made clear in his award that those cases **“cannot be squared with the Garrett Award.”**

These awards led the USPS on September 5, 2001 to initiate a dispute alleging there was no violation when a supervisor who had historically performed bargaining unit work on a daily, regular and routine basis continued to do so. At the hearing they added that it would not be a violation as long as there was no shift or transfer or work or change in the amount of work performed by the supervisor or postmaster.

The APWU disagreed and that is what led to the Das Award on 1-6-B in Case Q98C-4Q-C 01238942.

Since 2001 virtually all 1-6-B cases, whether there was a shift of work alleged or not, have been held in abeyance at either Steps 1,2



or 3 awaiting the outcome of the dispute initiated by the Postal Service.

## **Das Award**

### **APWU Position**

The Union argued that the USPS was hopelessly vague and that they had never defined what “daily, regular or routine” means. In addition the USPS did not explain which tasks it was addressing in their dispute or what history constitutes “historical” performance of bargaining unit work

The Union also argued that fixing a time a supervisor may perform bargaining unit work at the expense of clerks is substituting a supervisor for a bargaining unit employee, which Garrett also said they cannot do.

In addition, if the workload decreases, it is clearly improper that only clerks bear the impact.

It would also be improper in offices where the workload increases, that only supervisors increase the amount of bargaining work they perform.

Essentially, the Union argued all 1.6.B grievances are “fact bound” and can only be resolved by application of the principles of the Garrett Award to the facts in a particular office.

### **USPS Position**

The USPS contended that if postmasters historically performed bargaining unit work on a daily, regular and routine basis, they could continue to do so, absent a change or shift of work.

It is worth noting that although the Postal Service took the position that a supervisor or postmaster can perform bargaining unit work on a daily basis, they freely conceded that **“a postmaster cannot increase the number of hours he historically has performed window and distribution tasks.”**

### **Findings of Arbitrator Das**

In agreement with the APWU position and in summarizing Garrett, Das reiterated: **“Garrett concluded that Article 1.6.B essentially was intended to restate and embody in the National Agreement a long established policy to avoid having supervisors perform lower level work, subject to specified exceptions.”**

He went on to hold: **“Garrett did not accept the Postal Service’s position that it was free to increase the amount of bargaining unit work performed by a postmaster or supervisor in a small office to achieve full and efficient use of supervisory work time, irrespective of the impact on hours worked by clerks.”**

In addition, Das stated: **“He [Das] did not accept the notion that Article 1.6.B incorporated the Postal Service’s position that the postmaster is the ‘basic clerk’ who is supplemented by additional clerks only as required.”**

Accordingly, a strong argument can be made that the historical practice as to both the kind and amount of bargaining unit work performed by supervisors and postmasters in a given office, forms a **ceiling**. That ceiling is not only the amount kind and amount of bargaining unit work, but also important is **when** it is done.

The idea that supervisors may increase the kind or amount of bargaining unit work would, in effect, be justified only by the “efficiency” and “basic clerk” arguments already rejected by both Garrett and Das.

On the other hand, in agreement with the USPS position, Das held that “Garrett clearly did not accept the Union’s argument that there could be no regular practice of having supervisors perform lower level work in a small office.”

He held that the Agreement did not “require the Postal Service to reassign bargaining unit work historically performed by a supervisor in a particular office to clerks because such duties are performed on a daily, regular and routine basis, or because clerks are or could be available to perform the work.”

Arbitrator Das made it very clear that the essence of the Garrett Award is that “it focuses on change, in particular on Postal Service action that increases the amount of bargaining unit work performed by supervisors, whether in response to changes in workload or to promote efficiency.”

The Das Award, boiled down to its essence, asserts that “historical practice sets the baseline for what is ‘necessary’ at a particular office. Any substantial change, thereafter, has to meet the requirements Arbitrator Garrett spelled out.”

Das took great pains in his award to point out clearly that the issue presented to him was “quite narrow”, as follows:

**“ . . . whether consistent with the exception in Article 1.6.B of the National Agreement, as interpreted by the 1978 Garrett Award . . . a supervisor at a small office, whose position description includes the performance of bargaining unit duties, may continue to perform those duties historically performed by a supervisor at that office on a daily, regular or routine basis, where there has been no shift or transfer of work or change in the amount of such duties performed by the supervisor.”**

Das stated the answer to this “narrow and abstract issue is ‘yes’.”

The Arbitrator made it very clear; however, that answer was only yes “if there has been no reduction in bargaining unit employee hours.”

Arbitrator Das also made it clear his award did not address two other issues raised by the Union as follows:

1. An increase in bargaining unit work performed by a supervisor without a change in clerk hours, and
2. situations where bargaining unit employee hours are reduced without a change in the amount of bargaining unit work done by a supervisor.

