

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

STATION AND BRANCH OPTIMIZATION AND  
CONSOLIDATION INITIATIVE, 2009

Docket No. N2009-1

OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO MOTION OF  
THE AMERICAN POSTAL WORKERS UNION TO COMPEL RESPONSES TO  
APWU/USPS-T2-3(a-c), T2-8 AND APWU/USPS-DR-1 THROUGH DR-3

(August 28, 2009)

On July 7, 2009, the Postal Service filed objections to the above-referenced interrogatories and document requests. On August 22, the American Postal Workers Union filed a motion seeking to compel responses. The Postal Service hereby opposes that motion. Each of the interrogatories is quoted below. An explanation of why the motion should be denied follows each interrogatory or related interrogatories.

**APWU/USPS-T2-3**

At page 1 of its motion, APWU argues that disclosure of the requested information would “enable the parties and the Commission to understand the scope of the . . . [SBOC] Initiative in comparison to consolidations and closures implemented . . . outside the Initiative.” To the contrary, the Postal Service submits that there is nothing to be learned about the scope of the centrally-directed Station and Branch Optimization and Consolidation (SBOC) Initiative, the original focus of which was a specifically-defined subset of 3600 stations and branches which have been targeted for review for the reasons explained in the testimony of witness VanGorder (USPS-T-1), by examining a smattering of

unrelated, locally-initiated discontinuance decisions initiated by the District offices of their own volition over the course of four years for disparate reasons having nothing to do with the driving forces behind the SBOC Initiative.

**Subpart (a)**

On page 7, Table 1 of your testimony you provide the number of station and branch closures during the past four fiscal years.

(a) Please provide the number of discontinuance review studies that were performed on station and branches each year during FY2005-FY2008.

The Postal Service's response today to Question 16 of Commission Information Request No. 1 would appear to moot the controversy between the parties with respect to this interrogatory, insofar as it requests the number of locally-initiated discontinuance review studies that resulted in a determination by Headquarters to discontinue a station or branch. Still, this interrogatory seeks to establish whether the 21 Headquarters decisions documented in response to Question 16 of Commission Information Request No. 1 represent all or some smaller percentage of all stations and branches that were, at any time, the subject of a discontinuance study initiated by any District office during FY 2005-08.

The Postal Service has no centralized database from which it could be determined if and how many discontinuance studies may have been initiated by each of the 80 District offices in existence between FY 2005-08. Such studies may have been concluded or abandoned, without being circulated to an Area office or to Headquarters for consideration or decision. Nevertheless, the requested number is irrelevant to the issue of whether any changes in the nature of postal services that could result from the implementation of the Station and

Branch Optimization and Consolidation Initiative in FY 2010 conform to the policies of title 39, United States Code.

The only way that the Postal Service could undertake to determine this figure would be to require its current 74 District offices to examine whether any available records might contain such information, and to canvass employees in each District office to determine whether any of them have sufficiently reliable recollections to provide a basis for reporting any additional responsive information. Assuming *arguendo*, that the Commission were to consider the total number of stations and branches subjected to any measure of discontinuance review between FY 2005-08 relevant in some way to the advice it intends to offer in response to the Postal Service's Docket No. N2009-1 request, the Commission's determination should balance the weight, or lack thereof, that the requested information could bring to bear on that advice against the burden imposed by production of the requested information. Assume that it took only one workhour for each District office to scour its records and canvass its employees, and took Headquarters only several hours to compile the data reported to it. The Postal Service submits that such a burden of production – whether the resulting total – whether the resulting total be 21 or 210 – grossly outweighs any bearing that that total could have on the question of whether any changes in the nature of postal services that could result from the implementation of the Station and Branch Optimization and Consolidation Initiative in FY 2010 conform to the policies of title 39, United States Code.

**Subpart (b)**

This interrogatory requests the number of consolidation studies that were performed on station and branches each year during FY2005-08, and the number of such studies that resulted in a consolidation (as opposed to a discontinuance) of operations.

As the USPS Handbook PO-101 (USPS Library Reference N2009-1/3) makes clear, Post Offices are the subject of a formal study process intended to examine either the discontinuance or consolidation of their retail operations. On the other hand, stations and branches are the subject of a similar process that is only initiated for the purpose of considering whether to discontinue retail operations altogether. Thus, while it may not be the objective, the result of a station/branch discontinuation study may be a consolidation of some of the retail operations of a station into a nearby Post Office, station or branch.

