

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

.
BUREAU OF RECLAMATION .
ARIZONA PROJECTS OFFICE .
PHOENIX, ARIZONA .
Respondent .
and . Case No. 8-CA-70350
NATIONAL FEDERATION .
OF FEDERAL EMPLOYEES .
Charging Party .
.

Gerald J. Rachelson, Esq.
For the Respondent

Jonathan S. Levine, Esq.
For the General Counsel

Before: WILLIAM NAIMARK
Administrative Law Judge

DECISION

Statement of the Case

This case arises under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq. (hereinafter called the Statute). Pursuant to a charge filed on March 23, 1987 by the National Federation of Federal Employees (herein called the Union), a Complaint and Notice of Hearing was issued on June 4, 1987 by the Regional Director, Region VIII, Federal Labor Relations Authority against Bureau of Reclamation, Arizona Projects Office, Phoenix, Arizona (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 to furnish the Union, 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 served upon the Regional Director, on June 19, 1987, admitted the following: (a) the jurisdictional allegations in the Complaint; (b) that on or about January 8, 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 March 6, 1987, Respondent denied the Union's request for the information; (d) that the home addresses are contained in official personnel files which are under the custody of Respondent's Lower Colorado Regional Office, Boulder City, Nevada;^{1/} (e) that such information is reasonably available; and (f) 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 August 24, 1987, General Counsel filed a Motion For Summary Judgment and submitted a brief in support thereof.

In an order dated August 26, 1987 the Regional Director transferred the Motion to the Chief Administrative Law Judge pursuant to Section 2423.22(b)(1) of the Authority's Rules and Regulations. The case was duly assigned to the undersigned for disposition. Thereafter, Respondent submitted an Opposition To General Counsel's Motion For Summary Judgment and Respondent's Cross-Motion For Summary Judgment and Dismissal of General Counsel's Complaint.

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

^{1/} While making this admission, Respondent's Answer denied the allegation as written, i.e. that the information requested (names and home addresses of unit employees) is normally maintained by Respondent in the regular course of business. Further, the Answer denied that the home addresses are currently accurate since it is often outdated and no effort is made to maintain its accuracy.

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,^{2/} disclosure is protected under the exemptions 552(b)(6) thereof.

Although the Respondent's Answer denies that the names and addresses of unit employees are normally maintained in the regular course of business, it concedes that the data is kept in official personnel files within its control. It is also asserted that the records are not kept so as to identify bargaining unit employees and no system exists to obtain this information. Such contentions have been laid to rest by the Authority. It has held that names and addresses maintained in personnel files is "reasonably available" despite the fact that the agency may be required to compile the information by reconciling certain lists. Information so kept is also deemed to be normally maintained in the regular course of business. Veterans Administration (Washington, D.C. and Edith Nourse Rogers Memorial Veterans Administration Hospital (Bedford, Massachusetts), 27 FLRA 775.^{3/}

The arguments made by Respondent all similar to the ones asserted in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986) (Farmers Home), 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). The Authority held that the names and home addresses must be furnished and their release is not prohibited by law. Further, that such data is necessary for the unions to fulfill their representational duties under the Statute, and all requirements are met under 7114(b)(4) of the Statute. It also concluded that exception 552(b)(2) re the Freedom of Information Act and exception 552(b)(3) re "routine use" of information apply so as to authorize release of information under the Privacy Act.

^{2/} 5 U.S.C. 552 (1982).

^{3/} See also Department of the Air Force, Davis-Monthan Air Force Base, Tucson, Arizona, 32 FLRA No. 9.

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. Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986), affirmed in U.S. Department of Agriculture, Farmers Home Finance Administration, St. Louis, Missouri v. FLRA, Nos. 86-2579, 87-1024 (8th Cir. Jan. 15, 1988). See United States Department of Health and Human Services, Social Security Administration v. FLRA, Nos. 87-3513(L), 87-3514, 87-3515 (4th Cir. Nov. 25, 1987), affirming Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986); 22nd Combat Support Group (SAC), March Air Force Base, California, 30 FLRA No. 72 (1987); Department of Health and Human Services, Social Security Administration and Social Security Administration Field Operations, New York Region, 24 FLRA 583 (1986).

Accordingly, the Motion by General Counsel for Summary Judgment is granted, and Respondent's cross-motion for Summary Judgment and Dismissal of Complaint is denied. 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 Bureau of Reclamation, Arizona Projects Office, Phoenix, Arizona, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Federation of Federal Employees, 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 National Federation of Federal Employees, 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 National Federation of Federal Employees, 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 Bureau of Reclamation, Arizona Projects Office, Phoenix, Arizona 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 VIII, Federal Labor Relations Authority, in writing, within 30 days from the date of this Order as to what steps have been taken to comply.



WILLIAM NAIMARK
Administrative Law Judge

Dated: June 6, 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 National Federation of Federal Employees, 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 National Federation of Federal Employees, 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 VIII, whose address is: 350 S. Figueroa Street, 3rd Floor, Room 370, Los Angeles, CA 90071, and whose telephone number is: (213) 894-3805.