He indicated those situations would have to be resolved by application of the facts in that office to the principles of the Garrett Award.

## What do we argue in a Post-Das era?

First and foremost, we should now be able to arbitrate those cases in the field that were being held in abeyance pending the Das award.

The vast majority of those cases did involve situations where bargaining unit work was, in fact, shifted from the bargaining unit to supervisors. The Das Award tremendously strengthens those cases.

Any cases in which the USPS can prove what the historical practice was, and where the Union only argued that supervisors violated the Agreement when they performed work on a daily, regular and routine basis are without merit and should be closed.

If there was no argument about an increase in bargaining unit work performed by supervisors over what had been historical in the office, or a decrease in work performed by clerks or both, they should be withdrawn in accordance with the Das Award.

As Das clearly stated: the Garrett award focused on CHANGE.

If there is anything that has been constant over the past 40 years in the Postal Service, it is CHANGE.

Most, if not all small offices have had shifts of work from the bargaining unit to supervisors, or increases in work performed by supervisors, or decreases in work performed by clerks over the years.

The key to resolution of these cases will be to determine whether specific duties have “historically” been performed by a supervisor in light of “all relevant facts” applicable to that installation.

## How is the “history” proven?

Since “history” is a critical component of the USPS position as to when Article 1.6.B is **not** violated, arbitrators should then hold the Postal Service to its position that any given kind or amount of bargaining unit work is **only** justified by the “history” in that particular office.

It necessarily follows, that the APWU can make a prima facie case of a violation of 1.6.B by simply showing that supervisors performed bargaining unit work.

The USPS burden in any hearing is then to justify having done so because it has been done “**historically**”.

There is support for this argument regarding the USPS burden in Case A-C-N 6922, decided by National Arbitrator Carlton Snow on December 17, 1989.

That award dealt with a Union challenge to the performance of certain types of bargaining unit work by supervisors in **all** offices. The Union attempted to demonstrate what the “**past practice**” or “**history**” was in post offices.

The APWU tried to show who had historically performed certain duties such as timekeeping, density and proficiency checks, answering the telephone, etc.

Whichever party is claiming protection based upon the “history” or “practice” in an office has the burden of proof in an arbitration hearing . In offices with less than a hundred employees, that party is clearly the Postal Service.

Therefore, in 1.6.B cases the USPS would have the same burden the Union had before Arbitrator Snow, that is: to demonstrate what the “history” or “past practice” has been in that office.

Addressing the Union’s burden in case #6922, Arbitrator Snow stated: **“ It is not inconceivable that a usage (in 1.6.B cases, that would be the historical practice) could be incorporated in the parties’ agreement (both Garret and Das have essentially incorporated the historical practice into Article 1.6.B of our Agreement) and, then, would serve as a qualification of express terms; but the burden of proof would rest with the party making such an assertion.”**

In that regard Snow held: **“The Union has argued that, where both supervisors and bargaining unit employees have performed similar tasks, past practice has reserved such work for bargaining unit members. These parties need no lesson in the nature of past practice. Their own Richard Mittenthal, past president of the National Academy of Arbitrators, has written the definitive work on past practice. (much of which is incorporated into the APWU/USPS JCIM) . . . Mr. Mittenthal made clear almost thirty years ago that activity rises to the level of a past practice where it has (1) clarity and consistency; (2) longevity and repetition; and (3) acceptability. . . The diverse evidence showed again that past practice at a facility can be marshaled to march in support of very different conclusions. It was reminiscent of the famous statement by the imminent Dean of the Yale Law School, Harry Schulman, when he stated:**

**How is the existence of the past practice to be determined in light of the very conflicting testimony that is common in such cases? The Union's witnesses remember only the occasions on which the work was done in the manner they urge. Supervision remembers the occasions on which the work was done otherwise. Each remembers the details the other does not; each is surprised at the other's perversity; and both forget or omit important circumstances. Rarely is alleged past practice clear, detailed and undisputed. Commonly inquiry into past practice . . . produces immersion in a bog of contradictions, fragments, doubts, and one-sided views."**

This places a very heavy burden on the USPS since they have to demonstrate what the "history" in a particular office is in order to prevail. How may the USPS prove what a supervisor's predecessor did? The incumbent would not know and anything he/she had to offer would be hearsay.

Snow went on to state: "Proving, however, that some activity has become an accepted way of doing business and has risen to the level of a past practice so that it may clarify language in an agreement requires what the eminent arbitrator, Clarence Updegraff, described as 'full, complete, and clear proof.'..."

