



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

April 12, 2022

### **Memorandum for Heads of Executive Departments and Agencies**

**From:** Kiran A. Ahuja, Director

**Subject:** Guidance on Implementation of EO 14025: Highlighting Requirement to Timely Process Requests for Payroll Deductions for Labor Organization Dues

On April 26, 2021, President Biden issued Executive Order (EO) 14025, Worker Organizing and Empowerment. EO 14025 builds on President Biden's earlier EO 14003 on Protecting the Federal Workforce, and it serves as a flag in the ground for every federal employee. These EOs let employees know that this Administration stands with them when it comes to protecting their rights, and ensuring they are treated with dignity and respect at the workplace. And as the largest employer in the nation, the federal government has a responsibility to lead by example.

OPM is proud to work on behalf of the Biden-Harris Administration to identify the policies, practices, and programs that can bolster worker power, worker organizing, and collective bargaining.

OPM is issuing periodic guidance on actions Federal agencies can take to implement the policies of EO 14025, consistent with the requirements of the Federal Service Labor-Management Relations Statute.

This memorandum provides guidance to agencies regarding the processing of bargaining unit employee requests related to payroll deductions for labor organization dues. As provided under 5 U.S.C. § 7115(a), any payroll deduction or allotment for labor organization dues "shall be made at no cost to the exclusive representative or the employee." In addition, such requests should be processed expeditiously.

In support of the policies of EO 14025, agencies should implement the following actions at the earliest opportunity:

1. Process requests related to payroll deductions for labor organization dues as quickly and accurately as possible; and
2. Provide access to the appropriate forms, if applicable, to request or cancel payroll deductions for labor organization dues and periodically communicate to bargaining unit employees where this information can be readily obtained.

The attached questions and answers provide additional guidance for Federal agencies and employees on the above actions which support the policies of EO 14025. Agencies should consult with agency human resources offices and legal counsel to determine any collective bargaining obligations. Agencies are strongly encouraged to work with their unions in implementing these recommendations.

OPM is reviewing the Standard Form (SF) 1187, Request for Payroll Deductions for Labor Organization Dues, and the SF 1188, Cancellation of Payroll Deductions for Labor Organization Dues, to determine if any improvements can be made to these forms to facilitate processing of requests related to payroll deductions for labor organization dues. Additional guidance may be released in the future.

### **Additional Information**

Agency headquarters-level human resources offices may contact OPM at [awr@opm.gov](mailto:awr@opm.gov) with additional questions. Agency field offices should contact their appropriate headquarters-level agency human resources offices.

cc: Chief Human Capital Officers  
Human Resources Directors

Attachment – Frequently Asked Questions on Union Dues Processing

## Frequently Asked Questions on Union Dues Processing

The following frequently asked questions (FAQs) were developed in support of the policies under Executive Order 14025. The purpose of the FAQs is to provide agencies and employees with helpful information about processing dues payments for union membership. The subjects contained herein may be subject to collective bargaining. Agencies should review collective bargaining agreements and consult with agency human resources offices and legal counsel to determine any collective bargaining obligations. Agencies are strongly encouraged to collaborate with labor unions to ensure reliable and efficient processes regarding union dues.

### 1) Why is OPM issuing this guidance?

As the nation's largest employer, the Federal government has the unique opportunity to lead by example and serve as a model employer. By supporting the President's policy in Executive Order (EO) 14025 to encourage worker organizing and collective bargaining, the Federal government is highlighting the positive impact that unions have in all workplaces.

[Read EO 14025 on Worker Organizing and Empowerment.](#)

### 2) How do I join a union?

If you are a bargaining unit employee and wish to join a union (i.e., become a dues paying member of the union), you may use [Standard Form 1187, Request for Payroll Deductions for Labor Organization Dues](#) or any comparable form or process the agency and/or union uses. Bargaining unit employees may contact their local union or the agency's human resources office for more information on the appropriate form or process used in their agency for dues deduction. Employees should check with their local union regarding the full benefits of union membership.

### 3) Do I have to be a dues-paying member before I can be represented by the union?

No. Federal bargaining unit employees have a right to fair representation by the exclusive representative regardless of their membership status. [5 U.S. Code § 7114](#), provides that "an exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership."

However, a union's duty of fair representation only extends to matters within the union's powers and responsibilities as the exclusive representative of bargaining unit employees under the Federal Service Labor-Management Relations Statute (Statute). Thus, the duty of fair representation extends to matters concerning collective bargaining over terms and conditions of employment and the grievance/arbitration process under the labor contract, but not to claims by employees under other employment laws. *See, e.g. Antilles Consolidated Education Association, (OEA/NEA), San Juan, PR, 36 FLRA 776(1990); AFGE, Local 1345, Fort Carson and AFGE, 53 FLRA 1798 (1998)*. A union therefore does not violate its duty of fair representation, when, for example, it provides legal representation or assistance to dues paying members in such matters as preparing their wills, or filing an EEOC complaint or an MSPB appeal, but not to employees who are in the bargaining unit but are not dues paying union members. *See National Treasury Employees Union v. Federal Labor Relations Authority, 800 F.2d 1165 (D.C. Circ. 1986)*.

