
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Office of Inspections and Evaluations



*Inspection of Internal Revenue Service
Controls to Achieve Its Goal of Reducing
Time Charges for Union Activities*

November 27, 2012

Reference Number: 2013-IE-R001

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

November 27, 2012

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

FROM: R. David Holmgren *R. David Holmgren*
Deputy Inspector General for Inspections and Evaluations

SUBJECT: Final Inspection Report – Inspection of Internal Revenue Service Controls to Achieve Its Goal of Reducing Time Charges for Union Activities (# IE-12-002)

This report presents the results of our inspection to determine whether the Internal Revenue Service (IRS) has adequate controls in place to achieve its goal to reduce overall time charges for Union activities.

Synopsis

According to the 2009 National Agreement II (Agreement), the IRS and the National Treasury Employees Union (NTEU or Union) committed to reducing the amount of official¹ and bank² time used for representational activities by an overall 5 percent during each year of the Agreement. We found that IRS and NTEU efforts resulted in reduced Union time charges overall; however, the goal of a 5-percent reduction was not achieved.

We determined several shortfalls limited the IRS's and the NTEU's ability to achieve its overall 5-percent reduction. We determined that the lack of incentives and targeted reduction goals for official time and the methodology for determining annual bank time allocations limited the parties' ability to reach the stated reduction goal. Furthermore, we determined that the IRS's general time codes for official and bank time use, which respectively accounted for 55 percent and 86 percent of time used in Fiscal Year 2011, did not provide enough detail to adequately account for Union activities. Also, we found that 79 Local Official Time Utilization Plans had

¹ Official time is duty time granted when stewards are participating in meetings or other communications with IRS management. Official time may also be prescribed for travel to and from such meetings.

² Bank time is duty time granted in order for stewards to confer with employees, prepare grievances, prepare for arbitration, or prepare a reply to a notice of proposed disciplinary, adverse, or unacceptable performance action. Bank time is authorized for activities not conducted in the presence of management.



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not been revised since the implementation of the Agreement, and the IRS and the NTEU did not clarify justifications and methodologies used for determining appointments of full-time stewards, who accounted for approximately 52 percent of all Union time charges.

Recommendations

*****Code Number 7*****

Response

*****Code Number 7*****

Please contact me at (202) 927-7048 if you have questions or Kevin P. Riley, Director, Office of Inspections and Evaluations, at (972) 249-8355.



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Abbreviations

| | |
|-------|--------------------------------------|
| BUE | Bargaining Unit Employee |
| FY | Fiscal Year |
| IRS | Internal Revenue Service |
| LOTUP | Local Official Time Utilization Plan |
| NTEU | National Treasury Employees Union |
| OTC | Official Time Coordinator |
| PCR | Per Capita Rate |



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Background

The Treasury Inspector General for Tax Administration initiated this review to determine whether the Internal Revenue Service (IRS) has adequate controls in place to achieve its goal to reduce overall time charges for Union activities. Under the rules and guidelines prescribed in the 2009 National Agreement II (Agreement), the National Treasury Employees Union (NTEU or Union) represents IRS bargaining unit employees (BUE). The Official Time Program Unit, within the IRS's Workforce Relations Division of the Human Capital Office, has the overall responsibility of managing Article 9, *Stewards and Official Time*, matters of the Agreement with the Union.

Federal labor law authorizes Union representatives (stewards) to conduct Union activities during official duty hours.¹ Union representatives consist of chapter presidents, chief stewards, assistant chief stewards, and any other BUE authorized to act on behalf of the NTEU. The NTEU designates IRS employees or retirees in good standing as Union representatives; however, only IRS employees receive official² and bank³ time during the course of their regular tour of duty to perform authorized Union activities.⁴ Union time is granted to employees acting on behalf of the Union to perform authorized representational activities without loss of pay or leave; however, Union time may not be granted for internal Union business.⁵ Unlike official time, chapters receive an annual allocation of bank time based on the chapter's previous year's use, number of BUEs, and per capita rate (PCR).⁶

Union stewards perform their duties on either a full-time or part-time basis. Full-time stewards are permitted to engage in labor-management activities without limitation on their use of official and bank time. The number of full-time stewards must be negotiated and agreed upon for each individual chapter.⁷ All stewards not identified as full-time stewards are part-time stewards and, with the exception of chapter presidents and chief stewards, are limited to a cumulative use of

¹ 5 U.S.C. § 7131.

² Official time is duty time granted when stewards are participating in meetings or other communications with IRS management. Official time may also be prescribed for travel to and from such meetings.

³ Bank time is duty time granted in order for stewards to confer with employees, prepare grievances, prepare for arbitration, or prepare a reply to a notice of proposed disciplinary, adverse, or unacceptable performance action. Bank time is authorized for activities not conducted in the presence of management.

⁴ 2009 National Agreement II, Article 9, *Stewards and Official Time*, Section 1.B(2).

⁵ Internal Union business includes activities such as the solicitation of members or the election of Union officials.

⁶ The PCR is defined as the average number of official and bank time hours the Union uses per BUE on representational matters.

⁷ 2009 National Agreement II, Article 9, *Stewards and Official Time*, Section 2.I, *Full Time Stewards*.



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850 hours of official and bank time during the calendar year.⁸ Additionally, part-time stewards must submit a request for release to their immediate supervisor, providing the location, approximate amount of time needed, and a general description of the activity for which the time will be used.⁹

The Official Time Program Unit has designated seven human resource specialists as official time coordinators (OTC) in order to manage Article 9, *Stewards and Official Time*, matters of the Agreement. The OTCs have been delegated authority to work with Union chapters on the negotiation of full-time stewards and the negotiation and creation of Local Official Time Utilization Plans (LOTUP)¹⁰ and also to work with the NTEU and IRS management on inquiries and disputes regarding Union official time use and a steward's release from duty. Each OTC has been assigned a geographical area of responsibility and serves as a back-up to another OTC.¹¹ In addition to these duties, the OTCs are responsible for monitoring, analyzing, and reporting various elements of official and bank time use by Union stewards.

This review was performed during the period February through May 2012 during ongoing contract negotiations between the IRS and the NTEU. This review was performed in the offices of the IRS Human Capital Officer's Official Time Program Unit in Oakland, California; Denver, Colorado; Chamblee, Georgia; Lowell, Massachusetts; Kansas City, Missouri; Trenton, New Jersey; and Austin and Dallas, Texas.

We conducted this inspection in accordance with the Council of the Inspectors General for Integrity and Efficiency Quality Standards for Inspections. Detailed information on our objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁸ Not all Union chapter presidents and chief stewards are full-time stewards. When these positions are considered part-time, stewards may exceed the 850 hour limit on Union time use provided sufficient time is accumulated to meet the minimum appraisal period required to receive an annual rating of record. An exception may also be made for other part-time stewards if sufficient justification is provided in the Local Official Time Utilization Plans and the chapter has appointed no full-time stewards.

