

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

UNITED STATES POSTAL SERVICE

and

**AMERICAN POSTAL WORKERS UNION-
ATLANTA METRO AREA LOCAL 32**

**Cases 10-CA-173471
10-CA-182796
10-CA-186946
10-CA-187233
10-CA-188383
10-CA-190045**

and

**AMERICAN POSTAL WORKERS UNION -
LOCAL 012**

Case 10-CA-183891

and

**AMERICAN POSTAL WORKERS UNION
LOCAL 3434**

Case 10-CA-188934

and

**NATIONAL ASSOCIATION OF LETTER
CARRIERS, BRANCH 73**

**Cases 10-CA-178209
10-CA-180739
10-CA-180748
10-CA-183115
10-CA-184321
10-CA-186318
10-CA-190671
10-CA-194745
10-CA-195439**

and

**NATIONAL ASSOCIATION OF LETTER
CARRIERS, BRANCH 1537**

Case 10-CA-185625

Kerstin Myers, Esq.,
for the General Counsel.
Kelly Elifson, Esq.,
for the Respondent.

DECISION

STATEMENT OF THE CASE

5 DONNA N. DAWSON, Administrative Law Judge. The Charging Parties (Unions),
 consisting of the American Postal Workers Union (APWU), Atlanta Metro Area Local 32; the
 APWU, Local 012; APWU, Local 3434; National Association of Letter Carriers (NALC),
 Branch 73; and NALC, Branch 1537, filed numerous separate charges (and amendments
 thereto) between April 6, 2016 and March 23, 2017, arising out of incidents at 15 of
 10 Respondent’s facilities. Pursuant to those charges, the General Counsel issued various
 complaints which have been consolidated in this case for issuance of a decision on a
 stipulated record.¹ The consolidated cases allege that Respondent delayed in furnishing
 and/or failed to furnish information requested by Respondents in violation of Section 8(a) (5)
 and (1) of the Act.

15 On June 23, 2017, the parties filed their joint motion and stipulation of facts, with
 exhibits. On June 27, 2017, I issued an order granting the parties’ motion and approving their
 stipulation of facts (SF), thus waiving a hearing under Section 102.35 (a)(9) of the NLRB’s
 Rules and Regulations.² On the same date, I granted the parties’ motion to amend their
 20 stipulated facts to establish that information previously not provided by Respondent to the
 Unions, as set forth under part 1 of the stipulation of facts, has been provided directly to the
 requesting party on June 20 and 30, 2017.³

25 On the entire record, including the stipulated facts and exhibits, and amendments
 thereto, and after considering the briefs filed by the parties, I make the following

FINDINGS OF FACT

I. JURISDICTION

30 Respondent provides postal service for the United States and operates various facilities
 throughout the United States, including the facilities at issue herein within the State of
 Georgia. (SF, pp. 6–7.) The parties admit, and I find, that the NLRB has jurisdiction over
 Respondent pursuant to Section 1209 of the Postal Reorganization Act of 1970 (PRA).

35 The parties admit, and I find, that the APWU and the NALC, and their Local Unions
 named in this case, are labor organizations within the meaning of Section 2(5) of the Act.

¹ On July 27, 2017, I granted the General Counsel’s motion (agreed to by Respondent) to consolidate
 these cases solely for the purpose of submitting for a decision on the stipulated record.

² The joint motion and stipulation of facts were filed, as were joint exhibits (Exhs.) 1, 2a-f, 3a-f, 4-5, 6a-
 d, 7a-c, 8a-b, 9a-b, 10a-b, 11a-b, 12a-b, 13a-b and 14a-b. The stipulated record includes the stipulation
 of facts with exhibits, statement of the issues presented and each party’s statement of position; the
 amended stipulation of facts and exhibits; the charges and amendments thereto; and various pleadings
 (complaints and consolidated complaints, answers and amendments thereto). See SF, pp. 3-6 and Exhs.
 1(a)-(ee), 2(a)-(f).

³ See amended joint stipulation of facts motion and accompanying exhibits (Exhs. A, B, C, D, E and F
 and their subparts).

II. ALLEGED UNFAIR LABOR PRACTICES

A. Issue Presented

5 The only issue before me is whether the remedy, as plead in the consolidated
 complaint, is overly broad because it seeks a broad order applicable to all of Respondent’s
 facilities in 54 Georgia counties within the Atlanta District of Respondent’s Capital Metro
 Area operations.

B. Stipulated Facts⁴

1. Overview of Respondent’s operations and administrative organization

15 Respondent is an independent establishment of the Executive Branch of the United
 States Government. It processes and delivers mail through its various facilities nationwide,
 including those involved in this case in and near Atlanta, Georgia. At all material times, the
 local Charging Party Unions named in the consolidated complaint, are agents of the APWU or
 the NALC, and are labor organizations, and the exclusive bargaining representatives for the
 20 purpose of collective bargaining on behalf of certain employees in appropriate units, each as
 set forth in article 1 of each of the current national agreements between Respondent and the
 respective labor organization. Respondent has recognized the APWU and the NALC, and the
 Charging Party local Unions as the exclusive collective-bargaining representatives for the
 purpose of collective bargaining on behalf of employees in the appropriate units of each as set
 25 forth in article 1 of the current national agreements between Respondent and the APWU and
 between Respondent and the NALC. (SF, pp. 6–7.)

30 At all material times, the individuals set forth in the chart at SF, pages 7–8 have held
 the positions noted in the chart at the designated facilities. Those individuals have been
 supervisors and agents of Respondent within the meaning of Section 2(11) and (13) of the
 Act.

