

Office of the Inspector General

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Commissioner of Social Security

Acting Inspector General

Use of Official Time for Union Activities at the Social Security Administration

The attached final report presents the results of our review of the use of official time for union activities at the Social Security Administration (SSA) (A-13-97-72013). The objective of the review was to determine whether official time for union activities at SSA was being used in compliance with laws, regulations, and contractual (collective bargaining) agreements, and whether SSA produces reliable information to determine the costs of official time.

You may wish to comment on any further action taken or contemplated on our recommendations. If you choose to offer comments, please provide them within the next 60 days. If you wish to discuss the final report, please call me or have your staff contact Pamela J. Gardiner, Assistant Inspector General for Audit, at (410) 965-9700.

James G. Hulse, Jr.

Attachment

cc:
OIG/ES
Reading File
Subject File
SSA/OIG/OA/CMARKOW ITZ/Ch 07/09/08 97-72013-FNL
Report File

EXECUTIVE SUMMARY

OBJECTIVE

The objective of this audit was to determine whether official time for union activities at the Social Security Administration (SSA) was being used in compliance with relevant laws, regulations, and contractual (collective bargaining) agreements, and whether SSA produces reliable information to determine the costs of official time.

BACKGROUND

Unions at SSA

There are three unions at SSA--the National Treasury Employees Union (NTEU), the National Federation of Federal Employees (NFFE), and the American Federation of Government Employees (AFGE). Collectively, they represent approximately 52,000 bargaining unit employees for which there are about 1,800 union representatives; of those 145 work full-time on union activities. AFGE is by far the largest union representing about 96 percent of SSA's bargaining unit employees. Provisions regarding how the three unions will operate at SSA are set forth in various collective bargaining agreements.

Official Time

SSA defines official time as time during which an employee otherwise would be performing Agency assigned work, but the employee is authorized by law, regulation, or negotiated agreement to spend time representing union and/or bargaining unit employees. SSA is required by Federal law to authorize the use of official time by union representatives for certain activities, and has agreed to its use for other activities pursuant to its collective bargaining agreements with the unions. Common representational activity constituting authorized official time includes representing employees in complaints by or against management, bargaining over changes in working conditions and the application of personnel policies, and negotiating union contracts with management. When a union representative is on official time, SSA is obligated to pay the employee the same wages as if he or she were performing regular Agency-assigned work.

The three unions and SSA have negotiated collective bargaining agreements which contain provisions regarding limits on the use of official time. Some categories of

activities have caps or limits on the amount of hours that can be used, and some categories have no limits as long as they are considered reasonable, necessary, and in the public interest. The collective bargaining agreements also provide limits relative to the type of union position occupied, such as an officer, assistant chief steward, or steward. These agreements also address the number of union representatives authorized to use official time and how it should be recorded.

In 1993, Executive Order 12871 articulated a concept of labor/management relations called "Partnership" which requires agencies to involve their labor organizations as full partners with management in identifying agency problems and crafting solutions. During the period of our review, the hours spent on Partnership activities by union representatives may or may not have been considered official time. The reason for this inconsistency stems from a lack of clear guidance. In December 1997, SSA issued guidance to clarify which activities should be considered Partnership activities and that such activities should not qualify for official time.

Congressional Hearings and the General Accounting Office Report on Union Activities at SSA

Congressional hearings held in June 1996 examined the use of the Social Security trust funds to finance union activities. The hearings discussed the use of the trust funds to pay for official time and its related costs, the increase in the use and cost of official time, the balance of power between the unions and SSA management, and the effect of official time on service to the public. In October 1996, the General Accounting Office (GAO) provided Congress with a report on the time and costs associated with union activities at SSA. GAO found that SSA's official time-reporting systems did not adequately capture the actual amount of official time used, and that a limited verification of the hours reported found that the amount of official time was underreported.

SCOPE AND METHODOLOGY

After the GAO report was issued, Congress requested the Office of the Inspector General to provide more in-depth information regarding the use of official time related to union activities at SSA, and how the Agency accounts for the time and the associated costs. To accomplish this, we reviewed relevant Federal laws, related criteria, testimony from previous congressional hearings and GAO reports, and contractual agreements. We met with labor-relations personnel, and we interviewed union representatives and their supervisors. We also examined official time records and reports from various components as well as SSA's calculation of costs related to official time.

RESULTS OF REVIEW

We identified weaknesses with SSA's management oversight of official time. Specifically, SSA's management oversight does not provide reasonable assurance that: only currently designated union representatives are authorized to use official time; the number of authorized users is in compliance with contract criteria; requests for official time are used for authorized purposes and for a reasonable amount of time; and allegations or suspicions of misuse of official time are effectively resolved.

We also found that SSA's controls over the processing and reporting of official time are not sufficient to provide reasonable assurance that the data in its report to Congress is reliable.

CONCLUSIONS AND RECOMMENDATIONS

We specifically examined SSA's calculation of official time hours reported as used in Fiscal Year (FY) 1996. For that FY, SSA reported that 481,945 hours were spent on official time activities at a cost of \$14.7 million. We were unable to verify this data because we concluded that management oversight and internal controls were not adequate to ensure that official time was being used in compliance with applicable criteria and the terms of the relevant collective bargaining agreements, and that the data used to determine the cost of official time was not reliable.

To correct these weaknesses, we recommend that SSA:

- Maintain accurate, up-to-date listings of union representatives and use them to monitor which individuals are using official time and the number of authorized users.
- Improve its oversight to better determine whether official time is being used for an appropriate activity and for an appropriate amount of time.
- Improve procedures to better ensure that allegations or suspicions of suspected abuse are resolved in a timely manner.
- Improve controls to better ensure that official time data is complete and accurate, including clarifying which activities should be reported as official time.
- Further, to comply with the Office of Personnel Management's request for Calendar Year (CY) 1998 data on official time, SSA should establish a

mechanism to evaluate the benefits and disadvantages of official time and its impact on SSA's service to the public.

AGENCY COMMENTS

On a general level, SSA believed the report should acknowledge the actions it has already taken to improve the accuracy of its official time reporting process, as well as acknowledge the impact of administrative case law decisions on the parameters in which the Agency must operate. To support this, SSA listed specific actions it had taken to improve the time reporting process. Also, SSA stated that many of our recommendations appear to ask the Agency to go beyond the constraints established by administrative case law.

SSA generally agreed with all of the specific recommendations except for one--the need to clarify whether activities should be reported as Partnership time, official time, or Agency duty time.

