

ROLL CALL

GAO Challenge Delays Unionization Vote

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June 20, 2007

Unionizing efforts at the Government Accountability Office are on hold while the agency's Personnel Appeals Board determines whether one-third of employees who petitioned to organize are legally allowed to do so.

GAO representatives told the appeals board last week that 461 of the 1,386 analysts seeking to join the International Federation of Professional and Technical Engineers are ineligible because they serve in supervisory roles or in positions requiring confidentiality. IFPTE officials have denied such claims, arguing that the employees do not perform core supervisory duties.

The debate came to a head when IFPTE and GAO officials met with the board last week to set the date of the election that will determine if analysts join the union. During those meetings, the agency offered to hold the election in July, provided the 461 employees are excluded.

The union rejected that offer.

"The offer was not one that was intended in good faith to get a union election this summer," said IFPTE General Counsel Julia Akins Clark, who represented the union at the meeting. "The price of accepting the offer would have been the GAO employees to abandon—permanently—their colleagues."

In a memo to employees posted to the agency's intranet system Tuesday, GAO's executive committee wrote that the agency made the offer "in an effort to move matters forward as soon as prudently possible."

During the meeting last week, GAO officials also pushed to let about 430 probationary employees participate in the election, a move the union also dismissed.

In the memo, the agency argued that such employees would be represented by the union after their probationary period ends and therefore should have the chance to vote on whether to organize.

But when the GAO employees petitioned for a union, they decided a separation was needed because their job status is different compared to probationary workers, Clark said, adding that many unions keep permanent and probationary workers separate in terms of bargaining units.

The agency had other things in mind when pushing to include the probationary employees, Clark argued.

“Seeking to exclude large numbers of employees or include other large number of employees is a typical tactic used by employers to delay union elections and ... through that delay, defeat the unionization effort,” she said.

But in the memo released Tuesday, the executive committee insisted that “GAO remains committed to resolving the issues as expeditiously as possible.”

“Importantly, GAO management believes that a vote should take place,” the memo reads. “At the same time, GAO management wants to assure that the vote is fair and consistent with applicable labor laws.”

With talks between the two sides stalled, it is up to the appeals board to determine if the 461 employees will be excluded.

Appeals board General Counsel Anne Wagner is expected to prepare a report on the matter and present it to GAO and union officials for comment this week, Clark said. The two sides then have 15 days to submit comments to the board, which will then have 30 days to issue an order for a hearing and eventually issue a ruling, she said.

“We would have to work at it to ensure that we would have an election before Thanksgiving,” Clark said. (Officials had hoped to hold an election this summer.)

GAO analysts are prepared for such a fight, Clark said. That showed after the union officials presented the GAO’s election offer to employees.

“It was just unbelievably overwhelming how strongly the employees felt,” Clark said. “Under no circumstances would they agree to a union vote under these conditions.”

The fracas also continued Tuesday over the GAO’s hiring of Robert Ames, an attorney with the firm Venable, to represent the agency during unionization talks. (He represented the agency during last week’s meetings.)

IFPTE officials and some agency analysts have claimed the hiring is an unnecessary use of taxpayer dollars, especially because the GAO already retains in-house counsel.

“GAO is using public funds to carry out a union-avoidance agenda,” Clark said.

In the memo, the agency defended its decision to hire Venable.

“While GAO plans to use its in-house legal resources to the maximum extent possible, the agency retained outside legal counsel because none of GAO’s in-house lawyers has any directly relevant experience in union organizing, bargaining until composition or related election matters,” the memo reads.

“Should the GAO employees who comprise a PAB-approved bargaining unit vote for a union, GAO will hire in-house counsel to deal with such issues on a prospective basis.”

Congress also has jumped in on the unionization issue.

Language was included in the House Appropriation Committee’s version of the legislative branch spending bill urging the agency to move forward with the election process, and union officials said they are pushing for similar language to be included in the Senate version of the bill, which will be presented at a markup on Thursday.