35 Respondent’s postal operations throughout the nation are administratively divided into
 postal districts, including the Atlanta District. The Atlanta District includes postal facilities in
 the northern third of the State of Georgia, excluding certain facilities in the northwestern part
 of the northern third of Georgia. The Atlanta District is comprised of territorial zip codes
 beginning with numbers 300–303, 305–306, 311 and 399. These territorial zip codes include
 54 counties in Georgia. These counties, along with the primary cities in each of them and the
 respective zip codes associated with them, are reflected in the table at Exhibit 4. (See also,
 40 Exh. 5.) The Atlanta District is under the Capital Metro Area, which is one of the 7 main
 administrative areas of Respondent’s postal operations. (Exh. 6(a).)

45 The 54 counties reflected in the charts at SF, pages 23–24 are the only Georgia
 counties where the postal facilities fall completely within the Atlanta District. However, there
 are 8 additional counties, parts of which fall within the boundaries of the Atlanta District and

⁴ Some of these facts are summarized from the parties’ SF, and some are as stated therein.

parts of which fall within the jurisdiction of the Tennessee District (under the Eastern Area) and/or the Gulf Atlantic District (under the Southern Area). (Exhs. 6(c) and 6(d).)⁵

5 The Atlanta District does not follow Georgia county lines, however. As previously stated, its boundaries track delivery and customer service zones within the 3-digit zip codes prefixes listed above. The Atlanta District consists of the Atlanta Post Office installation (City of Atlanta), the District's 316 associate offices and three plants. The Atlanta Post Office installation is managed by the Atlanta postmaster and is further broken down into one main post office, 25 postal stations and 20 finance units (stand-alone facilities with only post office boxes and retail units) throughout the city of Atlanta. The postal stations and finance units are operated by station managers who report to one of three area managers, who in turn report to the Atlanta postmaster. The Atlanta postmaster reports to the Atlanta District manager. Meanwhile, the District's 316 associate offices are spread out across approximately 15,000 square miles outside the city of Atlanta. Postmasters operate these 316 associate offices, and report to one of six managers of post office operations (MPOO), who in turn report to the Atlanta District manager. The 316 associate offices fall into one of six MPOO Areas. The three plants, or processing and distribution centers, are operated by plant managers who report to the lead plant manager. The lead plant manager reports to the Atlanta District manager. In total, there are 365 facilities that fall within the administrative structure of the Atlanta District. (Exh. 6(d).) The Atlanta District boundaries have remained the same for at least 25 years. In about October 2015, there was a restructuring of its MPOO Areas, with the city of Athens being reassigned to MPOO Area 1 (from MPOO Area 4).

25 Next, there are 9 vehicle maintenance facilities (VMFs) physically located within the physical boundaries of the Atlanta District; however, they fall outside the Atlanta District administrative structure. Thus, the VMFs and their employees report to Postal Service headquarters. For example, the North Metro VMF, identified as the location at 1605 Boggs Road, Duluth, Georgia in the table in SF, p. 6, paragraph 4(a) (Charge 10-CA-187233), reports to headquarters.⁶ Similarly, the Atlanta Network Distribution Center (NDC) is physically located within the physical boundaries of the Atlanta District, but is not a part of the Atlanta District. Rather, it is its own bid cluster, and as such, reports directly to the Capital Metro Area. The Atlanta NDC is responsible for the distribution of local and destination standard mail, periodicals and package services. Therefore, the Atlanta District manager has authority over all of the facilities in the table in SF, page 6, paragraph 4(a), except the VMF facility listed on line (k).⁷ The Atlanta District manager has no authority over the postal facilities that fall outside the administrative boundaries of the Atlanta District.⁸

2. Requests for information⁹

40 1. Between February 14, 2016 and April 4, 2016, the APWU Local 32 made 29 requests for information (RFI) to Respondent at its Maynard Jackson facility. Respondent

⁵ Those 8 counties (Chattooga, Hancock, Jasper, Lincoln, Monroe, Murray, Putnam and Upson) contain at least 1 delivery unit each within the Atlanta District, with a total of 16 Atlanta District units.

⁶ The VMF employees who are in either the APWU or NALC bargaining units are covered by the parties' national collective-bargaining agreements.

⁷ See SF, part 3, p. 26, paragraph 11 for the administrative structure of the individual facilities that fall within the Atlanta District. (Also see Exh. 6(e).)

⁸ All postal operations are ultimately under the authority and control of the U.S. Postmaster General and chief executive officer, and the Respondent's headquarters operations in Washington D.C.

⁹ Some of these include multiple requests for information from the same facility.

provided most of the information on April 18 and April 25, 2016, and responses to the remaining 3 requests on June 9, 2016. (SF, pp. 9-11, pars. 6-13.)

5 2. Between February 25, 2016 and May 24, 2016, NALC Branch 73 made 90 RFI to Respondent at its Glenridge facility. Respondent furnished most of the responses to these requests between June 17 and July 15, 2016, and one response on August 16, 2016. However, Respondent failed to provide responses to 32 of the RFI made during that time period until June 30, 2017. (SF, pp. 11-16, pars. 14-28.)

10 3. On July 7, 2016, NALC Branch 73 made 7 RFI to Respondent at its Howell Mill facility, to which Respondent furnished responses on August 1, 2016. (SF, p. 17, pars. 29-30.)

15 4. On July 7, July 28 and August 1, 2016, APWU Local 32 made 1 RFI to Respondent at its Cumming facility, to which Respondent furnished responses on September 2, 2016. (SF, p. 17, par. 31.)

20 5. Between August 1 and 20, 2015, NALC Branch 73 made 13 RFI to Respondent at its Godby Road facility. Respondent failed to furnish any of this requested information until June 21, 2017. (SF, pp. 17-18, par. 32.)

25 6. Between April 22 and July 7, 2016, APWU Local 012 made 7 RFI to Respondent at its Olympic Drive facility, to which Respondent furnished information on May 23, 2016 (to the April 22 RFI), and on October 1, 3 and 14 (to the remaining RFI). (SF, p. 18, par. 33.)

