

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C. 20424-0001

DEPARTMENT OF THE AIR FORCE U.S. AIR FORCE ACADEMY COLORADO SPRINGS, COLORADO Respondent and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1867 Charging Party	Case No. DE-CA-01-0779

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his/her Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.34(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.40-41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **DECEMBER 23, 2002**, and addressed to:

Office of Case Control
Federal Labor Relations Authority
607 14th Street, N.W., Suite 415
Washington, D.C. 20424

SUSAN E. JELEN
Administrative Law Judge

Dated: November 20, 2002
Washington, DC

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges
WASHINGTON, D.C. 20424-0001

MEMORANDUM
2002

DATE: November 20,

TO: The Federal Labor Relations Authority

FROM: SUSAN E. JELEN
Administrative Law Judge

SUBJECT: DEPARTMENT OF THE AIR FORCE
U.S. AIR FORCE ACADEMY
COLORADO SPRINGS, COLORADO

Respondent

and
CA-01-0779

Case No. DE-

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 1867

Charging Party

Pursuant to section 2423.34(b) of the Rules and Regulations 5 C.F.R. § 2423.34(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

Respondent and the General Counsel filed timely, helpful briefs. Based on the entire record, including my observation of the witnesses and their demeanor, I make the following findings of fact, conclusions of law and recommendations.

Findings of Fact

This case concerns a request for information involving the contracting out of commercial activities in the Civil Engineering (CE) squadron within the Respondent's Air Force Academy facility. Commercial activities involve products or services that can be performed by a private source, and commercial activities studies are accomplished pursuant to OMB Circular No. A-76 (OMB Circular A-76) a government-wide regulation.

The American Federation of Government Employees, Local 1867 (the Union) is the exclusive representative of a unit of employees appropriate for collective bargaining at the Air Force Academy in Colorado Springs, Colorado. (G.C. Ex. 1(b), 1(c) and Tr. 25). Darrell Banks is President of Local 1867, with a bargaining unit of approximately 1300 employees, including 367 employees in the CE squadron. CE employs carpenters, masons, heavy equipment operators and other types of employees in units which include the Grounds Unit, Housing Unit and the Water Treatment Plant. (Tr. 25-26)

In December 1998 the Respondent began work on the CE contracting out study. The Union also learned of the Respondent's plan to conduct a CE contracting out study in December 1998. The Respondent developed a Performance Work Statement (PWS) describing all of the work required to be performed under the contract, a Management Plan, which included a Most Efficient Organization (MEO), describing how the Respondent would structure itself to submit a competitive in-house bid to perform the work described in the PWS. (Tr. 26-28) The Respondent also developed a Technical Performance Plan (TPP), breaking down all of the PWS requirements and allocating costs for all tasks identified in the PWS and MEO. (Tr. 28-29)

Lt. Col. Richard Burlingame was Respondent's Chief of Manpower Organization and responsible for oversight of all A-76 contracting studies. He testified that the MEO was a "subset" of the TPP. The Respondent's In-House Cost Estimate was based on the TPP. Burlingame further testified that the TPP contains the same types of things that are contained in the MEO, but in much more detail. The TPP contains not only the organization and the number of

employees, but also the "concept of operations" which specifies the capabilities that must be demonstrated. As an example of a "concept of operations", Burlingame described how the TPP may envision satisfying a five minute response requirement for a critical system failure (such as a power failure) by ensuring that sufficient manpower and systems are in place to meet the five minute response requirement. Accordingly, Burlingame acknowledged that the In-House Cost Estimate could not be developed simply by referring to the Management Plan, but would require the detailed information regarding numbers of employees, their grades, the amount and types of equipment, etc., that are contained in the TPP. Thus, Burlingame acknowledged that the TPP contained information regarding the resources that would be needed in order to perform the work described in the PWS in terms of the number of people, the equipment and materials, and the specific process by which the work would be accomplished. Finally, Burlingame conceded that the specific process by which the work would be accomplished could have an affect on the cost associated with doing the work. (Tr. 50, 56, 72-76, 89)

