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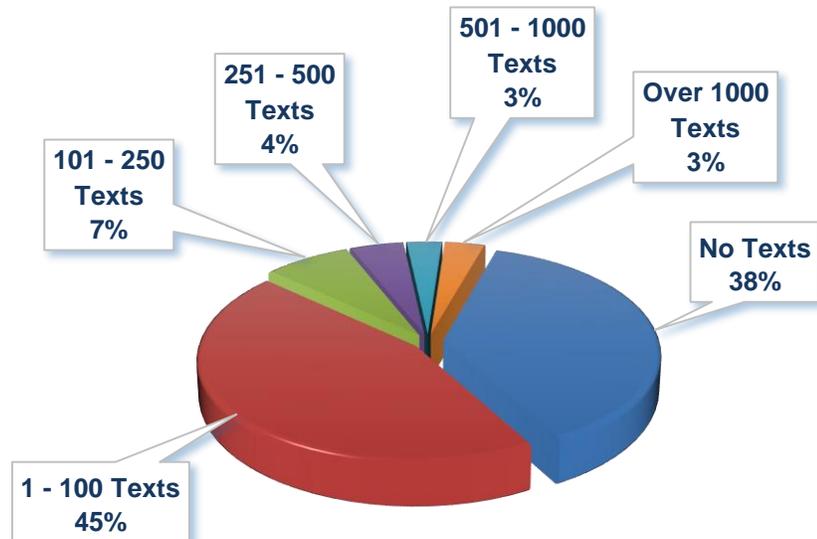
OFFICE OF INSPECTOR GENERAL

Information Technology

Congressionally Requested Audit: EPA Needs to Improve Processes for Preserving Text Messages as Federal Records

Report No. 17-P-0062

December 21, 2016



EPA Mobile Device Users' Text Messages Sent or Received 1st Quarter Fiscal Year 2015

This is one of the U.S. Environmental Protection Agency Office of Inspector General's products associated with records management. For details on our other reports on records management, go to:

- *Congressionally Requested Inquiry Into the EPA's Use of Private and Alias Email Accounts* (Report No. [13-P-0433](#), issued September 26, 2013)
- *Review of EPA's Process to Release Information Under the Freedom of Information Act* (Report No. [14-P-0262](#), issued May 16, 2014)

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Abbreviations

EPA	U.S. Environmental Protection Agency
FOIA	Freedom of Information Act
MDM	Mobile Device Management
NARA	National Archives and Records Administration
OCIR	Office of Congressional and Intergovernmental Relations
OEI	Office of Environmental Information
OIG	Office of Inspector General
WCF	Working Capital Fund

Cover image: Volume of text messages for EPA employees using government-issued mobile devices purchased through the EPA's Working Capital Fund. (EPA OIG image)

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At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this audit to address a congressional inquiry into EPA records management policies and practices for preserving text messages as federal records.

The National Archives and Records Administration considers electronic messages, including text messages, to be federal records when created or received in the course of agency business. Federal agencies must adhere to federal records management laws to manage and preserve these electronic messages.

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

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Listing of [OIG reports](#).

Congressionally Requested Audit: EPA Needs to Improve Processes for Preserving Text Messages as Federal Records

What We Found

We did not find instances where the EPA used text messaging to intentionally circumvent the Federal Records Act. We found that the EPA implemented policies and procedures for preserving text messages, and took steps to make employees aware of the updated records management policy. However, management attention is still needed for the EPA's records management and Freedom of Information Act (FOIA) practices. In particular, the EPA needs to strengthen management controls over:

Insufficient practices for preserving text messages could lead to noncompliance with the Federal Records Act and FOIA requirements.

- Documenting procedures for responding to congressional requests.
- Providing instructions to employees responding to FOIA requests on what to search (in particular, government-issued mobile devices) when a FOIA request is submitted to the EPA.
- Preserving non-transitory text message records before mobile devices are replaced or before text messages are deleted from the mobile device.

In addition, we found that the EPA's mobile device management processes do not prevent employees from changing the device's configuration settings for retaining text messages on all government-issued mobile devices.

Recommendations and Planned Agency Corrective Actions

We recommend that the EPA Deputy Administrator require the agency to document formal procedures for responding to congressional requests for records. We recommend that the Office of Environmental Information remind employees that, as appropriate, all text messages potentially responsive to a FOIA or congressional request must be available for inclusion in searches conducted by the agency. We also recommended that the Office of Environmental Information determine whether potential text message records were lost during the replacement of a mobile device, implement a strategy to instruct employees not to change text message retention settings on mobile devices, develop a plan to replace mobile devices, and formalize a plan to conduct market research on managing text message communications.

