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NTEU Wins Court Ruling Overturning Illegal IRS Act In Giving Its Mailroom Function to Private Contractor

Washington, D.C.—In a suit brought by the National Treasury Employees Union (NTEU), a federal court has ruled that the Internal Revenue Service (IRS) illegally used appropriated funds to convert its mailroom functions to a private contractor without giving federal workers a chance to compete to keep their jobs.

NTEU President Colleen M. Kelley applauded the decision by U.S. District Court for the District of Columbia, calling it the culmination of a comprehensive effort by NTEU to eliminate so-called direct conversions of federal jobs without public-private competitions.

“NTEU’s intention is to hold the IRS—and other federal agencies—accountable for every act they do that works to the detriment of their employees,” President Kelley said.

The union won the court’s backing for its argument that the IRS was prohibited by the language of the Consolidated Appropriations Act of 2004 from using appropriated funds to convert work to a private contractor unless a public-private competition for the jobs had been conducted. The IRS failed to hold such a competition for the mailroom positions.

Three years ago as part of its fight against runaway federal contracting, NTEU successfully persuaded the Office of Management and Budget (OMB) to prohibit direct conversions of federal work

(MORE)

Court Overturns IRS Mailroom Contracting—Add One

when it issued revisions in May 2003 to its Circular A-76. That document governs federal contracting practices.

Despite that prohibition, however, agencies continued to directly convert federal jobs to the private sector, bypassing required competitions. NTEU then successfully lobbied Congress to approve legislative language forbidding the expenditure of appropriated funds on direct conversions.

Even that, however, did not stop the IRS. It defied the clearly-expressed will of Congress and turned over the mailroom function to a private contractor—and despite that illegal act, OMB refused to intervene and require the IRS to hold a competition for the mailroom work. NTEU then filed suit.

In its order, the district court directed the parties to file additional briefs regarding the appropriate remedy for the illegal IRS act; NTEU is seeking reinstatement with back pay for the 44 employees who lost their jobs—a substantial number of whom are disabled.

Not only was the mailroom work contracted out illegally, Kelley noted, it was turned over to a contractor that has proven to be inadequate to the task. Since the operation was contracted out at the end of 2004, “employees have witnessed abysmal mail service,” she said, including mail misdirected to wrong posts of duty and mail not delivered in a timely fashion.

The private company’s work is so poor, she said, that IRS employees are expected to perform the work for the vendor, despite its contractual obligation.

In a letter to IRS Commissioner Mark Everson just last month, Kelley called on him to use recently enacted legislative authority to conduct public-private competitions to bring work back into the hands of agency employees that it previously had contracted out. She cited the mailroom function as one of several examples of work that clearly should be brought back in-house.

NTEU is the largest independent federal union, representing some 150,000 employees in 30 agencies and departments, including 94,000 in the IRS.