

Appendix I – Letters to Agencies Regarding the Use of Administrative Leave

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Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Tom Vilsack
Secretary
U.S. Department of Agriculture
219A Whitten Building
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Vilsack:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.¹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.²

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.³ Placing employees on administrative

¹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

² *Id.*

³ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); pet. for rehearing denied by Miller v. Dep't of Defense, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Agriculture placed 12 employees on paid administrative leave for one year or more.⁴ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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

refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

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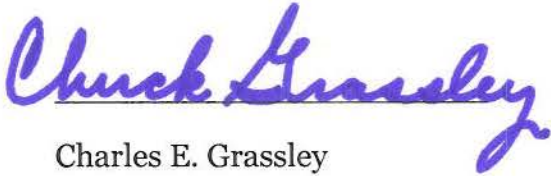
d. 9-12 months.

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley
Ranking Member
Judiciary Committee
U.S. Senate



Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Penny Pritzker
Secretary
U.S. Department of Commerce
Room 5421
Fourteenth Street and Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Pritzker:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁵ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁶

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁷ Placing employees on administrative

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leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Commerce placed 6 employees on paid administrative leave for one year or more.⁸ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
3. How many employees are currently on paid administrative leave that have been on such leave for:
 - a. 1-3 months;
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job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

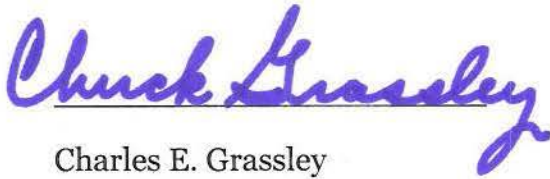
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Do not include an employee in more than one category. For each category, what is the total cost to the agency in salaries and benefits for those employees' paid administrative leave?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Chuck Hagel
Secretary
U.S. Department of Defense
1300 Defense Pentagon
Washington, DC 20301-1300

Dear Secretary Hagel:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.¹⁰

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.¹¹ Placing employees on administrative

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leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Defense placed 58 employees on paid administrative leave for one year or more.¹² Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
3. How many employees are currently on paid administrative leave that have been on such leave for:
 - a. 1-3 months;
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job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

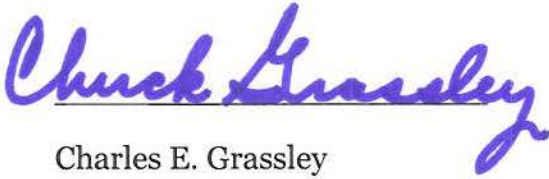
¹² GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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?

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?
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.
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 - g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate

A handwritten signature in blue ink that reads "Darrell Issa". The signature is fluid and cursive, with the first name "Darrell" and last name "Issa" clearly legible.

Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Ernest Moniz
 Secretary
 U.S. Department of Energy
 Forrestal Building, Room 7B138
 1000 Independence Avenue, SW
 Washington, DC 20585-0800400

Dear Secretary Moniz:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.¹³ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.¹⁴

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.¹⁵ Placing employees on administrative

¹³ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Energy placed 6 employees on paid administrative leave for one year or more.¹⁶ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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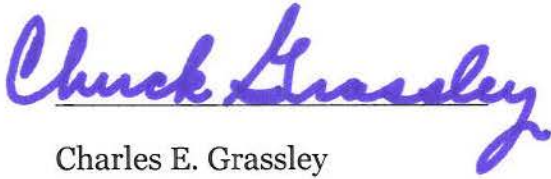
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Sincerely,



Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Sylvia Mathews Burwell
 Secretary
 U.S Department of Health and Human Services
 Hubert Humphrey Building, Room 416 G
 200 Independence Avenue, SW
 Washington, DC 20201

Dear Secretary Mathews Burwell:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.²¹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.²²

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²¹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

²² *Id.*

²³ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the Department of Health and Human Services placed 4 employees on paid administrative leave for one year or more.²⁴ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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

Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

²⁴ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

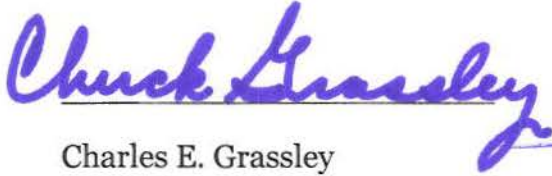
d. 9-12 months.

