

IN THE MATTER OF

**WASHINGTON STATE
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES**

AND

WASHINGTON FEDERATION OF STATE EMPLOYEES

Grievance: SOLA Bidding

AAA No.: 75 390 00394 06 LYMC

Date Issued: June 20, 2007

ARBITRATION OPINION AND AWARD

OF

ALAN R. KREBS

Appearances:

**WASHINGTON STATE
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES**

Janetta Sheehan

WASHINGTON FEDERATION OF STATE EMPLOYEES

Christopher J. Coker

IN THE MATTER OF

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OPINION OF THE ARBITRATOR

PROCEDURAL MATTERS

The Arbitrator was selected by the parties with the assistance of the American Arbitration Association to hear three consolidated grievances. A hearing was held on March 22, 2007 in Spokane, Washington. Washington State Department of Social and Health Services was represented by Janetta Sheehan, Assistant Attorney General. Washington Federation of State Employees was represented by Christopher J. Coker of the law firm Younglove, Lyman & Coker.

At the hearing, witnesses testified under oath and the parties presented documentary evidence. A court reporter was present, and subsequent to the hearing, a copy of the transcript was submitted to the Arbitrator. The parties agreed upon the submission of post-hearing briefs. The parties' briefs were submitted in a timely manner.

ISSUE

The parties, being unable to agree upon a stipulated statement of the issue to be decided, agreed to have it framed by the Arbitrator. Having considered the testimony and arguments, your Arbitrator determines the issue to be as follows:

Did the Employer violate Article 3 of the Agreement by not affording the grieving SOLA employees the right to bid on vacant SOLA positions?

If so, what is the appropriate remedy?¹

RELEVANT PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT

* * *

ARTICLE 3 BID SYSTEM

3.1 Applicability

- A. This Article applies only to staff employed at a correctional facility in the Departments of Corrections, or at an institution in the Department of Social and Health Services, or the Department of Veteran's Affairs, and who work in positions that may require relief or coverage. This Article also applies to employees at the Schools for the Blind and Deaf, Department of Fish and Wildlife, Department of General Administration who work in the Division of Capital Facilities, and the Board of Industrial Appeals Judges (Section 3.12 only).
- B. This Article does not apply to the filling of non-permanent, on-call, project or, except at the Schools for the Blind and Deaf, career seasonal positions.

3.2 Definitions

For purposes of this Article only, the following definitions apply:

- A. Bid Positions
Positions filled as a result of a bid.
- B. Bid System
A process allowing employees with permanent status to submit bids to other positions within their employing institution in the same job classification in which they currently hold permanent status or have previously held status.

¹ By letter dated May 15, 2007, the Employer advised the Union and the Arbitrator that it was withdrawing its challenge to the arbitrability of the grievances. At hearing, the Employer had contended that the filing of the grievances were untimely.

C. Position

A particular combination of shifts and days off, except for the Department of Social and Health Services (DSHS). In DSHS a position is defined as a particular combination of shift, days off and location.

3.3 Components of a Bid

Bids will indicate the employee's choice of shift, days off and job classification. Employees will be responsible for the accuracy of their bids. Each bid will remain active for a period of six (6) months from the date submitted by the employee.

3.4 Submittal and Withdrawal of Bids

Any bids submitted after the date a vacancy is considered to have occurred will not be considered for that vacancy. Employees may withdraw their bids, in writing, at any time prior to the referral.

3.5 New Positions or Reallocated Positions

When a new position is established or a current position is changed, the Employer will post a new position for five (5) calendar days if the combination of shift and days off (and, for DSHS, location) does not currently exist.

* * *

3.7 Awarding a Bid

When a permanent vacancy occurs, the Employer will determine if any employee has submitted a transfer or a voluntary demotion request for the shift and days off. Seniority will prevail provided the employee has the skills and abilities necessary to perform the duties of the position. An employee's bid request may be turned down if the employee has documented attendance or performance problems.

* * *

3.10 Reassignment from a Bid Position

Nothing in this Article will preclude management from reassigning an employee from his or her bid position to another position on a different shift or to a position with different days off, provided the employee is notified, in writing, of the reason(s) for the reassignment.