With that as background, the Postal Service submits that the considerations that militate against compelling a response to subparts (a) above apply with equal force to subpart (b).

**Subpart (c)**

As the APWU can confirm from USPS Library References N2009-1/1 and N2009-1/2 and the decision documents provided in response to its July 17, 2009 collective bargaining request, those documents do not necessarily include references to the EAS pay grade of the Postmaster to whom the facility reported, as such information formerly was not required to be recorded for purposes of the discontinuation review process.

Nevertheless, the Postal Service submits that whether 3 or 13 or all 21 of the stations and branches that were discontinued during FY 2005-08 reported to Postmasters at or above the EAS-24 pay grade is irrelevant to the issue of whether any changes in the nature of postal services that could result from the implementation of the SBOC Initiative in FY 2010 would conform to the policies of title 39, United States Code. It seems unreasonable to expect that any aspect of the Commission's Docket No. N2009-1 opinion could be affected by knowing the number of stations/branches consolidated in FY200508 that reported to Postmasters at or above the EAS-24 pay grade. In order to determine that number, the Postal Service would need to pore through an estimated several thousand pages of hard-copy records cumulatively contained the 21 discontinuance files to see whether any records reflect the pay status of the Postmaster to which the discontinued station/branch reported. It is estimated that 20 workhours of skimming through the files would be needed to search through a score of files similar to USPS Library References N2009-1/1 and N2009-1/2 to see which, in any contain the requested data. To fill the gaps likely left by that process, additional historical files and the recollections of field personnel would need to be consulted in the hope that the requested information might be available.

Assuming *arguendo*, that the Commission were to consider that the requested number was relevant in some way to the advice it intends to offer in response to the Postal Service's Docket No. N2009-1 request, the Commission's determination should balance the weight that the requested information could

bring to bear on the material issues in this docket against the burden imposed by production of the information. When the Postal Service initially confronted this interrogatory, it was believed that 96 discontinuance decisions were at issue at an unknown number of District offices. As reflected in the response to Question 16 of Commission Information Request No. 1, it is now known that 21 facilities in 14 District offices are involved. Since there was no requirement that responsive Postmaster pay grade information be recorded as part of each locally-initiated discontinuance review study, there is no expectation that such information will be found among the estimated several thousand pages of documents that comprise the 21 approved discontinuance review files that would need to be examined. To fill gaps left by a manual review of these records, it would be necessary to make inquiries of personnel in each District office, in the hope that other records pertaining to each discontinued facility still existed that might shed light on the pay grade of the Postmasters to whom these former facilities used to report, or that information could be reported on the basis of personal recollections of field personnel deemed sufficiently reliable. The same burden applies to any files that may exist for discontinuance studies that were initiated but never completed or forwarded to the Area or Headquarters for review.

Accordingly, the Commission should conclude that the Postal Service not be required to respond to the disputed portions APWU/USP-T2-3.<sup>1</sup>

---

<sup>1</sup> Alternatively, in response to each subpart of this interrogatory, and for purposes of this litigation only, the Postal Service is willing to negotiate with the APWU to stipulate to any reasonable numbers in response to these questions, since the exact numbers are presently unknown and have no bearing on any material issue in this docket.

## **APWU/USPS-T2-8**

For each of the 21 FY 2005-08 station/branch closures alluded to in Table 1 of USPS-T-2 (as amended), this interrogatory requests that the Postal Service determine whether:

a Contract Postal Unit (CPU) existed in the area served by the station or branch and, where such a CPU did exist, provide a copy of the contract for the period in which the station or branch closed.

As is demonstrated by the attachment to this opposition, this interrogatory seeks to explore matters related to a collective bargaining issue recently raised by APWU – whether stations/branches have been discontinued by the Postal Service in the past several years for the purpose replacing them with contract postal units, to the detriment of APWU members. With all due respect to the Commission, the Postal Service submits that the Commission has no jurisdiction to resolve postal labor-management issues and should discourage both postal management and postal unions from using its dockets as venues for exploration of such issues.

