

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

.....

DEPARTMENT OF THE AIR FORCE .
HEADQUARTERS AIR FORCE LOGISTICS .
COMMAND, WRIGHT-PATTERSON AIR .
FORCE BASE, OHIO .

Respondent .

and .

Case No. 5-CA-30322

AMERICAN FEDERATION OF GOVERNMENT .
EMPLOYEES, COUNCIL 214 .

Charging Party .

.....

Charles L. Brower, Esq.
Michael Johnson, Esq.
For the Respondent

Paul Palacio
Julia Collier
For the Charging Party

Judith Ramey, Esq.
For the General Counsel

Before: SAMUEL A. CHAITOVITZ
Administrative Law Judge

DECISION

Statement of the Case

This is a proceeding under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the U.S. Code, 5 U.S.C. § 7101 et seq., 92 Stat. 1191, (hereinafter referred to as the Statute) and the Rules and Regulations of the Federal Labor Relations Authority (FLRA), 5 C.F.R. Chapter XIV, § 2410, et seq.

An unfair labor practice charge was filed on May 25, 1983 by Council 214, American Federation of Government Employees, AFL-CIO (herein called AFGE Council 214 or the Union) alleging that Department of the Air Force, Headquarters Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio (herein called AFLC or Respondent) violated the Statute. Based upon the foregoing, on October 7, 1983, the General Counsel of the FLRA, by the Director of Region 5 issued a Complaint and Notice of Hearing alleging that Respondent, by certain named supervisors, violated Section 7116(a)(1) and (5) of the Statute by unilaterally establishing and implementing a quota system for rating employees, without advance notice to the Union and without bargaining about the impact and implementation of the changes. Respondent filed a timely Answer denying it had violated the Statute.

A pre-hearing conference was held followed by a hearing before the undersigned in Dayton, Ohio, Oklahoma City, Oklahoma and Macon, Georgia. Respondent, Charging Party 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. The parties entered into extensive stipulations of fact. Post-hearing 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 from my evaluation of the evidence, I make the following:

Findings of Fact

Background

AFGE Council 214 is the collective bargaining representative for a unit of approximately 70,000 of AFLC employees located at seven facilities throughout the United States. In early 1982 Respondent instituted a new system for appraising employees' potential for promotion. This program called the Civilian Potential Appraisal System (CPAS) is used to rank employees so management can make selections for promotions, training, changes to lower grade, reassignments, etc. Air Force Form 1287 (AFF1287) is the rating form which is the fundamental form used in the administration of CPAS. AFF1287 lists 19 "behavioral dimensions"^{1/} upon which each employee is rated. Employees are rated on a scale of 1(very poor) to 9(outstanding) in each of the 19 behavioral dimensions or categories. If an employee is given a rating of 1, 2, 8 or 9 in any behavioral dimension, a written narrative must accompany and explain such a rating.

^{1/} e.g. energy on the job, need for supervision, attitude, etc.

Ratings are normally accomplished by the employee's immediate supervisor (the rating official) and reviewed by at least one higher official (the reviewing official), who is normally the second-level supervisor. The CPAS ratings for employees in certain programs must be reviewed and endorsed by an even higher-level official (endorsing official).

All employees are rated annually during a single universal rating cycle. The initial CPAS rating cycle, the "1982 cycle", began in April 1982 and ratings were completed by July 1982. Subsequent rating cycles were to begin in February each year and to be completed by May 1. The 1983 rating cycle is the subject of the instant case.

In 1982, following the first CPAS rating period, the Union filed an unfair labor practice charge alleging that Respondent had, without notice to the Union, established, through direction from higher management, a system whereby supervisors were constrained to adhere to quotas in apportioning the numerical ratings among their employees. The Regional Director for Region 5, FLRA, issued a Complaint in that case alleging that this quota system was a change in working conditions implemented without notice to the Union or an opportunity to bargain concerning it. The case was eventually settled with an agreement that Respondent would correct 1982 CPAS ratings done according to a quota system and, inter alia, that Respondent would not again utilize quotas without fulfilling its bargaining obligations to the Union.

