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

MEMORANDUM DATE: September 29, 2006

TO: The Federal Labor Relations Authority

FROM: CHARLES R. CENTER
Chief Administrative Law Judge

SUBJECT: DEPARTMENT OF THE AIR FORCE
LACKLAND AIR FORCE BASE
SAN ANTONIO, TEXAS

Respondent

and Case No. DA-CA-05-0359

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 1367

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

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
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DEPARTMENT OF THE AIR FORCE LACKLAND AIR FORCE BASE SAN ANTONIO, TEXAS Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1367 Charging Party	Case No. DA-CA-05-0359

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Chief 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. §§ 2423.40-41, 2429.12, 2429.21-2429.22, 2429.24-2429.25, and 2429.27.

Any such exceptions must be filed on or before **OCTOBER 30, 2006**, and addressed to:

Office of Case Control
Federal Labor Relations Authority
1400 K Street, NW, 2nd Floor
Washington, DC 20005

CHARLES R. CENTER
Chief Administrative Law Judge

Dated: September 29, 2006
Washington, DC

OALJ 06-37

FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C.

DEPARTMENT OF THE AIR FORCE LACKLAND AIR FORCE BASE SAN ANTONIO, TEXAS Respondent	
and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1367 Charging Party	Case No. DA-CA-05-0359

William D. Kirsner, Esq.
For the General Counsel

Phillip G. Tidmore, Esq.
Gregory Cox, Esq.
For the Respondent

Rita Spalding-Moore
For the Charging Party

Before: CHARLES R. CENTER
Chief Administrative Law Judge

DECISION

Statement of the Case

This is an unfair labor practice proceeding under the Federal Service Labor-Management Relations Statute, 5 U.S.C. §§ 7101-7135 (Statute), and the Rules and Regulations of the Federal Labor Relations Authority (Authority), 5 C.F.R. part 2423 (2005).

This case was initiated on May 12, 2005, when the American Federation of Government Employees (AFGE), Local 1367, AFL-CIO (the Charging Party or Union) filed an unfair labor practice charge. After investigating the charge, the Regional Director of the Dallas Region of the Authority issued an unfair labor practice complaint on January 27, 2006, alleging that the Department of the Air

Force, Lackland Air Force Base, San Antonio, Texas (the Respondent or Agency) violated section 7116(a)(1) and (5) of the Statute by implementing changes in conditions of employment without giving the Union adequate notice or an opportunity to bargain. On February 16, 2006, the Respondent filed its answer to the complaint, admitting some of the factual allegations and denying others, but denying that its conduct violated the Statute.

A hearing was held in San Antonio, Texas on June 1, 2006, at which all parties were represented and afforded the opportunity to be heard, to introduce evidence, and to examine and cross-examine witnesses. The General Counsel and the Respondent subsequently filed post-hearing briefs, which I have fully considered.

Based on the entire record, including my observations of the witnesses and their demeanor, I conclude that the Respondent violated 5 U.S.C. § 7116(a)(1) and (5) and make the following findings of fact, conclusions of law, and recommendations.

Findings of Fact

As part of its effort to improve morale and welfare, the Lackland AFB provides recreational activities for active duty and retired military and civilian employees and their dependents affiliated with the Department of Defense. (R-1) The Department of Defense achieves this mission through non-appropriated fund instrumentalities (NAFI's) at its military installations, one of which is Lackland Air Force Base (AFB) in San Antonio, Texas. (TR 102) When, as a result of the Base Realignment and Closure (BRAC), Kelly AFB was closed in 2001, Lackland AFB took over some of the NAFI's previously operated at Kelly AFB, which adjoined Lackland AFB. The Kelly AFB NAFI operations taken over by Lackland AFB included the Gateway Valley Golf Course and the B-52 Snack Bar. (TR 102)

