



August 25, 2015



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on August 25, 2014, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of District 10, National Vice President (NVP) conducted by the American Federation of Government Employees on (AFGE), on May 10, 2014.

The Department of Labor (Department) conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the LMRDA that may have affected the outcome of the election. Following is an explanation of this conclusion.

You alleged that certain locals affiliated with AFGE (Locals 1454, 3511, 1633, and 3553) did not mail notice of the delegate election for the District 10 Caucus to the last known home addresses of their members. The LMRDA requires that where, as here, delegates are to nominate and elect officers, those delegates must be elected by secret ballot. Additionally, elections required to be held by secret ballot must be preceded by a notice of election mailed to each member at his last known home address not less than fifteen days prior to the election. 29 C.F.R. §§ 452.99, 119. The investigation disclosed that Locals 1454, 3511, and 3553 sent a total of ten delegates to the caucus. Of these ten delegates, six served as delegates by virtue of their election to union office, and no additional election was necessary for their participation. The remaining four delegates were appointed or selected. None of these four were elected by secret ballot; consequently, there was no election; therefore, no notice of election was mailed to the members in violation of the LMRDA. The investigation disclosed, however, that the delegates from these locals cast a total of 642 votes in the election for District 10 NVP. The vote margin for this race was 2,449 votes. Thus, this violation did not affect the outcome of the election with respect to these locals.

With respect to Local 1633, the investigation disclosed evidence that Local 1633 emailed a single notice for both the nominations and the election to those members for whom it had email addresses. It also appears that such notice was posted on bulletin boards located at the employer's facilities. Since the LMRDA specifies that the notice of the election must be mailed, other means of transmission such as posting on a bulletin board or hand delivery will not satisfy the notice requirement. 29 C.F.R. § 452.99. Thus, Local 1633 violated the election notice requirement of the LMRDA when it failed to mail notice of the election to the last known home addresses of each of its members. However, Local 1633's members were provided adequate notice of the nominations meeting, afforded a reasonable opportunity for nominations, and Local 1633 officers, who had themselves been elected by secret ballot, were nominated unopposed as delegates to the District 10 Caucus. As a result, the officers were elected by acclamation and served as delegates. 29 C.F.R. § 452.28. On these facts, the local's violation of the election notice requirement did not influence the outcome of the election.

You alleged that delegates attending the District 10 caucus were permitted to cast the full voting strength (all the votes the local is entitled to cast) of their respective locals instead of the proportionate share each delegate was entitled to vote. Section 401(c) of the LMRDA requires a union to provide adequate safeguards to insure a fair election. The Caucus Rules provide that the delegates representing a local may, collectively, cast the full voting strength of that local with each delegate casting an equal share of that strength. However, in order to cast the full voting strength of their respective local, notice of the nominations of delegates must have been given, an opportunity for nominations provided, and, if required, an election of delegates conducted. Also, a local membership meeting must have been held to allow members to decide whether to hold such an election and to designate the delegates to represent them at the Caucus.

The investigation disclosed that Locals 1454, 3553, and 3511 did not comply with the nominations, election, and meeting requirements of the union for full strength voting. The Department of Labor investigation revealed that one of Local 1454's delegates was appointed. One of Local 3553's delegates was appointed as well, and two of Local 3511's delegates were selected by certain union members. Not only was the locals' failure to elect these four delegates by secret ballot vote contrary to Caucus rules, it also violated section 401(a) of the LMRDA, which provides that delegates who elect officers at a convention must have been chosen by secret ballot. However, the investigation revealed that these delegates cast a total of 642 votes, and the vote margin for District 10 NVP was 2,449 votes. Thus, these violations did not affect the outcome of the election.

You alleged that the credentials committee allowed a delegate from each local to pick up the credentials for the entire delegation without verifying each delegate and whether each delegate was present at the caucus. During the investigation, witnesses stated that, with the exception of you, delegates picked up their own packets at the Caucus. In any event, the investigation showed that the election committee verified the identity of each delegate at the Caucus prior to giving the delegate a ballot for the election of District 10 NVP. There was no violation of the LMRDA.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,

Stephen J. Willertz
Acting Chief, Division of Enforcement

cc: J. David Cox, Sr., National President
American Federation of Government Employees
80 F Street, NW
Washington, DC 20001

Christopher B. Wilkinson, Associate Solicitor
Civil Rights and Labor-Management Division