The CPAS rating form is divided into four parts. Part I is for the recording of personal data - e.g., the name of the employee and the employee's organization. Part II is where the employee, the rating official, the reviewing official, and if applicable, the endorsing official sign the form. Part III consists of a paragraph stating the purpose of CPAS ratings and a paragraph of instructions explaining how rating officials should render CPAS ratings in Part IV of the form. Part IV lists the 19 behavioral dimensions and is the part where the ratings are recorded.

The rating process normally takes place in the following manner: The rating official begins the process by filling out Part IV in pencil. The ratings are tentative at this point. The rating official then submits each form, unsigned, with its pencilled ratings to the reviewing official for review and approval. If the reviewing official agrees with the tentative ratings of the rating official, he signs and dates the form in Part II and returns the form to the rating official. If the reviewing official disagrees with the tentative ratings of the rating official, the two officials must try to resolve the differences; however, if they cannot agree, the decision of the reviewing official is final. The ratings

approved by the reviewing official are sent back to the rating official whereupon he finalizes the numerical ratings and narrative justifications, if any, by recording them in ink or with typewriter. He then signs and dates the form in Part II, shows the CPAS ratings to the employee, and discusses with the employee the ratings given. Following this discussion, the employee signs and dates the form. The employee's signature indicates neither agreement nor disagreement with the ratings.

In addition to the guidance found in the Air Force regulation, which created CPAS, the Air Force published the Civilian Potential Appraisal System Supervisory Brochure, which includes detailed instructions on how to render CPAS ratings. This brochure was given to all supervisors in the Air Force Logistics Command when the CPAS program was first instituted in 1982.

The Air Force was concerned about rating inflation from the moment CPAS was implemented - indeed, from the moment it was conceived by the Air Force Human Resources Laboratory. Consequently, the Supervisory Brochure repeatedly admonishes supervisors to control rating inflation, stating that most ratings should be in the central range.

Consistent with this concern about rating inflation, Section V of the Supervisory Brochure recommends to each rating official the use of a technique which enables him to quickly analyze his "success as a rater." That is, it enables him to quickly determine whether he has issued a "wide range of ratings" with "most . . . in the 'CENTRAL RANGE'."

Specifically, after the rating official has rated all his employees, he should prepare a Rating Distribution Worksheet which, when completed, reflects the frequency of each numerical rating given by the rater - i.e., the number of 1s, 2s, and so on. The rating official should then transfer the rating distribution figures from the worksheet to a bar graph. The bar graph then allows the rater to evaluate the "spread" at a glance.

Wright-Patterson Air Force Base

Commencing in or about the month of February 1983, Col. James H. Havey, Jr., who is a supervisor and/or agent of Respondent at Wright-Patterson AFB, used a numeric quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Lt. Col. Reginald P. Gibson, who is a supervisor and/or agent of Respondent at Wright-Patterson AFB, used a numeric quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Capt. Helen Brainerd, who is a supervisor and/or agent of Respondent at Wright-Patterson AFB used a numeric quota system for rating the employees under her supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Joanne Wells, who is a supervisor and/or agent of Responent at Wright-Patterson AFB, used a numeric quota system for rating the employees under her supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Capt. Joseph Zelasco, who is a supervisor and/or agent of Respondent at Wright-Patterson AFB, used a numeric quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

During the 1983 CPAS rating cycle at Wright-Patterson AFB, Colonel James F. Pendergast worked for the Air Force Logistics Command Deputy Chief of Staff for Logistics Management Systems. Specifically, he was the Assistant for Data Automation. One step below Colonel Pendergast was Colonel Norman R. Phares, the Director of the Directorate of Maintenance and Financial Systems, and Horace L. Small, the Deputy Director one step below Phares and Small was Terrence G. Jones Chief of the Maintenance Systems Division; and one step below Jones were three branch chiefs - Michael Smith, Allen Attaway, and Earl Morris. Smith was in charge of three group leaders - Aiple, Stickle, and McKibben and approximately 27 bargaining unit employees; and Attaway and Morris were each in charge of two or three unidentified group leaders.

