74 FLRA No. 47

UNITED STATES
GOVERNMENT PUBLISHING OFFICE
(Agency)

and

LOCAL 713-S, PRINTING, PACKAGING &
PRODUCTION WORKERS UNION
OF NORTH AMERICA
(Incumbent/Labor Organization)

and

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS
(Petitioner/Labor Organization)

WA-RP-24-0078

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ORDER DENYING
APPLICATION FOR REVIEW

August 26, 2025

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Before the Authority: Colleen Duffy Kiko, Chairman, and Anne Wagner, Member

I. Statement of the Case

After a representation election in which the Petitioner received a majority of the votes cast, the Incumbent filed objections to the election. Federal Labor Relations Authority (FLRA) Regional Director Timothy Sullivan (the RD) issued the attached decision and order (decision) finding that the Incumbent's objections did not warrant setting aside the election. The Incumbent filed an application for review on grounds that the RD's decision raised an issue for which there was an absence of precedent, and that the RD failed to apply established law, committed prejudicial procedural errors, and made clear and prejudicial errors concerning substantial factual matters when he dismissed the Incumbent's objections. For the following reasons, we find that the application does not provide a basis for granting review on the grounds alleged. Therefore, we deny the application.

II. Background and RD's Decision

The Incumbent represented a unit of nonprofessional printing plant workers at the Agency's facilities in Washington, D.C.; Laurel, Maryland; and Stennis Space Center, Mississippi. The Petitioner filed a petition under § 7111 of the Federal Service Labor-Management Relations Statute (the Statute) seeking an election to determine whether the bargaining unit wanted the Petitioner, the Incumbent, or neither party as its exclusive representative.[1] On November 27, 2024, the FLRA's Denver Regional Office directed a mail-ballot election.[2] With approximately 221 employees eligible to vote, eighty-seven ballots were cast: the Petitioner received seventy-three votes, and the Incumbent received eight votes, with four void ballots and two challenged ballots.

The Incumbent filed thirteen objections to the election with the RD. Objections eleven, twelve, and thirteen raised procedural challenges to the RD's processing of the petition and the method of election. The remaining objections alleged that the Petitioner and the Agency engaged in unlawful or prejudicial conduct before the election. Following an investigation, the RD dismissed the objections in their entirety, for the reasons described below.

In its twelfth objection, the Incumbent argued that the election petition was procedurally deficient because the Petitioner failed to serve the Incumbent with a copy of the petition. Based on his investigation, the RD found that the Petitioner filed its petition for an election on September 6, 2024,[3] the FLRA sent an opening letter to the Petitioner and the Agency on September 25, and the Agency informed the FLRA that the Incumbent's local might be affected by the petition. On October 8, the FLRA held a conference call with the Agency, the Petitioner, and the president of the Incumbent's local. The RD noted that during the conference call, the participants informed the FLRA's representative that the Incumbent's local and national organizations both represented unit employees; however, the Incumbent's local president was the only representative present on the Incumbent's behalf.[4] Consequently, on October 10, the FLRA's representative provided the petition to the Incumbent's national president, after which the Incumbent filed a statement of interest, a request for a reassessment of the Petitioner's showing of interest, and a motion to dismiss with the FLRA.[5] Although the RD found it unclear whether the Incumbent's national organization "was entitled to receive independent service of the petition," he observed that the Petitioner nonetheless served the national organization on

[1] 5 U.S.C. § 7111.
[2] Ballots were mailed on December 5, 2024, and were required to be returned by January 8, 2025.
[3] The remaining dates in this paragraph are from 2024.
[4] RD's Decision at 15.
[5] *Id.* at 15-16

November 8.[6] Regarding the Incumbent's claim that it was prejudiced by the delay in service, the RD determined that the Incumbent "was well aware of the . . . petition" and "had ample time to communicate with bargaining[-]unit employees prior to the election."[7] As such, the RD dismissed the objection.

For its thirteenth objection, the Incumbent alleged that a collective-bargaining agreement existed between the Incumbent and the Agency that operated as a bar to the petition. Section 7111(f)(3) of the Statute provides, in pertinent part, that "[e]xclusive recognition shall not be accorded to a [union] . . . if there is . . . in effect a lawful written collective[-]bargaining agreement between the agency involved and" another union unless "the collective[-]bargaining agreement has been in effect for more than [three] years, or . . . the petition for exclusive recognition is filed not more than 105 days and not less than [sixty] days before the" agreement's expiration date.[8] The RD found that the Incumbent and the Agency were parties to a 1988 master labor agreement, a supplemental agreement effective December 20, 2004, and a memorandum of agreement signed December 20, 2021.[9] Considering the 1988 master labor agreement first, the RD determined that it was not in effect when the petition was filed, having expired three years after its effective date because "it did not contain any provisions for rolling over."[10] With respect to the supplemental agreement and memorandum of agreement, the RD found that these agreements renewed annually for a one-year term every December 20.[11] Noting that the Petitioner filed its petition 105 days before December 20, 2024, the RD concluded that "the petition was filed within the window period of all applicable agreements, and was therefore not barred by [§] 7111(f)(3)(B) of the Statute."[12]

In objection eleven, the Incumbent argued that the RD erred by ordering a mail-ballot election rather than a manual-ballot (in-person) election. As relevant here, § 2422.16(b) of the Authority's Regulations provides that "[i]f the parties are unable to agree on procedural matters . . . the Regional Director will decide election procedures."[13] The RD noted that this case was transferred from the FLRA's Washington Regional Office to the FLRA's Denver Regional Office, "based on internal [FLRA] Office of General Counsel [(OGC)] policies."[14] According to the RD, "[t]he Region examined FLRA resources, the location and size of the workforce, and the fact that the employees were dispersed," and "[t]he Denver Regional Office determined that, as an effective and efficient use of its resources, it would conduct a mail-ballot election amongst the eligible voters and conduct the count in Denver."[15] The RD found that directing a mail-ballot election was consistent with the discretion afforded under § 2422.16(b) to determine election procedures in the absence of an agreement between the parties.[16] And because the Incumbent presented "no evidence . . . that the use of the mail ballot negatively impacted the results of the election or disrupted the . . . employees[']' right to self-determination," the RD found no basis for sustaining the objection.[17]

In its first, second, and sixth objections, the Incumbent argued that the election should be set aside because the Agency prevented the Incumbent's representatives from talking with, and providing written materials to, bargaining-unit employees at the Washington, D.C. and Stennis Space Center facilities. The RD recognized Authority precedent holding that agencies have a "duty to remain neutral during an election campaign," and when "[a]n agency's conduct . . . interferes with . . . employees' freedom of choice in an election," the election must "be set aside."[18] And citing the Authority's decision in *Department of HHS, SSA, Southeastern Program Service Center*,[19] the RD observed that the right to "form, join, or assist any labor organization" under § 7102 of the Statute *may* extend to solicitation in work areas during non-work time *so long as* there is no disruption to agency operations.[20]

With respect to the Washington, D.C. facility, the RD found, as an initial matter, that "employees may have guests visit the facility so long as the guests process through guest security and are escorted by the employee,"

[6] *Id.* at 16.
[7] *Id.*
[8] 5 U.S.C. § 7111(f)(3).
[9] RD's Decision at 16.
[10] *Id.*
[11] *Id.* at 17.
[12] *Id.*
[13] 5 C.F.R. § 2422.16(b).
[14] RD's Decision at 15.
[15] *Id.*
[16] *Id.*
[17] *Id.*

[18] *Id.* at 5 (citing *U.S. Dep't of the Army, U.S. Army Corps of Eng'rs, Eng'g & Support Ctr., Huntsville, Ala.*, 68 FLRA 649 (2015); *Pension Benefit Guar. Corp.*, 66 FLRA 349 (2011); *Fort Campbell Dependents Schs., Fort Campbell, Ky.*, 46 FLRA 219 (1992); *Dep't of the Army Headquarters, Wash., D.C.*, 29 FLRA 1110, 1125 (1987)).
[19] 21 FLRA 748 (1986) (*SSA*).
[20] RD's Decision at 6 (citing *SSA*, 21 FLRA at 751 (recognizing that the right to "form, join, or assist any labor organization" under § 7102 of the Statute "encompasses the right of employees to distribute literature 'in non-work areas during non-work time' . . . and . . . may even extend to solicitation in work areas . . . *absent any disruption of the [agency]'s operations* or other unusual circumstances" (emphasis added))); 5 U.S.C. § 7102 ("Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity.").

and that "[m]anagement does not typically police the private guests of employees, other than to ensure that [Agency] internal security and safety needs are met."[21] The RD also found that the Petitioner's representatives "had followed this protocol, including being escorted by employee(s), . . . when visiting the . . . Washington, D.C. facility."[22] Further, the RD determined that non-employee Incumbent representatives visit the Washington, D.C. facility three to four times a year, and did so on November 6-7, 2024, when they "were on the floor for about two to three hours while they met with employees."[23]

Addressing the relevant incidents at the Washington, D.C. facility on December 9-10, 2024, the RD found that the following events occurred. On December 9, Incumbent representatives arrived at the facility and informed the assistant manager that "they were going to pass out *surveys*[,] and [the assistant manager] approved."[24] The Incumbent representatives then met with employees in work areas and handed out not only surveys, but also copies of a "*flyer* [that] contained statements that were allegedly critical of [the Incumbent's local president] for supporting the [Petitioner]."[25] The Incumbent's local president, who worked on a different floor of the facility, became aware of the flyer and contacted a supervisor. Early the morning of December 10, that supervisor approached an Incumbent representative and did not see the Incumbent's building representative, an Agency employee and union officer who usually escorts non-employee Incumbent representatives when they visit the facility. That supervisor "was concerned that the [Incumbent] representatives were not with" the building representative, given the policy that required an employee escort.[26] Once the supervisor located the building representative, he asked whether the Incumbent's representatives were talking to unit members, and the building representative told the supervisor that he had prior clearance for the visit. The supervisor then called an assistant manager "and told her that the [Incumbent] representatives were . . . in the Record Room[] and were making employees uncomfortable."[27] The supervisor, the assistant manager, and three other supervisors "approached the [Incumbent] representatives and witnessed employees telling the representatives that they were not signing anything."[28] Then the local president approached the group and "allegedly took on a hostile demeanor with one of the [Incumbent] organizers and asked why the [Incumbent] was 'telling lies' about him[,] apparently referring to the flyer the [Incumbent] representatives were handing out to employees."[29] The assistant manager asked the Incumbent representatives to leave, the building representative "agreed that they would not accomplish anything else there," and the Incumbent representatives "left the floor at that point."[30]

The RD also found that the Incumbent representatives "came back the next day, but did not go back out onto the shop floor to speak to employees."[31] Further, the RD determined that an Agency attorney contacted the building representative and told him there were reports of the Incumbent causing a "disruption" at the facility, which the building representative denied.[32] The attorney then called the Incumbent's president, who said that the Incumbent local's president had caused the disruption.

