



American Federation of Government Employees (AFL-CIO)

February 25, 2016

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Chaffetz:

I am responding to your letter dated February 12, 2016, to the U.S. Environmental Protection Agency (U.S. EPA or Agency) Administrator Gina McCarthy, regarding federal employees who perform representational functions on behalf of labor unions within the Agency and are granted official time for those activities. Of particular concern to me is the fact that you have asked for employees' names who use official time.

I would have hoped that the recent armed occupation of the Malheur National Wildlife Refuge near Burns, Oregon, would have given you cause to reconsider the wisdom of requesting employees' names. Federal employees are under attack not only in Congress and the media, but also by armed bullies like those who took over the Malheur facility, and who engaged in the intimidation of, and threats to, federal employees and local law enforcement officers.¹ In addition, over 22 million people, including federal employees and contractors, as well as their families and friends, have been the victims of computer hacking, and their personal financial security has been placed at risk.²

When a gun-toting, anti-government gang takes over a federal facility, it shows that no place is safe. Unfortunately, I didn't hear any loud screams coming from Congress over how egregious this act in Oregon was, despite its illegality.³ Rather, in reading your letter, I was shocked that you requested the names of Union representatives in your request for information on 'official time' usage. Given what happened in Oregon, where Federal workers were intimidated and targeted by domestic terrorists, why is Congress requesting the names of individual employees, when the risk to employees far outweighs any benefit that might be

¹ Tom Shoop, "Federal Employees Harassed in Oregon Standoff," *Government Executive*, January 12, 2016, <http://www.govexec.com/management/2016/01/federal-employees-harassed-oregon-standoff/125058/>.

² Cory Bennett, "OPM hack hit over 22 million people," *The Hill*, July 9, 2015, <http://thehill.com/policy/cybersecurity/247410-report-opm-hack-hit-over-25-million-people>.

³ Charles Doyle, "Crimes of Violence Committed Against Federal Officials or Employees: A Brief Overview of Federal Criminal Law," *Congressional Research Service*, May 31, 2011, <https://www.fas.org/sgp/crs/misc/R41574.pdf>.

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gained? Some of the employees covered by this request are retired and no longer protected in the same way that current federal workers are protected from harassment.

Section 7131 of title 5, United States Code, defines and authorizes the use of official time for unions representing Federal employees. Labor and management are equally accountable to the taxpayer and have a shared responsibility to ensure that official time is authorized and used appropriately. To achieve greater accountability in this area, agencies report official time usage to the U.S. Office of Personnel Management (OPM) on an annual basis. When Congress requests the names of employees that use official time that not only places the employees at risk, but also their spouses, children and other family members. Congress does not need employee names to be able to use the information. Rather, I suggest that Congress set an example and not place children and other individuals at risk merely to pursue a partisan political agenda.

I suggest that Congress may want to explore whether its own behavior has caused an increase in the need for official time. The workplace stress caused by frequent threats of government shutdowns and the constant threats to reduce or otherwise limit federal employee pay and benefits have had an impact on employee morale. The unpaid furloughs and the government shutdowns and threats of shutdowns that have taken place have caused Union representatives to use official time that would otherwise not have been used had those congressionally manufactured crises not occurred. The last government shutdown was caused by the U.S. Congress and cost the American taxpayer \$24 billion.⁴

According to the U.S. Office of Personnel Management (OPM), the estimated costs for official time for FY 2012, including average salary and benefits, was \$157 million.⁵ However, that compares favorably to the cost for maintaining Congressional offices, which is estimated at between \$865 million and \$1.1 billion for just 535 people.⁶ The cost for official time is a drop in the bucket compared to what Congress cost the American taxpayer by shutting down the government.

Your letter will have not only a chilling effect on those courageous enough to serve as Union representatives, but also impair the Agency's efforts to attract the best and brightest to government employment. I ask you to reconsider your approach.

Respectfully,



John J. O'Grady
President, AFGE Local 704

⁴ Diane Alter, "The Full Cost of the Government Shutdown," *Money Morning*, November 13, 2013, <http://moneymorning.com/2013/11/13/the-full-cost-of-the-government-shutdown/>.

⁵ U.S. Office of Personnel Management, *Labor Management Relations in the Executive Branch*, October 2014, <https://www.opm.gov/policy-data-oversight/labor-management-relations/reports/labor-management-relations-in-the-executive-branch-2014.pdf>, p. 10-11.

⁶ The average allocation per Congressional Representative ranges from \$1.3 million to \$1.5 million, or a total of \$565 million to \$653 million. The allocation for Senators ranges from \$3 million to \$4.7 million per member, or from \$300 million to \$470 million. Thus, the overall costs of maintaining just the U.S. Congress ranges from \$865 million to \$1.1 billion.

Cc: The Honorable Elijah E. Cummings, Ranking Member
Subcommittee on Government Operations

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency