

ATTACHMENT 4G1

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON REGIONAL OFFICE

AGENCY (NAME)

(Respondent)

-AND-

UNION (NAME)

(Charging Party)

Case No: WA-CA-00003

**STIPULATION AND
FORMAL SETTLEMENT AGREEMENT**

Pursuant to § 2423.25 of the Authority's Regulations, this Stipulation is entered into between the Agency (Name) (Respondent); the Union (Name); and the General Counsel of the Federal Labor Relations Authority (General Counsel) as a formal settlement of unfair labor practice Case No. WA-CA-00003. The parties hereby stipulate and agree as follows:

Procedural Background

1. The Charging Party filed a charge in Case No. WA-CA-00003 with the Regional Director of the Federal Labor Relations Authority, Washington

Region (Regional Director) on October 1, 1999. The Respondent acknowledges receipt of the charge. The Charging Party filed a first amended charge with the Regional Director on February 22, 2000. The Respondent acknowledges receipt of the first amended charge.

2. Pursuant to § 7104(f)(2)(B) of the Federal Service Labor-Management Relations Statute (Statute) and based on this charge, the Regional Director issued a complaint and notice of hearing on February 23, 2000. The Respondent and the Charging Party were timely served copies of this complaint.
3. On March 15, 2000, the Acting Regional Director approved a Settlement Agreement in this case in which the Respondent agreed that it would post a notice to all employees; provide the Charging Party with copies of all correspondence received from bargaining unit employees in response to its solicitation of comments on August 31, 1999, September 3, 1999, November 4, 1999, and January 4, 2000; and hold a video teleconference (IVT) meeting similar to the meeting held on August 31, 1999, providing the Charging Party with prior notice and an opportunity to attend and participate in the meeting.
4. On October 4, 2000, the Regional Director rescinded the bilateral settlement because the Respondent had failed to hold a video teleconference (IVT) meeting similar to the meeting held on August 31,

1999, providing the Charging Party with prior notice and an opportunity to attend and participate in the meeting.

5. On October 5, 2000, the Regional Director reissued the complaint and notice of hearing in this case. The Respondent and the Charging Party were timely served copies of this complaint.
6. On October 24, 2000, the Respondent filed an answer to the reissued complaint.

Jurisdiction

7. The Agency (name) is an agency under 5 U.S.C. § 7103(a)(3).
8. Union (name) is a labor organization under 5 U.S.C. § 7103(a) (4) and is the exclusive representative of a unit of employees appropriate for collective bargaining at the Respondent.
9. Union (name) (if applicable, e.g., Council) is an agent of Union (name) for the purpose of representing employees in the Respondent's Office (name of Office) within the unit described in paragraph 8.
10. The parties are subject to the jurisdiction of the Statute.

Facts Supporting Violations

11. During the time period covered by this complaint, each person listed below occupied the position opposite his or her name:
- | | |
|--------|--|
| (name) | Deputy Commissioner, Agency (name) |
| (name) | Associate Commissioner, Agency (name) |
| (name) | Regional Chief Judge, (name of Region) |
| (name) | Regional Chief Judge, (name of Office) |
12. During the time period covered by this complaint, the persons named in paragraph 11 were supervisors and/or management officials under 5 U.S.C. § 7103(a)(10) and (11) at the Respondent.
13. During the time period covered by this complaint, Employee (name) occupied the position of Administrative Law Judge, (Office).
14. During the time period covered by this complaint, the person named in paragraph 13 was an agent of the Respondent.
15. During the time period covered by this complaint, the persons named in paragraphs 11 and 13 were acting on behalf of the Respondent.

16. On August 31, 1999, the Respondent, by (name), (name), (name), (name) and (name), held a meeting via interactive video teleconference (IVT) with employees in the bargaining unit described in paragraph 8.
17. The Respondent discussed the Hearing Process Improvement (HPI) Plan at the meeting described in paragraph 16.
18. The meeting described in paragraph 16 was formal in nature.
19. The meeting described in paragraph 16 was held without affording the Charging Party notice and an opportunity to be represented.
20. The Respondent, by employee (name), solicited suggestions and comments from employees in the bargaining unit described in paragraph 8 at the meeting described in paragraph 16.
21. The Respondent was bargaining with the Charging Party over HPI during August 1999 and during the months that followed.
22. On or about September 3, 1999, the Respondent solicited comments about HPI from employees in the bargaining unit described in paragraph 8.

23. On or about November 4, 1999, the Respondent solicited comments about HPI from employees in the bargaining unit described in paragraph 8.
24. On or about January 4, 2000, the Respondent solicited comments about HPI from employees in the bargaining unit described in paragraph 8.

Legal Conclusions

25. By the conduct described in paragraphs 16 through 19, the Respondent failed to comply with 5 U.S.C. § 7114(a)(2)(A).
26. By the conduct described in paragraphs 16 through 19, and paragraph 25, the Respondent committed an unfair labor practice in violation of 5 U.S.C. § 7116(a)(1) and (8).
27. By the conduct described in paragraphs 20, 22, 23, and 24, the Respondent committed unfair labor practices in violation of 5 U.S.C. § 7116(a)(1) and (5).
28. The parties hereby waive their right to a formal hearing, a decision by an Administrative Law Judge, and any other proceedings to which they might be entitled under the Statute or the Regulations.

