



**OFFICE OF INSPECTOR GENERAL**

U.S. Department of Energy

# INSPECTION REPORT

DOE-OIG-23-38

September 2023

**ALLEGED ADMINISTRATIVE LEAVE  
ABUSE AT THE OFFICE OF SECURE  
TRANSPORTATION**



**Department of Energy**  
Washington, DC 20585

September 29, 2023

MEMORANDUM FOR THE ASSISTANT DEPUTY ADMINISTRATOR, OFFICE OF  
SECURE TRANSPORTATION, NATIONAL NUCLEAR  
SECURITY ADMINISTRATION

SUBJECT: Inspection Report on Alleged Administrative Leave Abuse at the Office of Secure  
Transportation

The attached report discusses our review of alleged abuse of administrative leave, Automated Time Attendance and Production System manipulation, and misuse of a Government travel card at the Office of Secure Transportation. This report does not contain recommendations or suggested actions. Therefore, no management response is required.

We conducted this inspection from May 2022 through April 2023 in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (December 2020). We appreciated the cooperation and assistance received during this inspection.

A handwritten signature in black ink, appearing to read "Anthony Cruz", is positioned above the typed name and title.

Anthony Cruz  
Assistant Inspector General  
for Inspections, Intelligence Oversight,  
and Special Projects  
Office of Inspector General

cc: Deputy Secretary  
Chief of Staff



## Department of Energy Office of Inspector General

### Alleged Administrative Leave Abuse at the Office of Secure Transportation (DOE-OIG-23-38)

#### WHY THE OIG PERFORMED THIS REVIEW

On March 13, 2022, the Department of Energy's Office of Inspector General received an allegation pertaining to the Office of Secure Transportation (OST). Specifically, it was alleged that: (1) OST Nuclear Materials Couriers (OST Couriers) were granted more administrative leave hours than allowed for reasons that did not meet regulatory guidelines, (2) a former OST Courier was working outside employment when on administrative leave, (3) prior to the National Nuclear Security Administration's (NNSA) 2019 timecard review, OST Officers were cancelling leave in the Automated Time Attendance and Production System (ATAAPS) to prevent paid overtime, and (4) an employee used their Government travel card to purchase materials needed to build a fence at their house.

We initiated this inspection to determine the facts and circumstances surrounding these allegations.

#### What Did the OIG Find?

We did not substantiate the allegation that OST Couriers were abusing administrative leave. However, we did find that OST's practice allowed employees to use extended periods of administrative leave hours that, although this practice is in accordance with the regulatory guidelines, raised concerns. Also, we did not substantiate that a former OST Courier worked outside employment while on administrative leave. Additionally, with respect to the allegation that OST Officers were cancelling leave in ATAAPS, we confirmed with the complainant that this was no longer a valid concern based on actions taken because of an NNSA 2019 timecard review. Lastly, we did not substantiate that an employee used their Government travel card to purchase materials needed to build a fence at their home.

#### What Is the Impact?

Federal agencies have the discretion to grant paid administrative leave for a variety of reasons and have the authority to set policies governing its use. The Office of Personnel Management (OPM) has not provided specific guidance detailing how agencies should record administrative leave. Additionally, OPM provided limited guidance on what payroll providers should report as paid administrative leave. If specific guidance is provided, it could help agencies better manage their Federal workforce's administrative leave. Although the Department guidance explains the use for administrative leave, it does not specify how administrative leave for extended periods of time should be recorded and what should be reported.

#### What Is the Path Forward?

Since specific guidance has not been issued by OPM regarding how agencies should record administrative leave, and since NNSA took action during the course of our inspection to address our concerns regarding the use of administrative leave, there are no issues that need to be addressed by the Department. Therefore, we made no recommendations or suggested actions.

