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

VETERANS ADMINISTRATION REGIONAL OFFICE, SAN DIEGO, CALIFORNIA Respondent	
and	Cases Nos. 8-CA-90297 8-CA-90301
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 490, AFL-CIO Charging Party	

Cathy Lewitt, Esq. and
Jim Smart
For the Respondent

Gerald M. Cole, Esq.
For the General Counsel

Before: ELI NASH, JR.
Administrative Law Judge

DECISION

This is a proceeding under the Federal Service Labor-Management Relations Statute, as amended, 5 U.S.C. § 7101 et seq., hereinafter called the Statute, and the Rules and Regulations of the Federal Labor Relations Authority (hereinafter called the FLRA), 5 C.F.R. Chapter XIV, § 2410 et seq.

American Federation of Government Employees, Local 490, AFL-CIO, (hereinafter called the Union), filed unfair labor practice charges dated March 24, 1989 and March 27, 1989, respectively, against Veterans Administration Regional Office, San Diego, California, (hereinafter called Respondent). Pursuant to the foregoing charge, the Regional Director of Region VIII, issued a Consolidated Complaint and Notice of Hearing alleging that Respondent violated section

7116(a)(1), (5) and (8) of the Statute by failing and refusing to furnish necessary and relevant information in order to process a grievance and further violated section 7116(a)(1) and (5) by unilaterally changing working conditions of unit employees by implementing a digit assignment procedure for file clerks without providing the Union with an opportunity to bargain over the impact and implementation of the change.

A hearing was held before the undersigned in San Diego, California. Respondent, the Union and General Counsel of the FLRA were represented and afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence and to argue orally. Briefs were filed and have been fully considered.

Based upon the entire record in this matter, my observation of the witnesses and their demeanor and my evaluation of the evidence, I make the following:

Findings of Fact

A. Case No. 8-CA-90297

1. The Union represents a nationwide unit of employees of the Veterans Administration including a unit of general schedule nonprofessional employees at Respondent's facility in San Diego, California.

2. During the latter part of 1988, Respondent employed nine journeyman GS-9 claims examiners or adjudicators (herein called adjudicators), and three trainees. Adjudicators are responsible for awarding or denying benefits for veterans. Adjudicators process claims for payment of benefits to veterans attending college as well as compensation cases for disabilities based on military service and pension benefits for age or infirmity not related to military service. These adjudicators have required performance standards for their positions which contain a productivity standard of 16-20 end products per day, of which 9.5 must involve compensation or pension cases.1/

1/ Respondent asserts G.C. Exh. No. 2(a) was in effect longer than the Union but it is clear the productivity standards were in effect in late 1988.

3. Sometime during the summer of 1988, the Union became convinced that problems existed in the assignment of work to adjudicators. David Colton, an adjudicator and legal officer of the Union, testified that he observed certain work, which is deemed easier, was apparently being reassigned elsewhere. Colton alleged that this could be verified by the fact that files were being annotated by other individuals. At the very least, if the cases were returned to the adjudicators for processing, it could effect the timeliness of their work which was also a critical element. As a result of Colton's observation sometime around September 30, 1988, the Union's Vice-President Gregory Henry, requested certain information from Respondent concerning end products taken by not only the adjudicators, but unit and section chiefs as well. On October 18, 1988, the Union received a response to its request from Section Chief Aileen Molitor informing the Union that while she was unable to provide it with certain information, certain statistics were maintained regarding the work of the adjudicators and asked the Union to indicate which months were desired. The Union responded by letter on October 24, 1988, indicating it wished the monthly Individual Production Reports from January through October 1988. On November 8, 1988, Respondent provided the Union sanitized copies of the Individual Production Reports for the current rating year of April through September 1988. The sanitized information was provided for each adjudicator, unit chief, senior adjudicator, and clerk (trainee) by position only for August and September. This productivity report showed the total number of "end products" for each adjudicator for each month. The document, however, did not show which adjudicator may have "authorized" some of these cases, which the Union wished to be provided in order to ascertain if management personnel had performed such work which could have affected the productivity of adjudicators. Further, during the summer of 1988, the individual adjudicators had begun receiving another statistical report showing their individual performance which contained much more specific information including who authorized certain cases.

