



23 October 2019

ADVISORY OPINION

Reference No. DPO 19-47

FOR : ██████████

SUBJECT : **Submission of Employee List to PAG-IBIG**

Dear ██████████:

We received your inquiry on whether or not UP Diliman may provide a schedule/list of UP Diliman employees to PAG-IBIG.

Advisory Opinion

A schedule/list of UP Diliman employees currently enrolled with the PAG-IBIG Fund may be provided to PAG-IBIG but only after UP Diliman receives a formal letter from PAG-IBIG stating the request and the purpose of its request. If there are employees that are not enrolled by UP Diliman with PAG-IBIG Fund such as Non-UP Contractual employees, then their names may not be provided to PAG-IBIG.

Discussion

A Personal Information Controller such as UP Diliman may process personal information if it necessary and related to the fulfillment of a contract or if it is necessary for compliance with a legal obligation; the Data Privacy Act of 2012 states:

“SEC. 12. Criteria for Lawful Processing of Personal Information. – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

x x x

(b) The processing of personal information **is necessary and is related to the fulfillment of a contract** with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;

(c) The processing is **necessary for compliance with a legal obligation** to which the personal information controller is subject;”

“necessary and related to the fulfillment of a contract”

Since UP Diliman has an employment contract with its employees, and the proper remittance of PAG-IBIG fund contributions is related to such contract, then an updated schedule of employees may be provided to PAG-IBIG. National Privacy Commission Advisory Opinion No. 2017-051 states:

“In the case of an employer, as a personal information controller (PIC), the processing of personal information of its employees is allowed when it is necessary and in relation to the fulfillment of an employer-employee contract. Processing may also be done for purposes of the legitimate interests pursued by the employer. Lastly, the processing is allowed when it is necessary **for compliance with a legal obligation to which the employer is subject such as when required under labor laws and regulations. In the abovementioned cases, consent of the employees to the processing need not be obtained.**”

“necessary for compliance with a legal obligation”

Under Section E(7) of HDMF Circular No. 275 series of 2012, UP Diliman has the obligation to *“inform the Fund of its newly-hired employees and other incidences that may affect an employee’s Fund membership”*. Hence, UP Diliman’s providing a list of employees currently enrolled to PAG-IBIG Fund may be provided. If there are employees that are not enrolled by UP Diliman with PAG-IBIG Fund such as Non-UP Contractual employees, then their names may not be included in the schedule/list to be provided to PAG-IBIG.

UP Diliman must request for a formal letter from PAG-IBIG

Part of organizational security measures¹ in data protection is ensuring that UP Diliman only discloses personal information to authorized parties for official and legitimate purposes. Hence, it is strongly suggested that before any schedule/list of employees is provided, a formal letter from PAG-IBIG stating its request and the purpose of its request be obtained.

¹ Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 26.

Data Sharing Agreement

NPC Circular No. 2016-02 requires that government agencies that transfer personal information to one another enter into Data Sharing Agreements. The UP Diliman Data Protection Team is working on this matter and will update [REDACTED] on the matter.

Please do not hesitate to reach out for clarifications.

Yours,

(Sgd.) Elson B. Manahan
Data Protection Officer
University of the Philippines Diliman