

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

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HEALTH CARE FINANCING  
ADMINISTRATION  
Respondent  
and  
AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,  
LOCAL 1923, AFL-CIO  
Charging Party  
.....

Case No. 3-CA-10176

Richard M. Friedman  
Representative of the Respondent

Christopher M. Feldenzer  
Counsel for the General Counsel, FLRA

Before: GARVIN LEE OLIVER  
Administrative Law Judge

DECISION

Statement of the Case

The unfair labor practice complaint alleges that Respondent violated section 7116(a)(1), (5), and (8) of the Federal Service Labor-Management Relations Statute (the Statute), 5 U.S.C. §§ 7116(a)(1), (5), and (8), by refusing to furnish the Charging Party (Union), the agent of the exclusive representative of certain of Respondent's employees, the names and home addresses of bargaining unit employees represented by the Union.

On or about April 18, 1991, Counsel for the General Counsel moved for summary judgment. The Regional Director transferred the motion to the Chief Administrative Law Judge, pursuant to section 2423.22(b)(1) of the Regulations, and it was assigned to the undersigned for disposition pursuant to section 2423.19(k) and section 2423.22(b)(3) of the Regulations. Respondent served its opposition on April 23, 1991.

The General Counsel, relying on the Authority's decision in U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, 37 FLRA 515 (1990), (Portsmouth Naval Shipyard), application for enforcement filed sub nom. FLRA v. U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, No. 90-1949 (1st Cir., Oct. 1, 1990), contends Respondent violated section 7116(a) (1), (5), and (8) of the Statute when it refused to comply with the Charging Party's request for the names and home addresses of bargaining unit employees.

Respondent denies that disclosure of the data is not prohibited by law, arguing that Portsmouth Naval Shipyard was wrongly decided. Respondent further urges, as a defense, that the existence of alternative means of communication to unit employees, available to the Union, is an issue of material fact and the absence of a showing that adequate alternative means of communication are not available to the Union requires that the motion be denied, citing FLRA v. Department of the Treasury, Financial Management Service, 884 F.2d 1446 (D.C. Cir. 1989), cert. denied, 110 S. Ct. 863 (1990) and FLRA v. Department of Health and Human Services, Region V. Chicago, Illinois, No. 87-1147 (D.C. Cir., Aug. 9, 1990).

Based upon the entire record, and it appearing that there are no genuine issues of material fact and that the General Counsel is entitled to summary judgment as a matter of law, I make the following findings of fact, conclusions of law, and recommendations.

#### Findings of Fact

The American Federation of Government Employees (AFGE), Local 1923, AFL-CIO (the Union) is an agent of the AFGE, the certified exclusive representative of a consolidated unit of employees appropriate for collective bargaining with Respondent. By letter dated November 6, 1990, the Union, by Vice President Joseph P. Flynn, requested that Respondent furnish the names and home mailing addresses for all Health Care Financing Administration (HCFA) bargaining unit employees. Since December 11, 1990, Respondent has refused to furnish the Union with the requested information.

The names and home addresses of HCFA bargaining unit employees are normally maintained by Respondent in the regular course of business, are reasonably available, are necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective

bargaining, and do not constitute guidance, advice, counsel, or training for management officials or supervisors relating to collective bargaining.

#### Discussion and Conclusions of Law

The decision in this case is controlled by the Authority's decision in Portsmouth Naval Shipyard. There the Authority reaffirmed Farmers Home Administration, 23 FLRA 788 (1986), and concluded that the release of the names and home addresses of bargaining unit employees to their exclusive representatives is not prohibited by law, is necessary for unions to fulfill their duties under the Statute, and meets all of the other requirements established by section 7114(b)(4) of the Statute. The Authority also determined that the release of the information generally is required without regard to whether alternative means of communication are available. Accordingly, the resolution of this case does not require consideration of whether alternative means of communication are available to the Union. Bureau of Public Debt, 40 FLRA No. 37 (1991); U.S. Naval Ordnance Station, 40 FLRA No. 34 (1991).

The Union's request for the names and home addresses of unit employees satisfies the requirements of section 7114(b)(4). Therefore, the Respondent was required to provide the data requested by the Union, and the refusal to do so violated section 7116(a)(1), (5), and (8) of the Statute.

Based on the foregoing findings and conclusions, it is recommended that the Authority issue the following Order:

#### ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority's Rules and Regulations and section 7118 of the Statute, it is hereby ordered that the Health Care Financing Administration shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the American Federation of Government Employees, Local 1923, AFL-CIO, the agent of the exclusive representative of certain of its employees, the names and home addresses of all Health Care Financing Administration bargaining unit employees.

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

2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Furnish the American Federation of Government Employees, Local 1923, AFL-CIO, the agent of the exclusive representative of certain of its employees, the names and home addresses of all Health Care Financing Administration bargaining unit employees.

(b) Post at its facilities 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 the Administrator 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 insure 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 of the Washington Region, Federal Labor Relations Authority, 1111 - 18th Street, NW, 7th Floor, P.O. Box 33758, Washington, DC 20033-0758, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, DC, May 29, 1991.

  
GARVIN LEE OLIVER  
Administrative Law Judge

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 HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of the American Federation of Government Employees, Local 1923, AFL-CIO, the agent of the exclusive representative of certain of our employees, the names and home addresses of all Health Care Financing Administration bargaining unit employees.

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 1923, AFL-CIO, the agent of the exclusive representative of certain of our employees, the names and home addresses of all Health Care Financing Administration bargaining unit employees.

\_\_\_\_\_  
(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, Washington Region, whose address is: 1111 - 18th Street, NW, 7th Floor, P.O. Box 33758, Washington, DC 20033-0758, and whose telephone number is: (202) 653-8500.