4. Around November 22, 1988, the Union requested by letter that the information previously provided for the months other than August and September 1988 be properly annotated. Additionally, the Union requested it be provided the spread sheets which was the new report mentioned above now provided to each adjudicator. Colton testified it was these statistics the Union had expected to receive with its previous requests.

5. Thereafter, by letter dated December 7, 1988, Molitor provided the Union with annotated copies of only the top half of the spread sheets requested by the Union. The bottom of the sheet had been cut off. The information provided was similar to the information previously provided in early November 1988. An examination of G.C. Exh. No. 9(b) and Colton's testimony reveals that the top half of the spread sheets do not show the actual production figures for each adjudicator. Thus, the number of education cases authorized must be factored into the total number of education end products. Without that information, the Union allegedly would be unable to determine how many cases may have been worked by management or senior personnel. Additionally, Colton testified that another statistic on the bottom portion - "Exclude Time - 050's" should reveal whether relatively simple type work had been assigned to other personnel. Colton also testified that the portions on the bottom part of the spread sheet entitled "quality" and "desk audit" were also necessary for the Union's assessment of the matter, since quality of performance was also a critical element. Molitor acknowledged that the bottom half of the spread sheet was used by a unit chief in evaluating the adjudicators for production, quality and timeliness, the three critical elements for adjudicators. Further, Molitor testified that the bottom half of the spread sheet contains personal information of employees, including their use of leave, which in her view would interfere with the privacy of the adjudicators, since in view of their small number, such released information could easily identify them. However, Molitor admitted she did not talk to the Union about perhaps not disclosing the leave information or an agreement to keep the disclosed information confidential.

6. Respondent and the Union entered into a Memorandum of Understanding in May 1987 concerning the impact and implementation of the issuance of the productivity standards for the adjudicators. Molitor testified there are always backlogs of work for the adjudicators but denied there had been any change in the manner in which work was distributed.

7. Since the Union was convinced that the information provided thus far was insufficient, it again on December 19, 1988, requested that the full spread sheet be provided. Respondent answered on January 11, 1989, notifying the Union that no further information would be provided because "to furnish more would be equal to an identification of each person for whom the information is being furnished. We are prohibited from doing this." In this letter Respondent also

contended that "there has been no adverse action against any employee as a result of the workload distribution for failure to meet performance standards."

8. The adjudicators are evaluated on an annual basis commencing in April of each year and receive a mid-term evaluation in October or November. On November 28, 1988, the Union filed a grievance contending that work had not been assigned fairly and equitably to the journeyman adjudicators and education clerks. Upon elevating the grievance to Step III the Union asserted that it was hampered by Respondent's "refusal to submit the evidence which allows the computation of production . . ., and that Respondent manipulated the work assignment. . . ." At the time of the hearing that grievance was pending arbitration.

B. Case No. 8-CA-90301

1. Respondent maintains about 200,000 claimant files at its San Diego facility. It utilizes file clerks to maintain the files as well as pull them to be sent to the claims adjudicators or other employees. A large amount of mail is also received which must be placed or "dropped" in the files. The file clerks are divided into three units of employees, with approximately three file clerks per unit. Each unit maintains anywhere from 40-60,000 files. The units are presently divided by the last two digits of a Social Security number. According to Carl Boyd, the chief steward of the Union and a file clerk for 13 years, prior to March 1989, file clerks in each unit did not have an individual digit assignment, but file clerks did have a productivity standard of pulling 40 pieces of mail and "dropping" 80 pieces per hour.