During the contracting out process, Burlingame encouraged Union representation on the PWS work team and the MEO team. He felt that Union participation was vital to the process and the Union was allowed to participate to a degree in the development of the TPP. (Tr. 62-63, 84) He had also given the Union access to procurement sensitive information throughout the MEO process. (Tr. 66)

On May 31, 2001, Banks was informed by Burlingame that a decision had been made to award the CE contract to J&J Maintenance, a company from Austin, Texas. At that time, Burlingame provided the Union with a copy of the Management Plan (with the MEO) and the In-House Cost Estimate. (Tr. 29, 61)

Following his meeting with Banks, Burlingame informed the CE employees of the decision to contract out the CE function. At this two hour meeting, Burlingame advised the employees that management had made an "in-house" decision not to release the TPP. (Tr. 30)

Following the decision to contract out the CE function, the Union hired a consultant to assist with the filing of an appeal. According to OMB Circular A-76, Revised Supplemental Handbook (OMB Handbook), appeals of a Cost Comparison decision must "address specific questions regarding the costs entered by the Government on the applicable Cost Comparison Form and set forth the rationale for questioning those items." (Jt. Ex. 12, at 15) The

consultant asked Banks to submit a request for the TPP as it contained the breakdown of costs associated with all work required to be performed under the contract and because the TPP would show in detail how the government planned to satisfy the work requirements. (Tr. 30-31)

By letter dated June 5, 2001, Banks submitted a data request seeking a copy of the TPP, addressed to Terence Berger, Labor Relations Officer. The letter specifically explained that the requested data was needed to substantiate and validate that the costs associated with the Management Plan were reasonable, workable and accurate; to determine whether the costs associated with the agency plan were sufficient to overturn the decision to award the contract; and to file and justify an administrative appeal of the tentative decision to contract out the CE function. (Jt. Ex. 1; Tr. 30-33, 70, 77, 135)

Terence Berger responded by letter dated June 7, 2001, denying the Union's request for a copy of the TPP. The response did not state that management did not understand the Union's need for the information or suggest in any way that the Union had failed to articulate a "particularized need" for the TPP. Nor did any management representatives ever convey to the Union that they did not understand why the Union needed the TPP. Berger indicated in his letter that he had contacted Lt. Col. Burlingame and Lisa Lander, a contracting attorney at the Air Force Academy, for guidance on this issue:

According to Ms. Lander, "the TPP is not releasable to anyone outside of the MEO drafting team members and those authorized on a 'need to know' basis within the government. The TPP is a GOVERNMENT document, not a personal document of the MEO drafting team members, and therefore, the procurement integrity rules (of which the MEO drafting team and its advisors were briefed) still apply in full force."

In Lt. Col. Burlingame's e-mail to you on 4 June 2001, he reiterated Ms. Lander's above position to you and further stated, "Essentially . . . an appeal must be based on the Management Plan and/or the costing data provided to you on Thursday. The TPP may not be used since it is a procurement sensitive document. The AFI (AFI 38-203, para.11.2.11.3) states that the TPP is not releasable to the public until after the final study decision. Further, the TPP may not be releasable even after the final decision if the

TPP release is likely to adversely impact other AF, A-76 studies." (Emphasis in original).
(Jt. Ex. 2)

The Union filed its administrative appeal of the decision to award the CE contract to J&J Maintenance on July 2, 2001. The appeals filed by the Union and several other parties were ultimately denied by letter dated August 1, 2001. The letter denying the appeal found slightly less than \$4 million in discrepancies, an amount insufficient to overturn the decision. (Tr. 39, 41, 83-84; Jt. Ex. 7 and 8)

Positions of the Parties

General Counsel

Counsel for the General Counsel asserts that the Respondent violated section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to furnish the Union with a copy of the Technical Performance Plan associated with the Civil Engineering contracting study. Counsel for the General Counsel asserts that the TPP was "necessary" for the Union to file a meaningful administrative appeal of the tentative decision to contract out the CE function to J&J Maintenance and that the Union met its burden of establishing a "particularized need" for the TPP in its June 5, 2001 data request. The Union explained its need for the TPP to examine the costs associated with the Respondent's in-house bid and to file an administrative appeal. Grounds for appealing a tentative contract award are limited under the OMB Handbook and must "address specific questions regarding the costs entered by the Government on the applicable Cost Comparison Form and set forth the rationale for questioning those items."