Evaluating the Agency's role in the events of December 10, the RD found that the Agency declined to take sides in an incident that "could be viewed as an internal [u]nion dispute,"[33] but instead reasonably attempted "to direct the focus of employees on their job duties, and to [defuse] a potentially volatile situation."[34] In light of the incident, the RD found that it was "entirely reasonable" for the Agency to subsequently require the Incumbent's representatives to meet with Stennis Space Center employees in a non-work area instead of the shop floor.[35] Responding to the Incumbent's claim that the Agency breached, or unilaterally changed, a contractual obligation to provide access to employees, the RD found that the Agency "did not change conditions of employment by . . . address[ing] a disruptive situation in the workplace, which occurred during the special circumstance of a representation[] election."[36] And because the Agency "allowed the [Incumbent's] representatives . . . to meet with bargaining[-]unit employees and distribute literature," the RD found no basis for finding a contract violation.[37]

[21] RD's Decision at 4.
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.* at n.3
[27] *Id.* at 4.
[28] *Id.* at 4-5.
[29] *Id.* at 5 (emphasis omitted).
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.* at 6.
[34] *Id.*; *see also id.* at 12 (finding it "undisputed that an incident happened on the shop floor in the Washington, D.C. facility," which "[a]rea supervisors determined . . . was disruptive to the workplace").
[35] *Id.* at 7; *see also id.* ("[T]here is no evidence showing that the representatives were prohibited from meeting with employees in the space provided, or from giving written information to employees.").
[36] *Id.* at 12.
[37] *Id.*

In sum, the RD determined that the record evidence did not "show that the Agency favored one side or another,"[38] "demonstrate that the Agency barred representatives . . . from talking to employees . . . or giving employees [the Incumbent's] written information,"[39] or "show that the Agency failed to follow the terms and conditions of existing collective[-]bargaining agreements."[40] Accordingly, the RD concluded that the Agency's actions did not have the potential to interfere with the free choice of voters as alleged in the objections.

The Incumbent's third and seventh objections asserted that the Agency failed to maintain neutrality by discussing the list of eligible voters with the Petitioner without the Incumbent present, and by preventing the Incumbent from presenting its position on the eligibility list. The RD found that "it [was] not clear that [the Incumbent], as opposed to [the Incumbent's local], was the exclusive representative of the bargaining unit."[41] In any event, the RD found that both the Incumbent and the Incumbent's local participated in the process. Specifically, the RD noted that the Incumbent's local president attended the parties' initial conference call and the Incumbent's national representatives participated in a later call.[42] Further, the RD determined that the Incumbent had "ample opportunity" to "raise[] concerns about the eligibility list with the Agency and the FLRA prior to the election," but did not do so.[43] On this point, the RD emphasized that after the Petitioner and the Agency provided their respective positions on the eligibility list, the Incumbent did not "respon[d] to the [Petitioner's] proposed modifications," "offer its own proposed modifications," or "raise[] any concerns about the Agency's eligibility list."[44] Addressing whether the Agency unlawfully discussed voter eligibility with the Petitioner, the RD found "no evidence" that the Agency and the Petitioner – by providing their respective assessments as to whether six employees were eligible to vote – participated in a "back-and-forth . . . exchange" demonstrating a failure to maintain neutrality.[45] Moreover, the RD determined that the Incumbent did not identify any errors affecting the eligibility list such "that any eligible voters were prevented from voting, or ineligible voters were mailed a ballot."[46] Thus, the RD concluded that there was no procedural error affecting the voter-eligibility list that interfered with employees' free choice.

The Incumbent's fourth, fifth, eighth, and ninth objections alleged that the Agency unlawfully granted the Petitioner access to employees at the Washington, D.C. facility before the FLRA determined that the Petitioner had achieved equivalent status with the Incumbent. Citing Authority precedent, the RD observed that once a petitioning union achieves equivalent status with an incumbent union, it is "entitled to be furnished customary and routine facilities and services."[47] The RD found that the Petitioner's first facility visit occurred before it acquired equivalent status, but that the Petitioner had achieved equivalent status by the time of its second visit.[48] As for the Agency's alleged lack of neutrality, the RD determined that the Agency was likely unaware of the Petitioner's presence because the Petitioner's representatives coordinated with the Union's local steward, as opposed to the Agency, to access the facility as guests. The RD explained that under its guest-visitation policy, the Agency required guests to pass through a security checkpoint and be accompanied by an employee, but the Agency "d[id] not typically police the movement of . . . guests" other than to ensure compliance with security protocols.[49] As a result, the RD determined that there was "no evidence that the Agency *permitted* representatives of the [Petitioner] to meet with employees in work areas and during work times, or that the Agency sponsored such visits."[50] Therefore, the RD found that the objections did not establish interference with voters' free choice as alleged in the objections.

The Incumbent's tenth objection raised a general claim that the Agency's conduct prior to the election constituted disparate treatment in favor of the Petitioner. Finding that this objection relied on the same arguments stated in the previously-dismissed objections one through nine, the RD also dismissed objection ten.[51]

On June 27, 2025, the Incumbent filed its application with the Authority, and on July 7, 2025, the Petitioner filed an opposition to the application.

III. Analysis and Conclusions

The Incumbent requests that the Authority grant its application for review on several grounds. Section 2422.31(c) of the Authority's Regulations provides, in relevant part, that the Authority may grant an application for review of a Regional Director's decision where "[t]he decision raises an issue for which there is an

[38] *Id.* at 6.
[39] *Id.* at 7; *see also id.* at 6.
[40] *Id.* at 12.
[41] *Id.* at 9.
[42] *Id.*
[43] *Id.*
[44] *Id.* at 9-10.
[45] *Id.*
[46] *Id.* at 9.
[47] *Id.* at 10 (quoting *Pension Benefit Guar. Corp.*, 61 FLRA 447, 451 (2006) (*PBGC*) (Chairman Cabaniss writing separately) (internal quotation marks omitted)).
[48] *Id.* at 11.
[49] *Id.* at 10.
[50] *Id.* at 11.
[51] *Id.* at 14.

absence of precedent," or "[t]here is a genuine issue over whether the Regional Director has . . . [f]ailed to apply established law," "[c]ommitted a prejudicial procedural error," or "[c]ommitted a clear and prejudicial error concerning a substantial factual matter."[52]

A. The application does not establish that the Petitioner's delayed service of the petition on the Incumbent required the RD to dismiss the petition.

As it argued in its twelfth objection to the election, the Incumbent asserts that the RD's failure to dismiss the petition for lack of proper service is inconsistent with established law and constitutes a prejudicial procedural error.[53] Alternatively, the Incumbent contends that the Authority should grant review of its application "[t]o the extent that there is an absence of precedent" on the issue of whether a "failure to properly serve a petition invalidates the petition."[54]

"[W]hen filing a petition," § 2422.4 of the Authority's Regulations requires the filing party "to serve . . . all parties affected by issues raised in the filing."[55] Here, the RD found that the Petitioner filed its petition with the FLRA on September 6, 2024, but did not serve the Incumbent until November 8, 2024.[56] However, the RD also noted that the FLRA notified the Incumbent's national president of the petition on October 10, 2024, and the RD found no evidence that the delayed service prejudiced the Incumbent.[57] Further, as noted above, the RD found that "it [was] not clear that [the Incumbent], as opposed to [the Incumbent's local], was the exclusive representative of the bargaining unit."[58] Therefore, it was not entirely clear, at least early in the process, whom the Petitioner should have served. Although we emphasize the importance of parties timely complying with their service obligations, nothing in § 2422.4's plain wording required the RD to dismiss the petition under these circumstances.

Citing several Authority decisions involving insufficient service or failure to meet filing deadlines, the Incumbent maintains that the FLRA "require[s] strict adherence to its service requirements."[59] But unlike the parties in those decisions, the Petitioner here timely filed with the FLRA, eventually served the Incumbent, and the delayed service did not violate an Authority order.[60] Further, the Incumbent misrepresents the Authority's decision in *AFGE, Local 3342* (*Loc. 3342*)[61] as a case in which the Authority "rejected a petition for review" because the union failed to comply with the Authority's service requirements.[62] Rather, the Authority found in *Loc. 3342* that the petition's service deficiency was "*not a basis* on which to dismiss [the] petition," because the agency was "not in any manner prejudiced by the [u]nion's failure to comply with 5 C.F.R. § 2424.4(b)."[63] The Incumbent also argues that "[a]nalogous [National Labor Relations Board (NLRB)] precedent supports a conclusion that the [Petitioner's] failure to serve the petition on [the Incumbent] rendered the petition invalid."[64] However, the cited decisions are not binding on the Authority[65] and, as they concern the NLRB's Rules and Regulations,[66] are not relevant to whether the Petitioner complied with the Authority's Regulations. Additionally, the Incumbent's claim that the delayed service "prejudiced [its] ability to communicate with employees,"[67] constitutes mere disagreement with the RD's contrary finding that the Incumbent, by receiving the petition from the Authority on October 10, 2024 – nearly two months before the ballots were mailed (on December 5, 2024), and nearly three months before they were required to be returned (by January 8, 2025) – "had ample time to communicate with bargaining[-]unit

[52] 5 C.F.R. § 2422.31(c).
[53] Application at 16-21.
[54] *Id.* at 15.
[55] 5 C.F.R. § 2422.4.
[56] RD's Decision at 15-16.
[57] *Id.*
[58] *Id.* at 9.
[59] Application at 17-18 (citing *U.S. Dep't of the Army Headquarters, Sixth U.S. Army, Presidio of S.F., Cal.*, 34 FLRA 1032, 1034 (1990) (dismissing application for review where petitioner "fail[ed] to properly serve the [i]ntervenors with a copy of the application for review or to cure this deficiency as directed by the Authority"); *AFGE, Loc. 2776*, 43 FLRA 184, 188 (1991) (finding that party failed to timely serve document within applicable filing period because Authority's Regulations did not permit service by facsimile); *NLRB Union, NLRB Pro. Ass'n*, 62 FLRA 397, 398 (2008) (declining to consider union's response filed one day late where union failed to establish extraordinary circumstances warranting waiver of expired deadline)).
[60] RD's Decision at 15-16; Application at 12 (conceding that "on November 8, . . . the [Petitioner] served a copy of the petition on the [Incumbent]").
[61] 36 FLRA 367 (1990).
[62] Application at 17.
[63] *Loc. 3342*, 36 FLRA at 374 (emphasis added).
[64] Application at 19.
[65] *U.S. DHS, U.S. CBP*, 62 FLRA 78, 83 (2007) (*CBP*) ("[W]e note that NLRB decisions are not controlling in the [f]ederal sector." (citing *Dep't of the Navy, Pearl Harbor Naval Shipyard Rest. Sys., Pearl Harbor, Haw.*, 28 FLRA 172, 176 n.* (1987))).
[66] Application at 19-20 (citing *Brunswick Bowling Prods., LLC*, 364 NLRB 1233 (2016) (finding regional director erred by considering union's statement of position that was untimely under § 102.63(b)(3) of NLRB's Rules and Regulations); *URS Fed. Servs., Inc.*, 365 NLRB 1 (2016) (setting aside election where employer did not comply with service requirement in § 102.62(d) of NLRB's Rules and Regulations and regional director lacked discretion to waive requirement)).
[67] *Id.* at 21.

employees prior to the election."[68] Consequently, the Incumbent fails to establish that the RD did not apply established law, or made a prejudicial procedural error, in resolving the service issue.

