

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 64-106

4 MAY 2017

Contracting

**CONTRACTOR LABOR RELATIONS
ACTIVITIES**



COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This publication implements AFD 64-1, *The Contracting System*. It provides guidance and procedures for authorized contractor labor relations activities on all Air Force installations to include overseas commands. This publication applies to all major commands (MAJCOM), field operating agencies (FOA), direct reporting units (DRU), and other Air Force activities, as well as Regular Air Force and Air Force Reserve (AFR) activities, officers, enlisted, and civilian employees. While the principles and intent of this publication pertain to the Air National Guard (ANG) and Active Guard/Reserve (AGR), this publication does not apply to the ANG and AGR since the ANG and AGR do not receive contracting authority through the Air Force. This publication may be supplemented at any level, but all supplements must be routed to the Office of Primary Responsibility (OPR) listed above for coordination prior to certification and approval. Refer recommended changes and questions about this publication to the OPR listed above using the AF Form 847, *Recommendation for Change of Publication*; route AF Forms 847 from the field through the appropriate chain of command. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (“T-0, T-1, T-2, T-3”) number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, Table 1.1, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) in the Air Force Records Information Management System (AFRIMS).

SUMMARY OF CHANGES

This document is substantially revised and must be completely reviewed. This revision changes the publication's title from *Air Force Industrial Labor Relations Activities* to *Contractor Labor Relations Activities* to be more descriptive of the program. The document clarifies the roles of Air Force Labor Advisors, Labor Relations Coordinators, Installation Commanders, and Contracting Officers. It addresses the reporting and coordination of labor disputes, the continuation of contractor performance during a labor dispute, and the criteria for removal of government property from contractor facilities during labor disputes.

1. Roles and Responsibilities.

1.1. **Deputy Assistant Secretary Contracting (DAS(C)).** The DAS(C) develops, approves, publishes, and implements contractor labor relations policy.

1.2. **Installations and Sourcing Division (SAF/AQCA).** SAF/AQCA serves as the contractor labor relations focal point for the Air Force and manages the program through the Chief Labor Advisor.

1.3. **Chief Labor Advisor (CLA).** The CLA serves as the senior advisor to the DAS(C) for all contractor labor relations activities. The CLA ensures the consistent implementation of contractor labor relations policy throughout the Air Force by providing authoritative guidance to Regional Labor Advisors.

1.4. **Regional Labor Advisor (RLA).** RLAs manage contractor labor relations in their assigned geographic regions. RLAs ensure the consistent implementation of policy in their respective regions by providing training and advice directly to Commanders at all levels, Contracting Officers, and other Air Force personnel on contractor labor relations to include collective bargaining agreements (CBAs), labor standards, labor investigations, labor disputes between a contractor and union (e.g., CBA impasses, informational picketing, strikes, etc.), and other labor related matters regardless of whether specified in this publication. In addition, RLAs fulfill the roles and responsibilities of "Agency Labor Advisors" as defined in Federal Acquisition Regulation (FAR) Part 22, *Application of Labor Laws to Government Acquisitions*. As such, RLAs serve as the Air Force's liaisons to the Department of Labor and union officials. See <https://www.wdol.gov/ala.aspx> for a listing of RLAs.

1.5. **Labor Relations Coordinator (LRC).** LRCs are appointed in writing by the Installation Commander to serve as the liaison between the Air Force installation and the RLA. LRCs monitor CBA expiration dates, notify the RLA of potential labor disputes, and otherwise keep the RLA informed of the state of contractor labor relations at the installation. The appointment of an LRC does not prevent direct communications between the RLA and Installation Commander or other installation personnel.

1.6. **Installation Commander.** Installation Commanders appoint an LRC and, in coordination with RLAs, work with local union officials to address contractor labor relations issues. If an installation relies on significant contractor support, the Installation Commander should develop an installation labor strike plan to address contingencies and operational changes associated with a contractor strike.

