

UNITED STATES OF AMERICA FEDERAL LABOR RELATIONS AUTHORITY

Agency Reply to Union Response on Petition for Review of Negotiability Issues For

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Case No.

Date Filed

Complete instructions are on the back of this form.

Use with Disapproved Provisions USE THIS FORM ONLY IF THE UNION IS SEEKING REVIEW OF A PROVISION AGREED TO BY THE UNION AND AGENCY REPRESENTATIVE THAT HAS BEEN DISAPPROVED BY

THE AGENCY HEAD ON REVIEW PURSUANT TO 5 U.S.C. § 7114(C). *Important Information*: This form is to be completed by the Agency in reply to issues raised in the Union 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 argument *staised for the first time* in the Union 's response. In this reply, the Agency is to explain why a provision 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 provision requested is not appropriate.

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

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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 provision requiring explanations to those questions.

The Agency is responsible for raising and supporting arguments that the provision is illegal. 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 provision. 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.

Yes **G** No **G**

Are copies of materials attached?

If Yes, list the materials attached:

		N Jnion has	asserted	for the	first time in its response that the provision concerns a
					do you agree?
	Yes	G	No	G	Union did not assert for the first time in its response G
2a.	If No, e	explain wl	hy and pr	ovide s	support for your explanation.
•					first time in its response that the provision is a procedural do you agree?
	Yes	G	No	G	Union did not assert for the first time in its response $ {f G} $
a.	If No, e	explain wł	ny and pr	ovide s	support for your explanation.

4.					first time in its response that the provision is an section 7106(b)(3), do you agree?	
	Yes	G	No	G	Union did not assert for the first time in its response	G
4a.	If No,	explain why	and pi	rovide su	apport for your explanation.	
5.					first time in its response that the provision enforces a g of section 7106(a)(2), do you agree?	an
	Yes	G	No	G	Union did not assert for the first time in its response	G
5a.	If No,	explain why	y and pi	rovide su	apport for your explanation.	

6.	relied	upon in the A rties collectiv	Agency	's stater	irst time in its response that Agency rules or regulations nent of position violate applicable law, rule, regulation, agreement or appropriate authority outside the Agency, do
	Yes	G	No	G	Union did not assert for the first time in its response G
ба.	If No,	explain why	and pr	ovide su	pport for your explanation.
7.	regula nation	tions relied o	on by th n of the	e Agen	ïrst time in its response that the Agency rules or cy were not issued by the Agency or by any primary y or otherwise are not applicable under 5 U.S.C. §
	Yes	G	No	G	Union did not assert for the first time in its response ${f G}$
7a.	If No,	explain why	and pr	ovide su	pport for your explanation.

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					first time in its response that no compelling need exists for do you agree?
	Yes	G	No	G	Union did not assert for the first time in its response ${\ {f G}}$
a.	If No,	explain	why and pr	ovide	support for your explanation.
	Do yo	u disagre	ee with any	other	matters raised for the first time in the Union's response?
	Yes	G	No	G	No other new matters raised G
•	If Yes	, identify	the matter	r and e	xplain in detail your disagreement.
l•	If Yes	, identify	the matter	r and e	xplain in detail your disagreement.
l .	If Yes	, identify	⁷ the matter	r and e	xplain in detail your disagreement.
l•	If Yes	, identify	⁷ the matter	r and e	xplain in detail your disagreement.
1.	If Yes	, identify	⁷ the matter	r and e	xplain in detail your disagreement.
1.	If Yes	, identify	⁷ the matter	r and e	xplain in detail your disagreement.
1.	If Yes	, identify	⁷ the matter	r and e	xplain in detail your disagreement.
1.	If Yes	, identify	⁷ the matter	r and e	xplain in detail your disagreement.

Severance

Severing a provision into separate parts makes each part the subject of a separate determination regarding its legality. Severance requires that each part has independent meaning, and should be sought only where you have an interest in determining whether any of the separate parts is legal even if the other part or parts is not.

10. If the Union has requested for the first time in its response that a provision be severed, do you oppose severance?



10a. If Yes, explain why and provide support for your explanation.

Checklist with Statement of Service and Signature

All documents filed with the Authority must comply with the requirements set forth in part 2429 of the Authority's regulations.

A complete copy (including all attachments) of an Agency reply to a Union response to the Agency statement of position on petition for review of negotiability issue <u>must</u>:

Be served by certified mail, first-class mail, commercial delivery, or in person on the Principle Union Bargaining Representativ .e.........(5 C.F.R. §§ 2424.2(g) & 2429.27(b))

Contain a signed and dated statement of service with names and addresses of parties served, date
of service, nature of document served, and whether by certified mail or personal delivery. (See
example on back page)(5 C.F.R. § 2429.27(c))

Contain an original and 4 complete and legible copies of all
documents

 Be addressed to: Case Control Office, Federal Labor Relations Authority 1400 K St., NW, Suite 201 Washington, D.C. 20424-0001

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 <u>UNION</u> <u>and AGENCY</u>, 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 Head or Agency Head Designee