



Helping American Businesses Win the Future

Date: May 4, 2026

To: Richard Foy, AFGE Unit 2211, Unit Vice President

From: Tamara Maxwell, Acting Senior Vice President, Office of Small Business

Subject: Response to Request for Information

1. This is a response to the Union's formal request for information dated April 14, 2026.
2. Approximately two weeks after the Export-Import Bank of the United States (EXIM) informed the Union of its decision to close the New York Regional Office and reassign certain directors to official duty stations in Washington, D.C., the Union registered their objections. The Union's rebuke, thinly disguised as impact and implementation (I&I) bargaining, constitutes nothing short of an outright challenge to EXIM's right to determine how the agency is organized and structured—a right which the Federal Labor Relations Statute (Statute) clearly and unambiguously vests in agency management alone to the exclusion of the routine demands associated with bargaining, such as responding to union requests for information. See 5 U.S.C. § 7106(a)(1); *International Federation of Professional and Technical Engineers, Local 49*, 52 F.L.R.A. 839 (1996) (Authority rejects a union's proposal as outside the duty to bargain because the proposal impermissibly affected management's right to determine its organization within the meaning of section 7106(a)(1) of the Statute).
3. Contrary to the Union's arguments, interference with EXIM's legally protected right to determine its organization does not oblige the agency to respond to information requests which, in the main, bear no resemblance to bargaining over the impact of the change on certain employees and the procedures for implementing the closure of the New York office. See 2014 WL 7330871 (F.L.R.A.) (citing to *Treasury*, 64 FLRA at 979 and *Air Force*, 52 FLRA at 1009) (Discussing circumstances where a union fails to establish a particularized need for information). Here, legitimate I&I bargaining would focus on how management's decision affects certain EXIM employees. The Union instead seemingly imagines an I&I process which entitles them to: (a) predecisional and deliberative government documents; (b) an opportunity to review confidential emails and other communications presumably authored by EXIM attorneys who may have counseled senior leadership on issues

pertaining to the closure of that office; (c) and a clearer understanding of the alleged involvement that outside influencers such as the Administration's Department of Government Efficiency (DOGE) and the Office of Management and Budget (OMB) had in making sure EXIM closed the New York Regional Office.

4. The Union may be disappointed to learn there is no available documentation reflecting any such involvement by DOGE, OMB, or any other outside federal influencer. Consequently, EXIM cannot provide such information. Nor is the Union entitled to legal advice dispensed by agency counsel if that documentation existed. Despite its recent demands, the Union knows or should appreciate, there is no entitlement to such privileged and confidential information. See *Upjohn Co. v. United States*, 449 U.S. 383 (1981) (U.S. Supreme Court explains the purpose for upholding the attorney-client privilege). As resolute as the Union may be in their beliefs, there is no irrefutable proof of liability justifying the "fishing expedition" the Union has initiated without legal support, or apparent objective, whatsoever. See *Department of Justice, Office of the Inspector General and U.S. Immigration and Naturalization Service U.S. Border Patrol (El Paso, Texas)*, 45 F.L.R.A. 1355 (1992) (in a case where an administrative law judge acknowledged a "concern about the real possibility that the request here is a gigantic and very burdensome fishing expedition," the Authority reversed the judge's decision to issue a cease and desist order and concluded the agency did not violate section 7116(a)(1), (5), and (8) of the Statute by failing to furnish information requested under section 7114(b)(4) of the Statute).
5. What does exist, however, is a formal request which demands EXIM's disclosure of information wholly irrelevant to I&I negotiations, such as documents explaining how and why the decision was made to close the New York Regional Office and the connection, if any, between EXIM's decision to close that operation and President Donald J. Trump's Return to In-Person Work Presidential Memorandum. In its zeal to secure information beyond the scope of good-faith I&I bargaining, the Union has even lobbed the threat of advancing baseless unlawful discrimination claims. Unfortunately, the Union's unsupportable threats do not give rise to any legitimate basis for demanding EXIM's compliance with their disclosure demands.
6. Despite the Union's unreasonable posture, EXIM continues to demonstrate a willingness to negotiate in good faith, but only on those matters that are legitimately on the table. If the Union persists in its efforts to negotiate outside the lines, EXIM sees no reason to continue the current process.