The record establishes that although Pendergast and Small were generally concerned about fairness in rating and about rating inflation in the 1983 CPAS cycle and wanted average performing branches to be reflected by average scores averaging approximately 6.5, they did not impose numeric quotas. They merely had the supervisors' ratings returned to the supervisors until the ratings were not inflated and accurately reflected the performance of the branch in question. This resulted in Smith's ratings being returned through his immediate supervisor Jones a number of times until the ratings were not inflated, in the view of Pendergast and Small, and accurately reflected the performance of those under the supervision of Jones and Smith. I find that no numeric quotas were used, established or imposed by Pendergast, Small, Jones or Smith during the 1983 CPAS cycle.

Hill Air Force Base

The undersigned granted the unopposed Motion of the General Counsel of the FLRA to withdraw the allegations of the complaint that Marilyn T. Duffy, James E. Falcora, Blaine D. Nelson, James D. Lykins, Robert A. Walker, Robert Berriochoa, Lesley M. Hansen Jr., George Leppas and E. Riley Skeen had used numeric quotas during the 1983 CPAS cycle at Hill AFB.

Commencing in or about the month of February 1983, Neil Peterson, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983

rating cycle of the CPAS. Peterson told certain employees under his supervision that he had been directed by higher management to use a quota system.

Commencing in or about the month of February 1983, Russell Lawrence, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Robert Parks, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS. Parks told certain employees under his supervision that he had been directed by higher management to use a quota system.

Commencing in or about the month of February 1983, M. C. Hurd, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS. Hurd stated that he was instructed by higher management to use a quota system.

Commencing in or about the month of February 1983, Allen W. Meyer, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Secundino Martinez, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, James P. Kretzmann, who is a supervisor and/or agent of Respondent at Hill AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Warner Robins AFB

The undersigned granted the unopposed Motion of General Counsel of the FLRA to withdraw the allegations of the complaint that Grady Jones, Clarence W. Meyer and John W. Girmsey had used numeric quotas during the 1983 CPAS Cycle at Warner Robins AFB.

Commencing in or about the month of February 1983 Gordon H. Brantley, who is a supervisor and/or agent of Respondent at Warner Robins AFB, used a quota system for rating employees under his supervision during the 1983 rating cycle of the CPAS.

During the 1983 CPAS rating cycle Charles A. Baldino was chief of the Functional Test Section and one of his subordinates was William R. Baxley, Foreman of the Examination and Inventory Shop. Baxley issued CPAS ratings for approximately 21 employees.

Prior to the start of the 1983 CPAS rating cycle Baldino met with all the supervisors, including Baxley, and told them to rate their subordinates in a "fair and equitable" manner and that no supervisor would be allowed to rate any employee extremely high or low unless the supervisor could show him good cause for the ratings. Baxley tried to rate the employees he supervised fairly and equitably and did not use numeric quotas. In explaining their CPAS ratings to employees, Baxley perhaps used ambiguous language that led certain of the employees to believe that Baxley had some quotas or limits on the number of good or outstanding ratings he could give. This however was a misconception on the employees' part and there were no such limits used by Baxley or imposed on Baxley by Baldino or any other supervisor. Accordingly, I conclude that neither Baldino nor Baxley established, imposed or used numeric quotas during 1983 CPAS rating cycle.

McClellan AFB

Commencing in or about the month of February 1983, Bernard T. Sakamoto, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Jackson W. Lytal, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Richard Steele, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Lt. Col. John W. Peterson (referred to as Lt. Col. Peterson in the complaint), who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under the supervision of Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes, and Robert Calvert during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Beverly Woodward, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under the supervision of Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes, and Robert Calvert during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, John W. Huston (referred to as John W. Houston in the complaint) who is a supervisor and/or agent of respondent at McClellan AFB, used a quota system for rating the employees under the supervision of Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes, and Robert Calvert during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Charles Richins, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Gary C. Crowder, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, LaVelle Hopper, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Horace Holmes, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, Robert Calvert, who is a supervisor and/or agent of Respondent at McClellan AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Kelly Air Force Base

During the 1983 CPAS rating period, Thomas Alvarez was Chief of the Petroleum Branch in the Depot Supply Division at Kelly AFB. He reported to Bruce Anderson, who in turn reported to Major James Makusky, the Depot Supply Division Chief. Alvarez was the reviewing or the endorsing official on approximately 59 CPAS ratings. Depot Supply Division was within the Directorate of Distribution.