In its absence-of-precedent claim, the Incumbent argues that "the Authority should hold that, when a petitioner does not serve a petition on an incumbent, the petition should be dismissed without any further consideration."[69] As discussed above, the Incumbent has not demonstrated that the plain wording of § 2422.4 requires that result, or that the RD erred in the findings underlying his conclusion that delayed service did not prejudice the Incumbent. Under these circumstances, we find that existing legal standards support rejecting the proposed procedural standard, and we find no basis for granting review on the basis that there is an absence of precedent on this issue.[70]

B. The application does not demonstrate that a collective-bargaining agreement barred the petition.

The Incumbent argues that the RD failed to apply established law by declining to find that an existing collective-bargaining agreement barred the petition, as alleged in the Incumbent's thirteenth objection.[71] As noted above, § 7111(f)(3)(B) of the Statute provides that a petition for exclusive recognition is untimely if there is a collective-bargaining agreement in effect between a union and the agency, unless the petition is filed during a forty-five-day window before the agreement expires.[72]

The Incumbent asserts that the 1988 master labor agreement and the 2004 supplemental agreement were in effect when the petition was filed and, regardless of which contract governs, the petition is untimely under § 7111(f)(3).[73] The Incumbent does not contest the RD's finding that the master labor agreement expired without a rollover clause.[74] Nonetheless, the Incumbent argues that "the parties have treated the [m]aster [labor] [a]greement as remaining in effect" because they "have continued to apply all [of its] terms . . . unless modified by supplemental agreements."[75] Even assuming that the parties continued to abide by some terms in the master labor agreement, the Incumbent does not identify any precedent holding that a technically expired, but informally recognized, agreement can create a contract bar. In fact, Authority precedent supports the RD's legal conclusion that § 7111(f)(3) did not bar the Petitioner from seeking an election in this case.[76] So does § 2422.12(h) of the Authority's Regulations, which provides that collective-bargaining agreements, including "those that automatically renew without further action by the parties, are not a bar to a petition seeking an election under [§ 2422] unless a clear effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation."[77] Even if the parties in this case had a practice of informally recognizing the master labor agreement, the lack of any written document memorializing a duration and termination date for this practice would prevent the Petitioner from knowing when it could timely file a petition.

As for the supplemental agreement, the Incumbent argues that the petition is untimely due to the Petitioner not serving the Incumbent until there were less than sixty days before that agreement's expiration date.[78] This argument assumes that a petition's service date is the relevant date for determining whether the § 7111(f)(3)(B) bar applies. However, per its plain wording, § 7111(f)(3)(B) applies based on when a "petition . . . is *filed*,"[79] while § 2422.5(c) of the Authority's Regulations states that a petition's filing date is the date on which the

[68] RD's Decision at 16; *see U.S. Dep't of the Navy, Naval Facilities Eng'g Command, Mid-Atl., Norfolk, Va.*, 70 FLRA 263, 267 (2017) ("Mere disagreement with the weight the R[egional] D[irector] ascribed to certain evidence does not provide a basis for finding that the R[egional] D[irector] . . . committed prejudicial procedural errors.").

[69] Application at 22.

[70] *See CBP*, 62 FLRA at 83 (rejecting claim that there was an absence of precedent warranting review where Regional Director properly applied established law); *USDA, Food Safety & Inspection Serv.*, 61 FLRA 397, 400-01 (2005) (finding no absence of precedent where party requested that Authority establish a particular standard but did not demonstrate that "the Authority's existing standard . . . [could not] be applied appropriately to resolve the issues in th[e] case").

[71] Application at 26-31.

[72] 5 U.S.C. § 7111(f)(3)(B) (defining the forty-five-day filing window as "not more than 105 days and not less than [sixty] days before the expiration date of the collective[-]bargaining agreement").

[73] Application at 28. The Incumbent does not argue that the 2004 memorandum of agreement is a collective-bargaining agreement for purposes of § 7111(f)(3). *Id.* at 28 n.20.

[74] RD's Decision at 16.

[75] Application at 29.

[76] *See Dep't of the Army, Corpus Christi Army Depot, Corpus Christi, Tex.*, 16 FLRA 281, 282 (1984) (holding that where parties "agree to continue the terms of [an] earlier agreement" that has expired pending further negotiations, that agreement "may not operate as a bar to a petition which otherwise is timely filed").

[77] 5 C.F.R. § 2422.12(h).

[78] Application at 30.

[79] 5 U.S.C. § 7111(f)(3)(B) (emphasis added).

appropriate Regional Director receives it.[80] The Incumbent does not identify any authority or precedent to support its position that a petition's service date governs over the filing date for purposes of applying § 7111(f)(3)(B). Nor does the Incumbent dispute the RD's conclusion that the Petitioner filed its petition with the appropriate regional office of the FLRA during the supplemental agreement's forty-five-day window.[81] Accordingly, the Incumbent provides no basis for finding that the RD's application of § 7111(f)(3) was inconsistent with established law.

C. The RD did not commit a prejudicial procedural error or fail to apply established law in directing a mail-ballot election.

Citing the OGC's Representation Case Handling Manual (RCHM)[82] and a Federal Register notice memorializing "the Authority's views on the conduct of multi-union elections,"[83] the Incumbent argues that the RD erred by not directing a manual election, as the Incumbent asserted in its eleventh objection.[84] Additionally, the Incumbent contends that the mail-ballot election suppressed voter turnout so as to constitute a prejudicial procedural error.[85]

Section 2422.16(b) of the Authority's Regulations provides that, "[i]f the parties are unable to agree on . . . [the] method of election . . . the Regional Director will decide" election procedures.[86] Put simply, § 2422.16(b) "gives a[Regional Director] the discretion to establish the method of election where parties are not able to agree to those procedures on their own."[87] As the parties in this case did not reach an election agreement, the RD exercised his § 2422.16(b) discretion and determined that a mail-ballot election administered by the FLRA's Denver Regional Office was most appropriate.[88]

In pertinent part, the cited portions of the RCHM and Federal Register notice state the Authority's general preference for manual elections and suggest that the OGC should conduct manual elections when possible.[89] Yet, the RCHM makes clear that it does not contain "ruling[s] or directive[s], nor is it binding upon the FLRA General Counsel or the [Authority]."[90] Additionally, the Authority has held that supplementary information published in a Federal Register notice does not carry the force of law.[91] Moreover, in the Federal Register notice accompanying subsequent revisions to the Authority's Regulations, the Authority expressly adopted a commenter's suggestion that determining the method of election should "be listed as a procedural determination

[80] 5 C.F.R. § 2422.5(c) ("When a Regional Director receives a petition, it is deemed filed."); *see Dep't of the Army, III Corps & Fort Hood, Fort Hood, Tex.*, 51 FLRA 934, 942 n.10 (1996) ("[A] petition is deemed filed when it is received by the appropriate Regional Director."); *cf. U.S. DOD, Def. Distrib. Region W., Tracy, Cal.*, 43 FLRA 990, 996 (1992) (where party did "not properly serve[] . . . the [a]ctivity at the time" it filed application for review, Authority concluded application was timely because party filed application with Authority before the deadline and "subsequently corrected th[e] deficiency").

[81] RD's Decision at 17; Application at 30 (acknowledging that "the petition was filed 105 days before the [s]upplemental [a]greement renewed").

[82] RCHM, https://www.flra.gov/system/files/webfm/OGC/Manuals/REP%20Proceedings%20CHM.pdf.

[83] Memorandum of Authority Views, 46 Fed. Reg. 11,655, 11655 (Feb. 10, 1981) (1981 Memorandum) (advising OGC of the Authority's view that, in multi-union situations, Authority-conducted elections are preferable to agency-conducted elections and manual ballots are preferred over mail ballots).

[84] Application at 59-61.

[85] *Id.* at 61 (arguing that the mail-ballot election "caused a shockingly low voter[-]participation rate, prejudicing the [Incumbent]").

[86] 5 C.F.R. § 2422.16(b).

[87] *U.S. DOD, Pentagon Force Prot. Agency*, 68 FLRA 761, 765 (2015) (*PFPA*).

[88] RD's Decision at 15.

[89] *See* RCHM 28.19 ("Manual ballots are encouraged in all elections, regardless of the number of labor organizations on the ballot."); 1981 Memorandum, 46 Fed. Reg. at 11,655 ("[M]ulti-union elections should, to the extent possible, . . . provide for the casting of ballots on a manual basis, unless the parties agree to a mail[-]ballot procedure and the Regional Director approves such agreement.").

[90] RCHM Foreword; *see Army & Air Force Exch. Serv., Dall., Tex.*, 55 FLRA 1239, 1241 (2000) (*Exch. Serv.*) (finding that the RCHM "does not create enforceable procedural rights beyond the rights set out in the [Authority's R]egulations"). In any event, we note that the RCHM *also* provides that regional offices, in gathering information to determine election details – such as whether there should be a "manual versus mail ballot" – should include information regarding "where the employees work," such as "the proximity of the voters to one another" and whether the employees are "scattered over . . . [a] large geographic area." RCHM 28.9.3. As noted above, the unit employees in this case are scattered among three facilities – specifically, Washington, D.C.; Laurel, Maryland; and Stennis Space Center, Mississippi – and the RD found that the Region considered this factor in deciding to direct a mail-ballot election. *See* RD's Decision at 14 (noting that "[t]he Region examined," among other things, "the location . . . of the workforce[] and the fact that the employees were dispersed").

[91] *U.S. DHS, U.S. CBP*, 67 FLRA 718, 720 (2014) (citing *U.S. Dep't of the Air Force, 436th Airlift Wing, Dover Air Force Base, Dover, Del.*, 57 FLRA 304, 307 (2001) (Chairman Cabaniss dissenting on other grounds), *enforced*, 316 F.3d 280 (D.C. Cir. 2003)).

that the Regional Director could make."[92] In emphasizing "[t]he Authority's strong policy preference for manual elections,"[93] the Incumbent fails to acknowledge the RD's regulatory discretion to determine appropriate election procedures absent an election agreement between the parties.[94] Moreover, the Incumbent does not identify evidence reflecting "that the use of the mail ballot negatively impacted the results of the election,"[95] such as evidence that any employees did not receive mail ballots or were otherwise unable to vote.[96]

The Incumbent also does not explain why the rate of eligible voters who cast ballots, standing alone, warrants setting aside the election. In this regard, the Authority has previously rejected arguments that low turnout alone renders mail-ballot elections invalid.[97] Accordingly, we find that the RD's decision to conduct a mail-ballot election is consistent with established law, accords with applicable precedent, and was not a prejudicial procedural error.[98]

D. The RD did not commit a prejudicial procedural error or a clear and prejudicial error concerning a substantial factual matter in dismissing the Incumbent's third and seventh objections.

