



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

November 20, 2014

The Honorable Darrell Issa
Chairman
Committee on Oversight
and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman

Administrator Contreras-Sweet has been asked to respond to your recent inquiry requesting the U.S. Small Business Administration (SBA) workforce data detailing the Agency's administrative leave use. Specifically, your letter requested SBA administrative leave use data and narrative responses to five questions. Along with responding to your questions, we are providing a short narrative to explain the limitations of SBA's Time and Attendance (T&A) system.

SBA's T&A system is called STARWeb. STARWeb is a proprietary system managed by the U.S. Department of Agriculture, National Finance Center (NFC), SBA's payroll services provider. The NFC STARWeb system limits SBA use to querying and creating report data for the most recent 26 pay periods (approximately one year of historical data). This is materially important because your inquiry is asking the Agency to respond to information in a recently published Government Accountability Office (GAO) October 2014 report. The GAO report, Use of Paid Administrative Leave, GAO-15-79, data and findings are partly based on an analysis of OPM's EHRI data from 2011-2013. SBA's T&A system does not maintain administrative leave data accessible to the Agency prior to November 3, 2013, Pay Period 22. Consequently, some of your questions cannot be answered by SBA, because this Agency does not maintain any administrative leave data for Fiscal Years 2011, 2012, 2013, or 2014 data from October 1, 2013, to November 2, 2013. However, as SBA's payroll service provider and the STARWeb system owner, NFC may have administrative leave data prior to November 3, 2013.

An additional complexity with the STARWeb system lies in how the system captures administrative leave data in its Payroll system. The STARWeb system leave data is validated and submitted as payroll data every two weeks by SBA. SBA employees use the NFC "My Employee Personal Page" to input their 80 hour pay period schedule of work hours and non-work hours (paid or unpaid). This data is transferred and recorded in the NFC Payroll system using NFC "Type of Work" Transaction Codes (TC) Work Descriptors¹. NFC's payroll system TC for administrative leave encompasses a broad range of options employees self-select as "Other Leave" paid absence options. However, SBA's T&A system does not provide distinguishing subcategory codes for many of the various types of administrative leave available or used.

¹ Employees can choose among 18 administrative leave TC categories: Agency Directed, Blood Donation, Bone Marrow Donor, Court Leave, Examination, Federal Holiday, Hazardous Weather Dismissal, Local Holiday, Office Closed, Office Closed - Red Alert, Organ Donor, OWCP (Illness), OWCP (Injury), Preventive Health Care, State Holiday, Transfer of Station, Voting and "Blank" (this encompasses a plethora of unique and authorized uses of administrative leave used by SBA, see SOP 36 00, Chapter 10, attached to this response).

Therefore, SBA cannot provide the requested “reason why each employee used administrative leave during a given period.” Even adjusting the FY 2014 STARWeb data for Federal holidays and “Time-off Awards,” SBA would not be able to transparently and accurately discern and report by category, the administrative leave used during the requested period. To address this system shortcoming and to migrate from its legacy T&A system, SBA and NFC are currently in the process of migrating from STARWeb to WebTA, NFC’s new T&A system. Depending on NFC’s deployment schedule, SBA envisions completing the WebTA migration during late Fiscal Year 2015 or early Fiscal Year 2016.

Below are your questions and SBA’s responses, based on Agency records and data available as of November 6, 2014:

1. Please provide agency policy on paid administrative leave. If no policy exists, please explain how the agency grants administrative leave, and what controls, if any, are in place to prevent it from being used for extended periods of time. If there are no such safeguards, please explain why not.

SBA’s Response:

SBA’s administrative leave directive is enclosed, see Standard Operating Procedure (SOP) 36 00, Attendance and Leave. Within the SOP, administrative leave is primarily discussed in Chapter 10, Other Leave. Additionally, enclosed please find the Master Labor Agreement (MLA), Article 19 (Other Leave and Absence).

2. How many employees were on paid administrative leave for more than one month in fiscal year (FY) 2014? What was the total cost to the agency in Fiscal Year 2014 in salaries and benefits for those employees’ paid administrative leave?