In February 1983, Alvarez instructed his subordinate supervisors to complete, in pencil, CPAS ratings for their employees. When they were completed, he took them to Makusky. After an interval, Makusky returned the ratings to Alvarez, with the statement that they were too high, whereupon Alvarez returned them to the supervisors with an explanation as to why Makusky had returned them. The ratings then went back and forth

several times, with the supervisors changing them little, if at all. In the second week of March 1983, the ratings had gone back and forth approximately six times. Finally, after the ratings had been in the possession of two other supervisors for a period, they were returned to Alvarez, who noted that the numerical ratings had been lowered. They were then turned in and accepted.

The record established that Makusky was concerned that the CPAS ratings rendered by the supervisor working for Alvarez were inflated in light of the performance of the Depot Supply Division and Alvarez's complaints, in the past, concerning the performance of the employees in the Depot Supply Division. Anderson, additionally, was concerned about the errors in the CPAS rating forms submitted by Alvarez and the lack of adequate written justification for high ratings. Accordingly, I find that Makusky, Anderson and Alvarez did not impose, use or establish a numeric quota during the 1983 CPAS rating cycle.

Tinker Air Force Base

The undersigned granted the unopposed Motion of the General Counsel of the FLRA to withdraw the allegation of the Complaint that L. Hayward, Oscar Patton and Haywood Bonner had used numeric quotas during the 1983 CPAS cycle at Tinker AFB.

General Counsel of the FLRA, in its brief, withdrew the allegations that Robert Cooke and William Murray used numeric quotas during the 1983 CPAS Cycle at Tinker AFB. This statement is treated as a Motion to withdraw the allegations in question and the Motion is granted.

Clayton Branton, a supervisor of the Actuator/Tachometer Sub-unit on Tinker AFB, was instructed by his supervisor Richard Heintzelman as to the number of ratings at each numeric level for each of behavioral categories during the 1983 CPAS rating cycle he was to give. Branton then rated those employees under his supervision applying such limitations. Accordingly, I find that commencing in or about the month of February 1983, Clayton Branton, who is a supervisor and/or agent of Respondent at Tinker AFB, used a numeric quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Carthus Sanford was an aircraft freight loader foreman assigned to the Air Freight Section at the Oklahoma City Air Logistics Center at Tinker AFB. Sanford, during the 1983 CPAS rating cycle rated his employees by awarding them scores that he felt reflected their performance. I find that Sanford did not utilize a numeric quota system for rating employees under his supervision during the 1983 rating cycle of the CPAS.

William Moore was an aircraft freight loader foreman assigned to the Warehouse Section at the Oklahoma City Air Logistics Center at Tinker AFB, during the 1983 CPAS rating cycle. In rating those employees under his supervision Moore attempted to have the scores accurately reflect the

employees' performance and he did not limit the number of particular scores he could assign to each of the behavioral categories. I find that Moore did not utilize a numeric quota system for rating employees under his supervision during the 1983 rating cycle of the CPAS.

Delbert Dossey was supervisor of the Vanes and Blades Storage Unit at the Oklahoma City Air Logistics Center, Tinker AFB, during the 1983 CPAS rating cycle. In rating those employees under his supervision Dossey attempted to have the scores accurately reflect the employees' performance and he did not limit the number of particular scores he could assign to each of the behavioral categories. I find that Dossey did not utilize a numeric quota system for rating employees under his supervision during the 1983 ratings cycle of the CPAS.