OIG RESPONSE

We revised the report to acknowledge that SSA has taken actions to improve the accuracy of the time reporting process. In making our recommendations, our intent is to ensure compliance with the official time reporting requirements of the current collective bargaining agreements. If SSA is unable to implement our recommendations within the confines of the current agreements and the parameters set by administrative case law, it should address them during negotiations for future collective bargaining agreements. If such negotiations prove unsuccessful, SSA may wish to seek a legislative resolution. We disagree that there is no need to clarify instructions regarding whether activities should be reported as Partnership time, official time, or Agency duty time.

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY	i
INTRODUCTION	1
SCOPE AND METHODOLOGY	4
RESULTS OF REVIEW	7
SSA MANAGEMENT OVERSIGHT OF OFFICIAL TIME	7
• SSA Needs to Maintain Accurate Listings of Designated Union Representatives	8
• Supervisors Need to Ensure that Requests for Official Time Are for Authorized Activities	9
• Supervisors Should Ensure that Official Time Is Approved in Advance	11
• SSA Needs to Ensure that Excessive Official Time Is Not Used	12
• SSA Needs to Effectively Resolve Allegations or Suspicions of Misuse of Official Time	14
SSA'S PROCESSING AND REPORTING OF OFFICIAL TIME	15
• Completeness, Accuracy, and Retention of Official Time Records	16
• SSA Needs to Ensure that Official Time Is Consistently Reported for Union Officers	19
• SSA Needs to Ensure that Partnership Activities Are Consistently Reported	20
NEW LEGISLATION AFFECTING OFFICIAL TIME	21
• Official Time Should Be Evaluated	21
• Official Time No Longer an Expense of SSA's Trust Funds	22
CONCLUSIONS AND RECOMMENDATIONS	23

AGENCY COMMENTS AND OIG RESPONSE26

APPENDICES

- Appendix A - SSA Official Time Forms
- Appendix B - Official Time Reporting Flow charts
- Appendix C - Agency Comments
- Appendix D - Major Report Contributors
- Appendix E - SSA Organizational Chart

INTRODUCTION

OBJECTIVE

The objective of this audit was to determine whether official time for union activities at SSA was being used in compliance with relevant laws, regulations, and contractual (collective bargaining) agreements, and whether SSA produces reliable information to determine the costs of official time.

BACKGROUND

Unions at SSA

There are three unions at SSA--NTEU, NFFE, and AFGE. Collectively, they represent approximately 52,000 bargaining unit employees for which there are about 1,800 union representatives. Of those 1,800 union representatives, 145 work full-time on union activities. AFGE is by far the largest union representing about 96 percent of SSA's bargaining unit employees. Provisions regarding how the three unions will operate at SSA are set forth in various collective bargaining agreements.

Although three unions represent SSA employees, the results of our review primarily address the contract provisions and policies and procedures for approving and reporting official time for AFGE union representatives. We focused on AFGE because it represents 96 percent of SSA's bargaining unit employees.

Official Time

As authorized by 5 United States Code, section 7131, union representatives may be granted official time¹ to conduct certain union activities. For example, SSA is required to authorize official time for the negotiation of a collective bargaining agreement. With certain exceptions, official time will be granted in any amount agreed to by the union and management in a collective bargaining agreement that has been deemed by the parties to be reasonable, necessary, and in the public interest. Commonly authorized representational activities include representing

¹ An SSA memorandum dated December 8, 1997, defines official time as time during which an employee otherwise would be performing Agency assigned work, but the employee is authorized by law, regulation, or negotiated agreement to spend time representing union and/or bargaining unit employees.

employees in complaints by or against management; bargaining over changes in working conditions; the application of personnel policies; and negotiating union contracts with management.

The three unions and SSA have negotiated collective bargaining agreements that contain provisions regarding limits on the use of official time. Some categories of activities have limits on the number of hours that can be used for official time. Others limit the type of union position or the overall time charged by the unions. Some categories of activities have no limits on the number of hours that can be charged as long as the activities are considered reasonable. The collective bargaining agreements also address the number of union representatives that are authorized to use official time and how it should be recorded.

SSA has issued policies and procedures for managers and supervisors that govern the use of official time.² Supplemental guidance has been issued addressing issues such as defining official time and when its use is appropriate, the different types of official time, when a request to use official time should be granted or denied, which activities are appropriate uses of official time, and what type of data needs to accompany a request for official time.

SSA is obligated to pay its employees while they are performing authorized activities on official time. SSA also provides support for such items as union office space, supplies, and equipment. The cost traditionally has been allocated between the Social Security trust funds and general revenues in the same proportion as all SSA administrative expenses. However, Public Law 105-78³ requires that, beginning in FY 1998, the cost allocated from the trust funds be reimbursed from general revenues by the U.S. Department of the Treasury.

Partnership

In 1993, President Clinton issued Executive Order 12871, which articulated a new vision of labor/management relations called "Partnership." Partnership requires that agencies involve their labor organizations as full partners with management in identifying agency problems and crafting solutions. Union representatives are to be considered an integral part of the Partnership teams that are created to address and solve agency problems, especially those that affect service to the public. During the period of our review, the hours spent on Partnership activities by union

² The most comprehensive book for managers and supervisors regarding administration of the National Agreement Between AFGE and SSA is the *SSA Managers Labor Relations Handbook* (SSA Pub. No. 27-04, September 1993). Changes, reminders, or other guidance are also often distributed by memorandums. For example, in December 1997, SSA sent a memorandum to all supervisors and managers on the subject of official time in the form of questions and answers.

³ The Departments of Labor, Health and Human Services, and Education Appropriations Bill for 1998.

representatives may or may not have been considered official time. In December 1997, SSA issued guidance attempting to clarify which activities should be considered Partnership activities and that these activities should not be considered official time.

Previous Congressional Hearings and GAO Report on Union Activities at SSA

The House Committee on Ways and Means, Subcommittee on Social Security, held hearings on official time in June 1996. The hearings examined the use of the Social Security trust funds to finance union activities, the increase in the use of official time and its costs, the balance of power between the union and SSA management, and the effect that the use of official time has on service to the public.

In October 1996, GAO provided the Subcommittee with a report⁴ on the results of its review of the time and costs associated with union activities at SSA. GAO's review consisted of interviews with SSA management and union representatives and an examination of official time records for FY 1995. GAO's review of official time records was limited to one SSA regional office and selected headquarters' components. GAO reported the following:

- SSA's official time-reporting systems do not adequately track the number of union representatives charging time to union activities or the actual time spent.
- A limited verification of the hours spent on union activities as reported by SSA found that official time was underreported.
- The selection of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local managers.
- Some SSA field managers stated that they lack authority in decisions about which individuals are authorized to use official time and how much time they spend on union activities and this causes problems in managing the daily activities of their operations.