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley
Ranking Member
Judiciary Committee
U.S. Senate



Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Julian Castro
Secretary
U.S. Department of Housing Urban Development
451 Seventh Street, SW, Room 10148
Washington, DC 20410-1000

Secretary Castro:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.²⁹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.³⁰

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.³¹ Placing employees on administrative

²⁹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

³⁰ *Id.*

³¹ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Housing Urban Development placed 1 employee on paid administrative leave for one year or more.³² Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

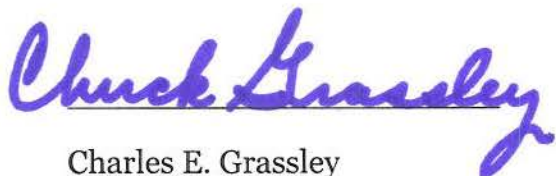
³² GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C : October 2014).

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

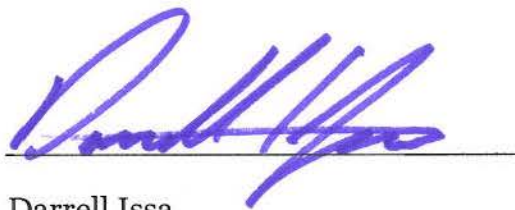


Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Jeh Johnson
Secretary
Department of Homeland Security
301 7th Street SW, Mail Stop 0150
Washington, DC 20528-0150

Dear Secretary Johnson:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.²⁵ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.²⁶

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.²⁷ Placing employees on administrative

²⁵ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

²⁶ *Id.*

²⁷ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Homeland Security placed 71 employees on paid administrative leave for one year or more.²⁸ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
3. How many employees are currently on paid administrative leave that have been on such leave for:
 - a. 1-3 months;
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period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

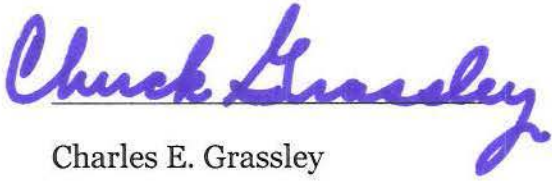
²⁸ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C : October 2014).

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?

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?
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.
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 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Sally Jewell
Secretary
U.S. Department of the Interior
Mail Stop 6242
1849 C Street, NW
Washington, DC 20240-0001

Secretary Jewell:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.³³ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.³⁴

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.³⁵ Placing employees on administrative

³³ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of the Interior placed 4 employees on paid administrative leave for one year or more.³⁶ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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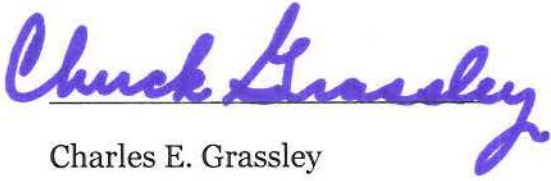
³⁶ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a horizontal line underneath.

Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate

A handwritten signature in blue ink that reads "Darrell Issa". The signature is written in a cursive style with a horizontal line underneath.

Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, Chief Counsel and Staff Director
KOLAN L. DAVIS, Republican Chief Counsel and Staff Director

November 20, 2014

VIA ELECTRONIC TRANSMISSION

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Holder:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.¹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.²

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.³ Placing employees on administrative

¹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

² *Id.*

³ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

Based on a 2002 Department of Justice (DOJ) memorandum on administrative leave, DOJ acknowledged that “components too frequently are placing employees on administrative leave rather than utilizing other more appropriate options.”⁴ As a result, DOJ changed its policy to limit the use of administrative leave to 10 work days unless approved by the assistant attorney general (AAG) for administration or his designee for a longer period.⁵

However, it appears that DOJ is approving much more administrative leave than its policy suggests is appropriate. GAO reported that from fiscal years 2011 through 2013, DOJ placed 1,849 employees on paid administrative leave for one month to one year.⁶ The average number of days on administrative leave for these 1,849 employees was 38 days, which is significantly higher than the 10 work day limit stated in DOJ policy.⁷ Moreover, 23 employees were on paid administrative leave for six months or more.⁸

Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time. Thus, please respond to the following questions:

refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an “extended period of excused absence” that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute “periods of brief duration” under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency’s “decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests”); Frederick W. Merkle, Jr. – Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an “extended period of time”); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an “extended period” where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

⁴ Diegelman, R. *Proper Use of Administrative Leave* [Memorandum]. (Washington, DC: September 27, 2002) Department of Justice

⁵ *Id.*

⁶ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C : October 2014).

⁷ *Id.*

⁸ *Id.*

1. Please provide any updated agency policy on administrative leave.
2. According to the 2002 memorandum on administrative leave, managers must get approval from the assistant attorney general for administration or his designee to place employees on administrative leave for more than 10 work days.
 - a. Please explain the process managers take to get administrative leave approved for longer periods.
 - b. Please provide the document used to approve administrative leave. If no document exists, please provide what is used to document the approval.
 - c. How many approvals for extended administrative leave beyond 10 days have been granted by the AAG for Administration since Fiscal Year 2011?
 - d. How many approvals for extended administrative leave beyond 10 days have been granted by a designee of the AAG for Administration?
 - e. How many officials have been designated by the AAG for Administration to approve extended administrative leave beyond 10 days (please provide subtotals by grade level and position)?
3. Other than requiring approval by the AAG for Administration or a designee, what controls, if any, are in place to prevent administrative leave from being used for extended periods of time. If there are no such safeguards, please explain why not.
4. How many employees were on paid administrative leave for more than one month in Fiscal Year 2014? What was the total cost to the Department in Fiscal Year 2014 in salaries and benefits for those employees' paid administrative leave?
5. 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;
 - d. 9-12 months; and
 - e. longer than 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?

6. 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?
7. For the 23 employees described in the GAO report as being on paid administrative leave for six months or more and 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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.
 - i. Record of approval of the paid leave by the assistant attorney general for administration or his designee.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas from my staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

cc: The Honorable Michael E. Horowitz, Inspector General
U.S. Department of Justice

United States Senate

WASHINGTON, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

The Honorable Steve Linick
Inspector General
2201 C Street, N.W Address 2
Suite 8100, SA-3
Washington, D.C. 20522-0308

Dear Inspector General Linick:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of administrative leave among 24 federal agencies from fiscal years 2011 to 2013.¹ During this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.²

In this report, GAO notes that the Department of State, unlike all other governmental agencies examined by GAO, does not report paid administrative leave to the Office of Personnel Management (OPM). Instead, the Department aggregates paid administrative leave with its regular work hours, thereby skewing its personnel data.³ This method conceals from OPM and the public the number of employees the Department may have on administrative leave and the associated costs. It is clear from press accounts such as the Department's response to Benghazi that the State Department places employees on paid administrative leave. For example, the Washington Post reported in August 2013 that four Department officials, including three diplomatic security officers and the former deputy assistant secretary for Near East affairs, were placed on paid administrative leave until internal investigation of the Benghazi attacks were completed.⁴

¹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington D.C.: October 2014)

² *Id*

³ *Id*

⁴ DeYoung, Karen. "State Dept. officials placed on leave after Benghazi attack are reinstated." *Washington Post* 20 August, 2013. Web. 16 Oct. 2014. http://www.washingtonpost.com/world/national-security/state-dept-officials-placed-on-leave-after-benghazi-attacks-are-reinstated/2013/08/20/fb107928-09af-11e3-8974-f97ab3b3c677_story.html