⁹ 2009 National Agreement II, Article 9, *Stewards and Official Time*, Section 2.P.

¹⁰ The LOTUPs are plans which document full- and part-time stewards and official and bank time matters related to steward travel, training, release from duty, appeals of denied requests to use time, *et cetera*, at the local level. The LOTUPs are also disseminated to the supervisors of Union stewards in order to help educate and assist IRS leadership with properly managing stewards' requests for and use of official and bank time for Union activities.

¹¹ The OTCs service NTEU chapters across the East, Mideast, Midwest, North Plains, Northeast, Southeast, and West regions of the United States.



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Results of Review

The Office of Personnel Management reported that in Fiscal Year (FY) 2010 the unions in Federal agencies used an average of 2.58 hours per BUE on representational matters.¹² During this same time period, the IRS had a PCR rate of 7.1 hours, which is 175 percent higher than the Federal average and the fourth highest among the 61 Federal agencies included in the report. Only three Federal agencies had PCRs greater than the IRS; however, those agencies represented a combined BUE total of less than 3 percent of the IRS’s BUE total. Additionally, the IRS PCR was at least 70 percent higher than the PCRs for Federal agencies with at least 50,000 BUEs. Figure 1 compares IRS Union time charges to those agencies discussed above.

Figure 1: FY 2010 Comparison of the IRS PCR to Other Federal Agencies

| Rank by Highest PCR | Agency | BUEs | Hours | PCR |
|---------------------|--|------------------|------------------|-------------|
| 1st | National Labor Relations Board | 1,076 | 11,480 | 10.67 |
| 2nd | Railroad Retirement Board | 714 | 5,253 | 7.36 |
| 3rd | National Endowment for the Humanities | 39 | 280 | 7.18 |
| 4th | Treasury (including IRS) | 92,441 | 649,170 | 7.02 |
| | <i>Internal Revenue Service¹³</i> | <i>84,897</i> | <i>603,130</i> | <i>7.10</i> |
| 12th | Social Security Administration | 54,875 | 229,311 | 4.18 |
| 17th | Veterans Affairs | 240,405 | 809,740 | 3.37 |
| 27th | Homeland Security | 64,080 | 130,583 | 2.04 |
| 43rd | Defense | 440,452 | 348,704 | 0.79 |
| | All Federal Agencies | 1,185,685 | 3,062,842 | 2.58 |

Source: Department of the Treasury’s Call for Fiscal Year 2010 Official Time Data Report and the Office of Personnel Management’s Official Time Usage in the Federal Government Fiscal Year 2010 Survey.

In an effort to decrease Union time charges, the IRS and the NTEU (collectively, “the parties”) committed to reducing the amount of official and bank time used for representational activities by 5 percent during each year of the Agreement. If the IRS and NTEU were able to reduce

¹² Office of Personnel Management’s *Official Time Usage in the Federal Government Fiscal Year 2010 Survey*.

¹³ The Department of the Treasury report included 6,894 hours charged by non-stewards, which were not included in the scope of our review.



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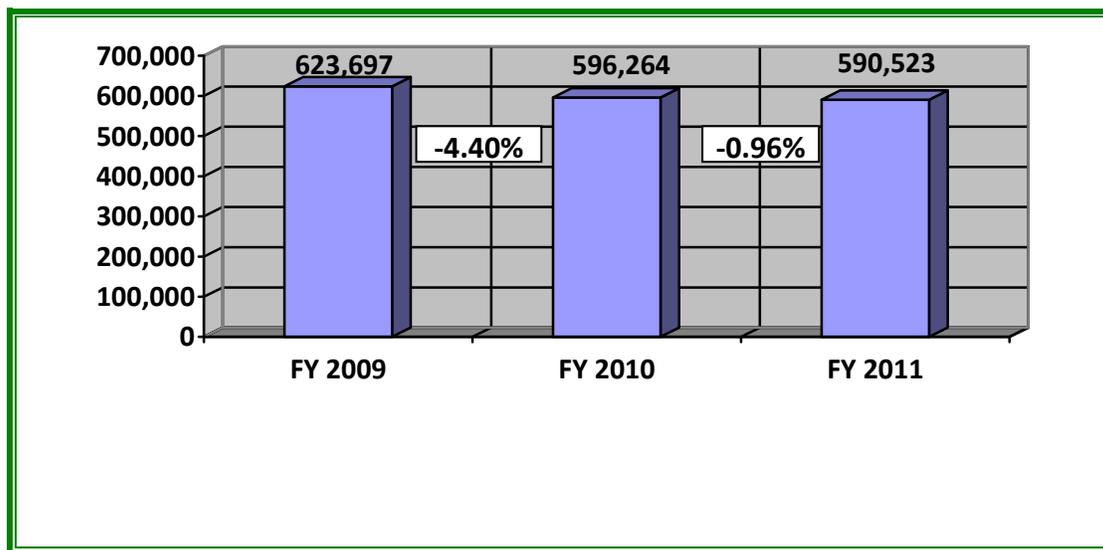
Union time charges by 5 percent each year, it would take the parties approximately 20 years to reduce the IRS PCR to 2.58 hours.

The parties reduced Union time charges during the first two years of the Agreement (FYs 2010 and 2011). However, they did not achieve their goal to reduce Union time charges by 5 percent during each contract year of the Agreement, primarily because the parties did not implement procedures and policies to address all aspects of Union time charges. In May 2012, the IRS informed us that it no longer plans to pursue the annual 5-percent reduction goals for Union time use, although the IRS Human Capital Officer indicated that he would like IRS Union time charges to be consistent with other Federal Agencies. On June 14, 2012, the parties agreed to make revisions to the Agreement that could reduce union time charges. However, additional modifications are required to increase the likelihood of achieving future Union time reductions, and significant changes are required to reduce time charges to the level of other Federal agencies.

Reduced Union Time Goals Were Not Met

According to the IRS's reports, the parties reduced overall Union time charges by approximately 4.40 and 0.96 percent for FYs 2010 and 2011, respectively. Figure 2 illustrates the Union time reductions during the first two years of the Agreement.

Figure 2: Reduction in Total Union Time Charges (in Hours)



Source: IRS Official Time and Bank Time Reports for FYs 2009 through 2011.

The decrease between FY 2009 and 2010 is partly due to the method used to calculate Union time charges. The IRS captures Union time charges weekly and the reporting period for each fiscal year generally includes 52 weeks. However, every few years the IRS's reporting period includes 53 weeks, which is what occurred in FY 2009. If Union time charges were compared



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using the last 52 weeks for FY 2009, the reduction in Union time charges between FY 2009 and 2010 would be about 2.53 percent instead of 4.40 percent. The figure in Appendix V documents the reporting periods for FY 2008 through FY 2011.