Moreover, whether or not any of the stations or branches discontinued in FY 2005-08 had CPU's nearby, or what the terms of any of those CPU contracts may have been, are matters that are irrelevant to the question of whether any changes in the nature of postal services that could result from the implementation of the SBOC Initiative in FY 2010 would conform to the policies of title 39, United States Code. Accordingly, the Postal Service should not bear the burden of searching for and retrieving copies of contracts pertaining to any such CPUs.

In contrast to APWU/USPS-T2-8, a proper nexus between CPU's and the SBOC Initiative is reflected in two interrogatories to which Postal Service witness VanGorder responded on August 25, 2009: VP/USPS-T1-8(b) and (g). There, she provides the number of SBOC Initiative candidate stations and branches (as of July 28<sup>th</sup>) that were known to have a Contract Postal Unit in the same 5-digit ZIP Code area, and explains the relationship between CPU's and stations/branches that might be discontinued as part of the SBOC Initiative.

#### **APWU/USPS-DR-1**

This document request seeks “copies of all written guidance provided to managers at any level of the Postal Service about how to carry out the Stations and Branches Optimization Initiative, including without limitation all handbooks, manuals, documents similar to handbooks and manuals however denoted, memorandums, e-mails, letters, power point presentations, forms, and instructions.”

On its own impetus and in response to various interrogatories and information requests, the Postal Service has provided the SBOC guidance reflected in USPS-T-2; as well as that in Library References N2009-1/3 (USPS Handbook PO 101, Post Office Discontinuance Guide); N2009-1/5 (Discontinuance of Classified Stations and Branches Training Slides); N2009-1/6 (Station/Branch Optimization/Consolidation Initiative Decision Package Sample Documents and Instructions); and N2009-1/8 (SBOC Initiative Training and Guidance Communications to Field Managers); as well as several interrogatory responses. It is the Postal Service's intent to provide copies of any other similar

documents that are broadcast by the SBOC Initiative administrative team to all 9 Area offices or all 74 District Offices for purposes of instructing field personnel how to implement the Initiative.

The Postal Service's objection to this interrogatory centers on the fact that its breadth encompasses at least one communications prepared by postal counsel and disseminated to field managers regarding inter-agency differences in interpretations of the scope of the Commission's 39 U.S.C. § 404 review jurisdiction. These documents reflect attorney work-product and attorney-client communications that are intrinsically privileged and exempted from discovery.

#### **APWU/USPS-DR-2**

This document request seeks "copies of the documents explaining and supporting each [station/branch discontinuance] decision [referenced in USPS-T-2, Table 1, as amended], including all related communications between and among local, District, Area and Headquarters managers.

The Postal Service has responded affirmatively to APWU's July 17, 2009, collective bargaining request for copies of FY 2005-08 station/branch discontinuance decisions. (See attached August 28, 2009, transmittal letter.) As indicated in that transmittal, the parties still are at loggerheads over the issue of access to the underlying decision packages (excluding the two already provided in the form of USPS Library References N2009-1/1 and N2009-1/2).

As is the case with interrogatory APWU/USPS-T2-8, this document request seeks to explore matters related to a collective bargaining issue recently raised by APWU – whether stations/branches have been discontinued by the Postal

Service in the past for the purpose replacing them with contract postal units. Again, the Postal Service respectfully urges the Commission to resist allowing parties to convert its section 3661 dockets into venues for the exploration of such collective bargaining issues. Such matters should be resolved in accordance with processes spelled out in applicable collective bargaining agreements before other agencies charged with resolving such matters.

The two decision packages provided in the form of USPS Library References N2009-1/1 and N2009-1/2 were filed solely to illustrate the form of the discontinuance review study process. They were not provided as representative of stations/branches generally subject to discontinuance or as representative of those expected to be subject to discontinuance as part of the SBOC Initiative.

At page 2 of its motion, APWU argues that all 21 decision packages are necessary:

to obtain a better understanding of the Initiative going forward. There is no information in the record about what may happen in the future, therefore, the *only* way to understand what is possible and why is to review information about that happened in the past.” (Emphasis in original.)

At page 3, APWU asserts that the requested information is “necessary to fully understand the proposed Initiative and its impact on postal services.”