SBA’s Response:

There were ten (10) SBA employees who were on administrative leave for one month or more in FY 2014. SBA’s FY 2014 total cost for these 10 employees’ administrative leave use in salaries and benefits was approximately \$277,376.90. Costs associated with the ten Federal holidays were subtracted from the Agency’s FY 2014 administrative leave total hours and costs”?

3. How many employees are currently on paid administrative leave that have been on such leave for:

- a. 1-3 months,
- b. 3-6 months,
- c. 6-9 months, and
- d. 9-12 months.

Do not include an employee in more than one category. For each category, what is the total cost to the agency in salaries and benefits for those employees’ paid administrative leave?

SBA's Response:

SBA has two (2) employees who are currently on administrative leave. Both employees have accrued more than one month of administrative leave during FY 2014.

- a. 1-3 months – SBA has two employees with a cumulative total of approximately \$31,189.30 in salaries and benefits in this category;
- b. 3-6 months – SBA does not have any employees in this category;
- c. 6-9 months – SBA does not have any employees in this category; and
- d. 9-12 months – SBA does not have any employees in this category.

4. Excluding those referenced above, how many employees currently on paid administrative leave have been on such leave for more than a year? What is the total cost to the agency in salaries and benefits for those employees' paid administrative leave?

SBA's Response:

SBA does not have any employees who are currently on and have been on administrative leave for more than a year.

5. For the employees described in the GAO report as being on paid administrative leave for one year or more, as well as for the employees described above as being currently on administrative leave for more than a year, please provide for each employee a detailed narrative of the circumstances surrounding the extended paid leave, including:

- a. Position title and GS level.
- b. Employee division/office/component.
- c. Total compensation received while on administrative leave.
- d. Reason for being placed on administrative leave.
- e. Exact length of time on administrative leave.
- f. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.).
- g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid administrative leave.
- h. A full explanation of why the employee was not placed on some form of unpaid leave.

SBA's Response:

EMPLOYEE 1

- a. **Position title and GS level:** *Business Opportunity Specialist – GS-1101-09-03.*
- b. **Employee division/office/component:** *Region IX – Los Angeles/Sacramento District Office/Business Development.*
- c. **Total compensation received while on administrative leave:** *Approximately \$168,533.00.*
- d. **Reason for being placed on administrative leave:** *Employee was placed on administrative leave pending disciplinary action.*
- e. **Exact length of time on administrative leave:** *Approximately April 20, 2012 to August 28, 2014.*
- f. **Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.):** *Employee resigned from SBA on September 2, 2014.*
- g. **A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid administrative leave.** *The Agency removed the employee during the probationary period on February 12, 2012. After the employee appealed the removal to the Merit Systems Protection Board, on April 20, 2012, the Agency cancelled the removal to cure a procedural defect in the probationary removal process. The employee was reinstated into his former position in an administrative leave status, but was not given access to Agency facilities and systems because the Agency had not performed a favorably adjudicated background investigation.*

By letter dated March 13, 2013, the Agency proposed the employee's removal for failure to provide true and complete information during the Agency's background investigation process.

On August 28, 2014, the Agency rescinded the March 13, 2013 proposal to remove, and terminated the employee's administrative leave status. The employee was directed to return to a full-time, full-duty work status on September 2, 2014.

The employee was not able to perform other duties in another location because his background investigation was not favorably adjudicated by the Agency's Office of Inspector General. The employee did not provide the requested information to the Agency's Office of Inspector General for it to adjudicate his background investigation. A favorably adjudicated background investigation is a requirement for federal employment as well as to be issued a PIV card in accordance with Homeland Security Presidential Directive (HSPD) 12.

