

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

# Official Time Usage in the Federal Government

## Fiscal Year 2016



## **Introduction**

The Federal Government's labor-management relations program has evolved from a 1962 Executive Order granting limited collective bargaining rights to formal collective bargaining rights established by statute. Title VII of the Civil Service Reform Act (CSRA) of 1978, also known as the Federal Service Labor-Management Relations Statute (Statute), codified in Chapter 71 of Title 5 of the United States Code (U.S.C.), has served as the foundation for labor-management relations in the Federal Government since it became effective.

## **Official Time**

The Statute<sup>1</sup> establishes the collective bargaining system in the Federal Government. The Statute further specifies that its provisions should be interpreted "in a manner consistent with the requirements of an effective and efficient Government."<sup>2</sup> In any case, some provisions of the Statute result in considerable costs to the Government and taxpayers, such as matters involving official time, without any comprehensive evidence that these provisions support an effective and efficient Government in all instances.

"Official time," as authorized by 5 U.S.C. § 7131, is paid time spent by Federal employees performing representational work for a bargaining unit in lieu of their regularly assigned work. In other words, official time is treated as work time, thus is funded by the American taxpayers. The Federal Labor Relations Authority (FLRA or Authority) has stated:

"[o]fficial time is a type of time, distinct from regular duty time, in which an employee's activities are not directed by the agency but for which an employee is nevertheless entitled to compensation from the agency. In this connection, the Authority has explained that both official time and regular duty time – unlike non-duty time such as periods of leave – "shall be considered hours of work." Additionally, the U.S. Supreme Court explained that "Congress used the term 'official time' [in § 7131 of the Statute] to mean 'paid time.'" Applying the Court's reasoning, the Authority has explained that an employee "on official time under [§] 7131 is permitted to engage in particular activities, designated by the Statute, during the time when the employee would otherwise be in a duty status" because "[t]he purpose of official time is to permit employees to engage in these activities without loss of pay or leave." And the Authority has found that official time "is time [that] counts toward the fulfillment of an employee's basic work requirement."<sup>3</sup>

The Statute discusses official time in four sections. First, section 7131(a) discusses official time in the context of collective bargaining agreement negotiations:

[a]ny employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such

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<sup>1</sup> 5 U.S.C. Chapter 71.

<sup>2</sup> 5 U.S.C. § 7101(b).

<sup>3</sup> 68 FLRA 846 (August 26, 2015)

purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

Second, the Statute excludes the use of official time for activities that constitute internal union business which includes solicitation of membership, elections of labor organization officials, and collection of dues.<sup>4</sup>

The FLRA has interpreted this subsection narrowly to prohibit only activities “related solely to the institutional structure of the union.”<sup>5</sup> Thus, labor organizations may use official time relating to the union as an organization and pertaining to the operation of that organization, such as union business meetings, communication with members, contracting for goods and services, payment of bills, and other similar and associated activities.<sup>6</sup> For example, preparation of externally required reports is not an activity “solely related to the institutional structure of a labor organization and, thus, is not ... related to the internal business of a labor organization within the meaning of 7131(b).”<sup>7</sup>

Third, section 7131(c) discusses when official time shall be authorized for proceedings before the FLRA, stating, “Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.”

Finally, section 7131(d) sets forth the general provisions governing all other requests for official time:

Except as provided in the preceding subsections of this section – (1) any employee representing an exclusive representative, or (2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

This final category of official time generates the largest amount of official time use. The question of what constitutes what is “reasonable, necessary, and in the public interest” has been interpreted by the FLRA to include, but not limited to official time for:

- Lobbying Congress concerning pending or desired legislation affecting bargaining unit employees (e.g. bills on Federal pay and benefits, etc.);<sup>8</sup>
- Representing employees being disciplined or in grievances against Federal agencies;
- Participating in labor-management workgroups;

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<sup>4</sup> See 5 U.S.C. § 7131(b).

<sup>5</sup> 2 FLRA 4 (October 9, 1979)

<sup>6</sup> 38 FLRA 1366 (January 8, 1991)

<sup>7</sup> Ibid

<sup>8</sup> 61 FLRA 209 (August 31, 2005)

- Allowing certain employees to spend 100 percent of their time handling union representation functions while being paid by Federal agencies;<sup>9</sup> and
- Establishing “banks” of paid duty time union representatives can draw upon for any representational matter permitted under the law.

### **Appropriate Use and Tracking of Official Time**

Labor and management have a shared responsibility to ensure that official time is authorized and used appropriately. Labor and management must develop sensible arrangements for official time that respect the Statute’s goal of promoting collective bargaining but honor the Statute’s command that its provisions be interpreted to promote an effective and efficient government. Labor and management should also ensure that appropriate recordkeeping mechanisms are utilized for tracking and recording official time.

In any case, generally speaking, Federal law does not require agencies to track official time expenditures or provide agencies with uniform recordkeeping standards for official time.<sup>10</sup> While there is no uniform Governmentwide requirement concerning the degree and specificity of records kept for this purpose, the U.S. Office of Personnel Management (OPM) provides guidance<sup>11</sup> to agencies to record official time by using the following categories: (1) Term Negotiations; (2) Mid-Term Negotiations; (3) Dispute Resolution; and (4) General Labor-Management Relations. (See [Appendix A](#)). Ultimately, how official time is authorized, monitored, and tracked is subject to collective bargaining at the level of recognition in each agency resulting in various practices on official time internal controls across the Executive Branch.