Reiterating the factual allegations raised in its third and seventh objections, the Incumbent asserts that the Agency and the Petitioner "did not maintain an arm's length relationship after the petition was filed," as evidenced by "private negotiations" the Petitioner and the Agency held about voter eligibility "from which the [Incumbent] was excluded."[99] According to the Incumbent, the RD committed a prejudicial procedural error and a clear and prejudicial error concerning a substantial factual matter by not sustaining these objections.[100]

The Incumbent contends that the RD erred by not finding that the Agency excluded the Incumbent from eligibility discussions and denied the Incumbent an opportunity to present its position on voter eligibility.[101] In support of his conclusion that the Agency maintained neutrality, the RD found that: (1) it was not clear whether the Incumbent or the Incumbent's local was the exclusive representative of the bargaining unit; (2) the Incumbent's local or national representatives participated in both conference calls where the parties discussed voter eligibility;[102] (3) the Incumbent had "ample opportunity" to "raise[] concerns about the eligibility list with the Agency and the FLRA prior to the election;"[103] (4) the Petitioner and the Agency did not have a "back-and-forth . . . exchange" about the voter-eligibility list;[104] and (5) the Incumbent chose not to "respon[d] to the [Petitioner's] proposed modifications" to the list of eligible voters, "offer its own proposed modifications," or "raise[] any concerns about the Agency's eligibility list."[105] Although the Incumbent generally asserts that these findings are contrary to "overarching evidence,"[106] the Incumbent does not provide any arguments or evidence demonstrating that the RD's specific findings are inconsistent with the

[92] Meaning of Terms as Used in This Subchapter; Representation Proceedings; Miscellaneous and General Requirements, 60 Fed. Reg. 67,288, 67,290 (Dec. 29, 1995) (explaining revisions to 5 C.F.R. § 2422.16).
[93] Application at 60.
[94] 5 C.F.R. § 2422.16(b); *see also PFPA*, 68 FLRA at 765 (affirming Regional Director's discretion under § 2422.16(b) "to determine the conduct of [an] election [where] the parties could not agree to all the procedural terms"); *Exch. Serv.*, 55 FLRA at 1241 (rejecting argument that RCHM overrode Regional Director's regulatory discretion to direct a mail-ballot election).
[95] RD's Decision at 15.
[96] *Cf. Dep't of the Interior, Bureau of Indian Affs.*, 56 FLRA 169, 172 (2000) (in finding that party did not establish it was prejudiced by mail-ballot election, Authority noted Regional Director's findings that the party "submitted no evidence that any employees failed to receive a mail ballot . . . or that any employees were unable to vote").
[97] *See Exch. Serv.*, 55 FLRA at 1241 (rejecting claim that "low percentage of voters" participating in mail-ballot election demonstrated prejudicial procedural error); *U.S. Dep't of Interior, Bureau of Indian Affs., Rosebud, S.D.*, 34 FLRA 67, 69-70 (1989) (finding "no requirement under [the Authority's] Rules and Regulations that a specific percentage or number of eligible voters cast ballots in order for a representation election to be valid"). Although the Authority is not bound by NLRB precedent, *CBP*, 62 FLRA at 83, we note that the NLRB has found that evidence of manual elections increasing voter turnout is "not a relevant consideration in assessing whether a [r]egional [d]irector has abused his or her discretion by directing a mail-ballot election in a specific case." *Aspirus Keweenaw*, Case 18-RC-263185, 370 NLRB No. 45, slip op. at 2 n.6 (Nov. 9, 2020).
[98] *See Exch. Serv.*, 55 FLRA at 1241 (finding that where parties did not reach election agreement, "it was within the R[egional] D[irector]'s discretion under 5 C.F.R. § 2422.16(b) to determine that a mail[-]ballot election was appropriate").
[99] Application at 32.
[100] *Id.*
[101] *Id.* at 33-34.
[102] RD's Decision at 9.
[103] *Id.*
[104] *Id.* at 9-10.
[105] *Id.*
[106] Application at 32.

record.[107] Regarding whether the RD's alleged errors were prejudicial,[108] the Incumbent does not identify any employees whose inclusion in, or exclusion from, the voter list would have affected the election's outcome.[109] By claiming that the RD's findings reflect "an erroneous assumption" and "assume[] a factual impossibility,"[110] the Incumbent does little more than disagree with the RD's evaluation of the evidence. Because such disagreements do not raise a genuine issue for which review of a Regional Director's decision is warranted, we deny the application as to this issue.[111]

E. The RD's findings regarding the Petitioner's and the Incumbent's access to employees are not inconsistent with established law and do not constitute prejudicial procedural errors or clear and prejudicial errors concerning substantial factual matters.

The Incumbent argues that the Agency failed to maintain neutrality and interfered with voters' free choice by providing the Petitioner with unlawful access to the Agency's facilities while restraining the Incumbent from exercising its right to engage with employees.[112] By not setting aside the election on these grounds, the Incumbent asserts that the RD's decision raises issues warranting granting the application for review.[113] Because the Incumbent argues that the RD "committed a prejudicial procedural error" without identifying the relevant procedural issue,[114] we consider only whether the RD failed to apply established law or committed clear and prejudicial errors concerning substantial factual matters.[115]

In denying the Incumbent's fourth, fifth, eighth, and ninth objections, which asserted that the Agency improperly granted the Petitioner access to its facilities, the RD relied primarily on a factual finding that the Petitioner's representatives entered the Agency's Washington, D.C. facility as guests of the Incumbent's local steward.[116] Given that the Agency "d[id] not typically police" guest activities, the RD found it credible that the Agency did not know about these visits[117] and determined that, in any event, the Petitioner had acquired equivalent status before one of the two disputed visits.[118] Accordingly, the RD found insufficient evidence to demonstrate "objectionable conduct that could potentially interfere with the free choice of the voters" or that the Agency "violated its duty to remain neutral during a representation election."[119] Neither the Incumbent's bare assertion that the RD's findings are "simply implausible,"[120] nor its speculation about how employees perceived the Agency's treatment of the Petitioner's and

[107] *See Dep't of the Army, Fort Carson Fire & Emergency Servs., Fort Carson, Colo.*, 73 FLRA 1, 3 (2022) (denying claim that Regional Director erroneously failed to make certain findings where party did not "cite any evidence in the record or otherwise support [that] claim"); *U.S. Dep't of the Air Force, Air Force Life Cycle Mgmt. Ctr., Hanscom Air Force Base, Mass.*, 69 FLRA 483, 485 (2016) (finding party's argument that "d[id] not dispute any . . . specific factual findings" and instead framed Regional Director's findings as "not relevant" failed to establish "that the R[egional] D[irector] committed a clear and prejudicial factual error" (internal quotation marks omitted)).

[108] *See U.S. DOD, Pentagon Force Prot. Agency, Wash., D.C.*, 62 FLRA 164, 170 (2007) (requiring party alleging Regional Director committed a prejudicial procedural error to establish *both* that the Regional Director committed a procedural error *and* that the alleged error was prejudicial).

[109] *See PFPA*, 68 FLRA at 763-64 (finding Regional Director did not fail to apply established law where party "provide[d] no argument, or evidence" that eligible voters were "deprived of the opportunity to vote," nor demonstrated that alleged error affecting voter-eligibility list could have "potentially alter[ed] the outcome of the election").

[110] Application at 33.

[111] *See U.S. Dep't of the Army, U.S. Army Corps of Eng'rs, Logistics Activity Ctr., Millington, Tenn.*, 69 FLRA 436, 438 (2016) (finding Regional Director did not commit clear and prejudicial error concerning substantial factual matter where applicant's arguments "challenge[d] the weight the R[egional] D[irector] accorded . . . evidence," and "record evidence support[ed] the R[egional] D[irector]'s factual findings"); *U.S. Dep't of the Navy Commander, Navy Region Mid-Atl., Pub. Safety Program Manager*, 64 FLRA 563, 564-65 (2010) (application that did not demonstrate applicant "ultimately was prejudiced" did not demonstrate that Regional Director committed prejudicial procedural error).

[112] Application at 37-40, 49-55.

[113] *Id.* at 37 (arguing RD's dismissal of fourth, fifth, eighth, and ninth objections "raises genuine issues as to whether the [RD] failed to apply established law and committed clear and prejudicial error concerning a substantial factual matter"), 49-50 (challenging RD's dismissal of sixth objection on the grounds that the RD failed to apply established law, committed a prejudicial procedural error, and committed a clear and prejudicial error concerning a substantial factual matter).

[114] *Id.* at 49.

[115] *See U.S. DOL, OSHA, S.F., Cal.*, 70 FLRA 353, 355 (2018) (finding that Regional Director did not commit a prejudicial procedural error where party "d[id] not identify what prejudicial procedural . . . errors the R[egional] D[irector] allegedly made").

[116] RD's Decision at 11.

[117] *Id.* at 10.

[118] *Id.* at 11.

[119] *Id.*

[120] Application at 38.

the Incumbent's representatives,[121] demonstrates that the RD clearly erred.[122] To the extent the Incumbent alleges that the Petitioner made additional visits to the Agency's facilities and that such visits were unlawful,[123] the Incumbent did not present this claim before the RD[124] and, therefore, we do not consider it.[125]

Arguing that the RD's findings conflict with established precedent, the Incumbent cites an Authority decision in which a Regional Director erroneously failed to notify parties that a union achieved equivalent status.[126] But here, there is no claim that the RD caused prejudice to the Incumbent by delaying notification of the Petitioner's equivalent status. The Incumbent also cites an Authority decision finding that an agency committed an unfair labor practice by granting facility access to a union lacking equivalent status.[127] Because the RD found here that the Agency did not "*permit*[]" or "sponsor[]" the Petitioner's visits,[128] the facts of this case are distinguishable from others in which agencies overtly granted access to non-incumbent unions.[129] Consequently, the Incumbent's reliance on the cited decisions is misplaced.

As for the Incumbent's ability to communicate with employees and access Agency facilities, at issue in the Incumbent's first, second, and sixth objections, the application contests the RD's factual finding that there was a disruption to the Agency's operations.[130] Yet, the Incumbent concedes that an "incident took place in front of employees" between the Incumbent's representatives,[131] which is consistent with the RD's finding that there was an "internal [u]nion dispute" on the shop floor during work hours.[132] Although the Incumbent maintains that its local president was an agent of the Petitioner and solely responsible for the incident,[133] the Regional Office's investigation revealed sufficient evidence to support a conclusion that the Agency reasonably believed that the Incumbent's representatives played at least some role in the disruption.[134] And, apart from a bare assertion that the Agency "barred [the Incumbent's] representatives from the shop floors and from distributing literature,"[135] the Incumbent does not provide any basis for disturbing the RD's contrary finding that the Agency did, in fact, "allow[] the [Incumbent's] representatives . . . to meet with bargaining[-]unit employees and distribute literature."[136] Indeed, the Incumbent's past-practice[137] and disparate-treatment arguments[138] similarly fail to acknowledge the context in which the Agency curtailed access to employees—"a disruptive situation in the workplace" arose, "which occurred during the special circumstance of a representation[] election."[139] Because these arguments

[121] *See, e.g.*, *id.* at 39 ("Employees who observed [the Agency's] disparate treatment of [the Incumbent's] and [the Petitioner's] visitors had to have concluded that [the Agency] supported representation by the [Petitioner] but not the [Incumbent].").

[122] *U.S. Dep't of the Navy, Navy Undersea Warfare Ctr., Keyport, Wash.*, 68 FLRA 416, 420 (2015) (where party "reargue[d] the case that it presented to the R[egional] D[irector]" and "d[id] not directly challenge any of the R[egional] D[irector]'s factual findings as unsupported by the record," Authority found party did not demonstrate that Regional Director committed clear and prejudicial error concerning substantial factual matter).

[123] Application at 40 (alleging that the Agency "granted the [Petitioner] access three times" before the FLRA made an equivalent-status determination and later "granted access to the [Incumbent] a fourth time" before the FLRA notified the parties of that determination).

[124] RD's Decision at 10-11, 13 (summarizing Incumbent's objections to visits Petitioner allegedly made to Agency's Washington, D.C. facility "on or about October 22, 2024" and "November 5, 2024").

[125] 5 C.F.R. § 2429.5 ("The Authority will not consider any evidence, factual assertions, [or] arguments . . . that could have been, but were not, presented in the proceedings before the Regional Director.").

[126] Application at 39 (citing *PBGC*, 61 FLRA at 452 (finding that Regional Director erroneously delayed notifying parties that union had achieved equivalent status, and remanding for Regional Director to make further findings as to whether that delay had the potential to interfere with free choice of voters)).

