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

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION WASHINGTON, D.C. Respondent	
and PROFESSIONAL AIRWAYS SYSTEMS SPECIALISTS, AFL-CIO Charging Party	Case No. WA-CA-02-0642

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves her 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 **MAY 5, 2004**, and addressed to:

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

SUSAN E. JELEN
Administrative Law Judge

Dated: March 30, 2004
Washington, DC

UNITED STATES OF AMERICA

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

MEMORANDUM DATE: March 30, 2004

TO: The Federal Labor Relations Authority

FROM: SUSAN E. JELEN
Administrative Law Judge

SUBJECT: U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

Respondent

and Case No. WA-CA-02-0642

PROFESSIONAL AIRWAYS SYSTEMS
SPECIALISTS, AFL-CIO

Charging Party

Pursuant to section 2423.34(b) of the Rules and Regulations 5 C.F.R. § 2423.34(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

OALJ 04-24

FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges
WASHINGTON, D.C.

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION WASHINGTON, D.C. Respondent	
and PROFESSIONAL AIRWAYS SYSTEMS SPECIALISTS, AFL-CIO Charging Party	Case No. WA-CA-02-0642

Angela A. Bradley, Esq.
For the General Counsel

Michele E. Gonsalves, Esq.
For the Respondent

Michael D. Derby, Esq.
For the Charging Party

Before: SUSAN E. JELEN
Administrative Law Judge

DECISION

Statement of the Case

This case arises out of an unfair labor practice charge filed on June 26, 2002, by the Professional Airways Systems Specialists, AFL-CIO (Union) against the U.S. Department of Transportation, Federal Aviation Administration, Washington, D.C. (Respondent or FAA) (G.C. Ex. 1(a)) On February 28, 2003, the Acting Regional Director of the Washington Region of the Federal Labor Relations Authority (Authority) issued a Complaint and Notice of Hearing in which it was alleged that the Respondent committed an unfair labor practice in violation of § 7116(a)(1) and (8) of the Federal Service Labor-Management Relations Statute (Statute) by failing to execute an agreement and in violation of § 7116(a)(1) and (5) of the Statute by failing to bargain in good faith. (G.C. Ex. 1(b))

On March 20, 2003, the Respondent filed its Answer, denying that it violated the Statute. (G.C. Ex. 1(d)) The Respondent filed a Motion to Dismiss and Memorandum of Law i n Support of Motion to Dismiss on April 25, 2003. (G.C. Ex. 1(e)) Counsel for the General Counsel filed an Opposition to the Respondent's Motion to Dismiss on May 2, 2003. (G.C. Ex. 1(f)) Respondent's Motion was denied at the hearing. (Tr. 7)

A hearing was held in Washington, D.C. on May 6, 2003. Each of the parties was represented by counsel and was afforded the opportunity to present evidence and to cross examine witnesses. All three parties submitted helpful, timely briefs in this matter. This Decision is based upon consideration of all of the evidence, including the demeanor of witnesses, and the post-hearing briefs. [1]

Findings of Fact

PASS is the certified exclusive representative of a nationwide unit at FAA. The unit consists of over 11,000 employees who are primarily airway transportation systems specialists in the Airway Facilities Division of the FAA. Systems specialists install, maintain, repair and certify the equipment used by air traffic controllers. (Tr. 17-18, 68)

Thomas Brantley has been PASS National Vice President for seven years. As National Vice President, he serves as the Chief Financial Officer and also negotiates agreements with FAA and resolves disputes between PASS and FAA. Brantley reportS to PASS National President Michael Fanfalone. (Tr. 16-17)

Deborah Johnson has been the FAA Program Director of National Airspace Operations since July 2001. She works at the headquarters office of FAA in Washington D.C. She is responsible for setting policy and procedures for Airways Facilities in its nine regional and headquarters offices. She coordinates with Air Traffic operations to ensure that Airway Facilities policies do not conflict with national operations. She works with Brantley to resolve issues between FAA and PASS at the regional levels. (Tr. 67-68)

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[1] No motion to correct the transcript was received from any of the parties. I make the following corrections to the transcript: Page 57, lines 23-25, and page 58, lines 1-4, is the testimony of the witness Thomas Brantley, not the Administrative Law Judge. Further R. Ex. 1 was a rejected exhibit and should be marked as a rejected exhibit. (Tr. 73)