The goals to reduce bank time charges were not consistently met

In order to achieve the goal of reducing Union time charges by 5 percent for each year of the Agreement, the parties established target reduction goals for bank time for each chapter based on its PCR and offered incentives to those chapters that met those reduction goals. The chapter reduction goals are:

- Five-percent reductions for chapters with a PCR greater than 3.5 hours.
- Two-percent reductions for chapters with a PCR between 3.0 and 3.5 hours.
- No reduction goal for chapters with a PCR less than 3.0 hours, as long as these chapters do not increase bank time use by more than 5 percent of the current year's allocation.

According to the Agreement, if a chapter achieves the reduction goals, the IRS would reimburse the chapter for travel and per diem expenses for an additional steward to attend NTEU National Office training. If the reduction goals were met for a second consecutive year, the IRS would reimburse the chapter for the balance of the chapter's cost of the next invoked and completed arbitration or for travel and per diem expenses for an additional steward to attend NTEU National Office training.

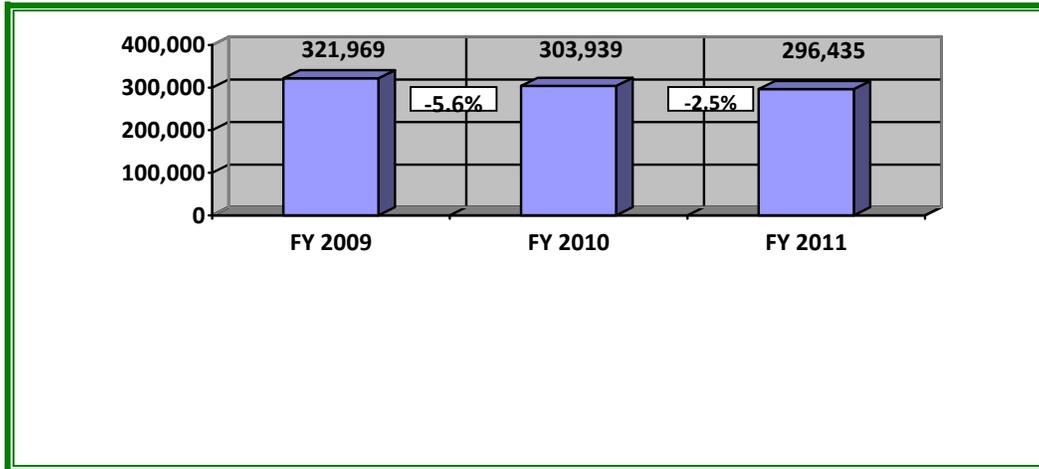
As documented in Figure 3, the parties reduced bank time charges during the first year of the Agreement (FYs 2009 to 2010) by 5.6 percent.¹⁴ However, they only reduced bank time charges by 2.5 percent during the second year of the Agreement, and 54 percent of the chapters (59 of 109) did not achieve bank time reduction goals (as seen in Figure 4).

¹⁴ The hours charged FY 2009 is based on 52 weeks of data instead of 53 weeks. If the hours charged for FY 2009 were based on 53 weeks of data, the decrease in time charges would be 7.6 percent instead of 5.6 percent.



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Figure 3: Reductions to Bank Time Charges



Source: Analysis of data (for 52 weeks) obtained from the IRS's Single Entry Time Reporting System.¹⁵

Figure 4: Union Chapters That Did Not Meet FY 2011 Reduction Targets

| FY 2011 Reduction Targets | # of Chapters | Goals Not Met | Percentage |
|---|---------------|---------------|------------|
| 5% Reduction Goal | 75 | 42 | 56% |
| 2% Reduction Goal | 6 | 5 | 83% |
| No Reduction, but No More Than 5% Increase in Use | 28 | 12 | 43% |
| | 109 | 59 | 54% |

Source: Data extracted from the IRS's Single Entry Time Reporting System.

Bank time allocations and reduction goals did not encourage declines in bank time

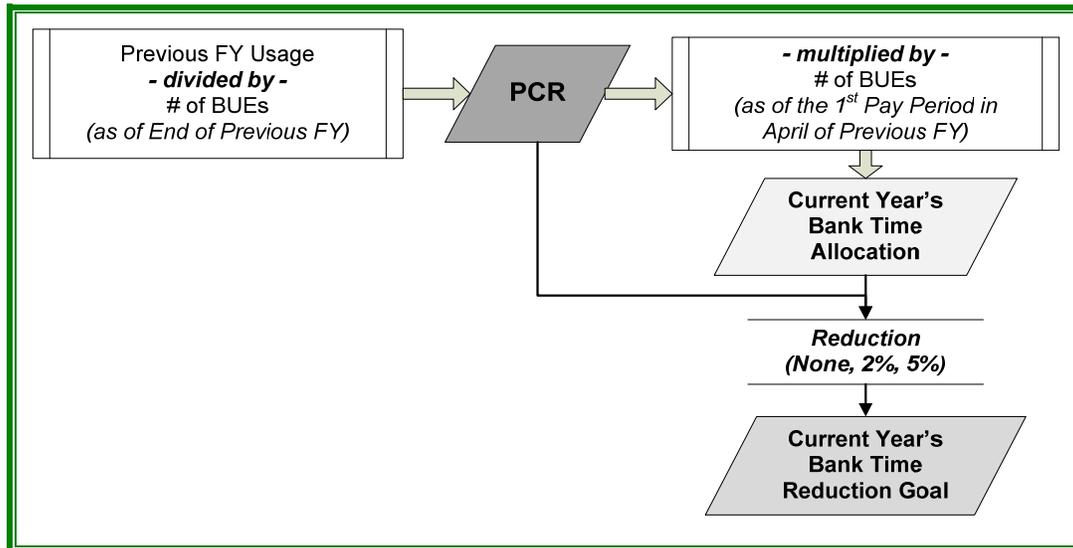
The IRS estimates reduction goals for NTEU chapters based on the current contract year's allocation of bank time. In order to determine a chapter's bank time allocation, the IRS and the NTEU agreed to base the allocation on the chapter's previous year's use and PCR. Figure 5 illustrates the process used to calculate bank time allocations based on the Agreement.

¹⁵ The Single Entry Time Reporting System is the IRS's time and attendance system.



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Figure 5: Method Used for Calculation of Bank Time Allocations



Source: Discussion with Official Time Program Manager, and the 2009 National Agreement II, Article 9, Stewards and Official Time, Section 2.G.

As documented above, the method used to calculate bank time allocations is based on the number of BUEs at two different time periods. The IRS calculates a chapter's PCR using the number of BUEs as of the end of the previous fiscal year (near the end of September). Then the IRS multiplies the PCR by the number of BUEs as of the first pay period in April of the previous contract year.¹⁶ The IRS hires seasonal employees during the tax season,¹⁷ which results in a greater number of BUEs in April than the end of the fiscal year for most chapters. Therefore, the IRS calculation for the chapters' bank time allocations generally results in an increase of bank time hours. For FY 2011, 93 chapters had more BUEs during the tax filing season than at the end of the fiscal year; only 13 chapters had fewer BUEs during the tax filing season than at the end of the fiscal year. Two chapters had no change. Figure 6 shows the difference that could occur in the number of BUEs during the two time periods.