29. Based on this Stipulation and record, the parties hereby consent to the entry without further notice of an FLRA Order providing as follows:

The Respondent shall:

(1) Cease and desist from

(a) Conducting formal discussions with bargaining unit employees without affording the Union (name) the exclusive representative of the employees, prior notice and an opportunity to be represented at the formal discussion, including formal discussions held by interactive video teleconference (IVT).

(b) Failing and refusing to bargain in good faith with the Union by bypassing the Union and dealing directly with bargaining unit employees concerning proposed changes in their conditions of employment, including the hearing process improvement (HPI) initiative.

(c) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of rights assured to them by the Federal Service Labor-Management Relations Statute.

(2) Take the following affirmative actions in order to effectuate the policies of the Statute:

(a) Hold a video teleconference (IVT) session about HPI on (date), from 1:00 pm to 2:30 pm (Eastern), including all bargaining unit employees in Office (name), and allow the Charging Party an opportunity to be represented and to participate to the extent required by the Statute. Should the Respondent be unable to broadcast on (date), due to circumstances beyond its control such as system failure or act of God, it will hold the IVT session no later than (date).

(b) Post at all facilities where bargaining unit employees are located copies of the Notice to All Employees, attached hereto as Appendix A, on forms to be furnished by the Regional Director. On receipt of such forms, they shall be signed the Associate Commissioner for (Office) and shall be posted and maintained for 60 consecutive days thereafter in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to § 2423.41 of the Authority's Rules and Regulations, notify the Washington Regional Director, in writing, after 5 days and again after 60 days from the date of this Order, as to what steps have been taken to comply.

30. A U.S. Court of Appeals for any appropriate circuit may, upon application by the Authority, enter its decree enforcing the Order of the Authority consistent with paragraph 29. The Respondent waives all defenses to entry of the decree enforcing compliance with the Order of the Authority, and its right to receive notice of the filing of an application for the entry of such decree, provided that the decree is consistent with paragraph 29 herein. After the entry of the decree, the Respondent shall be required to comply with the affirmative provisions of the Authority's Order to the extent that it has not already done so.
31. This Stipulation, together with the attached appendix, shall constitute the entire record of this matter and the entire agreement of the parties, there being no other agreement of any kind which varies, alters, or adds to this Stipulation.
32. This Stipulation, together with the other documents constituting the record, shall be filed with the Authority in accordance with § 2423.25(c) of the Authority's Regulations, and is subject to the approval of the Authority.

This Stipulation shall be of no force and effect until the Authority has granted such approval.
Upon approval of the Stipulation by the Authority, the Respondent shall immediately comply with the provisions of the Authority Order, consistent with paragraph 29 hereof.

Agency (name)	Union (name)
By _____	By _____
(name), Associate Commissioner Office (name)	(name), President

_____	_____
Date	Date

Federal Labor Relations Authority
Washington Region
By _____
(name), Counsel for the General Counsel

Date

APPROVED:

(name), Regional Director
FLRA, Washington Region

Date

**UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON REGIONAL OFFICE**

AGENCY (NAME)

(Respondent)

-AND-

UNION (NAME)

(Charging Party)

Case No: WA-CA-00003

REQUEST FOR APPROVAL OF FORMAL SETTLEMENT

Pursuant to section 2423.25(a)(2) of the Authority's Regulations, all parties to this matter entered into a Formal Settlement, which I have approved. Pursuant to section 2423.25(c) of the Regulations, the Formal Settlement is hereby forwarded to the Authority for approval.

By the Formal Settlement Agreement, the Respondent has acknowledged that unfair labor practices were committed when it held an (date), meeting with bargaining unit employees of the Office (name) without providing the Union (name) with prior notice and an opportunity to be represented, and when it solicited input

directly from bargaining unit employees at this meeting. The Respondent has further acknowledged that unfair labor practices were committed on (date); (date); and (date), when it again solicited input from bargaining unit employees.

The Formal Settlement provides a complete remedy for the unfair labor practices, including an agreement that the Respondent will hold another meeting with employees on (date), with the Union present and post a Notice To All Employees. Accordingly, approval of the Formal Settlement should be found to effectuate the purposes and policies of the Statute.

**CERTIFICATE OF SERVICE
CASE NO. WA-CA-00003**

I hereby certify that on March 19, 2001, I served the foregoing STIPULATION AND FORMAL SETTLEMENT AGREEMENT upon the interested parties in this action by placing a true copy, postage prepaid, in the United States Post Office mailbox at Washington DC, addressed as follows:

The Honorable (name)
Administrative Law Judge
Federal Labor Relations Authority
607 14th St., NW
Washington, DC 20424-0001
202-482-6630 fax: 202-482-6629 CERTIFIED No.

Agency (name)
Address
Tel. # fax: CERTIFIED No.

Union (name)
Address
Tel.# fax: CERTIFIED No.

(name)
Deputy General Counsel
Office of the General Counsel
Federal Labor Relations Authority
607 14th St., NW
Washington, DC 20424-0001 By regular mail
