

IN THE MATTER OF ARBITRATION BETWEEN:

NATIONAL COUNCIL OF)	
HUD LOCALS 222, AFGE, AFL-CIO,)	
)	
Union,)	Issues: Fair Labor Standards Act
)	Exemptions, Overtime,
and)	Comp Time, etc.
)	
U.S. DEPARTMENT OF HOUSING)	Arbitrator: Sean J. Rogers, Esq.
AND URBAN DEVELOPMENT,)	
)	
Agency.)	
_____)	

Request for Information Pursuant to §7114(b)

The Union requests the following information in connection with the above captioned case. Reasonably sanitized responses are acceptable.

1. Time and attendance records (HUD Form 25012) for Rayford Johnson from January 2005 to present.
2. Time and attendance records (HUD Form 25012) for Wayman Rucker from January 2005 to present.
3. HUD Forms 25018 for Rayford Johnson from January 2005 to present.
4. HUD Forms 25018 for Wayman Rucker from January 2005 to present.
5. HUD Forms 25020 for Rayford Johnson from January 2005 to present.
6. HUD Forms 25020 for Wayman Rucker from January 2005 to present.

Particularized Need:

The Union needs this information to use it in a pending arbitration. The Union will use the information to impeach the credibility of Agency witnesses. The Information will be introduced into evidence. The information, although for non-bargaining unit employees, is material and relevant to the pending arbitration since these individuals testified that they work beyond their tour of duty, do not get comp time or credit hours or overtime, but also that Agency policy requires that any overtime work be approved in advance by every HUD employee's supervisor.

Respectfully Submitted,

Michael J. Snider, Esq.

Date

3. HUD Forms 25018 for Rayford Johnson from January 2005 to the present.

Response: This information is not necessary for discussion, understanding, and negotiation of subjects within the scope of collective bargaining because the named individual is not a member of the bargaining unit.

4. HUD Forms 25018 for Wayman Rucker from January 2005 to the present.

Response: This information is not necessary for discussion, understanding, and negotiation of subjects within the scope of collective bargaining because the named individual is not a member of the bargaining unit.

5. HUD Forms 25020 for Rayford Johnson from January 2005 to the present.

Response: This information is not necessary for discussion, understanding, and negotiation of subjects within the scope of collective bargaining because the named individual is not a member of the bargaining unit.

6. HUD Forms 25020 for Wayman Rucker from January 2005 to the present.

Response: This information is not necessary for discussion, understanding, and negotiation of subjects within the scope of collective bargaining because the named individual is not a member of the bargaining unit.

Epstein Becker & Green, P.C.

By: _____
Peter M. Panken

Counsel for the Agency

Arbitrator Rogers:

The Union files this Motion to Compel based upon the Agency's failure and refusal to respond fully to the Union's 9/13/06 RFI.

The Agency's Response is attached and sets forth the Union's RFI in numbered paragraphs therein. The Agency did not raise any objection(s) other than those raised explicitly in the Response.

The Union proffered in its Particularized Need, and proffers at this time, that the information, although for non-bargaining unit employee(s), was material and relevant to the pending Arbitration since the information was directly related to the testimony of these supervisors, their credibility and the matter of damages.

We can provide the original 7114 RFI if you need it, although the Agency has not questioned the particularized need.

Michael J. Snider, Esq.
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1-800-DISCRIMINATION (sm) toll-free

From: norman_mesewicz@hud.gov [mailto:norman_mesewicz@hud.gov]
Sent: Thursday, October 05, 2006 10:23 AM
To: Michael Snider
Subject: AFGE 9/13/06 DATA REQUEST

Mike,

Please see the agency's response attached below to the subject data request.

(See attached file: AFGE91306DATAREQUEST.DOC)

Norman Mesewicz
Deputy Director,
Labor and Employee Relations Division
Telephone 202-708-3373
FAX 202-708-2155

Hershel Goodwin

From: Michael Snider
Sent: Friday, November 17, 2006 11:05 AM
To: 'rogerssj@erols.com'
Cc: 'carolyn_federoff@hud.gov'; flsa; 'PPanken'; 'Shlomo Katz'; 'norman_mesewicz@hud.gov'; 'Daniel Abrahams'; 'elizabeth_mcdargh@hud.gov'; 'ricardo_miranda@hud.gov'; 'shannon_s._louie@hud.gov'; 'perry_casper@hud.gov'
Subject: RE: Union's Motion To Compel (AFGE 9/13/06 DATA REQUEST)

Arbitrator Rogers:

The Union withdraws its Motion to Compel (Motion #13) as moot. We dispute the Agency's contention to every Request in its Response that "This information is not necessary for discussion, understanding, and negotiation of subjects within the scope of collective bargaining because the named individual is not a member of the bargaining unit," since the FLRA has held directly to the opposite:

Dept. of Air Force, Air Force Logistics Command, Sacramento Air Logistics Ctr. and AFGE Local 1857, 37 FLRA 987, 994-95 (1990)("an agency is required to furnish information on nonbargaining unit employees when the information is necessary for the union to effectively fulfill its representational responsibilities. . .").

Nevertheless, since numerous Agency supervisors and managers have now testified under oath that they themselves certified their time as accurate yet worked uncompensated time in excess of their tour of duty, which was not reported on the HUD Forms at issue, we believe our Motion to Compel is unnecessary and do not wish to utilize limited resources at this time.

We make this withdrawal without prejudice, and reserve the right to refile it at any time.

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From: Michael Snider
Sent: Thursday, October 05, 2006 4:06 PM
To: 'rogerssj@erols.com'
Cc: 'carolyn_federoff@hud.gov'; flsa; 'PPanken'; 'Shlomo Katz'; 'norman_mesewicz@hud.gov'
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