¹⁶ In practice, the time period used to calculate the number of BUEs could be the pay period ending closest to the end of March or the beginning of April.

¹⁷ The tax season is defined as the time period between January 1 and April 15 of each year in which individuals traditionally prepare the previous year's financial statements and reports.



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**Figure 6: Difference in the Number of BUEs
Used for the Bank Time Allocation for FY 2012¹⁸**

| | | |
|--------------------------------------|---------|----------------|
| BUEs as of September 25, 2011 | | 81,061 |
| 93 Chapters Had More BUEs | + 4,753 | |
| 13 Chapters Had Less BUEs | - 122 | |
| 2 Chapters Had No Change | 0 | |
| Total BUE Increase | | 4,631 |
| BUEs as of March 28, 2011 | | 85,692 |
| Percentage of Change | | + 5.40% |

Source: IRS's Fiscal Year 2012 Bank Time Allocation.

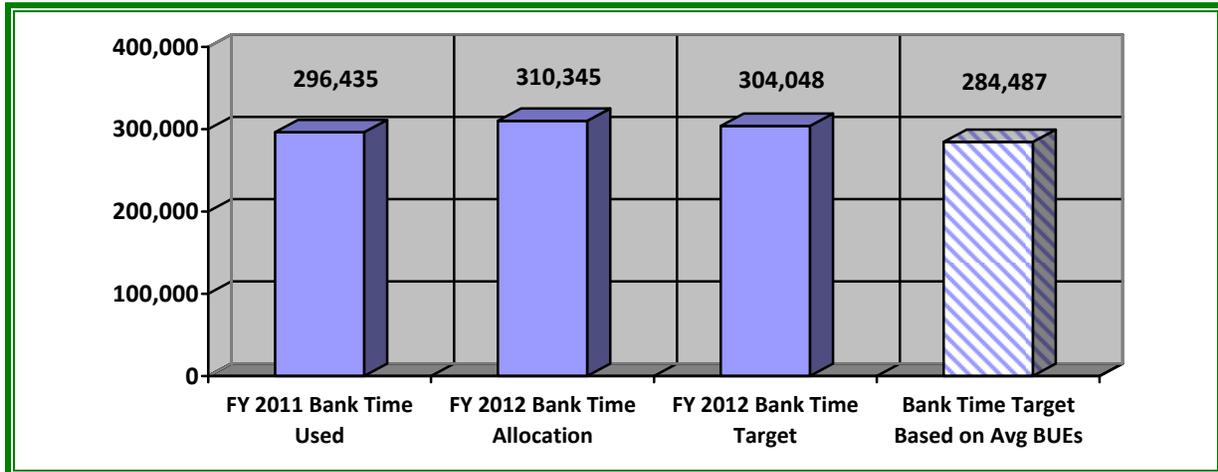
Using the methodology described above, the IRS calculated a bank time allocation of 310,345 hours for FY 2012, which was 13,910 hours more than the bank time used in FY 2011. The IRS then used the FY 2012 bank time allocations to calculate bank time target reduction goals for each chapter. As a result, the IRS calculated an overall bank time target reduction goal for FY 2012 of 304,048 hours, 7,613 (about 3 percent) more hours than those used for FY 2011. Had the IRS used the average of the number of BUEs for the two dates above, the target bank time would have totaled 284,427 hours, 12,008 (4 percent) fewer than those used by the IRS in FY 2011. Figure 7 shows this comparison.

¹⁸ Chapter 70 was closed during FY 2011; as a result, we did not consider that chapter's BUEs in Figure 6.



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**Figure 7: FY 2011 Bank Time Use Compared to
FY 2012 Bank Time Allocations and Target Reduction Goals**



Source: IRS's FY 2012 Bank Time Allocation. The FY 2012 Allocation and Incentive totals include only 108 chapters because Chapter 70 no longer exists.

We did not make a recommendation related to this issue because the IRS revised its methodology for computing the PCR. Furthermore, the IRS and the NTEU negotiated and agreed the bank time allocations for FYs 2013 and 2014 for each chapter would be the same as the bank time used by each chapter for FY 2011.

Incentives were not established for reducing official time use

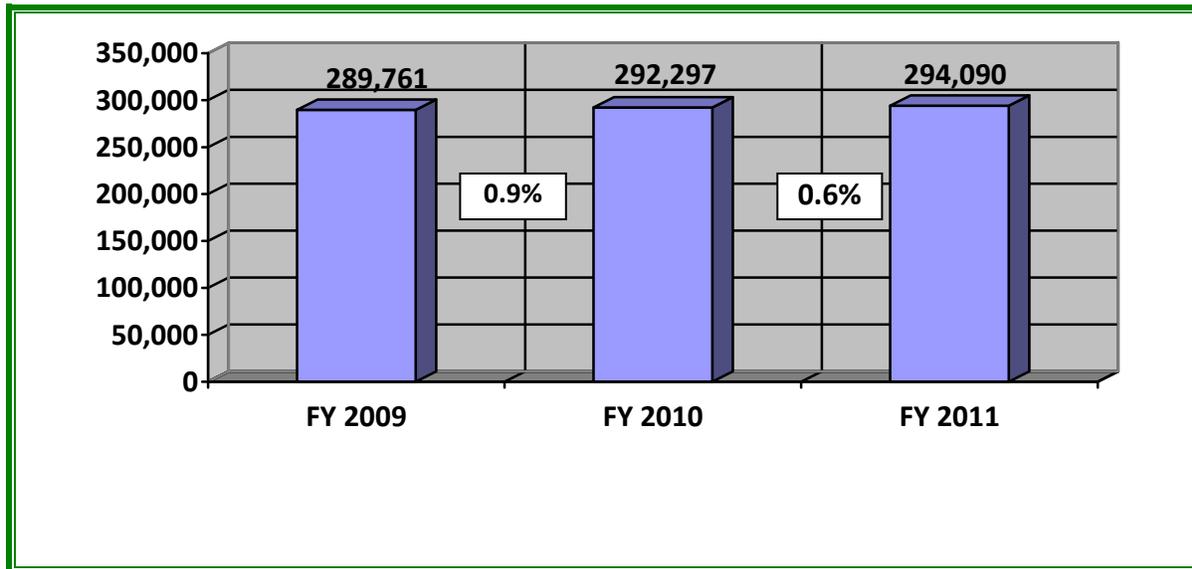
With exception to the overall goal of reducing Union time by 5 percent, the IRS and the NTEU did not establish similar incentives and target reduction goals for reducing official time use as they did for bank time. Official time accounted for approximately 50 percent of all Union time charges for FY 2009 through 2011.¹⁹ In order to reduce Union time charges for official time, the parties attempted to limit and consolidate the number of formal 'face-to-face' meetings related to grievances, personnel policies or practices, and other general conditions of IRS employment where the Union was given the opportunity to be represented. The OTCs monitor official time, in addition to bank time, for obvious errors. Despite those efforts, official time increased by nearly 1 percent during each year of the first two years of the Agreement, as seen in Figure 8.