One of FAA's priority programs is the Standard Terminal Automation Replacement Systems or STARS. STARS is the FAA's replacement system for a range of automation systems in air traffic control towers nationwide. STARS processes radar and weather data, and displays on air traffic controllers' computer monitors the speed, altitude and position of aircraft. FAA selected El Paso, Texas and Syracuse, New York as the first two key sites for commissioning STARS, which refers to the testing and setting into operation an automation system for air traffic controllers' use. El Paso and Syracuse were selected because they have a lower volume of air traffic than facilities in larger cities but could still provide feedback on the effectiveness of STARS. The facility in Philadelphia, Pennsylvania, which is a higher-volume site, was subsequently selected as the third and final key site. (Tr. 71)

On April 30, 2002 [2] Brantley received a telephone call from Deborah Johnson that she needed help in resolving issues relating to STARS in the El Paso District. The issue between the parties concerned recognition or awards for employees involved in the STARS program. According to Brantley, FAA wanted an agreement resolved before STARS was commissioned, which was going to be in a few days. FAA was also concerned with the other two key sites and wanted to resolve the issue once and have it apply to the other sites as well. (Tr. 20, 21, 43)

According to Brantley, Johnson stated that FAA was looking to provide a $250 award to the employees. Brantley responded that the amount did not matter as much as parity, meaning that air traffic controllers would not be awarded three to four times as much as the PASS bargaining unit employees. If FAA decided to give more money to the air traffic controllers, then it would provide the same amount to the PASS employees. (Tr. 21, 22, 44, 118)

Brantley also wanted a mechanism by which other employees involved in PASS over the years could be recognized. He suggested $10,000 for each location and that the local manager and PASS representative would determine who would receive awards out of that pot. According to Brantley, Johnson agreed to such a fund and also agreed on the parity issue. (Tr. 22)

Brantley insisted that the agreement be in writing, since he wanted to assure his members that there was a deal and that the Union was getting the issue resolved. (Tr. 23) He said that he would draft the agreement. (Tr. 55)

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[2] All dates are in 2002, unless otherwise specified.

Johnson indicated she would get back to him, since she had to check on cross-organizational issues. (Tr. 23)

According to Brantley, the call lasted about 20 minutes and only he and Johnson participated in the call. (Tr. 20, 23)

Brantley then called Bob Garnett, the PASS Regional Vice President, since El Paso was in his geographic area. Garnett agreed to everything Brantley and Johnson had discussed and asked if he could get an invitation to attend the awards ceremony. He wanted to be present so that PASS members would know that PASS had been a part of the process. Brantley indicated he would get back with Johnson. (Tr. 24)

Johnson called Brantley the following day, May 1, 2002, and indicated that she had talked with someone in air traffic. They were fine with what they were doing and were ready to go. Brantley indicated that he wanted the agreement in writing and Johnson asked if that was going to hold FAA up from going operational with the system. Brantley agreed that FAA could proceed with the commissioning of STARS since they had an agreement. Brantley also asked about an invitation to Garnett and Johnson did not see a problem with it. There was no other discussion. (Tr. 24, 25, 26)

Brantley then called Garnett to let him know that there was an agreement and that the local people did not need to continue with their negotiations. Brantley also informed Fanfalone that he had talked with Johnson and had come to an agreement. He informed Fanfalone of the terms of the agreement. (Tr. 26, 64)

Brantley did not discuss the agreement with Johnson or anyone else in FAA until mid-June. He decided to wait until he had the opportunity to present the agreement in person. (Tr. 27, 28)

In mid-June Johnson called to set up a meeting with PASS on issues other than STARS. Brantley agreed to a meeting and also mentioned that it would be a good time to sign the STARS agreement. Johnson indicated that there may be a problem, but did not offer any explanation and Brantley did not pursue the issue. (Tr. 32)

On June 21, a meeting took place in the PASS office in Washington D.C. Present for FAA were Johnson and Ferrold Thomas, Director of Labor and Employee Relations for Airways Facilities. Present for PASS were Brantley, Fanfalone and

Kathy Carmen, the national assistant at that time. They first talked about the agenda for the meeting. FAA wanted to discuss an issue with the WARP system (a new weather system) and was unhappy with a couple of PASS members' conduct during an ASR11 (the radar system) review. PASS indicated that it wanted to finalize the STARS agreement, to get it in writing. Johnson again said that might be a problem. The parties did not get into the problem at that time. (Tr. 33-34, 49, 59-60, 78, 80-81, 141-142)