During the 1983 CPAS rating cycle Darrell Stovall was the General Foreman of the Electro-Mechanical Unit which was part of the Oklahoma City Air Logistics Center at Tinker AFB. The Electro-Mechanical Unit was divided into three sub-units; the Fuel Flow Instrument Sub-Unit, supervised by Billie Coughran; the Actuator and Servo Sub-Unit, supervised by George Branson; and the Heater, Generator, and Valve Sub-Unit, supervised by Ron Dunavan. Coughran, Branson, and Dunavan, as rating officials, rendered the CPAS ratings for their respective subordinates, and Stovall, as reviewing official, reviewed those ratings.

Coughran was instructed how to complete the 1983 CPAS ratings at meetings conducting by Branch Chief Bates and Stovall. Neither Bates nor Stovall imposed or established numeric quotas to be used in the CPAS rating. Stovall told his sub-unit supervisors to follow the guidance set forth in the Supervisory Brochure and to rate employees realistically. Coughran apparently misunderstood the instructions from Stovall and Coughran did establish a quota and did limit the number of ratings he could give in each behavioral category. Accordingly, I find that commencing in or about the month of February 1983, Billie Coughran, who is a supervisor and/or agent of Respondent at Tinker Air Force Base, used a numeric quota system of rating the employees under his supervision during the 1983 rating cycle of the CPAS.

Commencing in or about the month of February 1983, James Dyer, who is a supervisor and/or agent of Respondent at Tinker AFB used a numeric quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

During the 1983 CPAS rating cycle George Jordan was the section chief in charge of the Computer Support Section which was part of the Comptroller Directorate of the Oklahoma City Air Logistics Center at Tinker AFB. The Computer Support Section is a 24-hour-a-day operation utilizing three shifts: a day shift, a swing shift, and a "graveyard" shift (12:00 midnight to 8:00 A.M.). Robert Boone was the supervisor of

the day shift, consisting of about 25 employees, including Debra Tippy; Howard Carroll was the supervisor of the swing shift, consisting of about 12-14 employees; and Jerrold Vickers^{2/} was the supervisor of the graveyard shift, consisting of about 12 employees. As shift supervisors, Boone, Carroll, and Vickers all rendered the 1983 CPAS ratings of their subordinates.

Jordan, in instructing his subordinates as to how to accomplish the CPAS rating, did not advise or instruct his subordinates to utilize any numeric quota system.

Vickers, Carroll and Jordan in completing the CPAS ratings attempted to rate the employees in each behavioral category as accurately as possible and they did not use or establish a numeric quota system. I find that Jordan, Boone, Carroll and Vickers did not utilize a numeric quota system for rating employees under their supervision during the 1983 rating cycle of the CPAS.

During the 1983 CPAS rating cycle Donald Basinger was the supervisor of the Inventory and Control Section which was part of the Maintenance Directorate of the Oklahoma City Air Logistics Center at Tinker AFB. In that capacity he rendered the CPAS ratings of the 11 or 12 employees, including Larry Motley and Martha McGarr, under his supervision. The CPAS Supervisory Brochure was the sole source of instruction he used during the rating process. Basinger gave Motley 5s, 6s, and 7s, and he gave McGarr seventeen 5s, one 6, and one 7.

During the 1983 CPAS rating cycle Basinger told Motley and McGarr that he would have given them higher ratings but he was limited as to the number of high ratings he could give. I find that commencing in or about the month of February 1983 Basinger, who is a supervisor and/or agent of Respondent at Tinker AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle for the CPAS.

General Findings

The use of quotas for the rating of employees in the 1983 rating cycle of the Civilian Potential Appraisal System, described above constituted a change in working conditions.

The change in working conditions described above had an impact upon bargaining unit employees.

^{2/} Jerrold Vickers was named in the Complaint as Gerald Vickers.

Respondent did not provide the Union with advance notice of the fact that its supervisors and/or agents described above, would use a quota system in rating employees in the 1983 rating cycle of the CPAS.

Respondent did not provide the Union with an opportunity to bargain concerning the change in working conditions described above.