¹⁹ Official time accounted for 47, 49, and 50 percent of total Union time charges in FYs 2009, 2010, and 2011, respectively.



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Figure 8: Increases in Official Time Charges



Source: Data (for 52 weeks) extracted from the IRS's Single Entry Time Reporting System.

Recommendation

Recommendation 1: *****Code Number 7*****

Management's Response: *****Code Number 7*****

More information is required to identify opportunities to reduce Union time charges

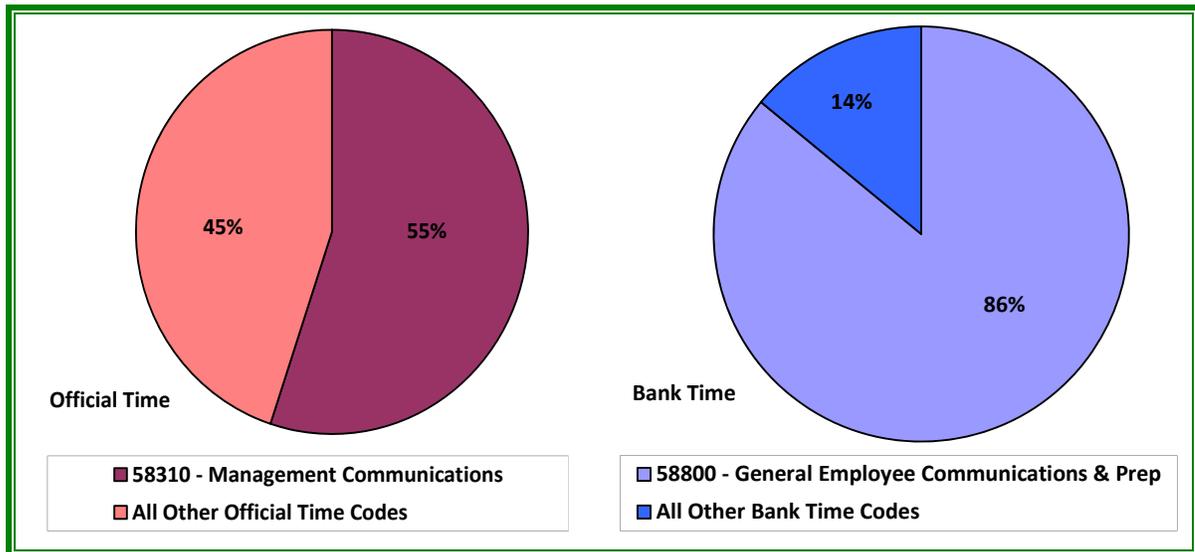
The IRS and the NTEU have 16 time codes (10 for official time and six for bank time) for use by Union stewards in order to account for time spent on Union activities.²⁰ Of the 16 time codes, the two general communication codes account for the majority of Union time charges for official and bank time. The official time code 58310 accounted for 55 percent of official time used in FY 2011, and the bank time code 58800 accounted for 86 percent of bank time used in FY 2011 (see Figure 9).

²⁰ See Appendix VI for a complete list of all time codes.



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Figure 9: FY 2011 Union Time Used by Time Codes



Source: Data extracted from the IRS's Single Entry Time Reporting System.

The official time code 58310 includes the following Union activities:

- Meetings with the employer for the purpose of presenting replies to proposed termination of probationers.
- Tax audits of unit employees that are conditions of employment when the employees request representation.
- Attending U.S. Occupational Safety and Health Administration field council meetings.
- Communications with management, whether written, electronic, or telephonic.
- Meetings of committees established as a result of nationally or locally negotiated agreements.

The bank time code 58800 includes the following Union activities:

- Conferring with employees on matters for which remedial relief may be sought.
- Preparing witnesses in any proceeding.
- Reviewing documents.
- Preparing a reply to a notice of proposed disciplinary, adverse, or unacceptable performance action.



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- Meeting with national staff representatives of the Union in connection with a grievance, arbitration, or unfair labor practice charge.
- Preparing and maintaining records and reports required of the Union and other Government agencies.
- Coordinating labor-management meetings and other authorized representational activities.
- Responding to contacts from Congress, but not to lobby a member of Congress or staff person of a member of Congress.
- Related communications whether written, electronic, or telephonic.
- Activities related to the Employee Engagement Survey.

As noted above, the IRS and the NTEU use the two general time codes to account for numerous Union activities. However, the time codes do not provide enough detail for the IRS or other parties to adequately account for Union activities and identify opportunities to reduce Union time charges. As a result, the IRS cannot readily analyze the use of these time codes to identify which of the activities account for the majority of the time used.

Recommendation

Recommendation 2: *****Code Number 7*****

Management's Response: *****Code Number 7*****

Justifications for the number of full-time stewards are not apparent

In FY 2011, 217 full-time stewards accounted for approximately 52 percent of all Union time charges.²¹ Full-time stewards are permitted to engage in labor-management activities on a

²¹ In FY 2011, full-time stewards used approximately 306,319 (52 percent) of the 590,525 total hours reported, and part-time stewards used roughly 284,207 (48 percent) hours. Due to steward attrition, internal rotations, and acting assignments, the totals for full- and part-time steward time use are approximations of the 590,525 hours used in FY 2011.



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full-time basis without limitation on their use of official and bank time. IRS OTCs and chapter presidents or designated chapter representatives must negotiate the number of full-time stewards for a chapter based on criteria outlined in the Agreement. According to the criteria, a chapter with fewer than 125 BUEs may not appoint a full-time steward unless the employees represented by the chapter are located in more than four duty locations or the parties mutually agree and the level of activity, *e.g.*, meetings with IRS leadership, formal grievances, and formal meetings, within the chapter justifies the appointment of a full-time steward. The criteria outlined in the Agreement set minimum requirements for having a full-time steward for a chapter; however, the Agreement does not have criteria to limit the number of full-time stewards in a chapter.

IRS OTCs and NTEU chapter presidents or designated chapter representatives should negotiate the number of full-time stewards for each chapter, and the number of full-time stewards should be documented in each chapter’s LOTUP. We found that 82 of the 109 Union chapters have appointed at least one full-time steward and, while full-time stewards were identified by either name or title, none of the LOTUPs we reviewed for these chapters documented how the parties determined the appropriate number of full-time stewards assigned to a chapter. We attempted to compare the number of BUEs to the number of full-time stewards to determine whether the number of full-time stewards was reasonable. We generally found there was no correlation between the number of full-time stewards and the number of BUEs. Figure 10 documents the apparent lack of correlation between the number of full-time stewards and the number of BUEs.

