

73 FLRA No. 86

U.S. FOREST SERVICE
 COLLBRAN JOB CORPS CIVILIAN
 CONSERVATION CENTER
 COLLBRAN, CO
 (Agency)

and

NATIONAL FEDERATION OF
 FEDERAL EMPLOYEES
 IAMAW, AFL-CIO
 (Petitioner/Labor Organization)

DE-RP-22-0035

ORDER DENYING
 APPLICATION FOR REVIEW

February 28, 2023

Before the Authority: Susan Tsui Grundmann,
 Chairman, and Colleen Duffy Kiko, Member

I. Statement of the Case

In the attached decision and order, Federal Labor Relations Authority Regional Director Timothy Sullivan (the RD) resolved NFFE's petition for an election to represent employees at the Collbran Jobs Corp Civilian Conservation Center (Collbran Center). The RD found those employees were covered by an existing collective-bargaining agreement between the American Federation of Government Employees (AFGE) and "the Bureau of Reclamation, Collbran Job Corps Civilian Conservation Center."¹ Because NFFE filed its petition outside the filing window in § 7111(f)(3) of the Federal Service Labor-Management Relations Statute (the Statute) and § 2422.12(d) of the Authority's Regulations,² the RD dismissed the petition as untimely.

NFFE filed an application for review (application) of the RD's decision, arguing that the RD failed to apply established law and that the RD's decision raises an issue for which there is an absence of

precedent. As discussed further below, we partially dismiss and partially deny NFFE's application.

II. Background and RD's Decision

In September 2022, NFFE filed a petition for an election to determine whether employees assigned to the Collbran Center wished to be represented by NFFE for the purpose of collective bargaining. In response, the Agency provided evidence of its existing collective-bargaining agreement with AFGE, which covered the Collbran Center bargaining unit (the agreement). Since 1984, the agreement has "automatically renew[ed] annually on August 9."³ Additionally, a 1982 certification of representative designates AFGE as the exclusive representative of the employees at the Collbran Center, and "[t]here is no evidence of a decertification or a[n] AFGE] disclaimer of interest."⁴

Based on this information, the RD issued an order directing NFFE to show cause (show-cause order) why its petition should not be subject to the contract bar in § 7111(f)(3) of the Statute. Section 7111(f)(3) provides, as relevant here, that exclusive recognition shall not be accorded to a union "if there is . . . in effect a lawful written collective[-]bargaining agreement between the agency involved and [another union]" unless the collective-bargaining agreement "has been in effect for more than [three] years" or the petition for exclusive recognition is filed during a forty-five-day window before the expiration of the agreement (the open window).⁵

In its response to the show-cause order, NFFE argued that the RD should grant its election petition because AFGE failed to represent the bargaining unit effectively. Relying on the doctrine of successorship, NFFE argued that AFGE "effectively abandoned" the bargaining unit following a reorganization of the Collbran Center in the late 1980s, when the Collbran Center moved from the Bureau of Reclamation within the Department of the Interior to the U.S. Forest Service within the Department of Agriculture.⁶ To support this position, NFFE presented evidence that AFGE had not maintained a presence at the Collbran Center for many years.

The RD noted that, in addition to § 7111(f)(3), § 2422.12 of the Authority's Regulations governs whether NFFE's properly filed its petition.⁷ Section 2422.12(d) states that an election petition "will be considered timely

¹ Decision at 2.

² 5 U.S.C. § 7111(f)(3); 5 C.F.R. § 2422.12(d).

³ Decision at 5 (citing RD Ex. 4, Agreement, Art. 23, § 2 ("If neither party serves notice to renegotiate this agreement, the agreement shall be automatically renewed for a one[-]year period and each new period will be a new one[-]year[-]duration period.")).

⁴ *Id.* at 1.

⁵ 5 U.S.C. § 7111(f)(3); *id.* § 7111(f)(3)(B) ("not more than 105 days and not less than 60 days").

⁶ RD Ex. 7, Resp. to Show-Cause Order (Resp. to Show-Cause Order) at 4.