Reports of Official Time

The Senate Appropriations Committee requested that, beginning with FY 1989, all future SSA budget justifications include information on prior expenditures for union

⁴ GAO Report (GAO/HS-97-3, October 1996) entitled, "Social Security: Union Activity at the Social Security Administration."

activities. SSA has provided this information by preparing reports of official time usage and its costs. For FY 1996, SSA reported that it paid \$14.7 million in union-related expenses, (\$13.4 million for salaries and \$1.3 million for office space, telephones, travel, and arbitration expenses). For that same time period, SSA reported that union representatives spent 481,945 hours on official time activities.

Office of the Inspector General Reviews

In addition to our review of official time, the Office of the Inspector General has conducted contemporaneous reviews of employee observations on the use of official time and on Partnership activities. Additional reports will also be issued:

- Non-Council 220 Union Representative and Management Observations on the Use and Management of Official Time at the Social Security Administration (A-02-98-02002);
- Partnership Activities at the Social Security Administration (A-13-98-72023); and
- Council 220 Union Representative and Management Observations on the Use and Management of Official Time at the Social Security Administration (A-02-97-72002).

SCOPE AND METHODOLOGY

The objectives of our review were to determine whether:

- official time for union activities is used in compliance with relevant laws, regulations, and contractual agreements; and
- SSA produces reliable information to determine the cost of official time.

In conducting this audit, we:

- reviewed the Civil Service Reform Act of 1978, Executive Order 12871, and SSA/Union collective bargaining contracts and agreements on official time and Partnership;
- reviewed testimony and statements from previous congressional hearings;
- reviewed GAO's report on union activities at SSA;

- evaluated SSA's management controls over the processing and reporting of official time;
- met with personnel in SSA's Office of Labor-Management and Employee Relations (OLMER) who compile official time hours;
- met with personnel in SSA's Office of Budget (OB) who calculate and report the costs of official time;
- examined SSA's processing and reporting of official time hours and how the costs of official time are calculated;
- interviewed 66 SSA supervisors and 42 union representatives who are involved in the day-to-day activities of requesting, approving and reporting official time;
- examined a random sample of official time records for FY 1996 from 100 offices in SSA's Atlanta, Dallas, and New York regions to determine whether the amount of time was accurately reported and whether official time was used in compliance with contractual agreements between the unions and SSA;
- examined all of the available official time records for FY 1996 from SSA Headquarters in Baltimore, Maryland, and the Office of Hearings and Appeals (OHA) in Falls Church, Virginia, to determine whether the amount of time was accurately reported and whether official time was used in compliance with contractual agreements between the unions and SSA; and
- examined SSA's FY 1996 report to Congressional Appropriations Committees on official time.

During our review, we encountered resistance and delays in obtaining requested information. AFGE challenged the legality of our review and advised union officials not to cooperate with our audit. After several meetings and much correspondence with SSA and Union officials, then Acting Commissioner John J. Callahan instructed Agency officials to attempt to achieve cooperation with our review. AFGE also advised union representatives to cooperate with our review. However, AFGE stated that it was up to each union representative to choose whether to do so. Consequently, only 42 of the 73 union representatives that we contacted agreed to be interviewed.

We had also planned to review a new system that SSA is developing for tracking the use of official time, the Official Union Time Tracking System (OUTTS). SSA advised GAO that it was developing this system to provide more accurate data on

the amount of official time spent on union activities. We did not review OUTTS because it was still in a training environment during our review and SSA had not fully implemented it until after our review ended.

Our audit consisted of a review of SSA's reported official time for FY 1996. Our work was performed from February 1997 through February 1998 at SSA in Baltimore, Maryland (Headquarters); OHA, in Falls Church, Virginia; and SSA's Dallas, Atlanta, and New York Regions. Our audit was conducted in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

The objectives of this review were to determine whether official time for union activities at SSA was used in compliance with relevant laws, regulations, and contractual agreements and whether SSA produces reliable information to determine the costs of official time. We specifically evaluated those controls that ensure that:

- only authorized union representatives use official time;
- official time is approved only for authorized activities and for an appropriate amount of time;
- official time is completely and accurately reported; and
- misuse of official time is identified, reported, and addressed.

We also determined whether the amount of time and costs associated with SSA's FY 1996 official time was accurately reported to the Congress.

The results of our audit are presented under the following three topics.

- SSA Management Oversight of Official Time
- SSA's Processing and Reporting of Official Time
- New Legislation Affecting Official Time

SSA MANAGEMENT OVERSIGHT OF OFFICIAL TIME

The Office of Management and Budget (OMB) Circular A-123, *Management Accountability and Control*, states that resources should be efficiently and effectively allocated for duly authorized purposes. In addition, management should have controls in place that provide reasonable assurance that time and attendance activities are properly authorized and approved. Supervisors must be aware of the absence of and time worked by employees to ensure the reliability of time and attendance records.

We identified several weaknesses in SSA's management oversight of official time. We found that SSA controls do not provide reasonable assurance that:

- only currently designated union representatives use official time;
- requests for official time are for authorized purposes;
- requests for official time are approved in advance;
- limits on the use of official time are observed; and
- allegations or suspicions of misuse of official time are effectively resolved.

SSA Needs to Maintain Accurate Listings of Designated Union Representatives

Article 30, section 2 of the AFGE/SSA National Agreement (the AFGE/SSA Agreement) states that AFGE will provide SSA with a complete, up-to-date listing of all designated union officials including each official's name, location, and telephone number. This provision requires AFGE to notify the Agency of any changes to the listing. Further, this provision notes that SSA will grant official time to only those individuals who are designated in writing as union officials.

The AFGE/SSA Agreement contains provisions that, although intended to ensure that employees have access to union representatives, effectively limit the number of union representatives for a particular office or component. For example, Article 30, Appendix A, section 1 of the AFGE/SSA Agreement states that SSA will only recognize 1 Union Steward for each 200 bargaining unit employees at Headquarters. Current listings are necessary to ensure that only designated union representatives use official time and that limits on the number of representatives are correct.

In its 1996 report on union activity at SSA, GAO found that "the list of authorized representatives maintained by the Agency was outdated and incomplete." This remained true during our audit period. SSA could not readily provide us with accurate listings of authorized union representatives. SSA advised us that this was because the list of representatives was fluid; i.e., names and telephone numbers can virtually change on a daily basis. Also, SSA does not maintain a national listing of union representatives. Current data is maintained at the local level. However, we found that local lists were not always current.