In order to better understand the Department's administrative leave policy and potential violations of that of that policy, please examine and report on the following questions:

1. Why does the State Department aggregate its paid administrative leave with regular work hours, unlike other federal agencies?
2. What is the State Department's 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.
3. For each fiscal year (2011 thru 2014), please obtain and report on statistical information regarding the total number of employees on paid administrative leave for:
 - a. One month to three months
 - b. Three months to six months
 - c. Six months to nine months
 - d. Nine months to a year
 - e. 1 to 1.5 years
 - f. 1.5 to 2 years
 - g. 2 to 2.5 years
 - h. 2.5 to 3 years
 - i. Beyond 3 years

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?

4. For each employee on paid administrative leave for one year or more, please provide a detailed narrative of the circumstances surrounding the extended paid leave, including:
 - j. Position title and GS level.
 - k. Employee division/office/component.
 - l. Total compensation received while on administrative leave.
 - m. Reason for being placed on administrative leave.
 - n. Exact length of time on administrative leave.
 - o. Current status of the employee (i.e. reassigned, demoted, terminated, still on administrative leave, etc.)
 - p. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.
 - q. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please do not hesitate to contact Chris Lucas of my staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Anthony Fox
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Fox:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁵³ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁵⁴

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁵⁵ Placing employees on administrative

⁵³ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

⁵⁴ *Id.*

⁵⁵ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Transportation placed 4 employees on paid administrative leave for one year or more.⁵⁶ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

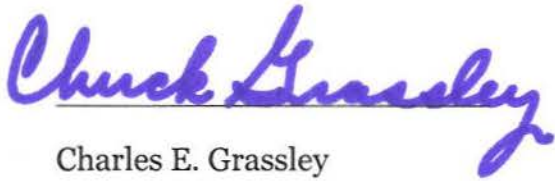
⁵⁶ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, slightly slanted style.

Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate

A handwritten signature in blue ink that reads "Darrell Issa". The signature is written in a cursive, slightly slanted style.

Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Jack Lew
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Room 3134
Washington, DC 20220

Dear Secretary Lew:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁵⁷ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁵⁸

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁵⁹ Placing employees on administrative

⁵⁷ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

⁵⁸ *Id.*

⁵⁹ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of the Treasury placed 25 employees on paid administrative leave for one year or more.⁶⁰ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

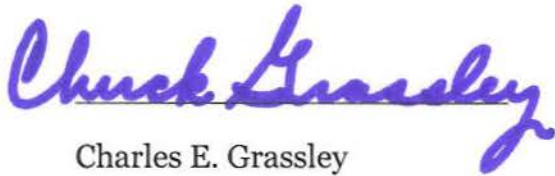
⁶⁰ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Robert McDonald
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary McDonald:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁶⁵ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁶⁶

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁶⁷ Placing employees on administrative

⁶⁵ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

⁶⁶ *Id.*

⁶⁷ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of “administrative leave,” but rather “immediate” steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency’s discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an “extended period of time”); *pet. for rehearing denied by Miller v. Dep’t of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Department of Veterans Affairs placed 46 employees on paid administrative leave for one year or more.⁶⁸ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

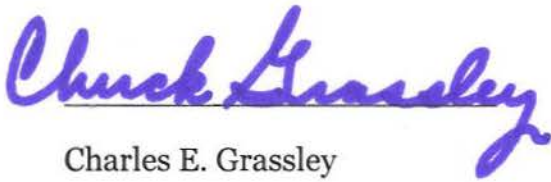
⁶⁸ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C : October 2014).

