

APPENDIX B: OASAM RESPONSE TO THE REPORT

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210



SEP 13 2019

Mr. Elliot P. Lewis
Assistant Inspector General for Audit
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Dear Mr. Lewis:

Thank you for the opportunity to review and comment on draft report 17-19-001-07-001, *Department of Labor Needs Improvements in Managing its Records Management Program to Capture Electronic Messages for Preserving Federal Records*. We appreciate the Office of Inspector General's efforts and insights. The draft report contains ten recommendations, all of which we believe have either been resolved or are in the process of being resolved. Outlined below is a detailed response to each recommendation.

1. Revise policies and procedures to provide explicit guidance concerning text messages, Twitter Direct Message, Slack, Snapchat, WhatsApp, Pigeon, Yammer, Jive, and other internal collaboration networks.

Management Response: Management concurs with this recommendation. The Office of the Assistant Secretary for Administration and Management (OASAM) has drafted a policy memorandum on electronic messaging, which is currently in departmental clearance. Once the memorandum is issued, OASAM will update the Department of Labor Manual Series (DLMS) with the new policy on electronic messages.

Additionally, OASAM updated the 2019 Records Management Training for all employees to include detailed guidance and explicit language from the Federal Records Act on managing electronic messages. Similarly, both the New Employee Orientation and Entrance Briefing for Senior Officials and Political Appointees provide guidance on managing electronic messages.

2. Revise policies and procedures to provide more emphasis on electronic messaging in the Records Management Training Program.

Management Response: Management concurs with this recommendation. In an effort to ensure that all employees are aware of their records management responsibilities specifically concerning electronic messages, OASAM has updated the 2019 Records Management Training for all employees to include detailed guidance and explicit language from the Federal Records Act on managing electronic messages. Likewise, both the New Employee Orientation and Entrance Briefing for Senior Officials and Political Appointees provide guidance on managing electronic messages.

3. Research a technical solution, to the extent possible, to allow personnel to capture and retain text messages on government-issued devices, or, if the resource requirement for this would be too significant, consider the signature of an affidavit by Senior Agency Officials on an annual basis to certify any Federal records from text messages have been retained.

Management Response: Management concurs with this recommendation. The Office of the Chief Information Officer (OCIO) is currently blocking a feature, which would allow users to forward text messages to their official government email address via iron ports for security reasons. Removing this security feature would create a large vulnerability. Further, text messages cannot be captured using third-party applications due to budgetary constraints.

A draft policy memorandum on electronic messaging is currently in departmental clearance. This memorandum will explicitly discourage the use of text messaging to create Federal records. Once the memorandum is issued, OASAM will update the DLMS with the new policy on electronic messages.

Currently, OASAM requires users with Government Furnished Equipment (GFE) devices to sign a Mobile Device Management (MDM) Rules of Behavior acknowledgement form. Additionally, OASAM has updated the 2019 Records Management Training for all employees to include a Records Management Rules of Behavior acknowledgement form.

4. Emphasize in training and policies that if Skype for Business is used to create a Federal record, it should be captured by the creator and retained as a Federal record.

Management Response: Management concurs with this recommendation. The Bargaining Unit agreement does not allow for the capture of Skype for Business instant messages, which is why the feature is disabled. Users are prohibited from creating Federal records using instant messages, which is expressly stated in the Federal Records Act Amendments of 2014 (PL 113-187). The Act "prohibits Federal officers and employees from creating or sending a record using non-official email or other electronic messaging accounts unless they simultaneously copy an official Government email or other electronic messaging account, or, within 20 days forward a complete copy of the record to such an official account. Penalties may apply for not following these guidelines." This policy is included in the 2019 Records Management Training for all employees, the New Employee Orientation, and will be included in the aforementioned policy memorandum awaiting release.

5. On an annual basis, request a certification from employees that they have not utilized their personal e-mail to conduct Government business. In the event that employees have utilized their personal e-mail, request a certification that they have forwarded any e-mails to their Government e-mail account.

Management Response: Management disagrees with this recommendation. Certification is not required by law or regulation, and therefore not an appropriate

recommendation. However, OASAM has updated the 2019 Records Management Training for all employees to include detailed guidance and explicit language from the Federal Records Act on personal email, which also includes a Records Management Rules of Behavior acknowledgement form. Similarly, the New Employee Orientation provides guidance on personal email.

Management considers this recommendation unnecessary.

6. Make every reasonable effort to provide training and ensure awareness of each employee to avoid use of personal e-mail.

Management Response: Management concurs with this recommendation. The Department already provides sufficient training. Conducting agency business via personal email is only permitted in rare and extenuating circumstances. Users are instructed in both the annual Records Management Training and New Employee Orientation to avoid the use of personal email and in the event that it is unavoidable, that they must capture and preserve the email within 20 days as instructed in the Federal Records Act Amendments of 2014.

7. Add to its rules of behavior or similar document an explanation of the employees' responsibility in preserving Federal records and require employees to sign the document indicating they have preserved all electronic messages that are potentially Federal records in accordance with DOL and NARA requirements.

Management Response: Management concurs with this recommendation. OASAM has updated the 2019 Records Management Training for all employees to include a Records Management Rules of Behavior acknowledgement form.

8. Revise policies and procedures to provide explicit guidance addressing the use of mobile applications.

Management Response: Management concurs with this recommendation. . OCIO is currently reviewing policy and technical solutions related to the ability to download encryption and other messaging applications. In accordance with the Mobile Device Rules of Behavior, Mobile application download(s) (App Store, Play Store, etc.) outside of what is installed on the smartphone or tablet during device provisioning is not permitted. Only certified applications made available through the DOL approved "App Catalog" may be installed on GFE mobile devices.

9. To improve awareness of guidance:
 - a. Revise policies, procedures, and training to emphasize the requirements of maintaining Federal records;
 - b. Monitor compliance with the requirements; and
 - c. Require each employee to annually sign a statement certifying he or she has surrendered all documentation related to the official business of the Government and require a review of documents proposed for removal by the employee.

Management Response: Management concurs with this recommendation. The Department already provides adequate training, policies, and procedures on preservation requirements for Federal records.

The Departmental Records Officer (DRO) in partnership with the Agency Records Officers (ARO) continuously monitor compliance with the Federal Records Act. The DRO is currently conducting an internal evaluation of all agency records programs in order to ensure compliance.

All employees are required to certify (DL1-107) that they are not removing any Federal records and are provided with Records Management Documentary Materials Removal Guidance. Furthermore, all senior officials are provided with an exit briefing and are required to sign forms DL1-6057 or DL1-6058.

10. Develop official procedures to provide concrete guidance on the Capstone Approach. The procedures should include guidance on official review of the listing of Capstone Officials on a recurring basis.

Management Response: Management concurs with this recommendation. The Former Deputy Secretary issued the official Capstone policy in a 2016 policy memorandum. All AROs have been provided with training on Capstone, its implementation, and the requirements to update the Capstone official list each quarter.

The Office of Asset and Resource Management is currently working with the Office of the Solicitor and OCIO to develop additional standard operating procedures on the regular review of Capstone accounts, which will be codified in the DLMS.

Should you have any questions regarding the Department's response, please have your staff contact Tanisha Bynum-Frazier, Director, Office of Asset and Resource Management, at (202) 693-4546.

Sincerely,



Bryan Slater
Assistant Secretary for
Administration and Management