* * *

**ARTICLE 4
HIRING AND APPOINTMENTS**

4.1 Filling Positions

The Employer will determine when a position will be filled, the type of appointment to be used when filling the position, and the skills and abilities necessary to perform the duties of the specific position within a job classification. Only those candidates who have the position-specific skills and abilities required to perform the duties of the vacant position will be referred for further consideration by the employing agency.

* * *

D. A transfer candidate is defined as an employee in permanent status in the same classification as the vacancy within the agency.

* * *

- F. When filling a vacant position with a permanent appointment, candidates will be certified for further consideration in the following manner:
1. The most senior candidate on the agency's internal layoff list with the required skills and abilities who has indicated an appropriate geographic availability will be appointed to the position.
 2. If there are no names on the internal layoff list, the agency will certify up to twenty (20) candidates for further consideration. Up to seventy-five percent (75%) of those candidates will be statewide layoff, agency promotional, internal transfers, and agency voluntary demotions. AU candidates certified must have the position-specific skills and abilities to perform the duties of the position to be filled. If there is a tie for the last position on the certification for either promotional or other candidates, the agency may consider up to ten (10) additional tied candidates. The agency may supplement the certification with additional tied candidates and replace other candidates who waive consideration with like candidates from the original pool.

* * *

4. If the certified candidate pool does not contain at least three (3) affirmative action candidates, the agency may add up to three (3) affirmative action candidates to the names certified for the positions.
5. When recruiting for multiple positions, the agency may add an additional five (5) agency candidates and five (5) other candidates to the certified list for each additional position.

* * *

ARTICLE 35 MANAGEMENT RIGHTS

* * *

Except as modified by this Agreement,- the Employer retains all rights of management, which, in addition to all powers, duties and rights established by constitutional provision or statute, will include but not be limited to, the right to:

* * *

- J. Establish, allocate, reallocate or abolish positions, and determine the skills and abilities necessary to perform the duties of such positions;
- K. Select, hire, assign, reassign, evaluate, retain, promote, demote, transfer, and temporarily or permanently lay off employees;

* * *

**ARTICLE 46
ENTIRE AGREEMENT**

46.1 This Agreement constitutes the entire agreement and any past practice or past agreement between the parties—whether written or oral—is null and void, unless specifically preserved in this Agreement.

* * *

NATURE OF THE DISPUTE

This dispute involves three consolidated grievances. On August 11, 2005, the Union filed a grievance alleging that the Employer violated the Agreement by filling position "LQ35" during July 2005, without permitting "SOLA" employees to utilize the bid system contained in Article 3. On December 20, 2005 and June 20, 2006, the Union filed similar grievances with regard to position "KQ86" filled on December 2, 2005, and to position "MT49" for which "the register was called for to fill" on June 2, 2006. In essence, these grievances concern whether Article 3 of the Agreement, which contains a bidding process for vacant positions, applies to Attendant Counselors in the Employer's "SOLA" program.

For many years, the Washington State Department of Social and Health Services (DSHS) has operated a number of institutions throughout the State to house and care for disabled residents. These included "residential habilitation centers" which are funded by the State as well as the federal government. The residential habilitation centers are State owned and run. They are large complexes that cover all of the residents' needs, including lodging, meals, cleaning, medical, therapies, and recreation. Those needs are met by a substantial team of employees, including Attendant Counselors, custodial staff, medical staff, food services staff, recreation staff, and adult training staff. Each of these institutions has an administrative structure headed by a superintendent.

One of these residential habilitation centers is Lakeland Village. Linda Ripke, who now is an Attendant Counselor in the SOLA program, but who worked at Lakeland Village until about 1994, testified that Lakeland Village is a complex consisting of a large number of cottages situated in close proximity. Each cottage contains about fifteen residents and two or three Attendant Counselors. Ms. Ripke testified that Attendant Counselors were assigned to particular cottages, but that they could be reassigned to work in another cottage if the need arose because of the absence of another Attendant Counselor.

During the late 1980s, many of the State's residential habilitation centers were threatened with decertification by the federal government, which risked the loss of federal funding. In order to maintain its federal certification of these institutions, the State was compelled to increase its resident-staff ratio. The State did this by closing one of its institutions and moving residents out of others. At about the same time, the State acted to establish a "state-operated living alternative" program, referred to by its acronym, SOLA. This provided an alternative living arrangement for the disabled.