In 2014, the Government Accountability Office (GAO) issued a report concerning the tracking and reporting of the use and cost of official time across the Federal Government.<sup>12</sup> GAO highlighted concerns about the amount, type, accuracy, and timeliness of information available on official time to help ensure an appropriate level of congressional oversight. Specifically, GAO noted it is important that sufficient controls, processes, and guidance are in place for reporting and monitoring to provide reasonable assurance that official time:

- is used as intended;
- is consistent with the Statute and applicable agency policies and procedures;
- enables congressional oversight;
- informs management and labor decision making; and
- provides public transparency.

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<sup>9</sup> *AFGE, Council of Locals 214 v. FLRA*, 798 F.2d 1525 (D.C. Cir. 1986)

<sup>10</sup> The House Committee on Appropriations’ Conference Committee Report 105-205 (July 25, 1997) requires the Social Security Administration to submit annually certain information on official time and other matters related to labor union activities. See <https://www.gpo.gov/fdsys/pkg/CRPT-105hrpt205/html/CRPT-105hrpt205.htm>.

<sup>11</sup> Since OPM does not have statutory authority to regulate matters under 5 U.S.C. Chapter 71, OPM provides guidance and assistance to agencies that have responsibility for administering their labor relations programs.

<sup>12</sup> Labor Relations Activities: Actions Needed to Improve Tracking and Reporting of the Use and Cost of Official Time, GAO-15-9 (October 2014). See <https://www.gao.gov/products/GAO-15-9>.

GAO stated that since agencies are most often managing the use of official time using an approach that doesn't specify the number of official time hours to be granted, they could be at greater risk of abuse. GAO further stated that the risk may increase within agencies with multiple collective bargaining agreements at the department, component and operating administration levels that have differences in how official time is managed. Finally, GAO stated that agencies may need to implement additional actions to monitor the use of official time to help mitigate the risk of abuse.

In light of this, GAO recommended that OPM consider whether it would be useful to share agencies' practices on monitoring use of official time. GAO also recommended that OPM work with agencies to identify opportunities to increase efficiency of data collection and reporting of official time data to OPM. GAO believes that some agencies may benefit from the experiences of other agencies that use a number of techniques to monitor the use of official time. As a result, OPM solicited from agencies their practices on monitoring the use of official time. This information was made available to agencies that participate in the Employee and Labor Relations Network hosted by OPM. Moving forward, OPM will continue exploring opportunities to identify useful practices for monitoring and reporting on the use of official time and sharing these practices with agencies across the government to assist agencies in strengthening internal controls and increasing transparency and accountability. Ultimately, the goal is to have official time hours provide value to the taxpayer.

### **Official Time Statistics for Fiscal Year 2016**

In collecting the official time data for this report, OPM gathered data from automated time and attendance systems via the Enterprise Human Resources Integration (EHRI) system. Agencies that report official time data via EHRI were asked to verify the official time hours used by employee representatives within their organizations, and to validate how those hours were used within the four predefined categories.<sup>13</sup> Executive departments and agencies, as well as the U.S. Government Publishing Office and U.S. Capitol Police, are covered in this report. Non-appropriated fund instrumentalities described in 5 U.S.C. 2105(c) are not covered in this report.

Each agency that reported official time data electronically received a consolidated report, encompassing all agency subcomponents, of their official time usage within each of the four categories. For the Fiscal Year (FY) 2016 official time data call, OPM requested explanations for the basis of any discrepancies between OPM's EHRI data and the data reported by an agency. OPM requested these explanations based on feedback from GAO. In instances where agencies identified corrections to the data reported to OPM's EHRI system, they were asked to indicate (a) whether the agency is aware of the cause of the discrepancy; (b) what efforts, if any, will be made to correct the data in the current report; and (c) what, if anything, will be done to improve

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<sup>13</sup> This verification process is designed to improve the accuracy of official time that has been entered into EHRI. However, OPM has no means of confirming that official time entered by employees working in a representational capacity is a full and accurate representation of official time actually utilized.

the quality of data reported to EHRI in the future. Agencies that do not report official time data via EHRI were asked to submit their official time usage manually for FY 2016.<sup>14</sup>

**Fiscal Year 2016 Official Time Survey Findings<sup>15</sup>**

During FY 2016, unions represented 1,224,160 non-Postal Federal civil service bargaining unit employees, an increase of approximately 1.70 percent or 20,467 bargaining unit employees compared to FY 2014.<sup>16</sup> Agencies reported that bargaining unit employees spent a total of 3,633,290 hours performing representational duties on official time, an increase of 4.76 percent compared to FY 2014. Governmentwide, the number of official time hours used per bargaining unit employee on representational matters increased from 2.88 hours in FY 2014 to 2.97 hours during FY 2016.

<b>TOTAL OFFICIAL TIME HOURS - FY 2010-2012, 2014, 2016</b>					
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2014</b>	<b>FY 2016</b>
<b>Total Official Time Hours</b>	3,096,018	3,395,187	3,439,449	3,468,170	3,633,290
<b>Rate (Hours per Bargaining Unit Employee per year)</b>	2.61	2.82	2.81	2.88	2.97

**Comparison of Hours Reported to Previous Reporting Year**

The following table shows the hours reported by agency in FY 2014 and FY 2016, and the change in percentage between the two fiscal years. The data show wide variations in official time hours reported among agencies compared to FY 2014. Many of the agencies showing the widest variation from the previous reporting year, however, have a small number of bargaining unit employees. Thus, modest numerical changes in reported hours translate into significant percentage changes for these agencies. Twenty-three agencies (23) reported reductions in the total number of official time hours used whereas thirty-seven (37) reported increases and two (2) reported no changes in the total number of official time hours used.

