Federal Labor Relations Authority

§ 2422.28 Runoff elections.

(a) When a runoff may be held. A runoff election is required in an election involving at least three (3) choices, one of which is “no union” or “neither,” when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the Regional Director has ruled on objections to the election and determinative challenged ballots.

(b) Eligibility. Employees who were eligible to vote in the original election and who are also eligible on the date of the runoff election may vote in the runoff election.

(c) Ballot. The ballot in the runoff election will provide for a selection between the two choices receiving the largest and second largest number of votes in the election.

§ 2422.29 Inconclusive elections.

(a) Inconclusive elections. An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is “no union” or “neither” and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the Regional Director determines that there have been significant procedural irregularities.

(b) Eligibility to vote in a rerun election. A current payroll period will be used to determine eligibility to vote in a rerun election.

(c) Ballot. If the Regional Director determines that the election is inconclusive, the election will be rerun with all the choices that appeared on the original ballot.

(d) Number of reruns. There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, the tally of ballots will indicate a majority of valid ballots has not been cast for any choice and a certification of results will be issued. If necessary, a runoff may be held when an original election is rerun.

§ 2422.30 Regional Director investigations, notices of hearings, actions, and Decisions and Orders.

(a) Regional Director investigation. The Regional Director will make such investigation of the petition and any other matter as the Regional Director deems necessary.

(b) Regional Director notice of hearing. The Regional Director will issue a notice of hearing to inquire into any matter about which a material issue of fact exists, and at any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) Regional Director action and Decision and Order. After investigation and/or hearing, when a hearing has been ordered, the Regional Director will resolve the matter in dispute and, when appropriate, direct an election or approve an election agreement, or issue a Decision and Order.

(d) Appeal of Regional Director Decision and Order. A party may file with the Authority an application for review of a Regional Director Decision and Order.

(e) Contents of the Record. When no hearing has been conducted all material submitted to and considered by the Regional Director during the investigation becomes a part of the record. When a hearing has been conducted, the transcript and all material entered into evidence, including any posthearing briefs, become a part of the record.

§ 2422.31 Application for review of a Regional Director Decision and Order.

(a) Filing an application for review. A party must file an application for review with the Authority within sixty (60) days of the Regional Director’s Decision and Order. The sixty (60) day time limit provided for in 5 U.S.C. 7105(f) may not be extended or waived.

(b) Contents. An application for review must be sufficient to enable the Authority to rule on the application