Under the SOLA program, physically or mentally disabled individuals with varied levels of impairment, reside in private homes in the community. These homes may be houses or apartments which are owned or rented by a participant in the program. The premises are not owned or rented by the State. Generally, between one and four disabled persons reside in each dwelling. The State provides Attendant Counselors to care for the participants. Usually, one Attendant Counselor is on duty at the residence during a particular shift. At night, an Attendant Counselor may or may not be at the home. If not, then an Attendant Counselor is still available to be called by the participant. If there is a special needs situation, two Attendant Counselors may be assigned to work together at a particular residence. The SOLA Attendant Counselors

perform many of the same functions that Attendant Counselors perform at the residential habilitation centers. They also perform additional functions, such as cleaning and meal preparation, which are performed by other classifications of employees at the residential habilitation centers. SOLA program participants may obtain some services in the community or from residential habilitation centers, such as therapy and dental care.

The State divides SOLA administratively into four regions, each of which has residential program managers who are headed by a regional administrator. The dispute at hand involves Region 1 which is the Spokane region. Statewide there are over 100 SOLA participants. Region 1 has 24 participants.

When the SOLA program was implemented in 1991, the State and the Union engaged in negotiations. They agreed that the SOLA employees would be placed in the "institutions" bargaining unit which also included the employees at the residential habilitation centers. Pursuant to Article 9 of the institutions collective bargaining agreements which were in effect prior to 2005, all employees, including SOLA employees, had certain bidding rights with regard to vacant positions. SOLA employees could utilize that bid procedure to bid into positions on other shifts, other days off, and other locations. Employees would submit transfer slips which indicated their reassignment preferences. When a position was available, the Employer would refer to the register covering that position, and the senior qualified employee would be selected.²

The 2005 Agreement encompassed a much larger grouping of employees than had been covered by the institutions collective bargaining agreements. During the 2005 negotiations, the

² The parties did not submit into evidence any of the collective bargaining agreements preceding the 2005 contract. Rather, the above description of Article 9 of the pre-2005 contracts was established by testimony of witnesses.

Employer had proposed that there be no bidding for positions. This was resisted by the Union. Dale Roberts was on the Union's negotiating team for the 2005 negotiations. Mr. Roberts testified that the language of Article 3 was proposed by the Employer on the last day of negotiations as part of a package proposal. Mr. Roberts testified that the Employer's presentation of this package proposal was not made during a regular negotiations session. Rather, it was given to several Union representatives at a sidebar. None of the Employer or Union representatives who were present at that sidebar testified. Mr. Roberts testified that one of the Union representatives who was at the sidebar brought the package proposal back to the Union negotiating team and said, "It is what it is. Read it," explaining that it was presented as a take it or leave it package. The Union took it. The language of Article 9 of the pre-2005 institutions collective bargaining agreements was not included in the 2005 Agreement. Instead, the parties agreed that bidding would be governed by the new language of Article 3.

The 2005-07 Collective Bargaining Agreement was executed on June 24, 2005, though there was a tentative agreement months prior to that date. Kenneth Harden was the Department's Director of Personnel Service Operations in 2005. Mr. Harden testified that bargaining for the 2005 contract ended in about September 2004. On May 26, 2005, Sherer Holter, the Director of the Human Resources Division of DSHS, wrote to the Union the following letter:

The term "institution" is used through the new WFSE Collective Bargaining Agreement that will take effect on July 1, 2005. In order to ensure that we are clear on the meaning of this term, the following is a list of those areas that DSHS considers to be covered under the term "institution":

Western State Hospital
Eastern State Hospital
Special Commitment Center (Total Confinement Facility)
Consolidated Support Services
Frances Haddon Morgon Center
Fircrest School

Echo Glen Children's Center
Green Hill School
Lakeland Village
Maple Lane School
Nasell Youth Camp
Rainier School
Yakima Valley School
Child Support and Treatment Center

Please contact Myla Hite, Labor Relations and Operations Manager if you have any questions regarding above.

Myla Hite testified that she drafted this and other letters for Mr. Holter to clarify various contract matters that the Union said were not clear.

