

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31**

ABM SERVICES, INC.¹

Employer

Case No. 31-RC-103460

and

LABORERS INTERNATIONAL
UNION OF NORTH AMERICA, LOCAL
220, AFFILIATED WITH THE
SOUTHERN CALIFORNIA DISTRICT
COUNCIL OF LABORERS

Petitioner

DECISION AND DIRECTION OF ELECTION

I. INTRODUCTION

On April 23, 2013, Laborers International Union of North America, Local 220, affiliated with the Southern California District Council of Laborers (Petitioner) filed petition 31-RC-103460 under Section 9(c) of the National Labor Relations Act (Act), seeking to represent a unit of maintenance and janitorial workers employed by ABM Services, Inc. (Employer) to perform maintenance and janitorial work at Kaiser Permanente Facilities in Kern County, California.

A hearing was held on May 6, 2013, on the petition referenced above before a hearing officer of the National Labor Relations Board (Board). The

¹ The name of the Employer appears as corrected at the hearing.

parties stipulated to commerce, labor organization status, appropriate unit and question concerning representation. No party raised any bar issues.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Upon the entire record in this proceeding, I find:

1. HEARING OFFICER'S RULINGS: The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. JURISDICTION: The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of Section 2(6) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.²

3. LABOR ORGANIZATION: The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. QUESTION CONCERNING COMMERCE: A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. APPROPRIATE UNIT: The parties stipulated, and I find, that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act (Unit):

² The Employer, a Delaware corporation with headquarters in the State of Texas, is engaged in providing janitorial services to a variety of businesses, including healthcare institutions, high-rise office buildings, banks, universities, and other facilities. Within the past 12 months, a representative period, the Employer, in the course and conduct of its business operations, has provided janitorial services valued in excess of \$50,000 in States other than the State of Texas, including certain Kaiser Permanente locations in Bakersfield, California.

Included:

All full-time and regular part-time janitors, maintenance employees, window washers, power washers, floor buffers/waxers, and final clean-up employees employed by the Employer at the following nine (9) Kaiser Permanente locations: (1) 8800 Ming Ave., Bakersfield, CA; (2) 4900 California Ave., Ste. 200, Bakersfield, CA; (3) 3501 Stockdale Hwy., Bakersfield, CA; (4) 2531 Chester Ave., Bakersfield, CA; (5) 3700 Mall View Rd., Bakersfield, CA; (6) 1200 Discovery Dr., Bakersfield, CA; (7) 3733 San Dimas St., Bakersfield, CA; (8) 4801 Coffee Rd., Bakersfield, CA; and (9) 3101 16th St., Bakersfield, CA.

Excluded:

All other employees, office clerical employees, confidential employees, guards and supervisors as defined in the National Labor Relations Act, as amended.

According to the petition, there are approximately 25 to 30 employees in the petitioned for Unit.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the Unit found appropriate above. The employees will vote whether or not they wish to be represented by Laborers International Union of North America, Local 220, affiliated with the Southern California District Council of Laborers, for purposes of collective bargaining. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Director will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or have been discharged for cause since the designated payroll period; (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date; and (3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by the Region to assist in determining an adequate showing of interest. The Region shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the NLRB Region 31 Regional Office, 11500 W. Olympic Boulevard, Suite 600, Los Angeles, California 90064-1824, on or before **May 23, 2013**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional office by electronic filing through the Agency's website, **www.nlr.gov**,³ by mail, by hand or courier delivery, or by facsimile transmission at (310) 235-7420. The burden of establishing the timely filing and receipt of this list will continue to be placed on the sending party. Since the list will be made available to all parties to the election,

³ To e-file, go to the agency's website at **www.nlr.gov**, click "e-file documents," and enter the 10-digit case number (found on the top right of the charge or petition form). Then simply follow the prompts. At the end, you will receive a confirmation number and an e-mail notification that the documents were successfully filed.

please furnish a total of **three** copies, unless the list is submitted by facsimile or E-Filing through the Agency website, in which case no copies need be submitted. You may not submit the list to the Region by email. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

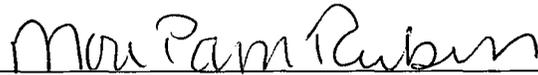
According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDT on **May 30, 2013**. The request may be filed

electronically through the Agency's web site, www.nlr.gov,⁴ but may not be filed by facsimile.

DATED at Los Angeles, California this 16th day of May, 2013.



Mori Pam Rubin, Regional Director
National Labor Relations Board
Region 31

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