

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

PARAGON SYSTEMS INC.

Employer

and

Case 21-RC-262136

**LAW ENFORCEMENT OFFICERS SECURITY
UNIONS LEOSU-CA, LEOS-PBA**

Petitioner

and

**INTERNATIONAL UNION, SECURITY, POLICE
AND FIRE PROFESSIONALS OF AMERICA,
(SPFPA) AND ITS AFFILIATED LOCAL 3**

Intervenors

DECISION AND DIRECTION OF ELECTION

Law Enforcement Officers Security Unions LEOSU-CA, LEOS-PBA (“Petitioner”) seeks, by the instant petition, to represent a bargaining unit (“Unit”) of approximately 351 security guards employed by Paragon Systems Inc. (“Employer”), and currently represented by the International Union, Security, Police and Fire Professionals of America, (SPFPA) and its affiliated Local 3 (“Intervenors”). The employees in the Unit are employed at certain federal facilities in Los Angeles and Orange County, California, and surrounding areas where the Employer provides security pursuant to contracts with the United States Department of Homeland Security.

A Hearing Officer of the National Labor Relations Board (“Board”) held a hearing in this matter on July 15, 2020. At the hearing, the parties stipulated to the labor organization status of the Petitioner and of the Intervenors, jurisdiction, the scope and composition of the Unit, and the method of election. The Intervenors declined to enter into an election agreement, necessitating a hearing, due to their continuing opposition to the petition on procedural grounds.

On July 7, 2020, after intervenor status was granted, the Intervenors filed a Statement of Position and Motion to Dismiss the Petition (“Motion to Dismiss”). By their Motion to Dismiss the Intervenors contend that the petition in this matter should be dismissed because the petition was filed in the wrong Regional Office, and because the petition is procedurally defective. On July 9, 2020, I issued an Order Denying Intervenors’ Motion to Dismiss Petition (“Order Denying”), reviewing the circumstances surrounding the instant petition, addressing the Intervenors’ allegations, and rejecting their contention that the petition must be dismissed.

At the hearing and in their post-hearing brief, the Intervenors reiterated their position that the petition must be dismissed as being procedurally defective. Also, the Petitioner filed a post-hearing brief stating that the Intervenors' arguments about the petition in this case should be rejected. I have considered the arguments of both labor organizations, and I maintain my position that the motion to dismiss the petition in this case is denied. Accordingly, I am directing an election in the petitioned-for Unit.

CONCLUSIONS

I have considered the record evidence and the arguments of the parties, and I conclude that it is appropriate to hold an election among the employees in the petitioned-for Unit.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this matter.¹
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
4. The Intervenors are a labor organization within the meaning of Section 2(5) of the Act and claim to represent certain employees of the Employer.
5. 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.
6. The following employees of the Employer constitute an appropriate unit within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time armed and unarmed security officers employed by the Employer performing guard duties as defined by Section 9(b)(3) of the National Labor Relations Act pursuant to contract HSCEW9-08-Q-00006, or any successor contract covering

¹ During the hearing the parties stipulated to the following commerce facts:
The Employer, Paragon Systems Inc., an Alabama corporation with its principal offices located at 13900 Lincoln Park Drive, Suite 300, Herndon, Virginia, is engaged in the business of providing security services to the federal government, including at various locations within the State of California. During the past 12 months, a representative period, the Employer performed services valued in excess of \$50,000 in states other than the State of California.

the same facilities and services, between the Employer and the United States Department of Homeland Security (DHS) for the provision of security services at certain federal facilities in the Los Angeles, Orange County and surrounding areas.

Excluded: All other employees, office clerical employees, confidential employees, professional employees, managerial employees, and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by, Law Enforcement Officers Security Unions LEOSU-CA, LEOS-PBA; International Union, Security, Police and Fire Professionals of America, (SPFPA) and its affiliated Local 3; or neither.

A. Election Details

The election will be conducted by mail. The ballots will be mailed to employees employed in the appropriate collective-bargaining unit **at 2:30 p.m. on Monday August 17, 2020**. Ballots will be mailed to voters by the National Labor Relations Board, Region 21. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail **by Monday, August 24, 2020**, as well as those employees who require a duplicate ballot, should communicate immediately with the National Labor Relations Board by either calling the Region 21 office at (213) 894-5254 or our national toll-free line at (844) 762-NLRB ((844) 762-6572).

The ballots will be commingled and counted by the Region 21 office **at 10:00 a.m. on Wednesday, September 9, 2020**. In order to be valid and counted, the returned ballots must be received by the Region 21 office prior to the counting of the ballots. The parties will be permitted to participate in the ballot count, which may be held by videoconference. If the ballot count is held by videoconference, a meeting invitation for the videoconference will be sent to the parties' representatives prior to the count. No party may make a video or audio recording or save any image of the ballot count.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the **payroll period ending July 30, 2020**, 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 that 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. Unit employees in the military services of the United States may vote by mail as described above.

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

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Tuesday, August 4, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

The list must be filed electronically with the Region and served electronically on the other parties named in this decision. The list must be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on E-File Documents, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board. A request for review must be filed electronically (E-Filed) on the Agency's website unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review. A request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a

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request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated at Los Angeles, California, this 31st day of July, 2020.



William B. Cowen, Regional Director
National Labor Relations Board, Region 21
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