Brantley asked Carmen to get the agreement and she left the meeting. Carmen had drafted the MOA that morning at Brantley's request, after he went through the terms of the agreement and using his notes. According to Brantley, the MOA represents the agreement reached with Johnson in April/ May. The agreement does say that the verbal agreement was reached on May 15, 2002, but this is not the correct date and should have been May 1, 2002. (Tr. 34-36, 38; G.C. Ex. 3)

Johnson reviewed the MOA briefly. She said that it accurately reflected the agreement reached but she had been instructed by LR not to sign it. Brantley asked why, and Johnson replied "I don't know. I have just been instructed not to sign it." (Tr. 39, 51, 61, 143) According to Johnson, after reviewing the offered MOA, she told Fanfalone that he knew that she couldn't sign it. She stated that first of all, she didn't know where paragraph 2, referencing a pool of $10,000, came from and that she had been advised by LR that they could not enter into any separate agreements around awards. (Tr. 82-83, 150) Fanfalone then turned to Ferrold and asked if he had advised her of that. Ferrold stated that according to the contract and Article 38, they could not enter into the agreement. (Tr. 83, 143) Ferrold considered the MOA to be a proposal from the Union, which generally submitted its proposals in such a format. (Tr. 152)

Johnson admitted that the $250 amount in paragraph 1 was familiar and the amount the FAA had put aside for employees, regardless of their bargaining unit. (Tr. 83-84; G.C. Ex. 3) She also recognized the contents of paragraphs 4 and 5 as the Union was concerned about equal recognition. (Tr. 84, G.C. Ex. 3) The invitation referenced in paragraph 6 had not been extended because the AXX 400, who was the Regional Vice President's partner level, did not attend the awards ceremony. (Tr. 85)

The parties at the meeting did not discuss the MOA any more, but continued with the next item on the agenda, which was WARP. FAA wanted PASS to forgo an MOA provision.

Brantley got mad and left the room. When he returned a few minutes later, the meeting was breaking up. (Tr. 39, 40, 54, 61)

The MOA was entitled *Memorandum of Agreement between the Federal Aviation Administration (FAA) and the Professional Airways Systems Specialists (PASS) regarding Standard Terminal Automation Replacement System (STARS) Key-site Recognition* and read as follows:

> This Memorandum of Agreement (MOA) is made and entered into pursuant to the verbal agreement of May 15, 2002 between the Professional Airways Systems Specialists (PASS) and the Federal Aviation Administration (FAA) Airway Facilities concerning STARS key-site recognition in El Paso, Texas, Syracuse, New York and Philadelphia, Pennsylvania.
>
> 1. Each PASS BU employee at the above-mentioned sites shall receive a $250.00 cash award.
>
> 2. The Facility Manager and Facility PASS Representative at each location shall jointly agree on the distribution of $10,000.00 to Bargaining Unit employees in recognition of their outstanding contributions to the STARS Program.
>
> 3. An invitation shall be extended to the Regional Vice President to attend the dedication at Syracuse, New York on June 4, 2002.
>
> 4. The Parties agree that no other employee at the above mentioned sites will receive an award of greater value.
>
> 5. Each AXX-400 will invite their respective Regional Vice President for joint presentation of these awards.
>
> This MOA constitute the Parties' entire agreement concerning recognition awards for El Paso, Texas, Syracuse, New York and Philadelphia, Pennsylvania. This MOA shall be effective as of the date of the Parties' verbal agreement and will expire upon completion of the terms set forth above.

The MOA has signature space for Thomas Brantley, PASS National Vice-President, Steve Zaidman, Director of Airway Facilities, and AHL-200. (Tr. 39-40, G.C. Ex. 3)

Employees in El Paso and Syracuse received $250 each for their work on commissioning STARS sometime in the summer of 2002. Later employees in Philadelphia received $1000 each and 40 hours of time off. The differences in awards resulted from the time constraints and ongoing installations in commissioning STARS in Philadelphia. (Tr. 87, 131)

Issue

The complaint in this matter alleges that the Respondent violated section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to execute an agreement regarding awards for employees who worked on commissioning STARS.