Figure 10: Comparison of BUE to the Number of Full-Time Stewards for FY 2011

| # of Full-Time Stewards | Chapters Per Category | Bargaining Unit Employees | | # of Full-Time Stewards | Chapters Per Category | Bargaining Unit Employees | |
|-------------------------|-----------------------|---------------------------|---------|-------------------------|-----------------------|---------------------------|---------|
| | | Range | Average | | | Range | Average |
| 0 | 27 | 29 – 243 | 99.1 | 5 | 1 | 1,739 | 1,739.0 |
| 1 | 31 | 96 – 930 | 360.0 | 6 | 4 | 1,234 – 2,089 | 1,637.3 |
| 2 | 27 | 177 – 1,082 | 461.6 | 7 | 0 | n/a | n/a |
| 3 | 7 | 542 – 3,200 | 1,385.9 | 8 | 3 | 3,342 – 5,049 | 4,096.7 |
| 4 | 6 | 865 – 2,135 | 1,376.2 | 9 + | 3 | 4,296 – 7,022 | 5,642.7 |

Source: Data extracted from the IRS’s Single Entry Time Reporting System and data from the Official Time Program Coordinator. For an itemized list of the above information, see Appendix IV.

The OTCs stated their methodology for determining the appropriate number of full-time stewards includes, but is not limited to, the chapters’ BUEs, level of activity, and current number of full-time stewards, along with a comparison of those variables to other similarly structured chapters throughout the IRS. This methodology allows for a more subjective analysis and is more prone to individual customization because there are no written criteria for assisting in the determination of the number of full-time stewards above the minimum number of stewards outlined in the Agreement. *****Code Number 7*****



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Recommendation

Recommendation 3: *****Code Number 7*****

Management's Response: *****Code Number 7*****

Office of Inspections and Evaluations Comment: *****Code Number 7*****

Oversight of part-time stewards

In FY 2011, 1,881 part-time stewards accounted for roughly 48 percent of all official and bank time hours reported.²² Part-time stewards are permitted to engage in labor-management activities on a part-time basis. With the exception of chapter presidents and chief stewards, all stewards not identified as full-time stewards are limited to a cumulative use of 850 hours of official and bank time during the calendar year.²³ Because part-time stewards are not authorized to engage in Union labor-management activities on a full-time basis, according to the Agreement, they must request official and bank time from their immediate supervisor in order to be released from their

²² Due to attrition and internal rotations of Union stewards within chapters, an exact number of hours used while part-time stewards for the fiscal year was not available.

²³ Not all Union chapter presidents and chief stewards are full-time stewards; when these positions are considered part-time, the stewards are not required to meet the 850 hour limit on Union time use. However, per the Agreement, an exception may be made for other stewards if sufficient justification is provided in the LOTUP and the chapter has appointed no full-time stewards.



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regular tour of duty to perform labor-management activities (this process is referred to as “Check-In and Check-Out”).²⁴

While IRS managers have the authority to question or deny a steward’s request for release from duty, per the Agreement, any denial of release or disagreement about the amount of time may be challenged by the steward or Union chapter. During FYs 2010 and 2011, the OTCs received 108 and 250 cases where requests for release were formally denied and subsequently challenged by either the Union steward or chapter. In cases where denials are formally documented, the OTCs review the request for release, supporting details, and the managers’ reasons for denial. Subsequently, the OTCs provide managers with guidance on approval, disapproval, or modification of the request to allow for an appropriate time of release from duty for the stewards to engage in labor-management activities.

Unlike their full-time counterparts, the number of part-time stewards is not negotiated, and appointment is at the complete discretion of the local chapter. Although the IRS cannot control the number of the part-time stewards, it does control and monitor the amount of time part-time stewards can use on an annual basis, with the exception of chapter presidents and chief stewards. The OTCs are responsible for monitoring the hours of part-time stewards and, when the steward is approaching the 850-hour limit, notifying the stewards’ manager and requesting that the manager monitor requests from the steward to ensure the steward does not exceed the time limit. When the steward has met or exceeds the 850 hours, managers, under the guidance of the OTCs, issue a letter to the employee and a letter to the chapter president informing both the steward and chapter that the steward can no longer use official and bank time. Employees generally stop charging Union time when notified to do so. If the steward does not abide by the directive to stop using official Union time, the OTCs have the capability to remove the stewards’ access to Union time codes in the Single Entry Time Reporting system. In Calendar Year 2011, only 12 part-time stewards, who were not chapter presidents or chief stewards, exceeded the 850-hour limit for Union time charges established in the Agreement.

LOTUPs were not current with the Agreement

Per the Agreement, a LOTUP should be negotiated and established for each chapter. Annually the responsible OTC and designated local Union representative are permitted to establish new, or reopen existing, LOTUPs for discussion. Each LOTUP covers a one-year period and may be reopened within the last 30 days of the LOTUP period. The Agreement does not require that the LOTUPs remain current with the Agreement; however, it does require that the parties complete negotiations for Union chapters without the LOTUPs within 60 days of the implementation of the Agreement, which was October 1, 2009.

For FY 2012, we found that the IRS and the NTEU had not revised the LOTUPs for 80 of the 108 chapters since the Agreement was implemented.²⁵ The OTCs stated that some LOTUPs are

²⁴ 2009 National Agreement II, Article 9, *Stewards and Official Time*, Section 2.P.



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not renegotiated due to disagreements on wording and the number of full-time stewards (the IRS wishes to reduce the number of full-time stewards and the chapters want an increase). As a result, the LOTUPs are outdated and less useful.

Aside from training related to the Agreement for new managers and specific training provided by the OTCs, IRS supervisors should refer to the Agreement and the LOTUPs to properly manage Union steward official and bank time use. IRS supervisors and managers may not be as familiar with the language and criteria in the Agreement as the OTCs. Therefore, providing managers with the LOTUPs that have not been updated and reference sections of an Agreement that are no longer applicable limits managers' ability to effectively follow guidance to approve and manage steward requests for official and bank time.

Recommendation

Recommendation 4: *****Code Number 7*****

Management's Response: *****Code Number 7*****

Agreed Upon Changes to the Agreement Could Improve the Management of Union Time

In September 2011, pursuant to Article 54 of the Agreement, the IRS and the NTEU exercised their right to reopen the contract and five existing articles per party. On June 14, 2012, the parties agreed to make revisions to the Agreement. These revisions will make several changes to the management of time use for Union activities and could assist the IRS and the NTEU in achieving future reductions in official and bank time use. The planned implementation of the new Agreement is set for October 1, 2012.

The IRS and the NTEU agreed to make the following changes to the Agreement:

1. In an attempt to make further reductions in the use of bank time for representational purposes, bank time allocations for FYs 2013 and 2014 will be based on the amount of bank time used in FY 2011 for each chapter.

²⁵ There were 108 active chapters in FY 2012, because Chapter 70 was closed near the end of FY 2011.



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2. For chapters not achieving a reduction in bank time, disincentives will be added to the contract, including specific percentage reductions, a reduction in the number of full-time stewards, or suspension of the ability to request additional bank time.
3. For chapters achieving targeted reductions in the use of bank time, additional incentives will be added to the contract.
4. To provide greater accountability for the use of official time, stewards who are subject to Check-In and Check-Out procedures and who are requesting official time for an activity conducted by another manager must provide the name of the other manager or the location of the activity if the name of the manager is not known.