1.7. **Contracting Officer.** Contracting Officers shall consider the advice of RLAs prior to making a responsibility determination where a contractor has a questionable record of labor standards compliance and prior to incorporating any wage determinations where the applicable contract labor standards are not conclusive. RLAs should also be consulted for complex wage adjustments, labor compliance investigations regardless of investigating authority (i.e., Air Force or Department of Labor), contractor labor disputes, and other significant labor related matters.

1.8. **Air Force Personnel.** The collective bargaining rights and obligations of employers and employees are established by the National Labor Relations Act (NLRA) of 1935 and other law. Accordingly, all Air Force personnel shall remain impartial and refrain from expressing any opinion with respect to contractor employee representation, collective bargaining, contractor labor disputes, and other labor related matters. **(T-1).** Air Force personnel shall maintain strict neutrality and avoid any action, overt or otherwise, that would create the appearance of partiality. **(T-1).** When Air Force personnel become aware of a potential or actual contractor labor dispute, the matter should be promptly referred to the cognizant contract administration office which will notify the LRC and RLA.

2. Labor Disputes.

2.1. **Reporting .** The cognizant contract administration office shall comply with the procedures established in FAR 22.101-3, Department of Defense Federal Acquisition Regulation Supplement (DFARS) 222.101-3, and Procedures, Guidance, and Information (PGI) 222.101-3 for reporting potential and actual labor disputes between one of its contractors and a union that may interfere with contract performance. **(T-0).** This reporting assists Installation Commanders, with advice from RLAs, in deciding whether to implement installation labor strike procedures (e.g., designation of a reserved gate, notification of interested parties, informing the base populace of their duty to remain neutral, etc.).

2.2. **Performance of Air Force Contracts During a Dispute.** Contractors are expected to continue performance of contract requirements to the extent possible during a labor dispute. If the contractor is unable to continue full performance during a labor dispute and the work is for life, health, safety, or other essential services, the Installation Commander or equivalent may authorize government personnel to perform those contracted functions. In such instances, government personnel need not perform every contract function; however, any contract functions the Installation Commander directs government personnel to perform must be segregable from other contract functions that the contractor's nonstriking workforce continues to perform so as to preclude any perceived or actual augmentation of the contractor's nonstriking workforce. The contract function must be performed exclusively by contractor employees or exclusively by government personnel. Military and civilian personnel shall not supplement the contractor's non-striking workforce under any circumstances. Installation Commanders and Contracting Officers shall consult with the RLA and legal counsel prior to authorizing performance of any contracted functions by government personnel, or other alternate methods of performance, as a result of a contractor labor dispute. The Contracting Officer should negotiate a contract modification and obtain a release of claims for any work being assumed by the government. If the contract modification cannot be accomplished prior to the government's assumption of work, then the Contracting Officer should issue a stop work order for the portion of work being assumed by the government.

2.3. Picketing and Other Demonstrations.

2.3.1. Reserved Gates. The Installation Commander should minimize the impact on the mission by prohibiting picketing or other demonstrations on Air Force installations and by limiting these activities to one or more installation gates (i.e., “reserved gates”). By restricting employees, vendors, and suppliers of the picketed contractor to the use of designated reserved gates and enforcing that restriction, the union is obligated to limit picketing to those same gates. The Installation Commander retains the authority to designate reserved gates for their installation regardless of the cognizant contract administration office’s organization (e.g., Service, Agency, non-government entity, etc.) or location. See [Attachment 2](#) for a sample Designated Reserved Gate Procedures Letter.

2.3.1.1. Non-exclusive Reserved Gates. Shall be used by employees, vendors, and suppliers of the picketed contractor but may also be used by neutral parties with base access privileges. One or more non-exclusive reserved gates are used in most instances.

2.3.1.2. Exclusive Reserved Gates. Shall only be used by employees, vendors, and suppliers of the picketed contractor and is normally only used in special circumstances (e.g., use of a gate that is not normally open but that is opened during the picket due to safety or other reasons).