30 7. On September 26, 2016, APWU Local 32 made 8 RFI to Respondent at its McDonough facility, to which Respondent furnished information on November 8, 2016. (SF, pp. 18-19, par. 34.)

35 8. On October 14, 2016, APWU Local 32 made 6 RFI to Respondent at its Duluth facility (North Metro VMF at 1605 Boggs Road), to which Respondent furnished the information on November 18, 2016. (SF, pp. 6-8, pars. 4(a), 4(b), #10-CA-187233 and p. 19, par. 35; Exh. 1(v).)

40 9. Between June 14 and September 19, 2016, NALC Branch 1537 made 14 RFI to Respondent at its Lilburn facility. Although Respondent furnished information for a June 14, 2016 RFI on June 15, 2016, an August 4, 2016 RFI on September 4, 2016, an August 18 RFI on September 20, 2016 and a September 19 RFI on October 5, 2016, Respondent did not provide the remaining 10 responses until December 5, 6 and 8, 2016. (SF, pp. 19-20, par. 36.)

45 10. On November 16, 2016, APWU Local 32 made 5 RFI to Respondent at its Lawrenceville facility, to which Respondent furnished information on January 11, 2017. (SF, p. 20, par. 37.)

11. On September 22, 2016, NALC Branch 73 made 6 RFI to Respondent at its South Central Avenue facility, to which Respondent furnished the information requested on January 19 and 24, 2017. (SF, pp. 20-21, par. 38.)

5 12. On October 3 and November 2, 2016, APWU Local 32 made 2 RFI to Respondent at its Brady Avenue, Atlanta facility, to which Respondent furnished the information requested on November 30, 2016. (SF, p. 21, par. 29.)

10 13. On October 20, 2016, APWU Local 3434 made 2 RFI to Respondent at its Covington facility, to which Respondent provided the information requested on January 23 and February 7, 2017. (SF, p. 21, par. 40.)

15 14. Between October 18 and December 2016, NALC Branch 73 made 7 RFI to Respondent at its Covington facility, to which Respondent furnished the information requested on January 19 and February 9, 2017. (SF, pp. 21-22, par. 41.)

20 15. On February 8 and 24 and March 13, 2017, NALC Branch 73 made about 5 RFI to Respondent at its Morosgo Drive, Atlanta facility, to which Respondent furnished the information requested on April 3, 2017. On March 15, 2017, NALC Branch 73 made another RFI to Respondent at the same location, to which Respondent furnished the information requested on March 19, 2017. (SF, pp. 22-23, pars. 42-43.)

25 16. There is no dispute that the information requested in paragraphs 6-44 of the SF was relevant and necessary for the Local Unions' performance of their respective duties as the exclusive collective-bargaining representatives for the employees in the relevant units represented by them.

30 17. There is also no dispute that from the dates most of the RFI were sent/received to the dates the requested information was provided, Respondent unreasonably delayed in furnishing it to the APWU Locals, as set forth in SF, Part 1, paragraphs 6-13, 31, 33-35, 37, and 39-40 (Maynard Jackson, Cumming, Olympic Drive, McDonough, Duluth, Lawrenceville, Brady Avenue-Atlanta and Covington locations).

35 18. Likewise, it is undisputed that from the dates the RFI were sent/received to the dates the requested information was provided, Respondent unreasonably delayed in furnishing it to the NALC Branches, as set forth in SF, Part 1, paragraphs 14-30, 32, 36, 38 and 41-44 (Glenridge, Howell Mill, Godby Road, Lilburn, South Central Avenue, Covington and Morosgo Drive-Atlanta locations).

40 19. In the parties' amended stipulation of facts, they agreed that the information previously reflected as not provided under Part 1 of the SF, paragraphs 14-15, 17-19, 21-28, was provided by Respondent on June 30, 2017. (See Exhs. A-C.) Similarly, the parties agreed that Respondent subsequently furnished the information previously reflected as not provided under Part 1, paragraph 32 of the SF on June 21, 2017. (See Exhs. D-F.) Therefore,
45 as previously stated, Respondent has since June 21 and 30, 2017, provided, albeit delayed, all of the RFI at issue in this complaint.

3. Respondent's history regarding requests for information

a. Past agreements and initiatives and GC guidelines regarding RFI charges

In 1997, Respondent and the national APWU executed a Memorandum of Agreement pursuant to an alternative dispute resolution (ADR) process to resolve RFI charges filed with the Board. (Exh. 7(a).) On January 2, 2001, the General Counsel ceased participation in that agreement based on an assessment that the ADR process' potential had not been realized. (Exh. 7(b).) On January 13, 2003, in OM 03-18, the General Counsel announced new initiatives being implemented by Respondent and the APWU regarding the processing of the Union's RFI, as well as a revision of Regional guidelines for investigation and prosecution of RFI charges. (Exh. 7(c).)

b. Respondent's RFI response/violation history in the Atlanta District

Below is a summary of Respondent's history, as stipulated to by the parties, regarding its issues with responding to RFI within the Atlanta District:

1. In 1989, the 11th Circuit Court of Appeals enforced the Board's Order in the United States Postal Service, Case 289 NLRB 942 (1988). See, *NLRB v. United States Postal Service*, 888 F.2d 1568 (11th Cir. 1989). The Board found that Respondent's refusal to furnish information to the APWU and the NALC violated the Act, and the Court of Appeals enforced the Board's Order, rejecting Respondent's defenses.

2. In 2006, in *United States Postal Service*, Case 10-CA-35999, Administrative Law Judge Keltner W. Locke found that Respondent, at its North Metro Processing and Distribution Center in Duluth, Georgia, violated the Act by failing and refusing to provide information to APWU Local 32. JD(ATL)-18-06.

3. In the past, Respondent has entered into numerous informal settlement agreements in the Atlanta District to resolve unfair labor practice charges alleging its failure to provide and/or undue delay in providing the APWU and the NALC Local Unions with requested information. (See e.g., Exhs. 8(a) and (b).)

4. Respondent has also entered into multiple formal settlement agreements involving numerous facilities operating within the Atlanta District, regarding Respondent's failure to provide and/or undue delay in providing information to the APWU and the NALC, including the following settlement stipulations:

a. On December 3, 2014, the 11th Circuit Court of Appeals enforced the Board's September 12, 2014 Order approving the parties' formal settlement stipulation in Cases 10-CA-120885, et al. These cases addressed Respondent's failure to timely provide information upon request to the NALC at its Main Postal Facility, Carrier Annex and postal stores in the Roswell, Georgia. (Exhs. 9 (a) and 9(b).)

b. On July 21, 2015, the 11th Circuit Court of Appeals enforced the Board's May 28, 2015 Order approving the parties' formal settlement stipulation in Cases 10-CA-133755, et al. These cases involved Respondent's failure to timely provide information upon request to the NALC Local 4862 and the APWU Local 32 at its Main Postal Facility, Carrier Annex and postal stores in the Roswell, Georgia area. (Exhs. 10 (a) and 10(b).)

c. On January 22, 2016, the 11th Circuit Court of Appeals enforced the Board's November 12, 2015 Order approving the parties' formal settlement stipulation in Cases 10-CA-143087, et al. These cases concerned Respondent's failure to timely provide information upon request to the NALC at its Athens, Georgia facilities located at 196 Alps Road (Suite 48), and 115 E. Hancock Ave. (Suite 100). (Exhs. 11 (a) and 11(b).)

d. On June 3, 2016, the 11th Circuit Court of Appeals enforced the Board's April 13, 2016 Order approving the parties' formal settlement stipulation in Cases 10-CA-149544, et al. These cases addressed Respondent's failure to timely provide information upon request to the NALC and the APWU, at 20 separate postal facilities throughout the Atlanta District, inside and outside of the City of Atlanta. (Exhs. 12(a) and 12(b).)

e. On August 23, 2016, the 11th Circuit Court of Appeals enforced the Board's June 30, 2016 Order approving the parties' formal settlement stipulation in Cases 10-CA-165443, et al. These cases involved Respondent's failure to timely provide information upon request to the NALC and the APWU, at 18 separate postal facilities inside and outside the City of Atlanta. (Exhs. 13(a) and 13(b).)

c. Respondent's initiatives in the Atlanta District to improve response time RFI

In its efforts to improve the time and efficiency with which it responds to information requests, Respondent has conducted information request training for supervisors and managers in numerous Atlanta District postal facilities. Samplings of sign-in sheets and training acknowledgment forms for these trainings, including those for offices where Respondent entered into settlement stipulations, range from January 2015 through December 2016. (Exhs. 14(a) and 14 (b).) More specifically, Respondent conducted training for numerous supervisors and managers: in January 2015, from several Atlanta District Roswell facilities; in August 2016 from 20 Atlanta District facilities; and in November and December 2016, from approximately 13 Atlanta District facilities. Additionally, in the fall of 2014, Respondent centralized its information request process for associate offices falling within the MPOO Area 1. Further, since September 2016, Respondent has appointed a full-time designated management official (DMO) to receive and document the processing of information requests on a centralized request log in that MPOO Area. Between September 1, 2016, and June 12, 2017, MPOO Area 1 received about 857 information requests. (SF, pp. 27-31.)

III. DISCUSSION AND ANALYSIS

A. The Parties’ Positions

5 As stated, the parties stipulate that on many occasions noted above and in SF (pp. 9–
23), between February 2016 and March 2017, at 14 different postal facilities, Respondent
delayed in furnishing requested relevant information to the Charging Party Unions in a
reasonable, timely manner. Therefore, the only issue presented to me for consideration is “the
geographical breadth of the proposed remedial order.”

10 The General Counsel contends that based on Respondent’s history of similar, recurrent
violations throughout the country and within the Atlanta District, any order should apply to 54
counties that comprise most of (and only) Respondent’s Atlanta District postal facilities, as
well as VMFs and the Atlanta NDC that do not fall within the Atlanta District. The General
15 Counsel further argues that Respondent’s purported remedial initiatives such as creating a
centralized RFI process, training supervisors, managers and temporary supervisors on the
process, maintaining RFI logs and disciplining supervisors and managers who do not comply
with the process, have not been adequate. The General Counsel maintains that Respondent’s
past and current violations in numerous offices show that it has failed to effectively
20 communicate throughout the Atlanta District its legal obligation to timely respond to
information requests. The General Counsel likens Respondent’s attempts at remedial efforts
to remedy these violations to the game of “Whack-a-Mole,” whereby as soon as Respondent’s
violation in one facility is resolved, a new charge or violation “pops” up in another. Thus, the
General Counsel relies on this extensive history to show Respondent’s proclivity to violate the
25 Act, and to support its contention that a broad remedial order is warranted in this case. (SF,
pp. 31–37.)

30 Respondent, on the other hand, opposes the assertion that any remedial order be
applied tracking Georgia county lines or to the 54 counties in Georgia or the entire Atlanta
District. Rather, Respondent believes that the 54-county area or a district-wide remedy is too
expansive, and not warranted because the alleged violations are “isolated, only pertain to a
very small percentage of facilities in the Atlanta District, and are unconnected to any unlawful
policy.” (SF, p. 37.) Respondent argues that the majority of the facilities at issue do not have
any history of RFI violations, and that most of the alleged violations involve discrete periods
35 of time. Respondent also argues that such a broad remedy would be ineffective since not all
of the facilities at issue here fall within the Atlanta District (e.g. the North Metro VMF which
reports directly to Respondent’s headquarters). Finally, Respondent cites its good-faith
efforts to improve the efficiency of the information request process and prevent violations, as
well as its demonstrated commitment to comply with existing Board and Court orders. Thus,
40 Respondent argues that the remedy be limited to the facilities where the alleged violations in
this case occurred.

