

STATEMENT OF
MS. KIMBERLY PERKINS MCLEOD
ACTING EXECUTIVE DIRECTOR
LABOR MANAGEMENT RELATIONS
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
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Good Morning, Chairmen Arrington and Meadows, Ranking Members O'Rourke and Connolly, and distinguished members of the subcommittees. Thank you for the opportunity to discuss the progress that the Department of Veterans Affairs (VA) is making towards accounting for "official time" to provide the best possible service to our Nation's Veterans.

For context purposes, the Federal Service Labor-Management Relations Statute (Statute) at 5 United States Code § 7131, governs how executive branch agencies treat official time. The Statute provides for official time for union representatives to perform certain union activities. Official time is duty time during which a bargaining-unit employee (an employee represented by a union) may perform representational activities in lieu of the employee's management-assigned work, without loss of pay or charge to leave. The Statute provides official time to negotiate collective bargaining agreements

and to participate in proceedings before the Federal Labor Relations Authority. In addition, the Statute requires management and its unions to negotiate amounts of official time which the parties agree are “reasonable, necessary, and in the public interest.” Official time negotiations are mandatory, apply to most Federal agencies, and include provisions relating to the amount, allocation, scheduling, and location of official time.

VA has negotiated varying amounts of official time in both national agreements and local agreements. Many VA facilities have local official time agreements and practices specific to their location. Official time arrangements are frequently distinctively local and reflect the relationship and history between local management and local union officials. It should be noted that while management has the right to negotiate the allocation and use of official time by union representatives, in ordinary circumstances, the Statute does not give management the right to select which employees serve as union representatives.

Periodically, the Office of Personnel Management (OPM) formally requests the official time data from every executive department and agency across the Federal Government. It is each agency’s responsibility to report official time hours used by employees who perform representational functions. In the past, VA has produced an annual report of agency-wide official time use and submitted the report to OPM. As you are aware, the recent U.S. Government Accountability Office (GAO) report, dated February 3, 2017, regarding VA official time use, describes how VA has historically not

implemented a uniform and standardized official time reporting system. Local VA facilities have reported their official time use to the VA Central Office in various ways, including written records, estimates, samples, surveys, or combinations of these methods.

The GAO report notes that VA is now using two timekeeping systems. The legacy system, the Enhanced Time and Attendance System (ETA), remains in effect at some facilities; other facilities have implemented VA's new time and attendance system, commonly referred to as the VA Time and Attendance System (VATAS). ETA, the legacy system, does not have codes for employees and supervisors to record the local use of official time. VATAS, however, does have that capability.

As of September 2016, approximately 50 percent of VA facilities and about one-third of VA employees (120,000) had transitioned to VATAS, with its official time-recording capabilities. The full VATAS multi-facility rollout is scheduled to be completed by July 2018.

The GAO report includes three recommendations to improve VA's ability to accurately track employees' use of official time. VA concurs with GAO's recommendations. In response to GAO's first recommendation, VA has updated and expanded timekeeper training on the collection and reporting of official time in its final ongoing VATAS nationwide roll out. Training now includes consistent guidance on the proper method of inputting official time codes into VATAS. The GAO report notes that, even in facilities

already using VATAS, some timekeepers are still not properly using VATAS codes to record official time use. VA is offering additional training to those facilities where VATAS has been implemented, but where particularized training on official time entries was not separately addressed. VA is also preparing an additional training video concerning official time, to ensure that all timekeepers and supervisors understand the importance of maintaining accurate and complete official time records. In addition, VA is discussing the proper method to record official time during its monthly “VATAS Connections” call with payroll offices. VA’s Office of Labor Management Relations will also be reinforcing the importance of complete and accurate recordkeeping during its monthly call to local human resources professionals nationwide.

In response to GAO’s second recommendation, VA is providing updated written instructions to all of its facilities, seeking to establish and enforce a standardized approach to recording and reporting official time across VA. VA also intends to initiate bargaining with its national unions to come to an agreement with them on a standard approach to have union officials request, record, and report their use of official time in VATAS.

In response to GAO’s third recommendation, VA’s Office of Human Resources and Administration is preparing updated policy guidance to all VA facilities concerning the recording of local official time. For those facilities where VATAS is already operational, timekeepers and supervisors are instructed to use VATAS to record the use of official time. The four reporting categories available on VATAS will mirror the categories OPM

uses in its government-wide official time reporting. Each category will include a description of the activities that fall within that category using the identical descriptions provided by OPM—ensuring a standard VA future recording and reporting approach. As VA transitions to a single, upgraded timekeeping system, official time use will become more transparent and official time reporting will be substantially more accurate. Recording and compiling official time use in VATAS will result in a number of positive outcomes. VA's standardized approach will guarantee accurate, timely, and reliable accounting of official time use across the Agency. Relying on VATAS, VA will be able to quickly compile and report official time data to OPM, Congress, and to other government agencies; and will have a substantially enhanced ability to monitor use of official time at individual VA facilities.

In summary, VA is incorporating GAO's recommendations in its operations and the result will be improved, standardized, comprehensive, and reliable accounting of official time use at VA. VA estimates that it will fully incorporate GAO's first two recommendations by April 2017. VA hopes to complete the implementation of GAO's third recommendation by July 2018. The Department has taken the opportunity to develop a strategy to move forward and meet with our labor partners in order to discuss ways to address how we collect and report official time, as well as how we ensure that official time is used to enhance the labor management relationship at the local and national level. By implementing a robust official time system using VATAS, the Department and its labor partners can ensure that official time is properly managed, recorded and analyzed in order to support VA's mission.

This concludes my testimony, and I am happy to answer your questions.

Kimberly Perkins McLeod, Acting Executive Director,
VA Office of Labor Management Relations

Ms. McLeod is an Associate Chief Counsel in VA's Office of General Counsel. She is a national expert on all legal matters related to labor and personnel law, including Senior Executive removal actions, whistleblower retaliation claims, and legislation related to labor and personnel law. Prior to her position as Associate Chief Counsel, she was the Deputy Chief Counsel in the Personnel Law Group, where she supervised a team of attorneys who are responsible for providing legal advice, review and litigation for all employment, labor, law enforcement, and fiscal law matters within VA's headquarters. Currently, Ms. McLeod is serving in a detail with VA's Office of Labor Management Relations as the Acting Executive Director of LMR. In her role as Acting Executive Director of LMR she serves as the senior labor advisor to the Secretary, represents the Department's mission and objectives with the national level labor partners, and sets the vision and strategy for LMR.

Ms. McLeod began her legal career as an Attorney with the National Labor Relations Board, where she drafted decisions for a NLRB Member involving charges of unfair labor practices and representation election questions under the National Labor Relations Act. She has also worked at a law firm and a couple of non-profit organizations. Ms. McLeod completed her undergraduate education at Howard University, and graduated from the University of Maryland School of Law in Baltimore, Maryland.