2. Boyd's immediate supervisor, Doug Johnson, testified there was an individual digit assignment in Unit 1 in effect when he became the supervisor in January 1988. Johnson also testified on cross-examination he implemented a digit assignment at some other time, but it was rescinded when the Union was going to file an unfair labor practice charge. Johnson was unable to explain why it was necessary to formalize the digit assignment if there was one already in effect.

3. Prior to February 1989, Boyd worked in Unit 1 with one other clerk, David Lamb. During that time mail was routinely delivered to the file room around 2 o'clock in the afternoon, for sorting the next day. The lead file clerk or

expediter would place the mail in a sorter and then Lamb and Boyd would deal with the mail without regard to the digits.

4. On about February 17, 1989 Boyd's supervisor, Johnson, approached him and stated that from now on there would be digit assignments for each file clerk which would make each clerk more accountable. Boyd indicated that the Union would wish to bargain if a digit assignment was implemented. Johnson then stated he would get back to Boyd. About 15 minutes later, Boyd met with the Section Chief, Aileen Molitor, about the digit assignments, and Boyd reiterated the Union would probably wish to bargain. About an hour later, Boyd received a letter dated the same day for Molitor concerning implementation of digit assignments for file clerks. Boyd was requested to provide written impact and implementation proposals by February 24, 1989, with implementation deferred to March 1, 1989. Boyd again told Molitor the Union wished to bargain and that digit assignments would not be fair and equitable since there was no way to equalize them every day.

5. After the discussion above, Boyd met with Union Vice-President Gregory Henry, and a letter was prepared on February 24, 1989 stating that the Union refused to present proposals before bargaining but suggested a meeting be held on March 1, 1989. Respondent answered this letter on the same day with Molitor, refusing to meet on March 1, 1989, because the Union had not presented written proposals prior to bargaining. The implementation of digit assignments for file clerks became effective March 2, 1989, through a handwritten memo from Johnson, which gave file clerk David Lamb the digits from 00 to 16 and 17 to 33 to Carl Boyd.

6. Respondent's Personnel Officer Jim Smart admitted there was nothing in the national collective bargaining agreement or any other document which requires that the Union provide its written proposals before bargaining. However, Smart also testified there had been three prior occasions when Respondent and the Union had engaged in impact and implementation bargaining and written proposals were submitted by the Union before bargaining. Molitor testified she thought the Union had brought their proposals with them when bargaining took place concerning the new performance standards for adjudicators. In any event, this "bargaining history," it is found, does not establish a past practice of presenting proposals prior to bargaining.

7. Johnson and Molitor testified that the implementation digit assignments did not change the work performed by

the file clerks. However, Johnson admitted that in any one day one of the file clerks would have more mail to distribute depending on the mail received.

Conclusions

These cases although consolidated for hearing involve different issues. Case No. 8-CA-90297 is a request for information which was available and which the Union felt was necessary to fulfill its representational responsibilities. Case No. 8-CA-90301 involves an issue of whether or not Respondent had an obligation to bargain the impact and implementation of an alleged change in working conditions.

A. Case 8-CA-90297

The Authority has stated that a determination must be made in the particular circumstances of each case whether data requested is "necessary" and must be disclosed. See Army and Air Force Exchange Service (AAFES), Fort Carson, Colorado, 17 FLRA 624 (1985), rev'd and remanded in part as to other matters sub. nom., American Federation of Government Employees, AFL-CIO, Local 1345 v. FLRA, 793 F.2d 1360 (D.C. Cir. 1986), DECISION AND ORDER ON REMAND, Army and Air Force Exchange Service (AAFES), Fort Carson, Colorado, 25 FLRA 1060 (1987); Defense Mapping Agency, Aerospace Center, St. Louis, Missouri, 21 FLRA 595 (1986). Necessary, meaning that the information is "necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining, and includes dealing with matters in connection with a negotiated grievance as well as contract negotiations." See, for example, Rolla Research Center, U.S. Bureau of Mines, Rolla, Missouri, 29 FLRA 107; Internal Revenue Service, Washington, D.C. and Internal Revenue Service, Omaha District, Omaha, Nebraska, 25 FLRA 181 (1987).

