U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

March 1, 2021

Mr. Austin R. Evers
Executive Director
American Oversight
1030 15th Street, N.W.
Suite B255
Washington, DC 20005

RE: Freedom of Information Act Request
FOIA Control No.: 19-FI-HQ-01441 and 19-FI-HQ-01596
Civil Action No.: 19-cv-2814

Dear Mr. Evers:

This letter is the sixth interim response to your Freedom of Information Act (FOIA) request dated and received on June 24, 2019 and July 19, 2019, respectively. You asked for copies of Department of Housing and Urban Development (HUD) records from September 1, 2018 through the date of the search, consisting of communications between HUD political appointees in the Office of Congressional and Intergovernmental Relations, Office of General Counsel, HUD leadership offices with specific White House Counsel staff regarding congressional oversight of specific matters and general policies, concerns, and considerations related to congressional oversight of the executive branch.

For this response, please be advised that an electronic search have been conducted and as a result of this search, records responsive to your request have been located. The Department has identified the following:

Program Office/Custodian	Pages Released	Redactions
Office of General Counsel – Ashley Ludlow	73	16 page contain b(5) redactions (deliberative process); 7 pages contains b(6) redactions (personal privacy)
TOTALS	73	

Your request is granted in part. Enclosed are documents responsive to your request. I am withholding cell phone numbers pursuant to FOIA Exemption 6. Exemption 6 protects information the release of which would constitute an unwarranted invasion of personal privacy. The interest of the general public in reviewing those portions of government documents does not outweigh the individuals' right to privacy.

For your information, your FOIA request, including your identity and any information made available, is releasable to the public under subsequent FOIA requests. In responding to these

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requests, the Department does not release personal information, such as home address, telephone number, or Social Security number, all of which are protected from disclosure under FOIA Exemption 6.

If you have any questions regarding your request, you may contact Department of Justice – Federal Programs Branch trial attorney, Alexander Sverdlov at 202-305-8550. Thank you for your interest in the Department's programs and policies.

Sincerely,

Howard Rosenberg for DRS

Deborah R. Snowden
Deputy Chief FOIA Officer
Freedom of Information Act Branch
Office of the Executive Secretariat

Enclosures

AMERICAN OVERSIGHT

Sent: 10 Apr 2019 15:33:42 +0000
To: McGaughey, Tyler T. EOP/WHO
Subject: Grassley Response Draft
Attachments: Grassley Response Draft 001 REV REAC + VSL + DB 4.8.19.docx, 2019-03-20 CEG to HUD (Oversight of PHAs).pdf

Tyler – Please find attached HUD's draft response to the Grassley letter. It has not yet been cleared, but wanted to go ahead and share it with you.



Ashley Ludlow
Senior Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
T: (202) 402-5963 | C: (b)(6)

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

April 10, 2019

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510-6200s

Dear Senator Grassley:

On behalf of Secretary Carson, thank you for your letter of March 20, 2019, concerning HUD oversight of Public Housing Agencies (PHAs) on behalf of the Committee on Finance. In your letter, you raise certain questions and request a briefing be scheduled. In response, we offer the following:

Question 1: Why did HUD fail to update regulations and re-federalize asset management fees after previously indicating that it would do so by December 2017?

(b)(5) Deliberative Privilege

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(b)(5) Deliberative Privilege

Question 2: When does HUD plan to put its new ACC into effect? Before doing so, will HUD make substantive changes to the version that was posted for public comment in December 2018? If so, please describe any expected changes:

(b)(5) Deliberative Privilege

Question 3: Does HUD plan to make other regulatory changes and/or issue new guidance in conjunction with its introduction of a new ACC? If so, how will these changes be timed with the introduction of the new ACC? Please describe all planned changes?

(b)(5) Deliberative Privilege

Question 4: Under the provisions of the new ACC, will asset management fees received by PHAs be considered by HUD to retain their federal designation? Please supply results of any internal analysis of this question and all related documents.

If asset management fees will be considered to retain their federal designation under the new ACC:

(b)(5) Deliberative Privilege

a. **Does HUD plan to conduct additional oversight of PHA COCC finances? Please describe any additional oversight plans or projects.**

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(b)(5) Deliberative Privilege

b. What categories and types of expenditures by PHA COCC's will be allowed and/or disallowed by HUD?

(b)(5) Deliberative Privilege

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Question 5: Please produce all PHA executive compensation data collected by HUD beginning in January 2017 to the present.

(b)(5) Deliberative Privilege

[The letter requests scheduling of a briefing for these issues. This needs to be addressed as well.]

Sincerely,

Len Wolfson

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Internal HUD Distribution:		
Identification Lines:		

Correspondence Code	Originator	Concurrence	Concurrence	Concurrence	Concurrence	Concurrence
Name						
Date						

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United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510–6200

March 20, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable Dr. Ben Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

Dear Secretary Carson,

Over the past decade, I have repeatedly expressed concerns to you and your predecessors at the Department of Housing and Urban Development (HUD) about lax federal oversight of spending by Public Housing Agencies (PHAs).[1] One ongoing area of concern is the nearly total lack of HUD oversight over millions of dollars in federal funds used to pay fees to PHA central office cost centers (COCCs) under the asset management business model adopted by some of the country's largest PHAs. Under the asset management model, a portion of the federal dollars that go to support a PHA's projects are paid in the form of fees to the PHA's business unit, the COCC, in exchange for its provision of property management, bookkeeping, and other administrative services. According to one HUD source, in 2016, more than 600 PHAs had COCCs, and these COCCs accounted for more than 1.9 billion dollars in total revenue.[2]

Even though the COCC is part of a PHA and plays a critical management role, once deposited into a COCC's account, public funds lose their federal designation and cease to be

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[1] *See*, *e.g.*, Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Dr. Ben Carson, Secretary, U.S. Department of Housing and Urban Development (March 8, 2017), available at https://www.grassley.senate.gov/sites/default/files/constituents/2017-3-8%20CEG%20to%20HUD%20%28Buffalo%20Municipal%20Housing%20Authority%20conference%20spending%29.pdf; "Grassley Conveys Housing Concerns to HUD Secretary Nominee Carson" (January 4, 2017), available at https://www.grassley.senate.gov/news/news-releases/grassley-conveys-housing-concerns-hud-secretary-nominee-carson; "HUD Releases Audit of Omaha Housing Authority After Grassley's Prodding" (July 27, 2015), available at https://www.grassley.senate.gov/news/news-releases/hud-releases-audit-omaha-housing-authority-after-grassley%E2%80%99s-prodding; Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary, and Hon. Mark Kirk, U.S. Senator, to Hon. Julian Castro, Secretary, U.S. Department of Housing and Urban Development (October 23, 2014), available at https://www.grassley.senate.gov/sites/default/files/news/upload/CEG%20and%20Kirk%20to%20HUD%20%28MTW%20reserve%20funds%29%2C%2010-23-14.pdf; Hon. Charles E. Grassley, Ranking Member, U.S. Senate Committee on the Judiciary, to Hon. Shaun Donovan, Secretary, U.S. Department of Housing and Urban Development (June 24, 2014); Hon. Charles E. Grassley, Ranking Member, U.S. Senate Committee on Finance, to Hon. Shaun L.S. Donovan, Secretary, U.S. Department of Housing and Urban Development (October 25, 2010), available at https://www.finance.senate.gov/imo/media/doc/2010-10-25%20Letter%20to%20HUD.pdf.

[2] U.S. Department of Housing and Urban Development, "Los Angeles, CA Listening Session: Proposed Changes to the Central Office Cost Center (COCC)" (December 2016), available at https://www.hud.gov/sites/documents/COCCPRES.PDF.

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subject to rigorous federal oversight.[3] In the absence of federal oversight, taxpayers have to rely on PHA management, Boards of Commissioners, and state and local governments to ensure that taxpayer dollars are spent properly.

In the absence of oversight, PHAs have not always proven themselves good stewards of taxpayer funds. When the HUD OIG reviewed PHA activities in 2014, it found evidence of excessive fees and uses of funding for questionable expenses including excessive salaries and bonuses, and, in one case, a seven-figure severance package.[4] More recently, a top administrator at the Indianapolis Housing Agency (IHA) reportedly decided to take fourteen employees on an $1100 golf outing as a "team-building" event. When questioned about the trip, the IHA reportedly stated:

> All Director's budgets are funded through the Central Office Cost Center (COCC) which covers the administration of the IHA. COCC is funded by management fees received from the properties and other administrative fees charged. Because the money comes from fees and not directly from HUD, the funds are not considered federal funds.[5]

According to reports from February of this year, the Executive Director of the Columbia Housing Authority, which oversees the property where two people recently died of carbon monoxide poisoning, reportedly makes more than $167,000 per year.[6] His salary, which is reportedly drawn from the PHA's COCC, is several thousand dollars above the federal cap for a PHA executive.[7] While it is lawful under certain circumstances for a PHA executive to receive a

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[3] A 2006 planning document sent by HUD to housing agency executive directors prior to the implementation of the asset management business model described the lack of oversight under the new system as a "benefit." A section of that document devoted to explaining how fees would be paid to COCCs under the new system states: "If adopted across all Public and Indian Housing (PIH) programs, HUD's monitoring activities would be greatly reduced. HUD would no longer need to evaluate whether a PHA's allocation system was 'reasonable.' Rather, HUD would only need to determine that the PHA charged a reasonable fee. HUD would also not need to monitor the spending of fee income, i.e., the activities of the central office cost center. HUD monitoring would be limited to 'front-line' expenses. Funds received by the central office cost center to operate public housing, provided they were generated through reasonable fees, would not be subject to HUD review." See U.S. Department of Housing and Urban Development, Office of Public and Indian Housing *Preparing for Asset Management Under the New Public Housing Operating Fund Rule (24 CFR 990) A Planning Document* (June 1, 2006), available at https://www.hud.gov/sites/documents/DOC_9696.PDF.

[4] The severance package was negotiated for a wrongful termination settlement with the City of Los Angeles and was paid with expenses from the central office cost center. HUD OIG Audit Report 2014-LA-0004 (June 30, 2014), p. 12, available at https://www.hudoig.gov/sites/default/files/documents/2014-LA-0004.pdf.

[5] Rafael Sanchez, "CALL 6: Indianapolis Housing Agency defends spending $1,100 on employee golf outing" RTV 6 Indianapolis (September 26, 2018), available at https://www.theindychannel.com/news/call-6-investigators/call-6-indianapolis-housing-agency-defends-spending-1-100-on-employee-golf-outing.

[6] WLTX 19, "Will Gilbert Walker Receive a State Pension" (February 22, 2019), available at https://www.wltx.com/article/news/local/allen-benedict-court/will-gilbert-walker-receive-a-state-pension/101-4bfb938a-1b8a-4cca-ad7c-3d6a1014f87c.

[7] Under Sec. 222 of the Consolidated Appropriations Act of 2019, "None of the funds made available by this Act, or any other Act, for purposes authorized under section 8 (only with respect to the tenant-based rental assistance program) and section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), may be used by any public housing agency for any amount of salary, including bonuses, for the chief executive officer of which, or any other official or employee of which, that exceeds the annual rate of basic pay payable for a position at level IV of the Executive Schedule at any time during any public housing agency fiscal year 2019." The cap was the same under the Consolidated Appropriations Act of 2018. Level IV of the executive schedule is currently $164,200 per year.

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salary in excess of the federal cap, only funds that originate from non-federal sources may be used to pay the excess portion. Although HUD collects data on the salaries of PHA executives, the data collected have not been made public beyond the figures for 2016. Therefore, there is no way for the public to know whether or not the executive's salary complies with federal law.[8]

Experience teaches that some skepticism here is warranted. In the past, absent much needed public transparency, executive salaries have not always complied with the law. According to the most recent public data on executive compensation shared by HUD, in 2016, nine PHA executives were paid with federal funds at an amount that exceeded the federal cap. Fifteen executives received total compensation amounts that ranged from just over $300,000 to more than $650,000.[9]

In 2016, after the HUD OIG and I continued to raise concerns about lax oversight of COCC accounts, HUD finally agreed to revise its rules so that the public funds going into them would retain their federal designation and thus be subject to federal oversight. The Department stated that it would complete the rulemaking process by December 2017.[10] However, three years have now passed since HUD expressed its intent to act, and the proposed changes do not appear to have been implemented.