Counsel for the General Counsel further argues that the Union's June 5 information request satisfied the particularized need standard, articulated in *Internal Revenue Service, Washington, D.C.* and *Internal Revenue Service, Kansas City Service Center, Kansas City, Missouri*, 50 FLRA 661, 669 (1995) (*IRS, Kansas City*). The Union specified in its June 5 request that it sought a copy of the TPP to substantiate and validate that the costs associated with the management plan were reasonable, workable and accurate; to determine whether the costs associated with the agency plan were sufficient to overturn the decision to award the contract; and to fill and justify an administrative appeal of the contracting decision. Further at no time did the Respondent assert that it did not understand the Union's need for the TPP or that the Union

had failed to articulate a "particularized need" for the requested information.

Counsel for the General Counsel further argues that release of the TPP is not "prohibited by law" within the meaning of section 7114(b)(4), and that the Respondent has failed to identify any statutory or regulatory prohibition to its release of the TPP to the Union. The General Counsel argues that nothing in the Procurement Integrity Act (41 U.S.C. § 423) or the Federal Acquisition Regulations (FAR), which implement the Act, prohibit the release of the TPP to the Union. Rather the Act and the FAR contemplate that the Respondent's Contracting Officer makes the determination as to whether any particular documents obtained during the contracting process (including the TPP) are procurement sensitive. Because the FAR grants discretion to "the head of the agency or designee, or contracting officer" to disclose such information, the release of the TPP is not prohibited by the FAR.

OMB Circular A-76 and the OMB Handbook are regulations having the force and effect of law. See, *National Treasury Employees Union and U.S. Department of the Treasury, Internal Revenue Service*, 42 FLRA 377, 391-403 (1991) (*NTEU*). The OMB Handbook, at Part 1, Chapter 1, paragraph G.2, specifically request that "agencies shall make all relevant documents available for review as a part of the administrative appeal process. The detailed documentation shall include, at a minimum, the in-house cost estimate, with detailed supporting data, the completed cost comparison form itself, and the management plan." (Jt. Ex. 12). This Handbook provision mandates the release of the Management Plan and In-House Cost Estimate that were provided to the Union at the time the tentative decision was announced that the CE function would be contracted out. But this is the minimum required to be disclosed; nothing in this provision of the Handbook prohibits disclosure of the TPP.

Finally, the General Counsel argues that the Respondent's reliance on AFI 38-203 should be rejected as the Air Force Regulation does not have the full "force and effect of law" and therefore does not prohibit the release of the TPP to the Union. Chapter 17, paragraph 17.2.3. of the AFI provides that "[t]he TPP is considered a procurement sensitive document and is not released for public review when a tentative cost comparison decision is determined. However, it may be releasable to the public when a final cost comparison decision is determined unless release of the TPP is likely to adversely impact the competitive position of a[n] in-house offer in a future acquisition." Citing *NTEU*, the General Counsel argues that the AFI does not

satisfy the Authority's test as set forth. Specifically, the General Counsel argues that there is no indication that AFI 38-203 was promulgated pursuant to a delegation of legislative authority from Congress; that the AFI statement that it is "not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, the [Air Force], its officers or any person" undermines prong 2 of the Authority's test, and there is no evidence concerning what procedural safeguards were followed in the issuance of the AFI. In *NTEU*, the Authority explained that in determining whether a regulation has been "promulgated in accordance with applicable procedural requirements under prong 3 of its test, the Authority would seek to ascertain whether the procedural requirements necessary to assure fairness and mature consideration were satisfied." The Respondent presented no evidence in this regard.