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7. Still, it is EXIM's commitment to the negotiations process, not some concocted obligation to provide information based on a legally unsupportable demand, which compels the agency to respond with certain information now. In other words, the Union should not interpret EXIM's decision to disclose certain information and respond with some documentation as a concession to the Union's right to information. No such right exists. EXIM remains unequivocal in its position that the Union's actions to date represent an effort to impermissibly interfere with management's right to determine its organization. The Union simply is not engaged in legitimate I&I bargaining. Consequently, EXIM has no obligation under law or any collective bargaining agreement provision to disclose information in response to the Union's demands.

In view of the foregoing, EXIM responds as follows:

Request No. 1: Decision Documents Authorizing the NY Regional Office Closure

All documents that authorized, initiated, recommended, or approved the decision to close the New York Regional Office, including but not limited to:

- Decision memoranda, action memoranda, or directives issued by any EXIM official, the Board of Directors, or executive leadership recommending or approving the closure;

EXIM RESPONSE:

No memoranda or directives exist which respond to this request. The decision to close the New York Regional Office resulted from meetings which took place beginning in June 2025 through the closure date.

- Any Department of Government Efficiency (DOGE), Office of Management and Budget (OMB), or other executive branch communications, directives, or guidance (formal or informal, written or electronic) that prompted, directed, or influenced the closure decision;

EXIM RESPONSE:

No directives or guidance from DOGE, OMB, or other executive branch components exist in EXIM records.

- Minutes or summaries of any Board of Directors or senior leadership meetings at which the closure was discussed or decided;

EXIM RESPONSE:



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No minutes or summaries of Board of Directors or senior leadership meetings exist which respond to this request. The decision to close the New York Regional Office resulted from meetings which took place beginning in June 2025 through the closure date.

- Any real property, space utilization, or lease-management records related to the NY office that were considered in connection with the closure.

EXIM RESPONSE:

EXIM is reviewing charts for possible disclosure, presuming no confidentiality issues prohibit release to the Union.

Request No. 2: Cost-Benefit and Operational Analysis

All documents containing cost or operational analysis conducted in connection with the closure decision, including but not limited to:

- Any cost-benefit analysis, fiscal impact analysis, or financial modeling comparing the cost of maintaining the NY office versus closure;

EXIM RESPONSE:

EXIM engaged in no modeling activity regarding the New York office closure.

- Any analysis comparing the cost of relocating NY RDs to Washington, D.C. versus alternative arrangements, including home duty stations within assigned territories;

EXIM RESPONSE:

No analytical reports exist since assignment of home duty stations was not an option.

- Projected travel costs for NY-based RDs under relocation to Washington, D.C. compared to the current travel cost baseline;

EXIM RESPONSE:

No analytical reports exist since travel costs were not a factor in the decision to close the New York Regional Office.

- Any analysis of the operational or mission impact of the closure, including on the territories served by the NY office.

EXIM RESPONSE:



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No analytical report exists responsive to this request. Presently, there is no concern that EXIM cannot effectively accomplish its mission with staff operating out of the headquarters in Washington, DC. If needs arise, EXIM will consider future expansion.

Request No. 3: Selection Criteria – Why the NY Office Was Chosen

All documents related to how the agency determined which offices to close or consolidate, including but not limited to:

- Any criteria, scoring, or ranking methodology used to evaluate regional offices for closure or consolidation;
- Any comparative analysis of the eleven regional offices in which the NY office was evaluated relative to the others;
- Records showing which other offices, if any, were considered for closure and why they were not selected;
- The basis for closing only the NY office while the ten remaining regional offices continue operations without disruption to employee duty stations.

EXIM RESPONSE:

EXIM is reviewing charts for possible disclosure, presuming no confidentiality issues prohibit release to the Union. However, EXIM has explained its reasons for closing the New York Regional Office. EXIM's decision acted within its managerial discretion and is not obliged to provide any further explanation.

Request No. 4: Application of the Office of Personnel Management (OPM) Return-to-In-Person-Work Guidance to Field Positions

All documents related to how the agency interpreted and applied OPM's return-to-in-person-work guidance and the Presidential Memorandum on Return to In-Person Work to the affected Regional Director positions, including but not limited to:

- Any legal or policy analysis addressing whether RDs, as geographically assigned and field-based employees, are subject to the same return-to-office obligations as headquarters-based personnel;
- Any documents reflecting the agency's interpretation of OPM's guidance that employees whose duty stations are more than 50 miles from any existing agency



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office should have their duty stations moved to “the most appropriate office based on duties and job function;”

- Any determination made by OHC, Agency Counsel, or senior leadership regarding the application of the “50-mile rule” or similar standards to field-based, geographically assigned positions such as RD GS-1101-13;
- Any guidance, memoranda, or policy interpretations provided to the NY RDs or their supervisors regarding return-to-office requirements applicable to their positions.