The data we received when we requested a listing of Headquarters union representatives, which accounted for about 73 of the estimated 1,800 union representatives nationally, illustrated the inaccuracy of the listings. The list SSA initially provided contained union representatives from other Federal agencies.

Consequently, we could not distinguish which individuals were SSA union representatives. SSA explained that the listing contained non-SSA employees because our request was for a listing of Local 1923 representatives, which correctly includes employees from other agencies. After a new request, SSA provided a revised listing of only SSA union representatives. From this listing, we placed 23 calls and found that 1 individual had not been a union representative for over 2 years, 1 was never a representative, 2 had been retired for over 1 year, and 9 could not be reached at the telephone numbers provided.

Supervisors often could not provide any documentation to indicate that the employee requesting official time was a currently designated union representative. For example, during our reviews of SSA's regional offices, we found that 62 offices either never received a designation notice, could not locate them, or did not retain them. The inability of SSA to provide documentation and accurate listings of union representatives also prevented us from determining whether individuals who used official time during FY 1996 were authorized union representatives. For example, based on our review of official time records in the regional offices we could not determine if 66 individuals were authorized union representatives.

The inaccurate listings also prevent SSA from adequately monitoring the number of authorized representatives to ensure that AFGE does not exceed the AFGE/SSA Agreement provisions. For example, at headquarters the most recent listings show there are 11 Assistant Chief Stewards (ACS) authorized to use official time. The AFGE/SSA Agreement, Article 30, Appendix A, section 1, provides for 1 ACS for every 1,500 bargaining unit employees, which indicates there should only be 7 ACSs.

SSA provided us with examples that it does notify the union when it becomes aware that the number of authorized representatives exceeds the AFGE/SSA Agreement provisions. However, there are inadequate controls to ensure that the number of authorized union representatives are not exceeded at any given time. To prevent this from occurring, SSA needs to monitor the listings to ensure that they remain current and compare them to the AFGE/SSA Agreement limits on the number of authorized union representatives. We found that this is not routinely done.

Supervisors Need to Ensure that Requests for Official Time Are for Authorized Activities

The AFGE/SSA Agreement contains provisions that official time shall be approved only for authorized labor-management activities. The authorized activities are specified in the AFGE/SSA Agreement, Article 30, Appendices A through F. For example, some common authorized activities are:

- meetings requested by authorized management officials;
- monthly and quarterly labor relations meetings;
- representing employees in grievances, arbitration, Privacy Act complaints;
- responding to management proposals submitted to the Union for comment;
- mid-term consultation and/or bargaining on management initiated changes; and
- Federal Labor Relations Authority and Merit Systems Protection Board proceedings.

The SSA manager's guidance for official time for union representatives, dated December 8, 1997, states that supervisors need to receive sufficient general information from union representatives to determine if the request for official time is for an approved purpose and for a reasonable amount of time. However, SSA guidance also states that supervisors should approve requests unless they are clearly unreasonable. In most cases, official time must be approved by a supervisor before union representatives are permitted to leave the work site to discharge their functions. In addition, statutory and contractual provisions prohibit the use of official time for certain activities, such as any internal union business.

We found that supervisors usually cannot determine whether the request for official time is for an authorized activity because information provided on the official time forms is incomplete or the official time forms do not require specific information. For example, the forms used by union representatives at headquarters and field offices require a specific code to describe the type of activity, while the forms used by union representatives in other components simply have a blank space to describe the "Nature of Business."

Our review of the official time forms for union representatives at headquarters illustrates the condition of official time records that supervisors must review to determine whether the request for official time is appropriate. Official time forms were not always completed using the specific codes on the form describing the type of activity. Appendix A to this audit report includes a sample copy of a headquarters Monthly Official Time Record. This form provides the codes and the description of particular types of activity. For example, F1-8 is the code for mid-term negotiations and F2-2 is the code for grievances. In contrast, the forms we reviewed contained entries such as "meeting" or "conference," or a destination such as "Union Office," "Metro West," "Annex Building" or were left blank. In 235 of the 433 forms we reviewed, the information was vague, could not be easily verified, and a supervisor could not determine whether the activity was an

appropriate use of time. These descriptions did not comply with the forms established under the collective bargaining agreements.

Based on our interviews with 12 supervisors of union representatives at headquarters, 10 stated that they did not know or attempt to judge whether the request for official time was appropriate. We believe the principal reasons for management's lack of information on the propriety of requests were that the official time forms do not require enough information for informed judgment, the forms were often completed but with vague information, or attempts to get specifics may be questioned by upper management or challenged by the union. Despite the lack of information, 5 of the 12 supervisors believed that there were abuses of official time in that some times it may have been used for inappropriate activities.

Supervisors Should Ensure that Official Time Is Approved in Advance

The NTEU/SSA collective bargaining agreement (NTEU/SSA Agreement) states that, where practicable, official time for union representatives will be approved in advance. The NTEU/SSA Agreement also states that supervisors will record the use of official time by NTEU representatives. The Labor Relations Handbook for Managers and Supervisors indicates that supervisors will send a monthly record of approved official time to the regional labor relations office.

We reviewed the official time records for NTEU union representatives in SSA's regional offices and found a lax approval process for official time. We found instances where reported official time was not supported by the monthly supervisory records of approved official time. Supervisors were not approving and documenting official time on prescribed official time forms. Instead, supervisors reported official time based on informal conversations, memoranda, or pages from calendars submitted by NTEU union representatives. The information provided did not frequently show the date official time was used, the amount of time used for each activity, or the reason for official time. Official time was reported to supervisors at the end of a 6-month reporting period, well after the official time had been taken. None of the memoranda or pages from calendars were signed by supervisors to indicate that the official time had been approved. Consequently, we concluded that supervisors as a matter of practice do not preapprove official time requests.

The AFGE/SSA Agreement, Article 30, Appendices A through F, generally permit union representatives to use official time after reporting to their respective supervisors and identifying the purpose of their activity. The official time forms require a supervisory signature to document that official time has been approved. During our review of headquarters official time records, we found that generally official time records were approved. Our review of 433 official time records showed that 28 of the records were not signed or approved by a supervisor.

SSA Needs to Ensure that Excessive Official Time Is Not Used

The AFGE/SSA Agreement, Article 30, Appendices A through F, places limitations on the amount of official time that union representatives may use depending on the union representative's position, the component involved, and the type of activity. We considered the amount of official time used as excessive if it was more than the amount allowed by the AFGE/SSA Agreement or more than necessary to perform a given activity.

