



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-3000

NOV 11 2005

OFFICE OF THE ASSISTANT SECRETARY
FOR ADMINISTRATION

MEMORANDUM FOR: Michael J. Snider, Esq., Counsel for AFGE Council 222

FROM: Norman Mesewicz, Deputy Director, Labor and Employee
Relations Division, ARHL

SUBJECT: Agency Response to Decision and Order on Union's Motion to Compel
Discovery and Union Supplemental Data Request dated September 27, 2005 submitted
via Email – HUD/AFGE Grievance of the Parties – Fair Labor Standards Act
Exemptions, Overtime, Comp Time etc.

This memorandum is in response to the arbitrator's October 19, 2005 Decision and Order on the Union's September 28, 2005 Motion to Compel, and the September 27, 2005 supplemental data request. In his Decision and Order the arbitrator directed that the Agency to respond again to all but request 1 of the Union's FLSA grievance. The data requests are associated with two Grievances of the Parties, the Sunday Travel FLSA Grievance, and the GoP FLSA Overtime. The Agency's response follows.

Sunday Travel FLSA Grievance

1. The Agency responded to this item on April 4, 2004 when it sent to the Union a list of the instant employees and their duty stations along with a report of HUD staff with their FLSA status. The list of employees is provided again (Attachment #1). Non-duty time travel was voluntary. (Attachment #2). In this regard, please see the original response to the Union's Motion to Compel. Any employee who traveled during non-duty hours was compensated in accordance with regulatory and contractual requirements and FLSA status in place at the time in question. The Agency will provide the position descriptions separate from the all employee position description response if the Union still believes it has a need for them at this time. In this regard please see the GoP FLSA Overtime Item #2 response.
2. This data is not reasonably available under 5 U.S.C. 7114(b)(4). It would require a manual search of each individual travel voucher. This was explained to the Union in April 2004 (Attachment #3). To review every travel voucher for a three-year period in order to determine if any travel time occurred during non-duty hours is simply not feasible. The travel and FLSA grievances have been combined. Compensation for non-duty travel by improperly exempted employees should be addressed in the damages phase of this case.

3. Please see the response to #2 above.

GoP FLSA Overtime

2. The Agency will provide all position descriptions, but could not do so within the ten calendar day time frame, and, accordingly, requests a reasonable extension of time to do so. Alternatively, position descriptions can be provided, as they are needed for any mediation/arbitration sessions or settlement discussions.
3. The Agency does not see this information as necessary for the Union in this case. The only purpose of the SF-50s would be to document the FLSA status of the employees. That information has already been provided to the Union on the bargaining unit employee roster printouts.
4. Assuming this is a request for data relied upon to determine FLSA status, to the best of the Agency's knowledge there is no such information available.
5. Available worksheets were provided to the Union prior to the September 28, 2005 mediation session. These are the only FLSA worksheets in the Agency's possession. They were prepared to assess the merits of the FLSA exempt status of the positions in question.
6. The names of the individuals who produced the FLSA determinations referred to in #5 above are; Gary Lyman, Ed Silver and Marlene Thrash.
7. There are no FLSA consistency reviews in the Agency's possession.
8. On Friday, October 28, 2005, the Agency sent the Union reports of overtime worked by each bargaining unit employee for fiscal years 2000, 2001, 2002, and 2003. Management is searching for an FY 1999 report. The FY 2005 report had been sent previously. Overtime data for FY 2004 must be obtained by reviewing bi-weekly overtime reports maintained by each program office. This review is now ongoing.
9. On Monday October 31, 2005, the Agency sent the Union report of Compensatory time worked for the past two years. At this time, this is all of the compensatory time data the Agency believes it has in its possession.

In its supplemental emailed data request of September 27, 2005 the Union also asked for 1) The exemption originally relied upon by the Agency to exempt positions from FLSA coverage, 2) The exemption now relied upon to exempt positions and 3) Copies of the evening/weekend sign in/out sheets kept at the South entrance.

Management can respond as follows. With respect to the first item, management cannot identify specific exemptions used to exempt positions from FLSA coverage. With respect to the second item, Management relies on the Administrative and/or Professional exemptions. With respect to the third item, Management requests that the Union articulate a particularized need for the sign in/out sheets.

CC: Sean Rogers, Esq., Arbitrator
Carolyn Federoff, President, AFGE HUD Council

Attachments

Norman Mesewicz

To: Carolyn Federoff/OGC/BOS/HUD@HUD

CC:

04/02/2004 02:23 PM

Subject: SUNDAY TRAVEL DATA

Carolyn,

Into FedEx today went the information we discussed regarding the Council's original Non-Duty Travel Grievance of the Parties.

It consists of the name and duty stations of the PIH employees who were asked to travel on Sunday, and the statement regarding the Sunday travel requirement. Also provided is an Alpha by grade printout of HUD staff and their FLSA codes.