⁷ Decision at 4.

if filed” during the open window.⁸ In addition, under § 2422.12(h), an agreement that automatically renews without further action by the parties may bar a petition filed outside the open window if the agreement has “a clear effective date, renewal date . . . , duration, and termination date.”⁹

Regarding NFFE’s arguments concerning abandonment, the RD found that they concerned “the quality of . . . [AFGE’s] representation.”¹⁰ The RD found that this issue “may be relevant to a petition seeking a determination of whether a good[-]faith doubt exists regarding [AFGE’s] continued majority status,” but was irrelevant to whether the contract bar applied.¹¹ Noting that “NFFE did not argue that the [agreement] was unlawful or ineffective, [and] did [not] argue that the [agreement] did not cover the employees” identified in the petition, the RD found “there [were] no grounds to conclude” that the agreement was ineffective.¹²

Applying § 7111(f)(3) and § 2422.12(d), the RD determined that he could grant NFFE’s petition only if (1) the agreement had been in place for more than three years, or (2) NFFE filed its petition within the open window. As the agreement renews annually on August 9, the RD found that it had been in effect for less than three years.¹³ Further, because it was undisputed that NFFE filed its petition outside the open window, the RD concluded that § 7111(f)(3) and § 2422.12(d) barred the petition. Consequently, he dismissed the petition as untimely.

NFFE filed the application on January 12, 2023, and AFGE filed an opposition to the application on January 25, 2023.

III. Analysis and Conclusion: The RD applied relevant established law, and the decision does not raise an issue for which there is an absence of precedent.

NFFE argues that the RD erred in dismissing its petition under the contract bar because he failed to apply the successorship doctrine to determine whether the agreement was in effect.¹⁴ According to NFFE, the RD could not have found the agreement was effective without first concluding that, in the 1980s, the U.S. Forest Service succeeded the Bureau of Reclamation as a party to the collective-bargaining agreement.¹⁵

Under §§ 2429.5 and 2422.31(b) of the Authority’s Regulations, the Authority will not consider arguments that could have been, but were not, raised in proceedings before a regional director.¹⁶ The RD found that “NFFE did not argue that the [agreement] was unlawful or ineffective.”¹⁷ Although NFFE could have argued to the RD that application of the successorship doctrine would render the agreement ineffective, it did not. Instead, it argued only that AFGE “effectively abandoned” the bargaining unit by failing to file a petition for successorship.¹⁸ Accordingly, we do not consider NFFE’s argument about successorship rendering the agreement ineffective.¹⁹

However, even assuming that argument is properly before us, both AFGE and the Agency recognize that their agreement is currently in effect.²⁰ NFFE presents no authority permitting an outside union to contest the validity of an agreement, to which it is not a party, through the filing of an election petition—let alone on the basis that successorship did not properly occur thirty years ago. Thus, this argument, if considered, would not establish that the RD failed to apply established law.²¹

NFFE also argues that the Authority should grant review because there is a lack of precedent concerning

⁸ 5 C.F.R. § 2422.12(d).

⁹ *Id.* § 2422.12(h); see also *Nat’l Aeronautics & Space Admin., Goddard Space Flight Ctr., Wallops Island, Va.*, 67 FLRA 670, 678-79 (2014) (*Goddard*) (Member Pizzella concurring) (holding that the “effective date of an agreement that automatically renews is ‘the date previously set by the parties for the renewal of the agreement’” (quoting *Kan. Army Nat’l Guard, Topeka, Kan.*, 47 FLRA 937, 943 (1993) (*Topeka*))).

¹⁰ Decision at 5.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* (the agreement “has a clear and unambiguous effective date and clearly sets forth its duration”).

¹⁴ Application at 8.

¹⁵ *Id.* (arguing that the “RD erred when [he] applied the [agreement] between employees represented by AFGE and the Bureau of Reclamation to the same bargaining unit that NFFE seeks to represent through the petition”).

¹⁶ 5 C.F.R. §§ 2429.5, 2422.31(b).

¹⁷ Decision at 5.

¹⁸ Resp. to Show-Cause Order at 4.

¹⁹ See *U.S. Dep’t of the Air Force, Air Force Life Cycle Mgmt. Ctr., Hanscom Air Force Base, Mass.*, 69 FLRA 554, 556 (2016) (dismissing arguments that appealing party raised for first time before the Authority); *Fraternal Ord. of Police*, 66 FLRA 285, 287 (2011) (dismissing an argument that appealing party could have, but did not, raise before the regional director).

²⁰ AFGE’s Opp’n to Application at 7; RD Ex. 3, Agency’s Statement of Issue at 1.