Limits by the Union Representative's Position

- Union officers are allowed a "reasonable" amount of time to accomplish their union duties which, in practice, generally means officers charge virtually all of their time as official time.
- ACSs and Stewards are limited by contract criteria to a specific number of hours for certain activities.

Limits by SSA Component

- At the headquarters, an ACS is allowed up to 312 hours of official time per 6-month period, and a Steward is allowed up to 208 hours of official time per 6-month period.
- At OHA, a chief steward is allowed up to 25 percent of the regular working hours per year, and a Steward is allowed up to 10 percent of the regular working hours per year for official time.
- At field offices, the total number of hours for all union representatives is capped between 100,000 and 110,000 hours per year. The union distributes these hours to individual representatives. The individual representatives are limited to 4 hours per week for offices with less than 70 employees or 10 hours per week for offices with 70 or more employees.
- At the Office of Assessment (field), local representatives are allowed up to 4 hours per week for offices up to 70 employees, and up to 10 hours per week for offices of above 70 employees.
- At the Program Service Centers, elected officers are allowed up to 49 percent of their working time available in a month, chief stewards are allowed up to 25 percent and stewards are allowed up to 10 percent of their working time available in a month.

Limits by Activity

- The preceding limits or caps on hours apply only to certain official time activities. Some authorized official time activities have no specific limits. Union representatives at headquarters are granted an unlimited amount of time for activities such as periodic labor relations meetings, meetings requested by authorized management officials, and meetings of Union-Administration committees.

At headquarters, SSA does attempt to identify situations where the AFGE/SSA Agreement limitations may be exceeded. For example, OLMER personnel monitor the contract provisions that place limits on official time. OLMER advised us that when the amount of official time used is approaching the limits, they contact the union representative's component with advice to deny any requests for time which would exceed the limits. Our interviews with supervisors confirmed that this was a common practice. Despite this common practice, we identified situations where official time was exceeded as explained below.

We interviewed 66 supervisors and do not believe that supervisors can generally tell whether an excessive amount of official time has been used in particular instances. When we interviewed the supervisors of headquarters union representatives, 10 stated that they did not know nor could they judge whether the amount of official time requested and used was appropriate. We reviewed official time records at headquarters and found that 3 of 42 union representatives exceeded the AFGE/SSA Agreement limitations. For the three representatives, there was no evidence that the excessive time had been identified and approved by the supervisor or OLMER. Of the 50 supervisors interviewed from SSA's regional offices, 22 stated that they do not monitor contractual limitations.

Even when AFGE/SSA Agreement limits are monitored, the limits only apply to certain categories of activities. Furthermore, self-reporting, combined with incomplete or vague activity descriptions and no supervisory verification of the type of activity, prevented us from determining whether excessive amounts of official time had been used.

We believe a principal reason for the lack of oversight regarding potential excessive time is the difficulty in discerning the nature of the activity for which official time was requested. Without knowing more about the type of activity, supervisors have very little ability to evaluate the reasonableness of the amount of time requested or whether the activity is the type subject to collective bargaining agreement limitations.

SSA Needs to Effectively Resolve Allegations or Suspicions of Misuse of Official Time

The AFGE/SSA Agreement, Article 30, section 3, contains procedural guidance on how to handle allegations of abuse of official time. It states that alleged abuses of official time shall be brought to the attention of an appropriate management official on a timely basis. The management official should discuss the matter with the union local or council president as appropriate.

Our interviews with supervisors of union representatives at headquarters and the regional offices found that instances of suspected abuse are not always effectively resolved and that disposition of the allegations are not always known by the supervisor. Of the 66 supervisors we interviewed, 14 had reported cases of suspected abuse of official time. The supervisors provided the following information on the 14 referrals of suspected abuse:

- 2 cases - were investigated and resolved by management;
- 2 cases - were investigated and the abuse stopped;
- 2 cases - supervisors were told to overlook them;
- 7 cases - no feedback was ever provided, so supervisors did not know the outcome; and
- 1 case - was "checked out" superficially by management.

The AFGE/SSA Agreement requires union cooperation in abuse investigations by requiring unions to release their copies of official time records upon request. It indicates that specific union councils and local unions shall maintain accurate records to account for all official time used by their union representatives. To accomplish this, the union shall maintain a copy of the official time record. This copy is only supposed to state the name of the person contacted. If a supervisor suspects that a union representative has abused official time, he/she may request the union copy of the official time record. The union is required to provide the records for management's review. During our review of SSA's regional offices, we were advised that this policy was not always followed and thus resulted in cases of suspected abuse not being resolved. In one case a management official requested the union copies of official time records for two union representatives suspected of abuse. The union did not cooperate and failed to provide copies of the official time records even after several follow-up requests. The suspected abuse was still unresolved at the end of our review.

SSA'S PROCESSING AND REPORTING OF OFFICIAL TIME

In 1988, Congress initiated requirements for union representatives to report the use of official time. The Senate Committee on Appropriations Report⁵ that accompanied SSA's FY 1988 appropriation request mandated that SSA's 1989 and future budget justifications include information on SSA's expenditures for union activities. Since FY 1989, SSA has met this requirement by providing reports to the Appropriations Committees that contain the number of hours spent on official time and their cost.

In December 1997, the House and Senate Committees on Appropriations directed the Office of Personnel Management (OPM) to compile information from various agencies (including SSA) on the use of official time and other services by Federal employee unions and to report this information to the Committees. OPM will prepare a report that contains this information covering the first 6 months of CY 1998. The information is to include, among other items, the total hours of official time, their cost, and information on the benefits and disadvantages of using official time.

Based on our review, we identified several weaknesses in SSA's processing and reporting of official time. We found that controls are insufficient to provide reasonable assurance that the data SSA supplies to the Congress are reliable.

Processing Official Time Records and Reports

The processes for reporting official time vary by component. There are three official time forms and reporting processes. Copies of the forms are contained in Appendix A and flow charts describing the reporting processes are contained in Appendix B.

Union representatives in SSA's field offices and teleservice centers have their official time forms entered into an automated system, called the YY Reporting System, that can produce summary totals. Other components use a completely manual paper-based process to report and summarize official time hours. The hours reported are periodically sent to OLMER at Headquarters. OLMER then prepares an agencywide report of official time hours and provides this information to OB. At the end of the FY, OB prepares SSA's report to the Appropriations Committees that includes information on actual hours used and the costs associated with official time. The costs are determined by using the average employee salary, employee benefits, overhead rates (leave), arbitration, travel, office space, and telephone expenses. SSA reported that 481,945 hours of official time were used in FY 1996, with an estimated cost of \$14.7 million.