Again, it must be determined what the status quo is in a particular office. Even within the status quo where the Postal Service can meet that burden, Das placed additional limitations on the supervisor/postmaster as follows:

- The Union may show that the pattern of bargaining duties performed by a postmaster or supervisor were not performed so consistently over a sufficiently long time that they do not meet the test of "historically performed" by that particular postmaster or supervisor.



- Just because a postmaster “historically” worked X hours performing specific bargaining unit duties, he/she is not free to perform other duties.

### Different Argument on Postmasters

The language in supervisors’ position descriptions is fairly ambiguous as it relates to the type of bargaining unit work they may perform (it states: “certain non-supervisory tasks”).

The postmasters’ position descriptions, on the other hand, state they can only “handle window transactions and perform distribution tasks.” Arbitrator Das was very clear in his award where he stated postmasters may only perform bargaining unit work if it “falls within the scope of ‘window transactions’ and ‘distribution tasks’.”

There are many duties which have nothing to do with window transactions and distribution tasks which clearly belong to the bargaining unit. Postmasters should not be performing these tasks.

Some examples are:

- Servicing vending machines
- Clearing and assigning carrier accountable mail
- Second notice filing, hold mail duties and related tasks
- Disposing of UBBM mail
- Custodial work, if there are no custodians in the office, clerks should perform the work before postmasters
- Loading and unloading trucks
- Collections
- Bulk mail acceptance

- Dispatch duties
- Spreading mail to carriers

## Efficiency Argument

In offices where shifts of bargaining unit work can be documented, management may attempt to make an argument that the shift was made because it was more “efficient.”

Arbitrator Garrett was very clear when he stated:

**“... There is no way, therefore,, that 1-6-B reasonably could be read to grant an unlimited license to eliminate Clerk hours by transferring Clerk work to supervisors without also giving consideration to othe possible means of reducing total work hours. . . . Proper observance . . . would require as a minimum that – before such action is taken in any given office – the USPS should also give full consideration to other reasonably available means of eliminating excess manpower.”**

In these situations, management would have a heavy burden to demonstrate how they gave “**other consideration**” to other possible means. For example, “**other consideration**” should include the assignment of PTF “loaners” or “hub clerks” prior to shifting work from the bargaining unit to supervisors or postmasters.

In addition, management must be able to demonstrate who conducted the “**good faith review**” required by Garrett. This review should include putting the Union on notice with an

opportunity for input prior to the action taking place or it certainly would not be in "good faith."

## Documentation

The key to prevailing in these cases will be the ability of the Union to document a violation based on change.

In cases where the USPS meets its burden to show a history of the postmaster or supervisor performing a "baseline amount" of bargaining unit work, the Union must then show the Postal Service has departed from the status quo either by taking hours away from clerks, or by adding hours or duties to supervisors or both.

That can be documented in the following manner:

- Interviews of current and former employees and supervisors
- Statements of current and former employees and supervisors
- Notices of excessing, or plans to excess
- Notices of job abolishments and/or reversions
- Notices of impact of automation, area mail processing, etc.
- Function 4 report or recommendations
- Clock rings or other pay records of work hours, both bargaining unit and management
- Loaner Hours Report, a report that will show any hours transferred from one labor distribution code (LDC) or finance number to another
- Flash Report, a detailed report showing mail volume, revenue, work hours, by the week, accounting period(AP), year-to-date(YTD) and same-period-last-year(SPLY). Specifically request the flash report for the last 5 years for AP 13, week 4. This will show an entire year since it contains

YTD numbers. The years can then be compared to illustrate any changes.

- Work hour budget for the office for the last 5 years
- Form 50 of the Postmaster or Supervisor, to determine if he/she gets a uniform allowance. Part 932.11.g of the ELM states only employees who work a **“minimum of 4 hours daily for 5 days a week on a continuing basis, or for not less than 30 hours a week”** are to receive a uniform allowance.
- PS Form 3930, a document which records mail volumes and work hours on weekly basis
- Window Operations Survey (WOS) reports which show window transactions

Also important evidence may be the settlement of Case Q90C-4Q-C 94011535 from 1995 which states:

**“No bargaining unit work will be shifted from craft employees to Postmasters/Supervisors solely as a result of a review using the Workload/Work Hour Budget Equalization Guidelines process.”**

## **Continuing Violations**

In offices where shifts of work took place and we did not challenge them at the time the change occurred, we should initiate grievances and apply the principles of Garrett and Das.

These would be classic examples of continuing violations and should be processed as such.

It will be critical in those cases to provide evidence of what the historic practice has been in the office, how and when the changes occurred and how those changes affected both the supervisors and clerks.

We have a good chance of success where we can demonstrate the USPS has eroded the principles of Garrett by shifting work, over the years.

Where that can be demonstrated, it must be rectified.