A NAFI conducts its operations without the assistance of appropriated funds and must be self sustaining by generating revenue sufficient to pay for employee salaries and benefits along with the utilities and repairs to equipment needed to conduct the operation. (TR 179) In September 2004, the Respondent closed the Gateway Valley Golf Course but continued to operate the Gateway Hills Golf Course, the Gateway Hills Golf Course Snack Bar and the B-52 Snack Bar. (J-3, TR 105-7) The decision to keep the B-52 Snack Bar open despite the closure of the adjacent Gateway Valley Golf Course was made in part by a desire to serve military units located near the B-52 Snack Bar whose use of

the food service facility would be unhampered by closing the golf course. (TR 106)

The Union was certified as the representative of all non-appropriated fund (NAF) employees, employed under regular or flexible appointments, employed by Lackland AFB, San Antonio, Texas on June 4, 2004. (J-2)

Effective that date, and despite their prior affiliation with Kelly AFB, the non-supervisory regular and flexible employees at the Gateway Valley Golf Course and B-52 Snack Bar, along with all other regular and flexible employees of NAFI's operated by Respondent were represented exclusively by the Union. (J-2) The total number of NAF employees in the bargaining unit is approximately 800. (TR 23)

The Union represents two other recognized bargaining units at Lackland AFB, Texas. A unit of employees at the Defense Language Institute and a bargaining unit containing employees who are paid from appropriated funds. (TR 23) Although the Union was certified as the representative of the unit consisting of all NAF employees under regular or flexible appointments at Lackland AFB, at the time of this hearing, a collective bargaining agreement between the parties has not been negotiated. (TR 24)

On March 10, 2005 a NAFI Request for Personnel Action was completed by Milton "Bud" Gentle, Director of Golf, seeking to abolish the position of cook and the separation of Xiomara M. Colon effective April 20, 2005, due to "facility closure". (J-5) However, Ms. Colon did not work at the facility being closed. (J-13)

On March 14, 2005, the Respondent provided "Informational Notice" to AFGE Local 1367 that the B-52 Snack Bar would cease operations effective March 31, 2005, due to loss in revenues. (J-4) The informational notice did not disclose that employees would be separated as a result of the decision, nor did it indicate that employees at locations other than the B-52 Snack Bar would be impacted by the decision. (J-4) Consistent with its "Informational" styling, the notice did not invite the Union to submit proposals related to the impact and implementation of the action it announced. (J-4) Upon receipt of the notice, the Union did not know that bargaining unit employees were going to lose their jobs as a result of the B-52 Snack Bar being closed. (TR 29, 30) Furthermore, the failure of the notice to identify the number of employees who would be affected and what actions would be taken with respect to those

employees was inconsistent with prior notices issued under similar situations. (TR 32, 168)

On March 21, 2005, Ms. Colon, was given notice by Milton W. Gentle, that she would be separated effective April 23, 2005, due to the closure of the B-52 Snack Bar. (J-6) The separation document indicates that during her employment, she was guaranteed twenty (20) hours of work each week with a maximum wage between $9.63 and $10.59 per hour depending upon whether she worked the first, second or third shift. (J-7) At the hearing, Ms. Colon confirmed that she made $9.63 per hour and was guaranteed twenty hours a week. (TR 87, 93) Ms. Colon, a cook at the Lackland AFB Gateway Hills Golf Course Snack Bar, was being separated even though she had the same performance rating as Ms. Aurelia Gomez, a cook at the B-52 Snack Bar, because Ms. Gomez had more seniority than Ms. Colon and under Air Force Manual 34-310 (AFMAN 34-310), which the Respondent unilaterally used to complete the business-based action (BBA) separation, seniority was the determinant to be used when the candidates had the same performance rank. (J-12, 13, 17) Because Ms. Gomez had more seniority, she was reassigned from the B-52 Snack Bar to the Gateway Hills Snack Bar and Ms. Colon, who worked at the Gateway Hills Snack Bar was separated.

