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Testimony

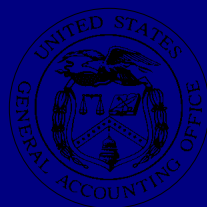
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FEDERAL LABOR RELATIONS

Official Time Used for Union Activities

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Federal Labor Relations: Official Time Used for Union Activities

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the charging of official time for federal workers' union activities.¹ Almost 1.9 million federal workers are represented by unions—about 750,000 employees of the Postal Service and about 1.1 million nonpostal workers. This Subcommittee has expressed interest in the extent to which employees use official time for union activities. We found that the four major federal entities we examined neither collect nor report the kinds of data needed to accurately portray the practice across agencies.

I would like to discuss three main points:

- The use of official time for union activities is an established practice in the federal government.
- The total amount of official time used for union activities, the cost of that time, and the number of people using that time are unknown.
- No reporting requirement exists for agencies to generate comprehensive data on their support of union activities.

You have raised the question of the extent to which federal taxpayers subsidize the activities of federal employee unions. Based on our findings at the four entities we examined, the question cannot be answered with any precision. Decisionmakers could more readily address the question if better data existed on (1) the amount and cost of the hours used for union activities, as well as the number of employees using those hours; (2) the types of activities covered by the hours used; and (3) the overall costs of agencies' support for union activities. We recognize that data gathering and reporting can be expensive, and expect that decisionmakers would need to balance the potential costs and benefits of the various options for doing so.

As you requested, we looked at four entities: the Postal Service, the Department of Veterans Affairs (VA), the Internal Revenue Service (IRS), and the Social Security Administration (SSA). As you know, Mr. Chairman, we are currently involved in a broader examination of these issues at your request. Because that work is in its preliminary stages, I will talk today

¹“Official time” means time granted an employee by an agency to perform certain union activities when the employee would otherwise be in a duty status. Union activities for which official time is granted are generally included in those “representational functions” undertaken by an employee on behalf of another employee pursuant to statute, regulation, executive order, or the terms of a collective bargaining agreement. In addition to union activities, representational functions generally are understood to include such other activities as certain health and safety matters, prevailing wage appeals, and EEO complaints.

primarily about information we developed in earlier work in response to a request from the Chairman, Subcommittee on Social Security, House Committee on Ways and Means. In performing this review, we met with union and management officials at Postal Service, VA, and IRS headquarters; we also interviewed officials at seven field facilities.² At these entities, we gathered readily available data on the amount of official time charged to union activities and the cost of that time. Our work at SSA was somewhat more extensive than at these entities. We interviewed union and management officials at SSA headquarters and at 4 of SSA's 10 regional offices. We conducted a limited verification of time captured in SSA's national reporting system at one SSA region and at several headquarters components. As part of our work at SSA, we also (1) identified the total number of union representatives at SSA authorized to spend time on union activities, (2) identified the number of representatives who spent at least 75 percent of their time on union activities, and (3) estimated the cost of time charged to union activities.³

The employees represented by unions at these four entities—the Postal Service, VA, IRS, and SSA—make up about 59 percent of all federal workers who are represented by unions and are part of collective bargaining units. One caution regarding our findings: although more than half of the federal employees who are represented by unions work at the four entities we examined, we cannot extrapolate the limited data we were able to obtain to the government as a whole. The methodological reasons for this will be made clearer as I relate our findings to you.

The Use of Official Time for Union Activities Is an Established Practice in the Federal Government

The use of official time for union activities is a widely-established practice in the federal government. Both in the Postal Service—an independent establishment of the executive branch that uses almost no appropriated funds—and in other federal agencies that do use taxpayer money, a legal basis exists for using agency resources to pay costs associated with union activities.

Labor-management relations in the Postal Service are governed by the Postal Reorganization Act of 1970, which brought postal labor relations into a framework similar to that of private-sector firms.⁴ At the Postal

²We interviewed officials at three Postal Service, two VA, and two IRS field facilities.