2.3.1.3. Neutral Gates. Shall not be used by employees, vendors, and suppliers of a contractor under a reserved gate restriction. Neutral gates shall only be used by government employees, employees of contractors not involved in the dispute, and other neutral parties. A neutral gate permits personnel access to the installation without having to cross a picket line.

2.3.1.4. Subcontractors. Subcontractors of picketed contractors are normally considered neutral parties unless they perform “struck work” previously performed by the contractor being picketed. If picketing of a non-neutral subcontractor is anticipated or occurs, the subcontractor’s name shall be added to reserved gate signs. See paragraph [2.3.3.2.](#) and paragraph [2.3.3.3.](#) Notification shall be sent to the subcontractor and union of the requirement for the subcontractor’s employees, vendors, and suppliers to use the reserved gates.

2.3.1.5. Active and Retired Government Employees Employed in Off-Duty Time By a Contractor or Subcontractor in a Labor Dispute. Active and retired government personnel (military and civilian) that are also an employee, vendor, or supplier of a company subject to reserved gate restrictions at the installation must use the reserved gates to access the installation. This includes installation access required for the performance of their official government duties; performance of their duties as an employee, vendor, or supplier of a company subject to reserved gate restrictions at the installation; attending to personal matters in off-duty time (e.g., visiting the base hospital, base exchange, base legal office, etc.); or any other reason. Their status as a contractor employee, vendor, or supplier is determinative with respect to the requirement to use reserved gates regardless of the reason for accessing the installation. See Section 3 for military and civilian personnel employment limitations associated with employment by a contractor in a labor dispute.

2.3.2. Installation Commander Responsibilities During A Potential or Actual Labor Dispute.

2.3.2.1. Consult with the Contracting Officer and RLA on a course of action that minimizes the impact of picketing on the mission. Request and fund on-site RLA assistance, if necessary.

2.3.2.2. Decide whether to establish reserved gates and designate any reserved gates as exclusive or non-exclusive. See paragraph 2.3.1.

2.3.2.3. Notify all military and civilian personnel of the labor dispute, inform them of the Air Force policy to maintain strict neutrality, and instruct them to avoid any action, overt or otherwise, that would create the appearance of partiality to include expressing any opinion with respect to the labor dispute. See [Attachment 3](#) for a sample electronic mail message.

2.3.2.4. Ensure notification of local civil law enforcement officials that picketing may cause traffic congestion along public access routes adjacent to the installation's reserved gates and request any assistance necessary to ensure access and public safety.

2.3.2.5. Review installation boundaries and jurisdictions. Ensure appropriate coordination with local law enforcement.

2.3.2.6. Ensure Security Forces personnel monitor reserved gates for compliance by all personnel. Use of neutral gates by contractor personnel involved in the labor dispute may result in the union legally picketing all of the installation's gates. Ensure the prompt notification of the RLA of any violations of reserved gate restrictions. Restrict or revoke, as necessary, installation access privileges of personnel violating reserved gate restrictions or take other reasonable actions to ensure compliance. Permit the union to post no more than two observers outside neutral gates to monitor compliance, but do not allow the observers to engage in activity that would reasonably give the appearance to a neutral party that the gate is being picketed. Union observers may immediately notify Security Forces personnel of any observed non-compliance with reserved gate procedures to the extent it does not endanger public safety and is otherwise authorized by Security Forces personnel on-site. A union representative may subsequently notify, in writing, the contractor and Contracting Officer of any non-compliance with reserved gate procedures.

2.3.3. LRC Responsibilities During A Potential or Actual Labor Dispute.

2.3.3.1. Prepare reserved gate letters for the Installation Commander's signature. Distribute the reserved gate letters to interested parties including the contractor and union representatives. When possible, the letters should be distributed in sufficient time to reach the contractor and union representatives prior to the commencement of picketing.