Respondent begins by declaring that the information sought by the Union was not necessary for the fulfillment of its statutory duties. Here, Respondent's approach is as follows: (1) the Union did not present specific, clear supportable reasons for its request; (2) the Union had no reason to justify its information request; (3) there was no grievance pending arbitration; (4) and, was no grievance cognizable under law pending at the time of the request.

The information sought by the Union in this matter is the bottom half of spread sheets. The top half of the spread sheets was supplied to the Union along with other informa-

tion, but allegedly did not show "the actual production figures for each adjudicator." Without the information contained on the bottom of the spread sheets the Union alleges that it could not determine how many cases may have been worked by management or other senior personnel. While the bottom half of the spread sheets contain some information which apparently could violate an individual's privacy, it nonetheless contains information which is used by management personnel to evaluate adjudicators for production, quality and timeliness, the three critical elements for adjudicators. It is this information, on the bottom of the spread sheets, that the Union asserts is necessary for it to perform its representational functions.

The evidence is uncontroverted that the Union was investigating a potential grievance and provides ample justification for the Union's request. The evidence also shows, Respondent's assertions notwithstanding, that the Union filed a grievance on November 28, 1988 which arose from the mid-term evaluations of adjudicators. Colton's explanation for this grievance is that he had made certain observations concerning the reassignment of easier work, a concern which he took to Union Vice-President Henry, who saw enough merit in Colton's complaint to file a grievance. These easier assignments, if made, could certainly effect adjudicators productivity and thereby impact on their productivity. Finally, even Molitor admits that the bottom half of the spread sheet is essential in formulating the adjudicator's appraisal.

Concerning the argument that there were no clear supportable reasons for the request, the parties exchanged a series of letters which seemingly made the Union's objectives clear and through which Respondent could certainly identify the information sought by the Union with specificity. In view of those letters, it is found that Respondent's reasoning here lacks merit.

With respect to any further argument concerning necessity of the information, the test of whether such information is relevant or necessary, in the federal sector, is whether the information sought would be legitimately useful to the exclusive representative in the investigation and/or presentation of its case, and not whether it would ultimately prevail. See Rolla Research Center, supra; see also U.S. Customs Service, Region VII, 10 FLRA 251 (1982). Such cases answer Respondent's argument that no grievance was

pending at the time of the information request for it is not essential that a grievance is already filed or in process because the exclusive representative also has a responsibility to investigate potential grievances. Further the question of whether a grievance is cognizable under law is an issue which normally is resolved through the negotiated grievance procedure. Internal Revenue Service, Omaha District, supra. In any event, an exclusive representative under its charge to represent employees not only has a right, but an obligation to investigate possible grievances. A part of this obligation no doubt is to obtain information which will enable it to sensibly assess potential grievances. Here Respondent prematurely made a decision that the grievance was neither valid nor recognizable. Such a decision is made at its peril. Based on the record evidence, it is found that the information sought by the Union in this matter was necessary for it to assess a potential grievance and was consistent with its obligation to perform its representational responsibilities.

In addition, Respondent claims that since it supplied some of the requested information to the Union and the request for information violated a Memorandum Of Understanding between the parties, its action was not unlawful. In essence, Respondent's assertion is no more than the argument that the Union waived its right to further information where adjudicator performance standards were involved. The agreement entered into on May 20, 1987 covered the impact and implementation of adjudicator performance standards. According to Respondent, under that agreement an individual's productivity/production data would only be shared with those individuals whose performances are being measured. While a review of that memorandum reveals that it sought to establish a method of distributing work to adjudicators, it does not evince a Union waiver of its right to obtain any information which would be necessary to assist it in performing representational functions such as investigating and processing grievances. In information cases such as this, there is a threshold question when a waiver is claimed. See Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Arizona, 32 FLRA 903 (1988). In the above case the exclusive representative waived its right to information based on a memorandum of agreement in settlement of another unfair labor practice case. The test applied was whether the exclusive representative "clearly and unmistakably" waived its right to the information. The Authority found that the plain wording of the memorandum showed a clear intent to waive the right to the requested

