



December 17, 2019

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on October 22, 2018. Your complaint alleges that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the August 15, 2018 election of officers of the American Federation of Government Employees (AFGE).

The Department of Labor conducted an investigation into your allegations. As a result of the investigation, the Department concluded, with respect to your allegations, that there were no violations of the LMRDA that may have affected the outcome of the election.

You alleged that delegates were not given the proper voting strength. You noted that a computer malfunction had assigned one delegate, [REDACTED], a voting strength of 16,000,000 votes. You speculated that other similar errors could have had an impact on the outcome of the election.

Section 401(c) of the LMRDA, 29 U.S.C. § 481(c), requires a union to provide adequate safeguards to insure a fair election. Additionally, section 401(f) of the LMRDA, 29 U.S.C. § 481(f), requires that AFGE's election of union officers by delegates at its convention be conducted in accordance with the union's constitution and bylaws. *See also* 29 C.F.R. § 452.127.

The investigation established that a computer malfunction occurred with respect to delegate [REDACTED] and was fixed immediately. Each delegate to the national convention was assigned a unique identification number that appeared on his or her convention credential in the form of a barcode. In order to vote at the convention, the delegate presented his or her credential to an election committee member, who would scan the barcode in order to determine the delegate's voting strength and then print the

proper number of ballots for the delegate. ██████ voted in the initial election without issue. When ██████ credential was scanned in order to vote in the run-off election for National Secretary-Treasurer, the computer reported that her voting strength was 16 million votes. The election committee member sought assistance from TrueBallot officials, who were able to fix the problem. TrueBallot officials speculated that the error occurred because an operator, when scanning the credential, inadvertently pasted her delegate identification number into the field containing her authorized voting strength. OLMS' review of the election records verified that ██████ voted her correct voting strength in both the initial election and the run-off election. The investigation found no evidence that any inaccuracies of this nature affected the election. OLMS did not find any other problems with other delegates voting the wrong number of votes.

OLMS also investigated AFGE's method of calculating voting strength. Article VI, Section 1 of the AFGE Constitution requires that representation at the national convention be based on the average number of paid members for the 12 month period between May 1 and April 30. The investigation confirmed that AFGE's calculation method was in accordance with the AFGE Constitution. There was no violation of the LMRDA.

You also alleged that the votes may not have been tallied accurately. You explained that prior elections had been rerun because of problems with the election vendor's computer system. You noted that there were fewer votes cast in the runoff election for the position of National Secretary-Treasurer and that AFGE's manual recount of the race did not yield the same totals as the initial computer tabulation.

Section 401(c) of the Act, 29, U.S.C. § 481(c), requires a union to have adequate safeguards in place to insure a fair election. Courts have construed such safeguards as pertaining to the technical aspects of conducting an election, including the ballot count and the vote tally.

The investigation found no evidence that inaccuracies in the counting of the ballots affected the outcome of the election. The investigation revealed that there were the same number of delegates eligible to vote and total voting strengths for the initial and runoff elections. The differences in total votes cast between the elections can be attributed to the fact that some voters did not return to vote in the runoff election. OLMS conducted a manual recount of the votes cast in the National Secretary-Treasurer runoff and found minor differences between the union's tally and its count, but the differences did not change the results of the election. There was no violation affecting the outcome of the election.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I have closed the file regarding this allegation.

Sincerely,

A black rectangular redaction box covering the signature of Brian A. Pifer.

Brian A. Pifer
Chief, Division of Enforcement

cc: J. David Cox, Sr., National President
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Beverly Dankowitz, Associate Solicitor
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