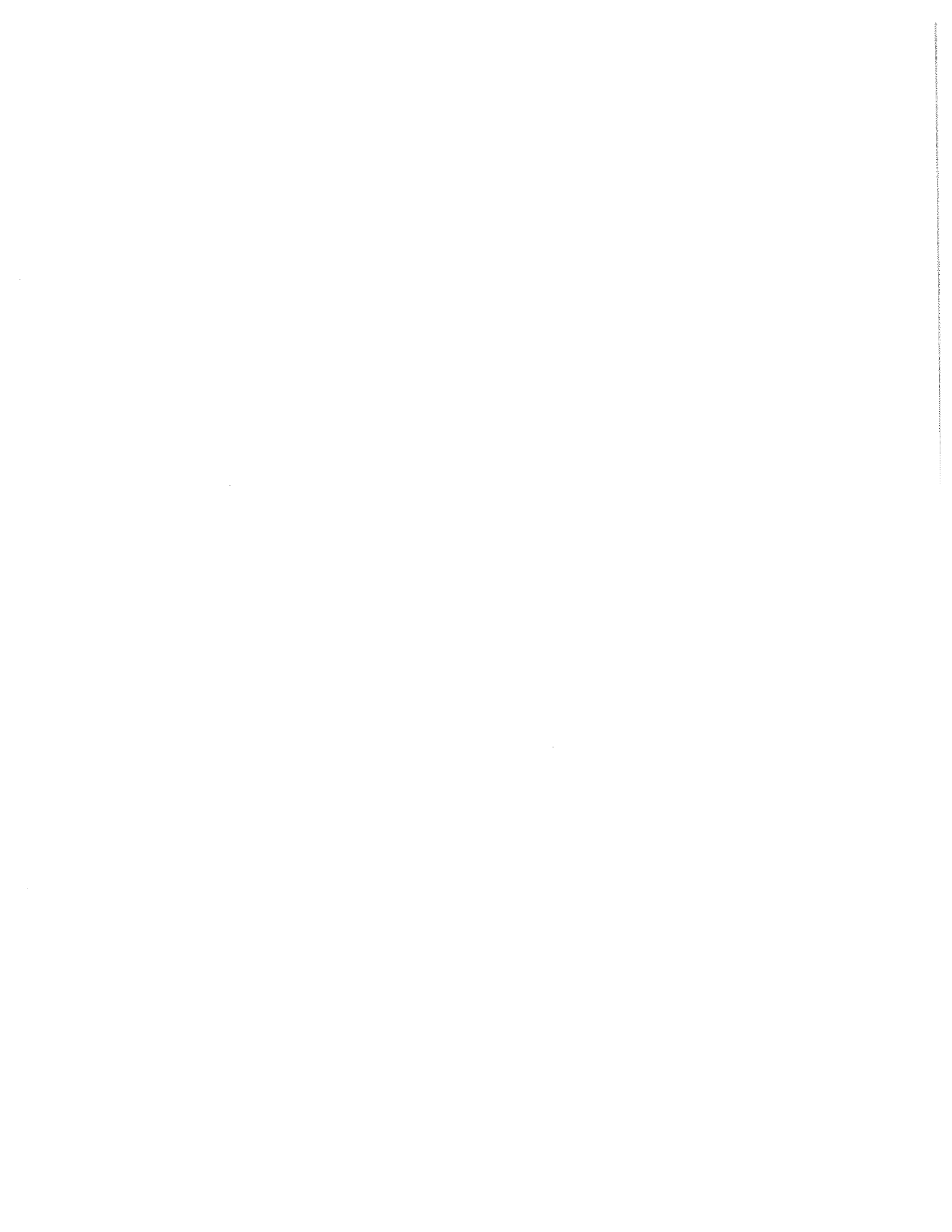
We must keep in mind that having the work returned to the bargaining unit is much more important than any back pay that might be involved.

Mike Morris  
Assistant Director  
Clerk Division

**nota bene:** I would like to give special thanks to Jim McCarthy, Rob Strunk, Pat Williams and Anton Hajjar and to the following National Business Agents who gave valuable input into the formulation of this document. It was truly a collaborative effort.

Bob Kessler	Lyle Krueth
Steve Zamanakos	Mike Gallagher
Ron Nesmith	John Clark
Tom Maier	Eric Wilson









## *Members-at-Large*

### *Frequently Asked Questions*

1. Can the postmaster perform distribution and/or window duties in my office?

**If your office has less than 100 bargaining-unit employees, the postmaster may perform bargaining unit work only if it is listed in their position description. Typically, the position description for postmasters in Level 20-and-below post offices states they “may personally handle window transactions and perform distribution tasks as the workload requires.” (Different rules apply to larger offices.)**

2. My postmaster has historically performed two hours of clerk work per day. Can he/she, or a new postmaster, or an Officer In Charge (OIC), work more hours than that?

