

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM 76-14

May 10, 1976

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: John S. Irving, General Counsel

SUBJECT: Requests for Information and File Material by the
Occupational Safety and Health Administration
U. S. Department of Labor

As a result of the procedures established with the Occupational Safety and Health Administration (OSHA), U. S. Department of Labor, concerning alleged unfair labor practices which may also constitute a violation of Section 11(c) of the Occupational Safety and Health Act, 1/ OSHA investigators from time to time have been making requests for documents contained in our investigative files.

In seeking such file materials, OSHA has followed the guidelines set forth in GC Memorandum 74-17 which provides, inter alia, that ordinarily a written request of a Federal agency to inspect documents in our Regional Office files should be made to the Regional Director by the head of the requesting employee's immediate organizational unit and that a request for copies of such materials should be made by the head of the employee's immediate organizational unit to the NLRB General Counsel.

Because OSHA investigators must frequently travel a substantial distance to our Regional Offices in order to inspect relevant file materials, an unfortunate and costly delay results if it becomes necessary to transmit a written request to the General Counsel before authorization is given to secure copies of relevant Agency documents. In this regard, it should be noted that OSH Act, Section 11(c), requires that a determination on the merits of a complaint filed pursuant to that section must be made within 90 days from the day on which the complaint is received.

In order to cooperate in the avoidance of unnecessary cost and delay in the administration of the OSH Act, we have agreed with OSHA that, although it will continue to be necessary to submit to the Regional Director a written request to inspect our files, authorization, where appropriate, to receive copies of Agency documents will be given in the following manner. After the OSHA investigator has inspected our files and determined which documents are needed, the Regional Director is to call the appropriate Assistant General Counsel, Division of Operations Management, specify the documents needed, together with the reasons therefor and, where appropriate, authorization will be given telephonically to the Regional Director to provide copies of the requested documents. This telephonic authorization will then be confirmed in writing by letter from the General Counsel.

1/ See GC Memorandum 75-29.

This agreement with OSHA includes their assurance that the appropriate privileges against disclosure will be invoked by OSHA if they are confronted with requests for the documents involved.

If you have any questions concerning the procedures herein, please contact your Assistant General Counsel.


J. S. I.

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