B. Legal Standards

45 It is well established that an employer’s duty to bargain collectively under Section 8(a)
(5) of the Act includes the duty to furnish a union, upon request, with relevant information
necessary for the union to carry out the performance of its duties as the exclusive bargaining

representative of employees. *NLRB v Acme Industrial Co.*, 385 U.S. 432, 435-436 (1967); *NLRB v. Truitt Mfg. Co.*, 351 U.S. 149 (1956). The Board has found this duty requires a reasonable good faith effort to provide such information in a timely manner. *Allegheny Power*, 339 NLRB 585, 587 (2003); *Good Life Beverage Co.*, 312 NLRB 1060, 1062 fn. 9 (1993).
 5 Since Respondent stipulates that it unreasonably delayed in providing relevant information requested by the Charging Party Unions, I find that it has violated Section 8(a) (5) and (1) of the Act in doing so.

In *Hickmott Foods*, 242 NLRB 1357, 1357 (1979), the Board held that a broad
 10 injunctive relief, including a broad cease and desist order, is only warranted “when a respondent is shown to have a proclivity to violate the Act or has engaged in such egregious or widespread misconduct as to demonstrate a general disregard for the employees’ fundamental statutory rights.” Such a proclivity to violate the Act is usually found where the employer has a history replete with violations based on similar unlawful conduct. See *Control Services*, 314
 15 NLRB 421, 421 (1994) (Board found proclivity to violate the Act where employer violated the Act in that case and two prior cases); *Grinnell Fire Protection Systems Co.*, 335 NLRB 475 (2001); *Postal Service*, 339 NLRB 1162, 1163 (2003). The Board has also found that a broad posting requirement is appropriate when the employer demonstrated a “clear pattern or practice of unlawful conduct.” *Postal Service*, 339 NLRB 1162, 1162 (2003).

20 ***C. The Record Shows Respondent’s Proclivity to Violate the Act***

The General Counsel argues that Respondent’s consistent proclivity to violate the Act by refusing to respond or delaying in responding to relevant information requests is well-
 25 documented in many Board and Courts of Appeal decisions finding against Respondent throughout the country.¹⁰ See e.g., *Postal Service*, 354 NLRB 412, 417 (2009) (Respondent “has a long and checkered history throughout the United States . . . of violating the Act, including refusing to furnish information in a timely fashion.”) Indeed, the General Counsel’s brief and SF cite numerous Board decisions finding such violations. A summary of these
 30 findings shows that in the last 42 months, Respondent has had at least 21 Board orders issued against it for similar violations throughout the country. Additionally, the various settlement agreements in which Respondent has entered in the Atlanta District, along with Board orders approving and the four 11th Circuit, U.S. Court of Appeals consent orders enforcing settlement stipulations in the Atlanta District, alone, establish Respondent’s proclivity to violate the Act.¹¹
 35 Thus, I find that the evidence presented in this case, including admitted violations in this case, sufficiently establishes that within the Atlanta District alone, Respondent has shown a proclivity to violate the Act.

40 ***D. Request for Broad Remedy***

The General Counsel requests broad cease-and-desist and sweeping affirmative bargaining orders for Respondent’s unreasonable delay in providing relevant information to

¹⁰ For a sampling of Courts of Appeals decisions cited in the SF, see SF, p. 33, fn. 2.

¹¹ It is stipulated that these various settlement agreements in the Atlanta District also allow for their use of their admissions of such proclivity to violate the Act before the Board. (See Exhs. 8(a) and 8(b); also see, Exhs. 9(a), 9(b), 10(a), 10(b), 11(a), 11(b).)

the Unions in this case, and for Respondent’s past proclivity for violating Section 8(a) (5) and (1) of the Act on numerous occasions in the Atlanta District and throughout the country. In addition to extending the remedies to the 54 counties or the entire District, the General Counsel believes that the remedial orders should include “any other labor organization” language, and not just the Unions involved in the complaint.

The affirmative remedies requested by the General Counsel for all facilities in the 54 counties include, but are not limited to: waiving, for 30 days after the Board’s order, any contractual deadlines for filing/pursuing grievances related to the requested information at issue where the Unions missed deadlines due to Respondent’s delay; maintaining a RFI receipt and response log with detailed information for each facility; providing comprehensive RFI process training for each manager, supervisor and agent designated to receive union RFI at each facility within 30 days after entry of the Board’s order and annually thereafter; notifying union stewards at each facility whenever there is a change in the manager, supervisor or agent designated to receive RFI; conducting quarterly audit logs for each facility with detailed information, reporting requirements; and providing remedial training to all persons involved in untimely or inappropriate responses; posting the notice physically and electronically; and providing extensive written instructions to all permanent and acting managers and supervisors on how they should comply with the remedial order.¹²

While I find that traditional remedies are inappropriate in this matter, I reject the General Counsel’s argument for such nontraditionally expansive ones. Despite Respondent’s continued violations regarding delays in furnishing responsive information throughout the country, the Board has generally not ordered such sweeping remedies that have not been a part of the parties’ settlement stipulations. However, the Board has upheld cease-and-desist and certain affirmative orders against facilities in an entire postal district, which I believe are applicable here.

Respondent argues that its remedial efforts in the Atlanta District obviate the need for a broad order. I understand that Respondent has implemented RFI process training for managers and supervisors in many of its Atlanta District facilities, as well as a centralized process to receive and respond to information requests received in the Atlanta District’s MPOO Area 1 in response to recent Court orders. Additionally, Respondent has begun to require RFI process training to all new managers, supervisors and temporary supervisors. Although I commend these efforts, Respondent continues to have issues with furnishing timely responses to information requests in numerous facilities throughout the Atlanta District. Of concern, is the Atlanta District’s continued reactionary and piecemeal steps to address its proclivity to violate the Act in some facilities, while at the same time repeating similar conduct in violation of the Act in others. In fact, the Board has applauded such efforts on Respondent’s part in the past, but has at the same time noted that, “the Respondent’s history of past failures to address endemic resistance to these requests in various localities strongly suggests that neither self-help measures nor another narrowly-drawn Board cease-and-desist order will suffice to remedy this situation.” *Postal Service*, 345 NLRB 409, 411 (2005).