Instead, over the past three years, it appears that HUD has dragged its feet. From October to December 2016, HUD held a series of "listening sessions" with PHA executives working under the asset management system, during which it told attendees that it planned to "[r]e-federalize Section 8 & 9 fee income."[11] HUD never made the changes.

In May of last year, HUD published a new version of its contract with PHAs, known as the Annual Contributions Contract (ACC), and announced that the contract would become effective as soon as PHAs began drawing down capital funds from 2018.[12] The new version of the ACC contains language that some stakeholders have interpreted as an effort to re-federalize fee income.[13] However, in October 2018, HUD announced that it was retroactively nullifying

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Salary Table No. 2018-EX, available at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/EX.pdf.

[8] "Public Housing Agency Executive Compensation – CY 2016", available at https://www.hud.gov/program_offices/public_indian_housing/reac/rd/cy16phaec.

[9] *Id.*

[10] Letter from Milan M. Ozdinec, Deputy Assistant Secretary, Public Housing and Voucher Programs, to Housing Authority Executive Directors (April 1, 2016), available at https://www.renocavanaugh.com/sites/default/files/hud-notices/D0530226.PDF.

[11] U.S. Department of Housing and Urban Development, "Los Angeles, CA Listening Session: Proposed Changes to the Central Office Cost Center (COCC)" (December 2016), available at https://www.hud.gov/sites/documents/COCCPRES.PDF.

[12] Annual Contributions Contract HUD-53012 (ACC), available at https://www.hud.gov/sites/dfiles/PIH/documents/HUD-53012ACC.pdf; also see: National Law Review "HUD Rescinds New Form of Annual Contributions Contract" (October 18, 2018), available at https://www.natlawreview.com/article/hud-rescinds-new-form-annual-contributions-contract.

[13] According to the new PHA, "operating receipts" are defined as: "All rents, revenues, income, and receipts accruing from, out of, generated by, or in connection with the ownership or operation of public housing, including grant funds received pursuant to HUD Requirements and is not limited to income from fees for services performed…" among other sources of income. Program receipts include operating receipts and "shall only be used to pay for public housing program expenditures, unless otherwise allowed by HUD Requirements." See "60-Day Notice of Proposed Information Collection: Comment Request: Agency Information Collection Activities: Public Housing Annual Contributions Contract for Capital and Operating Grant Funds", available at

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that new contract and reverting to the previous one.[14] In December 2018, HUD sought comments on a revised version of its new ACC.[15] During that comment process, which closed three weeks ago, some PHA executives expressed opposition to provisions that they categorized as an attempt to re-federalize fee income.[16] One commenter referred to these provisions as an "underhanded effort [to] refederalize fees paid to a PHA's COCC."[17]

There is nothing "underhanded" about seeking transparency in how taxpayer dollars are spent.[18]

These developments raise important questions about HUD's commitment to revising its regulations and guidance, its anticipated timeline for putting the new ACC into effect, and its plans for conducting future oversight of federal spending. Accordingly, please contact my office to schedule a briefing, and respond to the following no later than April 3, 2019:

1. Why did HUD fail to update regulations and re-federalize asset management fees after previously indicating that it would do so by December 2017?

2. When does HUD plan to put its new ACC into effect? Before doing so, will HUD make substantive changes to the version that was posted for public comment in December 2018? If so, please describe any expected changes.

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https://www.federalregister.gov/documents/2018/12/27/2018-28095/60-day-notice-of-proposed-information-collection-comment-request-agency-information-collection.

[14] National Law Review, "HUD Rescinds New Form of Annual Contributions Contract" (October 18, 2018), available at https://www.natlawreview.com/article/hud-rescinds-new-form-annual-contributions-contract.

[15] "60-Day Notice of Proposed Information Collection: Comment Request: Agency Information Collection Activities: Public Housing Annual Contributions Contract for Capital and Operating Grant Funds", available at https://www.federalregister.gov/documents/2018/12/27/2018-28095/60-day-notice-of-proposed-information-collection-comment-request-agency-information-collection.

[16] See FR-7006-N-15 60- Day Notice of Proposed Information Collection: Comment Request: Agency Information Collection Activities: Public Housing Annual Contributions Contract for Capital and Operating Grant Funds" available at https://www.regulations.gov/document?D=HUD-2018-0103-0001.

[17] Comment by Paul Dellinger, Executive Director, Cleveland Housing Authority, available at https://www.regulations.gov/document?D=HUD-2018-0103-0063.

[18] There is no shortage of examples of fraud and abuse by PHA employees exposed by state and local investigators. An audit by the Tennessee Comptroller's office last year found that an employee at the Oliver Springs Housing Authority used HUD funding to "buy 'items such as a Carnival Cruise and plane tickets, jewelry, sporting goods, clothes, a Comcast bill, insurance, food, [and] a prom dress.'" See Jamie Satterfield, "Audit: Oliver Springs housing board asleep at the wheel while staffer steals" *Knoxville News Sentinel* (January 17, 2019), available at https://www.knoxnews.com/story/news/crime/2019/01/17/oliver-springs-housing-board-melissa-may-fraud/2586472002/; In January, 2019, a report completed by the City of New York Department of Investigation detailed how the manager at one New York City housing development "directed crews to throw away everything [used in a renovation of the property's grounds]…including…equipment that was in working condition, such as leaf blowers, weed whackers, snow blowers, lawn mowers, drills, saws, and brand-new pallets of sand…[The manager] then ordered all new equipment. Also during this time period, [the manager] ordered nine black leather executive chairs, three 43" flat screen TV's, file cabinets, and a conference table, for a cost of almost $4,000." See New York City Council Committees on Oversight and Investigations and Public Housing, "Testimony of Margaret Garnett, Commissioner, New York City Department of Investigation, Concerning the Examination of the DOI Reports on NYCHA Mismanagement at Throggs Neck Houses" (March 14, 2019), p. 16, available at https://www1.nyc.gov/assets/doi/press-releases/2019/Mar/ThroggsNeck_TestimonyandLetters_31419.pdf.

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3. Does HUD plan to make other regulatory changes and/or issue new guidance in conjunction with its introduction of a new ACC? If so, how will these changes be timed with the introduction of the new ACC? Please describe all planned changes.

4. Under the provisions of the new ACC, will asset management fees received by PHAs be considered by HUD to retain their federal designation? Please supply results of any internal analysis of this question and all related documentation.

   If asset management fees will be considered to retain their federal designation under the new ACC:

   a. Does HUD plan to conduct additional oversight of PHA COCC finances? Please describe any additional oversight plans or projects.

   b. What categories and types of expenditures by PHA COCC's will be allowed and/or disallowed by HUD?

   If asset management fees will not be considered to retain their federal designation, does HUD plan to undertake additional measures to re-federalize fees? If not, why not?

5. Please produce all PHA executive compensation data collected by HUD beginning in January 2017 to the present.

Should you have questions, please contact Daniel Parker of my Committee staff at 202-224-4515.

Sincerely,

Charles E. Grassley
Chairman
Senate Finance Committee

cc: Hon. Ron Wyden, Ranking Member, Senate Finance Committee

Hon. Susan Collins, Chairman, Subcommittee on Transportation, Housing, and Urban Development, and Related Agencies, Senate Committee on Appropriations

Hon. Jack Reed, Ranking Member, Subcommittee on Transportation, Housing, and Urban Development, and Related Agencies, Senate Committee on Appropriations

Hon. David Perdue, Chairman, Subcommittee on Housing, Transportation, and Community Development, Senate Committee on Banking, Housing, and Urban Affairs

Hon. Robert Menendez, Ranking Member, Subcommittee on Housing, Transportation, and Community Development, Senate Committee on Banking, Housing, and Urban Affairs

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From: Ludlow, Ashley
Sent: 31 May 2019 20:01:36 +0000
To: McGaughey, Tyler T. EOP/WHO
Subject: FW: Letter for The Honorable Benjamin S. Carson, M.D., Secretary, U.S. Department of Housing and Urban Development
Attachments: 2019-05-29.Rouda to Carson-HUD re Witness Invite.pdf

FYI

Ashley Ludlow
Senior Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
T: (202) 402-5963 | C: (b)(6)

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From: Kelley, Michael J <Michael.J.Kelley@hud.gov>
Sent: Friday, May 31, 2019 1:50 PM
To: Ludlow, Ashley <Ashley.Ludlow@hud.gov>
Subject: FW: Letter for The Honorable Benjamin S. Carson, M.D., Secretary, U.S. Department of Housing and Urban Development

FYI.

From: Kelley, Michael J
Sent: Friday, May 31, 2019 10:30 AM
To: Freeland, Jeff K. EOP/WHO <Jeffrey.K.Freeland@who.eop.gov>
Cc: Wolfson, Len <Len.Wolfson@hud.gov>
Subject: Fwd: Letter for The Honorable Benjamin S. Carson, M.D., Secretary, U.S. Department of Housing and Urban Development

Jeff- per this mornings meeting. HUD and FEMA have been invited.

This would be a mixed panel to include GAO and a climate expert from Penn State University.

In talking to Robbie from FEMA it sounds like they are already confirmed to attend.

Thoughts?

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From: Foster, Olivia <Olivia.Foster@mail.house.gov>
Sent: Wednesday, May 29, 2019 4:54:47 PM
To: Kelley, Michael J
Cc: LaNier, Elisa; Jenkins, Britteny; Leavitt, Claire
Subject: Letter for The Honorable Benjamin S. Carson, M.D., Secretary, U.S. Department of Housing and Urban Development

Hello –

Please see the letter attached from Chairman Harley Rouda, Subcommittee on Environment, to The Honorable Benjamin S. Carson, M.D., Secretary, U.S. Department of Housing and Urban Development.

Please acknowledge receipt of letter.

Sincerely,

Olivia

--

Olivia H. Foster
Executive Assistant
House Committee on Oversight and Reform – *Chairman Elijah E. Cummings*
2157 Rayburn House Office Building
(202) 225-5051

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ELIJAH E. CUMMINGS, MARYLAND
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ONE HUNDRED SIXTEENTH CONGRESS

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RANKING MINORITY MEMBER

Congress of the United States

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COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5051
MINORITY (202) 225–5074

http://oversight.house.gov

May 29, 2019

The Honorable Benjamin S. Carson, M.D.
Secretary
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

Dear Mr. Secretary:

The Subcommittee on Environment would like to invite Tennille Smith Parker, the Director of the Disaster Recovery and Special Issues Division at the Department of Housing and Urban Development, to testify at a hearing on Wednesday, June 12, 2019, at 2:00 p.m., in room 2154 of the Rayburn House Office Building.

The Subcommittee will examine federal, state, and local preparations for the 2019 hurricane and wildfire season, and will assess the status of recoveries from the Southern California wildfires of 2017-2018 and Hurricanes Harvey, Irma, and Maria in Houston, the U.S. Virgin Islands, and Puerto Rico. The hearing will also highlight the fundamental challenges that climate change poses to federal disaster preparedness and recovery, including the link between warmer global temperatures and more intense hurricane and wildfire seasons.

The enclosed Witness Instruction Sheet provides information for witnesses appearing before the Committee. Please note the procedures for submitting written testimony at least two business days prior to the hearing. We ask that you please contact the Subcommittee by Friday, May 31, 2019, to confirm your attendance. If you have any questions, please contact Subcommittee staff at (202) 225-5051.