<sup>14</sup> All 62 of the agencies covered in this report confirmed or updated their official time data.

<sup>15</sup> The Department of Commerce provided updated official time data for FY 2016 after this report was originally published on May 17, 2018. This included updated total hours for Commerce overall as well as actual salary information for the U.S. Patent and Trademark Office (USPTO). USPTO actual salary information was added to the total salary costs for Commerce but is not reflected in the average hourly rate for bargaining unit employees. OPM made the same assumption for benefits costs for USPTO as we do for other agencies. This report reflects the corrected data provided by Commerce.

<sup>16</sup> Numbers do not include employees of non-appropriated fund instrumentalities, but do include employees of the U.S. Capitol Police (Legislative Branch) and the Government Publishing Office.

**OFFICIAL TIME HOURS – FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>
<b>Agencies with fewer than 1,000 bargaining unit employees</b>							
Armed Forces Retirement Home	610.00	416.00	46.63%	National Endowment for the Humanities	365.00	461.75	-20.95%
Commission on Civil Rights	0.00	0.00	0.00%	National Gallery of Art	1,899.00	1,859.50	2.12%
Commodity Futures Trading Commission	1,632.00	60.50	2,597.52%	National Labor Relations Board	7,584.50	7,651.66	-0.88%
Consumer Product Safety Commission	154.00	143.25	7.50%	National Mediation Board	27.30	0.00	N/A
Corporation for National and Community Service	61.25	173.00	-64.60%	National Science Foundation	873.50	1,705.50	-48.78%
Court Services and Offender Supervision Agency	860.39	432.25	99.05%	National Transportation Safety Board	100.25	69.00	45.29%
Export-Import Bank	0.00	79.00	N/A	Overseas Private Investment Corporation	124.50	169.00	-26.33%
Federal Election Commission	6.00	13.00	-53.85%	Peace Corps	250.00	96.00	160.42%
Federal Mediation and Conciliation Service	10.50	0.00	N/A	Pension Benefit Guaranty Corporation	777.25	719.25	8.06%
Federal Trade Commission	76.50	89.50	-14.53%	Presidio Trust	84.50	34.00	148.53%

**OFFICIAL TIME HOURS – FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>
Holocaust Memorial Museum	0.00	0.00	0.00%	Pretrial Services Agency for the District of Columbia	2,264.75	1,433.75	57.96%
International Boundary and Water Commission	32.00	135.00	-76.30%	Railroad Retirement Board	4,724.90	4,744.90	-0.42%
Merit Systems Protection Board	40.50	173.00	-76.59%	U.S. Capitol Police	5,680.00	4,850.75	17.10%
National Credit Union Administration	2,514.90	1,263.30	99.07%	U.S. International Trade Commission	1,173.00	634.00	85.02%
National Endowment for the Arts	38.75	14.00	176.79%				
<b>Agencies with 25,000 or fewer bargaining unit employees</b>							
Agency for International Development	4,463.50	2,912.00	53.28%	Government Publishing Office	1,668.50	5,937.00	-71.90%
Broadcasting Board of Governors	11,245.00	9,776.00	15.03%	Housing and Urban Development	42,473.25	41,464.00	2.43%
Commerce	47,771.50	48,993.50	-2.49%	Interior	17,103.50	13,320.25	28.40%
Consumer Financial Protection Bureau	6,661.50	6,050.00	10.11%	Labor	48,493.00	43,798.00	10.72%
Education	6,522.75	6,728.75	-3.06%	National Aeronautics and Space Administration	12,714.25	14,172.00	-10.29%



**OFFICIAL TIME HOURS – FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>
Energy	9,247.25	7,911.00	16.89%	National Archives and Records Administration	10,370.10	8,403.70	23.40%
Environmental Protection Agency	58,274.75	41,917.00	39.02%	Nuclear Regulatory Commission	4,656.00	4,782.75	-2.65%
Equal Employment Opportunity Commission	5,760.30	5,023.75	14.66%	Office of Personnel Management	8,969.50	8,499.89	5.52%
Federal Communications Commission	1,804.75	1,329.00	35.80%	Securities and Exchange Commission	8,193.50	6,230.00	31.52%
Federal Deposit Insurance Corporation	4,803.00	4,855.75	-1.09%	Small Business Administration	4,775.25	5,615.25	-14.96%
Federal Energy Regulatory Commission	361.00	571.00	-36.78%	Smithsonian	963.00	682.00	41.20%
General Services Administration	34,214.60	31,750.70	7.76%	State	17,929.00	14,675.00	22.17%

**Agencies with more than 25,000 bargaining unit employees**

Agriculture	120,994.00	125,852.25	-3.86%	Social Security Administration	255,481.00	246,893.00	3.48%
Defense	386,610.25	335,477.31	15.24%	Transportation	255,266.26	236,246.51	8.05%
Health and Human Services	67,722.93	21,853.00	209.90%	Treasury	481,500.00	504,293.00	-4.52%
Homeland Security	249,326.15	275,895.75	-9.63%	Veterans Affairs	1,048,569.00	1,093,714.00	-4.13%

**OFFICIAL TIME HOURS – FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Hours</b>	<b>FY 2014 Official Time Hours</b>	<b>% Change</b>
Justice	366,416.75	265,126.25	38.20%	<b>Total - all agencies</b>	<b>3,633,290.33</b>	<b>3,468,170.22</b>	<b>4.76%</b>

**Official Time Rates**

The official time rate, also referred to as the Hours Per Bargaining Unit Employee (HPE) rate, which indicates the number of official time hours expended per bargaining unit employee in a fiscal year, allows for meaningful comparisons of official time usage among agencies. The HPE rate may not show a change in total figures due to rounding. Although figures are rounded, slight variations in the HPE rate are reflected in the percentage of change. The average FY 2016 Governmentwide<sup>17</sup> HPE rate was 2.97 which is an increase from the FY 2014 HPE rate of 2.88.