¹² For the complete, detailed requested remedy, see Exh. 2(d).

It is also evident in this case that additional narrowly drawn cease-and-desist and affirmative action orders will not suffice to remedy the situation. The violations in this consolidated complaint, occurring in numerous Atlanta District facilities, postdate implementation of Respondent’s 2014 centralized information request process for associate
 5 offices within its MPOO Area 1. Further, repeated delays in responding to information requests within the same district continued after the 2014 and 2015 broad Court orders, and resulted in the two most recent ones in January and June of 2016. Thus, I believe that a broad order at this time will best ensure maximum compliance with the Act.

10 Although Respondent contends the violations in this case amount to sporadic, de minimis, unintentional violations (only 3 percent of its Atlanta District facilities), they still constitute a repeated pattern and practice and affect 5 local unions and 14 postal facilities, 13 of which fall under the Atlanta District. Moreover, they involve multiple requests and delays at several of the same facilities, and Respondent did not provide many of its responses until
 15 the end of June 2017, immediately before and after complaints were issued. (Amended SF, Exhs. A-F.) The Board has previously mandated broad injunctive relief including district-wide posting by this Respondent where Respondent exhibited a pattern and practice of failing and refusing to provide or delaying in providing information to the union. *Postal Service*, 365 NLRB No. 92, slip op. at 1, fn. 2 (2017). Also see, *Postal Service*, 339 NLRB 1162, 1162
 20 (2003). Clearly, the four recent 11th Circuit enforced Orders in the Atlanta District have not precluded Respondent’s agents at its other facilities from continuing the practice of delaying their responses to the Union’s requests for relevant information.

25 The General Counsel’s recommended order covering the 54 Georgia counties would include oversight of Respondent’s nine VMFs facilities and the Atlanta NDC that do not fall under Atlanta District management. In support of this recommendation, the General Counsel argues that Respondent’s national contracts with both the APWU and NALC establish the Atlanta District’s labor policies, and as such, the VMFs and the Atlanta NDC within the 54-county area are centrally managed, as is the Atlanta District, by Respondent’s Washington,
 30 DC HQs. In other words, all of Respondent’s operations nationwide are ultimately centrally managed by its HQs. I reject this argument in that there is no evidence in this case nor precedent that I can find to support such a sweeping order, covering Respondent’s postal entities across several districts. Nor is there any evidence that management in the Atlanta District has any control over any facilities in any areas besides the Atlanta District. Further,
 35 limiting the remedies to all of the facilities falling under the Atlanta District postal facilities, rather than the 54 counties that include non-Atlanta District installations, will address any concerns such as those raised by the General Counsel that the Atlanta District will reconfigure its territorial zip code zones or change the parameters of its MPOOs as it has done in the past between its MPOO Areas 4 and 1. Moreover, there is no evidence here that Respondent
 40 restructured within its District lines to avoid having to comply with Court or Board orders, or otherwise comply with the Act.

Overall, I find that the evidence here is sufficient to show that Respondent has shown a proclivity to violate the Act, has engaged in such widespread conduct across the Atlanta
 45 District as to demonstrate a general disregard for the employees’ statutory rights and has displayed a “clear pattern or practice of unlawful conduct” by repeatedly delaying in the furnishing of requested relevant information. *Hickmott Foods*, above; *Postal Service*, 339

NLRB 1162, 1162 (2003). Recently, the Board upheld the judge’s recommended remedial order, including the district-wide notice posting, finding that such a broad notice was “necessary and—contrary to the General Counsel—sufficient ‘to dissipate fully the coercive effects of the unfair labor practices found.’” *Postal Service*, 365 NLRB No. 51, slip op. at 1, fn. 3 and 7 (2017), citing *Federal Logistics & Operations*, 340 NLRB 255, 256 (quoting *Fieldcrest Cannon, Inc.*, 318 NLRB 470, 473 (1995)), enfd. 400 F.3d 920 (D.C. Cir. 2005). Similarly, in this case, the numerous settlements, Board orders and Circuit Court of Appeals consent orders cited in the SF support issuance of a broad cease-and-desist order and notice posting affecting the entire Atlanta District.

I reject the General Counsel’s request and related arguments that an order requiring Respondent to take action on relevant information requests from the Unions in this case “and/or any other labor organizations . . . representing bargaining unit employees at the facilities located within” the 54 counties. No other unions have alleged violations in this case, and the Board, outside of approving Respondent’s settlement stipulations, has not taken such action.¹³ I also find that the broad cease-and-desist order and notice postings at all facilities within the Atlanta District, and the North Metro VMF also involved in this case, are sufficient to correct the effects of the unfair labor practices. Although Court orders are binding and important, the Board and Courts have not ordered such detailed, extensive affirmative remedies sought by the General Counsel, unless associated with enforcement of settlement stipulations between the parties.¹⁴ Moreover, I do not find that they are warranted in this case.

E. Respondent’s Defenses

Respondent unsuccessfully seeks to distinguish this case from cases in which the Board issued broad cease-and-desist orders against it, and to argue that the Board has generally issued narrow cease-and-desist orders in many RFI cases.