Positions of the Parties

The General Counsel

The General Counsel maintains that the evidence establishes that the parties, through the actions of PASS National Vice President Brantley and FAA Program Director of National Airspace Operations Johnson, reached a verbal agreement on April 30 and May 1, 2002, on awards for employees who worked on the commission of STARS. The terms of that agreement were fully and accurately set forth in the MOA which PASS requested that the Respondent execute on June 21, 2002. FAA failed to comply with the request to execute the MOA, and as result, violated the Statute. Section 7114(b)(5) of the Statute provides that the duty to bargain in good faith includes the obligation that "if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement." *Internal Revenue Service, Philadelphia District Office*, 22 FLRA 245, 255 (1986) (*IRS Philadelphia).*

The General Counsel asserts that Brantley's testimony should be credited over that of Johnson, arguing that his testimony was consistent throughout, consistent with the STARS MOA, external events and Fanfalone's testimony.

As a remedy, the General Counsel requests a cease and desist order, a remedial posting signed by the Director of Airway Facilities, and an order requiring the FAA to execute the agreement as required by section 7114(b)(5) of the Statute.

The Charging Party

The Charging Party is in agreement with the arguments presented by the General Counsel. The Charging Party also submitted a post hearing brief in which it argued that the FAA's reliance on the "covered by" doctrine as a defense is misplaced and irrelevant because this matter does not involve a claim that the FAA failed to comply with its duty to bargain. Rather the charge and the complaint assert that the FAA wrongfully refused to execute an agreement reached with PASS following bargaining. The Charging Party argues that, even if the subject of incentive awards was "covered by" the Parties' agreement within the meaning of *U.S. Department of Health and Human Services, Social Security Administration, Baltimore, Maryland,* 47 FLRA 1004 (1993) (*SSA Baltimore)* and its progeny, the parties are not foreclosed from voluntarily agreeing to engage in further

bargaining to resolve disputes and promote stability in their collective bargaining relationship.

The Respondent

The Respondent asserts that the subject matter of the complaint is expressly "covered by" the terms of the parties' collective bargaining agreement (CBA), that there was no "meeting of the minds" with respect to the terms of the agreement, that the failure of the agency to execute the agreement was not an unfair labor practice, and the terms of the agreement have been rendered moot by the agency's actions.

The Respondent asserts that the subject matter of the complaint, specifically awards, is covered by the parties' collective bargaining agreement and therefore not subject to negotiations, citing *SSA Baltimore,* 47 FLRA 1004. Article 38 of the Parties' CBA expressly covers employee awards and encompasses the terms of the alleged MOA. The parties' CBA provides that the Performance Planning and Recognition System (PPRS) is to be used in determining awards. No language in either the CBA or the PPRS directs the FAA to negotiate awards.

The Respondent further argues that even if it is found that the CBA does not "expressly encompass" the terms of the subject MOA, the terms of the Union MOA are "inseparably bound up with and . . . thus . . . plainly an aspect of" the Parties' CBA. The FAA, therefore, has "fulfilled its bargaining obligation" with respect to awards, and, as such, did not commit a violation of the Statute when it failed to execute the Union's MOA.

Assuming *arguendo* that there is a finding that there was an obligation on the part of the FAA to negotiate awards, the terms set forth in the Union's MOA (with the exception of the $250.00 award amount) had never been discussed or negotiated with the FAA and there was no "meeting of the minds" and thus no agreement. *U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, AFL-CIO,* 44 FLRA 205, 206 (1992) (*Portsmouth Naval Shipyard)* and *International Organization of Masters, Mates and Pilots and Panama Canal Commission,* 36 FLRA 555, 560 (1990) *(Masters, Mates and Pilots)*.

The Respondent further noted that it has already awarded PASS bargaining unit employees who worked on the STARS at the three key sites, rendering the complaint moot. The Respondent further asserts that both Johnson and Thomas

gave credible, consistent and forthright testimony at the hearing.

