

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424

.
VETERANS ADMINISTRATION .
SEATTLE REGIONAL OFFICE .
SEATTLE, WASHINGTON .
Respondent .
and . Case No. 9-CA-70226
AMERICAN FEDERATION .
OF GOVERNMENT EMPLOYEES, .
LOCAL 3197, AFL-CIO .
Charging Party .
.

James J. Bennett, Esq.
For the Respondent

Susan E. Jelen, Esq.
For the General Counsel

Before: WILLIAM NAIMARK
Administrative Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq. (herein called the Statute). Pursuant to a first amended charge filed on July 16, 1987 by the American Federation of Government Employees, Local 3197, AFL-CIO (herein called the Union), a Complaint and Notice of Hearing was issued on July 30, 1987 by the Regional Director, Region IX, Federal Labor Relations Authority against Veterans Administration, Seattle Regional Office, Seattle, Washington (herein called the Respondent).

The Complaint, in substance, alleged that Respondent violated Section 7116(a)(1), (5) and (8) of the Statute by failing and refusing on or about February 6, 1987 to furnish, upon request, the names and home addresses of bargaining unit employees represented by the Union as required by Section 7114(b)(4) of the Statute.

Respondent's Answer, which was filed on the August 19, 1987, admitted the following: (a) the jurisdictional allegations in the Complaint; (b) that on or about December 9, 1986 and January 20, 1987, the Union, as the exclusive representative of an appropriate unit of Respondent's employees, requested the names and home addresses of bargaining unit employees; (c) that on or about February 6, 1987, Respondent denied the Union's request for the information; (d) that the data requested herein is normally maintained by Respondent in the regular course of business; (e) that such information does not constitute guidance, advice, counsel or training provided for management officials or supervisors, relating to collective bargaining.

Respondent's Answer denied that the information requested is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. Further, it denied the commission of any unfair labor practices in violation of section 7116(a)(1), (5) and (8) of the Statute.

Under date of October 14, 1987, General Counsel filed a Motion For Summary Judgment and submitted a brief in support thereof.

In an order dated October 19, 1987 the Regional Director transferred the Motion to the Chief Administrative Law Judge pursuant to section 2423.22(b)(4) of the Authority's Rules and Regulations. The case was duly assigned to the undersigned for disposition.

Under date of November 4, 1987 Respondent filed a brief in response to the Motion For Summary Judgment.1/

1/ Attached to the response is a Declaration of Clinton A. Puckett, Personnel Officer of Respondent, dated November 3, 1987. As stated therein, the addresses of employees are obtained during the appointment process and are filed in the Official Personnel Folder. They are updated only when an employee elects a change of health plan during the annual open season. Current home addresses of employees are kept by the Finance Division of the VA Regional Office in Seattle, Washington.

Respondent insists that it is not required to furnish the names and home addresses of employees to the Union. It insists that (a) since the disclosure of names and addresses does not constitute data which is the subject of negotiation, there is no requirement under section 7114(b)(4) to furnish them; (b) alternative means exist for communications between the Union and bargaining unit members so as to obviate the necessity for the data; (c) disclosure is precluded by the Privacy Act and the data does not fall under the exception in 552(b)(3) as "routine use" of information; (d) while otherwise required to furnish it under the Freedom of Information Act, disclosure is protected under the exemptions 552(b)(6) thereof.

Although the Respondent denied that the requested information is reasonably available, it declared that the data is kept in official personnel files which are within its control. The Authority has held that names and addresses maintained in personnel files are "reasonably available." Veterans Administration (Washington, D.C. and Edith Nourse Rogers Memorial Veterans Administration Hospital (Bedford, Massachusetts), 27 FLRA 775.2/

The arguments made by Respondent are all similar to the ones asserted in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986), enforced in part and remanded sub nom. U.S. Department of Agriculture and Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, 836 F.2d 1139 (8th Cir. 1988).

Accordingly, it is concluded that Respondent's refusal to provide the Union herein with the names and home addresses of bargaining unit employees violated Section 7116(a)(1), (5) and (8) of the Statute. See also, United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3d Cir. 1988), enforcing (Philadelphia Naval Shipyard, 24 FLRA 37 (1986); U.S. Department of the Air Force, Scott Air Force Base, Illinois v. FLRA, 838 F.2d 229 (7th Cir. 1988), affirming Department of the Air Force, Scott Air Force Base, Illinois, 24 FLRA 226 (1986); Department of Health and Human Services, Social Security Administration v. FLRA, 833 F.2d 1129 (4th Cir. 1987),

2/ See also Department of the Air Force, Davis-Monthan Air Force Base, Tucson, Arizona, 32 FLRA No. 9.

affirming Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986); Department of Health and Human Services, Social Security Administration and Social Security Administration Field Office, New York Region, 24 FLRA 583 (1986); Department of Health and Human Services, Social Security Administration, 24 FLRA 600 (1986).

Based on the foregoing, the motion by General Counsel for summary judgment is granted. It is recommended that the Authority issue the following:

ORDER

Pursuant to section 2423.29 of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, the Veterans Administration, Seattle Regional Office, Seattle, Washington, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the American Federation of Government Employees, Local 3197, the exclusive representative of certain of its employees, the names with home addresses of all employees in the bargaining unit it represents.

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

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Furnish the American Federation of Government Employees, Local 3197, the names with home addresses of all employees in the bargaining unit it represents.

(b) Post at its facilities where bargaining unit employees represented by the American Federation of Government Employees, Local 3197, are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by a senior official of the Veterans Administration, Seattle Regional Office, Seattle, Washington and shall be posted and maintained for 60 consecutive days thereafter in conspicuous places, including all bulletin boards and 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 Section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region IX, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order as to what steps have been taken to comply.

A handwritten signature in cursive script, reading "William Naimark". The signature is written in black ink and is positioned above a horizontal line.

WILLIAM NAIMARK
Administrative Law Judge

Dated: June 30, 1988
Washington, D.C.

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of the American Federation of Government Employees, Local 3197, the exclusive representative of certain of our employees, the names with home addresses of all employees in the bargaining unit it represents.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

WE WILL furnish the American Federation of Government Employees, Local 3197, the names with home addresses of all employees in the bargaining unit it represents.

(Activity)

Dated: _____

By: _____

(Signature)

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region IX, whose address is: 901 Market Street, Suite 220, San Francisco, CA 94103, and whose telephone number is: (415) 995-5000.