In any instance in which a supervisor established and/or implemented a quota system for rating employees in the 1983 rating cycle of the CPAS, such conduct constituted a change in working conditions for bargaining unit employees, concerning which Respondent did not provide to the Union advance notice or an opportunity to bargain its impact and implementation.

Conclusions of Law

In 1983, I conclude that certain of Respondent's supervisors and agents either established or implemented a numeric quota system, a system of forced distribution of ratings, for the CPAS ratings of bargaining unit employees.

I also conclude that in every instance in which a supervisor established and/or implemented a quota system for rating employees in the 1983 rating cycle of the CPAS, such conduct constituted a change in working conditions for bargaining unit employees, concerning which Respondent did not provide to the Union advance notice or an opportunity to bargain concerning its impact and implementation.

In light of the foregoing and as a matter of law, I conclude that the following individuals, who are supervisors and agents of Respondent at its various facilities, engaged in the conduct stated above and in so doing violated Section 7116(a)(1) and (5) of the Statute, on behalf of Respondent:

a. Col. James H. Havey, Lt. Col. Reginald P. Gibson, Capt. Helen Brainerd, Joanne Wells, and Captain Joseph Zelasco, who are supervisors of Respondent at Wright-Patterson AFB, used a quota system for rating the employees under their supervision during the 1983 rating cycle of the CPAS.

b. Allen W. Meyer, Secundino Martinez, Neil Peterson, Neil Peterson, Russell Lawrence, Robert Parks, M. C. Hurd and James P. Kretzman, who are supervisors of Respondent at Hill AFB, used a quota system for rating the employees under their supervision during the 1983 rating cycle of the CPAS.

c. Gordon H. Brantley, who is a supervisor of Respondent at Warner Robins AFB, used a quota system for rating the employees under his supervision during the 1983 rating cycle of the CPAS.

d.(1) Bernard T. Sakamoto, Jackson W. Lytal, Richard Steel, Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holms and Robert Calvert, who are supervisors of Respondent at McClellan AFB, used a quota system for rating the employees under their supervision during the 1983 rating cycle of the CPAS.

(2) Lt. Col. John W. Peterson, who is a supervisor of Respondent at McClellan AFB, used a quota system for rating the employees under the supervision of Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes, and Robert Calvert during the 1983 rating cycle of the CPAS.

(3) John W. Huston, who is a supervisor of Respondent at McClellan AFB, used a quota system for rating the employees under the supervision of Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes, and Robert Calvert during the 1983 rating cycle of the CPAS.

(4) Beverly Woodward, who is a supervisor of Respondent at McClellan AFB, used a quota system for rating the employees under the supervision of Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes, and Robert Calvert during the 1983 rating cycle of the CPAS.

e. Clayton D. Branton, Billie Coughran, James Dyer and Donald Basinger, who are supervisors of Respondent at Tinker AFB used a quota system for rating the employees under their supervision during the 1983 rating cycle of the CPAS.

In light of the foregoing it is concluded that Respondent violated Section 7116(a)(1) and (5) by the unilateral imposition of a quota system for rating employees during the 1983 rating cycle of the CPAS by certain named supervisors without providing the Union with adequate notice and an opportunity to bargain about the impact and implementation of the change and I recommend that the Authority issue the following:

ORDER

Pursuant to Section 2423.9 of the Federal Labor Relations Authority's Rules and Regulations, and Section 7118 of the Statute, it is hereby ordered that Department of the Air Force, Headquarters, Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio, shall:

1. Cease and desist from:

(a) Changing the working conditions of employees exclusively represented by Council 214, American Federation of Government Employees, AFL-CIO, by using a numeric quota system for rating bargaining unit employees in the Civilian Potential Appraisal System, without first notifying the exclusive collective bargaining representative and bargaining, upon request, concerning procedures to be observed in implementing the system and appropriate arrangements for employees adversely affected.

(b) In any like or related manner, interfering with, restraining or coercing 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 Statute:

(a) Bargain in good faith, upon request, with Council 214, American Federation of Government Employees, AFL-CIO, concerning procedures to be observed in implementing any system for the use of quotas in appraising employees in competitive action appraisal programs, and concerning appropriate arrangements for employees adversely affected by such a system.