Counsel for the General Counsel therefore argues that since the Union clearly articulated a particularized need for the TPP, and the release of the TPP is not prohibited by law or regulation, the Respondent violated the Statute by failing and refusing to release the TPP upon request of the Union.

Respondent

The Respondent argues that there are two questions for decision in this matter. The first concerns whether the Union articulated a "particularized need" according to the case law and precedent for that standard, and according to the appeals process outlined in OMB Circular A-76 and the applicable Air Force Instructions. The Respondent argues that even if the Union made out a plausible case that its request for information passes the general section 7114(b) (4) test, the Union failed to show its need for the information within the framework of OMB Circular A-76 appeals process. Specifically the Respondent asserts that the Union, by charging that the TPP was needed specifically for the A-76 appeals process, has acquired the extra burden of proving that the information it requested is not protected by law or regulation as stated in OMB Circular

A-76.1

The Respondent argues the Air Force Instruction 38-203 implements OMB Circular A-76 and that it has a set of provisions that specifically protects certain information from disclosure during and after the appeals process, and

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OMB Circular A-76, Chapter 3, paragraph K "Appeals of Tentative Waiver and Cost Comparison Decisions" (Jt. Ex. 12 at 15), states:

1. Following a tentative waiver or A-76 cost comparison decision, the A-76 Administrative Appeals process is invoked. To be eligible for review under the A-76 Administrative Appeals process, appeals must: . . .

c. Address specific questions regarding an agency's compliance with the requirements and procedures of this Circular, factual questions regarding agency justifications to waive a cost comparison, or address specific questions regarding the costs entered by the Government on the applicable Cost Comparison Form and set forth the rationale for questioning those items.

d. Identify specific instances of agency denials of information not otherwise protected by law or regulation.

the TPP is specifically protected from disclosure.² Respondent argues that the Union has not articulated a particularized need for this information (i.e. shown that the information is not protected by law or regulation), in accordance with the OMB Circular's appeals process and their request for the information was properly denied.

Even assuming that the Union had articulated a sufficient particularized need for the TPP, the Respondent argues that the Union has not shown that the information should be released "to the extent not prohibited by law". Respondent argues that the standards for this determination should include the broader standards outlined in the OMB Circular and the Air Force Regulations. Citing *NTEU*, the Respondent asserts that OMB Circular A-76 is a regulation that has the force and effect of law, and as implemented by AFI 32-308, the regulation protects the TPP from disclosure.

Respondent also argues that the Federal Acquisition Regulation (FAR) and the Procurement Integrity Act have several restrictions on disclosing source selection information, such as the TPP. Since Respondent's contracting officer determined that the TPP was a source selection sensitive material, it was therefore not releasable. (Tr. 92, 93)

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Relevant sections of AFI 38-203 state:

17.2.3. The TPP is considered a procurement sensitive document and is not released for public review when a tentative cost comparison decision is determined. However, it may be releasable to the public when a final cost comparison decision is determined unless release of the TPP is likely to adversely impact the competitive position of a [n] in-house offer in a future acquisition.

17.4.3.1.3. Concurrent with this announcement [of the conditional contract award] (or as soon after as possible), the functional OPR formally announces the tentative cost comparison decision, in writing . . ., advises them of the Public Review Period, AAP procedures, and provides the following cost comparison documentation:

17.4.3.1.3.1 The Management Plan to include the Government Cost Estimate (but not the TPP), as applicable per paragraph 17.2.3. of this Instruction).

Respondent argues that AFI 32-308 has the force and effect of law. *Department of Defense, U.S. Army Armor Center and Fort Knox, Fort Knox, Kentucky*, 43 FLRA 476, 492-93 (1991) (*Fort Knox*) and *NTEU*, 42 FLRA at 377. It is a mandatory Air Force-wide regulation and requires strict adherence. The AFI is based upon two parallel lines of authority, the OMB Circular and the Fair Activities Inventory Reform (FAIR) Act. AFI 38-203 states that it "implements AFPD 38-2, Manpower; Office of Management and Budget Circular (OMBC) A-76, Performance of Commercial Activities, August 4, 1983, as amended in 1987, 1988 and 1999; the Revised Supplemental Handbook to OMBC A-76, Mar 96 as amended in 1999; DoD Directive 4100.15, Commercial Activities Program and DoD Instruction 4100.33, Commercial Activities Program Procedures."