2.3.3.2. Coordinate with the installation's civil engineer representative to have signs conspicuously placed at reserved gates. The signs must be easily readable from a distance of 75 feet by vehicle operators and pedestrians entering the installation. The signs shall contain the following wording: "NOTICE: THIS ENTRANCE

MUST BE USED BY EMPLOYEES, VENDORS, AND SUPPLIERS OF [INSERT NAME OF CONTRACTOR AND/OR SUBCONTRACTOR INVOLVED IN THE LABOR DISPUTE] WHO ENTER AND EXIT THIS INSTALLATION, BY ORDER OF THE INSTALLATION COMMANDER.”

2.3.3.3. Coordinate with the installation’s civil engineer representative to have signs conspicuously placed at all other gates that read: “NOTICE: EMPLOYEES, VENDORS, AND SUPPLIERS OF [INSERT NAME OF CONTRACTOR AND/OR SUBCONTRACTOR INVOLVED IN THE LABOR DISPUTE] MUST ENTER AND EXIT THE [INSERT NAME OF THE RESERVED GATE] GATE TO [INSERT NAME OF INSTALLATION] AIR FORCE BASE, BY ORDER OF THE INSTALLATION COMMANDER.”

2.3.3.4. Maintain a log of the picketing events and activities.

2.3.3.5. Routinely update the RLA telephonically or by encrypted electronic mail until resolution of the labor dispute.

2.3.4. Air Force military and civilian personnel must continue to perform their normal duties during a labor dispute. This may require military and civilian personnel to cross a picket line, if necessary, to report to work unless doing so could reasonably result in physical harm to their person or vehicle. In those instances, military and civilian personnel should promptly notify their supervisor or other appropriate authority to obtain information on accessing the installation through a neutral gate or to receive instructions on other courses of action.

2.3.5. If the Installation Commander concludes that the picketing is resulting in unsafe conditions for military, civilian, or other personnel, the Installation Commander shall take any immediate actions necessary to address the safety concerns and then promptly notify the RLA of the actions taken. The RLA may negotiate with the interested parties to limit the number of picketers, establish picketing standards to the extent necessary to address safety concerns, or take any other reasonable actions under the circumstances to address the Installation Commander’s concerns.

2.4. Removal of Material from Manufacturing Plants or Facilities.

2.4.1. Requests to remove items from a contractor’s facilities affected by work stoppage shall be limited, to the maximum extent practicable, to instances that meet the criteria specified in paragraphs 2.4.1.1. through 2.4.1.3. **(T-0)**.

2.4.1.1. The items are urgent and critical to the needs of the program;

2.4.1.2. Waiting for resolution of the labor dispute would cause harm to the Air Force;

2.4.1.3. Removal of the items will not adversely affect labor negotiations.

2.4.2. All requests to remove items from a contractor’s facilities affected by work stoppage shall be processed in accordance with DFARS 222.101-4. **(T-0)**.

2.5. Disputes at Overseas Commands.

2.5.1. Contractor labor relations activities, including labor disputes, at overseas commands are normally governed by the laws and regulations of the host country.

However, overseas commands should comply with this instruction to the extent possible. Contracting activities supporting overseas commands should refer labor relations questions to their respective RLA.

2.5.2. Due to time differences, contracting activities and LRCs supporting overseas commands should report potential or actual labor disputes that may impact Air Force installations or programs to the RLA by use of encrypted electronic mail. LRCs will provide the RLA routine updates until resolution of the labor dispute.

3. Employment of Off-Duty Government Personnel.

3.1. Limitations.

3.1.1. The Air Force does not permit off-duty employment of military personnel in jobs temporarily vacated by a contractor's striking employees. However, off-duty military personnel employed before their employer became involved in a labor dispute need not terminate employment solely because of the dispute. Military personnel are advised to contact their local ethics counselor at their servicing legal office to ensure outside employment will not violate criminal conflict of interest rules, Air Force neutrality, or other limitations (which may include MAJCOM or unit specific limitations).