## BACKGROUND

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The National Nuclear Security Administration (NNSA) was established in 2000 as a semi-autonomous agency within the Department of Energy. NNSA maintains and enhances the safety, security, and effectiveness of the U.S. nuclear weapons stockpile. In 1975, the Office of Secure Transportation (OST) was established for the safe and secure transport of Government-owned special nuclear materials in the contiguous U.S. In fulfilling its responsibility, NNSA, through OST, employs, trains, and administers a workforce of Federal Agents, known as OST Nuclear Materials Couriers (OST Couriers), whose primary responsibility is the safe and secure transport of such materials. OST Couriers are permanently assigned to their duty stations: Albuquerque, New Mexico; Amarillo, Texas; or Oak Ridge, Tennessee, and OST Couriers can spend up to 3 weeks per month traveling throughout the contiguous 48 states on mission assignments or in training. Their duties require scheduled and irregular hours, personal risk, and arduous exertion under real and potentially adverse environmental conditions.

According to Department of Energy Order (Department Order) 322.1C, *Pay and Leave Administration and Hours of Duty*, administrative leave is intended to be used for brief periods of time without charge to leave or loss of pay. An employee may be excused for extended periods when the absence is in the best interest of the Department or the Federal Government, or when it would be inequitable to charge leave at management's discretion. Additionally, Department Order 322.1C states that payroll service providers must maintain an effective automated time and attendance system that provides records to support each payment and leave usage. In October 2014, the U.S. Government Accountability Office issued a report regarding inaccuracies found in the Office of Personnel Management's (OPM) data in relation to paid administrative leave. Specifically, the report discussed differences between agencies' leave recording practices and what OPM officials considered paid administrative leave, and the differences in what payroll providers reported to OPM as paid administrative leave. Also, NNSA's Human Resources Office conducted a timecard review on OST from March 2019 through May 2019 related to OST Couriers inquiring about management's cancellation of preapproved leave (e.g., sick and annual) as a method to prevent the payment of overtime.

On March 13, 2022, the Department's Office of Inspector General received an allegation that OST was abusing administrative leave. Specifically, it was alleged that: (1) OST Couriers were granted more administrative leave hours than allowed for reasons that did not meet regulatory guidelines, and (2) a former OST Courier worked outside employment while on administrative leave. Additionally, the complainant alleged that prior to NNSA's 2019 timecard review, OST Couriers were "tricking" the Automated Time Attendance and Production System (ATAAPS) by cancelling leave to prevent paid overtime. This was a change from the initial complaint. The complainant further alleged that an employee used their Government travel card to purchase materials needed to build a fence at their house. We initiated this inspection to determine the facts and circumstances surrounding the allegations.

## ADMINISTRATIVE LEAVE

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We did not substantiate the allegation that OST Couriers were abusing administrative leave. However, we did find that OST's practice allowed employees to use extended periods of

administrative leave hours. Furthermore, we did not substantiate that a former OST Courier worked outside employment while on administrative leave.

### **OST Couriers Abusing Administrative Leave**

We did not substantiate the allegation that OST Couriers were abusing administrative leave. However, we did find that OST's practice allowed employees to use extended periods of administrative leave hours. The complainant stated that OST was granting more administrative leave hours than allowed for reasons that did not meet the regulatory guidelines in accordance with the Administrative Leave Act of 2016. According to the Act, during any calendar year, an agency may place an employee on administrative leave for a period of not more than 10 workdays and shall record administrative leave separately from leave authorized under any other provision of law.

However, OPM has not implemented the new administrative law or finalized any guidance on how to utilize the authorized 10 days of administrative leave. The Administrative Leave Act of 2016, which is codified at 5 U.S.C. § 6329a, requires agencies to revise and implement their internal requirements to meet the statutory requirements not later than 270 days after the date on which OPM prescribes the regulations to carry out the Act. As OPM has not prescribed the necessary regulations, the Department is not yet required to implement the provisions of the Act. According to Department Order 322.1C, an employee may be excused for extended periods when the absence is in the best interest of the Department or the Federal Government, or when it would be inequitable to charge leave at management's discretion.

