Department of Veterans Affairs **VA NOTICE 20-02**
Washington, DC 20420 **January 31, 2020**

Use of VA Time and Attendance System for the Requesting, Approving, Recording and Tracking of Taxpayer Funded Union Time in VATAS

1. **Purpose.** The purpose of this notice is to replace Human Resources Management Letter (HRML) No. 05-18-04, dated July 13, 2018, update the guidance in VA Handbook 5023, Labor-Management Relations, and update the guidance for the use of the VA Time and Attendance System (VATAS) for the requesting, approving, recording and tracking of Taxpayer Funded Union Time (*herein referred to as* "*Official Time"*) by Union Representatives and Bargaining Unit Employees (BUE) as required by Sec. 5(c) of Executive Order (E.O.) 13837.

2. **Background.**

   a. The Department has a legitimate interest in ensuring that its BUEs are spending at least three-quarters of their paid time, measured each fiscal year, performing agency business or attending necessary training (as required by their agency), in order to ensure that they develop and maintain the skills necessary to perform their agency duties efficiently and effectively. Executive agencies are required to keep careful track of how they spend the taxpayers' money and must eliminate unnecessary, inefficient, or unreasonable expenditures.

   b. The Department is responsible for ensuring Official Time is used efficiently, and only for authorized purposes, and in amounts that are reasonable, necessary, and in the public interest. To that end, the Department must properly approve, track and record the use of Official Time for Union Representatives and BUEs who use Official Time. Due to the number of Union Representative within the VA and BUEs using official time, it is imperative to establish a standardized system to obtain an accurate accounting of the amount of time used within the Department. The Department has determined the VATAS will be used to request, approve, track and record the use of Official Time.

3. **Scope.** These procedures apply to all Union Representatives employed by the VA engaging in representational activities in accordance with 5 U.S.C. Chapter 71. Additionally, these procedures apply to all BUEs approved to use Official Time in an approved Office of Personnel Management (OPM) category listed in VATAS. Further, these procedures apply to all VA supervisory personnel whose subordinate employees are engaged in representational activities and/or are approved to use official time in any of the approved OPM categories listed in paragraph 4. BUEs using Official Time to review and respond to administrative personnel actions (i.e., disciplinary and adverse actions, etc.) are no longer excluded.

4. **Official Time Activities.** Official Time approved for union representatives and BUEs may include, but is not limited to the following activities as defined by OPM:

   a. **Labor/Management Relations (BD)**- OPM defines this category as official time used for meetings between labor and management officials to discuss general conditions of employment, labor-management committee meetings, labor relations training for union representatives, and union participation in formal meetings and investigative interviews. This is 5 U.S.C. 7131(d) time and would cover more than just formal discussions.

b. **Grievance/Appeals (BK)**** – OPM defines this category as official time used to process grievances up to and including arbitrations and to process appeals.

****Denotes the code is used by a BUE, not for representational purposes. Used by union representatives solely for appearances before the Federal Labor Relations Authority (FLRA).**

c. **Mid-Term Negotiations (BB) -** OPM defines this category as official time used to bargain over issues raised during the life of a term agreement.

d. **Term Negotiations (BA) -** OPM defines this category as official time used by union representatives to prepare for and negotiate a basic collective bargaining agreement or its successor.

5. Procedures. The following procedures are established for the request and approval of Official Time:

a. **Union Representatives & Bargaining Unit Employees**

(1) Union Representatives and BUEs are required to use VATAS to request and receive approval for Official Time prior to its use, based on the four categories required by OPM, as noted in paragraph 4, above.

(2) Union Representatives and BUEs who do not have access to VATAS will be required to request the use of Official Time by submitting the Request for Official Time form (Attachment A).

(3) Union Representatives and BUEs are required to enter the following information into VATAS, as appropriate, when requesting Official Time:

(a) Leave Type/Official Time Codes:

i. BA – Term Negotiations

ii. BB – Mid-Term Negotiations

iii. BD – Labor/Management Relations

iv. BK – Grievance/Appeals**

(b) Start and End Date

(c) Start and Estimated Stop Time

(d) Total Hours

****Denotes the code is used by a BUE, not for representational purposes. Used by union representatives solely for appearances before the FLRA.**

(4) In addition to the information required in paragraph 5a(3), Union Representatives and BUEs must also provide the following information in the **"Submitters Remarks"** field when requesting Official Time in VATAS prior to approval:

(a) Location where Official Time will be used;

(b) Telephone number where their immediate supervisor or designated alternate management official may contact the employee, if necessary; and

(c) Type of activity (representational or other) they will be engaged in, as listed in paragraph 4. Prior to approval, the Union Representative or employee must provide sufficient detailed information identifying the tasks to be undertaken while on Official Time.

