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GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In The Matter Of:)	
)	
Fraternal Order of Police/)	
Department of Corrections)	
Labor Committee,)	
)	
Petitioner,)	PERB Case No. 93-R-04
)	Opinion No. 362
and)	
)	
District of Columbia)	
Department of Corrections,)	
)	
Agency,)	
)	
and)	
)	
District of Columbia Department)	
of Corrections Correctional)	
Employees, Local Union No. 1714)	
a/w International Brotherhood)	
of Teamsters, Warehousemen,)	
Chauffeurs and Helpers of)	
America, AFL-CIO,)	
)	
Incumbent Intervenor,)	
)	
and)	
)	
The Alliance of Independent)	
Corrections Employees, Inc.)	
)	
Intervenor,)	
)	

DECISION AND DIRECTION OF ELECTION

On June 10, 1993, Fraternal Order of Police/Department of Corrections Labor Committee (FOP) filed a Recognition Petition with the Public Employee Relations Board (Board). FOP seeks to represent, for purposes of collective bargaining, D.C. Department

of Corrections (DOC) employees, who are currently represented by District of Columbia Department of Corrections Correctional Employees, Local Union No. 1714 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, AFL-CIO, CLC (Teamsters) in a unit described as follows:

"All employees of the D.C. Department of Corrections excluding managerial employees, confidential employees, supervisors, temporary employees, physicians, dentists and podiatrists, institutional residents (inmates) employed by the Department, or any employees employed in personnel work in other than a purely clerical capacity and employees engaged in administering provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978." ^{1/}

The Petition was accompanied by a showing of interest meeting the requirements of Board Rule 502.2 and a copy of the Petitioner's Constitution and Bylaws and Roster of Officers, as required by Rule 502.1(d).

The Board issued Notices concerning the Petition on July 13, 1993, for conspicuous posting at DOC for 15 consecutive days. The Notices required that requests to intervene and/or comments be filed in the Board's office not later than August 13, 1993. The Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DOC, filed a Response to Recognition Petition on June 30, 1993, and on August 4, 1993, confirmed in writing that the Notices had been posted accordingly.

Teamsters filed a Request to Intervene on August 13, 1993,

^{1/} The Teamsters were certified as the exclusive bargaining representative for the above unit in District of Columbia Department of Corrections and Teamsters Local Union No. 1714 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and Teamsters Local Union No. 246 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, PERB Case No. 84-R-09, Certification No. 33 (Amended as of April 15, 1987). The exclusions in the above unit description, however, appear as amended by Doctors' Council of the District of Columbia and the District of Columbia Government (Department of Corrections and Department of Human Services), PERB Case No. 84-R-12, Certification No. 42 (1987).

in accordance with Board Rules 504.14 and 502.8(b). ^{2/}

Also on August 13, 1993, the D.C. Corrections Employees Union, International Union of Police Associations, Local 1990, AFL-CIO (IUPA) and the Alliance of Independent Correction Employees, Inc. (AICE) filed Petitions to Intervene seeking to represent the same unit as described above. There were no other requests to intervene or objections filed in response to any of the Petitions.

Pursuant to Board Rule 502.8, AICE's request for intervention is granted.^{3/} We deny IUPA's Petition to Intervene for the reasons noted in the margin below. ^{4/}

^{2/} By letter dated July 13, 1993, the Board's Executive Director advised the Teamsters of its right intervene as the incumbent labor representative of the petitioned for employees, in accordance with Board Rule 502.8(b). Pursuant to this rule, we grant the Teamster's request to intervene.

We note that the Petitions in this proceeding were filed during the open period of the noncompensation collective bargaining agreement between the Teamsters and DOC, which is effective by its terms from September 30, 1990, through September 30, 1993. Therefore, we find that, in accordance with Board Rule 502.9 (b)(i), neither the noncompensation or the compensation agreement, with effective dates of July 13, 1993 through September 30, 1995, bar the filing of these petitions. See, e.g., Fraternal Order of Police/Department of Correction Labor Committee, et al. and District of Columbia Department of Corrections, _____ DCR _____, Slip Op. No. 327 at n. 4, PERB Case No. 92-U-05 (1993).

^{3/} AICE, in response to a notice of deficiency letter from the Executive Director, filed a corrected Petition to Intervene on August 19, 1993, meeting the requirements of Board Rules for filing documents with the Board. AICE had timely submitted the requisite minimum ten percent (10%) proof of support for intervention pursuant to Board Rule 502.8(a).

^{4/} Based on our investigation of the showing of interest accompanying IUPA's Petition, which consisted of a notarized membership list, we dismiss IUPA's Petition to intervene based on its failure to satisfy the showing of interest required by Board Rule 502.2(b). We had previously denied, for the same reasons, an attempt by IUPA to intervene in a proceeding involving these parties in Fraternal Order of Police/Department of Correction Labor

(continued...)

After concluding our investigation and reviewing the entire record in this matter, the Board orders that an election be held to determine the will of the employees eligible to vote in the unit described above and previously found appropriate regarding representation in collective bargaining with DOC.

ORDER

IT IS HEREBY ORDERED THAT:

An election shall be held in accordance with the provisions of D.C. Code 1-618.10 and Section 510-515 of the Rules of the Board to determine whether or not all eligible employees desire to be represented for purposes of collective bargaining on compensation and terms and conditions of employment by either the Fraternal Order of Police/Department of Corrections Labor Committee; Department of Corrections Correctional Employees, Local Union No. 1714 a/w International Brotherhood of Teamsters,

⁴(...continued)

Committee and District of Columbia Department of Corrections, et al., _____ DCR _____, Slip Op. No. 92-U-05 at n. 4, PERB Case No. 92-U-05 (1993). In dismissing IUPA's Petition in that case, we stated the following:

[w]hile Board Rule 502.2(b) provides that notarized membership lists may be submitted as evidence of a petitioner's showing of interest, any acceptable form or proof listed thereunder must reflect the interest of the employees' "membership in and support of a labor organization." As the Executive Director informed IUPA in her administrative denial of IUPA's request to intervene, IUPA's "evidence of proof consisting merely of a typed list of a membership roll, which is acknowledged only by the Union's employee, does not accomplish what was intended by the Board's rule on showing of interest." IUPA or interested members of the labor-management community are of course, welcome, in accordance with Board Rule 567.2, to offer proposed amendments to Board Rule 502.2 to make more explicit the intent we find inherent in Board Rule 502.2.

In view of this ruling, IUPA has no standing in this proceeding and its Petition to Intervene is dismissed.

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Chauffeurs, Warehousemen, and Helpers of America, AFL-CIO, CLC;
or the Alliance of Independent Correction Employees, Inc.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

September 2, 1993