The 37th Services Division at Lackland AFB managed all of the NAFI's for the Respondent and although they included other operations that involved food service where cooks are employed, including the bowling alley snack bar and various Gateway Club operations, the pool of employees compared and ranked to determine who would be separated pursuant to the business-based action involved only those employees in food services within the NAF golf activity. (J-12, TR 107-8, 153) Thus, only those working at the B-52 Snack Bar and the Gateway Hills Golf Course Snack Bar were compared and ranked. (TR 107-8) Conducting a comparison and establishing a rank order only within a particular NAF activity rather than across all NAF food service operations was the process set forth in AFMAN 34-310. (J-12) The Respondent did not invite or consider any alternative process related to the impact and implementation of its decision other than the process set forth in AFMAN 34-310, nor did it intend to negotiate any alternative process to be used to complete the business-based actions resulting from its decision to close the B-52 Snack Bar. (J-9, TR 122-5, 129, 165, 168)

In addition to the separation of Ms. Colon and the reassignment of Ms. Gomez, the business-based actions implemented by the Respondent under the provisions of AFMAN 34-310 included the separation of at least two other

employees in the bargaining unit represented by the Union. (J-22, 23, TR 34-36, 75-76)

On April 14, 2005, the Union submitted a Demand to Bargain over the business-based action impacting Ms. Colon. (J-8) At that time, the Union did not know other employees were being separated. (TR 36) In its response of April 19, 2005, the Respondent indicated that "BBA's are non-negotiable actions, additionally it is within Management[']s Rights IAW 5 USC 7106(a)(1)(2)(A)(B)." The Respondent also indicated that because Ms. Colon had filed an EEO complaint regarding her separation it believed that it was in the best interest of both parties to allow the EEO process to work. (J-9)

Position of the Parties

General Counsel

The General Counsel asserts that the notice given to the Union on March 14, 2005 announcing the closure of the B-52 Snack Bar effective March 31, 2005 was inadequate and that by refusing to negotiate with the Union prior to closing the B-52 Snack Bar, handing out notices of separation, reassigning one and terminating three employees in the bargaining unit, the Respondent violated 5 U.S.C. § 7116(a)(1) and (5). The General Counsel also contends that the Union did not waive its right to bargain and argues that the remedy for the violation should include back pay for the three bargaining unit employees who were separated.

Respondent

The Respondent alleges "that there was no reason to bargain since AFMAN 34-310 provided all of the specific requirements for BBAs and BBA procedures. In short, there was nothing else left to negotiate that is not de minimis." In addition to challenging the existence of an obligation to bargain, the Respondent also argues that the Union waived its right to bargain by not responding to the informational notice until April 14, 2005, two weeks after the B-52 Snack Bar was closed. (Resp. Brief, p. 3)

ANALYSIS AND CONCLUSIONS

The Informational Notice

It is clear from the record that by March 10, 2005, the Respondent knew that closure of the B-52 Snack Bar would result in the separation of bargaining unit employees represented by the Union, and that at least one of the

employees to be separated worked at a NAFI facility other than the one being closed. Nonetheless, when the Respondent provided an "Informational Notice" to the Union, it made no mention of employee reassignments, furloughs or separations. In fact, testimony at the hearing made it clear that the Respondent provided the informational notice regarding closure of the B-52 Snack Bar as a courtesy and had no intent to engage in impact and implementation bargaining with the Union despite understanding that employees in the bargaining unit were going to be affected. (TR 122-5, 129, 165, 168)

It is well settled that prior to implementation of a change in the conditions of employment of unit employees, an agency must provide a union with reasonable notice of the change and an opportunity to bargain, as appropriate, over the substance and/or impact and implementation of the change. The notice must be sufficiently specific or definitive regarding the actual change contemplated so as to adequately provide the union with a reasonable opportunity to request bargaining. *Ogden Air Logistics Ctr., Hill AFB, UT.*, 41 FLRA 690, 698-99 (1991) (*Ogden*). In *Ogden*, the notice provided by the agency failed because the agency did not give the union sufficiently clear and precise notice of its intent to furlough employees. Similarly, I find that the Respondent's failure to provide clear and precise notice of its intent to reassign and separate bargaining unit employees as part of its business-based action in closing the B-52 Snack Bar rendered the "Informational Notice" insufficient for the purpose of providing the Union with a reasonable opportunity to request bargaining.