We believe implementation of these proposed changes to Article 9 of the Agreement in conjunction with the recommendations in this report will assist the IRS and the NTEU in achieving future overall reductions in official and bank time use.



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Appendix I

Detailed Objective, Scope, and Methodology

The objective of our review was to determine whether the IRS has adequate controls in place to achieve its goal to reduce overall time charges for Union activities. To achieve our objective, we:

- I. Determined whether the IRS and the NTEU achieved their goal to reduce overall official and bank time by 5 percent for each year of the contract.
 - A. Obtained and reviewed data for Union time charges for FYs 2009 through 2011.
 - B. Documented trends related to Union time charges.
 - C. Interviewed IRS Human Capital Office personnel to determine why the goal was not achieved, and discussed corrective actions planned or completed to achieve the stated goal.
- II. Determined whether the IRS reviewed and approved the LOTUPs¹ submitted by local chapters, and determined whether the LOTUPs were consistent with the goal to reduce overall Union time charges.
 - A. Interviewed the Official Time Program Unit manager, coordinator, and the OTCs.
 - B. Determined whether the OTCs obtained, reviewed, and approved utilization plans for each Union chapter.
 - C. Obtained a list of full-time Union stewards for FY 2011, and determined whether the total is in compliance with the Agreement.
- III. Determined whether the IRS has controls in place to ensure Union time charges for part- and full-time Union stewards are approved and within limits established in the Agreement.
 - A. Determined if any part-time stewards, other than part-time chapter presidents and chief stewards, exceeded the 850-hour limit for official time and bank time outlined in the Agreement.
 - B. Determined how time charges for part-time stewards are monitored to ensure part-time stewards do not exceed established limits.

¹ The LOTUPs are plans which document full- and part-time stewards and official and bank time matters related to steward travel, training, release from duty, appeals of denied requests to use time, *et cetera*, at the local level. The LOTUPs are also disseminated to the supervisors of Union stewards in order to help educate and assist IRS leadership with properly managing stewards' requests for and use of official and bank time for Union activities.



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- C. Determined whether the IRS has controls in place to ensure management approves requests made by part-time stewards to conduct Union activities.
- D. Determined whether IRS managers receive training related to Union time charges.
- E. Reviewed the two most recent semiannual reports for official and bank time denials to determine the number of requests denied and reasons for denials.



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Appendix II

Major Contributors to This Report

Kevin P. Riley, Director, Inspections and Evaluations
James A. Douglas, Supervisory Program Analyst
Dolores M. Castoro, Auditor
John L. da Cruz, Program Analyst



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Appendix III

Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Operations Support OS
Deputy Chief Financial Officer, Department of the Treasury
Chief Human Capital Officer OS:HC
Audit Liaison:
 Deputy Commissioner for Operations Support OS



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Appendix IV

*Fiscal Year 2011 Individual Chapter
Per Capita Rates, Bargaining Unit Employees,
and Full-Time Stewards*

| CHAPTER | Full-Time Stewards¹ | BUEs as of 9/25/11 | PCR |
|----------------|---------------------------------------|---------------------------|------------|
| 1 | 2 | 342 | 5.69 |
| 2 | 0 | 61 | 6.44 |
| 3 | 0 | 153 | 10.11 |
| 4 | 1 | 246 | 5.48 |
| 5 | 0 | 90 | 7.73 |
| 6 | 2 | 288 | 5.75 |
| 7 | 0 | 91 | 7.45 |
| 8 | 0 | 54 | 3.93 |
| 9 | 1 | 709 | 3.15 |
| 10 | 4 | 1,180 | 5.22 |
| 11 | 0 | 132 | 8.00 |
| 12 | 2 | 275 | 10.25 |
| 13 | 1 | 159 | 6.31 |
| 14 | 3 | 952 | 5.43 |
| 15 | 2 | 360 | 5.60 |
| 16 | 4 | 1,217 | 3.54 |
| 17 | 0 | 243 | 3.94 |
| 18 | 0 | 200 | 4.88 |

¹ Full-time stewards who charged time for Union activities during FY 2011.



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| CHAPTER | Full-Time Stewards¹ | BUEs as of 9/25/11 | PCR |
|----------------|---------------------------------------|---------------------------|------------|
| 19 | 0 | 63 | 5.37 |
| 20 | 2 | 1,061 | 4.11 |
| 22 | 4 | 966 | 4.37 |
| 23 | 3 | 666 | 6.79 |
| 24 | 2 | 869 | 5.45 |
| 25 | 1 | 211 | 4.62 |
| 26 | 5 | 1,739 | 2.07 |
| 27 | 0 | 137 | 3.32 |
| 29 | 1 | 423 | 9.42 |
| 30 | 2 | 1,082 | 3.50 |
| 31 | 0 | 32 | 7.26 |
| 32 | 3 | 902 | 4.74 |
| 33 | 2 | 509 | 3.28 |
| 34 | 2 | 725 | 4.37 |
| 35 | 1 | 116 | 4.54 |
| 36 | 1 | 412 | 0.90 |
| 37 | 2 | 546 | 4.64 |
| 38 | 0 | 35 | 10.61 |
| 39 | 2 | 497 | 6.77 |
| 40 | 1 | 546 | 3.41 |
| 41 | 1 | 113 | 8.85 |
| 42 | 0 | 70 | 5.78 |
| 43 | 1 | 541 | 2.29 |
| 44 | 0 | 49 | 6.82 |
| 45 | 1 | 349 | 3.75 |



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| CHAPTER | Full-Time Stewards¹ | BUEs as of 9/25/11 | PCR |
|----------------|---------------------------------------|---------------------------|------------|
| 46 | 4 | 1,894 | 3.32 |
| 47 | 6 | 1,234 | 1.76 |
| 48 | 2 | 777 | 3.83 |
| 49 | 1 | 665 | 2.38 |
| 50 | 1 | 574 | 2.41 |
| 51 | 0 | 151 | 4.78 |
| 52 | 2 | 586 | 3.96 |
| 53 | 2 | 251 | 12.59 |
| 54 | 1 | 96 | 11.42 |
| 55 | 1 | 195 | 6.84 |
| 56 | 0 | 94 | 9.04 |
| 57 | 0 | 87 | 4.32 |
| 58 | 1 | 930 | 1.68 |
| 59 | 0 | 190 | 4.48 |
| 60 | 4 | 865 | 5.48 |
| 61 | 2 | 177 | 1.67 |
| 62 | 1 | 610 | 4.53 |
| 64 | 1 | 304 | 4.21 |
| 65 | 3 | 3,200 | 1.11 |
| 66 | 8 | 5,049 | 2.22 |
| 67 | 9 | 5,610 | 3.34 |
| 68 | 6 | 1,870 | 4.02 |
| 69 | 0 | 60 | 4.12 |
| 70 | 2 | 222 | 10.71 |
| 71 | 8 | 3,342 | 2.16 |