Discussion and Analysis

Under section 7114(b) of the Statute, the duty of an agency and an exclusive representative includes the obligation to negotiate "with a sincere resolve to reach a collective bargaining agreement[.]" If an agreement is reached, the parties are obligated, on the request of any party to the negotiations, to execute a written document embodying the agreed terms. *U.S. Department of the Treasury, Bureau of Engraving and Printing and International Plate Printers, Die Stampers and Engravers Union, Washington Plate Printers Union, Local 2*, 44 FLRA 926, 938 (1992); *Portsmouth Naval Shipyard, supra; IRS Philadelphia, supra.* An agreement, for purposes of section 7114(b)(5) of the Statute, is one in which authorized representatives of the parties come to a "meeting of the minds" on the terms over which they have been bargaining. *Masters, Mates and Pilots, supra.* In determining whether a party has fulfilled its bargaining obligation, the Authority considers the totality of the circumstances in a given case. *E.g., Army and Air Force Exchange Service*, 52 FLRA 290, 304 (1996); *U.S. Department of the Air Force Headquarters, Air Force Logistics Command, Wright-Patterson Air Force Base, Ohio*, 36 FLRA 524, 531 (1990).

After reviewing the evidence as a whole, I first find the testimony of the General Counsel's witnesses to be the most compelling, noting the detail and comprehension of both Brantley and Fanfalone. Further in crediting Brantley, I find that the Union, through Brantley, and the Respondent, through Johnson, reached a verbal agreement in May 2002 with regard to the recognition of employees involved in the commissioning of STARS. The Respondent has not provided credible evidence that it ever informed Brantley or anyone else in the Union that the issue of awards was not considered a topic for negotiations during the April 30 and May 1 telephone discussions. Rather the parties discussed several aspects of the commissioning of STARS and awarding employees, including the Respondent's proposal of $250 for each employee, the $10,000 fund and the Union's concern

regarding parity for its employees in relation to any awards given to air traffic controllers. [3]

Further I find that the MOA presented by the Union to the Respondent on June 21 was a complete and accurate restatement of the parties' verbal agreement. I do not find that the Respondent has presented sufficient evidence to show that the MOA did not accurately reflect the agreement, particularly with regard to paragraph 2. I note that Johnson did not dispute the accuracy of the MOA [4] and never denied that the parties had negotiated and reached agreement, but rather only asserted she had been informed that she could not sign such an agreement. Since there is no evidence that the MOA was not accurate or that it was in any way illegal, I find that Respondent was obligated to sign the agreement once the Union requested that a written agreement be executed. Under these circumstances, there was a "meeting of the minds" and thus an agreement.

At no time during the April/May negotiations did Respondent indicate to the Union an inability to sign an MOA, even when Brantley expressed his desire for a written agreement. Rather at the time that Brantley expressed his interest in having a signed agreement, the Respondent's main concern about a signed MOA was that it not delay the commissioning of the STARS, which the Union agreed to. After STARS was commissioned, and only a month after the parties entered into the agreement, did the Respondent hint that there could be a problem with the signing of the agreement, but not with the agreement itself.

Since the parties entered into an agreement with regard to STARS, the question then becomes whether the Respondent was obligated by the Statute to sign the agreement upon the request of the Union.

As stated above, I do not find that during the negotiations Johnson indicated in any way that she did not have the authority to sign any agreement. This differs from the facts in the decision in *Internal Revenue Service and*

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[3] There is no evidence that PASS' concern for parity was an attempt by PASS to negotiate on behalf of any other bargaining unit other than its own. Although there was testimony on the issue of parity, it is clear that both parties understood its meaning within this context and Respondent did not raise such an argument in its brief.

[4] I find Brantley and Fanfalone's testimony regarding the June 21 meeting to be more accurate and detailed in this regard.

Internal Revenue Service, Brooklyn District, 23 FLRA 72 (1985), in which the Authority found that the Union had been on notice during all of the negotiations that any agreement had to be approved by higher-level management. There is no evidence in this matter that the Union was aware of any policy by the Respondent regarding the signing of agreements regarding awards, until of course, the agreement was presented for signature in June.

Finally in its defense the Respondent argues that it cannot be found to have violated the Statute since the issue at the heart of the alleged agreement, i.e. awards for unit employees involved in the commissioning of STARS, is covered by the parties' collective bargaining agreement and therefore not subject to negotiations. Citing the Authority's decision in *SSA Baltimore,* the Respondent relies on the language of Article 38 of the CBA as well as the PPRS. Specifically Article 38 of the CBA covers Performance and Incentive Awards and Section 1 states that "The Employer agrees that awards shall be administered in accordance with the FAA Personnel Management System, the FAA's Performance Planning and Recognition System (PPRS) and this Agreement." (R. Ex. 3) The FAA's revised PPRS is set forth in R. Ex. 2 and establishes the agency-wide policy requirements for recognizing and rewarding employees.

