



INTERNATIONAL FEDERATION OF
PROFESSIONAL & TECHNICAL ENGINEERS
AFL-CIO & CLC

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May 31, 2007

Honorable Anne Wagner
General Counsel
Personnel Appeals Board
General Accountability Office
Union Center Plaza II
Washington, D.C. 20548

**Re: Representation Petition filed by the GAO Employees Organization,
IFPTE**

Dear Ms. Wagner:

I am writing on behalf of the petitioner in the above-described matter regarding the pre-hearing meeting conducted by your office yesterday. The pre-hearing meeting was scheduled on May 9, 2007 and was intended to begin on Wednesday, May 30 and to continue as needed through Friday June 1, 2007.

Subsequent to that meeting you issued a proposed meeting agenda to the parties as follows:

I would like the parties to be prepared to address the following:

- (1) Whether GAO intends to challenge the validity of IFPTE's showing of interest. Validity in this context goes to the authenticity of the signatures, and such a challenge requires evidence that the circumstances under which the authorization cards were obtained involved fraud, forgery or supervisory involvement.
- (2) The parties' disagreement as to the appropriateness of a unit as defined in the Petition. The purpose of the discussion is to determine whether the parties can reach an agreement, and if not, whether the area of dispute can be narrowed.
- (3) If the parties cannot reach agreement with regard to the appropriateness of the unit, then a hearing will be scheduled with the Board to resolve the issue. Therefore, please come prepared with proposed dates and expectations with regard to the length of the hearing.

(4) The time, place and manner of an election to determine if there is agreement as to how, when, and where the election is to occur.

Shortly after you opened the meeting yesterday the GAO management representative, Barbara J. Simball, informed you and the union that GAO management had decided to engage private sector legal counsel to represent GAO management in these proceedings. She stated that GAO management had not finalized the legal representation contract yet, but hoped to complete that process within a week. She further indicated that until contract counsel was formally retained, she was not authorized to reach agreement on the meeting agenda items, with one exception. She acknowledged that GAO management would not assert that signatures on the authorization cards filed with your office were obtained by “fraud or forgery.”

The fact that GAO management had decided to retain the services of private sector counsel, and that GAO management was not prepared to reach agreement on the agenda items was not disclosed in advance of the meeting. Consequently, the union came to the meeting prepared to discuss and reach agreement on all agenda items over the course of the three days allocated for the prehearing meeting. Moreover, since GAO management could not predict when the private counsel contract would be final, or who counsel would be, we were unable to establish a specific time or date to continue the prehearing meeting.

At the same time, Ms. Simball confirmed that as of yesterday, GAO management intends to challenge the eligibility of 461 of the 1,386 employees included in the bargaining unit the union seeks, by its petition, to represent. The basis for all but a handful of these challenges is GAO management’s assertion that the challenged employees are “supervisors” as that term is defined by labor law. Should GAO management maintain this position, the eligibility for these 461 employees would be determined by a formal, on-the-record, evidentiary hearing preceded by appropriate discovery. Given the scope and volume of GAO management’s challenge, this process will require the dedication of substantial time and resources by both the union and GAO management, and significantly delay a representation election.

The union raised the option of proceeding with the election, and resolving the 461 challenges post-hearing – in the event the challenged votes are determinative of the election’s outcome. You indicated that because GAO management’s challenge places in question the representational rights of one third of the petitioned-for employee group, you were disinclined to hold the election before the hearing. You noted that typically the post-election challenge determination procedure is limited to situations where no more than 15% of the voting pool is challenged. Moreover, GAO management indicated that it may challenge the adequacy of the election petition as it relates to the remaining 925 employees, if GAO’s supervisory challenge is successful, and GAO management can show that challenged employees were involved in the solicitation of authorization cards from the remaining 925 employees. In short, even if a majority of the 925 admittedly eligible employees were to vote for union

representation in an election conducted by the Personnel Appeals Board, GAO management is not presently willing to commit to recognize and bargain with that employee group.

In light of these developments, the union respectfully requests that the Office of General Counsel reconvene the prehearing meeting at the earliest possible date after GAO management is prepared to address the agenda items set forth above. It is critical that your office use its best efforts to clearly identify areas of agreement and disagreement, and seek to narrow the issues in dispute, with the aim of moving the petition expeditiously to an election. It is unfortunate that this week's meeting did not serve this purpose, as each day the election is delayed frustrates GAO employees' right to organize a union for the purpose of collective bargaining with GAO management. The union will remain available to recommence the meeting at the call of your office.

Sincerely,



Julia Akins Clark
General Counsel