Sincerely,

Harley Rouda

Harley Rouda
Chairman
Subcommittee on Environment

Enclosure

cc: The Honorable James Comer, Ranking Member

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Committee on Oversight & Reform
Witness Instruction Sheet

1. Witnesses should provide their testimony, biography, and "Truth in Testimony" disclosure and certification form via email to Oversight_Clerks@mail.house.gov no later than 10:00 a.m. two business days prior to he hearing.

2. Witnesses should also provide a short biographical summary and include it with the electronic copy of testimony provided to the Clerk.

3. At the hearing, each witness will be asked to summarize his or her written testimony in five minutes or less in order to maximize the time available for discussion and questions. Written testimony will be entered into the hearing record and may extend to any reasonable length.

4. Written testimony will be made publicly available and will be posted on the Committee's website and the U.S. House of Representatives Document Repository. It is therefore recommended that personally identifiable information, such as addresses and phone numbers, not be included in the biographical information.

5. At the hearing, each witness will be asked to summarize his or her written testimony in five minutes or less in order to maximize the time available for discussion and questions. Written testimony will be entered into the hearing record and may extend to any reasonable length.

6. The Committee does not provide financial reimbursement for witness travel or accommodations. Witnesses with extenuating circumstances, however, may submit a written request for such reimbursements to Robin Butler, Financial Administrator, 2157 Rayburn House Office Building, at least one week prior to the hearing. Reimbursements will not be made without prior approval.

7. Witnesses with disabilities should contact Committee staff to arrange any necessary accommodations.

8. Please note that Committee Rule 16(b) requires counsel representing an individual or entity before the Committee or any of its subcommittees, whether in connection with a request, subpoena, or testimony, promptly submit a notice of appearance to the Committee. If this applies to you, please email the address above to acquire this form.

For inquiries regarding these rules and procedures, please contact the Committee on Oversight and Reform at (202) 225-5051.

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Truth in Testimony Disclosure Form

In accordance with Rule XI, clause 2(g)(5)*, of the *Rules of the House of Representatives*, witnesses are asked to disclose the following information. Please complete this form electronically by filling in the provided blanks.

Committee: _____

Subcommittee: _____

Hearing Date: _____

Hearing Subject:

Witness Name: _____

Position/Title: _____

Witness Type: ◎ Governmental ◎ Non-governmental

Are you representing yourself or an organization? ◎ Self ◎ Organization

If you are representing an organization, please list what entity or entities you are representing:

If you are a <u>non-governmental witness</u>, please list any federal grants or contracts (including subgrants or subcontracts) related to the hearing's subject matter that you or the organization(s) you represent at this hearing received in the current calendar year and previous two calendar years. Include the source and amount of each grant or contract. *If necessary, attach additional sheet(s) to provide more information.*

If you are a <u>non-governmental witness</u>, please list any contracts or payments originating with a foreign government and related to the hearing's subject matter that you or the organization(s) you represent at this hearing received in the current year and previous two calendar years. Include the amount and country of origin of each contract or payment. *If necessary, attach additional sheet(s) to provide more information.*

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False Statements Certification

Knowingly providing material false information to this committee/subcommittee, or knowingly concealing material information from this committee/subcommittee, is a crime (18 U.S.C. § 1001). This form will be made part of the hearing record.

_____ _____

Witness signature Date

If you are a <u>non-governmental witness</u>, please ensure that you attach the following documents to this disclosure. Check both boxes to acknowledge that you have done so.

☐ Written statement of proposed testimony

☐ Curriculum vitae

*Rule XI, clause 2(g)(5), of the U.S. House of Representatives provides:

(5)(A) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof.

(B) In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of any Federal grants or contracts, or contracts or payments originating with a foreign government, received during the current calendar year or either of the two previous calendar years by the witness or by an entity represented by the witness and related to the subject matter of the hearing.

(C) The disclosure referred to in subdivision (B) shall include—

(i) the amount and source of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) related to the subject matter of the hearing; and

(ii) the amount and country of origin of any payment or contract related to the subject matter of the hearing originating with a foreign government.

(D) Such statements, with appropriate redactions to protect the privacy or security of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

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From: Compton, Paul
Sent: 28 Feb 2019 13:25:13 +0000
To: 'McGaughey, Jon T. EOP/WHO'
Cc: Ludlow, Ashley
Subject: FW: Lynne Patton - Cohen Hearing

Paul Compton
General Counsel
Paul.Compton@HUD.gov
D 202 402 5023
T 202 402 2244
C (b)(6)

The information in this communication may be confidential and privileged, is intended only for the use of the recipient(s) named above, and may be subject to additional legal non-disclosure requirements. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please re-send it to the sender and delete the original message and any copy of it from your computer system.

From: Wolfson, Len <Len.Wolfson@hud.gov>
Sent: Wednesday, February 27, 2019 10:52 AM
To: Rios, Eric C <Eric.C.Rios@hud.gov>
Cc: KORNEGAY, EMILY M <Emily.M.Kornegay@hud.gov>; Compton, Paul <Paul.Compton@hud.gov>; Hughes, Andrew <Andrew.Hughes@hud.gov>
Subject: RE: Lynne Patton - Cohen Hearing

Please hold off on responding until we sort through this matter. You're welcome to acknowledge her email.

-Len

From: Rios, Eric C <Eric.C.Rios@hud.gov>
Sent: Wednesday, February 27, 2019 10:42 AM
To: Wolfson, Len <Len.Wolfson@hud.gov>
Cc: KORNEGAY, EMILY M <Emily.M.Kornegay@hud.gov>
Subject: FW: Lynne Patton - Cohen Hearing
Importance: High

Hi Len,

Please see below. How should we proceed?

Thanks,
Eric

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From: Monroe, Christina (Appropriations) <Christina_Monroe@appro.senate.gov>
Sent: Wednesday, February 27, 2019 10:13 AM
To: Rios, Eric C <Eric.C.Rios@hud.gov>
Subject: Lynne Patton - Cohen Hearing
Importance: High

Please provide an explanation of the role Lynne Patton is playing in the Cohen hearing today. I'd specifically like to understand whether she is acting in her official capacity, and what funding was used for her travel from NY to DC for this purpose.

https://twitter.com/yashar/status/1100767686626177024

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From: Ludlow, Ashley
Sent: 1 Mar 2019 18:41:01 +0000
To: McGaughey, Tyler T. EOP/WHO
Subject: Draft HUD Response to Cummings FRA Ltr
Attachments: DRAFT Response to Cummings FRA Ltr (002).docx, HUD Handbook - Ch. 7.pdf, CH-11.PDF

Tyler – Please find attached our draft response to House Committee on Oversight and Reform Chairman Elijah Cummings' December 19, 2018 letter regarding the Department's compliance with the Federal Records Act. It's working its way through the concurrence process but wanted to share it with you now.

Best,
Ashley

Ashley Ludlow
Senior Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
T: (202) 402-5963 | C: (b)(6)

The information in this communication may be confidential and privileged, is intended only for the use of the recipient(s) named above, and may be subject to additional legal non-disclosure requirements. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please re-send it to the sender and delete the original message and any copy of it from your computer system.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

PRIVILEGED & CONFIDENTIAL
Deliberative Process

The Honorable Elijah Cummings
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515-6143

Dear Chairman Cummings:

On behalf of Secretary Benjamin S. Carson, thank you for your letter of December 19, 2018, following up on the Committee on Oversight and Government Reform's previous bipartisan request for information about the Department of Housing and Urban Development (HUD)'s policies and procedures on federal recordkeeping and transparency law compliance.

(b)(5) Deliberative Privilege

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(b)(5) Deliberative Privilege

Please don't hesitate to reach out if we can be of further assistance.

Sincerely,

Chad Cowan
Acting Assistant Secretary for Administration
Chief Human Capital Officer
Chief FOIA Officer

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Internal HUD Distribution:		
Identification Lines:		

Correspondence Code	Originator	Concurrence	Concurrence	Concurrence	Concurrence	Concurrence
Name						
Date						

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7-1: Introduction

The Office of the Chief Information Officer (OCIO) maintains an electronic mail (email) system connected to the Department's Local Area Networks, both in Headquarters and in the field, to satisfy messaging and workflow collaboration requirements. This system allows users to conduct government-related business by exchanging electronic communications, including attachments, to improve customer service and to reduce or replace paper exchanges.

Email is an integral part of doing business, enabling rapid delivery of vital programs, services, and information. Increasing dependence on and use of email results in a compelling need to protect HUD resources through constant and improved monitoring, administration, user training, and awareness.

7-2: Purpose

This document complies with current federal policy related to email systems and record retention. It also informs users of procedures to ensure consistent availability, efficient performance, and secure access.

7-3: Rescission

This policy replaces the previous version, Revision 1, Change 3, from June 2003.

7-4: Applicability

This policy applies to all HUD employees and contract personnel granted use of HUD's email system, regardless of where these persons are located.

This policy refers to HUD's email system, including email messages, file attachments, calendar entries, tasks, notes, conversations, and any other dated item associated with a user's profile, collectively referred to herein as "email data."

7-5: Effective Implementation Date

This policy is effective upon the issuance date of this policy.

7-6: Policy

A. Authorized Use

HUD's email system is intended to conduct government business. Use of the email system should be in conformance with HUD policies herein and in Chapter 8 and Appendix 6 of HUD Handbook 2400.1 Limited Personal Use of

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Government Office Equipment, including any related guidance on the use of government equipment for personal purposes. Users of the system are responsible for adhering to this policy.

The email system also provides online calendaring and scheduling, task tracking capabilities, and the ability to run authorized applications and databases to include automatic notifications and reminders. These are all authorized uses of HUD's email system.

Employees should check their email, including subfolders, regularly as part of their duties. While recipients are not held accountable for the content of email data, they should notify OCIO of unauthorized use as identified below.

Users are reminded that regardless of password control measures, all email messages and resulting attachments are the property of the Department. As such, all email data may be released to the public subject to the Freedom of Information Act (FOIA). Management has the same rights to inspect email as they do with hard copy documents by submitting a written request to General Counsel to access an employee's email data. Such requests can be fulfilled without notification to the affected employee.

These uses of the Department's email system are unauthorized:

- Email data sent for conducting any illegal activities, including making and/or aiding in carrying out threats against persons or federal property.
- Email data that contain any profane, obscene, sexist, or racist materials or other materials that could be offensive, unless necessary for professional actions.
- Email data that contain any language, information, or file attachments that, in any manner, solicit or imply solicitation of any product or procedure that may result in personal gain or profit for the sender and/or any of the addressees.
- Forwarding business-related email from the HUD email system to a personal account (see Section 7-6.D.5). This includes agents used to transfer email to private accounts outside of the HUD environment without authorization from OCIO.
- Mass mailings sent to multiple mailing lists throughout the Department using HUD's Global Address List (GAL), except as required in Section 7-6.E.2.
- Propagation of chain letters or broadcasts of inappropriate messages, as identified above and/or in Chapter 8 of HUD Handbook 2400.1, to lists or individuals by way of other comparable resource-intensive addressing mechanisms.

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- Subscriptions to external newsgroups, bulletin boards, or other public forums, except where necessary for professional actions.
- Matters directed toward any fundraising, lobbying, or partisan political activities.

Unauthorized use of the Department's email system by any of the above means may result in a warning from OCIO staff, including notification of the supervisor and suspension of the originator from the email system and further corrective measures to include possible disciplinary or adverse actions. During a temporary restriction, the employee will be instructed on alternative means of completing work assignments. Said suspension from the email system will remain until the user's immediate supervisor confirms in writing to the appropriate OCIO manager that he/she has taken appropriate action and provided instruction to the user on the proper use of the Department's email system. At such time, the user's immediate supervisor may authorize the reinstatement of the user's email privileges. Repeated offenses by a user may result in loss of use or limitations on the use of equipment or systems, adverse actions, criminal penalties, and/or users being held financially liable for the cost resulting from damages due to improper use.