Respondent therefore argues that its refusal to release the TPP at the request of the Union was not violative of the Statute.

Analysis

Section 7114(b)(4) of the Statute provides that the obligation to bargain in good faith includes the obligation:

(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data-

(A) which is normally maintained by the agency in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining[.]

The Respondent does not contest that the requested TPP is normally maintained by the agency in the regular course of business, that the TPP is reasonably available, or that the TPP does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining. The only issues in dispute concern whether the TPP is "necessary" for the Union to discharge its representational function and, if so,

whether release of the TPP is "prohibited by law". See *United States Department of the Army, Headquarters, Fort Monroe, Virginia*, 57 FLRA 793 (2002) (after finding that the union had articulated a particularized need for the information at issue, the judge then correctly considered Respondent's countervailing interests warranting non-disclosure at the time of the request).

Particularized Need

The Authority has ruled that when requesting information under section 7114(b)(4) of the Statute, a union "must establish a particularized need for the information by articulating, with specificity, why it needs the requested information, including the uses to which the union will put the information and the connection between those uses and the union's representational responsibilities under the Statute." *IRS, Kansas City, supra*.

In its request for the TPP, the Union set forth its reasons for the request, stating that the information was needed to substantiate and validate that the costs associated with the Management plan were reasonable, workable and accurate; to determine whether the costs associated with the agency plan were sufficient to overturn the decision to award the contract; and to file and justify an administrative appeal of the tentative decision to contract out the CE function. These potential uses of the TPP directly relate to the Union's representational responsibilities. Moreover, I find that the Union's reasons directly relate to the appeals criteria set forth in the OMB A-76 handbook. Therefore, I conclude that the Union has established a particularized need for the TPP.

Prohibited by Law

The final question to be determined is whether or not release of the TPP is prohibited by law. The contracting out study is established pursuant to OMB Circular A-76. The parties are in agreement, and I concur, that OMB Circular A-76 and the OMB Handbook are regulations having the force and effect of law. *NTEU*, 42 FLRA at 391-403. The OMB Circular A-76 does not specifically address the issue of information requests, however, the OMB Handbook, at Part 1, Chapter 1, paragraph G.2, specifically states that "agencies shall make all relevant documents available for review as a part of the administrative appeal process. The detailed documentation shall include, at a minimum, the in-house cost estimate, with detailed supporting data, the completed cost comparison form itself, and the management plan." (Jt. Ex. 12). This Handbook provision mandates the release of the Management Plan and In-House Cost Estimate that were

provided to the Union at the time the tentative decision was announced that the CE function would be contracted out. The TPP is not specifically discussed, however, the disclosure of the TPP is not specifically prohibited by the Handbook. Review of the TPP shows that it is much more detailed than the Management Plan, with its MEO, and the In-House Cost Estimate, and that those documents specifically relate to and are based on the TPP. I do not find that the OMB Circular A-76 and its Handbook prohibit the disclosure of the TPP.

The primary issue is whether or not the Air Force Regulation at issue, AFI 32-308 has the force and effect of law. AFI 32-308, which implements OMB Circular A-76 for all Air Force components, specifically discusses the TPP and states, as quoted above in footnote 2, that the TPP "may be releasable to the public when final cost comparison decision is determined unless release of the TPP is likely to adversely impact the competitive position of a[n] in-house offer in a future acquisition." Therefore AFI 32-308, while clearly discouraging release of the TPP, does not prohibit the release of the TPP in all circumstances.

