

§ 2422.24

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the union.

(4) Objections to a request for specific observers must be filed with the Regional Director stating the reasons in support within five (5) days after service of the request.

(5) The Regional Director's ruling on requests for and objections to observers is final and binding and is not subject to the filing of an application for review with the Authority.

§ 2422.24 Challenged ballots.

(a) *Filing challenges.* A party or the Regional Director may, for good cause, challenge the eligibility of any person to participate in the election prior to the employee voting.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the Region are unable to resolve the challenged ballot(s) prior to the tally of ballots, the unresolved challenged ballot(s) will be impounded and preserved until a determination can be made, if necessary, by the Regional Director.

§ 2422.25 Tally of ballots.

(a) *Tallying the ballots.* When the election is concluded, the Regional Director will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the Regional Director will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

(c) *Valid ballots cast.* Representation will be determined by the majority of the valid ballots cast.

§ 2422.26 Objections to the election.

(a) *Filing objections to the election.* Objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election may be filed by any party. Objections must be filed and received by the Regional Director within five (5) days after the tally of ballots has been

5 CFR Ch. XIV (1-1-01 Edition)

served. Any objections must be timely regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons. An original and two (2) copies of the objections must be received by the Regional Director.

(b) *Supporting evidence.* The objecting party must file with the Regional Director evidence, including signed statements, documents and other materials supporting the objections within ten (10) days after the objections are filed.

§ 2422.27 Determinative challenged ballots and objections.

(a) *Investigation.* The Regional Director will investigate objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

(b) *Burden of proof.* A party filing objections to the election bears the burden of proof by a preponderance of the evidence concerning those objections. However, no party bears the burden of proof on challenged ballots.

(c) *Regional Director Action.* After investigation, the Regional Director will take appropriate action consistent with § 2422.30.

(d) *Consolidated hearing on objections and/or determinative challenged ballots and an unfair labor practice hearing.* When appropriate, and in accordance with § 2422.33, objections and/or determinative challenged ballots may be consolidated with an unfair labor practice hearing. Such consolidated hearings will be conducted by an Administrative Law Judge. Exceptions and related submissions must be filed with the Authority and the Authority will issue a decision in accordance with part 2423 of this chapter, except for the following:

(1) Sections 2423.18 and 2423.19(j) of this Subchapter concerning the burden of proof and settlement conferences are not applicable;

(2) The Administrative Law Judge may not recommend remedial action to be taken or notices to be posted as provided by § 2423.26(a) of this Subchapter; and,

(3) References to "charge" and "complaint" in § 2423.26(b) of this chapter will be omitted.