**OFFICIAL TIME RATE - FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change<sup>18</sup></b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change</b>
Agency for International Development	1.60	1.05	51.80%	Justice	10.60	7.68	37.92%
Agriculture	3.18	3.45	-7.73%	Labor	4.38	3.89	12.57%
Armed Forces Retirement Home	3.84	4.95	-22.53%	Merit Systems Protection Board	0.48	1.84	-74.11%
Broadcasting Board of Governors	9.63	7.60	26.65%	National Aeronautics and Space Administration	1.38	1.53	-9.47%

<sup>17</sup> Numbers do not include employees of non-appropriated fund instrumentalities or the U.S. Postal Service, but do include employees of the U.S. Capitol Police (Legislative Branch) and the Government Publishing Office.

<sup>18</sup> The FY 2016 and FY 2014 official time rates in the table reflect rounding; the percentage change reflects the actual value.

**OFFICIAL TIME RATE - FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change<sup>18</sup></b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change</b>
Commerce	2.33	2.33	0.15%	National Archives and Records Administration	5.13	4.60	11.67%
Commission on Civil Rights	0.00	0.00	0.00%	National Credit Union Administration	2.64	1.30	103.67%
Commodity Futures Trading Commission	3.74	1.03	265.03%	National Endowment for the Arts	0.41	0.16	162.06%
Consumer Financial Protection Bureau	6.03	6.15	-2.05%	National Endowment for the Humanities	10.43	6.50	60.35%
Consumer Product Safety Commission	0.37	0.38	-0.83%	National Gallery of Art	5.01	4.92	1.85%
Corporation for National and Community Service	0.14	0.39	-64.12%	National Labor Relations Board	8.08	7.57	6.72%
Court Services and Offender Supervision Agency	1.56	0.62	151.34%	National Mediation Board	2.73	0.00	N/A
Defense	0.94	0.84	12.93%	National Science Foundation	0.93	1.83	-49.43%
Education	2.47	2.52	-2.04%	National Transportation Safety Board	0.33	0.25	34.71%
Energy	1.38	1.31	4.70%	Nuclear Regulatory Commission	2.01	1.86	8.22%
Environmental Protection Agency	5.09	3.79	34.35%	Office of Personnel Management	6.77	6.09	11.18%

**OFFICIAL TIME RATE - FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change<sup>18</sup></b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change</b>
Equal Employment Opportunity Commission	3.83	3.14	21.99%	Overseas Private Investment Corporation	0.90	1.32	-32.16%
Export-Import Bank	0.00	1.72	N/A	Peace Corps	0.51	0.24	113.40%
Federal Communications Commission	1.79	1.24	44.71%	Pension Benefit Guaranty Corporation	1.38	1.26	9.99%
Federal Deposit Insurance Corporation	1.07	0.98	9.05%	Presidio Trust	0.59	0.23	155.48%
Federal Election Commission	0.03	0.07	-51.32%	Pretrial Services Agency for the District of Columbia	8.39	5.51	52.11%
Federal Energy Regulatory Commission	0.33	0.51	-36.26%	Railroad Retirement Board	7.26	7.23	0.34%
Federal Mediation and Conciliation Service	0.39	0.00	N/A	Securities and Exchange Commission	2.40	2.05	17.41%
Federal Trade Commission	0.27	0.28	-3.77%	Small Business Administration	4.35	4.80	-9.22%
General Services Administration	5.46	4.96	10.01%	Smithsonian	0.34	0.25	36.90%
Government Publishing Office	1.28	4.23	-69.81%	Social Security Administration	5.13	4.79	7.06%
Health and Human Services	1.96	0.75	162.31%	State (includes AFSA unit)	0.88	0.72	21.57%

**OFFICIAL TIME RATE - FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change<sup>18</sup></b>	<b>Department/ Agency</b>	<b>FY 2016 Official Time Rate</b>	<b>FY 2014 Official Time Rate</b>	<b>% Change</b>
Holocaust Memorial Museum	0.00	0.00	0.00%	Transportation	6.67	6.18	7.91%
Homeland Security	2.47	2.46	0.41%	Treasury	6.81	6.72	1.33%
Housing and Urban Development	7.47	7.06	5.84%	U.S. Capitol Police	6.15	3.54	73.74%
Interior	0.88	0.70	26.17%	U.S. International Trade Commission	4.38	2.45	78.80%
International Boundary and Water Commission	0.22	0.89	-75.15%	Veterans Affairs	3.53	3.98	-11.49%
				<b>Total - all agencies</b>	<b>2.97</b>	<b>2.88</b>	<b>3.01%</b>

## **Official Time Costs and Non-Payroll Costs**

Official time costs were estimated based on September 2016 wage data provided through the EHRI. The estimated total payroll costs, average salary and benefits, for FY 2016 official time hours were \$177,211,408.53 (See [Appendix B](#)). As with all prior reports, we estimate each agency's official time wage costs by multiplying the reported official time hours by each agency's *average bargaining unit employee hourly wage*<sup>19</sup> plus fringe benefits. In comparing FY 2014 and FY 2016 data, the estimated cost of official time hours increased by 9.04 percent over this 2-year period.

