



REQUESTS FOR INFORMATION:



How to get stuff to support your case.



The Union has the power to get the agency to provide information.

Benefits of obtaining information:

- Information is power;
- Helps figure out whether you have a viable grievance, refine your grievance, provide you evidence to rely upon in a grievance, arbitration or mediation; and
- Can assist in settling disputes.






What is the authority for the Union's power to get the agency to provide information?

- The Statute; and
- Various articles of the CBA.




5 United States Code (U.S.C.) Section

7114(b)(4) provides that the obligation to bargain in good faith includes the obligation:




(4) in the case of an agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--

(A) which is normally maintained by the agency in the regular course of business;



(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and



(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.



CBA Section 6.11

- Upon written request, the EMPLOYER shall furnish to the UNION, to the extent not prohibited by law, data which is normally maintained by the EMPLOYER in the regular course of business; which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining; and which does not constitute guidance, advice, counsel or training provided for Management Officials or supervisors relating to collective bargaining.



Other CBA sections that entitle EE's & Union to doc's:

- Sec. 12.01- Govt. Rules & EEOC Directives
- Sec. 15.14, 15.15, 15.21- Doc's related to promotion decisions;
- Sec. 19.07- Neg. WIGI Determination File
- Sec. 20.01, 20.05- PD, Pos. Classif. Std.
- Sec. 25.03- inspection of OPF, EPF
- Sec. 25.09, 25.10- performance related doc's maintained by supervisor
- Sec. 38.04, 39.03- doc's relied upon for disciplinary & adverse actions

What kinds of things should you ask for?

- You should be asking for documents rather than answers to questions.
- Think about your specific issue & what would help you prove it:
 - Documentation of alleged performance concerns;
 - Production numbers;
 - Comparator documentation;
 - Applicable policies or memos;
 - Position Descriptions;
 - Leave slips.



How do you serve an RFI?

- It can be attached to a grievance or standalone.
- Include a reasonable deadline, such as 2 weeks.
 - The CBA does not provide a timeframe. Caselaw states that the agency should respond in a “**timely manner**” (which has been interpreted as wks not mnths).
- CBA doesn't say who to serve it on. Suggest that you serve it where information is maintained. Also, you need to send a copy to OHR. Sending hardcopies in addition to e-mail may avoid issues of receipt.





How do you enforce an RFI if the agency is non-responsive?

- You file a ULP with FLRA.
- Therefore, you should draft your RFI in a way that can support a successful ULP.



What do you need to support a successful ULP regarding an RFI?

- The Union must show “**Particularized Need:**”
 - “By articulating, with specificity, why it needs the requested information, including the uses to which the union will put the information and the connection between those uses and the union's representational responsibilities under the Statute.”
 - Need more than a conclusory or bare assertion that the information is relevant or useful to the Union.
- Suggestion: Spend about 2 paragraphs listing any reason you can think of supporting needing the stuff.



Wrap Up: RFI Template:

- [*Local's Letterhead*]
- To:[*Manager who has the stuff*]
- From:Union Steward
- Due Date:[*Usually 2 Weeks*]
- On behalf of the office's bargaining unit employees, and in accordance with 5 U.S.C. Section 7114(b)(4), and Article 6.11, *and Articles* _____ of the Collective Bargaining Agreement (CBA) between the National Council of EEOC Locals 216 (Union) and the U.S. Equal Employment Opportunity Commission (Employer), the Union hereby requests that the Employer provide the requested information.



RFI Template (continued):

- This information is necessary for full and proper discussion of the *(Union's concurrently filed Grievance)*, as well as an understanding and negotiation of subjects within the scope of collective bargaining. The requested information is also necessary for ...
[spell out your particularized need for the stuff- usually two paragraphs]

RFI Template (continued):

- **Instruction for Denials/ Objections:** Where management determines that it will not produce any item, it should state the specific statutory, regulatory, or contractual citation(s) basis for its objection, provide a privilege log of what is not being produced (description of document, length of document, date of document), and produce any part of the request for which it does not claim a privilege.

- **Information Requested:**

- _____
- _____
- _____

