



Office of Inspector General

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

JUL 21 2017

The Honorable Tom Carper
United States Senate
Washington, DC 20510

Dear Ranking Member McCaskill and Senator Carper:

We are writing to respond to your request of June 8, 2017, to perform a review of USAID's processes and compliance with applicable legal standards for preserving certain electronic records, and its cooperation with Congressional document requests.

In your letter, you asked the Office of Inspector General (OIG) to answer six questions. To answer these questions and provide a timely response, we (1) obtained certifications from senior officials (whose positions are shown in the enclosure) regarding your questions,¹ (2) interviewed key staff involved in records management and Congressional requests, (3) reviewed USAID's policies related to records management and responding to Congressional requests for information, (4) performed limited reviews of key documents and applications installed on Government-furnished mobile devices, and (5) reviewed our ongoing and completed work to identify any applicable allegations, findings, or outstanding recommendations. The scope of this limited review covered July 1, 2016, through June 30, 2017. This review was primarily based on information and certifications provided by the Agency, and we do not provide any conclusions or recommendations.

Our answers to your questions begin on the following page.

¹ We defined senior officials for the purposes of this review as those who were in their positions at the start of the current administration or were named to positions after January 20, 2017. They are acting assistant administrators or the equivalent, bureau heads, heads of independent offices, and senior executives in the Administrator's office. We also requested certifications from the Chief Information Officer and three officials who are no longer acting in senior positions but are still with the Agency. In the interest of providing a timely response, we did not request certifications from mission directors at overseas posts or attempt to track down appointed officials from the previous Administration.

1. Since January 20, 2017, has any Agency official directed or advised any agency employee to delay or withhold a response to a Congressional request for information? If any such directive is in writing, please provide a copy.

We asked 32 senior officials for certified responses to this question. We received responses from all 32 officials certifying that they did not direct or advise and were not aware of any requests made of any USAID employee to delay or withhold a response to any Congressional request for information.

To obtain an understanding of the Agency's process in effect during the review period for responding to Congressional requests, we interviewed key staff in USAID's Bureau for Legislative and Public Affairs (LPA), Office of the Executive Secretariat, and Information and Records Division. LPA told us that USAID's goal is to respond to Congressional requests within approximately 15 business days. They noted, however, that some requests take additional time to prepare, such as those associated with personnel issues. In these instances, they said, they inform the point of contact on the request that more time is needed. LPA provided a spreadsheet listing 55 Congressional requests received or responded to between July 1, 2016, and June 30, 2017, summarized in table 1. As the table shows, according to LPA, all of the indicated requests received a response but one, which LPA assessed did not require a written response.

Table 1. USAID's Response Time for Congressional Requests^a

Range of Business Days To Respond	Responses Provided Within Range
Less than 15	22
Between 16 and 30	22
Between 31 and 40	9
More than 40	1
No Written Response Required	1
Total	55

^a OIG did not verify these data.

Source: LPA.

2. Since January 20, 2017, has any Agency official directed or advised any agency employee or Congressional staff member that the agency will only provide requested documents or information to a Committee chair? If any such directive is in writing, please provide a copy.

We asked 32 senior officials for certified responses regarding this question. We received responses from all 32 senior officials certifying that they did not direct or advise and were not aware of someone telling a USAID employee or Congressional staff member that USAID would only respond to Congressional requests from Committee chairs.

We obtained an understanding of the Agency's process in effect during the review period for responding to Congressional requests by interviewing key staff in USAID's Bureau for Legislative and Public Affairs, Office of the Executive Secretariat, and the Information and Records Division. USAID's policy is to respond to requests from all individual Members of Congress and their staff, but—for other than official requests by Congressional Committee or Subcommittee Chairs—it may redact information protected by law, pursuant to the Freedom of Information Act. USAID officials stated that these situations are addressed in close consultation and coordination with USAID's Office of the General Counsel and the requesting office.

3. Since January 20, 2017, has the Agency issued any guidance related to the use of smartphone applications that support encryption or the ability to automatically delete messages after they are read or sent for work related communications?