These assertions are transparently hollow. The unconnected, locally-initiated discontinuance proposals provide no substantive insight into the results that might be generated by a centrally-directed, potentially substantially nationwide discontinuance initiative driven by a particular set of over-arching program goals. The entire past is not prologue. In order understand the material

aspects of the SBOC Initiative, APWU is encouraged is to read or ask questions about the SBOC Initiative.

To the limited extent that the Commission deems the past to be prologue, it is scheduling two field hearings for next month, at which previous selected discontinuance decisions will become the subject of its examination. The Postal Service submits that the parties' exploration of past discontinuance decisions should be circumscribed by the limited purposes for which those field hearings are being established, and that the Postal Service should not bear the burden of the examination of each and every FY 2005-08 station/branch discontinuance decision in Docket No. N2009-1 that APWU seeks to impose.

This document request also seeks copies of "all . . . communications between and among local, District, Area and Headquarters managers" related to all station/branch discontinuation proposals approved by Headquarters between FY 2005-08. There is no reliable central database that would identify the names of postal employees in what were once 80 District offices and 10 Area offices who may have communicated among themselves and with personnel at Headquarters concerning the 21 station/branch discontinuance proposals approved by Headquarters. Responding to this request would require examination of countless hard-copy files in corresponding Area and District offices. It would also require the design and execution of an electronic file search of all such offices, and the manual examination of innumerable records to sort out what might be responsive, relevant and non-privileged. It is estimated that such an undertaking would require thousands of workhours, and would paralyze

the resources devoted to the litigation of this docket. At page 3 of its motion, APWU asserts that such an undertaking is “necessary to a full understanding of the proposed Initiative and its impact on postal services.” For an understanding of the scope of the SBOC Initiative, APWU is invited to monitor the periodic status reports to be filed in USPS Library Reference N2009-1/4. The testimony of witness VanGorder provides the “insight and perspective to the [SBOC] Initiative” to which APWU refers at page 2 of its motion. The “likely results” (APWU motion at 2) of the SBOC Initiative, in terms of potential changes in the nature of postal services are described in USPS-T-1 at 12-13 APWU/USPS-DR-3 seems clearly designed to serve some other agenda.

### **APWU/USPS-DR-3**

This document request solicits a list of:

all Station and Branch closure proposals or requests submitted to postal headquarters during FY2005-FY2008 that were not carried out and [asks the Postal Service to] provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.

As indicated in the August 7th objection to this interrogatory, any number of station/branch discontinuance proposals may have been initiated in the 80 District offices between FY 2005-08 that never were completed or submitted to Headquarters for review. It is known that 21 proposals that advanced to Headquarters resulted in decisions by Headquarters to discontinue. Files pertaining to any proposals denied by Headquarters were shipped back to the Districts, where they are retained for two years. Thus, there is no basis for expecting that any such files for FY 2005-06 would be located out in the field.

APWU's argument is reduced to this: there may have been some unconnected local station/branch discontinuance proposals rejected by Headquarters in FY 2007-08 and returned to one or more of the then 80 District offices; therefore, if any District files exist, their disclosure is "necessary to fully understand the proposed [SBOC] Initiative and its impact on postal services." APWU motion at 3. This is not an argument, but a *non sequitor*. There is nothing of substance to be understood about the SBOC Initiative, which is currently unfolding and ripe for discovery, by examination of any files relating to random, rejected pre-SBOC discontinuance proposals.<sup>2</sup>

This document request also seeks copies of "all . . . communications between and among local, District, Area and Headquarters managers" related to any station/branch discontinuation proposals rejected by Headquarters between FY 2005-08. The grounds for rejecting APWU's motion to compel a response to APWU/USPS-DR-2 are explained above and apply with equal force here.

For the foregoing reasons, the motion to compel should be denied.

