



Testimony Before the Subcommittee on Economic Opportunity, Committee on Veterans' Affairs and the Subcommittee on Government Operations, Committee on Oversight and Government Reform, House of Representatives

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## UNION ACTIVITIES

# VA Should Improve the Way It Tracks the Amount of Official Time Used by Its Employees

Statement of Cindy Brown Barnes, Director, Education, Workforce, and Income Security

Accessible Version

Chairmen Arrington and Meadows, Ranking Members O'Rourke and Connolly, and Members of the Subcommittees:

I am pleased to be here today to discuss our January 2017 report on the use of official time and space for union representational activities at the Department of Veterans Affairs (VA).<sup>1</sup> The Federal Service Labor-Management Relations Statute allows federal employees to use official time to perform certain union representational activities, such as negotiating a collective bargaining agreement and processing grievances, in lieu of their regularly assigned work.<sup>2</sup> Employees using official time for such activities are treated as if they are in a duty status and paid accordingly. According to a 2014 Office of Personnel Management (OPM) report, the amount of official time used by federal employees for union representational activities increased from approximately 2.9 million hours to over 3.4 million from fiscal year 2008 to fiscal year 2012.<sup>3</sup> For VA in particular, the OPM report shows that unions represented over 250,000 bargaining unit employees in fiscal year 2012, and these employees spent about 1.1 million hours performing union representational activities

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<sup>1</sup>GAO, *UNION ACTIVITIES: VA Could Better Track the Amount of Official Time Used by Employees*, [GAO-17-105](#) (Washington, D.C.: Jan. 24, 2017).

<sup>2</sup>Under the statute, official time is provided as a statutory right for such activities as negotiating collective bargaining agreements and authorized participation in proceedings before the Federal Labor Relations Authority, but for other purposes allowed under the statute must be negotiated between the agency and the union in an agreed-upon amount deemed reasonable, necessary, and in the public interest. Official time may not be used for internal union business, such as membership drives or collecting dues. See 5 U.S.C. § 7131. Throughout this statement, we use the term “representational activities” to refer to those union activities for which employees may use official time.

<sup>3</sup>Office of Personnel Management, *Labor-Management Relations in the Executive Branch* (October 2014). In addition, GAO previously reported on the extent to which 10 selected agencies used official time, including the Department of Veterans Affairs, and the report includes fiscal year 2013 official time data for selected agencies. See GAO, *Labor Relations Activities: Actions Needed to Improve Tracking and Reporting of the Use and Cost of Official Time*, [GAO-15-9](#) (Washington, D.C.: Oct. 23, 2014).

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on official time.<sup>4</sup> VA has negotiated master agreements with five national unions—National Association of Government Employees, American Federation of Government Employees, National Nurses United, National Federation of Federal Employees, and Service Employees International Union.

My statement summarizes the findings from our January 2017 report, which addresses (1) the extent to which VA tracks official time, (2) what is known about the amount of designated space used for union representational activities at selected VA facilities, and (3) the views of VA managers and union officials on the benefits and challenges of employees using official time.

In that report, we reviewed official time data provided to us by VA for fiscal years 2014 and 2015, which were the most recent years for which data were available. We assessed the reliability of the data by reviewing relevant agency documentation about the data and the systems that produced them and interviewing knowledgeable agency officials, among other steps. Based on our assessment, we found the data were not sufficiently reliable to determine the amount of official time used by VA employees and the purposes for which it was used. As such, data we present in our report in this regard are for illustrative purposes only. We also selected a nongeneralizable sample of five VA facilities in four states based on the number of bargaining unit employees at the facilities and to ensure representation from the three VA administrations, as well as from the different unions representing employees at VA.<sup>5</sup> We reviewed collective bargaining agreements (CBA) at the national level and local agreements for the selected facilities; VA policies and guidance; and relevant federal laws, regulations, and government standards for internal controls.<sup>6</sup> We also analyzed VA information on designated union space, which we determined was sufficiently reliable for our purposes. In addition, at each of the five selected facilities, we interviewed officials

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<sup>4</sup>According to the 2014 OPM report, the rate of official time at VA during fiscal year 2012 was lower compared to several other large agencies such as the Departments of the Treasury and Transportation. The rate of official time use indicates the number of official time hours expended per bargaining unit employee and allows for meaningful comparisons of official time usage among agencies.