²¹ See *Dep’t of the Army, Fort Carson Fire & Emergency Servs., Fort Carson, Colo.*, 73 FLRA 1, 4 (2022) (rejecting argument where party did “not cite any precedent” with which the regional director’s decision allegedly conflicted (citing *U.S. Dep’t of the Navy Commander, Navy Region Nw. Fire & Emergency Servs., Silverdale, Wash.*, 70 FLRA 231, 232 (2017))).

“abandonment of a [bargaining] unit.”²² Under § 2422.31 of the Authority’s Regulations, the Authority will review a regional director’s decision when the “decision raises an issue for which there is an absence of precedent.”²³

Here, NFFE alleges that, under the “unusual circumstances” of this case, the Authority should find that an election is necessary to determine which labor organization should be the exclusive representative of the Collbran Center bargaining unit.²⁴ However, as the RD noted,²⁵ where “the Statute and the Authority’s Regulations already provide sufficient means for employees to exercise their representation rights, there is no need to change longstanding Authority practice . . . to create another one.”²⁶ Under these circumstances, the Statute provides two means for employees to exercise their rights: (1) NFFE may file, with a showing of employee interest, a petition for an election during the open window,²⁷ or (2) the Collbran Center employees may file a petition to decertify AFGE as the exclusive representative of the bargaining unit under § 7111(b).²⁸

NFFE attempted to avail itself of the first option, and, thus, the issue before the RD was whether NFFE complied with the statutory and regulatory requirements for filing an election petition.²⁹ We find that there is sufficient relevant precedent on this issue to support the RD’s dismissal of the petition as untimely.³⁰ Accordingly, we conclude that NFFE has not demonstrated that the decision raises an issue for which there is an absence of precedent.³¹

IV. Decision

We partially dismiss and partially deny the application.

²² Application at 8.

²³ 5 C.F.R. § 2422.31(c)(1).

²⁴ Application at 8.

²⁵ Decision at 6.

²⁶ *U.S. DOD, Pentagon Force Prot. Agency*, 68 FLRA 761, 766 (2015) (*Pentagon*).

²⁷ 5 U.S.C. § 7111(f)(3); *id.* § 7111 (b)(1)(B) (requiring support from a minimum of “[thirty] percent of the employees in the unit”).

²⁸ *Id.* § 7111(b).

²⁹ Decision at 5-6 (noting that “the Authority has emphasized the importance of abiding by the statutory open periods as it creates ‘sufficient means for employees to exercise their representation rights’” (quoting *Pentagon*, 68 FLRA at 766)).

³⁰ *See, e.g., Goddard*, 67 FLRA at 680 (affirming regional director’s dismissal of an untimely petition where the collective-bargaining agreement renewed automatically each year, and the petitioner filed a decertification petition outside the open window); *Topeka*, 47 FLRA at 944 (holding that § 7111(f)(3) barred an election petition where a collective-bargaining agreement was in effect, the agreement contained an automatic renewal clause, and petitioner filed outside the open window); *U.S. Dep’t of HHS, SSA*, 44 FLRA 230, 246 (1992) (upholding regional director’s dismissal of an election petition that was filed outside the open window).

³¹ *See Pension Benefit Guar. Corp.*, 66 FLRA 349, 353 (2011) (rejecting petitioner’s argument that an absence of precedent existed where petitioner failed to demonstrate distinction between the circumstances of the case and relevant Authority precedent).

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS
AUTHORITY
DENVER REGION**

**U.S. FOREST SERVICE,
COLLBRAN JOB CORPS CIVILIAN
CONSERVATION CENTER,
COLLBRAN, CO
(Agency)**

and

**NATIONAL FEDERATION OF
FEDERAL EMPLOYEES,
IAMAW, AFL-CIO
(Petitioner/Labor Organization)**

DE-RP-22-0035

**DECISION AND ORDER
DISMISSING PETITION**

I STATEMENT OF THE CASE

The National Federation of Federal Employees, IAMAW, ALF-CIO (NFFE or Petitioner) filed the petition in this case on September 14, 2022 requesting that the FLRA conduct a representation election for all professional and non-professional employees assigned to the Collbran Job Corps Civilian Conservation Center in Collbran, Colorado (CJC or Agency). Pursuant to the provisions of Section 7105(e)(1) of the Statute, the Authority has delegated its powers in connection with the subject case to the undersigned Regional Director.