(b) Require that the following supervisors reaccomplish any 1983 CPAS ratings for all employees that were adversely affected by the use of a quota system, and certify that the CPAS no longer reflects any such adverse effect:

At Wright-Patterson AFB, Ohio, Col. James Havey, Jr., Lt. Col. Reginald P. Gibson, Captain Helen Brainerd, Joanne Wells, and Captain Joseph Zelasco; at Hill AFB, Utah, Allen W. Meyer, Secundino Martinez, Neil Peterson, Russell Lawrence, Robert Parks, M. C. Hurd and James P. Kretzmann; at Warner Robins AFB, Georgia, Gordon H. Brantley; at McClellan AFB, California, Bernard T. Sakamoto, Jackson W. Lytal, Richard Steele, Lt. Col. John Peterson, John W. Huston, Beverly Woodward, Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes and Robert Calvert; and at Tinker AFB, Oklahoma, Clayton Branton, Billie Coughran, James Dyer, and Donald Basinger.

(c) Post at its facilities at Wright-Patterson AFB, Ohio, Hill AFB, Utah, Warner Robins AFB, Georgia, McClellan AFB, California, and Tinker AFB, Oklahoma 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 Commander, Air Force Logistics Command and shall be posted and maintained by him or her for sixty (60) consecutive days thereafter in conspicuous places where notices to employees are customarily posted. The Commander shall in each instance take reasonable steps 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 V, Federal Labor Relations Authority, Suite A-1359, 175 W. Jackson Blvd., Chicago, Illinois 60604, in writing, within thirty (30) days from the date of this Order, as to what steps have been taken to comply herewith.



SAMUEL A. CHAITOVITZ
Administrative Law Judge

Dated: March 29, 1985
Washington, D.C.

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

CHAPTER 71 OF TITLE 5 OF THE

UNITED STATES CODE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT change the working conditions of employees exclusively represented by Council 214, American Federation of Government Employees, AFL-CIO, by using a numeric quota system for rating bargaining unit employees in the Civilian Potential Appraisal Program without first notifying the exclusive collective bargaining representative and bargaining upon request, concerning procedures to be observed in implementing the system and appropriate arrangements for employees adversely affected.

WE WILL NOT, in any like or related manner, interfere with, restrain or coerce employees in the exercise of rights assured by the Federal Service Labor-Management Statute.

WE WILL bargain in good faith, upon request, with Council 214, American Federation of Government Employees, AFL-CIO, concerning procedures to be observed in implementing any such quota system and appropriate arrangements for employees adversely affected by it.

WE WILL require that the following supervisors reaccomplish any 1983 CPAS ratings for all employees that were adversely affected by the use of a quota system, and certify that the CPAS no longer reflects any such adverse effects:

At Wright-Patterson AFB, Ohio, Col. James Havey, Jr.
Lt. Col. Reginald P. Gibson, Captain Helen Brainerd, Joanne Wells, and Captain Joseph Zelasco; at Hill AFB, Utah, Allen W. Meyer, Secundino Martinez, Neil Peterson, Russell Lawrence, Robert Parks, M. C. Hurd and James P. Kretzmann; at Warner Robins AFB, Georgia, Gordon H. Brantley; at McClellan AFB,

California, Bernard T. Sakamoto, Jackson W. Lytal, Richard Steele, Lt. Col. John Peterson, John W. Huston, Beverly Woodward, Charles Richins, Gary C. Crowder, LaVelle Hopper, Horace Holmes and Robert Calvert; and at Tinker AFB, Oklahoma, Clayton Branton, Billie Coughran, James Dyer, and Donald Basinger.

(Agency or Activity)

Dated: _____ By: _____
(Signature)

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 V, whose address is: 175 W. Jackson Blvd., Suite A-1359, Chicago, Illinois 60604, and whose telephone number is: (312) 353-6306 or FTS 886-3468.