

Report on Negotiation of the Upcoming Changes in the Employee Performance Communication System (EPCS)

GESTA is currently negotiating with NASA/GSFC Management about changes to the Employee Performance Communication System (EPCS), which is the performance appraisal system used at Goddard Space Flight Center since 2007. This negotiation came about because Goddard Management is proposing the current five-tier performance appraisal system be replaced with a “hybrid” three-tier system.

Background

The five-tier EPCS has been in place for GSFC GESTA Bargaining Unit Employees (BUE’s) since 2007. The Agency announced the adoption of the “five-level performance management system” by then-Administrator, Mr. Michael D. Griffin in an e-mail to NASA employees on April 17, 2007. Since changes to performance appraisal system affect Article 31 (“Performance Appraisal System”) of the GSFC-GESTA Collective Bargaining Agreement (CBA), Goddard Management negotiated with GESTA to come to an agreement on changes to Article 31 via a Memorandum of Agreement (MOA) on August 7, 2007. Therefore the five-tier EPCS has been used at GSFC for ten years now. Note that there are two types of performance levels: (1) Element Performance Level and (2) Summary Performance Level. The system in place since 2007 has five levels in both the Individual Element’s and the Summary ratings. However, the Summary rating is not an average of the Individual Elements’ ratings, but rather the Summary rating is the lowest rating of the Individual Elements’ ratings.

NASA Management’s Proposed Changes to the EPCS in 2012-2013

In 2012, the Agency began a review of the original EPCS in order to improve it. Since President Obama’s Executive Order 13522 was issued on December 9, 2009 mandating Pre-Decision Involvement (PDI) of labor organizations in major policy reviews, the NCIL, which stands for “NASA Council of IFPTE Locals”, of which GESTA is a member of, participated in the review. Among the changes eventually adopted by the Agency was that the Summary Rating would change from the lowest Critical Element’s Rating to using a computed average of all Critical Elements’ Ratings. That proposal was a direct result of GESTA’s recommendation which Management agreed was an improvement over the “lowest common denominator” scheme.

In 2013, the Agency proposed changes to the five-tier EPCS system to a “hybrid” three-tier EPCS, with two major changes, both related to how an employee’s Summary Rating is calculated. The first one was to change how the Summary Rating is calculated using an average of all Individual Element Ratings and the Summary Rating is the “floor” of the average, as opposed to the Summary Rating being the lowest of the Individual Elements’ Ratings. This actually was an improvement since an employee’s Individual Element Ratings of 3, 5, 5 would under this method produce the Summary Rating of “Accomplished”, or Level 4, because the average of 3, 5, 5 is $13 / 3 = 4.33$ whereas under the old system the Summary Rating would have been just “Fully Successful”, or Level 3, since 3 is the lowest Individual Element Rating.

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The second change is that the proposed new system would only have three Individual Element rating levels: Level 5 (“Substantively Exceeds Expectations”), Level 3, (“Meets Expectations”) and Level 1 (“Fails to Meet Expectations”). Level 4 and Level 2 were eliminated for Individual Elements under this scheme. GESTA objected to this proposal due to the fact that under the new three-tier system for Individual Elements, those employees who under the old system earning a Level 4 are much more likely to be downgraded to Level 3 instead of being upgraded up to Level 5, since criteria for getting Level 5 are much more difficult to achieve, thus many previous Level 4 performers would get a Level 3 instead. GESTA also made the point that Management’s proposal of a three tier rating, i.e., Level 1, 3 and 5 makes no mathematical sense nor statistical sense, because by ignoring Level’s 2 and 4 the ratings will be skewed and will result in erroneous statistical results. That was an assessment completed by a NASA engineer with a strong background in statistics who is also a GESTA BUE. NASA Management took the stance that Labor must take both proposals as a package instead of adopting just the first proposal of using an average of Critical Elements’ Ratings. In other words, they refused to allow the first change without Labor agreeing to the three-tier Critical Elements scheme. GESTA elected not to agree to these proposed EPCS changes thus keeping the status quo of the five-tier rating system.

Other NASA centers and AFGE (American Federation of Government Employees -- Wallops’ employees are represented by AFGE), agreed to the proposed EPCS changes so the hybrid three-tier system was adopted for the 2013-2014 performance period and thereafter for the rest of the Agency. GESTA bargaining unit employees (BUE’s) are the only employees at NASA still using the five-tier system.

The Agency’s Renewed Effort to Use a Uniform Performance Appraisal System in 2017

Recently, the Agency renewed its effort to change the five-tier system to the hybrid three-tier system, as OPM pressured NASA to use a single performance system instead of using two different ones. GSFC Management first notified GESTA in December 2016 that they want to re-negotiate the EPCS rating levels so that GSFC will conform to the rest of NASA to use the hybrid three-tier performance level system. The proposed changes are identical to the ones that the rest of NASA have been using since the 2013-2014 Performance Period, but was rejected by GESTA in 2013. GSFC Management is bringing up this issue again because they found a case law supporting their argument that selecting a performance appraisal is integral to Management’s ability to assign work, which is a non-negotiable Management right.

This issue was raised in the GESTA General Meeting on December 8, 2016. The General Membership was asked whether they want GESTA to fight to keep the existing five-tier system or would they prefer the proposed hybrid three-tier system. Those members attending the General Meeting expressed their preference for the former, which is that GESTA negotiate to keep the five-tier system with improvements. In February 2017 the GESTA Executive Council came up with fifteen counter-proposals to Management’s proposals. Negotiation began in February 2017

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and is still being negotiated. Management rejected GESTA's counter-proposals to keep the five-tier system instead of the hybrid three-tier system. In an effort to reach agreement, GESTA submitted a non-negotiability complaint to the FLRA and both sides agreed to have an FLRA mediator work with both parties to resolve the matter. The FLRA mediator talked to both sides separately, to see if there are any areas that they can come together about, and this includes modifying existing proposals or drafting new proposals. As a result of this discussion with the FLRA Mediator, GESTA made changes to the original counter-proposals, and we had an all-day mediation on July 26, 2017. This mediation meeting was attended by representatives from Management and representatives from GESTA, and a three-member Mediation Team from the FLRA. At the end of the day, Management and GESTA came to agreement with several (reworded) proposals, but there is still no agreement on the remaining proposals, and thus the negotiation process has not been concluded. Among the outstanding issues that has not been addressed is the case of employees with a single Critical Element. Since an individual Critical Element's has just Level 1, 3 and 5, an employee deserving a Summary Rating of 4 will not be able to get the Summary Rating that he/she deserves. That will definitely hurt such employees.

If both sides cannot come to agreement on the remaining outstanding proposals, it will reach impasse. At that point the case would be decided by the FLRA's Impasse Panel, which is a separate panel from the three-member panel which comprised the FLRA. The GESTA Executive Council will keep our employees informed of any progress in the negotiation in future General Membership meetings and/or notices.