---

<sup>2</sup> At pages 7-8 of its August 7<sup>th</sup> objections to these document requests, the Postal Service mistakenly asserted that, consistent with long-standing policy, copies of such discontinuance rejection decisions by Headquarters (as opposed to the decision packages shipped back to the field) were on file and available for inspection at the USPS Headquarters Library. Upon further review, the Postal Service has identified a deficiency in its compliance with that policy, meaning that any such FY 2005-08 station/branch discontinuance rejection decisions that may have been made are not likely available for inspection there at all and may only exist in the District offices in which they originated. If any could be located, their numbers are expected to be fewer than the proposals that were approved.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

Daniel J. Foucheaux  
Chief Counsel, Pricing and Product Support

---

Michael T. Tidwell

475 L'Enfant Plaza West, S.W.  
Washington, D.C. 20260-1137  
(202) 268-2998; Fax -5402  
August 28, 2009



## American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

July 17, 2009

William Burrus  
President  
(202) 842-4246

### By Facsimile and First Class Mail

Douglas A. Tulino  
Vice President, Labor Relations  
United States Postal Service  
475 L'Enfant Plaza, SW  
Washington, DC 20260-4100



#### National Executive Board

William Burrus  
President

Cliff Guffey  
Executive Vice President

Terry R. Stapleton  
Secretary-Treasurer

Greg Bell  
Director, Industrial Relations

James "Jim" McCarthy  
Director, Clerk Division

Steven G. Raymer  
Director, Maintenance Division

Robert C. "Bob" Pritchard  
Director, MVS Division

Bill Manley  
Director, Support Services Division

Sharyn M. Stone  
Coordinator, Central Region

Mike Gallagher  
Coordinator, Eastern Region

Elizabeth "Liz" Powell  
Coordinator, Northeast Region

William E. "Bill" Sullivan  
Coordinator, Southern Region

Omar M. Gonzalez  
Coordinator, Western Region

Re: Request for Information Related to Stations and  
Branches Optimization Initiative

Dear Mr. Tulino:

In accordance with Articles 5 and 31.3 of the National Agreement and the National Labor Relations Act, the APWU requests that the Postal Service provide the following information related to the Postal Service's Stations and Branches Optimization Initiative.

- Copies of all written guidance provided to managers at any level of the Postal Service about how to carry out the Stations and Branches Optimization Initiative, including without limitation all handbooks, manuals, documents similar to handbooks and manuals however denoted, memorandums, e-mails, letters, power point presentations, forms, and instructions.
- With reference to the stations and branch closures FY2005-FY2008 reported to the Postal Regulatory Commission in Case No. N2009-1 provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.
- For each of the station and branch closures FY2005-FY2008 reported to the Postal Regulatory Commission in Case No. N2009-1 state whether or not a Contract Postal Unit (CPU) existed in the area served by the station or branch and, where such a CPU did exist, provide a copy of the contract for the period in which the station or branch closed.

Letter to John Dockins  
July 17, 2009  
Page Two

- List all Station and Branch closure proposals or requests submitted to postal headquarters during FY2005-FY2008 that were not carried out and provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.

Because the Stations and Branches Closure Initiative is ongoing and threatens irreparable harm due to violations of the rights of APWU represented employees. We request that the responses to these information requests be expedited as much as possible. Please provide all information as it becomes available rather than waiting to provide all requested information at once.

Information should be provided to Executive Vice President Cliff Guffey.

Thank you for your prompt attention to these requests.

Sincerely,



William Burrus  
President

WB/lbb  
opeiu#2, afl-cio

cc: Cliff Guffey  
Greg Bell

LABOR RELATIONS



July 21, 2009

Mr. William Burrus  
President  
American Postal Workers Union,  
AFL-CIO  
1300 L Street NW  
Washington, DC 20005-4128

Transmitted by email upon request

Dear Bill:

Re: IR09-73, Stations and Branches Optimization Initiative

This letter is to acknowledge receipt of your July 17 request for information regarding the above subject which was received in this office on July 20. This request has been assigned information request tracking number *IR09-73* and shall be processed in accordance with the applicable rules, regulations, and the USPS/APWU Collective Bargaining Agreement. In order to facilitate the timely processing of this request, please refer to the above-referenced tracking number in any future, related correspondence.

The requested information, if it exists at all, is not within direct control of this office. Therefore, inquiries will be made into the existence and location of such information. The amount of time needed to accomplish this is unknown and will depend on a myriad of practical factors including the availability of the requested data, the scope and volume of the requested data, and other important tasks being undertaken by those seeking to fulfill the information request. The search may be expensive, and the union is responsible for reasonable costs per Article 31, Section 3 of the Collective Bargaining Agreement and Handbook AS-353, Guide to Privacy of the Freedom of Information Act, and Records Management, Section 4-6.5, How to Assess Fees, which sets out the applicable costs for fees incurred in processing information requests. You shall be notified if this request requires remittance on the part of the APWU for photocopies and/or time spent processing the information.

