

In the United States Court of Federal Claims

No. 13-161C

(Filed August 11, 2014)

NOT FOR PUBLICATION

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ROY SMITH, on his own behalf
and for others similarly situated,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

* * * * *

ORDER

The government has moved for a protective order covering records under the Privacy Act, 5 U.S.C. § 552a. Plaintiff does not oppose this request. The Court has reviewed the draft protective order submitted by defendant's counsel and the motion to enter the order is **GRANTED**, with one modification described below.

The government has proposed the following as the sixth paragraph of the protective order:

Nothing contained in this protective order shall prevent or in any way limit or impair the right of counsel for the United States to disclose to any agency of the United States (including other divisions and branches of the Department of Justice) any document or information regarding any potential violation of law or regulation or, subject to procedures that maintain the confidentiality of confidential material consistent with this protective order, prevent or limit in any way the use of the documents and information by an agency in any proceeding regarding any potential violation of law or regulation.

The basis for this claimed "right" of government counsel is not explained, nor has

the government provided any reason for believing that Veterans Canteen Service employees have violated any laws or regulations. Accordingly, this paragraph has not been approved by the Court, and the matter is treated in a similar fashion as in the protective order used in procurement protest cases. *See* App'x of Forms, Form 8 ¶ 2, Rules of the United States Court of Federal Claims. The first sentence of paragraph four has been modified (with the additional material in bold) to read: "Confidential material shall be used by the receiving party solely for the purpose of conducting this litigation and not for any business or other purpose whatsoever, except as provided in this agreement and protective order **or as otherwise required by federal statutory law.**" The protective order shall issue separately.

IT IS SO ORDERED.

s/ Victor J. Wolski

VICTOR J. WOLSKI

Judge