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

In the Matter of:

District of Columbia
Department of Employment Services,

and

American Federation of Government
Employees, Local 1000, AFL-CIO

Co-Petitioners.

PERB Case No. 94-R-05
Opinion No. 395

DECISION AND ORDER

On June 8, 1994, the D.C. Department of Employment Services (DES) and the American Federation of Government Employees, Local 1000, AFL-CIO (AFGE), in accordance with Section 504 of the Rules of the Public Employee Relations Board (Board), filed a Joint Petition For Modification of Units (Petition). The Petition concerns a unit of employees employed by DES previously found appropriate by the Board for collective bargaining and for which AFGE is the certified exclusive representative. ^{1/}

In accordance with Board Rule 504.3, Notices concerning the Petition were posted. No requests to intervene, comments or objections to the Petition were received by the Board.

The Petitioners seek to modify the existing non-compensation unit by including within the unit description certain employee classifications and divisions of DES, i.e., Quality Control Unit

^{1/} AFGE was first certified as the exclusive representative for a non-compensation unit of non-professional employees at DES American Federation of Government Employees, Local 1000 and the D.C. Department of Employment Services and the American Federation of State, County and Municipal Employees, D.C. Council 20, AFL-CIO, PERB Case No. 0R006, Certification No. 9 (1981).

and Office of Finance. (Pet. at 4 and 5.) Currently, the proposed modification would add 31 employees to the established unit of approximately 604 employees.

According to Petitioners, the Quality Control Unit is a component of the Office of Compliance and Independent Monitoring. The Office of Finance did not exist at the time this unit was determined. It was created by a reorganization of the Office of Budget and Finance. The employees in the Office of Compliance and Independent Monitoring and the non-clerical employees in the Office of Budget and Finance were originally excluded by the Board as "either managerial or confidential roles sufficiently involved in labor relations and policy formulation matters to justify their exclusion from the unit." American Federation of Government Employees, AFL-CIO and D.C. Department of Employment Services and American Federation of State, County and Municipal Employees, AFL-CIO, 28 DCR 3458, 3460, Slip Op. No 14 at 3, PERB Case No. OR006 (1981).

Petitioners state that the proposed modification would add employees from these divisions that no longer function in the capacity which previously served as the basis for the Board's exclusion of them from the unit. The Quality Control Unit formerly assessed and verified the work of the Unemployment Compensation Division claims examiners --who are part of the existing unit. These duties entailed referring errors found in examiners' work to the appropriate DES office for final adjudication and review, and reporting the results to the Director. These employees no longer review the work of bargaining unit employees, rather, quality control is maintained by "reviewing a sample group of claimants" with the results reported to the U.S. Department of Labor. (Pet. at 3 and 4.)

The Office of Finance was created by a recent realignment in the Office of Budget and Finance. As a result of this realignment, employees in this division of DES were divided into two separate offices, i.e., the Office of Budget and Accounting and the Office of Finance. The Office of Budget and Accounting continued to perform the duties of the former Office of Budget and Finance. The Office of Finance was created to perform "duties that were no longer compatible with the current Office of Budget and Accounting." (Pet. at 5.) These duties include providing "fiscal and procurement support to ensure that the DOES mission is accomplished in accordance with all legislative requirements, and the policies and objectives of the agency Director and Mayor." Id. The Office of Finance develops long-range plans to ensure the timely performance of the work activities for three component divisions, i.e., Accounts Payable, Payroll, and Disbursing Division; the Labor Standards Division; and Contracts Division.

Board Rule 504.1(b) provides that a unit modification may be sought "to add to an existing unit unrepresented classifications or employee positions created since the recognition or certification of the exclusive representative." We conclude, however, that this explicit claim is immaterial, since the requested modification seeks to add to an existing unit previously unrepresented classifications or positions of employees whose duties have been significantly altered since AFGE's certification as the unit's exclusive representative.

Notwithstanding our initial finding in PERB Case No. OR006 that some of the duties of these employees were sufficiently confidential to require their statutory exclusion from the unit, these employees were, otherwise, found to share a community of interest with the existing unit. See D.C. Code Sec. 1-618.9(b)(2). The above-noted tasks of employees in the new Office of Finance and the evolved duties of employees in the Quality Control Unit essentially facilitate the accomplishment of DES' mission. These duties do not sufficiently involve the internal administration of the agency with respect to confidential labor relation matters. We find that the duties of these employees no longer require their exclusion from the existing unit.

In view of DES' reorganization and the significant change in duties that these employees have undergone since this unit was first established, we find the Petition seeks to add to an existing unit previously unrepresented classifications or employee positions that, in effect, were created since AFGE's recognition or certification. We therefore conclude for the following reasons that the modification of this unit is appropriate: (1) the modification is in accordance with Board Rule 504.1(b) and (2) the proposed modification conforms with the requirements of D.C. Code Sec. 1-618.9(a) for the establishment of non-compensation bargaining units.

Accordingly, we grant the Petition for modification of the non-compensation unit as described and set forth below in the Order.

ORDER

IT IS HEREBY ORDERED THAT:

The non-compensation unit for which the American Federation of Government Employees, Local 1000 (AFGE) is certified as the exclusive representative in PERB Case No. OR006 (Amended Certification No. 9) is modified as set forth below in the "unit description" to include the non-managerial, non-supervisory and non-confidential employees in the Quality Control Unit, Office of Compliance and Independent Monitoring and the Office of Finance at

Decision and Order
PERB Case No. 94-R-05
Page 4

the Department of Employment Services. It is also modified to reflect the reorganization of the Office of Budget and Finance into the Office of Budget and Accounting.

Unit Description:

All non-professional employees of the Department of Employment Services; excluding all employees of the Office of the Director; all employees, except the Quality Control Unit, of the Office of Compliance and Independent Monitoring; all employees except those in purely clerical capacities of the Office of Budget and Accounting and Office of Equal Employment Opportunity; all Comprehensive Employment Training Act (CETA) employees; all management officials, confidential employees, and supervisors; any employee engaged in personnel work in other than a purely clerical capacity; and any employee engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.
August 11, 1994