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.
6. The GAO reported that the VA placed nearly 6,000 employees on administrative leave for periods of time between one and six months. This appears to be more than any other agency on a per employee basis. Given that the VA has approximately 312,000 employees, this means that from FY 2011-2013, the VA placed close to 2% of its employees on paid administrative leave for between one and six months. Please explain why the VA placed nearly 2% of its workforce on paid administrative leave for this protracted period of time.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

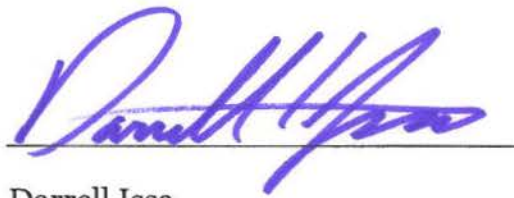


Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW,
Room 3426 ARN
Washington, DC 20460

Dear Administrator McCarthy:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.¹⁷ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.¹⁸

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.¹⁹ Placing employees on administrative

¹⁷ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C. : October 2014).

¹⁸ *Id.*

¹⁹ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the Environmental Protection Agency placed 2 employees on paid administrative leave for one year or more.²⁰ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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

Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

²⁰ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

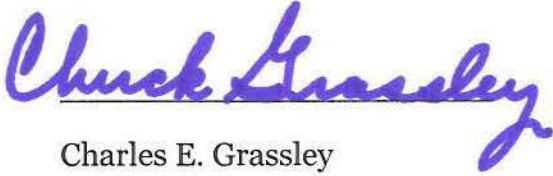
d. 9-12 months.

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

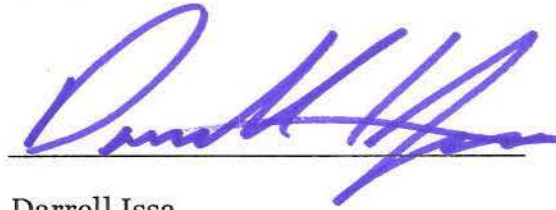
A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, slightly slanted style.

Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate

A handwritten signature in blue ink that reads "Darrell Issa". The signature is written in a cursive, slightly slanted style.

Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Charles F. Bolden, Jr.
Administrator
National Aeronautics and Space Administration
300 E Street, SW,
Suite 9J24
Washington, DC 20546

Dear Administrator Bolden:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.³⁷ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.³⁸

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.³⁹ Placing employees on administrative

³⁷ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

³⁸ *Id.*

³⁹ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the National Aeronautics and Space Administration placed 2 employees on paid administrative leave for one year or more.⁴⁰ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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

Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

⁴⁰ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

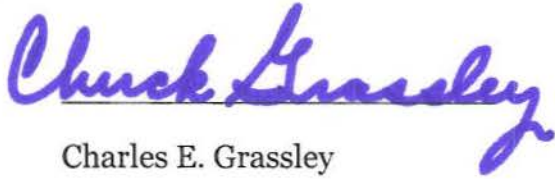
d. 9-12 months.

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?

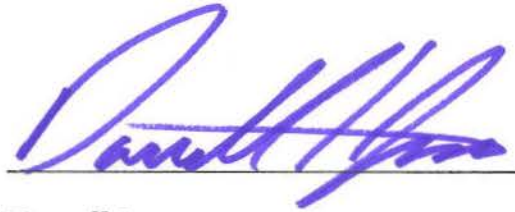
4. Excluding those referenced above, how many employees currently on paid administrative leave have been on such leave for more than a year? What is the total cost to the agency in salaries and benefits for those employees' paid administrative leave?
5. For the employees described in the GAO report as 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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a large, looping "C" and a long, sweeping "y" at the end.

Charles E. Grassley
Ranking Member
Judiciary Committee
U.S. Senate

A handwritten signature in blue ink that reads "Darrell Issa". The signature is written in a cursive style with a large, looping "D" and a long, sweeping "a" at the end.

Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Katherine Archuletta
Director
Office of Personnel Management
1900 E Street, NW
Washington, DC 20415

Dear Director Archuletta:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁴¹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁴²

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁴³ Placing employees on administrative

⁴¹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

⁴² *Id.*

⁴³ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the Office of Personnel Management placed 3 employees on paid administrative leave for one year or more.⁴⁴ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

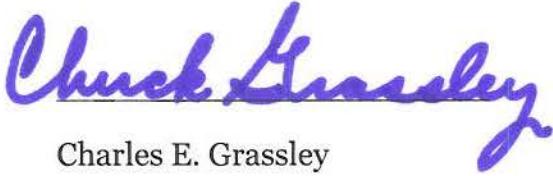
⁴⁴ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

Committee on Oversight and

Government Reform

U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Maria Contreras-Sweet
Administrator
U.S. Small Business Administration
409 Third Street, SW, Suite 7900
Washington, DC 20416-2230

Dear Administrator Contreras-Sweet:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁴⁵ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁴⁶

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁴⁷ Placing employees on administrative

⁴⁵ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

⁴⁶ *Id.*

⁴⁷ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Small Business Administration placed 4 employees on paid administrative leave for one year or more.⁴⁸ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

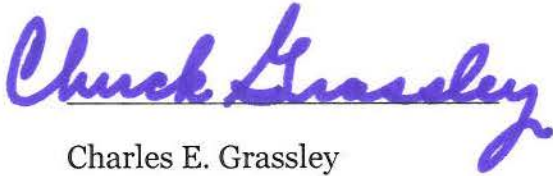
⁴⁸ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C.: October 2014).

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?

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?
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 leave.
 - h. A full explanation of why the employee was not placed on some form of unpaid leave.

Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley
Ranking Member
Judiciary Committee
U.S. Senate



Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Carolyn W. Colvin
Commissioner
U.S Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235-0001

Dear Commissioner Colvin:

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁴⁹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁵⁰

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁵¹ Placing employees on administrative

⁴⁹ GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C : October 2014).

⁵⁰ *Id.*

⁵¹ To the Chairman, U.S. Civil Service Commission, 38 Comp. Gen. 203 (1958) (where removal of an employee is necessitated by safety concerns, only 24 hours administrative leave is appropriately authorized, and extensive paid leave pending an investigation does not qualify as a proper use of "administrative leave," but rather "immediate" steps should be taken to reduce time during which an employee is on paid leave); Navy Department-Reduction In Force-Administrative Leave During 30-Day Notice Period, 66 Comp. Gen. 639, 640 (1987) (holding that decisions of the Comptroller General and the guidelines of the Office of Personnel Management limit an agency's discretion to grant administrative leave to situations involving brief absences); Ricardo S. Morado – Excused Absence, 1980 WL 17293, 1 (1980) (when it became clear that an employee would not be returning to work, an agency was not authorized to grant administrative leave pending the separation); Miller v. Department of Defense, 45 M.S.P.R. 263, 266 (MSPB, 1990) (a settlement agreement was declared invalid as the Merit Systems Protection Board determined that the Department of Defense did not have the authority to grant an employee nine months of paid administrative leave, where said employee was to be removed at the end of the period of administrative leave, because there was no statutory provision that authorized the agency to grant paid administrative leave for such an "extended period of time"); *pet. for rehearing denied by Miller v. Dep't of Defense*, 1992 U.S. App. LEXIS 2457 (Fed. Cir. Feb. 18, 1992); In the Matter of the Grant of Administrative Leave Under Arbitration Leave, 53 Comp. Gen. 1054, 1056-57 (the Comptroller General refused to grant an employee thirty days of administrative leave, where that employee was injured on the job and unable to work in his full capacity, as the grant of administrative leave constituted an "extended

leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S Social Security Administration placed 3 employees on paid administrative leave for one year or more.⁵² Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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 FY 2014 in salaries and benefits for those employees' paid administrative leave?
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.