[127] *Id.* at 39-40 (citing *U.S. Dep't of the Air Force, Barksdale Air Force Base, Bossier City, La.*, 45 FLRA 659, 665-67 (1992) (*Bossier City*)).

[128] RD's Decision at 11.

[129] *See, e.g.*, *Bossier City*, 45 FLRA at 667 (concluding that agency committed unfair labor practice "by *granting* access to its premises to a nonemployee organizer" of a union lacking equivalent status (emphasis added)); *Gallup Indian Med. Ctr., Gallup, N.M.*, 44 FLRA 217, 218 (1992) (affirming administrative law judge's finding that agency committed unfair labor practice by "*permitting* organizing efforts by the [i]ntervenor . . . when the [i]ntervenor did not have equivalent status" (emphasis added)).

[130] Application at 50.

[131] *Id.* at 53.

[132] RD's Decision at 6.

[133] Application at 51.

[134] *See* RD's Decision at 3-5 (summarizing results of investigation regarding these objections).

[135] Application at 52.

[136] RD's Decision at 12; *see also id.* at 7 (determining that Agency did not bar Incumbent from talking with, or distributing literature to, employees at Stennis).

[137] Application at 53-55 (asserting Agency violated past practice of allowing Incumbent's representatives to communicate with employees at their workstations).

[138] *Id.* at 55-57; *see also* RD's Decision at 14 (noting Incumbent's tenth objection broadly arguing Agency engaged in pattern of conduct demonstrating that it favored Petitioner over Incumbent).

[139] RD's Decision at 12; *see SSA*, 21 FLRA at 751 (holding right of employees to engage in solicitation on behalf of a labor organization during non-work time "may even extend to solicitation in work areas . . . *absent any disruption of the [agency]'s operations* or other unusual circumstances" (emphasis added)).

constitute mere disagreement with the RD's factual findings supporting his conclusion that the Agency maintained neutrality, they do not demonstrate that the RD failed to apply established law or committed a clear and prejudicial error concerning a substantial factual matter.[140]

For these reasons, we find that the Incumbent's arguments provide no basis for granting review under § 2422.31(c) of the Authority's Regulations.

IV. Order

We deny the application.

[140] *See Tidewater Region Mkt., Def. Health Agency, U.S. DOD*, 73 FLRA 687, 690 (2023) (denying application for review as to party's arguments that "d[id] not address any of the findings underlying the R[egional] D[irector]'s [legal] conclusion or explain why they are clearly erroneous"); *U.S. Dep't of the Navy, Naval Station, Ingleside, Tex.*, 46 FLRA 1011, 1025 (1992) (denying application for review challenging dismissal of objections to election because "application expresse[d] nothing more than mere disagreement with the R[egional] D[irector]'s findings of fact, evaluation of the evidence, and his conclusions based on that evaluation" (citing *U.S. DOL, Off. of Admin. L. Judges, Pittsburgh, Pa.*, 40 FLRA 1021, 1024 (1991))).

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
DENVER REGIONAL OFFICE

U.S. GOVERNMENT PUBLISHING OFFICE
(Agency)

and

LOCAL 713-S, PRINTING, PACKAGING &
PRODUCTION WORKERS UNION
OF NORTH AMERICA
(Incumbent/Labor Organization)

and

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS
(Petitioner/Labor Organization)

Case No. WA-RP-24-0078

DECISION AND ORDER
ON OBJECTIONS TO THE ELECTION

I. STATEMENT OF THE CASE

Pursuant to Section 2422.1 of the Rules and Regulations of the Federal Labor Relations Authority (Authority), a petition was filed by the International Brotherhood of Teamsters (Teamsters or IBT) seeking an election to determine whether all non-professional Printing Plant Workers including Leader Positions, employed by the United States Government Publishing Office (GPO, or Government Printing Office, or Agency) in the Washington, D.C., metropolitan area; Laurel, Maryland; and Stennis Space Center, Mississippi[1] wished to be represented for the purpose of exclusive recognition under the provisions of the Federal Service Labor-Management Relations Statute by the Teamsters, or by Local 713-S of the Printing, Packaging, and Production Workers of North America (PPPWU or Local 713-S).[2] Pursuant to the provisions of Section 7105(e)(1) of the Federal Service Labor-Management Relations Statute (Statute), the Authority has delegated its powers in connection with the subject case to the undersigned Regional Director.

In accordance with the Directed Election that was issued on November 27, 2024, the Region mailed ballots on December 5, 2024. The ballots were to be returned to the Denver Regional Office by January 8, 2025, and the count was conducted on January 9, 2025.

The results of the election, as set forth in the *Tally of Ballots*, were as follows:

II. TALLY OF BALLOTS

Approximate number of eligible voters	221
Void Ballots	4
Votes cast for Local 713-S PPPWU	8
Votes cast for Teamsters	73
Votes cast against exclusive recognition	0
Challenged ballots	2

In accordance with the Rules and Regulations, Section 2422.26, objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election may be filed by any party within five (5) days after the tally of ballots has been served. Additionally, the objecting party must file evidence, including signed statements, documents and other materials supporting the objections, within ten (10) days after the objections are filed.

[1] The Government Publishing Officer (GPO) produces and distributes information products and services for all three branches of the Federal Government, including U.S. passports for the Department of State, as well as the official publications of Congress, the White House, and other Federal agencies in digital and print formats. It also provides for permanent public access to Federal Government information at no charge through the Federal Depository Library Program (FDLP) and GovInfo. It operates distribution centers in Laurel, MD and Pueblo, CO that fulfill orders for Government publications.

[2] The PPPWU has been known by several names and has had several affiliations: Graphic Communications International Union (GCIU), Graphic Communications Conference (GCC), Washington Federal Printing Workers' Union, and the Printing, Packaging and Production Workers of North America (PPPWU). It is also notable that the IBT and the GCIU had a Merger Agreement whereby they agreed to form the GCC. The GCC and IBT remained separate entities, but were tied together for a period of seventeen years, governed by the provisions of the Merger Agreement. The IBT became dissatisfied with the agreement due to the financial obligations of the GCC and its degree of autonomy and sought to terminate the Agreement. The GCC sought a permanent injunction pending arbitration of the termination, which was granted. The GCC eventually voluntarily dismissed the federal court action that resulted in the injunction because it had made alternate arrangements to prepare for its separate existence from IBT. At that point, the GCC renamed itself the PPPWU. The IBT notified PPPWU members that it never requested a termination of the merger itself so all former GCC locals remained Teamsters. The PPPWU brought suit against the IBT for claiming the merger somehow survived the termination and was successful in receiving declaratory relief (that it is a separate entity from IBT) and a permanent injunction (that IBT would no longer assert authority and jurisdiction over PPPWU). *PPPWU v. IBT*, 1:2023-cv-01872 (D.C. October 8, 2024). The IBT filed the instant petition prior to the final ruling in this case.

On January 13, 2025, the PPPWU filed objections to the procedural conduct of the election and to conduct that it asserts improperly affected the results of the election by interfering with the free choice of voters (Objections or, individually, Objection). In accordance with Section 2422.27 of the Authority's Regulations, the Region has completed an investigation of the Objections to the election and the findings and conclusions of that investigation are as follows:

III. OBJECTIONS

Objection #1: The Agency, on or about December 9-10, 2024, at its 732 N. Capitol Street NW, Washington, DC facility, barred PPPWU representatives from talking to employees in the facility and from giving employees PPPWU written information.

Investigation:

The investigation revealed that the Graphic Communications International Union (GCIU), Local 713 was recognized as the representative of all wage grade printing plant workers (non-craft) at the Government Printing Office, Washington, D.C., in 1966. The GPO and the Washington Federal Printing Workers' Union, Local 713-S, GCIU, are parties to a collective bargaining agreement executed on or about December 20, 2024, and are noted as the representative of employees in the Master Labor-Management Agreement between the GPO and the Joint Council of Unions, GPO, effective April 25, 1988. The Chair of the Joint Council of GPO Unions and PPPWU Local 1-C Building Representative, Melvin Prailow, handles the process to obtain access for unions visiting the Agency's facilities. When a PPPWU representative who is not a GPO employee wants to visit an Agency facility, the representative informs the Agency in advance. Prailow has been requesting access in this manner for over 10 years. He requests access by email to the Labor Relations Counsel - currently GPO Attorney Hatfield. Prailow also notifies the Chief Security Officer Vernon. When visitors arrive, they are provided visitor's badges, are usually provided access to a room to meet employees, and are escorted through the facility by a GPO employee, usually Prailow. However, the PPPWU representatives have not been prohibited from visiting with employees at their work stations. These same procedures have been followed at the GPO Stennis, Mississippi facility.

Non-employee PPPWU representatives visit the Washington, D.C. facility three to four times a year. PPPWU International President Steve Nobles visited the Washington, D.C. facility in 2021 for a meet-and-greet shortly after assuming the role of Secretary-Treasurer, and again in November 2021 when representatives returned to sign the Multi-Union Wage Agreement. He was allowed to visit the employees at their work stations. A visit to all PPPWU employees where they work usually lasts about two to three hours, with individual meetings lasting five to ten minutes each. The employees may be from more than one bargaining unit, as employees from different bargaining units may be working side-by-side. Union representatives may hand out literature during these visits and they have used a ballot box placed out on the shop floor to collect surveys about internal union matters. Employees at the facility do not take pre-arranged formal breaks. Instead, they ensure that their machine is "covered" when on a break. They do not need supervisory approval prior to taking a break. Until the dispute that is the subject of this case, there had never been an issue with union representatives meeting with employees while they are working. Managers and supervisors are aware that union representatives are present while they are visiting employees. Prailow ensures the PPPWU representatives meet the supervisors on duty and management frequently meets with the representatives. Prior to the incident described below, management had never objected to the presence of union representatives.

The PPPWU representatives visited the GPO facility in Washington, D.C. on or about November 6-7, 2024. They were on the floor for about two to three hours while they met with employees. During the visit on November 6, 2024, the representatives were told by employees that the Teamsters had visited the employees earlier. When exiting the facility, PPPWU representatives reviewed the security log book and saw that the Teamsters had visited employees and had been escorted by Nicolas Crouch, Steward of Local 713-S. The PPPWU representatives notified Agency Attorney Hatfield and Security Chief Vernon about this, and the Agency said it would look into it.

The investigation revealed that, generally, GPO employees may have guests visit the facility so long as the guests process through guest security and are escorted by the employee. Management does not typically police the private guests of employees, other than to ensure that GPO internal security and safety needs are met. Those needs are usually physical security including screening for weapons and similar prohibited items. Representatives of the Teamsters had followed this protocol, including being escorted by employee(s), as noted above, when visiting the GPO Washington, D.C. facility several weeks earlier.

The PPPWU International President Nobles and other PPPWU representatives visited the GPO Washington, D.C. facility on December 9-10, 2024 and the GPO Stennis, Mississippi facility on December 11, 2024. Prailow notified Agency Attorney Hatfield, Security Chief Vernon, and the Director of the Stennis facility John Putman a couple of weeks before the visits.