⁵ Senate Report 100-189.

Management Controls

OMB Circular A-123 requires that transactions be promptly recorded and accounted for to prepare timely accounts and reliable financial and other reports. In addition, the documentation for transactions must be clear and readily available for examination. There should be procedures in place to verify the completeness and accuracy of the records summarized and reported. For example, in the case of official time, there should be controls for the following:

- **Completeness** - to ensure that all official time records are reported.
- **Accuracy** - to ensure that official time records are summarized accurately.
- **Recording and Documentation** - to ensure that transactions are clearly documented and the documentation is readily available for examination.

We reviewed all of the available records of official time for Headquarters and OIA, Falls Church, as well as a sample of records from SSA offices in the Atlanta, Dallas, and New York regions. We identified the following weaknesses with SSA's processing and reporting of official time.

- There are insufficient controls to ensure that all official time records are included in SSA's reported official time.
- There are insufficient controls to identify when official time records have been incorrectly summarized and reported.
- SSA does not always retain individual source documents (official time records) for reported official time.
- SSA does not have consistent policies and procedures for reporting official time for union officers, and Partnership activities.

Completeness, Accuracy, and Retention of Official Time Records

SSA Needs to Ensure that All Official Time Records Are Reported to Congress

SSA has insufficient controls in place to ensure that all official time records are included in their summary reports. When either paper-based records or automated records are forwarded to OLMER for the agencywide report on official time, there is no confirmation that all records have been received. Consequently, the supervisors who submit records have no assurance that the hours have been accounted for and included in the agencywide report. More importantly, if

supervisors do not submit records, even when no official time was used for the reporting period, OLMER has no way of knowing whether they have received all of the records of official time for each union representative. We found that when a union representative does not use any official time for a reporting period, supervisory practices differ. Some supervisors submit reports showing zero hours, while others simply do not file a report.

To ensure that all official time records are included in SSA's report to Congress, there should be a comparison (manual and automated) of the listings of authorized union representatives to their individual records of official time submitted by supervisors. This comparison would enable SSA to identify those union representatives whose supervisors did not report their official time as required.

SSA Should Reconcile Official Time Records and Reports

A timely reconciliation of individual records of official time to summary reports would enable SSA to maintain the accuracy of the summary reports. Only by reconciling the individual records to the summary reports, can SSA identify instances when official time hours were summarized incorrectly. However, SSA has not implemented such a reconciliation system. In addition, component and/or regional summary reports are not reconciled with the agencywide report that is provided to the Congress.

For example, our review at headquarters showed that supervisors send the official time records to their component labor relations staff which, in turn, sends a summary of the official time records every 3 months to OLMER. The statistics used in the annual report to congressional Committees are derived from the summary that the components submit. This is done without any reconciliation to the source documents.

At headquarters, we attempted to reconcile the individual records of official time for all 73 union representatives to the summary reports for headquarters. In our attempt to reconcile the records, we identified a discrepancy in which 7,535 hours were overstated. Because of the large discrepancy, we provided OLMER with the results of our records review. We had identified math errors, incorrect postings of time on the records, and missing documentation.

OLMER staff spent approximately 5 weeks reviewing the individual records. They had to request missing records from supervisors and attempted to resolve the errors and discrepancies we had identified. As a result of their efforts, they obtained an additional 102 official time records and corrected information that had been previously reported. OLMER was able to reconcile 6,881 of the 7,535 overstated hours, with 654 hours still unreconciled.

At Oll A, we attempted to reconcile Falls Church and regional summary reports of official time to the amounts SSA included in the agencywide report to the Congress for FY 1996. Our comparison of the Falls Church and regional summary reports to the agencywide report to the Congress identified the following differences:

<u>Union</u>	<u>Agency Report</u>	<u>Falls Church and Regional Reports</u>	<u>Differences</u>
AFGE	33,402	29,229	4,173
NTEU	13,776	10,968	2,808
NFFE	<u>137</u>	<u>137</u>	<u>0</u>
TOTAL	47,315	40,334	6,981

We provided this information to OLMER, but it was unable to determine the reasons for the differences in reported official time hours.

Some Official Time Records Were Counted Twice in Calculating Official Time

SSA has insufficient controls to prevent duplicate reporting of official time records. When records are forwarded to OLMER for the agencywide report on official time, they are not checked to ensure they have not already been accounted for in the totals.

At headquarters, union representatives who are "officers" do not submit official time records. They are simply required to sign-in and -out with the supervisor of their assigned office. In addition, the AFGE/SSA Agreement, Article 30, Appendix A, provides that they receive a reasonable amount of official time for the performance of their labor-management responsibilities. As a result of these conditions, OLMER considers officers to be full-time representatives and charges them with 2,080 hours per year.

At headquarters, we reviewed all of the available official time records for each union representative and found that OLMER reported 29,120 hours for 14 "full-time" union representatives (2,080 hours x 14 representatives). However, 3 of the 14 union representatives were not officers and had submitted official time records for 4,051 hours. As a result, the hours for these union representatives were included in summary reports compiled from the official time records and in OLMER's report of 29,120 hours. This caused the official time hours to be overstated by 4,051 hours. This occurred because OLMER did not compare the official time records submitted by supervisors to a list of persons already credited with 2,080 hours.

Some Official Time Records Were Incorrectly Summarized

To ensure that official time records are accurately summarized, there should be a comparison of the hours on the official time records to the hours entered and summarized. Personnel in SSA's field offices use the YY Reporting System to summarize and enter official time records. However, the accuracy of the summarized official time is dependent on the employees checking and comparing their input to the source records. There are no systematic edits or checks to ensure the information was summarized accurately.

During our review of SSA's regional offices we found reporting errors for the data entered in the YY Reporting System. There were reporting errors for the total official time used as well as the total official time hours that are limited or capped. There are several categories of official time that are added to determine the totals for official time used. Personnel in SSA's field offices are responsible for totaling the official time hours from official time records and entering totals in the YY System. We found that, in many cases, official hours that had been used were either not entered in the YY system or the amounts entered were incorrect. We found errors in the summary reports as follows:

- Atlanta - 256 errors, resulting in an understatement of 4,177 hours.
- Dallas - 63 errors, resulting in an understatement of 906 hours.
- New York - 67 errors, resulting in an understatement of 6,777 hours.