We interviewed OST personnel that told us the use of weather and safety leave during the early stages of COVID-19, injuries due to accidents, and other medical situations were reasons that employees were granted administrative leave for an extended period. We also requested and reviewed OST timesheet data from fiscal year 2017 through fiscal year 2022 to determine if the reasons for granting administrative leave were properly used by checking if time codes were charged correctly. Based on this review, we confirmed that OST's reasons for using the time codes to grant administrative leave was, in fact, properly checked and charged correctly in most cases. However, we analyzed and identified five OST employees who were granted an extended period of administrative leave ranging from approximately 1 to 3 years due to the temporary removal of their duties, and that OST's practice allowed employees to use extended periods of administrative leave hours for this purpose. However, during our discussion with OST, we were told that they would be eliminating the use of administrative leave for OST Couriers, in most circumstances, as a standard practice. (See Path Forward section on Page 4 for more details).

Federal agencies have the discretion to grant paid administrative leave for a variety of reasons and have the authority to set policies governing its use. According to the U.S. Government Accountability Office report, *Federal Paid Administrative Leave: Additional Guidance Needed to Improve OPM Data* (GAO 15-79), OPM has not provided specific guidance detailing how agencies should record administrative leave. Additionally, OPM provided limited guidance on what payroll providers should report as paid administrative leave. If specific guidance is provided, it could help agencies better manage their Federal workforce's administrative leave. Although the Department explains the use for administrative leave in the Department Order

322.1C and the Department's Leave and Absence Desk Reference; the guidance does not specify how administrative leave for extended periods of time should be recorded and what should be reported.

### **Working Outside Employment on Administrative Leave**

We did not substantiate the allegation that a former OST Courier worked outside employment while on administrative leave. According to 5 Code of Federal Regulations 2635, Subpart H, *Standards of the Ethical Conduct for Employees of the Executive Branch: Outside Activities*, an employee who wishes to engage in outside employment or other outside activities must comply with the prohibition on outside employment or any other outside activity that conflicts with the employee's official duties and any agency-specific requirement for prior approval of outside employment or activities, when applicable. We contacted the Policy Advisor within the Department's Office of Policy, Labor and Employee Relations, Policy Division, regarding employees working outside employment on approved administrative leave, and we were told that employees can work outside employment if there are no ethical issues or conflicts of interest with their Government positions.

We were unable to verify whether the OST Courier in question, who is no longer an employee, had worked for another employer while they were on administrative leave. NNSA was unable to locate any outside employment forms related to the OST Courier. We also contacted NNSA's Office of General Counsel to verify if the former OST Courier submitted and filed any financial disclosure forms, which may reference outside employment, and we were told that there were no email records or information in their ethics inbox or paper files on the OST Courier. We were also told that the former OST Courier was never in an NNSA position that required them to file a financial disclosure form.

### **AUTOMATED TIME ATTENDANCE AND PRODUCTION SYSTEM MANIPULATION**

We did not substantiate the allegation that OST Officers were cancelling leave to prevent paying overtime. Initially, the complaint was that OST Officers would "trick" the system and take leave at the end of the week and be paid overtime when they should not have. However, after further discussion, the complainant clarified that the complaint was regarding OST Officers cancelling leave in ATAAPS to prevent paid overtime. NNSA conducted a timecard review in 2019 finding similar issues, and as a result of this review, OST ended their practice of cancelling leave in ATAAPS. In a subsequent discussion with the complainant, the complainant stated that the concern was no longer valid as the issues were addressed by OST following NNSA's timecard review in 2019.

### **MISUSE OF GOVERNMENT CHARGE CARD**

We did not substantiate the allegation that an OST Courier used their Government travel card to purchase materials to build a fence at their house. According to the General Services Administration's SmartPay Program, Federal employees must not use their travel account for personal use and be aware that misusing their travel account could result in disciplinary actions by the agency. We contacted the Office of Travel Management regarding the allegation, and we

were told that the employee in question was not listed on the travel card misuse reports from January 2018 through September 2018, nor did the employee make any unusual charges or ATM withdrawals while using their Government travel card from September 2018 through May 2022. We were unable to check for any unusual purchases prior to September 2018; due to these charges no longer being available due to the Department changing contractors. In our review of the Transactions Report provided by the Office of Travel Management, we noted that the OST Courier did not have any unusual charges, specifically fencing or fencing material, from September 2018 through May 2022. Additionally, we determined through the Department's Purchase Card Coordinator that the OST Courier did not have a Government purchase card. Based on this information, we did not find any unusual charges or misuse made by the OST Courier regarding building a fence at their house.