Norman

First	Last	HA
Jane	Adaniya	Honolulu Field Office
Dale	Adler	Anchorage Field Office
Deborah	Alexander	Houston Field Office
Francine	Allen	Ft. Worth Regional Office
Janie	Allen	Little Rock Field Office
Annie	Alston	Greensboro Field Office
Kenneth	Atkinson	Newark Field Office
Sandra	Augustus	San Francisco Regional Office
Judith	Axler	Philadelphia Regional Office
Cheryl	Baltzer	Minneapolis Field Office
Judith	Baumann	Miami Field Office
Lucy Ann	Beckwell	Minneapolis Field Office
Louis	Bell	Ft. Worth Regional Office
Simona	Berrellesa	San Antonio Field Office
Gordon	Black	Cleveland Field Office
Julia Ann	Borders	Charleston Field Office
Ellen	Bradley	Boston Regional Office
Gordon	Brandhagen	Seattle Regional Office
Charles	Brice	HUD Headquartes
Dowun	Byrd	Hartford Field Office
Carolyn	Cain	Cleveland Field Office
Salvatore	Cannizzaro	Newark Field Office
Beverly	Carter	Milwaukee Field Office
Eric	Chambers	HUD Headquartes
Vera	Cheers	Memphis Field Office
Jun	Chung	Honolulu Field Office
Leslie	Ciski	Las Vegas Field Office
Frank	Clower	Richmond Field Office
Ana	Colon	San Juan Field Office
Andrea	Cooper	Birmingham Field Office
Miguel	Correa	San Juan Field Office
Rosa	Cortes	New York Regional Office
Brenda	Crispino	Philadelphia Regional Office
Ricky	Cue	HUD Headquartes
Demetra	Daniel	Memphis Field Office
Frank	Davis	Atlanta Regional Office
Eileen	Davis	HUD Headquartes
Ednasue	Davis	Little Rock Field Office
Donna	Dear	Memphis Field Office
Yvonne B.	DeBose	Birmingham Field Office
Steven	DiPietro	Chicago Regional Office
Doris	Doyle	Atlanta Regional Office
Warren H.	Duff	New Orleans Field Office
Barbara	Finch	Louisville Field Office
Anne	Fisken	Detroit Field Office
Valerie	Francis	Boston Regional Office
Elizabeth	Freeman	Little Rock Field Office
Barbara	Gardsbane	New Orleans Field Office

Anita L.	Gibson	St. Louis Field Office
Maria	Giordani	New York Regional Office
Michele	Gomez	Miami Field Office
Douglas	Gordon	Detroit Field Office
Maria	Granata	HUD Headquarters
Linda	Haigler	San Juan Field Office
Patricia	Hairston	Detroit Field Office
Mary Ann	Harris	St. Louis Field Office
Monica	Hawkins	Philadelphia Regional Office
Mia	Hayes	Philadelphia Regional Office
Karen	Haynes	Nashville Field Office
Debra H.	Headley	Omaha Field Office
Agnes	Henderson	Memphis Field Office
Joni	Hendricks	Omaha Field Office
Lois Darlene	Hodge	San Antonio Field Office
Marguerite	Irby	Cleveland Field Office
Leanna	Jaubert	Ft. Worth Regional Office
Sian	Johnson	Cleveland Field Office
Deborah	Johnson	San Antonio Field Office
Amy	Johnson	Seattle Regional Office
Greg	Jungman	Oklahoma City Field Office
Darlene	Kaholokula	Honolulu Field Office
Charlotte	Keator	Denver Regional Office
Sebastian	King	Los Angeles Field Office
Adrienne D.	Kittrell	Greensboro Field Office
Greg	Kraus	San Antonio Field Office
Keith	Landrum	Detroit Field Office
Gail	Lazo	New York Regional Office
Angela	Left-Foster	Detroit Field Office
Diana	Lewis	Atlanta Regional Office
Elillian	Lewis	Chicago Regional Office
Terry	Lipscomb	Atlanta Regional Office
Bonnie E.	Lovorn	Jackson Field Office
Tinia	Lowman	Newark Field Office
Della	Lucero	Denver Regional Office
Mandy	Marshall	Albuquerque Field Office
Vicky	Martin	Knoxville Field Office
Debra L.	Martin	Pittsburgh Field Office
Chevelle	McCray	Buffalo Field Office
Barbara	McGinnis	Knoxville Field Office
Ebony	McKinney	HUD Headquarters
Cynthia	McKnight	New York Regional Office
Curtis	McMurrin	Baltimore Field Office
Delores	Melvin	New York Regional Office
Sonia	Menendez	San Juan Field Office
LaVerne	Merrill	HUD Headquarters
Belinda L.	Miller	HUD Headquarters
Marilyn	Milne	Atlanta Regional Office
Antonio	Mosqueda	Houston Field Office