If you feel this request is of an urgent nature and lack of the requested information may adversely affect the union's time limits in the grievance procedure, please do not hesitate to contact me immediately to seek an extension of contractual time limits.

In the interim, if there are any questions, please contact Jacqueline Adona of my staff at (202) 268-3800.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Dockins".

John W. Dockins  
Manager  
Contract Administration (APWU)

475 L'ENFANT PLAZA SW  
WASHINGTON DC 20260-4100

(CA2009-456, IR09-73, VPLR2009-198)



August 28, 2009

Mr. Cliff Guffey  
Executive Vice President  
American Postal Workers  
Union (APWU), AFL-CIO  
1300 L Street, NW  
Washington, DC 20005-4128

Sent by email

Dear Cliff:

Re: IR09-73, Stations and Branches Optimization

This correspondence is in further response to Mr. Burrus' July 17 request for information, IR09-73, Stations and Branches Optimization (SBO). We are responding to this request as information becomes available. In this correspondence, we are responding to the second bullet of the request which is repeated in bold below:

**With reference to the stations and branch closures FY2005-FY2008 reported to the Postal Regulatory Commission in Case No. N2009-1 provide copies of the documents explaining and supporting each decision, including all related communications between and among local, District, Area and Headquarters managers.**

The Postal Service will provide any information about the optimization of stations and branches that the APWU is entitled to receive. In response to the above item, the Postal Service is providing, without regard to relevance, the following information:

- A listing of the 21 stations or branches closed between fiscal years 2005 and 2008 identifying the area, district, facility name, address, city, state, ZIP Code, official closing date, and the fiscal year the station or branch was closed.
- The final determination memoranda for 20 of the 21 stations or branches closed between 2005 and 2008. The search for the Bloomfield, New Jersey Station closing documents is currently underway and we will provide an update of that effort when the search is completed.

If the APWU seeks additional information regarding the second bullet of its July 17 request, please specifically identify the information because it is unclear what additional information the APWU may be seeking. Please also explain the relevance of the additional information to the union's statutory responsibilities as the representative of bargaining-unit employees. This request is written in an extremely broad fashion and may or may not be intended to encompass irrelevant or confidential information. We will respond further with regard to these matters if there is additional information the APWU seeks and relevance or confidentiality is an issue.

Please note additional information regarding this particular bullet is not within direct control of this office. Moreover, the amount and availability of additional information requested will impact how quickly we can respond and whether the request imposes an undue burden during this time of extraordinary operational challenges and limited resources.

In accordance with Article 31, Section 3 of the Collective Bargaining Agreement and Handbook AS-353, *Guide to Privacy of the Freedom of Information Act*, and Records Management, Section 4-6.5, *How to Assess Fees*, the cost of researching and providing the information provided is as follows:

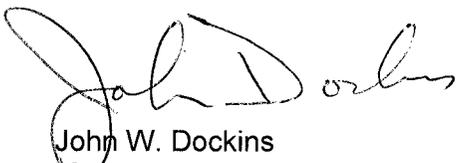
30 minutes search time (no charge, first two hours free -- total of one hour search time for entire request thus far)  
139 pages X 0.15 per page = \$20.85

If you feel this request is of an urgent nature and lack of the requested information may adversely affect the union's time limits in the grievance procedure, please contact me as soon as possible to seek an extension of contractual time limits. And, if there are any questions regarding this request, please feel free to contact me. In the interim, please submit to my office payment in the amount of \$20.85, payable to the U.S. Postal Service Disbursing Office.

Please be advised that my office is in receipt of your August 20 Second request for information related to the SBO. We will identify that request as IR09-73B and provide the appropriate response to the requested information as soon as practicable.

If there are any questions, please contact Jacqueline Adona of my staff at (202) 268-3800.

Sincerely,



John W. Dockins  
Manager  
Contract Administration (APWU)

Enclosures