## Agency Reply to Union Response on Petition for Review of Negotiability Issues for Use with Disapproved Provisions

### USE THIS FORM ONLY IF THE UNION IS SEEKING REVIEW OF A PROVISION AGREED TO BY THE UNION AND THE 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’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 required 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 the Agency disagrees with any other claims of legality that the Union raised for the first time in its response.

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, unless the time limit for filing has been extended pursuant to § 2424.23 or part 2429 of the Authority’s Regulations.

The information requested below may be provided on this form or in a separately created document. The form is available at [www.flra.gov](http://www.flra.gov), in a format that can be completed using standard word processing software. If your entire reply is more than 10 pages long, then you must include a table of contents. If you have questions about completing this form, please contact the Authority’s Office of Case Intake and Publication at (771) 444-5805.

## Part I – Background

1. **Case Number:**

**1a. Case Caption:**

## Part II – The Agency’s Position

Set forth the Agency’s position on any matters raised in the Union’s response to the Agency’s 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 separate answers for each provision** requiring explanations to those questions. Where narrative/explanatory answers are required, for each question you may either: (1) type your complete response; or (2) type “see attached” and include your answers as an attachment. Each party has the burden to give sufficiently detailed explanations to enable the Authority to understand the party’s position regarding the meaning, operation, and effects of a provision. A party’s failure to provide such explanations may affect the Authority’s decision in a manner that is adverse to the party. 5 C.F.R. § 2424.32(c). **If you type your responses on this form, then** **make a separate copy of questions 2 through 9 for each provision.**

The Agency is responsible for raising and supporting arguments that the provision is illegal. Failure to raise and support an argument may, in the Authority’s discretion, be deemed a waiver of such argument. Failure to respond to an argument or assertion raised by the other party may, in the Authority’s discretion, be treated as conceding such argument or assertion.

For each argument, cite any law, rule, regulation, section of a collective-bargaining agreement, or other authority relied on in your argument or referenced in the provision. Explain how the cited law, rule, regulation, section of a collective-bargaining agreement, or other authority relates to your argument or the provision. Attach to this reply a copy of all such material, except for federal statutes, government-wide regulations, or judicial and administrative decisions.

Are copies of materials attached?

[  ] Yes      [  ] No

If Yes, list the materials attached:

**PROVISION \_\_\_\_\_\_\_\_**

1. If the Union has asserted for the first time in its response that the provision concerns a matter under 5 U.S.C. § 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.

1. If the Union has asserted for the first time in its response that the provision is a procedure under 5 U.S.C. § 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 provision is an appropriate arrangement under 5 U.S.C. § 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 provision enforces an applicable law within the meaning of 5 U.S.C. § 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 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, do you agree?

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

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      [  ] No      [  ] No other new matters raised

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

**Part III – 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’s reply must:

• Be served by certified mail, first-class mail, commercial delivery, in person, or email (but only when the receiving party has agreed to be served by email) on the Principal Union Bargaining Representative at the negotiations. 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 method of service. (See below.)

5 C.F.R. § 2429.27(c).

* Contain an original or clean copy of all documents, which are capable of reproduction. 5 C.F.R. § 2429.25.
* Be addressed to:

Case Intake and Publication

Federal Labor Relations Authority

Docket Room, Suite 300

1400 K Street, NW

Washington, D.C. 20424-0001

## STATEMENT OF SERVICE

I certify that a complete copy of the Agency’s reply, including all attachments, in the case of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [UNION] and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [AGENCY], Case Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was filed with the Office of Case Intake and Publication, Federal Labor Relations Authority, Washington, D.C., by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [indicate method of service], and was sent this day to:

**Union Principal Bargaining Representative**
Name:

Title:

Address:

Phone:

Method of Service: [ ] certified mail

 [ ] first-class mail

 [ ] commercial delivery (type: FedEx, UPS, etc.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 [ ] personal delivery

 [ ] email (but only when the receiving party has agreed to service by email under 5 C.F.R. § 2429.27(b)(6))

 [ ] other (please specify) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Name of filing party

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Agency’s representative