Given the Respondent's erroneous, but clearly stated position that bargaining was not required because AFMAN 34-310 established all of the procedural requirements for business-based actions, it is not surprising that the "Informational Notice" did not contain enough information to give the Union a reasonable opportunity to bargain, because the Respondent had no intent to engage in bargaining. That would also explain why this notice, unlike prior notices sent by Respondent, failed to disclose the number and types of employees who would be impacted. However, a union may take management at its word concerning its intent to bargain and an unfair labor practice (ULP) is committed when a union is advised that management will not bargain over a change in working conditions that is more than *de minimis*, and a union is justified in accepting the employer's representations rather than attempting to bargain before the proposal is implemented. *U.S. Dept. of the Air Force, Headquarters, Air Force Logistics Command, Wright-Patterson AFB, OH.*, 38 FLRA 887, 889 (1990).

Because the "Informational Notice" provided in this case was not given with the intent to give the Union a reasonable opportunity to request bargaining and was neither specific nor definitive, and did not apprise the Union of the scope and nature of the changes that would occur, I find that the Respondent violated 5 U.S.C. § 7116(a)(1) and (5). *U.S. Army Corps of Engineers, Memphis District, Memphis, TN.*, 53 FLRA 79 (1997). I also find that the lack of sufficient notice precludes the Respondent from prevailing upon its waiver of bargaining rights argument because it cannot meet its burden to establish that the exclusive representative received adequate notice. *U.S. Penitentiary, Leavenworth, KS.*, 55 FLRA 704 (1999).

The Obligation to Bargain

When an agency, in the exercise of a management right under § 7106 of the Statute, changes a condition of employment of bargaining unit employees, a statutory obligation to bargain concerning the impact of such change exists if it results in more than a *de minimis* impact if such impact is reasonably foreseeable. *92nd Bomb Wing, Fairchild AFB, Spokane, WA.*, 50 FLRA 701 (1995).

In *Dep't of the Air Force, Scott AFB, IL.*, 19 FLRA 136 (1985) (*Scott*), the Authority addressed a situation similar to the case at hand. In *Scott*, the Authority concluded that even a temporary closing of a snack bar affiliated with a golf course at Scott Air Force Base that would result in temporary furloughs of bargaining unit employees required notice and bargaining over appropriate arrangements for those employees adversely affected by the decision. Given that precedent, it is difficult to understand how experienced labor relations personnel could conclude that bargaining was not required when the Respondent was planning to permanently close a NAFI facility where bargaining unit employees worked and that as a result, some of them would be reassigned or separated. Separation is the equivalent of the death penalty in the employment relationship and the Respondent's argument that such actions were *de minimis* is without legal precedent and beyond reason. Under *Scott*, temporary furloughs were not *de minimis*, and permanent separations certainly do not qualify as *de minimis* changes resulting from the exercise of a management right. Furthermore, given the fact that the Respondent requested personnel actions effectuating such separations before the "Informational Notice" was given to Union, there is no doubt that such changes were foreseeable.

Respondent contends that there was no reason to bargain over the changes that it knew were going to adversely affect members of the bargain unit as a result of exercising its management rights because an Air Force Manual, AFMAN 34-310 established the procedures to be used when the Respondent was taking a business-based action. However, the procedures set forth in this manual were not established by collective bargaining between the Union and Respondent. In fact, they reflect procedures created by the Respondent with no consultation, let alone negotiation with the Union. Apparently, Respondent's representatives believe that by unilaterally publishing a manual covering procedures to be used when bargaining unit employees are being adversely affected by the exercise of its management rights it can avert the need to bargain with the exclusive representative of the unit employees impacted by such actions. However, such a belief is contrary to both the Statute and the manual upon which they rely.