³For more detailed information on SSA, a history of union activity in the federal government, and a discussion of union costs in private industry, see *Social Security: Union Activity at the Social Security Administration* (GAO/T-HEHS-96-150, Jun. 4, 1996).

⁴Public Law 91-375, August 12, 1970.

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Service, policies governing the charging of official time to union activities are a matter subject to collective bargaining.

Among nonpostal federal agencies, labor-management relations are governed by title VII of the Civil Service Reform Act of 1978 (CSRA).⁵ CSRA allows nonpostal federal employees to bargain collectively through labor organizations of their choice and thereby participate with agency management in the development of personnel policies and practices and other decisions that affect their working lives. Title VII of CSRA is administered by the Federal Labor Relations Authority (FLRA), an organization led by a three-member panel that issues policy decisions and adjudicates labor-management disputes.

Official time for collective bargaining and FLRA-authorized activities is provided as a matter of statutory right. Official time for other purposes is negotiated. CSRA allows official time to be negotiated in any amount the agency and the union involved agree to be reasonable, necessary, and in the public interest. However, the act specifies that activities that relate to internal union business, such as the solicitation of members or the election of union officials, must be performed when in a nonduty status, that is, not on official time.

Ten unions have national collective bargaining agreements with the entities we examined—four with the Postal Service, four with VA, one with IRS, and one with SSA. Our review of these collective bargaining agreements, or contracts, revealed a wide range of union activities for which official time might be charged. Although the specifics of the 10 contracts varied, some of the categories of employees authorized to charge official time to union activities, as well as the specific activities covered, were as follows:⁶

- Union stewards, employees filing grievances, and witnesses may charge time spent involved in grievance procedures.
- Union representatives may charge time spent attending meetings called by management concerning the collective bargaining agreement; joint labor-management committee meetings addressing specific issues, such as safety and health; semiannual labor-management relations committee

⁵Public Law 95-454, 5 U.S.C. 7101 et seq. CSRA codified practices on the use of official time that were previously authorized by executive order.

⁶This list is not comprehensive. Nor do all of the types of authorized employees and activities listed here appear in all ten of the collective bargaining agreements we reviewed.

meetings; and union-sponsored training and other training sessions pertaining to labor relations.

- Union representatives may charge time spent on participating in discussions regarding personnel policies or practices or conditions of employment; on national-level negotiations, as well as on preparing for the negotiations; on local-level negotiations; and on new-employee orientation.
- Employees may charge time spent meeting with their union representatives regarding grievances, appeals, or personal matters.

Under some contracts, official time is authorized for travel to and from the kinds of meetings mentioned above; under others, official time for travel is either specifically denied or not mentioned.

On October 1, 1993, Executive Order 12871 articulated a new vision of labor-management relations, referred to as “partnerships.” The partnership concept may have implications for the extent of official time spent on union-related activities.⁷ However, we could not determine the amount of official time actually used for partnership activities at the four federal entities we examined.⁸

The Total Amount of Official Time Used for Union Activities, the Cost of That Time, and the Number of People Using That Time Are Unknown

We know that using official time for various union activities is an established practice at the four entities we examined, and we can report certain relevant statistics that each of these entities made available to us, but we found that these statistics are limited in what they tell us. Within these entities, insufficient data exist on the amount of official time used for union activities, the cost of the time, and the number of people using that time to draw broad conclusions. Nor can we legitimately compare one agency’s figures with another’s, or extrapolate to the larger federal universe. The reason for this becomes apparent when we compare the kinds of information reported by the entities we reviewed.

For fiscal year 1995, the Postal Service reported official time charges for union activities of 1.7 million hours. Also for fiscal year 1995, SSA reported

⁷For a brief discussion of these implications at SSA in particular, see the statement on “Use of the Trust Funds for Union Activities,” given by the Commissioner of Social Security before the House Committee on Ways and Means, Subcommittee on Social Security, on July 27, 1996.

