

2017-10-20 TG to 12 Agencies - Federal Records Act Followup Partial Compliance due 11-3
(12 letters) sent to:

Agency
U.S. Agency for International Development
U.S. Department of Commerce
U.S. Department of Education
U.S. Department of Health and Human Services
U.S. Department of Homeland Security
U.S. Department of Justice
U.S. Department of Labor
U.S. Department of State
U.S. Department of Transportation
U.S. Environmental Protection Agency
U.S. Nuclear Regulatory Commission
U.S. Small Business Administration

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

October 20, 2017

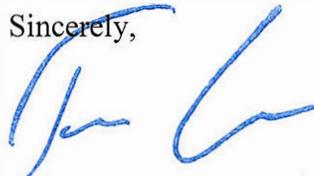
The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

On September 25, 2017, the Committee wrote to you requesting information and documents regarding compliance with federal record keeping laws, the use of private email accounts, and the use of text messaging and other phone based applications and encryption software used to conduct official business. We requested you provide these documents and information to the Committee no later than 5:00 p.m. on October 9, 2017. That time has passed, and your department has not yet fully complied with our request. A copy of the September 25 letter with the requested documents and information is attached for your convenience.

Thank you in advance for providing these additional documents to the Committee no later than 5:00 p.m. on November 3, 2017.

Sincerely,



Trey Gowdy

Enclosure

cc: The Honorable Elijah E. Cummings

Congress of the United States

House of Representatives

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September 25, 2017

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

Congress passed the Federal Records Act of 1950 to provide the framework for records management for federal government agencies. Many emails from federal employees are considered records under the Act and therefore subject to certain recordkeeping requirements. This Committee has legislative jurisdiction over the Federal Records Act, as well as the Presidential Records Act and Freedom of Information Act.¹ As technology has changed and the use of email and other modern forms of electronic communication have become ubiquitous, the Committee has been active in updating portions of these laws. These updates include the Presidential and Federal Records Act Amendments of 2014 and the FOIA Improvement Act of 2016.²

As part of our regular oversight duties, the Committee, from time to time, inquires of the Executive Branch departments and agencies about their compliance with these federal laws.³ With numerous public revelations of senior executive branch employees deliberately trying to circumvent these laws by using personal, private, or alias e-mail addresses to conduct official government business, the Committee has aimed to use its oversight and investigative resources to prevent and deter misuse of private forms of written communication.⁴ Based on yesterday's *Politico* reporting regarding private email use for official government business by a senior member of the President's staff,⁵ today we write towards a similar end.

¹ U.S. House of Rep's, Rule X(n)(10).

² Pub. L. No. 113-187 (2014); Pub. L. No. 114-185 (2016).

³ See, e.g., Letter from Henry Waxman, Chairman, H. Comm. on Oversight and Gov't Reform, to Michael Astrue, Comm'r, U.S. Soc. Sec. Admn., *et al.* (Apr. 12, 2007).

⁴ See Letter from Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform, to Jeffrey Zients, Acting Dir., Office of Mgmt. & Budget, *et al.* (Dec. 13, 2012); Letter from Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, to Kathleen McGettigan, Acting Dir., Office of Personnel Mgmt., *et al.* (Mar. 8, 2017).

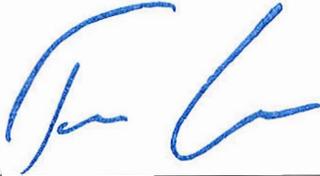
⁵ Josh Dawsey, *Kushner used private email to conduct White House business*, POLITICO (Sept. 24, 2017), available at <http://www.politico.com/story/2017/09/24/jared-kushner-private-email-white-house-243071>.

As a follow-up to the Committee's request to your agency on March 8, 2017, please provide the following documents and information by October 9, 2017:

1. Have you or any non-career official at your agency ever used a personal email account to conduct official business? If so, please identify the individual and the account used, and provide evidence of measures to ensure compliance with federal law.
2. Have you or any non-career official at your agency ever used an alias email account to conduct official business? If so, please identify the individual and the account used, and provide evidence of measures to ensure compliance with federal law.
3. Have you or any non-career official at your agency ever used text messages, phone-based message applications, or encryption software to conduct official business? If so, please identify the individual, cellular number and account used, and provide evidence of measures to ensure compliance with federal law.
4. Please identify any changes to the agency's policies or directives for any of the following areas since January 1, 2017:
 - a. Policies referring or relating to the use of non-official electronic messaging accounts, including email, text message, messaging applications, and social media platforms to conduct official business, including but not limited to archiving and recordkeeping procedures;
 - b. Policies referring or relating to the use of official text message or other messaging or communications applications, and social media platforms to conduct official business, including but not limited to archiving and recordkeeping procedures; and
 - c. Policies and procedures to ensure all communications related to the creation or transmission of federal records on official electronic messaging accounts other than email, including social networking platforms, internal agency instant messaging systems and other communications applications, are properly captured and preserved as federal records.

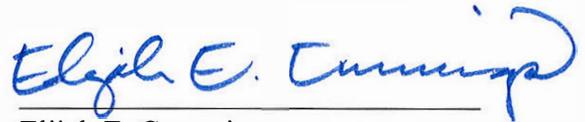
The Honorable Jeff Sessions
September 25, 2017
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An attachment to this letter provides additional instructions about responding to this request. Thank you in advance for responding fully and in a timely manner. If you have any questions about this request, please contact Drew Baney of the Majority staff on the Committee at (202) 225-5074 and Krista Boyd of the Minority staff on the Committee (202) 225-9493.



Trey Gowdy

Sincerely,



Elijah E. Cummings

Enclosures