We determined that these errors occurred because the YY Reporting System does not have edit checks to ensure the information entered is accurate.

Some Official Time Forms Were Not Retained

The official time source documents need to be retained to determine whether records of official time are correctly reported and summarized. The source documents permit verification of the total amounts recorded and reported. The SSA timekeeping manual requires that SSA maintain adequate supporting documentation of time and attendance on file for 36 months after the close of the applicable FY.

We found inconsistent practices for retention of original official time records. For example, during our review of SSA's regional offices, we found that SSA sometimes discarded FY 1996 official time records before the 36-month retention period expired. Because the records were not available for our review, we could not substantiate the existence or accuracy of 3,910 hours included in the FY 1996 report to Congress. The regional SSA officials stated that the information was discarded because there are no specific policies or instructions on how long official time records should be maintained.

SSA Needs to Ensure that Official Time Is Consistently Reported for Union Officers

In SSA’s report to Congress on FY 1996 official time, there are estimated expenses for the salaries of union representatives. The estimated cost of official time is determined by OB. The salary cost is determined by multiplying the total official time hours by an average employee hourly pay. Employee benefits and an overhead rate for vacation and leave are also included to obtain the total salary cost for union activities.

We found that SSA does not consistently use the same criteria to determine official time hours for union officers, and, as a result, the hours reported and the salary costs of official time has been overstated for some union officers. We found that at Headquarters union officers’ official time hours are computed differently than OHA and regional offices. At Headquarters, OLMER reports 2,080 hours for each officer whereas OHA and the regional offices deduct leave and holidays from the base 2,080 hours. For example, the inconsistency caused the following overstatement of salary costs for each union officer for FY 1996.

	<u>Headquarters</u>	<u>OHA and Regions</u>	<u>Difference</u>
Official hours	2,080	1,800	
Salary Rate	x \$19.27	x \$19.27	
Salary	\$40,081	\$34,686	
Employee Benefit Rate	x 18.44%	x 18.44%	
Employee Benefits	\$7,391	\$6,396	
Total Employee Salary and Benefits	\$47,472	\$41,082	
Overhead Rate (Leave)	x 21.52%	x 21.52%	
Overhead Cost	\$10,216	\$8,841	
TOTAL SALARY	\$57,688	\$49,923	\$7,765

We were able to identify 14 union officers at Headquarters that had 2,080 official time hours reported. We estimate the total overstatement of salary costs for them to be \$108,710 (7,765 x 14).

SSA Needs to Ensure that Partnership Activities Are Consistently Reported

Partnership activities are increasingly becoming the standard for labor-management interaction. However, there was a lack of clear policy as to how much, if any,

time spent on Partnership activities by union representatives constituted official time and should have been reported accordingly. During our review of FY 1996 official time records, we found that there was inconsistent reporting of Partnership time. The AFGE/SSA Agreement does not address which time spent on Partnership activities is official time. The Partnership chapter of the AFGE/SSA Agreement, section 3, only indicates that any Partnership hours considered official time shall not be limited or capped. The inconsistent reporting of these hours detracted from the reliability of SSA's reported official time.

Our interviews at headquarters provided the basis to our conclusion that there is inconsistent reporting of Partnership time. It revealed that 9 of the 14 union representatives either did not report Partnership time as official time or were not sure whether such activities should be included. When reported, the union representatives usually used an existing activity code on the official time record since there is no code for Partnership activities.

SSA has attempted to clarify which activities should be reported as Partnership time, official time, or Agency duty time with instructions issued in December 1997.

NEW LEGISLATION AFFECTING OFFICIAL TIME

Two pieces of legislation relevant to official time have emerged: (1) SSA will be required to prepare a report which addresses the benefits and disadvantages of official time; and (2) the Social Security trust funds are to be reimbursed by general revenues from the Department of Treasury for the costs of official time.

Official Time Should Be Evaluated

OPM has been directed by Congress to gather official time data from various agencies, including SSA, regarding the amount and costs of official time usage. The data is to include a description of both the benefits and disadvantages of official time. OPM's report is to cover the first 6 months of CY 1998. Although SSA is already providing Congress with most of this data, information on the benefits and disadvantages of using official time will be reported for the first time. This requirement should give SSA the incentive to evaluate the outcomes of official time usage and determine how they have affected SSA's service to the public. Before this new requirement, SSA had not conducted any evaluations.

In its report on union activities at SSA, GAO stated,

“SSA has a special fiduciary responsibility to effectively manage and maintain the integrity of the Social Security trust funds from which most of these expenses are paid. In a time of shrinking budget and personnel

resources, it is especially important for SSA to evaluate how resources are being spent and to have reliable monitoring systems that facilitate this evaluation.”

We believe SSA needs to improve its management oversight of official time to ensure it is used appropriately and accurately reported; however, this will not measure the value of official time. Even with reliable, accurate information on usage and costs, there is no system in place to quantify and evaluate what SSA has accomplished for those costs.

Official Time No Longer an Expense of SSA's Trust Funds

Public Law 105-78, enacted in 1997, changed the way the ultimate costs of official time will be borne. Prior to this legislation, official time was funded in the same manner as SSA's other administrative expenses, that is, from a combination of funds derived from the trust funds and general revenues. The allocation between the trust funds and general revenues has been in the same proportion as all SSA administrative expenses. Public Law 105-78 changed this arrangement such that the Social Security trust funds will be reimbursed for the costs associated with the use of official time from the U.S. Department of Treasury, solely out of general revenues. This neither increases nor decreases the costs associated with union activities and official time. There is no specific appropriation made for these costs and they remain part of SSA's overall administrative budget.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

We conclude that management oversight weaknesses and problems with SSA's processing and reporting of official time have prevented SSA from producing reliable reports regarding the use of official time by union representatives. Specifically, we do not believe there was reasonable assurance that:

- only designated union representatives used official time;
- requests for official time were for authorized purposes;
- limits on the use of official time were observed;
- allegations or suspicions of misuse of official time were effectively resolved;
- reported official time was complete;
- official time records were summarized and reported accurately;
- supporting documentation of official time was retained;
- official time for union officers was consistently reported; and
- official time for Partnership activities was consistently reported.

Because of these weaknesses, we could not determine whether the actual time and cost associated with SSA's FY 1996 official time were accurately reported to the Congress.

RECOMMENDATIONS

We recommend that SSA take the following corrective actions.

1. Maintain accurate, up-to-date listings of union representatives (as required by the collective bargaining agreements) to ensure that:
 - a) Supervisors only approve requests for the use of official time for authorized union representatives.