⁸As an independent executive branch establishment, the U.S. Postal Service is not subject to the provisions of the executive order. However, in addition to the 1.7 million hours charged to union activities in fiscal year 1995, the Postal Service also paid for time spent on employee involvement programs similar to other entities’ partnership activities. Unlike other “union activities” at the Postal Service, employee involvement programs were not mandated by statute, regulation, executive order, or collective bargaining agreements.

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time charges of 404,000 hours, and IRS reported 527,000 hours. No departmentwide data were available from VA, which lacks any reporting system that would have captured the hours used throughout the department. But even among the three entities that did have reporting systems, the systems themselves—and the types of activities they included in the reported hours—differed from one agency to the next. Therefore, the figures these entities reported were not comparable.

Table 1: Official Time Charged to Union Activities, Cost of the Time, and Number of People Charging Time by Agency

Agency	Number of employees represented by unions with national collective bargaining agreements	Agency-reported hours charged to union activities in fiscal year 1995	Cost of the time charged to union activities (in millions)	Number of employees authorized to charge time to union activities
Postal Service	751,000	1,744,000	\$29.2 ^a	Unknown
Veterans Affairs ^b	165,000	Unknown	Unknown	Unknown
Internal Revenue Service	97,000	527,000	Unknown	Unknown
Social Security Administration	52,000	404,000 ^c	\$11.4 ^d	1,800 ^e

^aThe \$29.2 million cost associated with the number of hours charged to union activities included only direct salaries.

^bVA did not have a time-reporting system that would provide the total number of hours used for union activities, the cost of the hours, or the number of employees using time for union activities for the Department.

^cSSA reported that its employees charged 404,000 hours to union activities in fiscal year 1995. We found these charges to be underreported by at least 9,000 hours, bringing the total to at least 413,000 hours.

^dSSA provided Congress with an annual estimate totaling \$11 million for union activities expenses in fiscal year 1995. We estimated the cost of the hours charged to union activities, including both direct salaries and benefits, to be \$11.4 million. As agreed with your staff, we did not attempt to make this estimate at the other three entities we examined.

^eAt a minimum, 146 union representatives spent at least 75 percent of their “on-the-clock” time on union activities. However, we identified about 1,800 union representatives authorized to charge time to union activities.

Source: Unverified data provided by the agencies and our analysis.

The Postal Service, for example, reported 1,744,000 hours charged by union stewards for union activities in fiscal year 1995. But these hours—entailing, by Postal Service calculation, over \$29 million in direct salaries—covered only time spent by union stewards in trying to resolve

grievances in the early stages.⁹ The hours reported by the Postal Service did not include substantial additional time spent on other union activities that was paid for by the Postal Service. For example, the Postal Service paid for union representatives' time spent on unfair labor practice charges—commonly a major focus of labor-management activity—but did not include these hours in reported time charges.

As I previously mentioned, SSA reported that its employees charged 404,000 hours to union activities in fiscal year 1995. However, in attempting to verify these charges, we found them to be underreported by at least 9,000 hours (or 2 percent), bringing the total to at least 413,000 hours. SSA has no formal system for routinely calculating and reporting the costs of union activity, although it does provide annual estimates of the expenses for union activities to Congress.¹⁰ We estimated the cost of the time spent on union activities in calendar year 1995 at SSA to be about \$11.4 million, based on an estimated total of 413,000 hours and on the salaries and estimated benefits of the union representatives. Regarding the total number of SSA union representatives who were authorized to spend time on union activities, the agency estimated the figure to be about 1,600. Our count, based on our identification of these personnel at the local SSA level, was about 1,800, or roughly 200 more than SSA's figure.