information. In reviewing the Memorandum of Understanding in this matter, I find no such intent either expressed or implied and therefore, conclude that the Union did not intend to waive a right to the information such as contained in the bottom half of the spread sheets. Accordingly, the defense asserted by Respondent that the Union waived its right to the spread sheets involved in this matter, is rejected.2/

Next, Respondent argues that the information, even if released in sanitized form would violate the privacy of the individual adjudicator. However, the information was never offered in sanitized form because Respondent asserted that individuals could still be identified and information, including the amount of leave used by various adjudicators, would be disclosed. Thus, the record does not reveal that supplying the information by alternative methods such as sanitization was even discussed with the Union. Agreements to provide information in such a fashion have met with some success in the federal sector. Unfortunately, the parties here never reached that point since Respondent asserted that individual privacy rights would be compromised. Another reason for not discussing whether the information could be supplied in sanitized form was Respondent's unsupported attitude that the Union official who requested the information was on a "vendetta" and "fishing expedition." While that is clearly Respondent's opinion, the record fails to support its stance about union representative Colton.

Respondent argues that Andrews v. V.A., 613 F. Supp. 1404 (D.C. Wyo. 1985) should control this case and therefore records pertaining to leave usage and performance ratings are covered by 5 U.S.C. 552a. In this situation Respondent, as already stated, contends that the spread sheets on the bottom half contain leave usage along with other information used by the unit chief to determine whether the adjudicator is meeting his performance standards. It then argues that a

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2/ Based on the foregoing finding, that the Memorandum of Understanding was not a waiver of the Union's right to seek information, it is unnecessary to address Respondent's argument that an adverse inference be drawn from the General Counsel's failure to produce witnesses to rebut its defense of the binding agreement absolving it from supplying the information to the Union.

balancing test should be applied to determine whether the information should be supplied.

In Army and Air Force Exchange Service (AAFES), Fort Carson, Colorado, supra, the Authority considered a similar argument and stated, that it would balance the necessity of the data for the Union's purposes against the degree of intrusion on the individual's privacy interests caused by disclosure of the data. The Authority has on many occasions since then reaffirmed its position on balancing. U.S. Department of Defense, Defense Logistics Agency, Defense Contract Administration Services Region (Boston, Mass.), 31 FLRA 800 (1988), Rolla Research Center, supra; Internal Revenue Service, Washington, D.C., and Internal Revenue Service, Omaha District, Omaha, Nebraska, 25 FLRA 181 (1987). Certainly the information in this matter could have been supplied to the Union in a sanitized form, and even more clearly Respondent's speculation about the information being spread to other unit employees is not supported by the record. Respondent, although it now asserts that it could not effectively sanitize these spread sheets did not, as noted above, discuss this with the Union. Thus, there is no cause to believe that any individual's identity would become generally known as a result of the release of this information in sanitized form. Respondent therefore, offered no cogent reason why the balance should be struck against supplying the data to the Union. Consequently, it is found that the balance of the interest in assuring that an exclusive representative has the information necessary to fulfill its representational role outweighs the individual privacy right asserted by Respondent in this case. Accordingly, it is found that the requested bottom half of the spread sheets should have been supplied to the Union despite Respondent's concern about privacy.

Finally, no question was raised as to whether the bottom half of the spread sheets were reasonably available. In fact the bottom half of the sheet had to be cut off the spread sheets provided to the Union. Accordingly, it is found that the requested information was readily available.

