

Responding to Union Requests for Information (Data Requests & Particularized Need)

What are the union's rights to information?

Upon request, a union that is certified as the exclusive representative of a group of employees is entitled to data in a timely manner that is *reasonably available*, for which the union has demonstrated a *particularized need*.

There are, however, limitations to the data that may be released to the union. For example, information may be protected from disclosure if its release would violate the Privacy Act or other Federal law.

Also, the obligation to provide data does not extend to requests for information provided to management officials or supervisors related to bargaining.

What does the term "reasonably available" mean?

Reasonably available is determined on a case-by-case basis.

The statutory requirement that data be reasonably available excludes data that is only available through "extreme or excessive means" or that is unduly burdensome to produce.

For example, the Federal Labor Relations Authority (FLRA) determined that information that required three weeks effort to compile was "reasonably available." However, the FLRA determined that information consisting of 5,000 to 6,000 documents located in numerous locations and requiring substantial effort to locate and reproduce was not "reasonably available."

What does the term "particularized need" mean?

To demonstrate particularized need, the union must show a connection between the requested information and the union's representational duties.

Requests for data to conduct a general "audit" to look for anything the agency might be doing wrong is not specific enough to constitute particularized need.

To this end, management may ask the union to articulate specifically why the union needs the information and how the union intends to use the information.

What if a supervisor does not believe that the agency can or should provide the requested data?

Contact the WHS Labor and Management Employee Relations (LMER) Division for assistance.

When denying a request for information, the agency must assert its countervailing anti-disclosure interests.

What if the agency fails to provide the union information to which they are entitled?

The agency may be subject to an unfair labor practice (ULP) charge, which may be accompanied by a variety of sanctions issued by the FLRA.

Alternatively, the agency may be subject to sanctions issued by an arbitrator, if a bargaining unit employee or the union files a grievance under the negotiated grievance procedure.

Where can I go for additional assistance?

If you have questions regarding labor relations matters, please contact the LMER Division at 703-699-1824.