



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE ADMINISTRATOR

May 5, 2017

The Honorable John Barrasso
Chairman
Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Chairman Barrasso, Ranking Member Carper,

I appreciate the opportunity to respond to a March 17, 2017 letter, to the U.S. Environmental Protection Agency, relating to use of personal messaging systems consistent with the requirements of the Federal Records Act and the Freedom of Information Act (FOIA). EPA's Records Policy applies equally to all staff, including the Administrator. I, of course, support the Agency's policy as it provides the foundation for the Agency's adherence to the Federal Records Act. I intend to continue the Agency's commitment to responsible federal records management, and to ensure that EPA's Records policy is updated as necessary.

The EPA Records Policy strongly discourages the use of non-official messaging systems by all Agency employees. If such use occurs, all employees have a short period of time by which they must send the record to their official EPA email account, consistent with the requirements of the Federal Records Act. At the EPA, all incoming political appointees are also required to take specific records training soon after they arrive at the Agency. The training addresses employee responsibilities under the Federal Records Act, email records management and related tools, text messaging records and mobile device management, the Freedom of Information Act, and agency policy concerning the use of non-governmental email accounts to conduct agency business, among other topics. As you may be aware, EPA's Office of Inspector General (OIG) is investigating allegations referenced in a February 14, 2017, letter from the House Committee on Science, Space, and Technology to the OIG. The matter relates to allegations of use of an encrypted messaging application by EPA career staff. It would not be appropriate to comment on an open OIG matter at this time, however EPA is also in communication with the National Archives and Records Administration, and takes this matter seriously.

The letter asks for information relating to my personal email account and requests that I correct the record regarding my response to a question asking whether I "conducted business" using that account. My response to that question stated that I used my official, state-provided email accounts and government-issued phones to conduct business. This response was based on the best

information available at the time and having only four days to complete approximately 1,100 written questions and subparts.

In response to the letter and to put to rest any other questions concerning this matter, a complete and exhaustive review of my personal email account was undertaken. Based on this exhaustive review, I have determined that a small portion of those emails may relate to state business as that term is understood either generically or under Oklahoma's Open Records Act. However, because I am no longer the Oklahoma Attorney General, I am in no position to make that determination. With this in mind, and although not required to do so, I have made *all* of my personal emails available to the Oklahoma Attorney General's office, including those that have no possible connection to state business, for review in responding to pending Open Records Act requests. To date, as has been reported, that office's review has not identified as responsive to Open Records Act requests any documents from my personal email account that were not already captured by the official Oklahoma Attorney General accounts.

I believe my original response to Senator Whitehouse's question for the record number 115 was and remains correct. But to prevent any possible confusion, I supplement my original response as follows:

115. Have you ever conducted business using your personal email accounts, nonofficial Oklahoma Attorney General email accounts, text messages, instant messenger, voicemails, or any other medium? If yes, please provide all business-related emails, texts, from those mediums and any others you've used to conduct official business.

My practice is to conduct official business through official channels, including my state-provided email accounts. Under Oklahoma law, political matters must be transacted using personal email accounts. That includes emails concerning political matters that may arguably also touch on state business. Importantly, the Oklahoma Open Records Act makes no distinction between a state devices and personal devices for purposes of ensuring transparency of "conducting business." Elected officials oftentimes utilize a personal device so as to ensure that no state property is used to conduct political business, which is legally prohibited.

I make my best efforts to ensure that communications related to state business are copied or otherwise provided to official state systems. It is my understanding that the Attorney General's office will continue to search through the entirety of my personal email account as they work through the pending Open Records Act requests—including the more than 90 requests regarding my confirmation alone—to ensure any responsive and non-privileged records are provided. However, because I am no longer Attorney General, the office of the Oklahoma Attorney General must make the determination as to what, if any, communications constitute official business.

The letter also asked for information regarding the use of official Agency email accounts. The Agency maintains a primary email account to contact me, pruitt.scott@epa.gov. EPA staff

have also established secondary accounts in the Agency's Outlook email system that are used for calendaring, scheduling, and internal communications. My staff is currently considering the best means to provide the public with the important information regarding my day-to-day activities and meetings on behalf of the Agency.

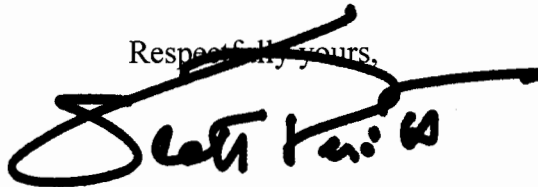
The letter also asked about the process the Agency follows to address public financial disclosure requirements. Pursuant to the Ethics In Government Act, 5 U.S.C. app, certain executive branch officials are required to file public financial disclosure reports (OGE-278). The Office of Government Ethics (OGE) established government-wide regulations that dictate who should file such reports and provide specific guidance about the release of such documents to the public. *See, e.g.,* 5 CFR § 2634.202 and § 2634.603. To request a public financial disclosure report, please fill out the OGE Form 201, provide the name(s) of the people whose reports you seek, and submit your request to EPA's ethics office at ethics@epa.gov.

In addition, the letter asked about individuals serving at EPA in various capacities. A routinely updated directory of all current EPA staff is available on the Agency's website.

Finally, the letter also expressed an interest in a monthly report of open FOIA requests pending with EPA. Information concerning all FOIA requests filed with the Agency, including the date the request was filed and the request status, are available at any time through EPA's FOIA Online tracking system, at <https://foiaonline.regulations.gov/foia/action/public/search>.

Again, thank you for the opportunity to respond. If you have further questions, please contact me or your staff may contact Troy Lyons in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4987 or Lyons.Troy@epa.gov.

Respectfully yours,

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", with a large, sweeping flourish extending from the end of the signature.

E. Scott Pruitt

cc:

Senator James M. Inhofe
Senator Shelley Moore Capito
Senator John Boozman
Senator Roger Wicker
Senator Deb Fischer
Senator Jerry Moran
Senator Mike Rounds
Senator Joni Ernst
Senator Dan Sullivan
Senator Richard C. Shelby

Senator Benjamin L. Cardin
Senator Bernard Sanders
Senator Sheldon Whitehouse
Senator Jeff Merkley
Senator Kirsten Gillibrand
Senator Cory Booker
Senator Edward J. Markey
Senator Tammy Duckworth
Senator Kamala Harris