Following the filing of the petition, the Agency, through written Statement of Issue, presented to the Region evidence of an existing, long-standing collective bargaining agreement between the Agency and another labor organization, the American Federation of Government Employees (AFGE) Local 3919 (AFGE L3919). The Agency further noted in the Statement of Issue its position that, absent evidence of decertification or a disclaimer of interest, the instant petition filed by NFFE was void. Subsequently, the Region discovered the certification between AFGE L3919 and CJC. It did discover evidence of decertification or a disclaimer of interest.

The Region provided both parties with the opportunity to submit evidence and written briefs in support of their respective positions through an Order to Show Cause on October 21, 2022 on the issue of dismissal of the petition as untimely. NFFE submitted a Response to the Order to Show Cause on November 3, 2022. The Agency did not submit a Reply to Petitioner's Response.

After a thorough review of all of the evidence furnished, I am directing that the petition be dismissed as untimely.

II FINDINGS

On December 8, 1982, in Case No. 7-RO-20017, the FLRA issued a certification of representation designating AFGE L3919 as the exclusive representative for the following employees:

Included: All professional and non-professional employees of the Department of the Interior, Bureau of Reclamation, Collbran Job Corps Center.

Excluded: All management officials, supervisors, professional employees, and employees described in 5 U.S.C. § 7112(b)(2), (3), (4), (6), and (7).

On September 14, 2022, NFFE filed this petition seeking an election for “[a]ll professional and non-professional employees of the Collbran Job Corps Civilian Conservation Center, Collbran, Colorado”¹ and excluding “All management officials, supervisors, professional employees, and employees described in 5 U.S.C. § 7112(b)(2), (3), (4), (6), and (7).” CJC is an Agency under 5 U.S.C. § 7103(a)(3) of the Statute. NFFE is a labor organization under § 7103(a)(4) of the Statute.

Previously, Petitioner had filed, on August 11, 2022, a petition, No. DE-RP-22-0030, seeking an election for “[a]ll non-professional employees of the Collbran Job Corps Civilian Conservation Center, Collbran, Colorado.” Pursuant to § 2422.13(b)(²) of the Authority's regulations, a conference was held on September 13, 2022. After discussion during the conference call, the Petitioner withdrew petition No. DE-RP-22-0030, and filed the instant petition the following day.

On September 20, 2022, the Region served the opening letter for the instant petition, requesting information from the Agency to prepare for the conference call between the parties pursuant to 5 C.F.R. § 2422.13(b).³

¹ DE-CA-22-0035, Petition, September 14, 2022.

² 5 C.F.R. § 2422.13(b).

³ DE-CA-22-0035, Opening Letter, September 20, 2022 (Exhibit 2).

On September 30, 2022, the Agency responded to the opening letter with a Statement of Issue. Within its statement, it outlined that “the Agency has become aware, *via* an email on 9/14/22 from Center Director Evonne Stites, that American Federation of Government Employees, Local 3919 (AFGE L3919) may have exclusive jurisdictional rights over the Collbran Job Corp Center.”⁴ It also noted in the Statement of Issue that, “[p]er the CBA that we have, the duration was for 1 year with automatic renewal without either party opening negotiations.”⁵ As a result, the Agency asserted its position in the statement that, unless evidence of decertification or a disclaimer of interest is discovered, the instant petition was void.⁶

On October 3, 2022, the Agency shared with the Region the cover page, signature page, and the duration clause for the collective bargaining agreement (CBA) discussed in its Statement of Issue, dated August 9, 1984.⁷ That same day, the Region obtained the certification between AFGE L3919 and CJC.⁸ This certification showed that AFGE L3919 was certified on December 8, 1982, as the exclusive representative of all professional and non-professional employees of the Department of the Interior, Bureau of Reclamation, Collbran Job Corps Center (the Certification).⁹ The Region did not discover any evidence of decertification or a disclaimer of interest in the unit of employees by AFGE L3919.

On October 4, 2022, the above documents, including the portions of the CBA, as well as the Certification, were served via email on all parties. The Region asked NFFE for its position regarding these documents. On October 20, 2022, NFFE responded to the Region that it had reached out to AFGE to discuss this matter.