**No. At least two national-level arbitrators have ruled that postmasters and supervisors may perform only the amount of work that historically has been performed by supervisors in an office. If the amount increases, or the number of clerk hours decreases, you should contact your union steward.**

3. Whose job is it to: give accountable mail to carriers; to clear the carriers when they return; to check the undeliverable bulk business mail (UBBM); and to perform other allied duties?

**The M-39 Handbook contains language indicating that clerks should be scheduled to perform these functions. It says the supervisor’s responsibilities are to:**

*“Review mail undeliverable as addressed (UAA) to identify errors and maximize efficient handling procedures at delivery units and at Computerized Forwarding System (CFS) units.” [Emphasis added.] The regular and routine disposal of undeliverable bulk mail should be performed by clerks.*

**This is not considered a “distribution task” and should not be performed by postmasters or supervisors. Postmasters also should not be doing Webbats (P.O. Box record-keeping on the web), bulk mail acceptance, or other ancillary duties. Contact your union steward if you have questions about this.**

4. How can Postmaster Relief (PMR) employees be utilized in an office?

**By definition, a PMR “is a non-career hourly-rate employee who performs as a relief or leave replacement during the absence of the postmaster in an EAS 16 or below Post Office.” PMRs should not be working in an office unless the postmaster is absent. If a PMR is working in an office at the same time as the postmaster, contact your union steward. PMRs should not be hired in offices with career bargaining unit employees, in accordance with ASM Part 123.4.**

5. Can a PMR from another office perform clerk work in my office?

**A PMR from another office can perform clerk duties only if he or she has been properly hired as a dual-appointed casual in your office or if he or she is working for the sole purpose of providing coverage for clerks on annual leave in accordance with the pecking order established in the LMOU for Offices Without a Local Union Structure, Item 4.g.3. If you have a question regarding whether a PMR has been properly hired or dually appointed, contact your union steward.**

6. Can the postmaster send home part-time flexibles (PTFs) and continue to work the window without them?

**It depends upon the history of the postmaster working in the particular office. If you have a question about the historical practices in your office, contact your union steward.**

7. What must the union demonstrate in order to require management to convert a part-time flexible to full-time regular?

**The union must be able to demonstrate that the PTF hours (including leave hours) are being utilized in a way that could**

**support a full-time duty assignment. The hours do not have to be from a single PTF; a combination of PTF hours may be used to establish the need for a full-time job. Article 7.3.B requires management to maximize full-time employment and minimize part-time employment in all postal installations. If you believe your office has sufficient PTF hours to support a full-time job, contact your union steward.**

8. If a full-time regular clerk retires, what happens to his or her duty assignment?

**A vacant duty assignment must be posted within 28 days of the date it became vacant. Changes to the assignment may be made. If the USPS does not have sufficient work to support the full-time duty assignment, management may revert the duty assignment, provided the Postal Service notifies the APWU Regional Coordinator or their designee in writing within 28 days.**

9. Who must management notify when full-time duty assignments are abolished or reverted?

**Management must notify the local union president when a job is reverted (i.e., when a vacant duty assignment is eliminated). If your office is not a part of a local, management must notify the Regional Coordinator (or his or her designee) in accordance with the Local Memorandum of Understanding (LMOU) for Offices Without a Local Union Structure, Item 12. The same is true if a job is abolished (i.e., when an occupied duty assignment is eliminated). The Regional Coordinator also must be notified if the abolishment will result in excessing outside the installation.**

10. How many casuals can be employed and for how long?

**Casuals may not be employed in excess of 360 days. In offices of less than 200 man-years, they may not be hired in lieu of career employees. If a casual is hired in your office, contact your union steward. The union will monitor the employment of casuals to ensure that they are hired and utilized properly.**

11. Can a casual continue to work when a PTF is sent home?

**PTFs working at the straight-time rate must be given priority scheduling over casuals.**

12. Can a PTF clerk be required to carry mail?

**Clerks are not typically scheduled to carry mail; however, there are clerk positions (such as Special Delivery Clerk) with duties that include carrying mail. Clerks also may be required to deliver and pickup Express Mail. If you have a question about the history in your office, contact your union steward.**

13. What kind of work can casuals perform?

**Casuals may not perform accountable duties, such as working the window, accountable mail, registered mail; duties that require postal training with a deferment period; duties that require scheme study with a deferment period; or duties that require a skill that is subject to testing, such as typing. They may perform non-core duties such as boxing mail, spreading mail to carriers, etc.**