## **PATH FORWARD**

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During a discussion with an NNSA OST official, we were provided with an email, dated February 2023, outlining a meeting regarding how administrative leave for OST Couriers will be used going forward to address potential conflicts between existing rules and regulations and the lack of OPM guidance concerning administrative leave.

Specifically, OST will eliminate the use of administrative leave for OST Couriers as a standard practice, in most circumstances. For example, in rare cases where an exception is warranted and administrative leave is requested for an employee who is temporarily removed from Human Reliability Program duties, those cases will be evaluated on an individual basis in coordination with OST senior leadership and NNSA Employee Relations. OST Couriers who are temporarily removed from Human Reliability Program duties<sup>1</sup> will report to work and perform non-Human Reliability Program-related duties. OST is currently incorporating these changes into the *Human Reliability Program Supervisor Handbook*, *OST's Hours of Duty and Work Schedules Standard Operating Procedures*, and *First 40 Hours Tour of Duty Guide*. OST estimates that these changes will be completed within the next few months.

Based on the results of our inspection, and the actions taken by OST to address the use of administrative leave, this report does not contain recommendations or suggested actions.

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<sup>1</sup> 10 CFR 712: The Human Reliability Program (HRP) is a security and safety reliability program designed to ensure that individuals who occupy positions affording access to certain materials, nuclear explosive devices, facilities, and programs meet the highest standards of reliability and physical and mental suitability. This objective is accomplished under this part through a system of continuous evaluation that identifies individuals whose judgment and reliability may be impaired by physical or mental/personality disorders, alcohol abuse, use of illegal drugs or the abuse of legal drugs or other substances, or any other condition or circumstance that may be of a security or safety concern.



## **Appendix 1: Objective, Scope, and Methodology**

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### **OBJECTIVE**

We initiated this inspection to determine the facts and circumstances surrounding the allegations.

### **SCOPE**

This inspection was performed from May 2022 through April 2023 at the Office of Secure Transportation (OST) located in Albuquerque, New Mexico; Amarillo, Texas; and Oak Ridge, Tennessee. The inspection scope included a review of OST administrative leave from October 2016 through September 2022. This inspection was conducted under Office of Inspector General project number S22HQ016.

### **METHODOLOGY**

To accomplish our inspection objective, we:

- Interviewed the complainant to gain an understanding of the allegations;
- Interviewed Department of Energy officials to gain an understanding of administrative leave, overtime, and outside employment requirements;
- Reviewed applicable policies and procedures for administrative leave, overtime, and outside employment activities;
- Worked with Department officials to determine if an unauthorized transaction was made on an OST Nuclear Materials Courier's Government charge card;
- Verified with the National Nuclear Security Administration's Office of General Counsel whether an OST Nuclear Materials Courier submitted documentation to conduct outside employment activities;
- Discussed with OST personnel the use of administrative leave and outside employment activities from fiscal year (FY) 2017 through FY 2022; and
- Evaluated timesheets and administrative leave memorandums for personnel granted administrative leave from FY 2017 through FY 2022.

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation* (December 2020) as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions.

Management officials waived an exit conference on April 12, 2023.



## **Appendix 2: Related Report**

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### **Government Accountability Office:**

Report on [\*Federal Paid Administrative Leave: Additional Guidance Needed to Improve OPM Data\*](#) (GAO-15-79, October 2014). This report found that additional guidance was needed regarding the General Accountability Office's examination of the use of paid administrative leave. The report describes regulations addressing administrative leave; guidance and legal decisions; Office of Personnel Management collection of payroll data on administrative leave such as timekeeping; a lack of detailed guidance related to recording and reporting paid administrative leave activities that makes data comparison challenging; agency recording practices; payroll provider reporting; and the most common reasons for charging large amounts of paid administrative leave. As a result of its review, the General Accountability Office recommends that the Office of Personnel Management develop agency and payroll provider guidance regarding the recording and reporting of paid administrative leave.

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