We researched USAID's Agency-wide policies in effect during the review period and interviewed key staff in USAID's Office of the Chief Information Officer (CIO) and Information and Records Division to determine whether any guidance issued during the review period related to the use of smartphone applications. On June 8, 2017, USAID issued an Agency Notice to remind all staff that USAID policies generally prohibit the use of nonofficial electronic messaging systems in the conduct of official Agency business. The Agency Notice references USAID's Automated Directives System (ADS) 502, "The USAID Records Management Program," and ADS 545, "Information Systems Security," and gives examples of official and nonofficial electronic messaging systems.

Nonofficial electronic messaging systems included:

- WhatsApp
- Facebook Messenger
- Signal
- Confide
- Viber
- Personal and private email accounts and servers
- Text messages from personal devices

Official electronic messaging systems included:

- Agency (usaid.gov) email accounts
- USAID Google Hangouts accounts
- MyUSAID²
- Text messages from Government-furnished devices

While USAID policies generally prohibit the use of nonofficial electronic systems for work-related communications, we noted that ADS 502 and 545 do not explicitly prohibit users from having nonofficial electronic messaging applications on their

² MyUSAID is the Agency's internal website.

Government-furnished devices. USAID policies also allow the use of nonofficial electronic messaging systems for work-related communications in limited exceptional circumstances. Limited exceptional circumstances may include emergency situations resulting from disruptions to or loss of power that would impede an individual's access to the USAID network; the lack of access to or the inadvertent loss, theft, or malfunction of Government-furnished equipment; forces of nature such as a catastrophic natural disaster; severe extreme weather conditions such as floods or tornadoes; national security events or threats to personal safety; and the need to conduct official business during an emergency situation. In these circumstances, the individual creating, sending, or receiving the record from a nonofficial electronic messaging system must copy or forward all record content to an official USAID electronic messaging account within 20 days in accordance with the Federal Records Act.

4. Since January 20, 2017, has any Agency official used, for work-related communications, a smartphone app, including, but not limited to, WhatsApp, Signal, Confinde, and others that support encryption or the ability to automatically delete messages after they are read or sent?

We asked 32 senior officials for certified responses regarding this question and received responses from all of them.

Thirty-one senior officials certified that they did not send work-related communications using any smartphone app that supports encryption or the ability to automatically delete messages after they are read or sent. One senior official reported that, to their knowledge, they did not send work-related communications using such applications.

Twenty-eight senior officials reported that they were not aware of other Agency employees using such an application for work-related communications. Two senior officials reported that they "do not recall" being aware of Agency employees using such applications for work-related communications. Two other senior officials said they were aware of employees using WhatsApp for work-related communications due to security concerns while working overseas, although we did not validate this statement. As discussed in our response to the previous question, the use of these systems for work purposes is permitted under USAID policy in limited exceptional circumstances.

At our request, CIO staff identified which applications were on each of the 32 senior officials' Government-furnished mobile devices.³ We reviewed the results to determine whether their devices had WhatsApp, Facebook Messenger, Signal, Confinde, or Viber installed. Three senior officials had Facebook Messenger, one senior official had Facebook Messenger and WhatsApp, and one senior official had WhatsApp. All these officials certified that they did not use the applications for work-related communications. Information and Records Division staff provided potential reasons for using these

³ According to CIO staff, five senior officials did not have Government-furnished devices.

applications for unofficial purposes, such as staying in touch with family members at no cost to the Government while working overseas.

5. Since January 20, 2017, has any Agency official failed to abide by federal law and/or NARA or Departmental guidance regarding preservation of electronic records related to official business, including, but not limited to, text messages, chats, instant messages, social media messages, or emails created on non-government accounts?

We performed a review of our investigative database, the OIG Hotline email inbox and complaint tracker, and our network storage drive to determine if we had any records dated during the review period related to Agency officials' compliance with policies, laws, and regulations on preserving electronic records.⁴ We did not locate any records related to this question.

We asked 32 senior officials for certified responses to this question and received responses from all of them.

Thirty senior officials certified that they were not aware of any instances in which a USAID official failed to abide by Federal law or National Archives and Records Administration (NARA) or USAID guidance regarding preservation of electronic records related to official business consisting of text messages, chats, instant messages, social media messages, emails created on non-Government accounts, or other electronic methods. One senior official reported that they "do not recall" being aware of any instances in which a USAID official failed to abide by Federal law or NARA or USAID guidance regarding preservation of electronic records related to official business consisting of text messages, chats, instant messages, social media messages, emails created on non-Government accounts, or other electronic methods. Another senior official reported that they were unsure whether USAID officials failed to abide by related requirements. This senior official reported being aware of employees using WhatsApp for work-related communications due to security concerns overseas, but was unsure whether the employees forwarded the communications to an official messaging system within 20 days as required by USAID policy.