On June 13, 2005, the parties met to discuss a variety of matters related to the tentative agreement, including Mr. Halter's letter of May 26, 2005. Amy Murphy was one of the Union representatives at the June 13 meeting. Ms. Murphy testified that she recalls telling Linda Johnson during that meeting that the Union wanted its members to be able to bid for specific days off which might be better for their family situation. Linda Johnson was a Program Manager in the Division of Developmental Disabilities. Ms. Murphy testified that the response was that "they didn't foresee any problem as long as it was only within SOLA itself." Ms. Murphy testified that she understood from that meeting that SOLA employees would have the ability to bid on positions within the SOLA program, but would "not be able to bid on positions between SOLA and an institution."

Ms. Johnson's recollection of this meeting differs from that of Ms. Murphy. Ms. Johnson testified that during this meeting there was a lot of discussion about why Management would not consider SOLA an institution. Ms. Johnson testified that she specifically remembers saying, "SOLA is not an institution, therefore under the contract that we bargained they would not apply

under Article 3, the bid system." She testified that in response to the Union's concerns, she said that she thought that they could find some way for SOLA employees to express interest in vacant SOLA positions. She testified that she clearly remembers saying, "I will look into this. We will talk about this." Mr. Harden participated in the June 13 meeting. He testified that during that meeting, Management representatives stated to the Union representatives that SOLA was not an institution. Ms. Hite testified that she also was at the June 13 meeting and she took notes. Ms. Hite testified that Management advised the Union during this meeting that SOLA was not an institution. She further testified that the Union representatives indicated that the SOLA employees desired a method to improve their shifts and days off. Ms. Hite testified that Management responded that it would be open to exploring whether the Union's interests in this regard could be met under Article 4. Article 4 deals with hiring and appointments and does not include a seniority bid system for employees who want to transfer. Ms. Hite's notes of the June 13 meeting contain the following:

SOLA — only impacted by the bid system

Not included

Matters to employees a great deal to allow them to improve shift and days off

* * *

- Linda clarified – SOLA would be its own for the purpose of transfer
- They are not an institution – transfer back and forth into among houses
- SOLA's are not institutions

WFSE interest: Improve shift and days off within the SOLA. Same interest within the group homes (JRA).

On July 3, 2005, Diane Lutz, the Union's Deputy Director, sent a memorandum to "WFSE Staff" which was headed "INFORMATION FOR STAFF, PLEASE DO NOT FORWARD" and included the following:

While I'm on the subject of the bid system, I should point out that it applies to workers in the DSHS institutions 'who work positions that may require relief or coverage.' This was evidently a shock to some, who thought that we had recreated Article 9 for everyone in the institutions. We did not. As you may know, we had to fight to retain any semblance of the bid system at all, and this is what we got. . . .

Also on the bid system, the issue about whether or not SOLA employees are to be considered 'institution' employees for the purpose of bidding is an issue that we discussed in our last meeting with Ken Hardin [sic] (the day before he left to go to GA). Linda Johnson was there, and it turned out that their problem with it was that they thought we wanted folks to be able to bid back and forth from SOLA to the institutions. When we clarified that our concern was that employees be able to bid within a particular Region's SOLA to improve their days off, shift or the type of clients they work with, they calmed down and decided that wouldn't be a problem. Linda talked with Julianne Moore and Amy Murphy and said that they would get it fixed. I believe that that has been done.

Ms. Lutz did not testify. Ms. Hite testified that she read Ms. Lutz's email shortly after it was sent, perhaps after the grievance was filed. She testified that she did not agree with it, but she did not speak to Ms. Lutz about it since the letter was not directed to her.

Ms. Hite testified that in addition to SOLA employees, there are other categories of employees which had been covered by the institutions collective bargaining agreement and which were not covered by Article 3's bid system, including employees who provide field services to developmentally disabled persons.

SOLA employees testified that the right to bid on vacancies is very important to them since they always had the right to bid to move to a better schedule or house. Management employees testified that they wanted to have more flexibility in the assignment of SOLA

employees because SOLA employees work one on one in participant's homes and an appropriate match is much more important than in the institutions where if a resident is not compatible with a particular Attendant Counselor, there are others on duty who could be assigned there. Karen Santschi-Dauphin, the Region 1 Regional Administrator, testified that the participants should have some choice over who was providing care in their homes, and that is not compatible with an automatic bid system.

The issue of a bid system for SOLA employees was again raised during negotiations for the parties' 2007-09 Agreement. The parties agreed to retain the language of the 2005-07 Agreement, and to rely upon the decision in this arbitration to determine whether SOLA employees were covered by the language of Article 3.