## Frequently Asked Questions on Union Dues Processing

**4) How quickly does my agency have to process my request for payroll deductions for labor organization dues?**

While the law does not explicitly provide a specific time limit for an agency to process an employee's request that the agency make deductions from pay for union dues, the Federal Labor Relations Authority (FLRA) has held that such requests must be processed "expeditiously". In *HHS, SSA and AFGE Local 1346*, [3 FLRA 264 \(1983\)](#), the FLRA found a failure to process dues withholding authorizations "expeditiously" violated [5 U.S. Code 7116\(a\)\(1\) and \(8\)](#) and emphasized that this failure was a violation even if the delay in processing is unintentional.

**5) What happens if my agency doesn't expeditiously process my request for payroll deductions for labor organization dues?**

If the agency does not expeditiously process a withholding authorization, the agency may be found guilty of an unfair labor practice and ordered by the Federal Labor Relations Authority to remit to the union an amount equal to the dues it should have withheld from your pay. If you have properly submitted a dues withholding authorization and you believe your agency is failing to comply with it, you should notify HR and your union without delay.

**6) Can the agency delay the employee's request for dues allotment when the agency has a question of unit status or there is no agreement in place?**

[5 U.S. Code § 7115\(a\)](#) provides that "if an agency has received from an employee in an appropriate unit a written assignment which authorizes the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment." This requires the agency to honor the employee's request for dues withholding whether or not there is a collective bargaining agreement in place between the agency and the union representing the employee. If an agency has a reasonable disagreement with the union over whether an employee should be included in the bargaining unit, this may be resolved in "unit clarification" proceedings before the FLRA. Unit clarification decisions typically do not provide for the retroactive withholding or payment of union dues.

**7) When an employee is temporarily placed in a position outside of the bargaining unit (e.g., reassignment, detail, promotion), should agencies cease collecting dues? If so, can collection of dues begin automatically when the employee returns to the bargaining unit when the temporary departure is over or is the employee required to submit a new SF-1187 (or comparable form)?**

Under [5 U.S. Code § 7115\(a\) and \(b\)\(1\)](#), an agency may not deduct union dues from the pay of an employee who is no longer in an appropriate bargaining unit and the bargaining agreement between the union and the agency no longer applies to that employee. This means that when an employee is detailed, reassigned, or promoted to a position outside of the bargaining unit, the agency is no longer authorized to make dues deductions on behalf of the union from the employee's pay and the deductions must stop. If an employee's departure is expected to be permanent, the employee must submit a new SF-1187 or other authorization upon returning to the bargaining unit in order for dues deductions to resume. *American Federation of Government Employees, Local 2058 and U.S. Department of the Interior*,

## Frequently Asked Questions on Union Dues Processing

*National Park Service, Independence National Historical Park, Philadelphia*, [68 FLRA 676 \(2015\)](#). However, when an employee returns to the bargaining unit after an absence that is expected to be temporary, such as a detail, the agency may resume deducting union dues without receiving a new SF-1187 or other authorization. It is also permissible for an agency and a union to negotiate a requirement in their collective bargaining agreement that union dues deductions resume automatically for employees who return from absences that were intended to be temporary. See *Lodge 2424, IAM and Department of the Army, Aberdeen Proving Ground, MD*, [25 FLRA 194 \(1987\)](#).

### **8) Can an agency recoup dues overpayment from the union by reducing subsequent remittances to the union?**

An agency may not recoup overpayments by reducing subsequent remittances to the union of dues deducted from employee pay. In *Lowry Air Force Base, Denver, CO and AFGE, Local 1974*, [31 FLRA 793](#) (1988), the FLRA held that an agency violates the Statute if it reduces a remittance of dues to a union in order to recoup an overpayment. “We will interpret section 7115 of the Statute to impose an absolute duty on agencies to honor the current assignments of unit employees by remitting regular and periodic dues deducted from their accrued salaries to their exclusive representatives. Therefore, under section 7115, an agency is authorized only to allot dues, not to set off.”

### **9) If I become a dues paying union member, will I be able to cancel deductions from my pay for unions dues at any time?**

Under 5 § USC 7115(a), a written assignment authorizing an agency to deduct union dues from your pay may not be revoked for a period of one year except under the circumstances described in paragraph 7, above (e.g., reassignment to a position outside the bargaining unit). [5 CFR 2429.19](#) provides that “after the expiration of the one-year period during which an assignment may not be revoked under 5 U.S.C. § 7115(a), an employee may initiate the revocation of a previously authorized assignment at any time that the employee chooses.” This regulation applies to dues deductions that were authorized on or after August 10, 2020, which is the effective date of the regulation.

For dues assignments that were authorized prior to August 10, 2020, bargaining unit employees will be expected to follow the terms of the collective bargaining agreement that applied to the revocation of dues deduction prior to August 10, 2020. This may require, for example, that you submit a request to cancel your dues deduction during an annual window period. In addition, like all government-wide regulations, 5 CFR 2429.19 is subject to the constraints of [5 U.S. Code § 7116\(a\)\(7\)](#) which generally means that the revocation requirements already contained in a collective bargaining agreement in effect prior to August 10, 2020, will continue to apply until the end of the current contract term. Please consult with your agency’s human resources office regarding what is required for your bargaining unit.

In order to request cancellation of dues deduction, bargaining unit employees may use [Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues](#) or any comparable form or process the agency and/or union uses. Bargaining unit employees may contact their local union or the agency’s human resources office for more information on the appropriate form or process used in their agency.