- h. A full explanation of why the employee was not placed on some form of unpaid leave.** *There is no existing statutory authority or policy to place an employee in an unpaid leave status when a disciplinary action is pending.*

EMPLOYEE 2

- a. **Position title and GS level:** *Business Development Specialist, GS 1101-12-01.*
- b. **Employee division/office/component:** *Region III – Philadelphia/Washington District Office/Business Development.*
- c. **Total compensation received while on administrative leave:** *Approximately \$129,942.00.*
- d. **Reason for being placed on administrative leave:** *Employee was placed on administrative leave pending disciplinary action.*
- e. **Exact length of time on administrative leave:** *Approximately October 24, 2011 to April 20, 2013.*
- f. **Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.):** *Employee resigned on April 20, 2013.*
- g. **A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid administrative leave.** *Employee's alleged misconduct raised serious doubts about the employee's continued fitness for employment at SBA and did not support returning the employee to duty or giving the employee access to SBA facilities or resources.*
- h. A full explanation of why the employee was not placed on some form of unpaid leave.** *There is no existing statutory authority or policy to place an employee in an unpaid leave status when a disciplinary action is pending.*

EMPLOYEE 3

- a. **Position title and GS level:** *Surety Bond Guarantee Specialist, GS-1101-12-04.*
- b. **Employee division/office/component:** *Office of Capital Access/Office of Surety Guarantee /Denver, CO.*
- c. **Total compensation received while on administrative leave:** *Approximately \$206,857.00.*
- d. **Reason for being placed on administrative leave:** *Employee was placed on administrative leave pending disciplinary action.*
- e. **Exact length of time on administrative leave:** *Approximately August 24, 2011 to June 26, 2013.*

- f. **Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.):** *Employee was returned to work status and is a current SBA employee.*
- g. **A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid administrative leave.** *The alleged misconduct and frequency of misconduct did not support returning the employee to duty or giving the employee access to SBA Information Technology.*
- h. **A full explanation of why the employee was not placed on some form of unpaid leave.** *There is no existing statutory authority or policy to place an employee in an unpaid leave status when a disciplinary action is pending.*

EMPLOYEE 4

- a. **Position title and GS level:** *Public Affairs Specialist, GS-1035-12-04.*
- b. **Employee division/office/component:** *Region VIII – Denver/Denver Regional Office/Regional Administrator.*
- c. **Total compensation received while on administrative leave:** *Approximately \$277,274.00.*
- d. **Reason for being placed on administrative leave:** *Employee was placed on administrative leave pending disciplinary action.*
- e. **Exact length of time on administrative leave:** *Employee was placed on administrative leave on June 10, 2010, pending disciplinary action. Employee remained on administrative leave while a proposal to remove was issued (on October 27, 2010), until a decision was issued sustaining the removal (on March 25, 2011). Pursuant to the decision letter, effective March 28, 2011, the employee was removed from Federal service. Thereafter, the employee appealed the removal to the Merit Systems Protection Board (MSPB) (on April 20, 2011). A hearing took place (November 8-10, 2011), and a decision was issued on April 20, 2012. Both parties appealed the decision, and as required by the Decision, the Agency provided “interim relief” to the employee effective April 20, 2012. The Board issued a decision on the appeal on May 28, 2014. Pursuant to the Board’s decision, the employee returned to work, at a downgrade, and a new position, effective June 17, 2014.*
- f. **Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.):** *Pursuant to a MSPB Decision, the employee was returned to duty, and reassigned to another position with a downgrade.*
- g. **A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid administrative leave.** *The duties of the employee’s former position required frequent interaction with the public and other SBA employees. Based on the nature and frequency of the charged*

misconduct, SBA did not deem it appropriate for the employee to have such contact, or to access SBA's Information Technology systems.

- h. **A full explanation of why the employee was not placed on some form of unpaid leave.** *There is no existing statutory authority or policy to place an employee in an unpaid leaves status when a disciplinary action is pending.*

We appreciate your support of SBA and small businesses. If you have additional questions, please contact Thad Inge, Acting Assistant Administrator for Congressional and Legislative Affairs, (202) 205-6700. This response letter is also being sent to Senator Grassley.

Sincerely,

Bridget E. Bean
Chief Human Capital Officer
and Deputy Chief Operating Officer

Enclosures:
SOP 36 00, Attendance and Leave
Article 19, Master Labor Agreement, Other Leave or Absence