<sup>5</sup>VA is organized into three administrations—the National Cemetery Administration, the Veterans Benefits Administration, and the Veterans Health Administration.

<sup>6</sup>See GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

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about how official time is recorded at the facility level, and we held group interviews with five groups of VA managers and five groups of union officials to obtain their views on the benefits and challenges of official time.<sup>7</sup> We also interviewed officials from five unions at the national level and officials at VA and OPM. A more detailed explanation of our methodology is available in our full report. The work upon which this statement is based was conducted in accordance with generally accepted government auditing standards.

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## VA Has No Standardized Way for Facilities to Record and Calculate Official Time, which Hampers Its Ability to Accurately Track the Amount of Official Time Used Agency-Wide

There is no standardized way for VA facilities to record the amount of official time employees use for representational activities because there are currently two time and attendance systems being used across the agency that capture this information differently. In 2013, VA began implementing its new Veterans Affairs Time and Attendance System (VATAS) at some facilities to replace its older system, the Enhanced Time and Attendance (ETA) System. VA expects to complete its rollout of VATAS in July 2018, and as of September 2016, approximately 50 percent of VA facilities and about one-third of employees (120,000) had transitioned to VATAS. For the five facilities we selected, three had transitioned to VATAS, and two were still using ETA at the time of our visits.<sup>8</sup> While VATAS provides specific codes for timekeepers to record time for various union representational activities, according to VA officials, ETA lacks such codes, and timekeepers can record the use of official time for union representational activities under the remarks section of employees' time and attendance records. VA officials further said recording time this way does not always make clear the purpose for which

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<sup>7</sup>At most facilities, we interviewed more than one group of local union officials. For purposes of discussing views on the benefits and challenges of employees using official time in our report, we considered the responses across all of the groups of local union officials we interviewed at each facility and refer to the groups collectively as one group for each facility.

<sup>8</sup>We conducted our interviews with selected facilities from May 2016 to July 2016. One of the two facilities using ETA was scheduled to implement VATAS soon after the time of our interviews.

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official time is being used. Beyond these inconsistencies in recording official time in VATAS and ETA, we found that three of the selected facilities did not record official time in either of these systems. Two of the facilities under VATAS maintained records on the use of official time outside the system, and the one facility under ETA did not document the use of official time at all. The inconsistent recording of information raises questions about VA's ability to monitor the use of official time.

VATAS could help standardize the way individual facilities record information on official time and improve VA's ability to monitor its use; however, we also found VA has not provided consistent training to employees on how to record official time in the new system. The lack of consistent training on how to record official time in VATAS is due in part to the fact that VATAS is being implemented in phases and training is being updated throughout the course of implementation. For instance, timekeepers and other officials from the three selected facilities that had implemented VATAS said that recording official time was not covered during their VATAS training, and these facilities were not using the codes in VATAS to record official time because they were not aware of them. As a result, these facilities continued to use different approaches to record official time and documented different information. According to federal internal control standards, management should communicate quality information that enables personnel to perform key roles, and it should provide appropriate training to personnel for carrying out their responsibilities.<sup>9</sup>

In 2016, VA took several steps to provide better guidance to facilities on how to record official time in VATAS, including providing face-to-face training and making the information available on the VA network. We recommended in our January 2017 report that the Secretary of Veterans Affairs direct the Assistant Secretary for Human Resources and Administration to increase efforts to ensure timekeepers at all facilities receive training and consistent guidance on recording official time in VATAS. VA concurred and said it has revised its policy to include specific directions to facility human resource offices to begin recording official time in VATAS once it has been implemented at the facility. VA set a target completion date of April 2017 in response to our recommendation.

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<sup>9</sup>[GAO-14-704G](#).