Based on the above, it is found that the spread sheets requested by the Union herein were reasonably available and necessary for the Union to perform its representational functions in this matter. Respondent's refusal to disclose the information therefore, constitutes a violation of section 7116(a)(1), (5) and (8) of the Statute.

B. Case No. 8-CA-90301

The Complaint in Case No. 8-CA-90301 alleges a unilateral change in working conditions. Respondent asserts that the General Counsel failed to prove a violation of the Statute.

Respondent's defense here is not complex. Thus, Respondent states that only its witnesses were truthful and that General Counsel's lone witness Boyd, was not only a problem employee, but that Boyd offered "perjured" testimony. This, of course, is of grave concern. Therefore, it must be stated at the outset that the undersigned found no evidence to support Respondent's claims that Boyd was either a problem employee or that he offered perjured testimony. I also find it incredible, if not in poor form, for an agency to make such a claim after the hearing has closed where it failed to even attempt to establish such claims during the course of the proceeding, when it has the alleged perjurer at the hearing. Waiting to make such an argument in brief, where the employee has no opportunity to answer such serious charges, reveals a fundamental weakness in Respondent's position in this case. Based on his demeanor as a witness and noting particularly that there is no record evidence to support Respondent's contentions, I totally credit Boyd's testimony.

Respondent asserts that no actual change in working conditions for file clerks occurred in this case. Although supervisor Johnson certified contrary to the General Counsel's witness that digit assignments existed for file clerks when he came into the unit in January 1988, Respondent produced no document to establish the existence of such a policy thereby raising the question, if there was such a policy prior to February 1989, why was it necessary that it be formalized? Moreover, why would Respondent give notice to the Union of its intention to implement digit assignments for file clerks if file clerks already had such a distribution of work? In such circumstances, it is not difficult to credit Boyd who testified that no digit assignment policy was in existence for individual file clerks prior to March 1989 and, therefore the implementation of this work distribution method constituted a change in working conditions.

The change involved herein concerns having file clerks use digit assignments. Respondent reasons that dividing its incoming mail through digit assignment creates accountability for the file clerks, and asserts that such an assignment does

not affect the kind of work or percentage of work required by those file clerks. In Respondent's opinion the amount of work over the course of time would be equalized. This argument of course recognizes that on certain days or during certain periods of time one clerk might have a disproportionate share of the work. In short, Respondent urges that this formalization of digit assignments is de minimis and carries no obligation to bargain. Department of Health and Human Services, Social Security Administration, 24 FLRA 403 (1986). In that case the Authority specifically noted that determining whether any change in conditions of employment requires bargaining equitable considerations will also be taken into account in balancing the various interests involved. Department of Health and Human Services, supra, at 408.

While Respondent gave notice before implementing the digit assignments for the file clerks, indicating that it thought some bargaining obligation existed, it asserts nevertheless, that the digit assignments did not have more than a de minimis impact on the file clerks and, therefore, no bargaining obligation was triggered. Unlike U.S. Department of Health and Human Services, Social Security Administration, Baltimore, Maryland, 36 FLRA No. 71 (1990), where the Authority found a change based on seating assignments was de minimis this case demonstrates that the change in digit assignments was more than de minimis. Here it was established that Boyd was told by Johnson that the purpose of the digit assignments was to make the file clerks more responsible or accountable, thereby affecting working conditions. Thus, by use of the digit assignments, Respondent could expect to be better able to ascertain which file clerk had failed to perform. Additionally, while it is asserted that the digit assignments procedure would result in no increase of work for the individual file clerk, supervisor Johnson acknowledged there could be a disparity in work from day to day and thus each file clerk would be responsible for such assignments. Given the large number of files maintained by each file unit, the potential that such a disparity in assignments could result in unexpected increases in work loads, and noting the productivity standards that a file clerk is expected to maintain, it is concluded that the implementation of the digit assignments for the file clerks could have a reasonably foreseeable effect on the conditions of employment of the file clerks and would be more than de minimis. In these circumstances, it is concluded that a bargaining obligation was triggered and that Respondent had an obligation to meet with the Union.