POSITION OF THE UNION

The Union contends that the Employer violated Section 3.1 by failing to allow SOLA employees a right to bid on three announced vacancies. The Union reasons that inasmuch as the term "institution" is ambiguous and not defined in Article 3, it would not be reasonable or fair for the Employer to interpret that term so as to deny SOLA employees bidding rights under the circumstances. The Union argues that the Employer's "esoteric interpretation of one word ... is clearly contradictory to past practice." The Union suggests that the Employer acknowledged in its letter of May 26, 2005 that it was not clear what was meant by the term "institution." The Union questions why the Employer did not object to the Union's email of July 3, 2005, which, according to the Union, stated that it was agreed between the parties that SOLA employees would be allowed to bid for positions. The Union maintains that the Employer offered little, if any, reasonable justification why SOLA employees should not be entitled to inclusion under

Article 3. The Union argues that SOLA employees' work and status is similar to other employees who are currently covered by Article 3, particularly those who work in the cottages at Lakeland Village. The Union asserts that since the matter of whether or not SOLA employees were covered by Article 3 was not bargained, then what is reasonable under the circumstances is that SOLA employees should be entitled to bid rights, consistent with what they have historically exercised.

POSITION OF THE EMPLOYER

The Employer contends that the grievances should be denied because the plain language of the Collective Bargaining Agreement does not allow SOLA employees access to the bid system. The Employer asserts that Article 3 of the Agreement limits the bid system to DSHS employees who both work in an institution and require relief or coverage. The Employer suggests that inasmuch as the parties did not expressly define the term "institution" in the Agreement, the ordinary dictionary meaning must be presumed. The Employer asserts that "institution" has been defined as "a place of confinement, as a mental asylum" and "the building or buildings housing such an organization." The Employer claims that SOLA is not an institution, but is instead an alternative to an institution whereby residents receive care in private homes. The Employer maintains that there is no support for the Union's contention that institution means the former institutions bargaining unit. The Employer asserts that the express intent of the Employer's negotiators was to exclude SOLA from the bid system, and this was confirmed in a letter and a meeting with the Union prior to the final execution of the Agreement. The Employer argues that if the Union was mistaken in its understanding of the term

"institution," that was a unilateral mistake on their part which cannot be attributed to the Employer and does not justify granting their grievances.

DISCUSSION

In Article 3 of their Collective Bargaining Agreement, the parties provided for a bidding process whereby employees could utilize their seniority to bid upon certain vacancies. Section 3.1 provides that the applicability of Article 3 is limited. More specifically, the parties agreed that with regard to DSHS employees, Article 3 "applies only to staff employed...at an institution ... and who work in positions that may require relief or coverage." The necessary implication of this language is that DSHS employees must meet two criteria in order to be covered by Article 3's bid system, First, they must be staff employed at an institution. Second, they must work in a position requiring relief or coverage. Failure to meet either of these tests means they are not covered. Employees not covered by Article 3 who desire a transfer must rely on the procedure for filling vacancies set forth in Article 4. Article 4 does not make seniority a determining factor in the filling of vacancies except with regard to employees "on the agency's internal layoff list." Here, the dispute is focused on whether or not SOLA Attendant Counselors are "staff employed ... at an institution" so as to be covered by Article 3. For the reasons explained below, I find that they are not.

The Agreement neither contains a definition of the term "institution, nor does it provide further explanation of what is meant by a "staff employed ... at an institution." Where the parties themselves have not defined a particular term used in their agreement and there is no indication that they mutually intended a special meaning, then arbitrators generally use the ordinary and popular meaning. St. Antoine, ed., The Common Law of the Workplace, 2nd ed.

(2005), § 2.6. By using the term "at" in Section 3.1, the focus appears to be on the location of the work performed. Attendant Counselors in the SOLA program are essentially caregivers who work in private homes. The ordinary and popular meaning of "staff employed . . . at an institution" would not normally encompass the work of a caregiver at a normally sized private residence. The Union has alleged that the term "institution" is ambiguous. While there may be some dispute as to what locations, complexes, or buildings may be considered to be institutions, there are, of course, limits as to what may ordinarily be considered an institution. Certainly, someone's private residence is not normally considered an institution. Nor does it become an institution because a caregiver employed by the State provides services to one or a few occupants of that residence.