The PPPWU representatives arrived at the Washington, D.C. facility at around 10 p.m. on December 9, 2024. They met with Assistant Manager Crystal Smith, all shift three Press Supervisors, and the Foreperson. Prailow told Smith that they were going to pass out *surveys* and she approved. Prailow pushed a cart with ballot boxes on it, containing the *surveys*. Smith recalled the boxes from earlier visits and did not object; the boxes were visible to the supervisors. The PPPWU representatives began speaking to members and handing out *flyers* and *surveys* on the shop floor. The *flyer* contained statements that were allegedly critical of PPPWU Local 713-S President Darryl DeVeaux for supporting the Teamsters. The *survey* primarily asked employees about contract negotiation issues. The *flyers* were also placed on bulletin boards near where the FLRA election postings were, as well as other locations in the facility. PPPWU also mailed the *flyer* to Local 713-S employees. DeVeaux became aware of the *flyer* while the PPPWU representatives were there and contacted Bookbindery Supervisor Eric Walker. In the early morning on December 10, 2024, Supervisor Walker approached a PPPWU representative and did not see Prailow.[3] Once he located Prailow, he asked if they were talking to members. Prailow told him that he had prior clearance for the visit.

Supervisor Walker then called Assistant Manager Smith and told her that the PPPWU representatives were on the 4th floor in the Record Room, and were making employees uncomfortable. Smith thought they were with the PPPWU Local 1-C Presspersons. Smith met Walker on the 4th floor, along with three other supervisors. They approached the PPPWU representatives and witnessed employees telling the representatives that they were not signing anything. Local 713-S President DeVeaux, who works on a different floor, also came up to the group. DeVeaux allegedly took on a hostile demeanor with one of the PPPWU organizers and asked why the Union was "telling lies" about him; apparently referring to the *flyer* the PPPWU representatives were handing out to employees. Assistant Manager Smith asked the PPPWU to leave, and Prailow agreed that they would not accomplish anything else there. The PPPWU representatives left the floor at that point. The PPPWU representatives came back the next day, but did not go back out onto the shop floor to speak to employees. Prailow noted that the boxes he had put out to collect the surveys the day before, were gone. Prailow later learned that the boxes were in the Agency's General Counsel's Office. There is no evidence that the Agency prohibited the PPPWU from retrieving the boxes. Later that morning, Attorney Hatfield contacted Prailow and told him that there were reports of the PPPWU causing a disruption at the facility. Prailow denied creating a disruption. Hatfield also called PPPWU President Nobles. Nobles asserted that the PPPWU representatives had not created a disruption, that DeVeaux created the disruption, and that the Agency had allowed the Teamsters out on the floor to talk to employees prior to their visit. Hatfield told Nobles that she was not sure there was anything wrong with the Teamsters being there, but that she would look into it.

The investigation further revealed that GPO Attorney Hatfield became concerned that employees would be confused by the appearance of the PPPWU ballot boxes when an FLRA election was then occurring, and may mistakenly put their FLRA ballots - which as noted above had been mailed to employees on December 5, 2024 - in the boxes or use their survey as a ballot. Therefore, management collected the boxes and placed them in the General Counsel's Office. The Agency's managers also believed that an altercation between PPPWU and PPPWU Local 713-S representatives had caused a disruption on the shop floor which interrupted production; therefore, PPPWU representatives were asked to leave the shop floor.

Analysis and Conclusion:

The standard for determining whether objectionable conduct requires that an election be set aside is its potential for interfering with the free choice of the voters. *See U.S. Dep't of the Army, McAlester Army Ammunition Plant, Red River Munitions Center, Texarkana, Tex.,* 61 FLRA 323, 324 (2005); *see also United States Army Engineer Activity, Capital Area, Fort Myer, Va.,* 34 FLRA 38, 42 (1989).

The Authority has consistently held that management has the duty to remain neutral during an election campaign. *Pension Benefit Guar. Corp.*, 66 FLRA 349 (2011); *Fort Campbell Dependent Sch., Fort Campbell, Ky.*, 46 FLRA 219 (1992); *Dep't of the Army Headquarters, Wash., D.C. & U.S. Army Field Artillery Ctr. & Fort Sill, Fort Sill, Okla.*, 29 FLRA 1110, 1125 (1987); *Dep't of the Army, U.S. Army Corps of Eng'r, Huntsville, AL.,* 68 FLRA 649 (2015). An agency's conduct that interferes with the employees' freedom of choice in an election requires that the election be set aside. While it is often difficult to assess how pervasive the impact of an agency's improper actions might be on voters, the standard for determining whether conduct is of an objectionable nature so as to require that an election be set aside is its potential for interfering with the free choice of the voters.

[3] Walker was concerned that the PPPWU representatives were not with Prailow and thought the policy was that non-employee representatives had to be accompanied by an employee.

The Authority has previously held that the right guaranteed employees under Section 7102 of the Statute to ". . . form, join, or assist any labor organization . . ." encompasses the right of employees to distribute literature "in non-work areas during non-work time." *Dept' of Health and Human Servs., Soc. Sec. Admin., Southeastern Program Serv. Ctr.,* 21 FLRA 748, 751 (1986) (*SSA*); *General Services Admin.*, 9 FLRA 213 (1982); *Internal Revenue Serv., North Atl. Serv. Ctr., Andover, Mass.*, 7 FLRA 596 (1982). The Authority has also determined that the right of employees to engage in solicitation on behalf of a labor organization during non-work time is similarly protected by the Statute. *SSA*, 21 FLRA at 751; *Okla. City Air Logistics Ctr. (AFLC), Tinker Air Force Base, Okla.*, 6 FLRA 159 (1981). Further, such right may even extend to solicitation in work areas absent any disruption of the Activity's operations or other unusual circumstances. *SSA*, 21 FLRA at 751; *Soc. Sec. Admin.*, 13 FLRA 409 (1983). An employer violates the protected rights of employees under Section 7102, and therefore also Section 7116(a)(1) of the Statute, when it enforces overly broad no-solicitation/no-distribution rules in the course of an election absent a showing of disruption of agency operations or unusual circumstances. *SSA,* 21 FLRA at 751-752.

It is important to note that Section 2422.27(b) of the Authority's Regulations places the burden of proof with the party filing election objections, and the Authority has recognized that this burden applies at all stages of the objection proceeding. *See, e.g., U.S. Dep't of the Navy, Naval Station, Ingleside, Tex.*, 46 FLRA 1011 (1992) (*NAS Ingleside*). As stated by the Authority in *NAS Ingleside*, ". . . the burden is clearly upon the objecting party to provide the evidence necessary to support its allegations of improper conduct and to demonstrate that conduct may have improperly affected the results of the election." *NAS Ingleside*, 46 FLRA at 1023 n.7. In this connection, Section 2422.26(b) requires the objecting party to "file evidence, including signed statements, documents, and other materials supporting the objections, with the Regional Director within ten (10) days after the party files the objections."

I have determined that the Agency's actions described above do not rise to the level of interference with the free choice of voters. At the outset, I note that the evidence does not support the general assertion that the GPO barred PPPWU representatives from talking to employees in the Washington, D.C. facility or from giving employees PPPWU information. Assuming that PPPWU may act as the exclusive representative at the facility, it is clear, then, that the PPPWU has the right under Section 7102 to solicit bargaining unit employees during non-work time and in non-work areas. *See SSA*, 21 FLRA at 751-752. That right may even extend to work areas absent disruption of the Agency's operations. Here, the evidence demonstrates that the Agency permitted the PPPWU to engage in employee solicitation in work areas until it reasonably believed that a disruption of the Agency's operations had occurred. When the incident between PPPWU and PPPWU Local 713-S representatives occurred, PPPWU representatives were asked to leave. The evidence does not show that the Agency favored one side or the other, but instead was attempting to direct the focus of employees on their job duties, and to diffuse a potentially volatile situation. Furthermore, the altercation that took place could be viewed as an internal Union dispute. Regardless, I do not find that the Agency's actions had the potential to interfere with the free choice of the voters. Accordingly, this objection is dismissed.

Objection #2: The Agency, on or about December 11, 2024, at the Agency's Stennis Space Center, Mississippi facility, barred representatives of PPPWU from talking to employees in the facility and from giving employees PPPWU written information.

Investigation:

When the PPPWU representatives left the Washington, D.C. facility on December 11, 2024 they traveled to the Agency's Stennis, Mississippi facility to be present for the third shift from 9 p.m.-7 a.m. The Stennis, Mississippi facility is located at the John C. Stennis Space Center in Mississippi, which is a secured Federal facility. Guests must be approved to enter the base. Prailow notified Site Manager John Putman that they were coming beforehand. The representatives were placed in a conference room to speak to employees during lunch. They were not allowed out on the floor. The representatives spoke to four Local 1-C employees for about an hour. The next day, on December 12, 2024 the PPPWU representatives returned, but were not able to access the conference room due to a holiday party. The Agency provided access to a small private room, and two (2) employees came to speak to the representatives. The representatives also visited with employees at the holiday party, but were not comfortable speaking about confidential information because supervisors were present. At around 2:00 p.m. on December 12, 2024, the PPPWU representatives met with Putman. Nobles asked for a tour, but Putman said he could not give him one; Putman said his directions came from above, and he guessed it was related to some incident that happened earlier in the week. Some evidence indicates that PPPWU representatives were given tours when visiting the Stennis, Mississippi facility in the past, and were allowed out on the shop floor to speak with employees. However, there is no evidence showing that the representatives were prohibited from meeting with employees in the space provided, or from giving written

information to employees who met with them during the December 11-12, 2024 visit.

Analysis and Conclusion:

As noted in the response to Objection #1, the Section 7102 right of the PPPWU to solicit employees in work areas is limited by its potential disruption to the Agency's operations. *SSA, supra.* Here, I have determined that the Agency's actions described above do not rise to the level that would interfere with the free choice of voters. Similar to the analysis of the prior Objection, the evidence does not demonstrate that the Agency barred representatives of PPPWU from talking to employees in the Stennis, Mississippi facility and/or giving employees PPPWU written information. Rather, the evidence shows that the Agency provided a space for the representatives to meet with employees, but that the PPPWU representatives wanted to meet with employees out on the shop floor. Under these circumstances, and considering the altercation that occurred in the Agency's Washington, D.C. facility when the representatives were distributing surveys and flyers on the shop floor, I find the Agency's actions were entirely reasonable. Accordingly, the facts do not demonstrate conduct that interfered with the free will of voters, and this Objection is dismissed.

Objection #3: The Agency, on or about October 9, 2024, negotiated and consulted with the Teamsters concerning whether certain employees were to be included in or excluded from the Agency's revised list of employees eligible to vote that was to be submitted to the Federal Labor Relations Authority. The PPPWU was excluded from these discussions and was not afforded an opportunity to submit its position on inclusion or exclusion of employees.

Investigation:

The petition in the case was filed by the Teamsters, and opened for processing by letter to the GPO and the Teamsters on September 25, 2024. On October 1, 2024, the FLRA Regional Office received information from the Agency that the PPPWU Local 713-S may be affected by the issues raised in the petition. The FLRA Denver Region scheduled a conference call for October 8, 2024, to discuss issues raised by the petition. Present on the call were representatives of the GPO, the Teamsters, and the President of the PPPWU Local 713-S, Darryl DeVeaux.[4] During the meeting, President DeVeaux noted that some of the employees on the list provided by the Agency on October 1, 2024, had left federal employment or had been transferred out of the unit, and that some other employees had recently been hired. After the meeting, Teamsters Staff Attorney Shannon Gough emailed GPO Attorney Hatfield to confirm that the Teamsters was noting discrepancies in the list provided by the Agency. Attorney Gough believed that six employees should be removed from the list and three employees should be added; Gough did not copy the FLRA Agent, or anyone else, on this email.