In *Fort Knox*, 43 FLRA at 476 the Authority stated that section 7114(b)(4) of the Statute refers to the disclosure of information which is "prohibited by law" and further found that "law" in that section includes, among other matters, regulations having the force and effect of law. That particular case involved Army Regulation 5-20 (also relating to OMB Circular A-76) and the Authority found that the record was insufficient to determine whether AR 5-20 constituted such a regulation. In *NTEU* the Authority, on remand, held that regulations must have certain substantive and procedural characteristics in order to constitute regulations having the force and effect of law. "Specifically, regulations have the force and effect of law if they: (1) are promulgated pursuant to an explicit or implicit delegation of legislative authority by Congress; (2) affect individual rights and obligations; and (3) are promulgated in accordance with applicable procedural requirements."

Respondent appears to argue that AFI 32-308 must have the "force and effect of law" because it is a mandatory Air Force regulation. It also argues that the Air Force regulation is based upon two parallel lines of authority. However, as pointed out by the General Counsel, the Respondent did not present any evidence with regard to how the regulation was promulgated and whether it was done in accordance with applicable procedural requirements. Rather the Respondent relies on the language of AFI 32-308 itself

to prove that it has the "force and effect of law". I am unwilling to determine that AFI 32-308 has such power without actual evidence of its development and promulgation. Respondent makes similar arguments regarding the Federal Acquisition Regulations, without specifically satisfying the authority's criteria for determining whether a regulation has the "force and effect of law". *NTEU, supra*.

Accordingly, I do not find that the Respondent's countervailing interests in not furnishing the Technical Performance Plan outweighed the legitimate interests in disclosure to the Union.³ Therefore, the Respondent's failure to provide the TPP, which was necessary, reasonably available, normally maintained, and not prohibited by law from disclosure, is inconsistent with the Respondent's obligations under section 7114(b)(4) of the Statute. As such, I find that the Respondent violated section 7116(a)(1), (5) and (8) of the Statute.

Remedy

The General Counsel requests that the Respondent furnish to the Union a copy of the Technical Performance Plan. I find that the proposed remedy is appropriate. Based on the above findings and conclusions, I conclude that the Respondent violated section 7116(a)(1), (5) and (8) of the Statute as alleged, and I recommend that the Authority adopt the following Order:

ORDER

Pursuant to section 2423.41(c) of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, it is hereby ordered

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Respondent argues that there are ongoing A-76 contracting out studies involving Civil Engineering facilities throughout the Air Force, although none involve the Air Force Academy. (Tr. 87, 99) Since the TPP contains proprietary information, it would cause an unfair advantage to anyone having access to the TPP. My in camera review shows that the TPP at issue is specifically related to the CE function at the Air Force Academy. The Respondent's assertion that the TPP is a procurement sensitive document and therefore not releasable does not appear to be based on any objective evidence but rather a general reluctance to furnish such information. Since the Union has established a particularized need for the information, a vague concern regarding some unknown, future risk does not outweigh the legitimate interests of disclosure to the Union.

that the Department of the Air Force, U.S. Air Force Academy, Colorado Springs, Colorado, shall:

1. Cease and desist from:

(a) Failing and refusing to furnish the American Federation of Government Employees, Local 1867 with a copy of the Technical Performance Plan associated with contracting out of the Civil Engineering function.

(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Federal Service Labor-Management Relations 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 1867 with a copy of the Technical Performance Plan associated with contracting out of the Civil Engineering function.

(b) Post at its Colorado Springs, Colorado facilities, where bargaining unit employees represented by the American Federation of Government Employees, Local 1867 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 the Superintendent, 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 section 2423.41(e) of the Authority's Rules and Regulations, notify the Regional Director, Denver Regional Office, Federal Labor Relations Authority, in writing, within 30 days of the date of this Order, as to what steps have been taken to comply.

Issued, Washington, DC, November 20, 2002.

SUSAN E. JELEN
Administrative Law Judge

If employees have any questions concerning this Notice or

compliance with any of its provisions, they may communicate directly with the Regional Director, Denver Regional Office, Federal Labor Relations Authority, whose address is: 1244 Speer Boulevard, Suite 100, Denver, CO 80404, and whose telephone number is: (303) 844-5224.

