



**AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
NATIONAL VETERANS AFFAIRS COUNCIL #53**

**Affiliated with the AFL - CIO  
Mid-Term Bargaining Committee**

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March 26, 2018

Kimberly P. McLeod, Executive Director  
Office of Labor Management Relations (LMR)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Subject: Union Notification regarding the Request and Approval for the Use of Official Time

Dear Ms. McLeod:

We have received your notice concerning the Department's proposal to make mid-term changes referred to as "Request and Approval for the Use of Official Time." Please note that we have already negotiated how union representatives request and receive approval for official time in Article 48. In accordance with the Duration of Agreement, Section 3 – Reopener, the American Federation of Government Employees, (AFL-CIO), National Veterans Affairs Council #53 does not consent to add to, amend, or modify Article 48 – Official Time in the VA/AFGE Master Agreement, signed by the national parties on March 15, 2011, outside of term negotiations. As the Department knows, when parties are bargaining a term agreement and there is a valid collective bargaining in place, the Agency's intent to negotiate a midterm proposal is a permissive subject. *Servs. Soc. Sec. Admin.*, 47 FLRA 1004 (1993). Accordingly, the Union may elect to bargain or not bargain over the Agency's permissive proposals.

It is a matter of settled law that it is bad faith bargaining to insist on negotiating over a change in working conditions outside of bargaining for a new term agreement. *Internal Revenue Serv.*, 64 FLRA 934, 939 (2010) ("[T]he Agency breached its duty to bargain in good faith by insisting that the local AWS [midterm piecemeal] agreements be negotiated outside of term bargaining over the successor agreement."). Simply put, it is up to us to agree to negotiate any matter in mid-term once the term agreement is reopened. We decline to do so.

National VA Council #53 will be happy to discuss your proposals during term negotiations. I understand Ms. Lee has sent the Agency a communication on March 21, 2018 offering dates to meet. We look forward to your response to her invitation.

Additionally, the level of recognition is national, so AFGE Locals do not have the authority to engage their local management officials on the use of VATAS to track union representatives use of official time. Any such local negotiations can only be done once the national parties have agreed to a New Master Agreement.

**AFGE: Good Government We Are Ready**

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This is not a waiver of bargaining; it is our belief and understanding that this can and should be negotiated alongside other topics at the term table. If the Department has any authority to the contrary, please respond as soon as possible, so both parties can meet any and all bargaining obligations.

If you have any questions please contact me and Alma Lee by email. Thanks for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Oscar L. Williams, Jr." with a stylized flourish at the end.

Oscar L. Williams, Jr.  
Chairperson, Mid-Term Bargaining Committee  
2<sup>nd</sup> Executive Vice President  
National VA Council #53

cc: Alma L. Lee, President National VA Council #53  
NVAC Executive Committee