Afterwards, on October 10, 2024, the FLRA Regional Office notified PPPWU International President Nobles, by letter, that the PPPWU may be considered a party to the proceeding, and requested that it provide a statement of its interest in the matter. Also on October 10, 2024, a PPPWU representative contacted the FLRA Region by phone to assert it was the incumbent representative and requested further information regarding the petition, which the Region provided that day. On October 18, 2024, the PPPWU notified the FLRA Region by letter that it was the incumbent representative, and that it intended to continue to represent the bargaining unit employees, through its affiliate Local 713-S.

On November 19, 2024, the FLRA Regional Office held another election meeting, with the GPO, the Teamsters and the PPPWU. The PPPWU did not raise any concerns regarding employees on the eligibility list during this meeting. After the conference, Ms. Hatfield responded to Gough's October 9, 2024 email concerning discrepancies in the employee list. Ms. Hatfield included responses from the GPO Human Capital office about the Teamsters' concerns. The PPPWU and the FLRA Agent were also included on this email. The PPPWU did not comment further or otherwise dispute the list of included or excluded employees in the unit for purposes of voting prior to the mailout of ballots.

Analysis and Conclusion:

In determining whether *procedural* errors affected the conduct of the election to such an extent that the election results should be set aside, it must be demonstrated that such errors were either prejudicial to the procedural rights of one or more of the parties to the election or were prejudicial to rights of eligible voters in the election so as to deny them the ability to exercise their free choice in the matter of their representation. *See, e.g.*, *Army & Air Force Exch. Serv., Dallas, Tex.*, 55 FLRA 1239 (1999) (*AAFES*); *U.S. Dep't of Health and Human Services, Soc. Sec. Admin. Dist. Office, Greenville, N.C.*, 36 FLRA 824 (1990); *Dep't of Def., Dep't of the Navy,*

[4] As noted in the Investigation of Objection #1 above, the PPPWU viewed President DeVeaux as being responsible for attempting to have the Teamsters elected as the exclusive representative, which was not apparent until this call.

Naval Air Rework Facility (NAS), Norfolk, Va., 12 FLRA 164 (1983).

Here, there is no evidence of procedural errors that affected the rights of the PPPWU or the rights of eligible voters to exercise free choice.[5] After the Region mailed out an opening letter in the case, it received information from the Agency that the PPPWU Local 713-S may be affected by the issues raised in the petition. The Region scheduled a conference call for October 8, 2024, to discuss issues raised by the petition. Present on the call were representatives of the GPO, the Teamsters, and the President of the PPPWU Local 713-S, Darryl DeVeaux. Uncertainty regarding DeVeaux's role in this matter was not apparent until this call. Moreover, it is not clear that PPPWU, as opposed to PPPWU Local 713-S, was the exclusive representative of the bargaining unit. During the call, DeVeaux mentioned that some of the employees had retired or left the unit and some employees had been hired. After this meeting, the Teamster's Attorney emailed the Agency about these discrepancies, without the FLRA's knowledge. Afterwards, on October 10, 2024, the FLRA Regional Office notified PPPWU International President Nobles that the PPPWU may be considered a party to the proceeding, and requested that it provide a statement of its interest in the matter. Also on October 10, 2024, a PPPWU representative contacted the FLRA Region by phone to assert it was the incumbent representative and requested further information regarding the petition, which the Region provided that day. On October 18, 2024, the PPPWU notified the FLRA Region by letter that it was the incumbent representative, and that it intended to continue to represent the bargaining unit employees, through its affiliate Local 713-S. At the second conference call, on November 19, 2024, neither the PPPWU International President nor the PPPWU's representative raised any concerns about the Agency's eligibility list. As there was ample opportunity for the PPPWU to have raised concerns about the eligibility list with the Agency and the FLRA prior to the election, it is clear there were no procedural errors that affected their rights. Furthermore, there is no indication that the eligibility list was in error so that any eligible voters were prevented from voting, or ineligible voters were mailed a ballot.

As to whether the Agency's conduct described in this Objection interfered with the free choice of voters because the Agency did not maintain neutrality, there is similarly no evidence to demonstrate such interference. *See U.S. Dep't of Homeland Security, U.S. Customs and Border Protection,* 62 FLRA 78, 81 (2007).

In this case, the Teamsters noted that six employees should be removed because they were retired, moved into a different unit, or were incorrectly classified. It also pointed out that three employees should be added to the list. The Agency responded more than a month later, after the November 17, 2024 election meeting, with its research concerning those employees and the final decision on removing/adding them to the list. There was no back-and-forth in this exchange between the Teamsters and the GPO. Further, the PPPWU had an opportunity to offer its responses to the Teamsters' proposed modifications, or offer its own proposed modifications, but chose not to. Under these circumstances, there was no illicit bargaining or other conduct between the Agency and the Teamsters that interfered with the free choice of voters. Therefore, this Objection is dismissed.

Objection #4: The Agency, on or about October 22, 2024, at the Agency's 732 N. Capitol Street NW, Washington, DC facility, permitted non-employee Teamsters representatives to meet with employees in work areas and during work time during a "walkaround". No FLRA determination had been communicated that Teamsters had established a *prima facie* showing of interest or achieved equivalent status.

Investigation:

The petition in the case was filed by the Teamsters, and opened for processing by letter to the GPO and the Teamsters on September 25, 2024. The Denver Region initially assessed the showing of interest, finding it to be sufficient. On October 10, 2024, the Region notified the PPPWU International President of the petition. Also on October 10, 2024, a PPPWU representative contacted the FLRA Region by phone to assert that the PPPWU was the incumbent representative and requested further information regarding the petition, which the Region provided that day. On October 18, 2024, the PPPWU notified the FLRA Region by letter that it was the incumbent representative, and that it intended to continue to represent the bargaining unit employees, through its affiliate Local 713-S. On October 22, 2024, the PPPWU representative submitted a request for a reassessment of the showing of interest. On November 1, 2024, the Region communicated by email to the parties that it had reassessed the showing of interest and the Teamsters had established a *prima facie* showing of interest sufficient to process the petition. During the PPPWU visit to the Washington, D.C. facility on or about November 6, 2024, representatives were told that the Teamsters had visited the employees earlier. The PPPWU representatives checked the log book and saw that

[5] Section 2422.27(b) of the Authority's Regulations provides that the burden of proof lies with the party filing election objections, and the Authority has recognized that this burden applies at all stages of the objection proceeding.

Nicolas Crouch, Steward of Local 713-S, escorted the Teamsters into the facility – on or about October 22, 2024 and November 6, 2024. Shortly thereafter, the PPPWU notified Agency Attorney Hatfield about the Teamsters' visit. Hatfield emailed Local 713-S President DeVeaux and Crouch on November 8, 2024 to inform them that visits from outside unions need to be cleared with Labor Relations ahead of time.

The investigation revealed that GPO employees may have guests visit the Washington, D.C. facility as long as the guests process through security and are escorted by an employee. Management does not typically police the movements of the guests other than to ensure that the GPO internal security and safety needs are met.

Analysis and Conclusion:

The Authority has held that when a petitioning union achieves "equivalent status" with an incumbent union, the petitioning union becomes "entitled to be furnished customary and routine facilities and services." *Pension Benefit Guaranty Corp.*, 61 FLRA 447, 451 (2006); *U.S. DOD Dependents School, Panama Region*, 44 FLRA 419, 422 (1992).

In this case, there is no evidence that the Agency *permitted* representatives of the Teamsters to meet with employees in work areas and during work times, or that the Agency sponsored such visits. Instead, the evidence shows that a representative of PPPWU Local 713-S may have escorted Teamsters' representatives into the Washington, D.C. facility under the Agency's policies allowing guests visitors. The Agency was not made aware of the Teamsters visits until afterwards. Furthermore, one of these visits – November 6, 2024 – occurred after the Teamsters had achieved equivalent status, although the Teamsters did not attempt to invoke equivalent status on either occasion as a basis for entry to the facility. Under these circumstances, the evidence does not demonstrate that the Agency violated its duty to remain neutral during a representation election. Nor does the evidence show any objectionable conduct that could potentially interfere with the free choice of the voters. As such, this Objection is dismissed.

Objection #5: The Agency, on or about November 5, 2024, at the Agency's 732 N. Capitol Street NW, Washington, DC facility, permitted non-employee Teamsters representatives to meet with employees in work areas and during work time during a "walkaround". No FLRA determination had been communicated that Teamsters had achieved equivalent status.

Investigation:

The Objection cites to an alleged visit by the Teamsters on November 5, 2024. However, as noted above in the investigation of Objection #4, the visit likely occurred on November 6, 2024. The evidence concerning this Objection is described above in the section concerning the Investigation of Objections #4.

Analysis and Conclusion:

As noted in the Analysis of Objection #4 (a substantially identical assertion referring only to a different visit) the evidence does not demonstrate conduct interfering with the free choice of voters. *See AAFES*, 55 FLRA 1239. As such, this Objection is dismissed.

Objection #6: The Agency's restrictions preventing PPPWU representatives from talking to employees in the 732 N. Capitol Street NW, Washington, DC facility and the Stennis Space Center, Mississippi facility, and from giving such employees PPPWU written information, described in Objections #1 and #2, without giving the PPPWU notice of intent to change or an opportunity to bargain over proposed changes, and thereby repudiated the collective-bargaining agreements.

Investigation:

The evidence, analysis, and conclusions concerning the factual predicate of this Objection is described above in the sections concerning Objections #1 and #2 - where I concluded that the PPPWU was not barred from talking to employees and giving employees information, and that the Agency's conduct did not interfere with the free choice of voters. However, this Objection #6 further asserts that these facts constituted a change without proper notice or bargaining with the PPPWU, and thereby a repudiation of the collective bargaining agreement.

Analysis and Conclusion:

The Regulations of the FLRA, Section 2422.34(a) state: *Existing recognitions, agreements, and obligations under the Statute - When a representation proceeding is pending, parties must maintain existing recognitions, follow the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.*

In the present case, the evidence does not show that the Agency failed to follow the terms and conditions of existing collective bargaining agreements, or fulfill its representational responsibilities under the Statute. The

Agency did not change conditions of employment by its actions to address a disruptive situation in the workplace, which occurred during the special circumstance of a representational election. Consequently, assuming that a bargaining obligation might exist between the Agency and PPPWU, as opposed to PPPWU Local 713-S, the Agency's actions did not require notice and bargaining with the PPPWU. Furthermore, Article IV, Union Representation, Section 11 of the Master Labor Agreement (MLA) states, "[t]he GPO agrees that duly designated non-employee representatives of the union will be admitted to the GPO after notification of the Director of Labor and Employee Relations." Article VI, Facilities and Services, Section 2 states, "[i]t is agreed that a union may distribute appropriate labor management material to their members at mutually agreed upon time and areas. The times and locations will be agreed upon with area supervisors." There is no relevant provision in the Supplemental Agreement (SA) or Wage Agreements (WAs). Here, the evidence shows that the Agency attempted to comply with Articles IV and VI when it allowed the PPPWU representatives into the Washington, D.C. facility to meet with bargaining unit employees and distribute literature. It is undisputed that an incident happened on the shop floor in the Washington, D.C. facility on December 9-10, 2024 involving PPPWU representatives and the Local 713-S President. Area supervisors determined this incident was disruptive to the workplace. Accordingly, they asked the PPPWU to leave the facility on that day, and afterwards made arrangements for employees at the Stennis facility to meet privately with employees. Under these circumstances, the Agency's actions regarding the PPPWU's access to employees at the Washington, D.C. and Stennis, Mississippi facilities clearly did not breach or repudiate these provisions, or otherwise interfere with the free choice of voters.