Respondent argues that when the Board issued a broad cease-and-desist order in *Postal Service*, 345 NLRB 409 (2005), enfd. denied in relevant part 477 F.3d 263 (5th Cir. 2007), it considered that in less than 2 years, the respondent had twice committed a series of RFI violations in the same facility. However, the Board has issued broad orders in cases that do not involve the same facilities, but many facilities within the same District. See *Postal Service*, 365 NLRB No. 92, above. Additionally, Respondent notes that in *Postal Service*, 360 NLRB 762 (2014), a traditional versus a broad order was upheld because 11 of the prior settlements, decisions and/or judgments cited that arose from the Detroit District, involved

¹³ See *Postal Service*, 10-CA-181705, et al. fn. 1 (January 24, 2018) (unpublished Board decision); *Postal Service*, 10-CA-185960, et al., an unpublished order issued January 24, 2018. The Board noted that the parties’ agreed upon remedy differed from previous Board orders such as that in *Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007). The latter case only involved three facilities contained in one location. The Board adopted the judge’s broad remedial cease-and-desist- order, but rejected the recommendation to extend it to all facilities within the City of Albuquerque. As stated, in the instant case, the evidence shows violations both within the City of Atlanta and outside the City—throughout the Atlanta District.

¹⁴ I note Respondent’s assertion that it was amenable to many of the requested extensive affirmative measures during settlement negotiations, as long as they were limited to the facilities involved in this case. (R. Br.) Although I believe that some of those actions would prove beneficial for Respondent in its efforts to comply with the Act, Respondent is not bound by its past settlement proposals.

areas outside of the city of Detroit, and of those that involved the city of Detroit, 3 predated the respondent’s centralized RFI process established in Detroit in 2012. The Board in that case affirmed the judge’s finding that a single violation for failure to furnish information following implementation of that process was “minor,” and sufficiently remedied with a traditional order. *Id.* However, the facts here differ in that Respondent here has violated the Act in a similar manner on numerous occasions and in various Atlanta District facilities inside the City of Atlanta and outside of the City. Additionally, it has done so in many cases, at various facilities, after the implementation of its centralized RFI process and implementation of a number of its other RFI trainings and processes.

Respondent cites the Board’s finding that a Houston, Texas district-wide posting was necessary only in light of the respondent’s similar, repeated past violations in that district despite repeated warnings, and no evidence of affirmative remedial steps to prevent future violations. *Postal Service*, 339 NLRB 1162, 1162–1163 (2003). The Board in that case also deemed Respondent’s violations to be “sporadic” and not egregious. *Id.* Although Respondent here has undertaken affirmative remedial actions in response to Board and Court enforced settlement stipulations, its recent history of violations have not shown that its refusals are merely sporadic. Further, the Board has since adopted a district wide posting in a case in which Respondent had implemented specific remedial protocol and processes for responding to RFI in a timely, efficient manner. See *Postal Service*, 365 NLRB No. 51(2017).

Respondent also relies on *Postal Service*, 354 NLRB 412 (2009),¹⁵ in which the Board substituted a narrow cease-and-desist order for the judge’s recommended broad order, but adopted the judge’s recommendation to not extend the order beyond the parties and locations involved. In that case, Respondent failed to timely provide requested information to only three facilities within the Albuquerque, New Mexico district. Although the judge ultimately distinguished the circumstances in the Albuquerque district from those in the Houston district case, *Postal Service*, 339 NLRB 1162 (2003), where the evidence established that Respondent had made no efforts to comply with Board orders and the Act, the judge rejected Respondent’s argument that the violations in the case were “de minimus,” relying on the Board’s determination in *Postal Service*, 345 NLRB 409 (2005), where the Board dismissed “the dissent’s contention that violations of the Act at individual post offices are ‘decidedly parochial’ given the massive, far flung, and decentralized operations of the post office nationally.” In that case, the Board insisted that repeated information request violations in various areas and facilities for over a decade “indicate that, absent effective orders aimed at higher management, not only are information request violations likely to recur . . . but it is also reasonably foreseeable that, as in Albuquerque, other unfair labor practices will be committed by local officials who have demonstrated their disregard for the Act and prior Board orders.” *Postal Service*, 345 NLRB 409 (2005); see also, *Postal Service*, 345 NLRB 426 (2005). Nevertheless, *Postal Service*, 345 NLRB 426, above, is distinguishable from the instant case in that it only involved 3 instances of information request delays, and it appears that the remedial efforts by Respondent extended throughout the district, rather than in a

¹⁵ The Board has not relied on this case as it was decided by a two-member Board. *Postal Service*, 365 NLRB No. 51, above, slip op. at fn. 2, citing *New Process Steel, L.P. v. NLRB*, 560 U.S. 674 (2010), but I have distinguished it nevertheless to the extent that the judge has cited proper Board law.

piecemeal fashion in certain offices. Similarly, in *Postal Service*, 345 NLRB 409, above, there were only 5 requests for information involving only 2-3 facilities. Here, in the Atlanta District, there were many more instances of delays in furnishing information in 14 facilities, post-dating many remedial efforts (not undertaken in all Atlanta District facilities), in addition to an extensive history of violating the Act in a similar manner.

Respondent does not address, however, the Board’s recent decision affirming the administrative law judge’s decision for a broad order extending throughout the entire Detroit, Michigan District. *Postal Service*, 365 NLRB No. 51, above. The Board’s order encompassed all of the Respondent’s facilities in the Detroit District, including the Ann Arbor Michigan installation specifically at issue in the case. In that case, Respondent delayed in responding to a series of information requests sent by the Union to an Ann Arbor facility between July 21, 2015 and September 25, 2015. Respondent’s delays occurred despite prior implementation of a system whereby a designated agent from either the Detroit district or the local postal facility provides timely responses to union information requests by designated agents within 5 days from receipt of the requests. In August 2012, the U.S. Court of Appeals for the Sixth Circuit issued a consent order directing that Respondent take certain measures to correct a pattern of failing to provide and delaying in providing information. As a result, Respondent implemented a system using a designated facsimile line to submit information requests to Respondent’s labor relations department in Detroit. The Board found the judge’s recommended remedial Order, including the district-wide notice posting, to be “necessary and . . . sufficient” to fully remedy the “coercive effects of the unfair labor practices.” *Postal Service*, 365 NLRB No. 51, above, slip op. at fn. 3 (quoting *Federated Logistics & Operations*, 340 NLRB 255, 256 (2003), quoting *Fieldcrest Cannon, Inc.*, 318 NLRB 470, 473 (1995), enfd. 400 F.3d 920 (D.C. Cir. 2005)).