14. What is a dual-appointed casual and what are the rules regarding their use?

**Section 348.11 of the ELM defines a dual appointment as an employee who is appointed to more than one position. It goes on to state that PMRs and Rural Carrier Reliefs (RCRs) may have dual appointments as casuals, but only under very limited circumstances. Section 348.12 of the ELM states that before such dual appointments are considered, the postmaster should first increase the PTF hours – even if it requires the use of overtime. Postmasters also must consider bringing in PTFs from different offices, if they are available. If a PMR or RCR has a dual appointment or is working as a casual in your office, contact your union steward immediately.**

15. Can City Letter Carriers perform Clerk Craft duties?

**No. Cross-craft assignments are limited to employees in the same wage level. In addition, there must be a corresponding heavy workload in the gaining craft and a light workload in the losing craft. These circumstances rarely occur.**

16. Can Rural Letter Carriers ever perform Clerk Craft duties?

**No.**

17. Can custodians perform Clerk Craft duties?

**No, because they are assigned to a different wage level.**

18. Whose job is it to "spread" mail to carrier cases?

**In small post offices this is typically a function of the Clerk Craft.**

19. Can I be required to pay a window shortage without being given a Letter of Demand in writing?

**No. Before you can be required to repay a shortage in your accountability, you must be given a written Letter of Demand, signed by the Postmaster or his or her designee. The letter must include a statement of your appeal rights and options for repayment. Contact your union steward immediately if you receive a Letter of Demand.**

20. Is there ever any justification for allowing the postmaster or anyone else to work from my cash drawer?

**No. It is a clear violation of postal regulations. If it happens, contact your union steward.**

21. Can an injured-on-the-job (limited duty) City Letter Carrier or Rural Letter Carrier perform Clerk Craft duties?

**It depends on the facts in each individual circumstance. If you have a question regarding this, contact your union steward.**

22. Can my postmaster send home PTFs while injured rural or city carriers continue to perform clerk work?

**It depends on the facts in each individual circumstance. If you have a question regarding this, contact your union steward.**

23. If I am ill or injured but my doctor says I can perform limited work, is the postmaster required to find work I am able to perform?

**If you wish to perform light-duty work, you should submit a written request to your postmaster, along with a note from your doctor indicating the type of work you are able to perform. The postmaster must make every effort to accommodate your request. If your request for light duty is denied, contact your union steward.**

24. Can I be required to request a light-duty assignment if I am not able to perform the full duties of my job?

**No.**

25. What are my rights regarding the Family Medical Leave Act?

**The Joint Contract Interpretation Manual (JCIM) is an excellent reference. (See Article 10, beginning on page 13.) If you have a question about leave under the FMLA, contact your union steward.**

26. Can my postmaster choose annual leave before the clerks and refuse to give clerks the same weeks he or she has chosen?

**No. The Local Memorandum of Understanding for Offices Without a Local Union Structure requires management to grant leave to a minimum of one clerk during the choice vacation period (April 1 through November 30). In addition, Section 512.61.a of the ELM requires management to grant vacation leave to bargaining unit employees when requested “to the extent practicable,” while postmasters must only be granted leave “when their services can best be spared.” (Section 512.62.)**

27. Do we have to sign-up for vacation along with the carriers in the office?

**No.**

28. How do I sign-up for annual leave?

**Items 4 through 8 of the LMOU outline the provisions governing annual leave.**

29. How long does my postmaster have to let me know whether my annual leave request is approved?

**The LMOU states that employees must submit their choice vacation selections by February 15, and that the postmaster has until March 1 to post the approved vacation schedule. All other leave requests should be acted upon and returned within a reasonable time frame. If your leave request is not acted upon within two weeks, contact your union steward.**

30. Can my postmaster deny a request for sick leave?

**No. If you are sick, your PS Form 3971 serves as a *notification* of your absence; it is not a *request*. If management charges you with an AWOL or otherwise refuses to pay you, contact your union steward.**

31. Can I be required to provide medical documentation if I call in sick?

**Medical documentation is only required for absences of more than three days. For absences of three days or less, the postmaster may require documentation only if there is a *valid* reason to doubt that the request is legitimate. If your postmaster requires medical documentation for absences of three days or less, contact your union steward.**

32. Do I get rest breaks? If so, how long are they?

**All employees are entitled to reasonable rest breaks. If there is no standard practice in your office, a 10-minute rest break after two**

**hours work is generally considered reasonable. If there is not a standard time for rest breaks in your office and you are refused a rest break, contact your union steward.**

33. If the only clerk in the office is given an officer-in-charge (OIC) assignment, who should perform the clerk work?

**It depends. The USPS has the right to schedule PTFs from other offices. These clerks should be scheduled if they are available. The OIC can only perform the duties of the postmaster.**