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| CHAPTER | Full-Time Stewards¹ | BUEs as of 9/25/11 | PCR |
|----------------|---------------------------------------|---------------------------|------------|
| 72 | 8 | 3,899 | 2.56 |
| 73 | 11 | 4,296 | 2.09 |
| 74 | 0 | 70 | 12.93 |
| 75 | 0 | 42 | 20.50 |
| 77 | 1 | 211 | 4.46 |
| 78 | 1 | 646 | 2.94 |
| 79 | 0 | 77 | 4.26 |
| 81 | 1 | 133 | 8.89 |
| 82 | 1 | 750 | 1.55 |
| 83 | 1 | 122 | 11.87 |
| 84 | 1 | 239 | 4.76 |
| 85 | 2 | 244 | 11.43 |
| 86 | 1 | 201 | 5.12 |
| 87 | 2 | 220 | 8.61 |
| 90 | 0 | 154 | 1.15 |
| 92 | 2 | 295 | 7.19 |
| 93 | 3 | 542 | 2.28 |
| 97 | 14 | 7,022 | 4.17 |
| 98 | 6 | 2,089 | 2.64 |
| 99 | 3 | 2,835 | 1.51 |
| 100 | 0 | 29 | 1.79 |
| 107 | 2 | 240 | 9.80 |
| 108 | 3 | 604 | 5.73 |
| 117 | 0 | 113 | 10.12 |
| 118 | 2 | 187 | 8.39 |



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| CHAPTER | Full-Time Stewards¹ | BUEs as of 9/25/11 | PCR |
|----------------|---------------------------------------|---------------------------|------------|
| 124 | 1 | 202 | 3.10 |
| 193 | 1 | 608 | 3.57 |
| 198 | 1 | 147 | 6.43 |
| 222 | 2 | 830 | 2.21 |
| 233 | 2 | 376 | 6.45 |
| 234 | 2 | 212 | 6.71 |
| 238 | 2 | 385 | 4.60 |
| 239 | 2 | 489 | 4.11 |
| 247 | 6 | 1,356 | 5.50 |
| 249 | 1 | 131 | 5.50 |
| 252 | 0 | 156 | 9.03 |
| 253 | 0 | 42 | 7.20 |
| 267 | 1 | 234 | 3.30 |
| 270 | 2 | 419 | 4.49 |
| 271 | 1 | 338 | 9.74 |
| 284 | 4 | 2,135 | 2.94 |
| | 217 | 81,764 | |

Source: Chart created with data extracted from the IRS's Single Entry Time Reporting System² and data provided by the Official Time Program Unit.

² The Single Entry Time Reporting System is the IRS's time and attendance system.



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Appendix V

*Number of Weeks Included in the Reporting Cycles
for Fiscal Years 2008 Through 2011*

| FY | Starts | Ends | Days | Weeks |
|-----------|---------------|-------------|-------------|--------------|
| 2011 | 10/3/2010 | 10/1/2011 | 364 | 52 |
| 2010 | 10/4/2009 | 10/2/2010 | 364 | 52 |
| 2009 | 9/28/2008 | 10/3/2009 | 371 | 53 |
| 2008 | 9/30/2007 | 9/27/2008 | 364 | 52 |

Source: The IRS's Official Time and Bank Time Reports for FYs 2008 through 2011.



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Appendix VI

*Fiscal Year 2011 Official and Bank Time
by Time Code*

| Official Time | | | |
|----------------------|---|------------------|----------------------------|
| Time Code | Description | Hours | Percentage of Total |
| 58300 | Formal meetings including 5 U.S.C. 7114(a)(2)(A) | 54,493.0 | 18.5 % |
| 58310 | Communications with management (see page 10 for a more complete list) | 161,877.3 | 55.0 % |
| 58320 | Grievance meetings and arbitration hearings | 8,494.5 | 2.9 % |
| 58330 | Statutory or regulatory matters and/or appeals | 5,597.2 | 1.9 % |
| 58340 | Activities required by Federal Service Labor-Management Relations Statute | 6,889.7 | 2.3 % |
| 58350 | Labor Management Relations Committee meetings | 1,895.9 | 0.6 % |
| 58360 | Prepare and meet for statutory complaints of discrimination | 2,249.8 | 0.8% |
| 58370 | Union-conducted training | 48,873.4 | 16.6 % |
| 58380 | National Business Improvement Committee meetings | 336.6 | 0.1 % |
| 58390 | Subcommittee meetings of Labor Management Relations Committee | 3,382.8 | 1.2 % |
| Total | | 294,090.2 | 100.0 %* |



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| Bank Time | | | |
|------------------|---|------------------|----------------------------|
| Time Code | Description | Hours | Percentage of Total |
| 58800 | Confer with employees and review documents (see page 10 for a more complete list) | 254,836.3 | 86.0 % |
| 58810 | Prepare grievances and prepare for arbitration | 37,226.1 | 12.6 % |
| 58820 | Prepare for Labor Management Relations Committee meetings | 479.4 | 0.2 % |
| 58830 | Prepare for Business Improvement Committee meetings | 112.5 | 0.0 % |
| 58840 | Prepare for subcommittee meetings of the Labor Management Relations Committee | 1,092.5 | 0.4 % |
| 58850 | Activities related to preparation for negotiations | 2,688.3 | 0.9 % |
| Total | | 296,435.1 | 100.1 %* |

Source: Data (for 52 weeks) extracted from the IRS's Single Entry Time Reporting System.¹

*Percentages do not total 100 percent due to rounding.

¹ The Single Entry Time Reporting System is the IRS's time and attendance system.



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Appendix VII

Management's Response to the Draft Report



HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

September 25, 2012

MEMORANDUM FOR R. DAVID HOLMGREN
DEPUTY INSPECTOR GENERAL FOR INSPECTIONS
AND EVALUATIONS

FROM:

David A. Krieg *David A. Krieg*
IRS Human Capital Officer

SUBJECT:

Draft Inspection Report – Inspection of Internal Revenue Service
Controls to Achieve Its Goal of Reducing Time Charges for
Union Activities (#IE-12-002)

We have received the draft audit report dated September 7, 2012, and appreciate having the opportunity to work with your auditors and to implement solutions to the issues identified. We acknowledge your findings and recommendations as they pertain to Reducing Time Charges for Union Activities.

We have taken steps to implement your recommendations, and our response is attached. If you have any questions, please contact me at (202) 622-7676, or a member of your staff may contact Phyllis Brown, Director, Workforce Relations Division, at (202) 622-6300.

Attachment



*Inspection of Internal Revenue Service Controls to Achieve
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*****Code Number 7*****



*Inspection of Internal Revenue Service Controls to Achieve
Its Goal of Reducing Time Charges for Union Activities*

*****Code Number 7*****