Similarly, in the instant case, despite implementation of a centralized process in one of its areas, and numerous settlement stipulations and court consent orders, Respondent continued to delay in responding to numerous information requests from the various Unions on many occasions in numerous facilities across the Atlanta District. Repeated violations within the Atlanta District, whether intentional or not, should not be ignored. They harm Respondents’ employees by inhibiting the Unions from timely and effectively carrying out their representational duties and result in unnecessary piecemeal investigations and prosecutions of such unfair labor practices. Within 2 years (2014–2016), the Court of Appeals for the 11th Circuit entered four enforcement orders against Respondent involving at least 46 facilities within the Atlanta District, with two of those orders against Roswell, Georgia facilities. Although there is no evidence to establish that Respondent has an organizational policy of refusing to comply with prompt responses to information requests, refusing to comply with requests and/or delaying in responding to them have occurred repeatedly within the Atlanta District. As the Board has noted, “site-specific notice postings that have been useful in previous cases have not been successful in eradicating this pattern of misconduct, because these types of violations have continued to occur.” *Postal Service*, 339 NLRB 1162, 1162–1163 (2003). Therefore, I find that it is warranted in this case to recommend a broad cease-and-desist order and physical and electronic notice postings at each of Respondent’s Atlanta District postal facilities and at Respondent’s North Metro VMF.

CONCLUSIONS OF LAW

1. Respondent, the United States Postal Service, provides postal service for the United States and operates various facilities throughout the United States. The Board has jurisdiction over Respondent and this matter by virtue of Section 1209 of the PRA.

2. The APWU- Atlanta Metro Area Local 32, APWU- Atlanta Metro Area Local 012, APWU- Atlanta Metro Area Local 3434 and the NALC, Branch 73 (Unions) are labor organizations within the meaning of Section 2(5) of the Act.

3. By its unreasonable refusal to provide and/or delay in providing the necessary and relevant information requested by the Charging Party Unions since about February 14, 2016, as set forth in the Stipulated Record in this case, as well as the consolidated complaint at Exhibit 2(a) through 2(b), Respondent has engaged in unfair labor practices in violation of Section 8(a) (5) and (1) of the Act within the meaning of the PRA.

4. The above unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

The General Counsel requests that I order as appropriate remedies a broad cease-and-desist order and affirmative actions. These requests have been discussed and analyzed above. Pursuant to *Hickmott Foods*, 242 NLRB 1357 (1987), I have determined that Respondent has shown a proclivity to violation the Act or has engaged in such egregious conduct or widespread misconduct as to demonstrate a general disregard for its employees' statutory rights. Respondent has done so with an extensive history of violating the Act by refusing to furnish or delaying in furnishing requested information relevant and necessary for the respective Unions to carry out their duties as the exclusive bargaining representatives of their unit employees. Therefore, I recommend a broad cease-and-desist order affecting all current and future facilities comprising the Atlanta District and Respondent's North Metro VMF installation. Additionally, Respondent will be ordered to physically and electronically post the attached Appendix and Notice to employees in all of Respondent's Atlanta District facilities and in its North Metro VMF installation.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹⁶

¹⁶ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

ORDER

Respondent, United States Postal Service, in Atlanta, Georgia, and the Atlanta District, its officers, agents, successors, and assigns, shall

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1. Cease and desist from the following in connection with Respondent’s employees employed in each of Respondent’s current and any future facilities in the Atlanta District and in Respondent’s North Metro VMF:

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(a) Refusing to bargain collectively and in good faith with the American Postal Service Workers Union (APWU)- Atlanta Metro Area Local 32, APWU- Atlanta Metro Area Local 012, APWU- Atlanta Metro Area Local 3434 and the National Association of Letter Carriers (NALC), Branch 73 (Unions) by refusing to provide or unduly delaying in furnishing requested information in a timely manner that is relevant and necessary to the Unions’ performance of their duties as the exclusive collective-bargaining representatives of the employees in their perspective units within each of Respondent’s Atlanta District facilities and in Respondent’s North Metro Vehicle Maintenance Facility (VMF) installation in Duluth, Georgia.

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(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

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(a) Within 14 days after service by the Region, post at each of its facilities comprising Respondent’s Atlanta District and Respondent’s North Metro VMF installation in Atlanta, Georgia, copies of the attached notice marked “Appendix.”¹⁷ Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 14, 2016.

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¹⁷ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading “Posted by Order of the National Labor Relations Board” shall read “Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.”

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

5 Dated, Washington, D.C., February 8, 2018.



Donna N. Dawson
Administrative Law Judge

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APPENDIX

**NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively and in good faith with the American Postal Service Workers Union (APWU)- Atlanta Metro Area Local 32, APWU- Atlanta Metro Area Local 012, APWU- Atlanta Metro Area Local 3434 and the National Association of Letter Carriers (NALC), Branch 73 (Unions) by failing and refusing to furnish them or by unduly delaying in furnishing them with requested information in a timely manner that is relevant and necessary to the Unions' performance of their duties as the collective-bargaining representatives of our unit employees employed at any of our current or future Atlanta District facilities or at our North Metro VMF installation in Duluth, Georgia.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

UNITED STATES POSTAL SERVICE

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

Harris Tower, 233 Peachtree Street N.E., Suite 1000, Atlanta, GA 30303-1531
(404) 331-2896, Hours: 8 a.m. to 4:30 p.m.

The Administrative Law Judge's decision can be found at www.nlr.gov/case/10-CA-173471 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

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. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (205) 518-7517.