On October 21, 2022, the Region issued to NFFE an Order to Show Cause why the petition should not be dismissed pursuant to 5 U.S.C. Section 7111(f)(3).¹⁰ Specifically, the Order directed NFFE to explain in writing why, given (1) the appearance of a valid contract in place covering the bargaining unit employees at issue which is annually renewed and, therefore, in effect for a period of

less than three years, and (2) that the instant petition was not filed within the 45 day window of 105 and 60 days before the expiration date of the contract on August 9, the petition should not be dismissed.¹¹

Finally, the Order to Show Cause stated that a failure to respond to the Order would be interpreted as that party’s acknowledgement that it is unable to demonstrate, at this time, that this petition should not be dismissed because the unit at issue is currently represented.

On November 3, 2022 NFFE responded to the Order to Show Cause (Response),¹² along with the following attachments: (1) a signed affidavit from Shawn Patterson, NFFE Forest Service Council President, dated November 2, 2022; (2) a signed affidavit from Ethan West, NFFE Organizing Director, dated November 1, 2022; (3) a signed affidavit from Gerald McCarty, NFFE National Business Representative, dated November 1, 2022; and (4) attachment to Mr. McCarty’s affidavit, showing an Agency employee’s Standard Form 50 indicating BUS code 7777, or that, according to the Agency, the employee is unorganized but eligible.

The Response made two arguments. First, the Response argued that AFGE does not have a presence at the Agency and has not had a presence for many years. It detailed in its Response and the attached affidavits that AFGE does not have any relationship with any of the employees at issue at the Agency, that AFGE has not made any effort to enforce the CBA, that representatives from AFGE contacted by NFFE were not aware of any collective bargaining agreement at the Collbran facility, and that the Agency itself, until after the filing of the petition, appears to have considered the Agency employees at issue to be unrepresented but eligible for representation.¹³

Second, the Response argued that the bargaining unit proposed by the instant petition was not reorganized under a successorship petition by AFGE following a reorganization of the Collbran Job Corps Center from the Bureau of Reclamation to the U.S. Forest Service. The

⁴ DE-CA-22-0035, Agency Statement of Interest, September 30, 2022 (Exhibit 3).

⁵ *Id.*

⁶ *Id.*

⁷ Collective Bargaining Agreement, AFGE Local 3919/Collbran Job Corps Center, August 9, 1984 (Exhibit 4).

⁸ On December 8, 1982, in Case No. 7-RO-20017, the FLRA issued a certification of representation designating AFGE Local 3919 as the exclusive representative for the following employees:

Included: All professional and non-professional employees of the Department of the Interior, Bureau of Reclamation, Collbran Job Corps Center.

Excluded: All management officials, supervisors, professional employees, and employees described in 5 U.S.C. § 7112(b)(2), (3), (4), (6), and (7).

⁹ Certification of Representative, AFGE Local 3919, Case No. 7-RO-20017, December 8, 1982 (Exhibit 5).

¹⁰ DE-CA-22-0035, Denver Region Order to Show Cause to NFFE/Petitioner, October 21, 2022 (Exhibit 6).

¹¹ *Id.*

¹² DE-CA-22-0035, NFFE/Petitioner Response to Denver Region Order to Show Cause, November 3, 2022 (Exhibit 7).

¹³ *Id.*

Response argues that, consequentially, this failure means any interest AFGE would have in the proposed bargaining unit or in enforcing the CBA is no longer valid.¹⁴ The response did not specifically address why the petition was not filed within the 45 day window of 105 and 60 days before the expiration date of the contract.

III. ANALYSIS

At the outset, it is noted that this petition is not a good faith doubt petition filed by an employing Agency, nor is this petition a petition for decertification. Rather, this petition was filed as a petition for an election. A petition for an election to decertify an existing certified exclusive representative must be appropriately filed. In its Response to the Order to Show Cause, NFFE failed to argue that the statutory authority cited by the Region in the Order to Show Cause does not apply to the instant petition. 5 U.S.C. Section 7111 outlines exclusive recognition for labor organizations. Specifically, 5 U.S. Code Section 7111(f)(3) states:

- “(f) Exclusive recognition shall not be accorded to a labor organization—
- (3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless—
- (A) the collective bargaining agreement has been in effect for more than 3 years, or
- (B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement ...”

Section 2422.12 of the Authority's Regulations governs whether a petition is properly filed. Specifically, § 2422.12(d) provides:

“Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election

will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the agreement.”