EXIM RESPONSE:

No documents exist which respond to Request No. 4.

Request No. 5: Alternatives Considered to Washington, D.C. Relocation

All documents reflecting any consideration of alternatives to requiring the NY RDs to relocate their duty stations to Washington, D.C., including but not limited to:

- Any analysis, discussion, or evaluation of home duty stations within the RDs’ assigned territories as an alternative to Washington, D.C. relocation;

EXIM RESPONSE:

There are no responsive documents.

- Any analysis of satellite office arrangements, telework structures, or other hybrid arrangements considered for the affected positions;

EXIM RESPONSE:

There are no responsive documents.

- Any communications among agency officials discussing alternative duty station options for the NY RDs;

EXIM RESPONSE:

EXIM officials did not discuss alternative duty stations. Consequently, there are no responsive documents.

- The basis for Management’s determination that Washington, D.C. was the only or most appropriate alternative duty station for the RDs, given the field-based and territory-specific nature of their positions.

EXIM RESPONSE:



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There are no responsive documents. However, it bears noting that the proximity of EXIM headquarters in Washington, DC to the territory serviced by the New York Regional Office made it unnecessary to consider any alternative duty station options.

Request No. 6: Duty Station Data for Regional Directors at Other Offices

Arrangements for all Regional Directors employed at EXIM's other regional offices, including but not limited to:

- The official duty station (city, state, and office location or home-based designation) for each Regional Director at all regional offices outside New York;

EXIM RESPONSE:

- Mark Klein - KENTUCKY
- Eric Miller – TEXAS
- Leonardo Clavijo – DC
- Susan Kintanar – ATLANTA
- Mariel Huasanga – MICHIGAN
- Paul Duncan – CALIFORNIA

- Any approved alternative duty station arrangements (including home-based duty stations) currently in effect for any Regional Director;

EXIM RESPONSE:

Presently, an alternative duty station arrangement is in place for Mark Klein, but EXIM has instructed him to report for duty in Washington, DC beginning in July 2026.

- Records reflecting the Houston Regional Director's approved change of duty station to a home-based arrangement, and the Western States Regional Director's duty station relocation into the assigned territory, as referenced in the Union's February 27, 2026 submission.

EXIM RESPONSE:



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The Houston Regional Office Director works from home due to insufficient office space in the location leased by EXIM. EXIM will assign the Director to an office once space becomes available.

As regards Paul Duncan, please see the attached email correspondence. Mr. Duncan's office moved from Newport Beach, California to Irvine, California several years ago.

Request No. 7: Communications Regarding the Closure and Duty Station Change

All written communications (including email, memoranda, and formal correspondence) among agency officials, and between agency officials and external entities (including DOGE, OMB, and OPM), relating to:

- The decision to close the New York Regional Office;

EXIM RESPONSE:

There are no responsive documents.

- The determination to require NY RDs to relocate to Washington, D.C. rather than to remain within their assigned territories;
- Any external direction or pressure to close the NY office or change the duty stations of the affected employees;

EXIM RESPONSE:

There are no responsive documents.

- Any discussions of the Union's bargaining activity, proposals, or status in connection with the closure or duty station change.

EXIM RESPONSE:

To the extent the Union seeks any such information preceding the decision to close the New York Regional Office, there are no responsive documents.

To the extent the Union seeks information generated following the initiation of I&I bargaining, communications between EXIM officials and agency attorneys are privileged and confidential and not subject to disclosure.



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Request No. 8: Position Classification and Performance Standard Documents

The following documents related to the RD position and affected employees:

- The current Position Description for Regional Director (RD), GS-1101-13 (PD 8139), and any proposed revisions or reclassifications under consideration;

EXIM RESPONSE:

Please see attached.

- Current performance standards and expectations applicable to the affected RDs, including any territory-specific targets, outreach metrics, or pipeline goals;

EXIM RESPONSE:

Please see attached. The metrics remain the same but are subject to change following relocation.

- Any analysis of whether the RD position's geographic and territory-based requirements are affected by a Washington, D.C. duty station change;

EXIM RESPONSE:

There are no responsive documents.

- Any workforce planning documents reflecting how the agency intends to cover the NY and Mid-Atlantic territories following the closure and relocation.

EXIM RESPONSE:

There are no responsive documents.

Tamara Maxwell

Tamara Maxwell
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Office of Small Business