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To provide agency-wide official time data to OPM, which reports on the use of official time for representational activities government-wide, VA's Office of Labor-Management Relations (LMR) annually collects and compiles data from individual facilities and shares the aggregated data with OPM. VA's Office of LMR uses its LMR Official Time Tracking System to obtain information from individual facilities on the amount of official time used by employees.<sup>10</sup> The LMR system is separate and distinct from VA's two time and attendance systems and provides the Office of LMR with a centralized way to collect official time data from individual facilities, among other purposes. To collect official time data, each year the Office of LMR sends an email to facilities with a link to access the LMR system. A management representative at each facility then manually enters the information into the LMR system.<sup>11</sup>

The actual amount of official time used by employees across VA cannot be easily determined because VA offers facilities various options for calculating and reporting official time data in the LMR system. Federal internal control standards prescribe that management design control activities so that events are completely and accurately recorded.<sup>12</sup> VA allows facilities to use written records, estimates, samples, or surveys of official time hours used, or any combination of these methods, to determine the amount of official time used by employees at their facility when entering information into the LMR system. These different methods of calculating official time result in inconsistent information. Without reliable information from facilities on official time, VA management cannot monitor the use of official time and manage VA's resources effectively. We recommended that prior to the agency-wide implementation of VATAS, VA standardize the methods used by facilities for determining the amount of official time used by encouraging facilities to rely on time and attendance records. VA concurred and said its Office of Human Resources and Administration will develop a memo directing facilities to rely on time and attendance records when calculating the amount of official time used by employees at the facility level and set a target completion date of April 2017.

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<sup>10</sup>According to VA officials, the LMR Official Time Tracking System is also used to track agency-wide labor-management relations activities more broadly at the national level, including the development of related directives and policies.

<sup>11</sup>Facilities may submit more than one official time entry in the LMR Official Time Tracking System if multiple unions represent employees at the facility.

<sup>12</sup>[GAO-14-704G](#).

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Once implemented agency-wide, VATAS could provide VA with an alternative to collecting official time data through its LMR system. An official from VA's Financial Services Center (FSC) stated that FSC currently has the capability to generate reports in VATAS on the amount of official time used at individual facilities. The official added that once all facilities are using VATAS, FSC could generate one report with official time data, thereby eliminating the need for using the LMR system. However, an official from VA's Office of LMR was not aware of FSC's ability to produce such reports and said that the Office of LMR planned to continue using the LMR system to collect data on official time. If VA does not obtain more consistent data on the amount of official time used by employees, it will not be able to accurately track the amount of official time used by employees to ensure public resources are being used appropriately. In preparation for the full implementation of VATAS, we recommended that VA take steps to transition from using the LMR system to VATAS to collect and compile information on the amount of official time used agency-wide. VA concurred and said the Office of LMR will coordinate with FSC to collect and compile data on official time and set a target completion date of December 2018.

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## Designated Space for Union Representational Activities Comprised Less Than 1 Percent of the Overall Space at Selected Facilities

We found that the amount of designated space for union representational activities at selected facilities varied, but in all cases comprised less than 1 percent of the overall space available. Designated space for representational activities at the five selected facilities consisted primarily of office space, which was occupied by one or more union officials.<sup>13</sup> In addition to office space, designated space for union activities included conference rooms and storage rooms at some of the selected facilities. Further, VA provided unions at all five selected facilities with basic office furniture and equipment, such as desks, chairs, filing cabinets,

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<sup>13</sup>At a selected facility with two local unions, one of the unions did not have designated space. Rather, that union's president had her own office where she performed both union representational activities and non-union job duties. This union president was scheduled to spend 100 percent of her worktime on non-union job duties and requested approval from her supervisor to use official time on a case-by-case basis.

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computers, printers, and fax machines. In some cases, union officials said they purchased additional office equipment using union funds.