period of excused absence" that was not permitted under any statute); Nina R. Mathews-Age Discrimination/Title VII Resolution Agreement-Compensatory Damages, 1990 WL 278216, 1-2 (where an employee was granted twenty-two weeks of administrative leave pay in settlement of a personnel claim, the agreement was deemed invalid by the GAO, as the Comptroller determined that there was no relevant legal basis by which the employee could be placed on extended administrative leave with pay); Excused Absence for Bar Examination Preparation, 1975 WL 8763, 1 (1975) (periods of 14, 28 and 31 days did not constitute "periods of brief duration" under which an agency had authority to grant administrative leave for employees to take their Bar examinations); Department of Housing and Urban Development Employee-Administrative Leave, 67 Comp. Gen. 126, 128 (1987) (The Comptroller General held that the agency's "decision to allow the employee to participate in a NIH therapeutic trial for 3 days a month in a cancer research effort being run by the National Cancer Institute is consistent with the broad framework of decisions of this Office and the FPM Supplement addressing the discretionary agency review of administrative leave requests"); Frederick W. Merkle, Jr. - Administrative Leave, 1980 WL 14633, 1 (1980) (an eight-week period could not constitute administrative leave for an employee awaiting a decision on his eligibility for early retirement, as it constituted an "extended period of time"); Gladys W. Sutton-Administrative Leave in Lieu of Leave Without Pay, 1983 WL 27142, 1 (a five-week period constituted an "extended period" where administrative leave could not be properly granted by an agency so that an employee could preserve her eligibility for a discontinued service retirement program).

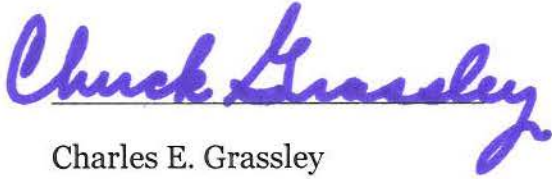
⁵² GAO, *Use of Paid Administrative Leave*, GAO-15-79 (Washington, D.C : October 2014).

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?


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?
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.
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 - g. A full explanation of why reassignment to other duties or another location was not an appropriate alternative to paid leave.
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Thank you in advance for your prompt attention to this matter. Should you have any questions regarding this matter, please contact Chris Lucas or Tristan Leavitt for Ranking Member Grassley at (202) 224-5225 and Jennifer Hemingway for Chairman Issa at (202)225-5074.

Sincerely,



Charles E. Grassley
Ranking Member
Judiciary Committee
U.S. Senate



Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives

Congress of the United States
Washington, DC 20510

October 21, 2014

VIA ELECTRONIC TRANSMISSION

Rajiv Shah
Administrator
U.S. Agency for International Development
Ronald Reagan Building, Suite 610
1300 Pennsylvania Avenue, NW
Washington, DC 20523-6100

Dear Administrator Shah :

A recent Government Accountability Office (GAO) report raises serious concerns about the use of paid administrative leave among 24 federal agencies from fiscal years 2011 to 2013.⁶¹ The report reveals that during this period, agencies spent \$31 million on salaries of employees who were placed on administrative leave for more than one year and more than \$700 million on employees on leave for a month or more.⁶²

Although administrative leave is not authorized by statute, precedent allows it as an exercise of agency discretion, but only for occasional, short periods of time and only when it is in the best interests of the taxpayer.⁶³ Placing employees on administrative

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leave for extended periods of time raises questions about the potential abuse of administrative leave for time periods and purposes not authorized by law.

GAO has reported that the U.S. Agency for International Development placed 1 employee on paid administrative leave for one year or more.⁶⁴ Given the significant costs to the taxpayer for salaries and benefits paid to these federal workers for not working, it is critical for Congress to understand why each of these employees was on paid leave for such a long time.

Thus, please respond to the following questions:

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.
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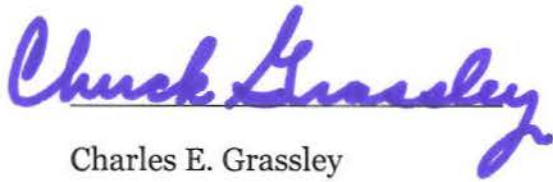
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Sincerely,



Charles E. Grassley

Ranking Member

Judiciary Committee

U.S. Senate



Darrell Issa

Chairman

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Government Reform

U.S. House of Representatives