(5) If Official Time is granted, the Union Representative and/or Employee must:

(a) Notify the appropriate supervisor or designee when they return to duty.

(b) Notify the Immediate supervisor or designated alternate official verbally or in writing to request additional needed Official Time if there is a delay beyond the estimated approved time.

(c) Enter any additional approved time in VATAS upon the Union Representative's and/or Employee's return to duty.

(d) Notify the appropriate supervisor for any Official Time not used as originally requested and update VATAS to reflect the accurate amount of time used.

(6) Union Representatives must submit their request for the use of Official Time via VATAS on the first scheduled workday of each pay period. BUEs requesting Official Time must submit their request in VATAS seven (7) business days in advance of the requested date or when practicable. Union Representatives without access to VATAS must submit the Request for Official Time form on the first scheduled workday of each pay period. BUEs without access to VATAS must submit the Request for Official Time form to their immediate supervisor or designee seven (7) business days in advance of the requested date or when practicable.

(a) The Union Representative requesting official time must discuss modifications to the schedule with the supervisor or designated management alternate official in advance or negotiated, if appropriate. This applies to last minute requests or changes to requests that have already been approved.

(b) When additional Official Time is needed, a Union Representative or BUE must contact their immediate supervisor or designated alternate official, in advance of each instance, to request Official Time, and enter the request in VATAS or submit the Request for Official Time form.

(c) Union Representatives requesting Official Time for travel outside their duty station must enter the request and receive approval in VATAS by the immediate supervisor or designated alternate official before the travel occurs. Union

Representatives must provide the pertinent details for their official time request as listed above in paragraphs 3, 4 and 5 of this subsection.

b. **Department Supervisors and Designated Management Officials**

(1) Department Supervisors and Designated Management Officials shall assess whether it is reasonable and necessary to grant the amount of Official Time requested by a Union Representative or BUE to accomplish their stated tasks. They are instructed to further consult with their local Labor Relations office if there are any questions or concerns of its appropriateness.

(2) If it is determined that the amount of Official Time will not be approved on the day and time requested by the Union Representative or BUE, the Department shall consider another date and time in which the requestor may be released from their official duties. The supervisor shall consider the interests of the Union and BUE when making his/her determination.

(a) If it is necessary to cancel or deny a request for Official Time, the immediate supervisor or designated management official will provide a written explanation to the requestor, either in VATAS or on the Request for Official Time form.

(b) Regular, recurring, or ongoing allocation of Official time does not ensure that it is used efficiently, and only for authorized purposes, and in amounts that are reasonable, necessary, and in the public interest, therefore it is prohibited. Supervisory officials must review and approve requests for use of Official Time, entered in VATAS.

(c) Ensure Union Representatives and BUEs without access to VATAS utilize the Request for Official Time form.

(d) VATAS will be used to access and request reports on the use of Official Time. Upon request, supervisory officials and/or designated management officials will submit Official Time data on the usage of Taxpayer Funded Union Time to appropriate Department officials.

c. **Human Resources Officials and/or Timekeeping Officials**

(1) Ensure Union Representatives and BUEs with access to VATAS are trained on entering Official Time requests for supervisory approval. Union Representatives will be on duty time to attend training for the use of VATAS;

(2) Provide proper training to appropriate management officials to ensure that Official time is used efficiently, and only for authorized purposes, and in amounts that are reasonable, necessary, and in the public interest;

(3) Upon request, advise VA supervisory officials, employed Union Representatives and BUEs, on the appropriate use of Official Time; and

(4) Upon request Timekeeping Officials, provide Official Time reports, based on the four OPM reporting Categories, outlined in 4, to appropriate Department officials.

6. Disciplinary Actions for failure to follow Official Time procedures

a. Section 5 of Executive Order 13837 indicates that any employee who uses taxpayer-funded union time without authorization "shall be considered absent without leave and subject to appropriate disciplinary action."

b. Failure by Union Representatives and/or BUE's to request and receive advance written authorization prior to using Official Time shall be considered absent without leave.

c. Failure by Union Representative(s) and/or BUEs to follow Official Time procedures outlined above, may subject employees to disciplinary and/or adverse action consistent with law, VA Handbook 5021, Employee Management Relations.

d. Failure by Supervisors, to follow Official Time procedures above, may result in disciplinary and/or adverse action consistent with law, including but not limited to 38 U.S.C. § 714 and VA Handbook 5021, Employee Management Relations.

7. Responsible Office. Questions regarding using VATAS to approve, track and record Taxpayer Funded Union Time may be directed to the Office of the Chief Human Capital Officer, Office of Labor Management Relations (LMR) at vacolmrfaqs@va.gov.

CERTIFIED BY:

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