Objection #7: The Teamsters, on or about October 9, 2024, negotiated and consulted with U.S. Government Publishing Office ("GPO") concerning whether certain employees were to be included in or excluded from the GPO's revised list of employees eligible to vote that was to be submitted to the Federal Labor Relations Authority.

Investigation:

The evidence concerning this Objection is described above in the section concerning the Investigation of Objections #3 – a substantially identical assertion.

Analysis and Conclusion:

The Analysis and Conclusion concerning Objection #3 is applicable here. There was no illicit bargaining or other conduct between the GPO and the Teamsters, that interfered with the free choice of voters. Therefore, this Objection is dismissed.

Objection: #8: Non-GPO employees of the Teamsters, and a GPO employee who is a Teamsters agent, on or about October 22, 2024, at the Agency's 732 N. Capitol Street NW, Washington, DC facility, met with employees in work areas and during work time during a "walkaround". No FLRA determination had been communicated that Teamsters had established a *prima facie* showing of interest or achieved equivalent status.

Investigation:

The evidence concerning this Objection is described above in the section concerning the Investigation of Objection #4.

Analysis and Conclusion:

The Analysis and Conclusion concerning Objection #4 is applicable here. This Objection #8 differs only from Objection #4 in that it appears to focus on the actions of the non-GPO employees of the Teamsters and a GPO employee who was a Teamsters' agent, rather than on the Agency. However, these circumstances do not establish any objectionable conduct that could potentially interfere with the free choice of the voters. As such, this Objection is dismissed.

Objection #9: Non-GPO employees of the Teamsters, and a GPO employee who is a Teamsters agent, on or about November 5, 2024, at the Agency's 732 N. Capitol Street NW, Washington, DC facility, met with employees in work areas and during work time during a "walkaround". No FLRA determination had been communicated that Teamsters had achieved equivalent status.

Investigation:

The evidence concerning this Objection is described above in the section concerning the Investigation of Objections #4 and #5.

Analysis and Conclusion:

The Analysis and Conclusion concerning Objections #4 and #5 is applicable here. This Objection #9 differs only from Objection #5 in that it appears to focus on the actions of the non-GPO employees of the Teamsters and a GPO employee who was a Teamsters' agent, rather than on the Agency. However, these circumstances do not establish any objectionable conduct that could potentially

interfere with the free choice of the voters. As such, this Objection is dismissed.

Objection #10: By its disparate treatment of the Teamsters and PPPWU described above, the Agency interfered with the free choice of voters by engaging in conduct in support of the Teamsters and to the detriment of the PPPWU.

Investigation:

The PPPWU does not specify the alleged conduct by which the Agency demonstrated disparate treatment of the Teamsters, other than to reference the alleged conduct "*as described above*." Furthermore, the PPPWU presented no additional evidence to support this Objection. Under these circumstances, the sections above describing the investigation of Objections #1-9 addresses the facts necessary to rule on this Objection.

Analysis and Conclusion:

This objection is interpreted as an allegation that the Agency violated its obligation to remain neutral during an election campaign between two unions seeking to represent its employees. *See Dep't of the Army Headquarters, Wash D.C.*, 29 FLRA 1110 (1987) (analyzing whether management's conduct, reasonably interpreted, showed a preference for one of two competing labor organizations during the course of an election campaign); *Dep't of the Interior, Bureau of Indian Affairs,* 56 FLRA 169 (2000) (agency did not violate its obligation of neutrality by favoring one union over another concerning campaign activities during an election).

For the reasons described in the analysis of Objections #1-9, the PPPWU has not established that the Agency engaged in improper conduct that violated its obligation to remain neutral by favoring the Teamsters during the election. Consequently, the evidence does not show objectionable conduct that could have interfered with the free choice of voters. As such, this Objection is dismissed.

Objection #11: The election in Washington, D.C., was conducted by mail ballot instead of as a manual election in GPO's Washington, D.C. facility, notwithstanding that GPO's Washington, D.C. facility, where about 190 bargaining unit voters are employed, is less than two miles from the FLRA's Washington Regional Office, is about an 11-minute drive from the FLRA office, and employees in Washington are not widely dispersed or work in isolated or remote locations. The election should have been conducted manually.

Investigation:

This case was transferred from the Washington, D.C. Regional Office to the Denver Regional Office on September 12, 2024, based on internal Office of General Counsel policies. The Region examined FLRA resources, the location and size of the workforce, and the fact that the employees were dispersed. The Denver Regional Office determined that, as an effective and efficient use of its resources, it would conduct a mail-ballot election amongst the eligible voters and conduct the count in Denver, Colorado. The parties were invited to participate as observers and were permitted to observe via Microsoft Teams.

Analysis and Conclusion:

The 1996 revisions to the Representation Regulations give Regional Directors the discretion in Section 2422.16(b) to decide the method of elections. Regional Directors consider the following in deciding whether to conduct a mail or manual ballot election: a. location and size of the voting unit; a mail ballot election is used if most of the employees in the unit are widely dispersed or whose work stations are in isolated or remote locations; b. significance of the election to the community; c. availability of regional resources; and d. other factors, such as temporary addresses, summer vacations, etc. *See AAFES*, 55 FLRA 1239.

In this case, the Denver Region exercised its discretion in determining the procedure of the election. The Region determined that the most effective and efficient method of conducting this election was mail-ballot with a count in Denver. This decision is in accordance with Section 2422.16. Moreover, there has been no evidence presented to demonstrate that the use of the mail ballot negatively impacted the results of the election or disrupted the will of the employees right to self-determination. Therefore, this Objection is denied.

Objection #12: The Teamsters failed to serve a copy of the petition on the PPPWU, resulting in a five-week delay in the PPPWU receiving notice that a petition had been filed. By failing to serve the petition, the Teamsters gave themselves resulted in (sic) a five-week head-start in which they were free to campaign, and did campaign, while the PPPWU was kept in the dark about the pending petition, prejudicing the PPPWU's ability to communicate with employees.

Investigation:

The instant petition was filed on September 6, 2024. The opening letter in this case went out to GPO and the Teamsters on September 25, 2024 requesting the Agency to provide all names, mailing address, and

telephone numbers of labor organizations known to be affected by the issues raised in the petition. The Agency replied and listed the PPPWU as another union affected by the petition. On October 8, 2024, the FLRA held an initial conference call with the parties. Present at this meeting was President DeVeaux of PPPWU Local 713-S. Mr. DeVeaux's role in this matter was not entirely apparent until this call. At this meeting, the parties discussed that the employees were currently represented by the PPPWU and the PPPWU Local 713-S. The FLRA Agent determined it was necessary to notify the PPPWU as a possible intervenor in the case. The Agent asked the Agency for a copy of the contract to determine if there was a contract bar and notified the PPPWU National President on October 10, 2024 of the petition. PPPWU filed its Statement of Interest on October 18, 2024, a Request for a Reassessment of the Showing of Interest on October 22, 2024, and a Motion to Dismiss on November 8, 2024. The Teamsters attorney served the petition on the PPPWU on November 8, 2024. The Direction of Election was issued on November 27, 2024, which denied the Motion to Dismiss based on a contract bar and failure to serve the PPPWU, and the ballots were mailed to employees on December 5, 2024.

Analysis and Conclusion:

Assuming that PPPWU was entitled to receive independent service of the petition, PPPWU has presented no evidence that it was prejudiced in any way by service of the petition by the FLRA on October 10, 2024. PPPWU Local 713-S was well aware of the filing of the petition. More importantly, PPPWU had ample time to communicate with bargaining unit employees prior to the election. Accordingly, this Objection is dismissed.

Objection #13: Processing of the petition should have been blocked because there was a contract bar in effect when it was filed and/or served. The petition should be dismissed. Any new petition will need to be filed in accordance with the Authority's contract bar precedent.

Investigation:

The investigation revealed there is a multi-party Master Labor Agreement (MLA) between the Joint Council of Unions, GPO and the United States Government Printing Office, that was entered into on March 25, 1988 and became effective April 25, 1988. The MLA covered employees at the Agency, including the employees represented by the PPPWU Local 713-S at issue here. The MLA remained in effect for 3 years, but is expired as it did not contain any provisions for rolling over. There is also a Supplemental Agreement (SA) between the Washington Federal Printing Workers Union, Local 713-S, Graphic Communication International Union, AFL-CIO, and the United States Government Printing Office, dated December 20, 2004. The SA remained in force and effect for three years, and is to remain in force and effect from year to year thereafter unless written notice was served.

In October 2024, the Region determined that the petition was not barred by these contracts. The PPPWU filed a Motion to Dismiss the petition on November 7, 2024. In the Motion, the PPPWU alleged that the representation petition was not served on the PPPWU and is untimely due to a contract bar. The Motion alleged that in addition to the MLA and the SA, there is also a Multi-Union Wage Agreement (WA) signed on November 23, 2021, and a Memorandum of Understanding Addendum to the WA signed on December 20, 2021, which specifically applies to Local 713-S. As noted in the analysis of Objection #12, the Region assessed the PPPWU's assertion regarding service of the petition and determined that the PPPWU was not prejudiced. The Region's Direction of Election, issued on November 27, 2024, also denied the PPPWU's Motion to Dismiss.

Analysis and Conclusion:

The Statute at 5 U.S.C. Section 7111(f) prohibits according exclusive recognition to a labor organization: "(3) if there is then in effect a lawful written agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless -- (A) the collective bargaining agreement has been in effect for more than 3 years; or (B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement." Thus, the Authority will dismiss an election petition filed for a bargaining unit at a time when the unit is covered by a collective bargaining agreement, unless the agreement has been in effect for more than three years or the petition is filed during the 45-day "window period" set out in 5 U.S.C. Section 7111(f)(3)(B).

In the present case, the petition was filed on September 6, 2024. The evidence shows that the MLA was expired. The SA was entered into on December 20, 2004 and remained in force for three years, and from year to year thereafter, i.e., until December 20 of each year. The window period to file a representation petition is between 105 days and 60 days before the contract terminates. Here, 105 days before December 20, 2024 is September 6, 2024 - the date the current petition was filed. Therefore, the petition was filed within the window period. Furthermore, the Region determined that the petition was likewise filed within the window period for the WA and the Addendum

to the WA. In conclusion, the petition was filed within the window period of all the applicable agreements, and was therefore not barred by Section 7111(f)(3)(B) of the Statute. Accordingly, this objection is dismissed.

IV. ORDER

Following consideration of all the issues identified by the PPPWU, I do not find them to be meritorious. It has not been shown that any of the matters raised, whether considered separately or cumulatively, are sufficient to set aside the election. In sum, pursuant to Section 2422.30, all objections are dismissed, the Decision and Order should apply to the related Unfair Labor Practice charges, and the Certification of Results should be issued without any further delay.

V. RIGHT TO SEEK REVIEW

Under Section 7105(f) of the Statute and Section 2422.31(a) of the Authority's Regulations, a party may file an Application For Review with the Authority **within sixty days** of this Decision. The Application For Review must be addressed to the Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 201, 1400 K Street, NW, Washington, DC 20424–0001. The parties are encouraged to file an application for review electronically through the Authority's website, www.flra.gov.

Timothy Sullivan
Regional Director
Denver Region
Federal Labor Relations Authority

Dated: April 30, 2025