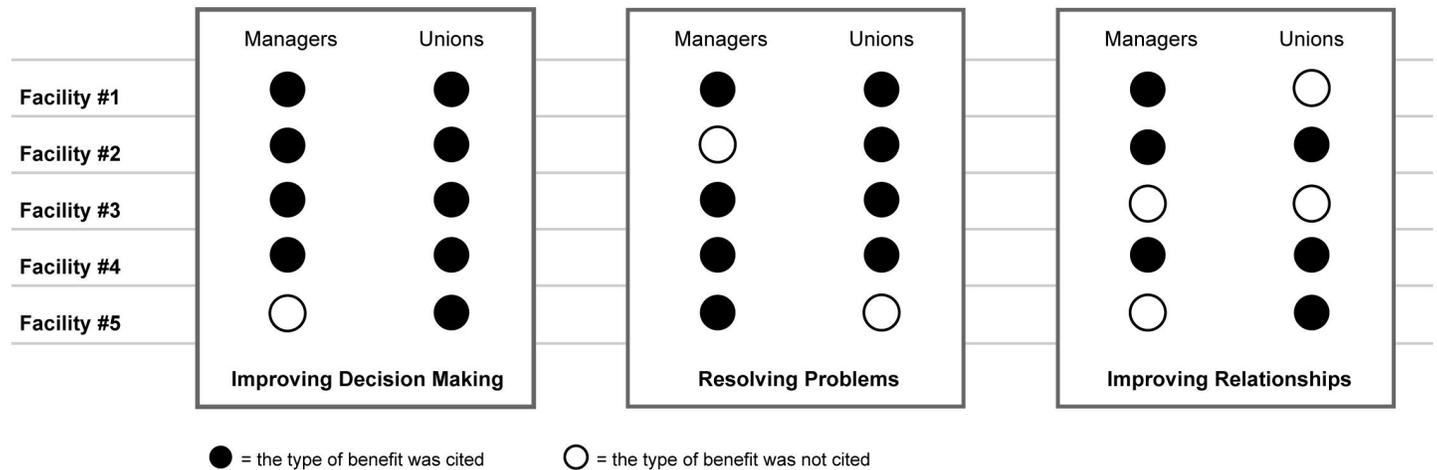
Union officials from three of five groups we interviewed said that limited space for representational activities was a challenge. Specifically, union officials from those three groups said there was not always sufficient privacy to ensure confidentiality for employees, especially in cases where designated space for representational activities was shared by multiple union officials. A VA official from the Office of LMR said that, in general, certain VA facilities may have space constraints depending on where they are located, the types of services provided, and the number of veterans served. VA does not track information on the costs associated with unions' use of designated space across the agency, and we were not able to obtain consistent information on costs from selected facilities.

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## VA Managers and Union Officials at Selected Facilities Cited Similar Benefits and Different Challenges Associated with the Use of Official Time

VA managers and union officials from groups we interviewed at selected facilities cited similar benefits of employees' use of official time for representational activities. Specifically, managers and union officials from most groups we interviewed said that employees' use of official time improved decision making and helped them resolve problems at their respective VA facilities, and some believed it improved relationships between management and labor (see fig. 1). For example, the use of official time may help prevent problems from evolving into formal actions, such as grievances against management or disciplinary actions against employees. In addition, according to union officials at the national and local levels, employees' use of official time also facilitates the whistleblower process at VA by providing an avenue for employees to report issues or concerns.

**Figure 1: Benefits Cited by VA Managers and Union Officials across Selected Facilities on Employees' Use of Official Time for Union Representational Activities**



Source: GAO analysis of group interviews with managers and union officials at selected VA facilities. | GAO-17-412T

Managers and union officials across selected facilities identified different challenges associated with employees' use of official time. Specifically, managers from all five groups we interviewed cited staffing and scheduling challenges associated with employees' use of official time. Managers said it is sometimes difficult to accommodate such employees' use of official time because it may detract from these employees' non-union responsibilities. Union officials from three of five groups we interviewed said they experienced challenges with limited flexibility in terms of when official time may be used, and union officials from four groups said they used varying amounts of personal time to conduct union representational activities.

Chairmen Arrington and Meadows, Ranking Members O'Rourke and Connolly, and Members of the Subcommittees, this concludes my prepared remarks. I would be happy to answer any questions you may have.

## GAO Contact and Staff Acknowledgments

For further information regarding this testimony, please contact Cindy Brown Barnes at (202) 512-7215 or [brownbarnesc@gao.gov](mailto:brownbarnesc@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony include Mary Crenshaw (Assistant

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Director), David Chrisinger, Sheila McCoy, Meredith Moore, Jean McSween, Mimi Nguyen, James Rebbe, Catherine Roark, and Almeta Spencer.

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