6. Has the OIG previously provided recommendations to the Agency regarding its management of the preservation of electronic records and compliance with Congressional document requests? If so, please provide a list of any OIG recommendations that remain outstanding.

We searched our audit recommendations and investigative databases to determine if we had any recommendations related to USAID's management of the preservation of

⁴ The Criminal Law Enforcement Records System is the database that serves as the central repository of investigative case activities for OIG.

electronic records and compliance with Congressional document requests.⁵ We found four audit recommendations related to USAID's management of the preservation of electronic records. USAID has taken final action in response to two of these recommendations, while two others remain open (table 2).

Table 2. Recommendations Related to USAID's Management of the Preservation of Electronic Records

Recommendation	Date Issued	Status
We recommended that USAID's CIO configure the servers for mobile devices to restrict the ability to download applications to the devices, as appropriate.	9/17/2013	USAID management has a target date of 12/13/2017 to close this recommendation.
We recommended that USAID's CIO remove unapproved applications from Agency mobile devices and document their removal.	9/17/2013	USAID management has a target date of 12/13/2017 to close this recommendation.
We recommended that USAID's Information and Records Division (IRD) work with the NARA to update the electronic records disposition schedule in Automated Directives System 502 to identify third-party websites that make personally identifiable information available to the Agency.	10/10/2014	USAID completed final action and updated its policies to align with current NARA authority on third-party websites that may make personally identifiable information available to the Agency on 3/29/2017.
We recommended that USAID's IRD work with NARA to update the electronic records disposition schedule in Automated Directives System 502 to identify the Agency systems that contain personally identifiable information.	10/10/2014	USAID completed final action and updated its electronic records disposition schedule in Automated Directives System 502 on 3/31/2017.

Source: OIG analysis.

⁵ The Audit Information Management System is the database that serves as the central repository of audit recommendations made by OIG.

We thank USAID leadership for facilitating efforts to provide you with this timely information. We appreciate your continuing interest in oversight of U.S. Government programs and operations. If you have any questions, please feel free to contact me or Deputy Inspector General Justin Brown at 202-712-1150.

Sincerely,

/s/

Ann Calvaresi Barr
Inspector General

Enclosure

cc: The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs

ENCLOSURE: SENIOR AGENCY OFFICIAL POSITIONS

OFFICE OF THE ADMINISTRATOR

- Acting Administrator
- Counselor
- Chief of Staff
- Acting Deputy Chief of Staff
- Executive Secretary
- Senior Advisors

FUNCTIONAL BUREAUS

- Acting Assistant Administrator, Bureau for Democracy, Conflict, and Humanitarian Assistance
- Acting Assistant Administrator, Bureau for Economic Growth, Environment, and Education
- Acting Assistant Administrator, Bureau for Food Security
- Acting Assistant Administrator, Bureau for Global Health

CENTRAL BUREAUS AND OFFICES

- Acting Assistant Administrator, Bureau for Legislative and Public Affairs
- Acting Assistant Administrator, Bureau for Management
- Chief Information Officer, Bureau for Management
- Acting Assistant Administrator, Bureau for Policy, Planning, and Learning
- Acting Assistant Administrator, Office of Human Capital and Talent Management
- Acting Executive Director, The Global Development Lab

GEOGRAPHIC BUREAUS AND OFFICES

- Acting Assistant Administrator, Bureau for Africa
- Acting Assistant Administrator, Bureau for Asia
- Acting Assistant Administrator, Bureau for Europe and Eurasia
- Acting Assistant Administrator, Bureau for Latin America and the Caribbean
- Acting Assistant Administrator, Bureau for the Middle East
- Acting Assistant Administrator, Office of Afghanistan and Pakistan Affairs

INDEPENDENT OFFICES

- General Counsel (and previous Acting General Counsel)
- Director, Center for Faith Based and Community Initiatives
- Director, Office of Budget and Resource Management
- Director, Office of Civil Rights and Diversity
- Director, Office of Security
- Director, Office of Small and Disadvantaged Business Utilization