B. Privacy

As required by the Privacy Act of 1974, federal agencies must protect an individual's right to privacy when collecting personally identifiable information (PII). Any information that could potentially identify a specific individual should be encrypted before sent in email data. Failure to do so may result in personnel actions. PII includes, but is not limited to, social security numbers, date and place of birth, mother's maiden name, and biometric records.

For more information about email encryption, see hud@work and the 2016 joint memo from the Senior Agency Official for Privacy and the Chief Information Officer, Protecting Privacy with Encryption.

C. Records Management

OCIO establishes specific automated and scheduled procedures for regularly archiving the email system of "outdated" data in accordance with Chapter 11 Records and File Management of HUD Handbook 2200.1. All email is archived except for the Deleted Items folder. Archived email data is stored for seven years to allow all employees to access historical emails needed to perform HUD's business. This seven-year retention policy applies to both current and former HUD email account holders. When an individual departs HUD, their email will similarly be retained in compliance with this policy.

A record is any documentary material, regardless of physical form, that is made or

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received by HUD for the transaction of public business, and appropriate for preservation by HUD, or its legitimate successor, as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities, or because of the value of the information it contains (44.U.S.C. 3301).

1. Email Records

Draft documents circulated on email systems may be records if they meet the criteria of a record as described above. However, note that not all emails are records.

Both originators and recipients of email messages are responsible for determining if their email is a record. A transmission has record value if it is the only place that transmits information fitting the definition of a record stated above.

Once the originator and/or recipient determines that an email is a record, he/she must retain a copy of the message (do not delete), including sender/recipient(s) of message, date, and subject line. This copy may be an electronic copy under an approved electronic record retention schedule.

2. Email Records in Personal Accounts

Official agency business should first and foremost be done on official HUD information systems. Use of non-HUD systems to conduct agency business may lead to the mismanagement of agency records and/or the unauthorized disclosure of agency information.

The Federal Records Act (FRA) prohibits the creation or sending of a federal record using a non-HUD email account unless the individual creating or sending the record either: (1) copies their HUD email account during initial creation or transmission of the record, or (2) forwards a complete copy of the record to their HUD email account within 20 calendar days of the original creation or transmission of the record. These requirements ensure that any use of a non-HUD information system does not affect the preservation of federal records for FRA purposes, or the ability to identify and process those records if requested under FOIA, the Privacy Act, or for other official business (e.g., litigation, congressional oversight requests).

HUD strongly discourages the use of personal email for sending or receiving agency records, but to the extent such use occurs, the individual creating or sending the record from a non-HUD email system must copy their HUD email account during transmission or forward that record to their HUD email account within 20 calendar days of creation or sending. Once the message is

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sent or forwarded to HUD email, the user must save the record (do not delete). Further, the record should be removed from non-HUD email systems unless there is a specific obligation, such as a litigation hold, to maintain the files on all systems on which they appear.

3. Records in Text Message and Other Electronic Mediums

HUD discourages the use of text messaging on a mobile device for sending or receiving substantive (or non-transitory) agency records. However, HUD recognizes that some agency staff perform time-sensitive work that may, at times, require the creation of substantive (or non-transitory) records in the form of text messages for emergency or environmental notification purposes. In those limited instances, staff must continue to save and manage any text message records related to their work. In such a situation, staff must either: (1) copy the record to their HUD email account during initial creation or transmission of the record, or (2) forward a complete copy of the record to their HUD email account within 20 calendar days of the original creation or transmission of the record.

Similarly, users of text messaging, instant messaging, or other transient messaging technologies on HUD information systems are responsible for ensuring that messages that result in the creation of substantive (or non-transitory) federal records are saved for FRA purposes and placed in a recordkeeping system. For example, if a text message on a HUD mobile device is received or sent that qualifies as a substantive (or non-transitory) federal record, it must be saved into an approved recordkeeping system. To comply with this requirement, it should be forwarded into the HUD email system to be saved in an approved recordkeeping system. When forwarding the text message from the mobile device to the HUD email system, staff should include the time, date, subject, and sender/recipient of the message.

4. Capstone Email

HUD will manage email under the National Archive and Records Administration's (NARA's) Capstone Approach. This approach acknowledges that the email records of senior agency officials document high-level policy and operational decisions and includes significant and historically valuable communications of the agency.

OCIO captures all email data from the accounts of agency Capstone officials, including secondary accounts and/or accounts maintained by assistants, as identified as part of Federal Identity, Credential, and Access Management. Email records of designated Capstone officials, and officials under the delegations of authority, are placed on litigation hold to be permanently

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retained and transferred to NARA. HUD's Capstone officials include these individuals, each of their deputies, and each of their staff assistants in both official and acting capacities:

- Secretary
- Deputy Secretary
- Chief Operating Officer
- Senior Advisor to the Secretary
- Chief of Staff
- Deputy Chief of Staff
- Federal Housing Administration Commissioner/Assistant Secretary for Housing
- Assistant Secretary for Community Planning and Development
- Assistant Secretary for Fair Housing and Equal Opportunity
- Assistant Secretary for Public and Indian Housing
- Assistant Secretary for Congressional and Intergovernmental Relations
- Assistant Secretary for Policy, Development and Research
- Assistant Secretary for Public Affairs
- Director, Office of Healthy Homes and Lead Hazard Control
- Director, Office of Departmental Equal Employment Opportunity
- President, Government National Mortgage Association
- Federal Housing Administration Comptroller
- General Counsel
- Chief Administrative Officer
- Chief Financial Officer
- Chief Human Capital Officer
- Chief Information Officer
- Chief Procurement Officer
- Inspector General
- Regional Administrator

5. E-Discovery

When there is a "reasonable anticipation of litigation," email and other data must be preserved until final resolution of the legal matter per the Federal Rules of Civil Procedure. The Office of General Counsel or Office of Departmental Equal Employment Opportunity (ODEEO) will: (1) issue litigation holds to custodians notifying them to not delete, alter, or modify data related to a specific legal matter, and (2) submit data collection requests to preserve the necessary data. Preservation of electronically stored information such as email for potential litigation will be retained until a final resolution or closure letter is issued from ODEEO, the Associate General

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Counsel, Regional Counsel, or his/her designee.

The e-Discovery preservation obligations supersede record retention schedules. If there is a litigation hold, electronically stored information (along with paper records) must be preserved until the litigation hold is lifted by the issuer or his/her designee. OCIO will work with OGC to ensure the preservation of email data subject to litigation hold.

D. Technical Procedures

1. Mailbox Size

Users must know that storage space is not an infinite commodity. The email system, therefore, cannot be expected to retain every message for an indefinite period. The size limit of a user's primary mailbox is 50 gigabytes. Users are responsible for deleting all messages they no longer need to retain.

Archived email data is stored separately and does not contribute to the size. Users should expect that outdated messages will automatically be archived as part of HUD's regularly scheduled and automated maintenance. These archived messages will be relocated to the Archive mailbox and remain accessible to users.

Users will automatically receive an email message notifying them they are approaching the designated size limit on their email account. At that time, users should contact the Help Desk for assistance in reducing the size of their mailbox.

2. Message Size

It is necessary to limit the size of individual email messages to ensure that the email system is not over-burdened. The current message size limitation is 35 megabytes for both incoming and outgoing messages, including attachments and other message data in addition to message text. Remember that header information may be as large as three megabytes. Employees should contact OCIO to send an email with attachments exceeding the maximum file size for alternative transmission.

3. User Identification

The standard naming convention for a user's primary email account is first name, middle initial, last name. Every effort will be made to standardize user names across computer systems. Whenever possible, the name used for the email system will be the same as the name used for payroll systems to ensure

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that all employees receive approved mass organizational mailings.

4. File Attachments

In accordance with periodic security reviews and enhancements within HUD's network and in keeping with industry standards on virus protection and detection, attachments with certain file extensions (e.g., .exe, .vbs, and .pif file types) will be rejected via HUD's email system. Users should periodically check HUD's intranet for a current list of unauthorized file extensions.

5. Forwarding Mail

Auto-forwarding incoming email to a personal or other email address outside of HUD is not permitted due to retention and litigation requirements. Forwarding individual emails should be done judiciously as business requires and not include employees' personal email accounts or PII.

E. Mass Mailings

1. Distribution Lists

Departmental distribution lists may be used for authorized messages to a specific group of users. This situation generally occurs when a group contains specific personnel in multiple program areas, divisions, or branches. Departmental distribution lists reside in the HUD GAL and can only be created by the email administrator. Owners of Departmental distribution lists are expected to use this resource judiciously, in accordance with Section 7-6.A, and are responsible for keeping the lists current.

Prior to sending a message to a distribution list, users will check the member listing to ensure that it will only reach the intended audience. Owners of Departmental distribution lists, or a designee, must review their mailing lists at least quarterly and update the member listing as necessary. Except as required for broadcast email messages as described in Section 7-6.D, the GAL will not be used for sending mass mailings.

To request a new Departmental distribution list or a change to an existing list, contact the Help Desk.

Users can create personal distribution lists from their contacts for their own use. Users are expected to use this resource judiciously and in accordance with Section 7-6.A.

2. Broadcast Email Messages

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Broadcast email messages are those that are sent by management to all or subsets of HUD employees to ensure awareness of HUD-sponsored, business-related, or mandatory events. Authorization from the Office of Public Affairs is required to transmit broadcast email messages except for OCIO messages related to IT maintenance and upgrades. These messages should be kept brief and in compliance with Section 7-6.A.

F. Removing Separated Employees

Separating employees must follow established procedures as part of their clearance process. Through this process, information is provided to the email administration staff sufficient to remove the separating employee's email access and account. If management must access the separated employee's email data, they must submit a written request to OCIO.

G. Generic Mailboxes

Generically-named mailboxes provide a mailbox that is specific to a program, project, or group rather than specific to a user. These mailboxes provide a central repository that can be accessed by designated users and provide a central mailing address for customers.

Generically-named mailboxes will be established if there is a demonstrable need. Each generic mailbox must have an owner identified with an email address. Generic mailboxes are subject to all policies and procedures stated throughout this policy including user maintenance, message size limitations, and message integrity. Where possible, the specific user will be held accountable for unauthorized use of the mailbox or, where appropriate, the owner or all users. Generically-named mailboxes will be deactivated if the mailbox is not maintained in compliance with established policies and procedures or is no longer being used.

Users in Headquarters should contact their program area's Office Technology Coordinator to submit a request for a generic mailbox. Users in the field should contact their IT Director staff.

Generic mailboxes generally do not have an Archive mailbox; therefore, email data is retained for seven years or until 99 gigabytes, whichever comes first, unless the generic mailbox is subject to a litigation hold.

H. Remote Access

The ability to remotely access HUD's email data is supported by the Department for authorized users. HUD's email data can be accessed via remote access, an Internet browser, or personal device in accordance with HUD Handbook 625.1

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Telework Policy, the Fair Labor Standards Act, and OCIO's Bring Your Own Device Policy.

7-7: Authorities and References

This policy ensures compliance with these statutes, directives, and guidance:

- Bring Your Own Device Policy (HUD Handbook 2400.1);
- Clinger-Cohen Act of 1996 (40 U.S.C 11315);
- Creation and Maintenance of Federal Records (36 CFR 1222);
- Disposition of Federal Records (36 CFR Chapter XII Subchapter B);
- E-Government Act of 2002 (44 U.S.C. Chapter 36);
- Fair Labor Standards Act (29 U.S.C. 201-219);
- Federal Information Security Management Act of 2002 (44 U.S.C. 3541);
- Federal Records (36 CFR 1220);
- Federal Records Act of 1950 (44 U.S.C. Chapter 31);
- Form HUD–22018 (03/2010) Office of the Chief Information Security Officer Rules of Behavior for Remote Access;
- Freedom of Information Act (5 U.S.C. 552);
- General Records Schedules (National Archives);
- HUD Records Disposition Schedule (HUD Handbook 2225.6);
- Limited Personal Use of Government Office Equipment Policy (HUD Handbook 2400.1, Chapter 8 and Appendix 6);
- Privacy Act of 1974 (5 U.S.C. 552a);
- Protecting Privacy with Encryption (HUD Memo 8/1/2016);
- Records Disposition Management (HUD Handbook 2228.1); and
- Records Disposition Scheduling for Automated Systems (HUD Handbook 2229.1).

