



National Council of HUD Locals  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
AFFILIATED WITH AFL-CIO  
Council 222 P.O. BOX 9762 ALEXANDRIA, VA 22304

**Date:** March 18, 2025

**Memorandum For:** Lori Michalski, Office of the Chief Human Capital Officer

**Through:** Ginger Burnett, Acting Director, Employee & Labor Relations

**From:** Antonio F. Gaines, AFGE National Council 222, President

**Through:** Veronica Bobbitt, AFGE National Council 222, Chief Steward

**Subject:** Request for Information: Return of Probationary Employees

**Pursuant to 5 U.S.C. § 7114(b)(4)** and the Federal Service Labor-Management Relations Statute, AFGE National Council of HUD Locals No. 222 (hereinafter “AFGE Council 222” or “the Union”) formally requests the following information from the U.S. Department of Housing and Urban Development (hereinafter “HUD” or “the Department”). This request is made to fulfill the Union’s representational responsibilities under the Statute and the Collective Bargaining Agreement (CBA), specifically Article 33, “Reduction in Force and/or Transfer of Function” and the direct impacts of those actions on Bargaining Unit Employees (BUE’s). This specific information is necessary to ensure compliance with Civil No. JKB-25-0748, State of Maryland, *et al.*, v. United States Department of Agriculture, *et.al.*

### **Legal Basis for the Request**

The legal basis for the Union’s request is grounded in statutory and regulatory provisions, as well as the Collective Bargaining Agreement (CBA) and recent judicial decision. The following points establish the legal foundation:

- 1. 5 U.S.C. § 7114(b)(4):** This statute requires agencies to furnish data that is normally maintained in the regular course of business, reasonably available, and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining.
- 2. 5 CFR § 293.311:** This regulation clarifies that certain employee information, such as names, titles, grades, and duty stations, is publicly available and not subject to Privacy Act restrictions, supporting the Union’s right to access this data.
- 3. Federal Labor Relations Authority (FLRA) Precedent:** The FLRA has consistently held that unions are entitled to information necessary for representational duties, including investigating and processing grievances, as demonstrated in the case law cited below.

4. **Privacy Act Exception:** The Privacy Act permits disclosure of certain employee information when it is necessary for the Union to fulfill its representational responsibilities, as outlined in 5 CFR § 293.311 and supported by FLRA decisions.
5. **Civil No. JKB-25-0748, Temporary Restraining Order Memorandum (United States District Court for the District of Maryland)**, rendered by James K. Bredar, United States District Judge, on March 13, 2025. This decision prohibits all defendants ( *i.e.*, Part 10 (vii) – United States Department of Housing and Urban Development) from conducting unlawful terminations of probationary employees and to reinstate their employment while documenting the actions taken to do so.

## **Information Requested**

### **1. Status Report:**

- Documentation of actions taken to comply with Civil Order No. JKB-25-0748. This information should include; number of affected probationary employees at HUD, broken down by subagency, department, or program area(s), to the greatest degree of granularity practicable.

### **2. Employee Notification(s):**

- Provide a complete and accurate list of employees who will or have received written notification to return to their position at HUD.
- Include copies of all written notifications, which should detail the reason for reinstatement, the effective date, and employees' rights to a continuation of benefits under applicable laws and the CBA.

### **3. Assistance and Resources:**

Detail the assistance and resources available to affected employees, including specific point-of-contact (POC) information for HUD dedicated staff (or their appointed contractor) who will assist in the reinstatement process of probationary employees. This information includes: back pay in the form of administrative leave, reinstatement of all health, life, and retirement benefits, restoration of accrued annual and sick leave and physical assignment back to their previous office assignment or location.

## **Particularized Need**

The requested information is necessary for the Union to:

- Confirm and document that HUD is adhering to the judicial decision made March 13, 2025, to reinstate all probationary employees who were terminated, outside of individual performance issues or specific determination of cause(s).
- Representation of probationary employees adversely affected by termination notices sent electronically approximately February 14, 2025. As their contractual representative, this information is necessary to advise them of their rights and options, including reinstatement rights and procedures.
- Investigate and process potential grievances related to the termination of probationary employees and any backpay, reimbursement of legal and/or associated costs that these employees are entitled to under federal law.

The FLRA has consistently upheld the Union's right to information necessary for representational duties. The following cases illustrate this principle:

1. **U.S. Department of Justice, Federal Bureau of Prisons, Allenwood Federal Prison Camp, Montgomery, PA, 40 FLRA 449 (1991):** The FLRA ruled that unions are entitled to information necessary to evaluate and process grievances.
2. **Internal Revenue Service, Washington, D.C., 50 FLRA 661 (1995):** The FLRA emphasized that an agency must provide information that is reasonably available and necessary for collective bargaining purposes.
3. **U.S. Department of the Air Force, Air Force Materiel Command, Wright-Patterson Air Force Base, Ohio, 51 FLRA 1532 (1996):** The FLRA held that unions are entitled to information that is necessary to determine whether an agency has complied with applicable laws, regulations, and agreements.
4. **U.S. Department of Veterans Affairs, Veterans Affairs Medical Center, Jackson, Mississippi, 60 FLRA 8 (2004):** The FLRA found that unions are entitled to information necessary to assess whether an agency's actions are consistent with its obligations under the collective bargaining agreement.
5. **U.S. Department of the Navy, Naval Aviation Depot, Cherry Point, North Carolina, 42 FLRA 795 (1991):** The FLRA ruled that unions are entitled to information that assists in determining whether to file a grievance and in preparing for arbitration.
6. **State of Maryland, et al. v United States Department of Agriculture, et al. (2025).** The US District Court for the District of Maryland ordered a Temporary Restraining Order in which federal agencies listed must reinstate probationary employees before March 17, 2025, at 1:00pm EDT.

### **Response Timeline**

Pursuant to 5 U.S.C. § 7114(b)(4), we request that HUD provide the requested information within the statutory timeframe, as time is of the essence. no later than March 24, 2025. If additional time is required, please notify the Union promptly with an explanation.

Should you have any questions or require clarification, please contact Veronica Bobbitt via email at [veronica.s.bobbitt@hud.gov](mailto:veronica.s.bobbitt@hud.gov).