Martha	Murillo	Los Angeles Field Office
Stephen	Murphy	HUD Headquarters
Henry	Nelson	Birmingham Field Office
Migdalia	Nunez	Miami Field Office
Maura	O'Brien	Boston Regional Office
Siri	Ott	Greensboro Field Office
Pedro	Pares	San Juan Field Office
Marilyn	Parmely	Colombia Field Office
Doreen	Pederson	Baltimore Field Office
Rose	Pendelton	Colombia Field Office
Marilou	Perez	Miami Field Office
David	Peters	Portland Field Office
Kelly	Peterson	Newark Field Office
Marcia	Pierce	Indianapolis Field Office
Susan	Platania	San Francisco Regional Office
Althea R.	Prescott	Pittsburgh Field Office
Nathan	Ratner	San Antonio Field Office
Lindsey	Reames	Grand Rapids Field Office
Sonja	Redmon	Louisville Field Office
LaDonna	Reed-Morton	HUD Headquarters
Jean	Robinson	Little Rock Field Office
Deborah	Rodriguez	New York Regional Office
Juan O.	Rodriguez	San Juan Field Office
Lisa	Rogers	Chicago Regional Office
Carol A.	Roman	Denver Regional Office
Oliver	Rosa	New Orleans Field Office
Joseph	Russell	Columbus Field Office
Sonia	Samuels	Jacksonville Field Office
Wendy C.	Sasaki	Omaha Field Office
Garrett	Sauve	Ft. Worth Regional Office
Michael	Scanlan	Indianapolis Field Office
Stephen	Schneller	Louisville Field Office
Sharon A.	Scott	Pittsburgh Field Office
Anita	Short	Salt Lake City Field Office
Magaret	Skiffer	Phoenix Field Office
Judy	Smith	Boston Regional Office
Teresa	Smith	Boston Regional Office
Regina	Smith	Chicago Regional Office
Gloria	Smith	Jackson Field Office
Louella	Snyder	HUD Headquarters
Debra	Soper	Washington DC Field Office
Naomi	Sukimoto	Los Angeles Field Office
Davidson	Taylor	Memphis Field Office
Chandra	Tolbert	Chicago Regional Office
Sharron	Treskunoff	Sacramento Field Office
Chris A.	Valiquette	Pittsburgh Field Office
Craig F.	Vandervort	Kansas City Regional Office
David	Vargas	HUD Headquarters
Rita S.	Vaz	St. Louis Field Office

Ruben	Villanueva	San Antonio Field Office
Sai	Volia	Newark Field Office
James C.	Walker	Birmingham Field Office
Beverly	Washington-Williams	Jackson Field Office
Richard B.	Wears	Detroit Field Office
Carol	Weber	Baltimore Field Office
Melinda	Whitehed	San Francisco Regional Office
Jerry	Wilhoit	Milwaukee Field Office
Kathryn	Winslow	Cleveland Field Office
Kathy R.	Winter	Kansas City Regional Office
Wayne	Woodell	Greensboro Field Office
Linda	Woolever	Minneapolis Field Office
Ronald	Wooster	Grand Rapids Field Office
Robert	Yablonskie	Boston Regional Office
Stacy	York	Albuquerque Field Office
Ray	Young	Indianapolis Field Office



George K. Dickey
06/19/03 01:20 PM

To: Norman Mesewicz/ADMIN/HHQ/HUD@HUD
cc:
Subject: RHIP Training--Travel on Sunday

Norman: Here is the message from Laure. She was very involved in the planning etc. for the training in question. This should address request a and b for PIH.

She has also included a spreadsheet which shows who the participants were. As discussed, an NFC run could showing grade, series and other information requested.

Should you need anything more from PIH, please let me know!
--- Forwarded by George K. Dickey/PIH/HHQ/HUD on 06/19/03 01:21 PM ---



Laure Rawson
06/19/03 11:00 AM

To: George K. Dickey/PIH/HHQ/HUD@HUD
cc: Patricia S. Arnaudo/PIH/HHQ/HUD@HUD, David R. Ziaya/PIH/HHQ/HUD@HUD, Christine Jenkins/PIH/HHQ/HUD@HUD
Subject: RHIP Training--Travel on Sunday

George--

Attached is the final list of PIH participants from the May 5th RHIP Training. In answer to your question about the direction that was given to the field about traveling on Sunday, I can paraphrase what I said on a Director's conference call 2-3 weeks before the training: Training participants are expected to be at the training from 8:00 am Monday morning until Noon on Friday. If you are not able to make that commitment then let your Director know, and someone else can be sent in your place.

Please let me know if you need anything else. I will be back in the office on July 7th. Thanks.

Laure



PIH_Final_Attendee

Norman Mesewicz To: Carolyn Federoff/OGC/BOS/HUD
04/26/2004 11:09 AM CC:
Subject: NON DUTY TRAVEL TIME

I consulted the OCFO regarding your request for the days and times of non-duty travel by bargaining unit employees for the last three years.

This information is not available absent a manual inspection of each travel voucher.

I will pursue the record of scheduled reviews, training etc. that we discussed the other day.