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CHAPTER 11
RECORDS AND FILES MANAGEMENT

1. POLICY.

A. The overall objective of the Department's records and files management program is to provide efficient, economical, and effective management of all Departmental information and records to include creation, use, maintenance, and disposition.

B. Develop standards and instructions to cover the life cycle of information and records created by HUD programs.

C. Develop and apply effective records retention schedules accepted and approved by the National Archives and Records Administration (NARA) and the General Accounting Office (GAO).

D. Set up and maintain files that can easily be disposed of based on HUD Handbook 2225.6, Records Disposition Schedules and HUD Handbook 2228.2, General Records Schedules.

E. Make filing HUD records as easy and uniform as possible, by standardizing filing classification schemes.

F. Ensure that records of permanent value are appropriately preserved and transferred to NARA for permanent retention.

G. Retire inactive records from costly office space to a Federal Records Center for storage.

H. Ensure appropriate disposal of records that are no longer needed.

I. Ensure implementation of and compliance with regulatory requirements.

2. FUNCTIONAL ORGANIZATIONS.

A. Office of Administration.

1. Office of Administrative and Management Services (OAMS). The Document Division oversees the Department's records and files management program.

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HUD-19-0775, 19-0894-E-000034

OAMS' Headquarters Records Center Liaison Unit (RCLU) assists in the retirement, retrieval, transfer, and disposition of Headquarters records and serves as liaison with the Washington National Records Center (WNRC). The Document Division's Departmental Records Management Officer (DRMO) serves as HUD liaison on records and files management concerns with NARA, GAO, and other Federal agencies, provides advice and assistance to the Department's organizational components on the management of their records, including the development of records retention schedules and disposition. The DRMO apprises high level HUD officials of responsibilities concerning personal papers and proprietary records, conducts training and development of organizational Records Management Liaison Officers, and provides orientation of new Departmental employees regarding Federal records management responsibilities.

2. Office of Information Technology (OIT). In coordination with the DRMO and program office staff, the OIT develops and implements records retention schedules for the Department's automated systems designs and the records created and maintained in those systems.

3. Administrative Service Centers (ASC). ASC Directors oversee Field Office records management policy implementation and administration.

4. Administrative Resources Divisions (ARD). ARD Directors name a Records Management Liaison Officer (RMLO) and an alternate and coordinate all records disposition services for each of their organizations.

5. The Directors of Field Information Technology Divisions. The Directors of the Field Information Technology Divisions and their staff establish retention periods for locally developed automated/electronic files, as part of ADP systems development.

B. **Records Management Liaison Officers (RMLOs).**

1. Headquarters and Field RMLOs coordinate and evaluate all records and files management activities for their respective organizations and serve as the principal organizational contact regarding records and files related concerns. They must:

   a. Provide technical leadership and assistance on records and files management.

   b. Evaluate all records and files management activities to ensure they are useful and up-to-date.

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HUD-19-0775, 19-0894-E-000035

c. Inform the Records and Directives Branch, OAMS, of any problems, including noncompliance with the policy outlined herein when the Program Organization Heads (POH) cannot resolve them.

C. **Program Organization Heads.** POHs are managers responsible for major HUD organizations who report directly to the Secretary. The POHs are the Assistant Secretaries, General Counsel, President of Government National Mortgage Association, Inspector General, Chief Financial Officer, and the Director for the Office of Lead Hazard Control.

D. **HUD Employees.** Employees must treat the official records in their custody as Federal property and ensure against their unlawful use, removal, and destruction. They must also implement approved retention periods for the files they create and maintain.

3. REGULATORY AUTHORITIES. National Archives and Records Administration Act of 1984 (44 U.S.C. 101); 36 CFR, Part 1228, 36 CFR, Part 1230 issued by the National Archives and Records Administration (NARA); 18 U.S.C. 2071; 18 U.S.C., Section 641; 18 U.S.C., Sections 793, 794, 798; The Federal Records Act of 1950 (44 U.S.C., Section 3102); 1976 Federal Records Management Amendments to the Federal Records Act of 1950.

4. PRIVACY ACT CONSIDERATIONS. See HUD Handbook 1327.1, Privacy Act Handbook.

5. CONTRACT REQUIREMENTS. See HUD Handbook 2228.1, Chapter 9.

6. RECORDS RETENTION/DISPOSITION REQUIREMENTS. See HUD Handbook 2228.2, General Records Schedules and HUD Handbook 2225.6, HUD Records Disposition Schedules.

7. KEY REFERENCES.

A. HUD Handbook 2229.1, Records Disposition Scheduling for Automated Systems.

B. HUD Handbook 2228.2, General Records Schedules.

C. HUD Handbook 2225.6, HUD Records Disposition Schedules.

D. Managing Electronic Records, issued by NARA.

E. Electronic Record keeping, issued by NARA.

F. HUD Guidebook A000.1G, Files Management.

G. HUD Handbook 1750.1, National Security Information.

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HUD-19-0775, 19-0894-E-000036

8. ACRONYMS.

ARD - Administrative Resources Division
ASC - Administrative Service Center
ASCII - American Standard for Information Interchange
DRMO - Departmental Records Management Officer
FRC - Federal Records Center
GRS - General Records Schedules
NARA - National Archives and Records Administration
OAMS - Office of Administrative and Management Services
OIG - Office of Inspector General
OIT - Office of Information Technology
OPF - Official Personnel File
RCLU - Records Center Liaison Unit
RMLO - Records Management Liaison Officer
WNRC - Washington National Records Center

9. FORMS REFERENCED AND/OR REQUIRED.

SF-115 - Request for Records Disposition Authority
SF-258 - Request for Transfer, Approval and Receipt of Records to National Archives of the United States
SF - 135 - Records Transmittal and Receipt
SF-2806 - Individual Retirement Record
SF - 127 - Request for Official Personnel Folder
SF - 184 - Request for Employee Medical Folder
SF-277 - Computer Magnetic Tape File Properties
OF-11 - Preference Request - Federal Records Center
HUD-58A - Clearance for Separation of Employee
HUD-552 - Request for Change in HUD Records Schedule
HUD-67 - Files Survey
NA Form 13001 - Notice of Intent to Destroy Records
NA Form 1300 - Agency Review for Contingent Disposal

10. REPORTING REQUIREMENTS SUMMARY. Records and files management reporting requirements are referenced in the appropriate sections of this chapter.

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SECTION 1
RECORDS INVENTORY AND APPRAISAL

11. INVENTORY AND APPRAISAL REQUIREMENTS. An inventory determines what unscheduled records exist and appraisal assigns a value to the records. All unscheduled Departmental records must be inventoried and appraised.

A. **Inventory Requirements.**

1. Inventories and schedules must address records in a basic unit of a series, rather than separate folder or documents. A series is a group of records which:

   a. Have the same physical form.
   b. Are arranged under a single filing system.
   c. Relate to a particular subject.
   d. Document a certain kind of transaction.
   e. Are produced by the same activity.

2. Each record series and all nonrecord material must be documented on form HUD-67, Files Survey. Include:

   a. All records and nonrecord material of the organization or function concerned, including any material not stored in filing equipment.

   b. All records and nonrecord material, regardless of physical form (e.g., microform, electronic, photographs, etc.).

   c. Clear and brief descriptions of the records, including how often they are used and disposition instructions.

   d. Restrictions on access and use of the records (i.e., Executive Order, law, security classification, internal directives, etc.).

3. Appraisal Requirements. Appraisals must be assigned to records as a series.

   a. Appraisal Categories. All records are categorized into a series which is either:

      (1) Permanent. Records selected and permanently maintained by NARA.

      (2) Temporary. Records that are disposable within NARA-approved timeframes.

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b. Appraisal Values.

(1) Primary Value. The primary value of records are the administrative, legal and/or fiscal information they contain. Records are temporary, and so disposable, if they have one, or more, primary value(s), but no secondary value.

(a) Administrative Value. The value of records in helping HUD do its work. Administrative records are:

1 Short-Term. Normal housekeeping records documenting routine transactions which are quickly completed.

2 Long-Term. Case history files on directives and regulations. Long-term records with a recommended retention of 10 years, or more, must be justified to NARA.

(b) Legal Value. Value as evidence of legally enforceable rights or obligations of the Government.

(c) Fiscal Value. Value of records documenting financial transactions. Exception: Records on the development of fiscal policy may have permanent value.

(2) Secondary Value. The research value to others after the Department's needs have been met. Secondary value is also called archival value.

(a) Evidential Value. The value of records as evidence of HUD's organization and functions (records indicating how the Government determined and met the needs of its citizens.)

(b) Informational Value. The value of the information the records contain on persons, things, problems, and conditions with persons, things, problems, and conditions with which the Department has dealt. NARA test for assigning informational value:

1 Uniqueness. The information cannot be found elsewhere (either from federal and nonfederal sources) in as complete and useful form.

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2 Form. Concentration of information, physical conditions of records, and ease of access to data.

3 Importance of Research Value.

SECTION 2
RECORDS DISPOSITION SCHEDULES

12. DEFINITION. A records disposition schedule documents the timeframe a Federal record must be retained and/or preserved and provides the authority by which final disposition of a Federal record may occur.

13. HUD POLICY.

A. **HUD Requirements**. The Department's policy is to develop records disposition schedules on a program or functional basis versus an organization basis. All HUD records must be scheduled, regardless of form or media. Existing records disposition schedules must be reviewed annually for needed revisions. All proposed records schedules must be forwarded to the DRMO for submission to NARA for approval. Schedules must be approved by NARA and GAO, as appropriate, before they can be used as authority to dispose of Departmental files.

B. **NARA Requirements**. NARA must seek public comment before approving any new schedules, or revisions of schedules proposing a decrease in retention periods. Only records selected by NARA can be kept permanently.

C. **NARA Final Notice of Approval.** The Archivist of the United States must approve and sign SF-115, Request for Records Disposition Authority for a records schedule to take effect.

14. HUD HANDBOOK 2228.2, GENERAL RECORDS SCHEDULES (GRS). This handbook contains the GRS which are issued by NARA to cover the disposition of records common to most Federal agencies, i.e., records mainly consisting of administrative functions and nontextual records. All Federal agencies must use them.

15. HUD HANDBOOK 2225.6, HUD RECORDS DISPOSITION SCHEDULES.

A. This handbook contains HUD-initiated, NARA-approved deviations from the GRS. HUD may request deviations from the GRS for one of the following reasons:

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1. The Department seeks longer, or shorter, retention periods for certain administrative, legal, or fiscal records to meet a unique requirement, or specific need.

2. Certain GRS schedules may be deleted by NARA so that it may appraise an agency's records on a case-by-case basis for archival value.

3. Certain Departmental administrative records may be unique.

B. This handbook also contains the NARA-approved schedules which the Department has developed to cover its unique functions and programs.

16. RECORDS DISPOSITION AUTHORITY.

A. **Form SF-115.** All records disposition schedules must be prepared using a Form SF-115.

B. **Concurrences Required.**

1. Program Office. The office(s) creating and/or keeping the records covered by the schedule must concur. The DRMO can assist in determining the appropriate concurrences.

2. Legal Concurrence. To make sure legal needs are considered, the Office of the General Counsel must concur.

3. Audit/Investigation Concurrence. The Office of the Inspector General (OIG) must concur to make sure audit and investigative needs were considered.

C. **Submission of SF-115.** The DRMO must certify the proposed schedule by signing and dating the SF-115 as agency representative.

1. NARA. The DRMO will forward the request to NARA.

2. GAO. The DRMO forwards the request to GAO. GAO approval is required for a schedule covering:

a. Administrative functions where the proposed retention periods are less than those in the GRS.

b. Program records to be kept for less than 3 years.

c. Records relating to claims or demands by or against the Government when the proposed retention period is less than that required in the GRS.