GAO has expressed concerns about how OPM determines our cost estimate for this report. Notably, GAO stated that "OPM could have greater assurance of the accuracy of its cost estimate if it cross-checked its results using an alternative methodology to determine whether the results are similar." GAO noted in GAO-15-9 that an alternative methodology of using actual salary data of bargaining unit employees, instead of average salary data, would yield a different estimate than OPM's methodology. GAO noted that the use of alternative cost estimation methodologies may result in a more representative estimate of actual costs. In the 6 agencies that GAO sampled, GAO found its cost estimate for the 6 agencies yielded an estimate that was approximately 9 percent higher than OPM's estimate for the same 6 agencies. As a result, GAO believes that OPM's cost estimate for Governmentwide use of official time could be higher or lower if this methodology were applied to all reporting agencies rather than the six agencies used here.

Due to limitations in what actual EHRI data is available to OPM for all agencies covered in the report and when this data is available to OPM, OPM continues to use the same methodology OPM has traditionally used for this report. To duplicate GAO's proposed methodology and cross-check OPM's results for all agencies covered by OPM's report would require an enormous expenditure of time and resources. Conditions for generating a Governmentwide report are varied resulting in unique challenges in achieving consistency in reporting of data. However, OPM will continue to explore alternative approaches to developing our cost estimate for this report to facilitate greater transparency, accountability, and accuracy.

OPM's report on Official Time Usage in the Federal Government does not capture a complete accounting of all the costs of union activities in the Federal Government. OPM's report does not include the costs of taxpayer-funded facilities, equipment, and travel expenses agencies provide labor organizations as a result of collective bargaining. As noted earlier in this report, some agencies are required to report costs of union activities to their appropriations committee. One example is the Social Security Administration (SSA). For FY 2016, SSA reports \$700,000 for union travel and per diem; \$1,400,000 for union office space, telephones, and supplies; \$100,000 for interest; and \$100,000 for arbitration expenses. SSA also reports \$13,700,000 for official

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<sup>19</sup> To facilitate calculation of official time costs, OPM relies on the agency's average bargaining unit employee hourly wage as of the last day of the fiscal year, September 30. Using actual salary costs of the specific bargaining unit employees on official time requires considerably more resources and time to calculate. Additionally, actual salary costs for specific bargaining unit employees on official time is not readily available to OPM for those agencies that do not report their official time through EHRI.

time costs compared to OPM’s calculation of \$11,678,051 highlighting the cost methodology issue raised by GAO. SSA is able to determine actual salary costs of the specific bargaining unit employees on official time throughout the fiscal year.

SSA is an example which highlights there can be significant taxpayer funded non-payroll costs for union activities. Unfortunately, it is unclear whether SSA’s experience is typical, and no comprehensive data source exists to allow OPM to calculate an estimate of these costs across the entire Federal Government. OPM strongly recommends that agencies gain an understanding of these costs and consider how these expenditures support an effective and efficient Government.

<b>OFFICIAL TIME COST BY DEPARTMENT/AGENCY – FY 2016 vs. FY 2014</b>					
<b>Department/ Agency</b>	<b>FY 16 Cost</b>	<b>FY 14 Cost</b>	<b>Department/ Agency</b>	<b>FY 16 Cost</b>	<b>FY 14 Cost</b>
Agency for International Development	\$330,755.27	\$201,753.28	Justice	\$14,959,625.20	\$10,587,007.50
Agriculture	\$4,349,351.96	\$4,413,605.06	Labor	\$2,623,523.31	\$2,303,746.00
Armed Forces Retirement Home	\$17,620.03	\$11,566.34	Merit Systems Protection Board	\$3,594.48	\$15,294.49
Broadcasting Board of Governors	\$711,950.72	\$601,416.05	National Aeronautics and Space Administration	\$1,000,888.87	\$1,076,285.99
Commerce	\$4,020,536.42	\$2,921,353.06	National Archives and Records Administration	\$374,817.83	\$329,000.84
Commission on Civil Rights	\$0.00	\$0.00	National Credit Union Administration	\$176,765.80	\$80,045.99
Commodity Futures Trading Commission	\$154,713.05	\$5,568.87	National Endowment for the Arts	\$2,218.89	\$771.20
Consumer Financial Protection Bureau	\$513,989.90	\$432,864.40	National Endowment for the Humanities	\$21,759.91	\$26,432.38
Consumer Product Safety Commission	\$9,836.21	\$9,036.76	National Gallery of Art	\$60,591.70	\$57,821.43