34. If my office has a custodian, who performs that work when he or she is on leave?

**In accordance with a July 10, 1991, Maintenance Management Order (MMO-21-91) the pecking order should be: Mechanics, PTF clerks, PTF carriers. This gives first priority for the work to the Maintenance Craft, then the Clerk Craft, and, finally, the Carrier Craft.**

35. Who should perform clerk work when a clerk is on annual leave?

**In accordance with the Local Memorandum of Understanding for Offices Without a Local Union Structure, the work should go first to other clerks within the office, then to available PTF clerks from surrounding offices, and finally, if no career clerks are available within the commuting area, to PMRs, for the sole purpose of back-filling for bargaining unit annual leave.**

36. If I use sick leave or annual leave early in the service week, can the postmaster change the leave to a non-scheduled day and make me work later in the week?

**No. If a PTF makes a valid request for leave, their non-scheduled workday should not be changed to make them available for another day of straight-time work. If your leave is changed to a non-scheduled day, contact your union steward.**

37. If I wish to use annual leave or sick leave as a PTF, how many hours must I use in order to get the day off?



**You can be required to use only the number of hours you would have worked if you had not taken leave. (See Section 312.6 of the F-21 Handbook.)**

38. What if there is a dispute over the number of hours I use?

**If a dispute arises regarding the number of hours a part-time flexible employee would have been scheduled to work, the schedule is considered to have been equal to the average hours worked by other part-time flexible employees in the same work location on the day in question. [See the ELM at 513.421.b(3).]**

39. Do I have to schedule doctors' appointments on my own time?

**No. You have a right to use sick leave for scheduled doctors' appointments if the appointments are scheduled during your normal work hours.**

40. Can my postmaster require me to return to work after a doctor's appointment?

**Unless your doctor indicates that you are incapacitated, you may be required to return to work to finish your scheduled workday.**

41. What are the daily work-hour guarantees for part-time flexibles?

**A PTF in an office with less than 200 man-years is guaranteed two hours work or pay when called in to work, unless there is a "call back." (See question #41.) If a PTF is instructed to clock out and return to work within two hours, it is considered a split shift and no new guarantee applies. If, before you leave work, you are instructed to return to work after two hours or more, you are entitled to another two-hour guarantee.**

42. How many splits shifts can I be assigned in a day?

**The only limit on the number of split shifts a PTF may be required to work is that all work hours – including lunch breaks – must occur within a 12-hour time span. For example, a PTF who**

reports to work at 4 a.m. would not be available for any work after 4 p.m.

43. What is a “call back?”

**When an employee completes a scheduled tour, clocks out, leaves the premises, and is contacted after he or she has clocked out and instructed to return to work, it is considered a call back, regardless of the interval between shifts. You are guaranteed an additional four hours of work or pay if you are called back to work.**

44. If I am scheduled to work in the afternoon only, but my boss calls me in the morning and tells me to come in, is it considered a “call back?”

**Yes. Because you were not notified before the end of your previous tour, you have a four-hour guarantee for the morning call-in. You retain your two-hour guarantee for the afternoon, for a total of six hours.**

45. What if I am *not* scheduled for a given day, but my boss calls me the day before or the same day and tells me to come to work. Is that considered a “call back?”

**Yes, you have a four-hour guarantee for that call-in.**

46. As a part-time flexible, can the postmaster require me to return to work after more than a two-hour break? If so, do I have a work-hour guarantee?

**Yes. If you are notified prior to leaving the post office, your guarantee is two hours. If you are called back, your guarantee is four hours.**

47. If there is more than one PTF in an office, do the hours of work have to be equal?

**Generally, PTF hours should be equitably divided over the course of a pay period or accounting period, except where the distribution of work hours is controlled by past practice. For**

**example, sometimes the junior PTFs are told when they are hired that they are only being employed to perform relief duties for the other clerks (or for lunch relief or to cover vacation periods). In such cases these PTFs could properly be scheduled for fewer hours than the other PTFs. If you have a question about this, contact your union steward.**

48. As a full-time regular, if I am required to work one of my off-days, can management send me home prior to working eight hours?

**Full-time regulars are guaranteed a minimum of eight hours work or pay any time they report to work. If you are sent home after working less than eight hours, the Postal Service must pay you for eight hours nonetheless.**

49. Is management required to have an overtime desired list?

**Yes, if there are full-time employees in the office. Only full-time regulars may sign the overtime desired list.**

50. Can full-time regulars work overtime if part-time flexibles in the office are getting less than 40 hours in a week?

**Yes. There is no correlation between FTR and PTF overtime.**

51. Can part-time flexibles get overtime if the full-time regulars don't get overtime?

**Yes. There is no correlation between PTF and FTR overtime.**

52. Can Hub Clerks work in my office?

**Yes. Hub Clerk is the name given to part-time flexible clerks who are assigned to offices other than their own.**

53. If Hub Clerks work in my office, can management reduce the hours of part-time flexibles who are permanently assigned to my office?