The Statute makes it clear that the duty to bargain in good faith extends to matters that are the subject of agency rules or regulations unless a compelling need exists for the rule or regulation. 5 U.S.C. § 7117(a)(2). Further, collective bargaining agreements, rather than agency rules or regulations govern the disposition of matters to which they both apply. *Dep't of the Air Force, Seymour Johnson AFB, NC.*, 55 FLRA 163, 165 (1999). If agency rules, regulations or manuals could override or avert negotiated agreements, an agency could avoid bargaining through rulemaking and § 7117 of the Statute makes it clear that can only occur when there is a compelling need. Furthermore, demonstrating the existence of compelling need is the burden of the agency. *AFGE, AFL-CIO, Local 1897*, 24 FLRA 377, 387 (1986).

The Respondent contends that the manual establishing procedures to be used in business-based actions negated its duty to bargain over such actions without arguing, let alone attempting to prove a compelling need.[1] However, that failure is not difficult to understand given the fact that the manual that supposedly negates the need to bargain actually contemplates collective bargaining with union officials representing NAF employees. Chapter 12 of AFMAN

[1] This is not to suggest that if the Respondent raised a compelling need argument in this case it could be resolved in this forum. *See Federal Labor Relations Authority v. Aberdeen Proving Ground* 485 U.S. 409 (1988) (FLRA cannot make compelling need determinations in unfair labor practice proceedings.) *See also, Federal Emergency Management Agency*, 32 FLRA 502, 505-07 (1988).

34-310 is titled Labor Management Relations and provision 12.1.2.3 of that chapter states that Human Resource Offices are to "[m]aintain a constructive relationship with local union officials which fosters resolution of issues **by means of collective bargaining.**" (*Emphasis added*) (R-3) Given the manual's endorsement of collective bargaining, the Respondent's argument that the manual negates its duty to bargain is contrary to the Statute and without merit.

While Chapter 6 of AFMAN 34-310 contains procedures to be used in business-based actions, including how to determine affected employees, absent a showing of compelling need, the application and modification of those procedures to bargaining unit employees would be negotiable. (J-12) For example, while the manual procedures limited the area of consideration used to compare and rank cooks to those who worked within a particular NAFI activity (Golf facilities in this case), there were other activities employing cooks who could have been included in the pool of candidates being compared and ranked. The decision to limit the pool to those bargaining unit employees working in a single NAFI activity was a unilateral decision by the Respondent and not a result of collective bargaining. Bargaining over the procedures could have resulted in an expanded pool of candidates that could have resulted in the separation of employees other than those separated under the Respondent's unilateral procedures.

Because the Respondent changed a condition of employment for bargaining unit employees that was more than *de minimis* and reasonably foreseeable, a statutory duty to bargain the impact and implementation of that change was required even though it resulted from the valid exercise of a management right under 5 U.S.C. § 7106. The Respondent's witnesses admitted that it had no intent and did not engage in bargaining. Thus, I find that the Respondent committed an unfair labor practice in violation of § 7116(a)(1) and (5) of the Statute.

Remedy

As the Respondent violated § 7116(a)(1) and (5) of the Statute by failing to give adequate notice and refusing to bargain with the exclusive representative before changing conditions of employment for bargaining unit members, it is appropriate that the Respondent be ordered to cease and desist from its unlawful activity and to post a notice to employees to that effect.

The General Counsel does not seek a *status quo ante* remedy, but it does seek back pay for the three employees

who were separated by the Respondent as a result of closing the B-52 Snack Bar without notice and bargaining. (GC Brief, p. 17-18) A determination of back pay is independent of a *status quo ante* determination. *U.S. Department of Health and Human Services, Social Security Admin.*, 50 FLRA 296 (1995). While back pay is an appropriate award for an unlawful refusal to bargain, it must be shown that a causal nexus existed between the failure to bargain and the loss of pay. *Air Force Flight Test Ctr.* Edwards AFB, CA., 55 FLRA 116 (1999); U.S. *Dep't of Health and Human Services*, 54 FLRA 1210 (1998); U.S. *Dep't of Health and Human Services, SSA*, Baltimore, MD., 37 FLRA 278 (1990) (*DHSS/SSA*); *Federal Aviation Admin., Washington, DC.*, 27 FLRA 230 (1987). Back pay is available only when it is clear that the violation resulted in a loss of pay, and it is not available if the effect is totally speculative. *DHSS/SSA* at 292.