**OFFICIAL TIME COST BY DEPARTMENT/AGENCY – FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 16 Cost</b>	<b>FY 14 Cost</b>	<b>Department/ Agency</b>	<b>FY 16 Cost</b>	<b>FY 14 Cost</b>
Corporation for National and Community Service	\$2,799.74	\$7,653.84	National Labor Relations Board	\$470,854.48	\$458,944.88
Court Services and Offender Supervision Agency	\$45,407.67	\$22,612.44	National Mediation Board	\$1,457.45	\$0.00
Defense	\$16,408,494.35	\$13,825,779.59	National Science Foundation	\$68,430.40	\$127,084.44
Education	\$424,556.37	\$429,306.55	National Transportation Safety Board	\$7,685.09	\$5,206.60
Energy	\$611,387.20	\$504,741.46	Nuclear Regulatory Commission	\$368,010.46	\$361,846.38
Environmental Protection Agency	\$4,073,298.24	\$2,917,601.98	Office of Personnel Management	\$445,752.58	\$410,851.64
Equal Employment Opportunity Commission	\$309,483.38	\$266,389.67	Overseas Private Investment Corporation	\$8,133.40	\$10,831.29
Export-Import Bank	\$0.00	\$3,602.78	Peace Corps	\$11,876.09	\$4,218.88
Federal Communications Commission	\$144,572.23	\$102,089.85	Pension Benefit Guaranty Corporation	\$52,153.36	\$45,670.98
Federal Deposit Insurance Corporation	\$408,092.15	\$385,040.65	Presidio Trust	\$3,738.55	\$1,473.87
Federal Election Commission	\$365.07	\$763.20	Pretrial Services Agency for the District of Columbia	\$125,718.27	\$75,004.24
Federal Energy Regulatory Commission	\$26,442.34	\$40,556.47	Railroad Retirement Board	\$223,515.22	\$227,331.53



**OFFICIAL TIME COST BY DEPARTMENT/AGENCY – FY 2016 vs. FY 2014**

<b>Department/ Agency</b>	<b>FY 16 Cost</b>	<b>FY 14 Cost</b>	<b>Department/ Agency</b>	<b>FY 16 Cost</b>	<b>FY 14 Cost</b>
Federal Mediation and Conciliation Service	\$497.86	\$0.00	Securities and Exchange Commission	\$911,260.09	\$635,353.17
Federal Trade Commission	\$4,791.96	\$5,230.78	Small Business Administration	\$277,300.68	\$313,648.76
General Services Administration	\$2,011,533.73	\$1,812,753.99	Smithsonian	\$41,103.53	\$26,391.02
Government Publishing Office	\$83,920.17	\$291,890.01	Social Security Administration	\$11,678,051.20	\$10,938,589.43
Health and Human Services	\$3,765,362.06	\$1,173,031.89	State (includes AFSA unit)	\$1,071,381.24	\$861,571.41
Holocaust Memorial Museum	\$0.00	\$0.00	Transportation	\$17,975,235.48	\$16,468,928.48
Homeland Security	\$10,470,497.17	\$11,170,157.43	Treasury	\$22,417,155.78	\$23,524,084.62
Housing and Urban Development	\$2,702,777.72	\$2,541,063.29	U.S. Capitol Police	\$324,424.40	\$257,608.16
Interior	\$675,295.35	\$506,137.30	U.S. International Trade Commission	\$82,134.00	\$43,408.78
International Boundary and Water Commission	\$1,058.56	\$4,390.10	Veterans Affairs	\$49,142,863.90	\$48,640,351.72
			<b>Total - all agencies</b>	<b>\$177,211,408.53</b>	<b>\$162,522,763.18</b>

## **Conclusion**

Agencies reported that during FY 2016, bargaining unit employees spent a total of 3,633,290 hours performing representational duties on official time, an increase of 4.76 percent compared to FY 2014. Governmentwide<sup>20</sup>, the number of official time hours used per bargaining unit employee on representational matters increased from 2.88 hours in FY 2014 to 2.97 hours during FY 2016.

The estimated total payroll costs, average salary and benefits, for FY 2016 official time hours were \$177,211,408.53. In comparing FY 2014 and FY 2016 data, the estimated cost of official time hours increased by 9.04 percent over this 2-year period. GAO has concerns about how OPM determines its cost estimate for this report. OPM will continue to explore alternative approaches to developing our cost estimate for future reports to facilitate greater transparency, accountability, and accuracy.

OPM's report on official time usage in the Federal Government is limited to payroll costs and does not capture a complete accounting of the costs of union activities in the Federal Government. OPM's report does not include the costs of taxpayer-funded facilities, equipment, and travel expenses agencies provide labor organizations as a result of collective bargaining. Unfortunately, no comprehensive data source exists to allow OPM to calculate an estimate of these costs across the entire Federal Government. OPM strongly recommends that agencies gain an understanding of these costs and consider how these expenditures support an effective and efficient Government.

For further information regarding this report, please contact OPM's Accountability and Workforce Relations at [awr@opm.gov](mailto:awr@opm.gov).

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<sup>20</sup> Numbers do not include employees of non-appropriated fund instrumentalities or the U.S. Postal Service, but do include employees of the U.S. Capitol Police (Legislative Branch) and the Government Publishing Office.

## **Appendix A – Official Time Definitions and Terminology**

**Official Time** means all time, regardless of agency nomenclature, granted to an employee by the agency to perform representational functions under 5 U.S.C. Chapter 71 and by collective bargaining agreement when the employee would otherwise be in a duty status.

**Official Time Reporting Categories**— agencies are asked to report four categories of official time use.

- **Term Negotiations**— this category for reporting official time hours refers to time used by union representatives to prepare for and negotiate a basic collective bargaining agreement or its successor.
- **Mid-Term Negotiations**— this category for reporting official time hours refers to time used to bargain over issues raised during the life of a term agreement.
- **Dispute Resolution**— this category for reporting official time hours refers to time used to file and process grievances up to and including arbitrations and to process appeals of bargaining unit employees to the various administrative agencies such as the Merit Systems Protection Board (MSPB), the FLRA and the Equal Employment Opportunity Commission (EEOC) and, as necessary, to the courts.
- **General Labor-Management Relations**— this category for reporting official time hours refers to time used for activities not included in the above three categories. Examples of such activities include: meetings between labor and management officials to discuss general conditions of employment, labor-management committee meetings, labor relations training for union representatives, lobbying Congress concerning pending or desired legislation (unless it is otherwise prohibited under law), and union participation in formal meetings and investigative interviews.

