

11 January 2020



Advisory Opinion



Reference No. DPO 21-01

FOR : 
University of the Philippines Diliman

SUBJECT : Request for list of agency-based workers

Dear :

We write in relation to your inquiry, received through , on whether the  can provide a list of its agency-based janitorial workers.

We understand that the list will be used for population sampling and survey questionnaire preparation for a study on  and  of wage workers in State Universities and Colleges (SUCs) in the National Capital Region.

Section 11 of Republic Act No. 10173 or the Data Privacy Act of 2012 (DPA of 2012), requires that, the processing of personal information shall be allowed provided, that there is compliance with the requisites of the said law, and adherence to the data privacy principles of **transparency, legitimate purpose, and proportionality**.

These principles are be briefly discussed in UP Diliman Data Protection Office Memorandum No. DPT 18-09,¹ as follows:

Transparency. *The data subject must be aware of the nature, purpose, and extent of the processing of his or her personal data, including the risks and safeguards involved, the identity of personal information controller, his or her rights as a data subject, and how these can be exercised. Any information and communication relating to the processing of personal data should be easy to access and understand, using clear and plain language.*

Legitimate purpose. *The processing of information shall be compatible with a declared and specified purpose which must not be contrary to law, morals, or public policy.*

¹ 11 May 2018

Proportionality. *The processing of information shall be adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose. Personal data shall be processed only if the purpose of the processing could not reasonably be fulfilled by other means.*²

The data privacy principle of transparency requires that the data subject must be properly apprised of the nature, extent, and purpose of the processing of their personal information to allow them to come up with an informed decision on whether they will consent to the processing of the same.

In this case, the researcher has failed to properly and completely disclose the nature of the personal information that will be collected and has simply stated that it is requesting for a list of agency-based workers. Thus, the data subjects (agency-based janitorial workers), cannot be properly informed as to the reason why their personal information will be collected, and the extent of such processing, and consequently cannot be able to arrive on an informed decision on whether they will consent to such.

The principle of proportionality requires that the processing and disclosure of personal information shall be **necessary, relevant, and not excessive in relation to the declared and specified purpose**. In addition, if the purpose of the processing can be achieved through other means without processing personal information, then such means should be adopted instead.

Based on the researcher's letter, the list is being requested to facilitate the population sampling and questionnaire formulation. **It is humbly submitted that if these objectives can be met through other means without having to disclose the personal information of the janitorial workers, then such means should be adopted instead.**

In addition, since the study will involve the collection of the workers' personal information, their consent to the same should likewise be obtained prior to any collection, disclosure, or processing.

We kindly note that consent given by the data subjects must meet the following criteria: freely given, specific, and informed.

The first criteria is satisfied when the data subject willingly gives his consent to the processing, and this willingness is evidenced in writing, or any recorded means.³ The second and third criteria are deemed satisfied when the data subject has been properly informed on what personal information of his/her will be collected, and the purpose and extent of collection and processing.

Lastly, it is suggested that should the researcher move forward in the collection and processing of personal information, he/she execute a **Non-Disclosure Warranty** to ensure the security and privacy of any personal information which he/she may have access to or come across during the research.

² Implementing Rules and Regulations of the Data Privacy Act of 2012, Section 18

³ National Privacy Commission Advisory Opinion No. 2017-042, 14 August 2017

We hope to have guided you on the matter. Should you have additional concerns, please feel free to reach out to our office.

Sincerely,

(Sgd.) Atty. Regine P. Estillore
Legal Officer
Data Protection Office
University of the Philippines Diliman