3.1.2. Air Force civilian employees must comply with the requirements of 5 C.F.R. 3601.107 and AFI 36-703, *Civilian Conduct and Responsibility*, regarding outside employment. **(T-0)**. Civilian personnel are advised to contact their local ethics counselor at their servicing legal office to ensure outside employment will not violate criminal conflict of interest rules, Air Force neutrality, or other limitations (which may include MAJCOM or unit specific limitations).

4. Union Activity on Air Force Installations.

4.1. Limitations.

4.1.1. Installation Commanders shall not permit contractor union activity on Air Force owned or controlled property except as otherwise authorized in this instruction. **(T-1)**. **NOTE:** For unions representing federal employees, refer to AFI 36-701, *Labor Management Relations*.

4.1.2. Union representatives may conduct legitimate union business with their members who are employed by on-base contractors or meet with Air Force or contractor officials regarding union business subject to the limitations of this instruction.

4.1.3. Unions may hold bargaining unit certification or decertification elections on Air Force installations under the supervision of the National Labor Relations Board (NLRB). Installation Commanders must provide a suitable place for such elections upon request by the NLRB and after coordination with the installation's RLA.

4.1.4. Unions may not conduct internal elections or fundraisers on Air Force owned or controlled property.

4.2. Installation Access.

4.2.1. Installation access should be granted for either union representational duties or for union organizing purposes.

4.2.2. The contractor is responsible for requesting installation access for union representatives to conduct representational duties. The contractor must comply with all installation access procedures when arranging installation access for union representatives representing employees under the contractor's contract or subcontract at any tier.

4.2.2.1. Union representatives shall comply with all installation safety requirements.

4.2.2.2. Union representatives shall not be granted access to secure or controlled areas.

4.2.2.3. Union representatives shall not interfere with installation operations to include the contractor's activities.

4.2.2.4. Union representatives shall not use installation access for any reason other than for which installation access was expressly granted. This includes meeting with any other contractors' employees that were not stated in the installation access request.

4.2.2.5. Union representatives shall not conduct meetings, collect dues, or make speeches.

4.2.3. The LRC is responsible for requesting installation access for union representatives for organizing purposes. Requests should be in writing and include the name of the contractor's employees to be visited along with the proposed date, time, and location. The LRC shall make arrangements for installation access only after coordinating with the RLA.

4.2.3.1. Union representatives shall comply with the requirements in paragraphs [4.2.2.1](#) through [4.2.2.5](#).

4.2.3.2. Union representatives may only visit with, and distribute union literature to, contractor employees not represented by the union. The visits must occur outside the contractor's work areas and during the employees' non-working hours (e.g., prior to work, scheduled breaks, after work, etc.).

4.2.4. A union's failure to comply with any of these requirements may result in revocation of installation access privileges.

DARLENE J. COSTELLO
Principal Deputy Assistant Secretary of the
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Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

AFI 33-360, *Publications and Forms Management*, 1 December 2015

AFMAN 33-363, *Management of Records*, 1 March 2008

AFI 36-701, *Labor Management Relations*, 6 April 2017

AFI 36-703, *Civilian Conduct and Responsibility*, 18 February 2014

AFPD 64-1, *The Contracting System*, 7 December 2006

Code of Federal Regulations (5 C.F.R. 3601.107)

Federal Acquisition Regulation and Supplements (Part 22)