The Union argues that the Employer's interpretation is contrary to the past practice. The Union points out that SOLA employees were in the past included in the "institutions" bargaining unit and had bidding rights under previous contracts. Arbitrators frequently utilize past practice to interpret ambiguous contract language. Thus, where certain language has been applied in a consistent manner over a significant period of time, arbitrators may consider that as an indication of the parties' intent. However, here the parties negotiated new contract language. There is no past practice under this new language. While bidding rights were afforded to SOLA employees under Article 9 of previous contracts, that language is not in the current Agreement. The past practice does not shed light on the entirely new language regarding the restricted applicability of bidding rights which was agreed to in the 2005 Agreement. The fact that SOLA employees were in the past covered by "institutions" contracts does not mean that they are now to be considered "staff employed . . . at an institution." In this regard, Section 46.1 of the current Agreement

provides that "any past practice or past agreement between the parties – whether written or oral – is null and void, unless specifically preserved in this Agreement." The new contract language did not specifically preserve bidding rights for SOLA employees who do not work at an institution, but rather at private residences.

The Union points out that Attendant Counselors in the SOLA program perform duties which are similar to those performed by Attendant Counselors employed at Lakeland Village who receive Section 3 bidding rights. While that is in large measure correct, the SOLA residences are not equivalent to the Lakeland Village cottages. Those cottages are considerably larger than the private residences involved in the SOLA program. They are staffed by more employees. More importantly, the Lakeland Village cottages are part of a large State owned and managed complex which can reasonably and ordinarily be viewed as an "institution." Thus, employees at Lakeland village are employed at an "institution." SOLA employees are not.

The evidence presented regard the bargaining history does not suggest a contrary result. The disputed language was offered by the Employer at sidebar discussions. The negotiators who participated in the specific sidebar discussion when it was presented did not testify and there was no evidence that this new language was discussed again at the bargaining table. However, the disputed language was discussed months after the parties had reached an understanding regarding the language of a new agreement, but prior to its final execution. A month prior to the execution of the Agreement, the Employer provided a list of entities which it considered to be "institutions" for purposes of the as yet unexecuted agreement. That list did not include SOLA. Afterwards, but still prior to the execution of the Agreement, the parties met to discuss the matter. A preponderance of the evidence establishes that at this meeting, Employer representatives did

convey to the Union representatives that the Employer did not consider SOLA to be an institution and that therefore, they did not have bidding rights under Article 3. While Union witness Murphy recalls the discussion differently, I find more persuasive the testimony of Employer witnesses Johnson, Harden, and Hite, particularly since Ms. Hite's recollection was confirmed by the contemporaneous meeting notes which she took. In any event, there was no evidence that the Union representatives agreed to the Employer's interpretation of the disputed language. Ms. Lutz' subsequent email to the Union staff also adds doubt as to whether any mutual understanding regarding the intent of the disputed language was reached during the meeting. The evidence of bargaining history is insufficient to establish that the parties specifically reached a special understanding regarding hem, Article 3 was to apply to SOLA employees.

In sum, the parties agreed to new language in their 2005 Agreement which limited the applicability of Article 3's bidding system. For DSHS employees that applicability was restricted "only to staff employed ... at an institution." The evidence of bargaining history regarding this language does not shed light on the parties' mutual intentions. The past practice of the parties regarding the application of bidding rights by SOLA employees under different language in prior contracts was "null and void" according to Article 46 of the 2005 Agreement. In the absence of sufficient evidence that the parties mutually intended that the language of Section 3.1 of the 2005 Agreement would have some special meaning, the ordinary and popular meaning of this language must be applied. Attendant Counselors who are caregivers at private residences under the SOLA program are not ordinarily considered to be "staff employed . . . at an institution." Since SOLA employees may not be considered "staff employed . . . at an institution," then, according to Section 3.1, they are not covered by Article 3's bid system. Therefore, the Employer did not

violate Article 3 of the Agreement by not affording the grieving SOLA employees the right to bid on vacant SOLA positions.

AWARD OF THE ARBITRATOR

It is the Award of your Arbitrator, for the reasons set forth in the attached Opinion, that the grievance is dismissed.

Sammamish, Washington

Dated: June 20, 2007



Alan R. Krebs
Alan R. Krebs, Arbitrator