FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON, D.C.

International Federation of Professional and Technical Engineers, AFL-CIO, Local 777, International Federation of Professional and Technical Engineers, AFL-CIO, Local 4, Chapter 1, International Federation of Professional and Technical Engineers, AFL-CIO, Local 97, International Federation of Professional and Technical Engineers, AFL-CIO, Local 98, National Federation of Federal Employees, IAM, AFL-CIO, Local 1, National Federation of Federal Employees, IAM, AFL-CIO, Local 466, National Federation of Federal Employees, IAM, AFL-CIO, Local 777, National Federation of Federal Employees, IAM, AFL-CIO, Local 1753, National Federation of Federal Employees, IAM, AFL-CIO, Local 1781, National Federation of Federal Employees, IAM, AFL-CIO, Local 2198, National Federation of Federal Employees, IAM, AFL-CIO, Forest Service Council, National Treasury Employees Union, Chapter 282, Mae apGovannon, Lex Barker, Sam Beaurivage, David Carulli, Jacob Morrison, Paul Osadebe, Mathias Quackenbush, Audra Serrian,	FLRA Case No. 0-MC-____ January 30, 2026

David Shanley-Dillman,	)
	)
Matthew Voisine,	)
	)
Anna Webb,	)
Petitioners.	)

PETITION FOR RULEMAKING

We are respectfully requesting the Authority consider amending its regulations regarding processing of actions during presidential assertions of exclusions from the Federal Service Labor-Management Relations Statute (FLSMRS). This request is filed pursuant to 5 CFR 2429.28, as well as the Administrative Procedure Act. 5 U.S.C. § 553(e).

Description of the Petitioners

Petitioners Local 777, Local 4 Chapter 1, and Locals 97 and 98 of the International Federation of Professional and Technical Engineers (IFPTE), AFL-CIO; Locals 1, 466, 777, 1753, 1781, and 2198, and Forest Service Council, National Federation of Federal Employees (NFFE), an affiliate of the International Association of Machinists and Aerospace Workers (IAM), AFL-CIO; and Chapter 282 of the National Treasury Employees Union (NTEU) are all exclusive representatives of bargaining unit(s) under the Federal Service Labor-Management Relations Statue (FSLMRS). Some of these union petitioners are also organizing unit(s) of employees seeking exclusive recognition under the FSLMRS. Collectively, the union petitioners represent workers at the U.S. Army Corps of Engineers (USACE), Veterans Health Administration, U.S. Forest Service, and the Food and Drug Administration.

Petitioners Mae apGovannon, Lex Barker, Mathias Quackenbush, Audra Serrian, David Shanley-Dillman, Matthew Voisine, and Anna Webb are federal employees within established bargaining units subject to the FSLMRS, and are members of their unions, which include Locals 2157, 2930, and 1858 of the American Federation of Government Employees (AFGE), AFL-CIO; Locals 1753 and 2086 of the NFFE; and Local 98 of the IFPTE.

Petitioners Sam Beaurivage and David Carulli are federal employees of the USACE subject to the FLSMRS, and are part of groups of employees who have petitioned the FLRA for an election to determine exclusive representative status regarding Local 97 of the IFPTE, and are collecting signatures for a showing of interest to support a petition for an election to determine exclusive representative status regarding Local 777 of the IFPTE, respectively.

Petitioner Jacob Morrison is a former federal employee, current President of the North Alabama Area Labor Council, AFL-CIO which has affiliate unions who represent federal employees subject to the FSLMRS, and a member of Local 1858 of the AFGE, which represents several bargaining units of federal employees as exclusive representative under the FSLMRS.

Petitioner Paul Osadebe is a former federal employee challenging his removal from federal service alleging whistleblower retaliation. His previous position was within a bargaining unit subject to the FSLMRS, and he is a Steward in Local 476 of the AFGE, which represents several bargaining units of federal employees as exclusive representative under the FSLMRS.

Arguments

The FSLMRS provides that the President of the United States may exclude "any agency or subdivision thereof" from the FSLMRS under certain conditions. 5 U.S.C. § 7103(b). This provision has been invoked recently; including through Executive Orders 14,251 and 14,353. In response to these exclusion assertions, several unions have challenged the executive order(s) in court. See, for example, *Nat'l Treas. Emps. Union v. Trump*, No. 1:25-cv-00935-PLF (D.D.C. 2025), 25-5157 (D.C. Cir. 2025), *Am. Fed'n. of Gov't. Emps. v. Trump*, No. 3:25-cv-03070-JD (N.D. Cal. 2025), 25-4014 (9th Cir. 2025), *Am. Fed'n of Lab. and Cong. of Indus. Orgs. v. Trump*, No. 1:25-cv-02445-PLF (D.D.C. 2025), 25-5436 (D.C. Cir. 2025).

Given this ongoing litigation, the Authority has been cautious to address its jurisdiction in matters related to the agencies affected by the exclusions. See, for example, *Int'l Fed'n of Prof. and Tech. Eng'rs Local 777 and U.S. Army Corps of Eng'rs. Chicago Dist.* No. CH-CA-25-0202 (FLRA Chicago Reg. 2025) ("blocking" letter issued "defer[ing]" processing), *Int'l Fed'n of Prof. and Tech. Eng'rs Local 777 and U.S. Army Corps of Eng'rs. Chicago Dist.* No. 0-NG-3742 (FLRA 2025) (order placing the case in abeyance), *Int'l Fed'n of Prof. and Tech. Eng'rs Local 97 and U.S. Army Corps of Eng'rs. Portland Dist.* No. SF-RP-25-0016 (FLRA San Fran. Reg. 2025) (informal communications indicating that processing the petition for election was "blocked" due to Executive Order 14,251).