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D. **SF-115 Prepared by a Federal Records Center (FRC).** FRCs will prepare SF-115s to cover unscheduled records stored there, or to reduce retention period for scheduled records. NARA will clear their SF-115s with HUD before approving them.

17. SF-115 CERTIFICATIONS REQUIRED FOR MICROFORMED RECORDS. When proposing to microfilm permanently valuable records, the Department is required to follow certain technical filming and storage standards. The SF-115 must be documented indicating that these standards have been met.

A. **Certifications Required**.

1. "This certifies that the records described on this form will be microfilmed in accordance with the standards set forth in 36 CFR Part 1230."

2. Storage conditions for the silver original microforms must meet the standards in 36 CFR 1230.20. Also, the first inspection date of the microforms must be indicated.

B. **Microform and Hard Copy Scheduling Requirements.** Separate disposition schedules must be developed for both the microform and the hard copy (paper) record.

C. **Retention Requirements.** Microforms must be given a permanent retention period based on HUD's administrative, legal and fiscal needs. Hard copies must be destroyed after the microform is checked and verified.

18. SCHEDULING OF AUTOMATED DATA PROCESSING (ADP) RECORDS.

A. **Central ADP Centers.** A separate schedule item must be developed to cover the records of each ADP system. ADP system files are covered in the related HUD program or functional schedules. See HUD Handbook 2229.1, Records Disposition Scheduling for Automated Systems. A copy of the automated system description from the HUD Inventory of Automated Systems must be attached to a proposed ADP schedule before the schedule is submitted to NARA for approval.

B. **Personal Computer Records.** The GRS contains many of these records. A separate schedule item must be developed for program data bases or other electronic records not covered by GRS 23.

19. REQUEST FOR CHANGES TO HUD RECORDS SCHEDULE.

A. **Form HUD-552.** Changes to a HUD schedule must be prepared on a Form HUD-552, Request for Change in HUD Records Schedule.

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B. **Justifications for Changes.**

1. Addition of new items.

2. Decrease in retention periods.

3. Increase in retention periods.

4. Deletion of a discontinued series.

5. Addition of retirement instructions.

6. Redesignation of permanent records.

7. Converting records to microform.

20. DETERMINING PROPOSED RETENTION PERIODS.

A. Retention periods must reflect sound administrative, legal and fiscal requirements.

1. Reference Activity. Records are considered inactive when referred to once a month, or less, per file drawer.

2. Legal Factors. Federal statutes of limitations require keeping some records as long as legal actions are possible.

3. Files Containing Names. Name files are files on the rights and benefits of people and any transactions concerning them. These factors must be considered:

   a. When the file closes.

   b. What rights a person has by law after the file closes.

   c. The time limit for using those rights.

   d. HUD's administrative needs for audit and related purposes.

4. Special Administrative Needs. Temporary programs or special investigations may require retaining certain records for a longer timeframe than usual administrative requirements.

5. Duplication. Multiple copies of certain records may exist. The most complete documentation is the "record copy," and must be retained longer than other copies.

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6. Data from another source can reduce the retention period.

B. **NARA Limitations on Retention Periods.** NARA has a five-year maximum on temporary records. Longer retention periods must be justified and approved.

C. **GAO Audit Requirements.** GRS 6 ensures availability of account records for GAO audit purposes. Potential GAO audit requirements for other records must be considered when proposing record retention periods.

D. **Risk.** Proposing the timeframe for destruction of records must reflect a realistic assessment of future need for the records.

21. CONTRACTOR PREPARATION OF RECORDS DISPOSITION SCHEDULES. At their own expense, HUD organizations may contract out the preparation of records disposition schedules to cover their records. However, the contract must remain open and final payment withheld until NARA approves the schedule.

SECTION 3
RECORDS DISPOSITION METHODS

22. APPLYING APPROVED SCHEDULES.

A. Records Disposition Schedules must be applied following approval by NARA.

B. **For HUD Program Records**. Use the proper HUD records disposition schedule in HUD Handbook 2225.6.

C. **HUD Administrative Records.** Use the GRS and HUD Records Disposition Schedule 3, Administrative Records.

D. **For Other Agency Records in HUD Custody**. These record series do not belong to HUD, even though HUD creates and maintains them.

1. Official Personnel Folder (OPF). Legally, this record series belongs to the Office of Personnel Management (OPM). It documents each Federal employee's service, rights and benefits. HUD sends the OPF to the National Personnel Records Center in St. Louis, Missouri, for disposal when the employee separates from the Department.

2. Individual Retirement Record (SF-2806). Legally, this record belongs to OPM. It documents the amount taken from a Federal employee's pay for their retirement fund. HUD sends this record to OPM when the employee transfers or separates.

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E. **Freezes on Destruction of Scheduled Records.** The need for extending the retention period of records scheduled for disposal must be based on the Department's continuing administrative, legal or fiscal need. A request to "freeze" their destruction must be in writing and must be submitted to the DRMO for approval by NARA. The written request must justify the need, give the current and proposed location of the records, and state when they can be destroyed. Requests to end the freeze must be directed to the DRMO. The DMRO must notify all HUD offices and NARA when the freeze or extension is no longer applicable.

23. LOANS TO CONTRACTORS OR GRANTEES. Contractors or grantees can be given temporary physical custody of HUD records when required by the terms of the contract or grant, and it is not practical or cost effective for them to make copies of the records or review the records in HUD offices.

24. RETIREMENT OF RECORDS TO A FEDERAL RECORDS CENTER (FRC). Retirement is the movement of inactive records from storage in office space to an FRC. (See Appendix 1 for listing of the FRCS.)

A. **Retirement of Personnel and Pay Records**. See paragraph 11-22D and General Records Schedules 1 and 2.

B. **Criteria for Retirement.**

1. Inactive Records. Records referred to not more than once a month per file drawer.

2. Ineligible for Immediate Disposal. Records not authorized for immediate disposal whose transportation costs will not exceed the resulting savings. Generally records should not be retired if they will be destroyed within one year of retirement. Do not retire accountable officers' accounts records that are:

   a. Less than one year old and have not been audited without approval of GAO.

   b. Kept at overseas locations less than three years before retirement.

3. When Volume Warrants. Volume must be at least one cubic foot (one box). A shipment of less than five cubic feet is not normally cost effective.

C. **Records Not Accepted by FRCs for Retirement.**

1. Eligible for Disposal But Kept Because of a HUD-Imposed or Court-Imposed Freeze. See paragraph 11-22E regarding "freezes."

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2. Unscheduled Records Covered By An SF-115 Approved Prior to May 14, 1973, Whose Disposition Instructions Were Not Authorized. The disposition instructions include "permanent," "retain," "not authorized for disposal," etc. Requests for exceptions must be justified in writing and submitted to the DRMO to obtain NARA approval. The request must include:

   a. Data on the record volume and the expected reference activity.

   b. A SF-115 attached to schedule the records.

D. **Records with a contingent disposition.** Contingent disposition is based on an event taking place at some future, unspecified time. Requests for exceptions must be justified in writing and submitted to the DRMO to obtain NARA approval. The request must include:

1. Series title;

2. Records schedule and item numbers;

3. Estimated annual growth;

4. Frequency of reviews for disposal;

5. Justification for retirement to FRC.

E. Forms Required. A Form SF-135, Records Transmittal and Receipt, must be prepared to retire records. Each Field Office must follow the current procedures and practices of the FRC for that particular area.

25. OFFER. If the records seem to have archival value, the Department must submit an offer of the records for permanent retention and immediate, or future transfer to the National Archives. If certain records seem significant in a series which is otherwise scheduled for disposal, the Department must prepare an offer for selection of only those records by NARA. A SF-115 must be submitted to the DRMO for NARA approval. Any restrictions on access and use of the records must be documented.

26. DISPOSAL LIST. For unscheduled HUD records no longer being created and which do not seem to have archival value, the Department must prepare a disposal list for their immediate or future disposal. A SF-115 must be submitted to the DRMO for NARA approval.

27. TRANSFER. A transfer changes the legal and physical custody of records from one agency/organization to another. This includes the transfer of permanent records to the National Archives. The National Archives accepts only records which it decides have enough historical or other value to warrant permanent retention.

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A. **Transfers Between HUD Offices.** Official files must be transferred at the same time final authority and program responsibility are transferred. Only active records should be transferred. Inactive records should be retired to FRCs or destroyed under approved records disposition schedules.

B. **Transfer to NARA.**

1. SF-227, Computer Magnetic Tape File Properties. This form must be used to describe automated records being transferred to NARA.

2. SF-258, Request to Transfer, Approval, and Receipt of Records to National Archives of the United States.

   a. HUD-Prepared SF-258. The office having custody of the records must submit an SF-258 to the DRMO. This form must be submitted to NARA for approval 60 days before the requested transfer date.

   b. NARA-Prepared SF-258. NARA prepares an SF-258 and sends it to the DRMO to obtain clearance from the HUD office having legal custody of the records. The SF-258 must be returned to NARA 60 days before the transfer date.

3. Permanent Records Stored on Optical Disk. These are the only types of optical disks that can be transferred to the National Archives for permanent retention:

   a. Analog videodiscs that typically contain photographs if they do not require any interactive software or nonstandardized equipment. Original photographs of a permanent nature must be transferred to the National Archives along with a copy of the videodisc.

   b. Compact disks used for digital audio playback.

   c. Other permanent records must be converted to paper, microforms or magnetic tape before transfer to the National Archives.

   d. NARA must approve destruction of permanent records converted to optical disk.

4. Records Over 30 Years Old. The Archivist can transfer any HUD records over 30 years old that are unscheduled or scheduled as "permanent" to the National Archives by his/her action alone. If the records must remain in HUD for use in conducting current business, the Secretary must so certify in writing to prevent the transfer.

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5. Transfer to Presidential Library. The White House or NARA may request certain papers for a Presidential Library. Only copies of records defined as "personal papers" can be transferred. Requests for such material must be coordinated with the DRMO.

6. Transfer to Other Federal Agencies.

   a. Approval Requirements. NARA must give written approval for one Federal executive agency to transfer records to another, except when required by law, Executive Order, Presidential reorganization or Treaty, or the records are loaned for official use on a temporary basis.

   b. Schedule Requirements. Schedules approved for one agency may not be used by another. HUD records disposition schedules must be revised when HUD transfers records or receives them as a result of a transfer. A Form HUD-552, Request for Change in HUD Records Schedule, must be approved to add or delete schedule items.

   c. Restrictions. Any conditions and limitations placed on the borrowing Federal agency must be documented when loaning records to other Federal agencies.

28. DONATIONS.

A. Criteria for Donations are authorized only when:

1. They consist of nonrecord material and temporary records which are authorized for destruction.

2. They do not contain information that cannot be revealed by law or is contrary to the public interest.

3. The proposed recipient agrees in writing not to sell the records as records or documents.

4. The transfer is made without cost to the Federal Government.

5. NARA approval is obtained in advance.

B. **Eligible Recipients.**

1. An eligible government, including foreign governments with an official interest in the records.

2. An organization.

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3. An institution.

4. A corporation.

5. A person or commercial business if the records directly relate to the custody or operation of properties acquired from the Government.

29. DESTRUCTION.

A. **Paper Records**. Normally, paper records must be sold as waste paper. The contract for sale must prohibit their resale for use as records or documents. See the following table for exceptions:

IF the records...	THEN...
Are security classified for national defense reasons.	See Handbook 1750.1, National Security Information.
Are restricted from public access and use by law, regulation or HUD policy or directive.	Safeguard against disclosure. The waste paper contractor must pulp or shred them. The destruction must be witnessed either by a Federal employee or, if authorized by HUD, by a contractor employee.
Cannot be sold because the: . Volume is too small. . Market price is too low. . Records must be sorted and cleaned first.	Place them in wastebaskets.