- b) The number of authorized union representatives does not exceed the limitations specified in the collective bargaining agreements at any given time.
2. Improve its management oversight to help determine whether official time is used for appropriate activities and appropriate amounts of time. To accomplish this objective, SSA should:
 - a) Instruct supervisors to have official time forms filled out as precisely as possible using existing codes and sub-codes where applicable. If more diligent completion of the official time forms still does not enable supervisors to make an informed decision as to the appropriateness of the activity or the time requested or used for that activity, SSA should pursue revisions of the forms toward that end during negotiations on future collective bargaining agreements.
 - b) Instruct supervisors of NTEU union representatives to use the prescribed official time forms in accordance with the terms of the collective bargaining agreement.
 - c) Remind all supervisors that official time must be approved in advance of its usage.
 - d) Periodically verify a sample of official time used to ensure that official time records are accurate.
 3. Monitor the coding or categorizing of the type of union representative activity so that activities that have limits are not improperly reported as an unlimited activity. To accomplish this objective, SSA should require that information on the official time record specifying the type of activity be completed, and periodically test such records for accuracy.
 4. Improve procedures to ensure that allegations or suspicions of abuse are resolved in a timely manner. Procedures should address time frames for union cooperation in providing requested documents, a specific document retention schedule for union copies of official time forms, and a process to address situations where time frames are not met or the union does not cooperate. Also, supervisors should be advised of the disposition of their referrals whenever appropriate.
 5. Improve controls to ensure that official time data are complete. There should be confirmation of receipt when official time reports are submitted. Also, a

follow-up by appropriate labor relations staff should be required for any period in which a report was not filed.

6. Improve controls to ensure that official time records are accurately summarized and reported. SSA should:
 - a) Reconcile individual official time records to summary reports and reconcile component and/or regional summary reports to the agencywide report before it is provided to OPM and the Congress.
 - b) Compare official time records that have been submitted by supervisors to any records that may have been previously reported or calculated into the totals to identify duplicate reporting of official time.
 - c) Compare the official time records to the amounts summarized and entered in the automated system (YY system) for processing official time.
7. Establish a uniform retention policy for official time records. These source documents need to be maintained to verify the data on official time records and may be necessary to resolve any allegations or suspicion of misuse.
8. Develop policies and procedures to ensure official time is consistently reported for union officers. This will correct the inconsistent reporting which has caused an overstatement of the salary costs for some union officers.
9. Revise its policies and procedures for recording Partnership time so that union representatives, as well as SSA supervisors, know which activities should be reported as Partnership or official time. Official time records should be revised to reflect these changes.
10. To comply with OPM's request for CY 1998 data on official time, SSA should establish a mechanism to evaluate the benefits and disadvantages of official time and its impact on SSA's service to the public.

AGENCY COMMENTS AND OIG RESPONSE

AGENCY COMMENTS

SSA provided comments concerning: (1) the report in general; (2) each specific recommendation; and (3) technical points and/or wording (see Appendix C for the full text of the Agency's comments).

1. Overall report -- On a general level, SSA believed the report should acknowledge the actions it has already taken to improve the accuracy of its official time reporting process, as well as acknowledge the impact of administrative case law decisions on the parameters in which the Agency must operate. To support this, SSA listed specific actions it had taken to improve the time reporting process. Also, SSA stated that many of our recommendations appear to ask the Agency to go beyond the constraints established by administrative case law.
2. Specific recommendations -- SSA generally agreed with all of the specific recommendations except for one which recommended that SSA revise its policies and procedures to clarify whether activities should be reported as Partnership or official time. SSA stated that the Commissioner already reviewed this issue and decided which activities should be considered Partnership activities, and that time spent on Partnership activities should not be reported as official time.
3. Technical points and/or wording- SSA provided several suggested technical or wording changes to various points in the report.

OIG RESPONSE

1. Overall general comments -- We revised the report to further acknowledge that SSA has taken certain actions to improve the accuracy of the time reporting process, such as providing guidance to supervisors and managers. In making these recommendations, our intent is to ensure compliance with the official time reporting requirements of the current collective bargaining agreements. If SSA is unable to implement our recommendations within the confines of the current agreements and the parameters set by administrative case law, it should address them during negotiations for future collective bargaining agreements. If such negotiations prove unsuccessful, SSA may wish to seek a legislative resolution.
2. Specific recommendations -- We disagree with SSA's implication that there is no further need to clarify and/or revise its policies and procedures regarding

which activities are Partnership activities and which activities should be reported as official time. We acknowledge that SSA has recently issued guidance as to which activities should be considered Partnership activities, and that Partnership activities should not be considered official time. We do not believe the guidance obviates the need for further clarification. For example, new instructions state that for work groups established by the Agency, there are unresolved issues concerning the classification of time for union representatives serving on a work group in a representational capacity. In fact, the guidance states that "this issue will be subsequently addressed." Also, the new guidance needs to be disseminated to all union representatives as well as supervisors and managers and incorporated into official time criteria instructions and forms.

Technical points and/or wording - our responses to each point are listed below.

- A) In response to our statement that Partnership activities may or may not be considered official time, SSA requested that the report state this issue was clarified, and that the Commissioner decided that Partnership activities are not official time. We revised the report to clarify that Partnership activities may or may not have been considered official time for the period of our review but more recent guidance has attempted to clarify which activities should be considered official time, Partnership, or Agency duty time.
- B) SSA requested that we state why we did not review OUTTS. We revised our report to indicate that we did not review OUTTS because it was still in a training environment during our field work and SSA had not fully implemented it until after our review ended.
- C) SSA indicated that the reason its list of Local 1923 union representatives contained employees from other agencies is because Local 1923 does in fact represent employees in other Federal agencies. SSA simply provided what OIG requested. We revised the report to reflect this comment.
- D) SSA requested we revise the report to indicate that the differences found in OIA official time data was partially due to the failure of OIG to include the data for two regions. We disagree. OIG requested SSA to resolve an unreconciled difference of 6,981 hours based on all of the information SSA provided to OIG for the OIA reported official time. To date, SSA has provided no information to explain the reasons for the unreconciled differences.
- E) SSA requested we revise the report to indicate that, in the past, some Partnership activities were considered official time by some SSA components, but this issue had been clarified. We did not accommodate this

request because the clarification was not applicable to the FY 1996 official time records under review.

A P P E N D I C E S

SSA OFFICIAL TIME FORMS

OFFICIAL TIME REPORTING FLOW CHARTS

AGENCY COMMENTS

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SSA ORGANIZATIONAL CHART
