

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any formal errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD**

In the Matter of:

American Federation of Government
Employees, Local 1975,

Petitioner,

and

Department of Public Works,
Design Engineering Construction,
Bureau of Transportation Construction
Services, Design and Engineering
Division, Construction Management
Division, Tree and Landscape Division
and Public Space Control Division,

Agency.

PERB Case No. 95-RC-10
Opinion No. 446

**DECISION ON UNIT DETERMINATION
AND DIRECTION OF ELECTION**

On February 1, 1995, American Federation of Government Employees, Local 1975, AFL-CIO (AFGE) filed a Recognition Petition in the above-captioned proceeding. AFGE seeks to represent, for purposes of collective bargaining, a unit of unrepresented professional and technical employees of the District of Columbia Department of Public Works (DPW), Design Engineering Construction Administration, Bureau of Transportation Construction Services, Design and Engineering Division, Construction Management Division, Tree and Landscape Division, and Public Space Control Division. The Petition was accompanied by a showing of interest meeting the requirement of Board Rule 502.2, and a Roster of Petitioner's Officers and a copy of Petitioner's Constitution and Bylaws, as required by Rule 502.1(d). The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of the Department of Public Works (DPW), filed a response to the Petition on May 9,

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1995.^{1/}

Notices concerning the Petition were issued on June 20, 1995, for conspicuous posting where bargaining unit employees are located at DPW. The Notice required that requests to intervene or comments be filed in the Board's office not later than July 24, 1995. OLRCB confirmed in writing that said Notices had been posted accordingly. No requests to intervene were received.

The unit sought by AFGE is as follows:

"All unrepresented professional and technician (sic) employees of the Department of Public Works, Design Engineering Construction Administration, Bureau of Transportation Construction Services, Design and Engineering Division, Construction Management Division, Tree and Landscape Division, and Public Space Control Division; excluding all management officials, supervisors, confidential employees, any employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139."^{2/}

^{1/} OLRCB's failure to respond timely to the inquiries made during the investigation of this Petition greatly delayed the disposition of this matter.

^{2/} AFGE amended its original Petition by adding "unrepresented" to the unit description. The proposed unit consists of approximately 115 professional and technical employees. The Petitioner asserts that they had previously represented some of the technical employees pursuant to their certification as the representative of a unit of "[a]ll non-supervisory employees of the Bureau of Traffic and Adjudication and Bureau of Parking and Enforcement", in the Department of Transportation as set forth in American Federation of Government Employees, Local 1975 and D.C. Department of Transportation, PERB Case No. 81-R-07, Certification No. 7 (October 19, 1981). AFGE asserts that these employees were arbitrarily removed in 1982 and eventually, after the Department of Transportation was dissolved, were reorganized under the Department of Public Works. AFGE contends that they continue to represent these technical employees notwithstanding the fact that they are now under the Department of Public Works, Design Engineering
(continued...)

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D.C. Code § 1-618.9(a) requires that a community of interest exist among employees for a unit to be found appropriate by the Board for collective bargaining over terms and conditions of employment. An appropriate unit must also promote effective labor relations and efficiency of agency operations.

Our review of the Petition and attached exhibits reveals that the proposed unit currently consists of the following employee positions: civil engineer, structural engineer, highway engineer, electrical engineer, civil engineering technician, engineering aide, construction inspector, tree trimmer, landscape gardener equipment operator, tree maintenance monitor, landscape gardener operator leader, tree trimmer trainee, chipperman, sprayer/driver, landscape gardener operator, landscape gardener foreman, bio technician, tree disease insect controller, tree trimmer/truck driver, and secretary. All employees in these three divisions of DPW share a common mission within, as well as common oversight by, the same organizational sub-component of DPW (i.e., the Design Engineering Construction Administration, Bureau of Transportation Construction Services). Also, they are all in the same physical location.

In view of the above, sufficient factors exist for the Board to find that these employees share a community of interest. A unit of all employees that share a common mission with respect to one of DPW's organizational sub-components would, in our view, promote effective labor relations and efficiency of agency operations.

Regarding the question of representation, the Board orders that an election be held to determine the will of the eligible employees in the unit described above regarding their desire to be represented by AFGE for purposes of collective bargaining with DPW

²(...continued)
Construction Administration.

The PERB has never certified AFGE as the exclusive representative of the unit of employees described in the Petition, and no recognition of AFGE by DPW of this proposed unit exists in accordance with the CMPA, as codified under D.C. Code § 1-618.9, 1-618.10 and 1-618.11, and the Board's Rules. While AFGE believes that they should be deemed the representative of the technical employees in the proposed unit, we find no conclusive evidence establishing AFGE's claim. Therefore, we find nothing that prevents these employees from being part of the proposed unit. Moreover, AFGE has decided not to press the issue further, opting instead to allow the will of the employees in the proposed unit to resolve the issue of their representation.

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on compensation and other terms and conditions of employment. To conform with the requirements of D.C. Code Sec. 1-618.9(b)(5), concerning the inclusion of professional employees and non-professional employees in the same unit, and consistent with Board Rule 510.5, eligible professional employees shall indicate their choice on separate ballots as to (1) whether they desire to be represented for bargaining on terms and conditions of employment by AFGE; and (2) whether they wish to be included in the consolidated unit with non-professional employees. Eligible non-professional employees, in the same election, shall indicate their choice only as to the former question. ^{3/}

ORDER

IT IS HEREBY ORDERED THAT:

1. The following unit is an appropriate unit for collective bargaining over terms and conditions of employment:

All unrepresented professional and technical employees of the Department of Public Works, Design Engineering Construction Administration, Bureau of Transportation Construction Services, Design and Engineering Division, Construction Management Division, Tree and Landscape Division, and Public Space Control Division; excluding all management officials, supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

2. Furthermore, an election shall be held in accordance with the provisions of D.C. Code Sec. 1-618.10 and Sections 510-515 of the Rules of the Board to determine whether or not (1) all eligible employees desire to be represented for bargaining on terms and conditions of employment by the American Federation of Government Employees, Local 1975, AFL-CIO; and (2) eligible professional

^{3/} Pursuant to D.C. Code Sec. 1-618.9(b)(5), a unit of professional employees will not be included in a unit with non-professional employees unless the majority of the professional employees vote for inclusion, as directed above.

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employees wish to be included in the consolidated unit with non-professional employees. Eligible non-professional employees, in the same election shall indicate their choice only as to the former question.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

August 1, 1995