The record contains evidence that bargaining unit employees Xiomara M. Colon, Maria B. Jackson and Eloise F. Castro were separated by the Respondent. The record also makes it clear that these separations were part of the business-based action of closing the B-52 Snack Bar, the action for which the Respondent failed to give notice and refused to bargain. However, the record contains no evidence demonstrating that these employees would not have been separated had the Respondent given notice and not refused to bargain. In fact, no procedures that conflict with those set forth in AFMAN 34-310 currently exist. Because the remedy being sought does not include a *status quo ante* award and involves an agency's failure to engage in impact and implementation bargaining, under *DHSS/SSA*, the award of back pay would be proper only after the Back Pay Act's causal nexus requirement was met by determining that a newly negotiated procedure would result in the separated employees being entitled to additional pay. Because the parties could ultimately agree to follow the procedures set forth in AFMAN 34-310 as part of the give and take of negotiations, I find that the award of back pay under these facts would be totally speculative and improper under the Back Pay Act. Testimony at the hearing suggested that the Union wanted to use the procedures set forth in AFMAN 34-310 and given the fact that ultimately, some member of the bargaining unit is going to be adversely affected by a separation resulting from a business-based action whether comparison and ranking is made only within a single activity or across all NAF activities, it is conceivable that the activity limit set forth in the manual could be agreed upon. It should also be noted that establishing the procedures that will be used for comparison and ranking in every business-based action via a negotiated agreement, rather than doing it piece meal every time a business-based action

is under consideration would be one of the benefits the parties would enjoy by completing a master agreement dealing with such matters.

Based on the above findings and conclusions, I recommend that the Authority adopt the following Order:

ORDER

Pursuant to § 2423.41(c) of the Rules and Regulations of the Authority and § 7118 of the Federal Service Labor-Management Relations Statute (Statute), it is hereby ordered that the Department of the Air Force, Lackland Air Force Base, San Antonio, Texas (Respondent), shall:

1. Cease and desist from:

(a) Issuing Notices of Separation, reassigning employees or conducting business-based actions that affect employees in the bargaining unit represented by the American Federation of Government Employees, Local 1367, AFL-CIO (Union), until it has provided the Union with adequate notice of any such proposed changes and an opportunity to bargain to the extent required by the Statute; and

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

2. Take the following affirmative action:

(a) Upon request, bargain in good faith with the Union, to the extent required by the Statute, regarding business-based actions that affect the bargaining unit employees.

(b) Post at its Lackland Air Force Base, San Antonio, Texas, facility, 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 Respondent's Chief of NAF Operations and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all 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 § 2423.41(e) of the Rules and Regulations of the Authority, notify the Regional Director of the Dallas Region, 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, September 29, 2006

CHARLES R. CENTER
Chief Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF

THE FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of the Air Force, Lackland Air Force Base, San Antonio, Texas (Respondent), violated the Federal Service Labor-Management Relations Statute (Statute) and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT issue Notices of Separation, reassign employees, or conduct business-based actions without providing the American Federation of Government Employees, Local 1367, AFL-CIO (Union), the exclusive representative of certain of our employees, adequate prior notice and an opportunity to bargain to the extent required by the Statute.

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

WE WILL, upon request, bargain in good faith with the Union, to the extent required by the Statute regarding business-based actions that impact bargaining unit employees.

_____
(Agency)

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 its provisions, they may communicate directly with the Regional Director, Dallas Region, Federal Labor Relations Authority, whose address is: 525 Griffin Street, Suite 926, LB 107, Dallas, TX 75202-1906, and whose telephone number is: 404-331-5300.

CERTIFICATE OF SERVICE

I hereby certify that copies of the **DECISION** issued by CHARLES R. CENTER, Chief Administrative Law Judge, in Case No. DA-CA-05-0359, were sent to the following parties:

_____

_

CERTIFIED MAIL & RETURN RECEIPT **CERTIFIED NOS:**

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DATED: September 29, 2006
Washington, DC