



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

Agency Reply to Union Response on Petition For Review of Negotiability Issues For Use with Proposals

FOR FLRA USE ONLY

Case No.

Date Filed

Complete instructions are on the back of this form.

USE THIS FORM ONLY FOR NEGOTIABILITY DISPUTES WHERE THE UNION HAS SUBMITTED A BARGAINING PROPOSAL TO THE AGENCY AND THE PARTIES HAVE NOT REACHED AGREEMENT ON THE PROPOSAL AND ITS NEGOTIABILITY.

Important Information: This form is to be completed by the Agency in reply to issues raised in the Union's response to the Agency's statement of position. Section 2424.26 of the Authority's Regulations provides that the purpose of the reply is to inform the Authority and the Union whether and why the Agency disagrees with any facts or arguments *raised for the first time* in the Union's response. In this reply, the Agency is to explain why a proposal does not fit within any exception to management rights that was asserted by the Union in its response, and to explain why any severance of the proposal requested is not appropriate.

Unless the time limit for filing has been extended pursuant to section 2424.23 or part 2429 of the Authority's Regulations, the Agency must file this reply within fifteen (15) calendar days after the date that the Agency receives a copy of the Union's response to the Agency's statement of position.

The information requested below may be provided on this form or in a separately created document. The form is available over the internet, at www.flra.gov, in a format that can be completed using standard word processing software. If you have questions about completing this form, please contact the Authority's Case Control Office at (202) 218-7740.

1. Case Number and Case Caption:

The Agency's Position

Set forth the Agency's position on any matters raised in the Union response to the Agency statement of position that you wish the Authority to consider in reaching its decision, including a statement of the arguments and authorities supporting any position. For each argument, answer questions 2 through 9, providing a separate copy of this page for each proposal requiring explanations to those questions.

The Agency is responsible for raising and supporting arguments that the proposal is outside the duty to bargain or contrary to law. Where the Union has asserted that severance is appropriate, the Agency, if it objects to that assertion, is also responsible for raising and supporting arguments why severance is not appropriate. Failure to raise and support an argument will, where appropriate, be deemed a waiver of such argument. Failure to respond to an argument or assertion raised by the other party will, where appropriate, be deemed a concession to such argument or assertion.

For each argument, cite any law, rule, regulation, section of a collective bargaining agreement, or other authority relied in your argument or referenced in the proposal. Attach to this reply a copy of all such material, except you do not have to provide a copy of federal statutes, government-wide regulations, or judicial and administrative decisions.

If your statement is more than 25 pages long, you must include a table of contents and table of authorities.

Are copies of materials attached? Yes No

If Yes, list the materials attached:

2. If the Union has asserted for the first time in its response that the proposal concerns a matter under section 7106(b)(1), do you agree?

Yes No Union did not assert for the first time in its response

2a. If No, explain why and provide support for your explanation.

3. If the Union has asserted for the first time in its response that the proposal is a procedural matter under section 7106(b)(2), do you agree?

Yes No Union did not assert for the first time in its response

3a. If No, explain why and provide support for your explanation.

4. If the Union has asserted for the first time in its response that the proposal is an appropriate arrangement under section 7106(b)(3), do you agree?

Yes No Union did not assert for the first time in its response

4a. If No, explain why and provide support for your explanation.

5. If the Union has asserted for the first time in its response that the proposal enforces an applicable law within the meaning of section 7106(a)(2), do you agree?

Yes No Union did not assert for the first time in its response

5a. If No, explain why and provide support for your explanation.

6. If the Union has asserted for the first time in its response that Agency rules or regulations relied upon in the Agency's statement of position violate applicable law, rule, regulation, the parties collective bargaining agreement or appropriate authority outside the Agency, do you agree?

Yes No Union did not assert for the first time in its response

6a. If No, explain why and provide support for your explanation.

7. If the Union has asserted for the first time in its response that the Agency rules or regulations relied on by the Agency were not issued by the Agency or by any primary national subdivision of the Agency or otherwise are not applicable to bar negotiations under 5 U.S.C. § 7117(a)(3), do you agree?

Yes No Union did not assert for the first time in its response

7a. If No, explain why and provide support for your explanation.

8. If the Union has asserted for the first time in its response that no compelling need exists for the Agency rules or regulations to bar negotiations, do you agree?

Yes **G** No **G** Union did not assert for the first time in its response **G**

8a. If No, explain why and provide support for your explanation.

9. Do you disagree with any other matters *raised for the first time* in the Union's response?

Yes **G** No **G** No other new matters raised **G**

9a. If Yes, identify the matter and explain in detail your disagreement.

Statement/Certificate of Service to be used by Agency filing a Reply to Union response on petition for review of negotiability issues.

STATEMENT OF SERVICE

I certify that a complete copy of the Agency's reply, including all attachments, in the case of the UNION and AGENCY, case number _____, were filed with the Case Control Office, Federal Labor Relations Authority, Washington, D.C., and were sent this day to:

Union Representative

(Title and Mailing Address)

(The Principal Bargaining Representative is the individual who signed the petition for review.)

Indicate near each name the **Method of Service**

Date

Name of filing party

Signature of Agency's Representative