In order to bar a petition, an agreement must contain a clear and unambiguous effective date and must clearly set forth its duration so that any potential challenging party may determine when the open period will occur.¹⁵ Section 2422.12(h) of the Authority's Regulations provides that collective-bargaining agreements “are not a bar to a petition seeking an election . . . unless a clear effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.”¹⁶ The Authority has concluded that the contract bar applies to agreements that automatically renew.¹⁷ The effective date of an agreement that automatically renews is “the date previously set by the parties for the renewal of the agreement.”¹⁸

Here, NFFE did not argue that the CBA was unlawful or ineffective, nor did it argue that the CBA did not cover the employees included in the unit specified in its petition. Absent any argument or evidence to the contrary, there are no grounds to conclude that the CBA is not a “lawful collective bargaining agreement” in effect between the Agency and covering the same employees included in the unit specified in NFFE's petition. The CBA has a clear and unambiguous effective date and clearly sets forth its duration. It has been in effect for fewer than three (3) years, as it automatically renews annually on August 9.¹⁹

Given the above, NFFE was required to file its petition within the appropriate window (or open period) of “not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the agreement,” or August 9.²⁰ It did not do so, filing instead on September 14. Thus, NFFE's petition is untimely.

The next question is whether any “unusual circumstances” exist which “substantially affect the unit or majority representation” and justify a petition and election outside of the annual open period under the Statute.²¹ While the Response underscored that the existence of the CBA was unknown to NFFE or the employees at the time of the filing of the petition, and that AFGE failed to file a successorship petition after the Agency reorganized to be under its current structure, it did not cite to any precedent which found that similar

¹⁴ *Id.*

¹⁵ See, e.g. *NASA, Goddard Space Flight Ctr., Wallops Island, Va.*, 67 FLRA 670, 678 (2014) (*NASA Goddard*); *U.S. Dep't of HHS, Newark Office, Newark, N.J.*, 37 FLRA 1122, 1126 (1990).

¹⁶ 5 C.F.R. § 2422.12(h).

¹⁷ *NASA Goddard* 67 FLRA at 678.

¹⁸ *Id.* at 679 (quoting *Kan. Army Nat'l Guard, Topeka, Kan.*, 47 FLRA 937, 943 (1993)).

¹⁹ See Exhibit 4.

²⁰ 5 C.F.R. § 2422.12(d); see also 5 U.S.C. § 7111(f)(3).

²¹ 5 C.F.R. § 2422.12(f).

scenarios justified an untimely petition.²² The Authority does not appear to have considered unusual circumstances in the specific context of an untimely petition for election when the petitioner is not requesting severance from an already-existing unit. However, the Authority has emphasized the importance of abiding by the statutory open period as it creates “sufficient means for employees to exercise their representation rights”.²³ This is the case here. Requiring NFFE to file within the open period “does not foreclose” the employees at issue to elect Petitioner to be their exclusive representative.²⁴ The Statute “provides for employees who are exclusively represented by a union to change or decertify that representative.”²⁵ The Authority has previously held that when the law already “provide[s] sufficient means for employees to exercise their representation rights, there is no need to change longstanding Authority practice ... to create another one.”²⁶

Here, sufficient means already exist: the filing of a petition timely under 5 U.S.C. Section 7111(f)(3) and 5 C.F.R. Section 2422.12(d).

Accordingly, because the petition is untimely and no unusual circumstances exist, I am dismissing this petition.

IV. ORDER

IT IS ORDERED, absent a timely filing of an application for review of this Decision and Order with the Authority, or if one is filed and denied, or if the Authority does not undertake to grant review of this action within sixty (60) days after application for review, that the decision of the undersigned will be final.

Pursuant to the reasoning set forth in the above, I order that NFFE’s petition in Case No. DE-RP-22-0035 be dismissed.

V. RIGHT TO SEEK REVIEW

Under section 7105(f) of the Statute and section 2422.31(a) of the Authority’s regulations, a party may file an application for review with the Authority **within sixty days** of this decision. The application for review must be filed with the Authority, and addressed to the Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 201, 1400 K Street, NW, Washington D.C. 20424-0001. The parties are encouraged to file an application for

review electronically through the Authority’s website, www.flra.gov.

 Timothy Sullivan, Regional Director
 Denver Regional Office
 Federal Labor Relations Authority
 1244 Speer Blvd., Room 446
 Denver, CO 80204

Dated: November 22, 2022

²² See Exhibit 7.

²³ *US DOD, Pentagon Force Prot. Agency*, 68 FLRA 761, 766 (2015).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*