B. **Records on Other Media**. Nonpaper records (e.g., microforms; audio-visual materials; and magnetic tapes, disks and diskettes) may be salvaged and sold in the same manner and under the same conditions as paper records, except:

1. Erase and reuse media such as magnetic tapes and disks, if possible, or use a program which will completely overwrite the data to be destroyed. Simply telling an automatic data processing system to delete certain records will not protect against unauthorized access to the information.

2. Turn in media subject to the precious metals (e.g., gold, silver and platinum) recovery process when it cannot be erased and reused. (Source: 41 CFR Subpart 101-42.3) Examples are: original (silver halide) microforms, used photographic fixing (hypo) solution, and photographic and x-ray film. Use the normal procedures and forms for turning in excess Government

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property, but note on the forms if access to data on the media is restricted by law, regulation or HUD policy or directive.

30. RETRIEVING RECORDS FROM AN FRC.

An Optional Form-11, Reference Request - Federal Records Center, must be completed for each folder or box needed. If two folders or boxes are adjacent, one form can be used.

A. **Headquarters**. Written requests must be sent through the Records Center Liaison Unit (RCLU). Certain Office of Housing employees, identified by the DRMO, are authorized to request single family home mortgage insured case files directly from the FRC. In emergencies, certain Housing and Office of Community Planning and Development employees may request records directly in the absence of the RCLU staff and DRMO.

B. **Field Offices**. The Field Office RMLOs are authorized to request records directly from local FRCs.

SECTION 4
OFFICIAL FILES AND FILE STATIONS

31. OFFICIAL AND UNOFFICIAL FILES.

A. Official files (also called record copies) should be identified and kept separate from unofficial files (also called nonrecord material).

B. Official files (record copies) contain the documents known to be a complete record of official Government business.

32. PROCEDURES FOR STORING RECORDS OUTSIDE OFFICES.

A. **Headquarters.**

1. Clearance is required before storing records outside Headquarters offices, including:

   a. Hallways, elevator lobbies, or the subbasement.

   b. Room B-229 assigned to the Documents Division, OAMS, Office of Administration. Room B-229 is used as a staging area for records awaiting:

      (1) Retirement to the FRC.

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(2) Scheduled destruction in less than one year.
(3) Transfer to the National Archives under an approved offer.

2. Storage requests must be written and must:

a. State where the records are to be stored and for how long.

b. Describe all records involved, including arrangement, dates, and volume (in cubic feet).

c. Cite the records disposition schedule (both the schedule and item numbers) covering the records.

d. Certify that they are meeting the disposition standards covering all records filed in that office.

e. Certify that all records retention periods are as short as possible, and that records are being retired to the FRC as soon as possible.

f. Briefly discuss the feasibility of micrographics as part of the solution to any existing records management problem.

3. Send requests to Document Management Division, Records and Directives Branch, OAMS.

B. **Field Offices.** This paragraph neither authorizes nor prevents Field Offices from allowing records storage outside offices at their locations. This must be decided by each ASC and ARD. However, where allowed, ASCs should develop procedures similar to those of Headquarters.

SECTION 5
FILING EQUIPMENT AND SUPPLIES

33. POWER FILES. A complete analysis must be submitted when requesting these files. The analysis should include specific data on increased productivity, space savings, elimination of backlogs and overtime and reduction of staff hours to maintain the files.

34. REQUESTING FILING EQUIPMENT FOR PAPER MEDIA.

A. **Before requesting filing equipment:**

1. Destroy eligible records under approved HUD records disposition schedules.

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2. Retire eligible records to the FRC.

3. Request a schedule change when experience shows that records can be destroyed or retired to a Center earlier than the schedule allows.

4. Recycle or destroy excess copies of directives, forms, or publications.

B. ***DO NOT STORE*** personal property, supplies, and decorations in filing equipment.

C. The approval office's decision will be based on cost of the filing equipment, available funding, anticipated use and available office space.

35. REQUESTING FILING EQUIPMENT FOR SPECIAL MEDIA.

A. Microforms. Justify the request for nonstandard equipment.

B. Special Media.

1. Contact the Property Supply Branch, OAMS, for information about the types of filing equipment available for other special media.

2. Data files. Include cassettes, cartridges, tab and magnetic cards, diskettes, computer printouts, and computer tapes, disks, and reels.

3. Card files.

4. Drawings, blueprints, other large documents, tracings, map and plan files, and charts.

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SECTION 6
REFERENCE SERVICES

36. RELEASE OF RECORDS TO SOURCES OUTSIDE HUD.

A. The decision to release or not to release information to a source outside the Department is governed by the requirements of the Freedom of Information Act (FOIA) and the Privacy Act.

B. Records shall be released to an outside source if approved by the head of the organization having primary responsibility for the program or activity concerned (or that individuals designee) and the release is made under the provisions of the FOIA.

C. Release of records containing personal information shall be made only by the Privacy Act Officer, except if the release is required by the FOIA.

D. Before releasing any information to outside sources, consult HUD Handbooks 1325.01, Privacy Act Handbook, and 1327.1, Freedom of Information Act.

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Appendix 1

FEDERAL RECORDS CENTERS

AREA SERVED	MAILING AND SHIPPING ADDRESS
District of Columbia, Maryland, Virginia, and West Virginia (except U.S. court records).	Washington National Records Center, Washington, DC 20409
mail):	Shipping address only (do not use for 4205 Suitland Road, Suitland, MD
The entire Federal Government personnel records of separated employees; pay records of all Federal employees; medical records of civilian employees of the Army, Navy, and Air Force; and records of agencies in the greater St. Louis area (Missouri only).	National Personnel Records Center (Civilian Personnel Federal Records) 111 Winnebago Street St. Louis, MO 63118
Maine, Vermont, New Hampshire Massachusetts, Connecticut, and Rhode Island. Waltham, MA 02154	Federal Records Center 380 Trapelo Road
Delaware, Pennsylvania, and U.S. court records for Maryland, Virginia, and West Virginia	Federal Records Center 5000 Wissahickon Avenue Philadelphia, PA 19144
North Carolina, South Carolina, Tennessee, Mississippi, Alabama Georgia, Florida, and Kentucky	Federal Records Center 1557 St. Joseph Avenue East Point, GA 30344
Illinois, Wisconsin, Minnesota, and U.S. court records for Indiana, Michigan and Ohio	Federal Records Center 7358 South Pulaski Road Chicago, IL 60629
Indiana, Michigan and Ohio except U.S. court records.	Federal Records Center 3150 Springboro Road Dayton, OH 45439

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Appendix 1

AREA SERVED	MAILING AND SHIPPING ADDRESS
Kansas, Iowa, Nebraska, and Missouri except greater St. Louis area.	Federal Records Center 2306 East Bannister Road Kansas City, MO 64131
New York, New Jersey, Puerto Rico, Virgin Islands, and the Panama Canal Zone.	
Texas, Oklahoma, Arkansas, Louisiana, and New Mexico	Federal Records Center P.O. Box 6216 Fort Worth, TX 76115
	Shipping address only (do not use for mail): 4900 Hemphill Street, Building 1, Dock 1, Fort Worth, TX
Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota.	Federal Records Center Bldg. 48, Denver Federal Center, P.O. Box 25307 Denver, CO 80225
American Samoa; California, except southern California, and Nevada, except Clark County	Federal Records Center 1000 Commodore Drive San Bruno, CA 94066
Arizona; Clark County, Nevada; and southern California counties of San Luis Obispo, Kern, San Bernadino, Santa Barbara, Ventura, Los Angeles, Riverside, Orange, Imperial, Inyo, and San Diego).	Federal Records Center 24000 Avila Road Laguna Niguel, CA 92677
Washington, Oregon, Idaho, Alaska, Hawaii, and Pacific Ocean areas (except American Samoa).	Federal Records Center 6125 Sand Point Way Seattle, WA 98115

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From: Ludlow, Ashley
Sent: 21 Mar 2019 19:42:45 +0000
To: McGaughey, Tyler T. EOP/WHO
Subject: FW: Draft to Portman and Carper.docx
Attachments: Draft to Portman and Carper.docx, 2019-03-01 Portman and Carper Letter to HUD re Shutdown.pdf

Ashley Ludlow
Senior Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
T: (202) 402-5963 | C: (b)(6)

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Rob Portman
Chairman
Senate Committee on Homeland Security and Government Affairs
Permanent Subcommittee on Investigations
United States Senate
448 Russell Senate Office Bldg.
Washington, D.C. 20510

The Honorable Tom Carper
Ranking Member
Senate Committee on Homeland Security and Government Affairs
Permanent Subcommittee on Investigations
United States Senate
513 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Chairman Portman and Ranking Member Carper:

Thank you for your letter dated March 1, 2019, in which you requested information on various costs the Department of Housing and Urban Development (HUD) incurred during the last three Government shutdowns.

The Department has attempted to answer your questions to the best of our ability. Government shutdowns are irregular and therefore the ability to provide precise information that would be typical in a normal business process is limited. Please see the responses below for each of your inquiries.

1) Please provide:
   a) The number of Federal employees furloughed.

RESPONSE: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

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(b)(5) Deliberative Privilege

b) The total number of combined employee furlough days.

RESPONSE: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

c) The total amount paid to Federal workers for the time they were furloughed, including, but not limited to any back pay received when the shutdown ended.

RESPONSE: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

d) Any additional costs or financial consequences associated with lost productivity. Please specify the cause of each of those costs.

RESPONSE: (b)(5) Deliberative Privilege

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(b)(5) Deliberative Privilege

2) The number of contractor employees:
   a) laid off or
   b) required to use leave.

RESPONSE: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

3) The total costs associated with and/or resources necessary for development and implementation of contingency plans and completion of shutdown activities, including, but not limited to, all preparations performed in anticipation of the shutdown, and communication with Federal employees and contractors regarding furloughs and suspension of operations.

RESPONSE: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

4) The total costs associated with and/or resources necessary for reopening and restarting normal operation of agency activities, including, but not limited to, preparations performed during the shutdown in anticipation of reopening, notification of employees regarding furlough status, restarting information technology systems, and resuming program activities such as grants and contracts.

RESPONSE: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

5) Any analyses or reports related to external or internal costs incurred by your agency (or any agency component) during each shutdown.

RESPONSE: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

6) Information describing any unique disruptions to operations or other effects experienced during the shutdown period, including, but not limited to:
   a) Halted or delayed permitting, approvals, reviews, inspections, or investigations;
   b) Any disruption or delay related to law enforcement activities;
   c) Any disruption to research, scientific or otherwise;
   d) Delayed disbursement of grant funds or other monetary assistance;
   e) Costs associated with cancelled travel;

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f) Costs associated with delayed or cancelled maintenance or facilities operations activities;
g) Delayed projects, acquisitions, or contracts;
h) Lost revenues or fees, including donations; and
i) Interest due on late payments.

RESPONSE: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

7) Describe any expected long-term effects of each shutdown on your agency.

RESPONSE: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

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(b)(5) Deliberative Privilege

I hope this information proves helpful. If I can be of further assistance, please do not hesitate to contact me at (202)708-0005.

Sincerely,

Len Wolfson
Assistant Secretary for Congressional
and Intergovernmental Relations

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510–6250

March 1, 2019

VIA U.S. MAIL & EMAIL (Michael.W.Dendas@hud.gov)

The Honorable Benjamin S. Carson, Sr.
Secretary
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Dear Secretary Carson:

The U.S. Senate Permanent Subcommittee on Investigations is reviewing matters related to government shutdowns caused by lapses in appropriations. To assist the Subcommittee's review, please provide the information requested below about the costs your agency incurred as a result of the last three government shutdowns (October 1, 2013 to October 16, 2013; January 20, 2018 to January 23, 2018; and December 22, 2018 to January 25, 2019). Please provide three sets of information—i.e., responses to each request for each of the three time periods. If you are unable to provide exact numbers for any of the requests below, please provide estimates.