National Labor Relations Act of 1935

Prescribed Forms

None

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AF—Air Force

AFI—Air Force Instruction

AFMAN—Air Force Manual

AFPD—Air Force Policy Directive

AFR—Air Force Reserve

AFRIMS—Air Force Records Information Management System

AGR—Active Guard/Reserve

ANG—Air National Guard

CBA—Collective Bargaining Agreement

CFR—Code of Federal Regulations

CLA—Chief Labor Advisor

DFARS—Defense Federal Acquisition Regulation Supplement

DRU—Direct Reporting Unit

FAR—Federal Acquisition Regulation

FOA—Field Operating Agency

LRC—Labor Relations Coordinator

MAJCOM—Major Command

NLRA—National Labor Relations Act of 1935

NLRB—National Labor Relations Board

OPR—Office of Primary Responsibility

PGI—Procedures, Guidance, and Information

RDS—Records Disposition Schedule

RLA—Regional Labor Advisor

Terms

Contractor—A business entity performing an appropriated fund contract, non-appropriated fund contract, or other type of contract or agreement with the government (e.g., schools, banks, credit unions, etc.) at the prime or subcontract (all tiers) level. It does not include federal civilian personnel represented by an exclusively recognized union which are governed by AFI 36-701, *Labor Management Relations*.

Reserved Gate(s)—One or more installation gates designated by the Installation Commander that limits picketing, demonstrations, and other labor related activities to the designated gate(s). A reserved gate may be designated as exclusive or non-exclusive.

Exclusive Reserved Gate—A reserved gate that has been designated for the sole use by employees, vendors, and suppliers of the picketed contractor.

Neutral Gate—A gate that has not been designated for use by employees, vendors, and suppliers of the picketed contractor and that may only be used by government employees, employees of contractors not involved in the dispute, and other neutral parties.

Non-exclusive Reserved Gate—A reserved gate that has been designated for use by employees, vendors, and suppliers of the picketed contractor but may also be used by neutral parties.

Attachment 2**SAMPLE DESIGNATED RESERVED GATE PROCEDURES LETTER**

FROM: INSTALLATION COMMANDER

TO: (One copy goes to the contractor and/or subcontractor and one to the picketing union)

SUBJECT: Reserved Gate Procedures in the Event of Picketing

I have been advised that a labor dispute may result in picketing of (INSERT CONTRACTOR OR SUBCONTRACTOR NAME) during performance of contract (INSERT CONTRACT NUMBER) for (INSERT BRIEF CONTRACT DESCRIPTION) at (INSERT INSTALLATION NAME).

The Air Force maintains strict neutrality in contractor labor disputes. Consistent with this policy, I must make every effort to ensure the ability of the Air Force to perform its mission is not adversely affected by your dispute.

Accordingly, observe the following procedures for the duration of the dispute or until otherwise revoked by official action.

a. Do not picket within the confines of the installation.

b. All employees, vendors, and suppliers of (INSERT CONTRACTOR OR SUBCONTRACTOR NAME) will enter and exit the installation only through the following reserved gate(s): (INSERT NAME OF RESERVED GATE(S)).

c. Confine demonstrations, including picketing, to the (INSERT NAME OF RESERVED GATE(S)).

The Air Force will post appropriate signs identifying the reserved gate(s) at all entrances to the installation. Direct any questions or concerns regarding these procedures to (INSERT INSTALLATION COMMANDER'S DESIGNATED POINT OF CONTACT) at (INSERT COMMERCIAL PHONE NUMBER).

INSTALLATION COMMANDER'S
SIGNATURE BLOCK

Attachment 3**SAMPLE ELECTRONIC MAIL MESSAGE TO MILITARY AND CIVILIAN
PERSONNEL ON AIR FORCE NEUTRALITY POLICY**

Attention all military and civilian personnel,

The (INSERT UNIT NAME) has become aware that a labor dispute may take place between (INSERT CONTRACTOR OR SUBCONTRACTOR NAME) and (INSERT UNION NAME). For the duration of the dispute, pickets may be established at one or more entrances to the installation. Personnel must follow any special traffic directions given by Security Forces personnel or local law enforcement agencies.

Under no circumstances will Air Force military or civilian personnel initiate, or participate in, actions in support of or against either of the aforementioned parties to the dispute. All personnel are reminded to remain strictly neutral and avoid any action, overt or otherwise, that would create the appearance of partiality and to refrain from expressing any position on the merits of the dispute.

INSTALLATION COMMANDER'S
SIGNATURE BLOCK