While the Authority has held that the "covered by" defense constitutes a right under the Statute, *National Treasury Employees Union and United States Customs Service, Washington, D.C.,* 59 FLRA 217 at 220 (2003), Respondent's use of that defense is not applicable in the context of this case. The complaint does not allege that Respondent refused to bargain over the recognition of employees involved in STARS, rather the complaint alleges that the Respondent violated the Statute when it refused to sign an agreement pursuant to section 7114(b)(5). Such conduct has been found by the Authority to violate both section 7116(a)(8) and 7116 (a)(5) of the Statute.

Further the evidence clearly shows that at no time during the negotiations on April 30 and May 1 did Respondent refuse to negotiate or indicate that the matter the parties were discussing was covered by the parties' CBA and therefore the Respondent was under no obligation to bargain. Rather the credible evidence, particularly the clear and consistent testimony of Brantley and Fanfalone, demonstrates that Respondent, through the conduct of Johnson, freely entered into negotiations on this subject and reached agreement with the Union. Once agreement was reached, Respondent was obligated to execute the agreement.

In conclusion I find that the Union and the Respondent reached agreement regarding recognition for PASS bargaining unit employees involved in the commissioning of STARS at El Paso, Syracuse and Philadelphia. I further find that the MOA presented to the Respondent's representatives on June 21 set forth the terms of the agreement and that upon the request of the Union, the Respondent was obligated pursuant to section 7114(b)(5) of the Statute to execute the agreement. Respondent's refusal to execute the MOA was, therefore, a violation of section 7114(b)(5) and section 7116(a)(1), (5) and (8) of the Statute. 5

Accordingly, 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, it is hereby ordered that the U.S. Department of Transportation, Federal Aviation Administration, Washington, D.C., shall:

1. Cease and desist from:

(a) Failing or refusing to execute the agreement reached on May 1, 2002, regarding awards for employees who worked on the commissioning of the Standard Terminal Automation Replacement System (STARS).

(b) In any like or related manner, interfering with, restraining or coercing its employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative action:

(a) Execute the agreement reached on May 1, 2002, regarding awards for employees who worked on the commissioning of the Standard Terminal Automation Replacement System (STARS).

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5 With regard to the remedy in this matter, I do not find that Respondent's subsequent payments to bargaining unit employees in the three facilities adequately resolves the issues set forth in the complaint. Therefore, the Respondent should be required to fulfill its obligations under the Statute and execute the MOA, as set forth in section 7114(b)(5) of the Statute.

(b) Post at all of its facilities where bargaining unit employees are located, copies of the attached Notice on forms to be furnished by the Authority. Upon receipt of such forms they shall be signed by the Administrator of the Federal Aviation Administration and shall be posted and maintained for 60 consecutive days thereafter in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced or covered by any other material.

(c) Pursuant to § 2423.41(e) of the Rules and Regulations of the Authority, notify the Regional Director of the Washington 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, March 30, 2004

SUSAN E. JELEN
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 U.S. Department of Transportation, Federal Aviation Administration, Washington, D.C., violated the Federal Service Labor-Management Relations Statute and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT fail or refuse to execute the agreement reached on May 1, 2002, regarding awards for employees who worked on the commissioning of the Standard Terminal Automation Replacement System (STARS).

WE WILL NOT interfere with, restrain or coerce our employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

WE WILL execute the agreement reached on May 1, 2002, regarding awards for employees who worked on the commissioning of the Standard Terminal Automation Replacement System (STARS).

_____
_
(Agency)

Dated: _____
By: _____
(Signature) Administrator

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, Washington Regional Office, whose address is: Federal Labor Relations Authority, Tech World Plaza North, 800 K Street, NW, Suite 910, Washington, DC 20001-8000, and whose telephone number is: 202-482-6724.

CERTIFICATE OF SERVICE

I hereby certify that copies of the **DECISION** issued by SUSAN E. JELEN, Administrative Law Judge, in Case No. WA-CA-02-0642, were sent to the following parties:

_____

_

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

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DATED: March 30, 2004
Washington, DC