

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
<http://oversight.house.gov>

MEMORANDUM

May 24, 2018

To: Members of the Committee on Oversight and Government Reform

Fr: Democratic Staff

Re: Information on “Official Time” in Republican Memo

Late last night, Republican Committee staff circulated a memo entitled, “Federal Labor Union Use of Official Time in Fiscal Year 2017.” Despite multiple requests, Democratic staff were not allowed to be involved in the drafting or review of this memo. Since the Republican staff memo is not being issued as an official report of the Committee, it has not been reviewed, vetted, or voted on by all Members pursuant to Committee rules.

Since the Republican staff memo was not provided to Democratic staff until 10 p.m. last night, a full review was not able to be conducted. However, after even a preliminary review, it is evident that key findings and figures in the Republican staff memo are fundamentally flawed.

This Democratic staff memorandum identifies only some of the most obvious flaws in the Republican staff report. Democratic staff again extended an invitation to the Republican staff to work together to produce an accurate report worthy of the Committee.

I. KEY REPUBLICAN FINDING COMPLETELY INVENTED

The key finding of the Republican staff memo states:

The official time data for Fiscal Year 2017 shows the total compensation of all federal employees using any official time was \$1 billion.

This finding is a blatant, false, and gross overestimate of the federal labor use of official time, as a footnote in the Republican staff memo concedes. The footnote states:

This does not mean the total compensation cost to the federal government was \$1 billion for official time. This figure includes all employees using any official time. (emphasis added).

The Republican staff memo admits that they attributed an employee's *entire* salary and benefits in order to invent a completely fictitious total of \$1 billion, despite the fact that many employees spend only a *fraction* of their work time on official time.

II. DATA REVEALS MOST RARELY USE OFFICIAL TIME

The data cited in the Republican staff memo confirms that official time is used sparingly. The memo states:

12,508 employees used official time in some capacity. Of those, 981 spent between half and all of their workday on official time.

In other words, 92% of workers who use official time (11,527) do so less than half their working hours. Most users of official time spend the majority of their work time in the professions they were hired to perform, such as firefighters, nurses, accountants, border patrol agents, scientists, and engineers.

III. DOCUMENTS REBUT REPUBLICAN CLAIM THAT BONUSES ARE AWARDED FOR OFFICIAL TIME WORK

The Republican staff memo claims:

Union officials on 100 percent official time may qualify for honorary, informal, and non-performance-based awards. ... There were 102 employees on 50 percent or more official time who received an award in fiscal year 2017.

This claim suggests that union representatives earned bonuses as a result of their use of official time, which is prohibited by law and agency policy. The Republican staff memo conspicuously omits information obtained by the Committee from many agencies clearly explaining that bonuses awarded to employees who use official time at any point are awarded only as a result of their non-official time work. For example, the Department of Transportation informed the Committee:

All awards must be based on an act, service, accomplishment, contribution, or performance that supports agency priorities. Therefore, a determination whether to confer a performance award is based solely on how the individual met critical elements in his or her performance plan, and does not include consideration of how the employee performed as a union official.

IV. MOST OFFICIAL TIME USED TO ATTEND MEETINGS REQUESTED BY MANAGEMENT

The Republican staff memo states that the Office of Personnel Management (OPM) report on official time use for fiscal year 2016 identifies "four main activities employees perform on behalf of the union." The memo states that Republican staff "calculated and included the percent of total official time for each of these main activity areas." The memo then highlights

that the vast majority of official time (75%) is used for “General Labor-Management Relations,” which includes “meetings between labor and management officials to discuss general conditions of employment and union participation in formal meetings and investigative interviews.”

However, the Republican staff memo disregards the fact that three-quarters of official time is spent in meetings and procedures requested by agency management. It is misleading for Republican staff to claim that official time benefits only the unions when documents reveal that agency management is the primary beneficiary.

V. DEFECT IN INITIAL DATA REQUEST MAKES IT IMPOSSIBLE TO DETERMINE NUMBER OF EMPLOYEES ON 100% OFFICIAL TIME

On January 9, 2018, Chairman Trey Gowdy sent a letter to the 24 federal agencies requesting the following information: “Whether the employee served in an official time capacity full-time, or a less than half-time.” However, the letter failed to define the meaning of “full time.”

As a result, the Republican staff memo was forced to concede that “full time” does not mean 100%. As the memo acknowledged:

Some agencies interpreted an employee as being on “full-time” official time when the employee spent greater than 50 percent of his or her time in such status, while other agencies interpreted to mean 100 percent of time spent on official time status.

In other words, employees who spend 51% of their time performing representational duties and 49% performing agency-related duties would be inaccurately counted as “full-time” users of official time.