

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, KENTUCKY STATE OFFICE LOUISVILLE, KENTUCKY Respondent	
and	Case No. CH-CA-00694
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3980, AFL-CIO Charging Party	

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 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. §§ 2423.40-2423.41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **AUGUST 1, 2001**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW., Suite 415
Washington, DC 20424-0001

WILLIAM B. DEVANEY
Administrative Law Judge

Dated: July 2, 2001
Washington, DC

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

MEMORANDUM

DATE: July 2, 2001

TO: The Federal Labor Relations Authority

FROM: WILLIAM B. DEVANEY
Administrative Law Judge

SUBJECT: DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT, KENTUCKY STATE OFFICE
LOUISVILLE, KENTUCKY

Respondent

and
CA-00694

Case No. CH-

AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, LOCAL 3980, AFL-CIO

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.

Enclosures

FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges

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WASHINGTON, D.C.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, KENTUCKY STATE OFFICE LOUISVILLE, KENTUCKY Respondent and	Case No. CH-CA-00694
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3980, AFL-CIO Charging Party	

Greg A. Weddle, Esquire
For the General Counsel

Before: WILLIAM B. DEVANEY
Administrative Law Judge

DECISION ON MOTION FOR SUMMARY JUDGMENT

Statement of the Case

This proceeding, under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the United States Code, 5 U.S.C. § 7101, et seq.¹, concerns a request for information, i.e., sanitized copies of applications and competitive placement records, in connection with four vacancy announcements (00-DEU-2000-0001Z; 00-MSH-2000-0001Z; 00-DEU-2000-0002Z; and 00-MSH-2000-0002Z at Respondent's Kentucky State Office. On

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¹/ For convenience of reference, sections of the Statute hereinafter are, also, referred to without inclusion of the initial "71", of the statutory reference, i.e., Section 7116 (a) (1) will be referred to, simply, as, "\$ 16(a) (1)."

September 6, 2000, and on September 18, 2000, Respondent denied the request for information and the charge herein was filed on September 22, 2000. The Complaint and Notice of Hearing issued on April 30, 2001, and set the hearing for September 18, 2001, at a place to be determined in Louisville, Kentucky.

Respondent's Answer was due no later than May 28, 2001, but Respondent filed no Answer and on June 5, 2001, General Counsel, pursuant to §2423.27(a) of the Authority's Rules and Regulations, 5 C.F.R. § 2423.27(a), filed and served a Motion For Summary Judgment. Pursuant to § 2423.27(b), 5 C.F.R. § 2423.27(b) a response: ". . . must be filed within 5 days after the date of service of the motion" Respondent has filed no response to date. Accordingly, for reasons more fully set forth hereinafter, General Counsel's Motion will granted, the hearing for September 18, 2001, is hereby cancelled and an appropriate order and notice will be issued herewith.

Findings and Discussion

1. On April 30, 2001, the Regional Director for the Chicago Region of the Federal Labor Relations Authority issued a Complaint and Notice of Hearing in this matter alleging that the Department of Housing and Urban Development (Respondent) violated Section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to furnish information requested under 5 U.S.C. § 7114(b)(4) to the American Federation of Government Employees, Local 3980 (Charging Party), the exclusive representative of a group of employees at Respondent's Kentucky State Office in Louisville, Kentucky. A hearing in this case was set for September 18, 2001.

2. The complaint was served by certified mail on Respondent and specified that Respondent's answer to the complaint must be filed by May 28, 2001. The complaint further advised that "(a) failure to file an answer or respond to any allegation of this complaint will constitute an admission. See 5 C.F.R. § 2423.20(b)."

3. No answer was received from Respondent. Accordingly, Respondent has admitted all the allegations of the complaint. Department of Veterans Affairs Medical Center, Asheville, North Carolina, 51 FLRA 1572, 1594 (1996) (VAMC Asheville).

4. Since there are no factual issues in dispute, this case is ripe for summary judgment in General Counsel's favor. Since Respondent has admitted its failure and

refusal to comply with 5 U.S.C. § 7114(b)(4) of the Statute and has failed and refused to respond to General Counsel's Motion For Summary Judgment, the only remaining issue to be resolved is the question of remedy. VAMC Asheville, 51 FLRA at 1594.

5. To remedy the above admitted violation, as General Counsel has requested, Respondent will be ordered to submit the information requested by the Charging Party on August 9, 2000, as described in paragraph 10 of the Complaint, within 14 days of the date of the Order, accompanied by the posting of a notice to all employees signed by Respondent's Kentucky State Office Coordinator John Milchick.