These decisions to defer processing or consideration of what seems to be all cases involving allegedly-excluded agencies are not clearly final orders of the Authority (or its Regional Directors) that would allow parties to file appeals within the Authority such as applications for review of a representation petition under 5 CFR 2422.31, appeals to the General Counsel in an unfair labor practice case under 5 CFR 2423.11(c), or exceptions to administrative law judge's decisions pursuant to 5 CFR 2423.40; or to seek judicial review pursuant to 5 U.S.C. § 7123. Parties – typically, unions – may be stuck with a status quo they believe is unlawful or otherwise intolerable for an unknown duration; with no ability to address the harms in the meantime.

For example, in blocked representation cases where workers seek an election, they are indefinitely deprived of the rights that would immediately accrue from winning an election (such as Weingarten rights, notice and opportunity to bargain on changes in working conditions, etc.). In a blocked negotiability case, especially as regards provisions of executed agreements disapproved by an agency head, the union (and the activity at the level of exclusive recognition) is indefinitely deprived of the benefits it bargained for. In blocked unfair labor practice charge cases, the parties are indefinitely deprived of the likelihood of informal resolution of the charge that often arises during the investigation conducted by Authority staff or access to appropriate temporary relief, either of which could result in the cessation of the allegedly unlawful conduct.

Simply blocking cases involving allegedly-excluded parties results in generally the same results as if the Authority were to default to presuming the validity of the exclusion; but does so in a posture that denies the adversely-affected party the ability to challenge the EO facially or as applied to the parties or to the matter before the Authority. This is doubly true if the position the Government has advanced in multiple filings is adopted, which is that unions must exhaust the remedies before the Authority before pursuing judicial review. In this manner, it is critical that the Authority establish a pathway for affected parties to advance their dispute through the Authority's processes to be able to obtain meaningful judicial review.

While the Authority might prefer to avoid committing resources to processing cases just to have outcomes rendered obsolete by litigation; this must be balanced against the parties' need to have workplace disagreements settled efficiently. Simply put, Congress did not intend for the Authority to indiscriminately block cases just because there is a legal cloud over an issue. We concede that there will be times where all parties would rather wait to see how the litigation unfolds; but in the instances where a party feels the need to take a more aggressive posture, the Authority should not foreclose that option without providing an avenue for redress.

Proposed Regulatory Text

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS
Subpart A—Miscellaneous

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§ 2429.11 Interlocutory appeals.
Except as set forth in part 2423 **or in section 2429.20** of this part, the Authority and the General Counsel ordinarily will not consider interlocutory appeals.

* * *

§ 2429.20 Actions involving parties affected by exclusions under litigation.

(a) This section applies whenever the President excludes an agency or agency subdivision from the provisions of chapter 71 of title 5 of the United States Code pursuant to 5 U.S.C. 7103(b), and there is pending litigation in the courts of the United States as to the validity of said exclusion that applies to one or more of the parties in any matter arising pursuant to parts 2422 through 2426 of this subchapter.

(b) In any matter meeting the conditions in paragraph (a) of this section, the Authority, the General Counsel, any Administrative Law Judge appointed by the Authority under 5 U.S.C. 3105, and any Regional Director, or Hearing Officer may place the matter in abeyance pending disposition of the litigation challenging the applicable exclusion.

(c) In matters placed in abeyance pursuant to paragraph (b) of this section, any party may file a request with the Authority:

(1) To grant a temporary order ordering the parties to maintain the status quo ante, or for specific performance of the terms of an executed contract, or other appropriate equitable remedy pending the ultimate resolution of the matter, or

(2) To render an immediate decision on the Authority's jurisdiction over the matter after obtaining the views of the parties and other interested persons, orally or in writing, as the Authority deems necessary and appropriate. Such decision shall order dismissal of the matter or resumption of proceedings and shall be a final order of the Authority.

(d) If the Authority does not render a decision upon a request made pursuant to paragraph (c) of this section within 180 days of its filing, the request is constructively denied which shall be a final decision of the Authority, and the Authority shall publish confirmation thereof.

International Federation of Professional and Technical Engineers, AFL-CIO, Local 777, et al., Petitioners	)	FLRA Case No. 0-MC-____
	)	January 30, 2026

CERTIFICATE OF SERVICE

I hereby certify that copies of this **Petition for Rulemaking** have this day been served to the following:

By Commercial Delivery (USPS Priority Mail):
Federal Labor Relations Authority
Erica Balkum, Chief, Office of Case Intake and Publication
1400 K Street NW, Suite 300
Washington, D.C. 20424-0001

By Email (all parties below consented to electronic service – including the undersigned – and to submission on their behalf by the undersigned):

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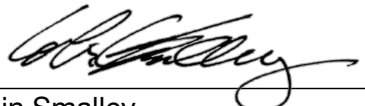
Respectfully Submitted,



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