



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

November 8, 2022

Marcus Smallwood
Agency Records Officer
451 7th St, SW, Room 6186
Washington, DC, 20410

Dear Marcus Smallwood,

Through your report, the National Archives and Records Administration (NARA) is aware of a potential unauthorized disposition and removal of records from the Department of Housing and Urban Development (HUD). Your report claims that former Regional Administrator, Region II, Lynne Patton, utilized her personal cell phone to send and receive HUD-related text messages and conduct agency business during her four-year tenure with the Department. The report alleges that Ms. Patton did not provide the Department with all of the HUD-related business text messages from her personal cell phone as part of the separation process and as required by the Federal Records Act. She also did not seek approval from HUD to remove, delete or maintain such text messages outside of the Department's records management control.

The Department's Office of Inspector General (OIG) identified the use of Ms. Patton's personal device during their ethics and Hatch Act investigation, "Investigation of Alleged Ethics Violations by Lynne Patton, Former Regional Administrator, Region II, Department of Housing and Urban Development" (published May 3, 2022). The information in the report suggests that the Plans for Corrective Action (PoCA) that HUD implemented in response to Findings 2, 3, 4, and 8 as a result of the NARA FY 2018 inspection of the HUD records management program were not effectively or sufficiently implemented. Accordingly, HUD must provide NARA with a report and further documentation demonstrating that they are in fact implementing the actions identified in the PoCA that are needed to close Findings 2, 3, 4, and 8.

In accordance with 36 CFR 1230.16(b), NARA is requesting that HUD provide an additional report within 30 calendar days answering the following questions and concerns:

- Did HUD have a process for capturing all Form 69s from departing individuals during the relevant time period? Has that process been reviewed and updated to ensure no employees are omitted?
- Was all of Ms. Patton's email successfully captured after her departure? Please provide documentation showing that email records were appropriately captured and retained.

- Describe and document the on-boarding and off-boarding process during the 2016-2021 time frame to demonstrate if employees were informed about the Federal Records Act's 20-day requirement to move all federal records created or saved on personal devices or in personal email accounts to federal accounts and/or servers.
- Explain how federal record text messages are captured when employees use their own device in accordance with HUD's Bring Your Own Device (BYOD) policy.

Additionally, HUD must recover the removed records as soon as possible. All text messages captured during the investigation must be preserved as federal records in accordance with HUD's approved Capstone email management schedule. HUD must contact Ms. Patton to identify if she has any federal records still in her possession and retrieve them. Please update NARA with the status of your outreach to Ms. Patton.

I appreciate your attention to this matter. If you have any questions or wish to discuss this further, please contact me at laurence.brewer@nara.gov.

Sincerely,



LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc. Bradley Jewitt, Chief Administrative Officer, and Senior Agency Official for Records Management

Cheryl Stadel-Bevans, Office of the Inspector General, Records Officer



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March 29, 2023

Marcus Smallwood
Agency Records Officer
451 7th St, SW, Room 6186
Washington, DC, 20410

Dear Marcus Smallwood,

The National Archives and Records Administration (NARA) has received the further information we requested in response to your initial report related to the Department's Office of Inspector General (OIG) allegation of unauthorized disposition. In their report, the OIG alleged that former Regional Administrator, Region II, Lynne Patton, utilized her personal cell phone to send and receive HUD-related text messages and conduct agency business during her four-year tenure with the Department. The OIG report further alleged that Ms. Patton did not provide the Department with all of the HUD-related text messages from her personal cell phone as part of the separation process and as required by the Federal Records Act. According to the OIG, she also did not seek approval from HUD to remove, delete, or maintain such text messages outside of the Department's records management control.

Thank you for answering the questions we sent to you in our November 8, 2022 letter. NARA understands that under HUD policy, Ms. Patton would have had the authority to determine what, if any, text messages needed to be forwarded and/or documented via follow-up email communications. Ms. Patton insisted that other text messages on her personal device were personal in nature; therefore, no text messages need to be recovered.

I appreciate your attention to this matter. NARA considers this allegation to be resolved. If you have any questions or wish to discuss this further, please contact me at laurence.brewer@nara.gov.

Sincerely,

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

cc. Bradley Jewitt, Chief Administrative Officer, and Senior Agency Official for Records Management

Cheryl Stadel-Bevans, Office of the Inspector General, Records Officer