**Hub Clerks should not be scheduled to work to the detriment of PTFs who were hired in or permanently reassigned to the gaining**

**office. PTFs in the gaining office should be utilized at the straight-time rate before work is given to Hub Clerks.**

54. Can Hub Clerks work overtime in my office before full-time regulars on the overtime desired list work overtime?

**Hub Clerks can work overtime only if the overtime has been first offered to full-time clerks on the overtime desired list in the gaining office.**

55. Can I be required to work in an office other than my home office?

**Hub Clerks can be required to work in offices other than their home office. (The Hub Clerk Memorandum between the APWU and the USPS applies only to part-time flexibles.)**

56. If I am assigned to an office other than my home office, should I get paid mileage or travel pay?

**Yes. You are required to be compensated for travel time and/or mileage in accordance with Section 438 of the ELM and Chapter 7 of Handbook F-15.**

57. If the postmaster is absent or leaves the office, is someone else in charge? If so, does that mean a clerk should receive higher level pay? If so, what level pay should they receive?

**Typically, a clerk should be placed on higher-level pay in the absence of the postmaster.**

58. If my postmaster is off on Saturday, what level should I be paid when I am working in the office on that day?

**Level 7. Contact your union steward if you have a question.**

59. If I am performing higher-level duties every day, can I be upgraded?

**Section 233 of the ELM requires that full-time employees who perform higher level duties every day, regardless of the amount of**

**time, should be ranked at the higher level. If you have a question about this, contact your union steward.**

60. What is a Function Four audit? How can a Function Four review affect me?

**A Function Four audit is a management tool to review the operation and staffing of the office. The results could affect clerk hours and work. Contact your union steward if there is a Function Four review in your office.**

61. If a Function Four report recommends that someone should be excessed from my office, who is excessed?

**Contact your union steward. It could be that no one should be excessed. If excessing is necessary, the employees to be excessed are identified by juniority from among the employees occupying the same craft, level, and status (full-time regular or part-time regular).**

62. What does the contract require of management before excessing can occur?

**Casual hours must be eliminated to the extent possible and PTF hours must be reduced.**

63. What should a window clerk do if management suggests that he or she cuts corners in order to “get the line down” when the lobby is full of customers?

**Continue to work the window in a professional manner and do not cut corners, especially when it comes to financial transactions. Contact your union steward.**

64. We are working shorthanded, but the postmaster tells us that his or her boss won't allow additional hiring. Is there anything we can do?

**Hiring is generally a management decision, but you should contact your union steward. The union will investigate whether**

**management is violating the Collective Bargaining Agreement in order to avoid hiring.**

65. Is there ever any justification for working “off the clock”?

**No. Working off the clock is strictly forbidden by postal regulations and you could be disciplined for doing so. The postmaster also could be disciplined if employees work while off the clock with the postmaster’s knowledge or tacit approval.**

66. I see contractual violations every day in my office, but I am afraid that my postmaster will retaliate if I inform the union. What can I do?

**You have to decide whether you want to permit management to continue to violate the contract or whether you want to stand up for your rights. If you decide to take a stand, the full force of the APWU will be with you.**

67. How can I get a copy of the contract and JCIM?

**Visit [www.apwu.org](http://www.apwu.org) to download a free PDF version of the contract ([www.apwu.org/dept/ind-rel/sc/ircba.htm](http://www.apwu.org/dept/ind-rel/sc/ircba.htm)) or JCIM, visit ([www.apwu.org/dept/ind-rel/irj cim.htm](http://www.apwu.org/dept/ind-rel/irj cim.htm)) to order a printed copy.**

68. Who should I contact if I want to ask a question about the contract or if I want to file a grievance?

**Visit the Members-at-Large page on the APWU Web site, at [www.apwu.org](http://www.apwu.org). You also can ask your co-workers or employees working in nearby post offices about who to call.**

69. What if my postmaster won’t allow me to contact the union while I am at work?

**Make your initial contact when you are off the clock. The union steward should be able to correct your problem.**

70. If I am not already in the union, why should I join?

**There are numerous reasons why you should join the APWU, but the main reason is to support the ONLY organization that can and does represent you both in the post office and in Congress.**

71. How can I join the Union?

**Contact your union steward and fill out a Form 1187, or visit [www.apwu.org/join/howto.htm](http://www.apwu.org/join/howto.htm).**

72. Can I join any nearby local that I choose?

**It depends on the area. Contact your union steward for advice.**

73. How many members must we have to form our own local?

**Ten.**

**FAQs updated April 23, 2008**