Of the 527,000 hours charged to union activities at IRS in fiscal year 1995, about 348,000 hours (or 66 percent of the total) involved time spent by employees who were participating on behalf of the union in meetings called by agency management. The remaining 179,000 hours (or 34 percent) covered all other union-related activities, including grievance resolution. IRS officials told us that they did not calculate salary costs based on the hours charged and could not provide information on the number of union representatives charging official time to union activities.

Based on the findings I have just related, it is apparent that the reporting systems of all of the entities we examined had substantial limitations. VA, as I stated earlier, had no system at all at the departmental level. We visited two VA field facilities; one had a reporting system to capture official time charged to union activities, and the other did not. We found SSA's national system for capturing and reporting time spent on union

⁹The Postal Service procedure for resolving grievances is a 4- or 5-step procedure, involving progressively lower to higher level union and management officials, with the final step involving outside binding arbitration. In this context, the term "early stages" indicates that the grievance was in step 1 or 2—still informal or at the field facility level.

¹⁰SSA's estimates of union costs increased from \$6 million to \$11 million between fiscal years 1993 and 1995.

activities was comprised of two component systems—one an automated system and the other a less-accurate manual one.¹¹ The reporting procedures at the IRS regional offices we visited varied from one unit to the next. None of the systems at any of the entities we examined was designed to capture the hours spent by management or other employees on union-related matters, to report the number or names of individuals charging official time, or to identify all of the costs of the agency’s support of union activities.

No Reporting Requirement Exists for Agencies to Generate Comprehensive Data on Their Support of Union Activities

One reason for this inconsistent pattern of reporting is that—as Office of Personnel Management (OPM) officials told us—there is currently no governmentwide requirement to gather data on, or report the amount of time federal employees use for, union activities. It is not surprising, therefore, that the time-reporting systems at the four entities we examined had substantial limitations.

In a 1979 report, we recommended that OPM (1) clarify its recordkeeping requirements then in effect for capturing time spent on representational functions (mainly union activities) and (2) direct agencies to comply with those requirements.¹² Even though guidance at the time required federal agencies to keep records on official time used for representational functions, 18 of the 26 units we surveyed at four agencies did not.¹³ We recommended that OPM require agencies to submit annual reports on official time used for representational functions, envisioning that such reports “could assist OPM in evaluating Federal labor-management relations activities.”

Following our report, in 1981, OPM issued Federal Personnel Manual Letter 711-161. The letter required that, no later than January 1, 1982, federal agencies activate a recordkeeping system to capture official time charges to representational functions. But the letter did not require agencies to report the yearly time charges to OPM, as we had recommended. As a result, OPM never consolidated the amount of time charged

¹¹The underreporting of official time charges we discovered at SSA took place primarily in SSA’s manual system, and resulted from inaccurate reporting from source documents, overlooked reports for some union representatives, and uncounted reports for some organizational units during certain reporting periods.

¹²Inadequate Recordkeeping on Official Time Used for Representational Functions (GAO-FPCD-79-77, Sept. 17, 1979).

¹³We included the following four agencies in our 1979 review of recordkeeping of official time used for representational functions: the Departments of Transportation; Health, Education, and Welfare; Labor; and OPM.

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governmentwide to union activities and has no information on agencies' compliance with the recordkeeping requirement. When the Federal Personnel Manual was abolished in 1994, all recordkeeping requirements regarding time spent on union activities were rescinded.

In summary, Mr. Chairman, we found limitations in recordkeeping and reporting among the four entities we examined. We also found that no reporting requirement exists to ensure that agencies generate comprehensive data on their support of union activities. If decisionmakers hope to resolve the question of the extent to which federal taxpayers subsidize the activities of federal employee unions, better data are needed on (1) the amount and cost of the hours used for union activities, as well as the number of employees using those hours; (2) the types of activities covered by the hours used; and (3) the overall costs of agencies' support for union activities. Recognizing that data gathering can be expensive, we believe that decisionmakers would need to balance the costs and benefits of the various options for doing so.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or other Members of the Subcommittee may wish to ask.