Having found that Respondent violated §§ 16(a)(1), (5) and (8) of the Statute, it is recommended that the Authority adopt the following:

ORDER

Pursuant to § 2423.41(c) of the Authority's Rules and Regulations, 5 C.F.R. § 2423.41(c), and § 18 of the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7118, it is hereby ordered that the United States Department of Housing and Urban Development, Kentucky State Office, Louisville, shall:

1. Cease and desist from:

(a) Failing and refusing to furnish the American Federation of Government Employees, Local 3980, AFL-CIO (hereinafter, "Union") with the following information requested by the Union, namely: sanitized copies of the applications submitted and the competitive placement records created in connection with four vacancy announcements at Respondent's Kentucky State Office as follows:

00-DEU-2000-0001Z
00-MSH-2000-0001Z
00-DEU-2000-0002Z
00-MSH-2000-0002Z

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

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

(a) Upon request, promptly, and within fourteen (14) days of the date of its request, furnish the Union the information set forth in paragraph 1(a) of this Order and more fully described in paragraph 10 of the complaint herein.

(b) Post at its facilities in the Kentucky State Office, Louisville, Kentucky, where employees of the American Federation of Government Employees, Local 3980, AFL-CIO, 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 Department of Housing and Urban Development's Kentucky State coordinator, 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 materials.

(c) Pursuant to § 2423.41(e) of the Authority's Rules and Regulations, 5 C.F.R. § 2423.41(e), notify the Regional Director, Chicago Region, Federal Labor Relations Authority, 55 West Monroe, Suite 1150, Chicago, Illinois, 60603-9729, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

WILLIAM B. DEVANEY

Judge

Administrative Law

Date: July 2, 2001
Washington, D.C.

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of Housing and Urban Development, Kentucky State Office, Louisville, Kentucky, violated the Federal Service Labor-Management Relations Statute, and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY BARGAINING UNIT EMPLOYEES THAT:

WE WILL NOT fail and refuse to furnish the American Federation of Government Employees, Local 3980, AFL-CIO (hereinafter "Union"), with sanitized copies of the applications and the competitive placement records created in connection with the following vacancy announcements at Respondent's Kentucky State Office:

00-DEU-2000-0001Z, Community Builder, GS-13
00-MSH-2000-0001Z, Community Builder, GS-13
00-DEU-2000-0002Z, Community Builder (Project Manager), GS-14
00-MSH-2000-0002Z, Community Builder (Project Manager), GS-14

WE WILL NOT in any like or related manner interfere with, restrain, or coerce bargaining unit employees in the exercise of their rights assured them by the Statute.

WE WILL, upon request, promptly, and within fourteen (14) days of the request, furnish the Union sanitized copies of the applications and the competitive placement records created in connection with the four vacancy announcements at Respondent's Kentucky State Office set forth above (00-DEU-2000-0001Z; 00-MSH-2000-0001Z; 00-DEU-2000-0002Z; and 00-MSH-2000-0002Z).

Department of Housing and Urban
Development

Date: _____ By: _____

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Kentucky State Coordinator

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, Chicago Region, Federal Labor Relations Authority, whose address is: 55 West Monroe, Suite 1150, Chicago, Illinois 60603 and whose telephone number is: (312)353-6306.

CERTIFICATE OF SERVICE

I hereby certify that copies of this **DECISION** issued by WILLIAM B. DEVANEY, Administrative Law Judge, in Case No. CH-CA-00694, were sent to the following parties:

CERTIFIED MAIL AND RETURN RECEIPT NOS:

CERTIFIED

Greg A. Weddle, Esquire
Federal Labor Relations Authority
55 West Monroe, Suite 1150
Chicago, IL 60603

P168-060-305

Romeyn Rowson, Labor Relations Specialist
Labor Relations Branch
U.S. Department of Housing & Urban Development
451 7th Street, S.W., Room 2152
Washington, D.C. 20410

P168-060-306

Deborah Knight, President
AFGE, Local 3980
HUD Kentucky State Office
601 W. Broadway
Louisville, KY 40202

P168-060-307

REGULAR MAIL:

Bobby Harnage, President
AFGE, AFL-CIO
80 "F" Street, N.W.
Washington, DC 20001

CATHERINE L. TURNER, LEGAL TECHNICIAN

DATED: JULY 2, 2001
WASHINGTON, DC