After concluding that the implementation of digit assignments was more than de minimis, it is further found that Respondent violated section 7116(a)(1) and (5) of the Statute by refusing to meet and bargain with the Union solely because the Union did not submit written proposals before any meeting with Respondent. It is well settled that absent some agreement to the contrary, neither party is required to submit its proposals in writing before engaging in face to face negotiations. Environmental Protection Agency, 16 FLRA 602 (1984). While the Union in this case did refuse to submit substantive proposals, it did submit a procedural proposal suggesting that the parties meet on March 1, 1989 to establish ground rules. There is no suggestion that this proposal was submitted in bad faith or for the purpose of delay. Respondent's position is simply that a past practice existed of the Union submitting proposals prior to negotiations. Respondent's Personnel Officer, Jim Smart, acknowledged there is nothing in any national or local agreement requiring the Union to submit its proposals before meeting to bargain. While Respondent asserts there is a past practice of the Union submitting its proposals before negotiating, the record reveals, at best three times when the Union may have submitted its proposals prior to bargaining. Absent a consistent past practice or some agreement between the parties that proposals be submitted prior to negotiations, it is concluded that the parties should have met concerning the ground rule proposal submitted by the Union on February 24, 1989 which suggested that the parties meet on March 1, 1989 prior to implementing the instant change. That being the case, it is found that circumstances do not warrant a finding that Respondent should have been excused from its obligation to meet and negotiate with the Union over the digit assignments.

Based on the foregoing, it is found that Respondent's refusal to meet with the Union and negotiate over the impact and implementation of the digit assignments prior to implementation constituted a violation of section 7116(a)(1) and (5) of the Statute.

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 Veterans Administration Regional Office, San Diego, California, shall:

1. Cease and desist from:

(a) Failing and refusing to provide the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of its employees requested information that is reasonably available and necessary for it to properly perform its representational responsibilities in connection with specific productivity standards for claims adjudicators.

(b) Unilaterally changing working conditions of unit employees by implementing digit assignments for file clerks without fulfilling its obligation to bargain with the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of its employees, concerning the impact and implementation of such change.

(c) In any like or related manner interfering with, restraining or coercing its employees in the exercise of 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) Upon request, provide the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of its employees, all copies of the full spread sheets which are reasonably available and necessary for it to properly perform its representational responsibilities in connection with specific productivity standards for claims adjudicators.

(b) Upon request, negotiate with the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of its employees over the impact and implementation of the changes of digit assignments for file clerks which was implemented on or about March 3, 1989.

(c) Post at its Veterans Administration Regional Office, San Diego, California 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 Director 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.

(d) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region 8, Federal Labor Relations Authority, 350 South Figueroa Street, 3rd Floor, Room 370, Los Angeles, CA 90071, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, D.C., September 11, 1990.

ELI NASH, JR.
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 fail or refuse to provide the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of our employees, requested information that is reasonably available and necessary for it to properly perform its representational responsibilities in connection with specific productivity standards for claims adjudicators.

WE WILL NOT unilaterally change working conditions of unit employees by implementing digit assignments for file clerks without fulfilling our obligation to bargain with the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of our employees, concerning the impact and implementation of such change.

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, upon request, provide the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of our employees, all copies of the full spread sheets which are reasonably available and necessary for it to properly perform its representational responsibilities in connection with specific productivity standards for claims adjudicators.

WE WILL, upon request, negotiate with the American Federation of Government Employees, Local 490, AFL-CIO, the exclusive representative of our employees over the impact and implementation of the changes of digit assignments for file clerks which was implemented on or about March 3, 1989.

_____

(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 8, whose address is: 350 South Figueroa Street, 3rd Floor, Room 370, Los Angeles, CA, and whose telephone number is: (213) 894-3805.