**Representational Functions** refers to activities undertaken by employees acting on behalf of the labor organization or fulfilling the organization’s responsibility to represent bargaining unit employees in accordance with 5 U.S.C. Chapter 71 and a collective bargaining agreement.

**Appendix B – Official Time Summary by Agency FY 2016**

**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
Agency for International Development	2,789	4,463.50	1,321.50	0.00	17.00	3,125.00	1.60	54.18	\$241,850.88	\$330,755.27
Agriculture	38,037	120,994.00	10,519.00	2,865.25	15,499.00	92,110.75	3.18	26.28	\$3,180,280.75	\$4,349,351.96
Armed Forces Retirement Home	159	610.00	21.00	35.00	5.00	549.00	3.84	21.12	\$12,883.90	\$17,620.03
Broadcasting Board of Governors	1,168	11,245.00	6,560.00	809.00	2,190.00	1,686.00	9.63	46.29	\$520,584.03	\$711,950.72
Commerce	20,489	47,771.50	1,099.25	521.00	20,979.75	25,171.50	2.33	\$45.68	\$2,939,848.22	\$4,020,536.42
Commission on Civil Rights	21	0.00	0.00	0.00	0.00	0.00	0.00	36.85	\$0.00	\$0.00
Commodity Futures Trading Commission	436	1,632.00	129.00	0.00	5.00	1,498.00	3.74	69.32	\$113,127.42	\$154,713.05

<sup>21</sup> Numbers may not total due to rounding.

**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
Consumer Financial Protection Bureau	1,105	6,661.50	3,410.00	173.75	422.00	2,655.75	6.03	56.42	\$375,833.50	\$513,989.90
Consumer Product Safety Commission	413	154.00	0.00	0.00	0.00	154.00	0.37	46.70	\$7,192.32	\$9,836.21
Corporation for National and Community Service	443	61.25	6.50	2.50	22.50	29.75	0.14	33.42	\$2,047.19	\$2,799.74
Court Services and Offender Supervision Agency	552	860.39	458.60	22.45	38.99	340.35	1.56	38.59	\$33,202.45	\$45,407.67
Defense	409,569	386,610.25	32,712.25	4,182.50	97,677.50	252,038.00	0.94	31.03	\$11,998,021.61	\$16,408,494.35
Education	2,646	6,522.75	159.00	289.75	1,990.75	4,083.25	2.47	47.59	\$310,439.00	\$424,556.37
Energy	6,722	9,247.25	810.50	47.50	2,889.25	5,500.00	1.38	48.34	\$447,051.19	\$611,387.20
Environmental Protection Agency	11,442	58,274.75	520.75	1,228.00	7,383.50	49,142.50	5.09	51.11	\$2,978,428.08	\$4,073,298.24
Equal Employment Opportunity Commission	1,503	5,760.30	0.00	10.00	992.50	4,757.80	3.83	39.29	\$226,296.71	\$309,483.38
Export-Import Bank	31	0.00	0.00	0.00	0.00	0.00	0.00	34.49	\$0.00	\$0.00

**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
Federal Communications Commission	1,006	1,804.75	149.25	78.00	295.00	1,282.50	1.79	58.57	\$105,712.36	\$144,572.23
Federal Deposit Insurance Corporation	4,487	4,803.00	225.00	124.00	944.25	3,509.75	1.07	62.13	\$298,400.23	\$408,092.15
Federal Election Commission	183	6.00	0.00	0.00	0.00	6.00	0.03	44.49	\$266.94	\$365.07
Federal Energy Regulatory Commission	1,109	361.00	0.00	9.00	141.00	211.00	0.33	53.56	\$19,334.85	\$26,442.34
Federal Mediation and Conciliation Service	27	10.50	0.00	0.00	0.00	10.50	0.39	34.67	\$364.04	\$497.86
Federal Trade Commission	286	76.50	0.00	0.00	30.00	46.50	0.27	45.80	\$3,503.92	\$4,791.96
General Services Administration	6,266	34,214.60	0.00	20.70	15,911.40	18,282.50	5.46	42.99	\$1,470,849.47	\$2,011,533.73
Government Publishing Office	1,305	1,668.50	0.00	14.00	803.00	851.50	1.28	36.78	\$61,363.10	\$83,920.17
Health and Human Services	34,485	67,722.93	1,441.75	10,511.75	29,751.88	26,017.55	1.96	40.65	\$2,753,262.70	\$3,765,362.06
Holocaust Memorial Museum	9	0.00	0.00	0.00	0.00	0.00	0.00	29.71	\$0.00	\$0.00

**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
Homeland Security	100,746	249,326.15	20,784.00	17,240.00	49,665.00	161,637.15	2.47	30.71	\$7,656,110.83	\$10,470,497.17
Housing and Urban Development	5,685	42,473.25	6,452.00	4,017.50	26,148.00	5,855.75	7.47	46.53	\$1,976,292.57	\$2,702,777.72
Interior	19,343	17,103.50	2,879.50	405.00	1,405.75	12,413.25	0.88	28.87	\$493,781.33	\$675,295.35
International Boundary and Water Commission	145	32.00	0.00	0.00	32.00	0.00	0.22	24.19	\$774.03	\$1,058.56
Justice	34,572	366,416.75	92,073.25	12,018.00	40,230.50	222,095.00	10.60	29.85	\$10,938,596.96	\$14,959,625.20
Labor	11,065	48,493.00	0.00	524.00	2,230.00	45,739.00	4.38	39.56	\$1,918,341.11	\$2,623,523.31
Merit Systems Protection Board	85	40.50	0.00	0.00	11.50	29.00	0.48	64.90	\$2,628.31	\$3,594.48
National Aeronautics and Space Administration	9,203	12,714.25	5.50	734.50	1,486.25	10,488.00	1.38	57.56	\$731,857.90	\$1,000,888.87
National Archives and Records Administration	2,020	10,370.10	110.00	5.00	2,706.40	7,548.70	5.13	26.43	\$274,069.78	\$374,817.83
National Credit Union Administration	953	2,514.90	167.50	165.80	346.50	1,835.10	2.64	51.39	\$129,252.56	\$176,765.80