1. Please provide:
   a. The number of federal employees furloughed.
   b. The total number of combined employee furlough days.
   c. The total amount paid to federal workers for the time they were furloughed, including, but not limited to any back pay received when the shutdown ended.
   d. Any additional costs or financial consequences associated with lost productivity. Please specify the cause of each of those costs.

2. The number of contractor employees:
   a. laid off or
   b. required to use leave.

3. The total costs associated with and/or resources necessary for development and implementation of contingency plans and completion of shutdown activities, including, but not limited to, all preparations performed in anticipation of the shutdown, and communication with federal employees and contractors regarding furloughs and suspension of operations.

4. The total costs associated with and/or resources necessary for monitoring the shutdown, including adjustments to furlough plans.

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5. The total costs associated with and/or resources necessary for reopening and restarting normal operation of agency activities, including, but not limited to, preparations performed during the shutdown in anticipation of reopening, notification of employees regarding furlough status, restarting information technology systems, and resuming program activities such as grants and contracts.

6. Any analyses or reports related to external or internal costs incurred by your agency (or any agency component) during each shutdown.

7. Information describing any unique disruptions to operations or other effects experienced during the shutdown period, including, but not limited to:

    a. Halted or delayed permitting, approvals, reviews, inspections, or investigations;
    b. Any disruption or delay related to law enforcement activities;
    c. Any disruption to research, scientific or otherwise;
    d. Delayed disbursement of grant funds or other monetary assistance;
    e. Costs associated with cancelled travel;
    f. Costs associated with delayed or cancelled maintenance or facilities operations activities;
    g. Delayed projects, acquisitions, or contracts;
    h. Lost revenues or fees, including donations; and
    i. Interest due on late payments.

8. Describe any expected long-term effects of each shutdown on your agency.

The Subcommittee requests that the Department provide responsive materials as soon as possible, but in any event, no later than March 22, 2019. To avoid unnecessary delays in connection with this production, we ask that you review the *Procedures for Transmitting Documents to the Permanent Subcommittee on Investigations* provided in Attachment A.

Sincerely,

Rob Portman
Chairman
Permanent Subcommittee on Investigations

Tom Carper
Ranking Member
Permanent Subcommittee on Investigations

Attachment: *Procedures for Transmitting Documents to the Permanent Subcommittee on Investigations*

AMERICAN OVERSIGHT

From: Ludlow, Ashley
Sent: 19 Mar 2019 18:44:07 +0000
To: McGaughey, Tyler T. EOP/WHO
Subject: Draft Response
Attachments: Draft Response to Sen. Peters 031919.docx, 7- Sen. Peters Political Shutdown Travel ltr 2.28.19.pdf

PRIVILEGED & CONFIDENTIAL

Tyler – Please find attached HUD's draft response to the Senate HSGAC letter on political travel during the shutdown. Aiming to get this one out the door tomorrow.

Ashley Ludlow
Senior Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
T: (202) 402-5963 | C: (b)(6)

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

ASSISTANT SECRETARY FOR CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
724 Hart Senate Office Bldg.
Washington, D.C. 20510

Dear Ranking Member Peters:

I am in receipt of your letter dated February 28, 2019, in which you requested "information regarding official travel by senior federal officials…at your agency during the partial shutdown of the federal government." The following are responses to your questions:

1. Did your agency issue any guidance pertaining to travel during the shutdown? If so, please provide this guidance. Please also indicate how this guidance pertained to travel by senior federal officials and how the shutdown impacted procedures and personnel responsibilities regarding travel by senior federal officials.

Response:

(b)(5) Deliberative Privilege

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2. Please outline the process by which travel was approved, disapproved, or cancelled and the officials responsible for making decisions regarding the need to travel during this period.

Response: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

3. Please provide the number of trips senior officials took (including by air, rail, or rental vehicle), the cost of each trip, and why the trip was necessary. Please also include any travel by agency employees traveling in support of the senior federal official.

Response: (b)(5) Deliberative Privilege

a. Of trips by senior federal officials, how many took place on commercial flights and, of these, how many involved premium-class travel (e.g. first-class or business-class)? How many took place aboard government aircraft, as defined in the FTR?

Response: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

b. For each trip by a senior federal official or employee acting in support of the official, please provide the purpose, itinerary, mode and class of travel, whether travel was on a government or commercial vehicle, and an accounting of all expenses incurred.

Response: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

c. Please include comprehensive records for each trip by a senior federal official or employee acting in support of the official, including, but not limited to, travel vouchers without redactions, cost estimates for travel aboard government aircraft, memorandums related to premium-class or government aircraft travel, and any other documents related to costs not captured by these documents.

Response: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

4. How many pre-scheduled trips involving senior federal officials or employees acting in support of the official were canceled during the partial government shutdown? Please provide the total cost of each such trip, including any reimbursement or cancellation charges, as well as a comparison to the estimated cost had these trips not been canceled.

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Response: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

5. It was reported that the Administration canceled a planned trip by the President and other senior federal officials to the World Economic Forum in Davos, Switzerland. For all agency employees, please provide records and costs for any completed or canceled travel pertaining to this trip, including any travel undertaken in preparation for the Forum.

Response: (b)(5) Deliberative Privilege
(b)(5) Deliberative Privilege

Thank you for your interest in HUD's actions during the shutdown. If you have any questions do not hesitate to contact me at (202) 708-0005.

Sincerely,

Len Wolfson
Assistant Secretary for Congressional
and Intergovernmental Relations

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

February 28, 2019

The Honorable Benjamin S. Carson
Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Dear Secretary Carson:

In the wake of a government shutdown that disrupted travel for so many Americans, I am writing to learn the cost to taxpayers of travel taken by senior federal officials during the partial government shutdown.

Over the first two years of the Trump Administration, numerous high-level officials have been embroiled in scandals involving extravagant and often unnecessary travel. As a result of Congressional inquiries, persistent media attention, and watchdog reports that identified hundreds of thousands of dollars in wasteful spending,[1] at least four Cabinet-level officials have resigned in part due to their lavish travel spending.[2] While I am hopeful that the Administration has taken steps to control travel costs, I remain concerned that a culture of wasteful spending persists.

On January 25, 2019, the longest government shutdown in the history of the United States finally ended after nearly 35 days. During this time, taxpayers across the nation were forced to adjust their own travel plans due to delays at major airports, a direct result of the shutdown.[3] Ultimately, the shutdown is expected to cost the U.S. economy $11 billion.[4] Although senior federal officials adjusted some travel plans during the shutdown,[5] new trips were also scheduled—for instance, a trip to Camp David for senior White House staff.[6] The full scope of travel at taxpayer expense during the shutdown remains unclear.

As public officials, it is critical that we act as responsible stewards of taxpayer dollars, particularly when government employees and other taxpayers suffered as a direct result of a

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[1] Department of Health and Human Services Office of Inspector General, *The Office of the Secretary of Health and Human Services Did Not Comply with Federal Regulations for Chartered Aircraft and Other Government Travel Related to Former Secretary Price* (A-12-17-00002) (July 2018) (https://oig.hhs.gov/oas/reports/region12/A121700002.pdf).
[2] *Interior Secretary Zinke resigns amid investigations*, The Washington Post (Dec. 15, 2018) (https://www.washingtonpost.com/national/health-science/interior-secretary-zinke-resigns-amid-investigations/2018/12/15/481f9104-0077-11e9-ad40-cdfd0e0dd65a_story.html).
[3] *Flights delayed at 4 major airports due to 'staffing' issues as government shutdown ends*, USA Today (Jan. 25, 2019) (https://www.usatoday.com/story/travel/flights/todayinthesky/2019/01/25/government-shutdown-flight-delays-3-airports-due-staffing-new-york-new-jersey-philadelphia/2676807002/).
[4] Congressional Budget Office, *The Effects of the Partial Shutdown Ending in January 2019* (Jan. 28, 2019) (https://www.cbo.gov/publication/54937).
[5] *White House delegation cancels Davos Trip*, CNN (Jan. 17, 2019) (https://www.cnn.com/2019/01/17/politics/white-house-davos-cancel/index.html).
[6] *President Trump heads to Camp David as shutdown enters third week*, The Denver Post (Jan 6, 2019) (https://www.denverpost.com/2019/01/06/trump-shutdown-camp-david/).

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government shutdown. Given this Administration's record of wasteful travel spending, I am concerned about the extent of travel at taxpayer expense during the government shutdown, and whether funds were being used appropriately. To this end, I am requesting the following information regarding official travel by senior federal officials, as defined in the Federal Travel Regulation (FTR),[7] at your agency during the partial shutdown of the federal government:

1. Did your agency issue any guidance pertaining to travel during the shutdown? If so, please provide this guidance. Please also indicate how this guidance pertained to travel by senior federal officials and how the shutdown impacted procedures and personnel responsibilities regarding travel by senior federal officials.

2. Please outline the process by which travel was approved, disapproved, or cancelled and the officials responsible for making decisions regarding the need to travel during this period.

3. Please provide the number of trips senior officials took (including by air, rail, or rental vehicle), the cost of each trip, and why the trip was necessary. Please also include any travel by agency employees traveling in support of the senior federal official.
    a. Of trips by senior federal officials, how many took place on commercial flights and, of these, how many involved premium-class travel (e.g. first-class or business-class)? How many took place aboard government aircraft, as defined in the FTR?[8]
    b. For each trip by a senior federal official or employee acting in support of the official, please provide the purpose, itinerary, mode and class of travel, whether travel was on a government or commercial vehicle, and an accounting of all expenses incurred.
    c. Please include comprehensive records for each trip by a senior federal official or employee acting in support of the official, including, but not limited to, travel vouchers without redactions, cost estimates for travel aboard government aircraft, memorandums related to premium-class or government aircraft travel, and any other documents related to costs not captured by these documents.

4. How many pre-scheduled trips involving senior federal officials or employees acting in support of the official were canceled during the partial government shutdown? Please provide the total cost of each such trip, including any reimbursement or cancellation charges, as well as a comparison to the estimated cost had these trips not been canceled.

5. It was reported that the Administration canceled a planned trip by the President and other senior federal officials to the World Economic Forum in Davos, Switzerland.[9] For all agency employees, please provide records and costs for any completed or canceled travel pertaining to this trip, including any travel undertaken in preparation for the Forum.

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[7] FTR §300-3.1.
[8] Id.
[9] CNN, *supra* note 5.

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I request that you respond to the above questions on or before March 20, 2019. Please have your staff contact Yelena Tsilker of the Minority staff of the Homeland Security and Governmental Affairs Committee at Yelena_Tsilker@hsgac.senate.gov or 202-224-8707 with any questions and with any official correspondence related to this request.

Sincerely,

Gary C. Peters
Ranking Member
Committee on Homeland Security and
Governmental Affairs

AMERICAN OVERSIGHT

From: Ludlow, Ashley
Sent: 3 Jun 2019 21:02:47 +0000
To: McGaughey, Tyler T. EOP/WHO
Subject: QFR
Attachments: Scanned from a Xerox multifunction device.pdf

Ashley Ludlow
Senior Counsel
Office of General Counsel
U.S. Department of Housing and Urban Development
T: (202) 402-5963 | C: (b)(6)

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AMERICAN OVERSIGHT

Puerto Rico Disaster Relief

Question: Has anyone from the White House or the Office of Management and Budget asked you or other HUD officials to reduce, slow, stop, or claw-back any of the hurricane relief funding Congress approved for Puerto Rico? Has the President or Mick Mulvaney ever spoken to you about hurricane relief funding for Puerto Rico?

Answer: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

AMERICAN OVERSIGHT

Puerto Rico Disaster Relief

Question: Did former Deputy Secretary Pam Patenaude ever express to you or other HUD officials her concerns regarding White House or OMB efforts to reduce, slow, stop, or claw-back any of the hurricane relief funding Congress approved for Puerto Rico?

Answer: (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege

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