**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
National Endowment for the Arts	94	38.75	4.00	0.00	32.50	2.25	0.41	41.87	\$1,622.47	\$2,218.89
National Endowment for the Humanities	35	365.00	0.50	34.00	159.00	171.50	10.43	43.59	\$15,911.02	\$21,759.91
National Gallery of Art	379	1,899.00	575.00	0.00	499.00	825.00	5.01	23.33	\$44,305.13	\$60,591.70
National Labor Relations Board	939	7,584.50	50.50	405.00	4,509.50	2,619.50	8.08	45.39	\$344,292.54	\$470,854.48
National Mediation Board	10	27.30	0.00	0.00	0.00	27.30	2.73	39.04	\$1,065.70	\$1,457.45
National Science Foundation	944	873.50	0.00	74.00	32.25	767.25	0.93	57.28	\$50,036.85	\$68,430.40
National Transportation Safety Board	302	100.25	0.00	0.00	1.00	99.25	0.33	56.05	\$5,619.40	\$7,685.09
Nuclear Regulatory Commission	2,319	4,656.00	0.00	2.75	963.00	3,690.25	2.01	57.79	\$269,092.18	\$368,010.46
Office of Personnel Management	1,324	8,969.50	0.00	1,954.60	2,328.90	4,686.00	6.77	36.34	\$325,937.83	\$445,752.58
Overseas Private Investment Corporation	139	124.50	0.00	0.00	2.50	122.00	0.90	47.77	\$5,947.21	\$8,133.40



**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
Peace Corps	493	250.00	0.00	20.00	150.00	80.00	0.51	34.74	\$8,683.89	\$11,876.09
Pension Benefit Guaranty Corporation	562	777.25	414.75	125.00	72.25	165.25	1.38	49.06	\$38,134.95	\$52,153.36
Presidio Trust	143	84.50	79.00	0.00	0.00	5.50	0.59	32.35	\$2,733.66	\$3,738.55
Pretrial Services Agency for the District of Columbia	270	2,264.75	658.00	293.75	40.00	1,273.00	8.39	40.59	\$91,926.20	\$125,718.27
Railroad Retirement Board	651	4,724.90	86.10	33.80	1.10	4,603.90	7.26	34.59	\$163,436.11	\$223,515.22
Securities and Exchange Commission	3,411	8,193.50	0.00	1,636.25	2,218.25	4,339.00	2.40	81.32	\$666,320.63	\$911,260.09
Small Business Administration	1,097	4,775.25	771.75	11.50	1,941.50	2,050.50	4.35	42.46	\$202,764.46	\$277,300.68
Smithsonian	2,854	963.00	0.00	0.00	10.00	953.00	0.34	31.21	\$30,055.23	\$41,103.53
Social Security Administration	49,783	255,481.00	414.00	3,435.00	10,267.00	241,365.00	5.13	33.42	\$8,539,083.94	\$11,678,051.20
State (includes AFSA unit)	20,400	17,929.00	1,590.00	1,870.00	6,174.00	8,295.00	0.88	43.69	\$783,402.48	\$1,071,381.24

**OFFICIAL TIME SUMMARY BY DEPARTMENT/AGENCY – FY 2016**

<b>Department/ Agency</b>	<b>FY 2016 Bargaining Unit Employees</b>	<b>FY 2016 Total Hours<sup>21</sup></b>	<b>Term Negotiations</b>	<b>Mid-Term Negotiations</b>	<b>Dispute Resolution</b>	<b>General Labor- Management Relations</b>	<b>Hours per Bargaining Unit Employee</b>	<b>Hourly Rate</b>	<b>Salary Cost</b>	<b>Salary + Benefits Cost</b>
Transportation	38,261	255,266.26	5,804.55	2,790.12	8,551.56	238,120.03	6.67	51.49	\$13,143,635.18	\$17,975,235.48
Treasury	70,729	481,500.00	1,453.00	4,736.00	36,008.00	439,303.00	6.81	34.04	\$16,391,602.64	\$22,417,155.78
U.S. Capitol Police	924	5,680.00	507.00	0.00	2,796.00	2,377.00	6.15	41.09	\$233,398.85	\$324,424.40
U.S. International Trade Commission	268	1,173.00	733.00	0.00	0.00	440.00	4.38	51.20	\$60,057.04	\$82,134.00
Veterans Affairs	297,324	1,048,569.00	28,814.00	44,788.00	153,684.00	821,283.00	3.53	34.27	\$35,933,653.04	\$49,142,863.90
<b>Total - all agencies</b>	1,224,160	3,633,290.33	223,970.25	118,263.72	552,692.48	2,738,363.88	2.97	\$42.90	\$129,574,568.88	\$177,211,408.53



**U.S. Office of Personnel Management**

Accountability and Workforce Relations

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