The EPA either agreed with our recommendations or agreed to take sufficient corrective actions, and we consider all recommendations resolved pending completion of corrective actions.



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

THE INSPECTOR GENERAL

December 21, 2016

MEMORANDUM

SUBJECT: Congressionally Requested Audit: EPA Needs to Improve Processes for Preserving Text Messages as Federal Records
Report No. 17-P-0062

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Stan Meiburg, Acting Deputy Administrator
Office of the Administrator

Ann Dunkin, Chief Information Officer
Office of Environmental Information

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY15-0063. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The EPA's Office of the Administrator and Office of Environmental Information are responsible for addressing the issues discussed in the report.

Action Required

In accordance with EPA Manual 2750, the agency either agreed with our recommendations or agreed to take sufficient corrective actions, and all recommendations are considered resolved pending completion of corrective actions. The OIG may make periodic inquiries on progress in implementing corrective actions for all the recommendations. Please update the EPA's Management Audit Tracking System as you complete planned corrective actions. Your response will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig

Table of Contents

Chapters

1	Introduction	1
	Purpose	1
	Background.....	1
	Responsible Offices	3
	Scope and Methodology	3
	Prior Audit Work.....	4
2	Findings on Issues Raised by Congressional Committee Regarding Preserving Text Message Records	6
	Findings Based on Congressional Inquiry	6
	Conclusion	13
	Recommendations	14
	Agency Response and OIG Evaluation	14
3	Additional Areas for Improvement Noted in EPA's Mobile Device Management to Better Preserve Text Message Records	16
	Strategy Needed to Manage Configuration Settings of All Government-Issued Mobile Devices.....	16
	Mobile Device Management Solution Does Not Manage Text Messages.....	17
	Conclusion	18
	Recommendations	19
	Agency Response and OIG Evaluation	19
	Status of Recommendations and Potential Monetary Benefits	21

Appendices

A	Distribution of EPA Text Messages by EPA Offices and Senior Officials	22
B	Details on Scope and Methodology	24
C	Region 2 Response to Draft Report	26
D	EPA Headquarters Consolidated Response to Draft Report	30
E	Distribution	37

Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this audit to address a congressional inquiry into the EPA's compliance with its records management practices for preserving text messages as federal records. The inquiry asked several questions related to EPA records management policy and practices. The OIG developed audit objectives based on the congressional questions. Specifically, we sought to determine whether the EPA:

- Implemented policies and procedures to determine which text messages to preserve and steps to ensure employees are knowledgeable of this guidance.
- Implemented processes to respond to congressional and Freedom of Information Act (FOIA) requests involving agency employees' text messages.
- Used text messages (on government-issued or personal devices) for official business.
- Deleted, destroyed, lost or misplaced text messages needed for records management; and, if applicable, the rationale for destroying text communication records.
- Took disciplinary actions against employees for deleting, destroying, losing or misplacing text communication records.
- Notified the National Archives and Records Administration (NARA) about the potential loss of any federal text records, and how often the losses occurred.

Background

Text messaging appears to be a common method of communicating for employees across the agency. For the 12-month period from July 1, 2014, to June 30, 2015, the EPA's quarterly mobile device utilization reports showed that over 3.1 million text messages were sent or received by EPA employees who have government-issued mobile devices procured under the agency's Working Capital Fund (WCF). Additionally, the EPA's program and regional offices have reported 247 mobile devices procured outside of the WCF that have text messaging capabilities, and the volume of text messages sent or

The EPA's Quarterly Mobile Device Utilization Reports document the volume of text messages sent or received by EPA WCF mobile devices. These reports do not distinguish or contain details on the sources or destinations of the text messages.

received for these devices is not reflected in the 3.1 million text messages because WCF personnel do not have access to the detailed usage information for these devices and could not provide data for the non-WCF mobile devices. See Appendix A for the distribution of text messages sent and received by EPA office, and the distribution of text messages sent and received by EPA senior officials.

NARA Bulletin 2015-02, Guidance on Managing Electronic Messages, dated July 2015, states that the Federal Records Act was amended in November 2014, and added a new definition for electronic messages. The term electronic messages means electronic mail and other messaging systems that are used for purposes of communicating between individuals. The bulletin provides the following list of types of electronic messaging with examples.

Table 1: Types and examples of text messaging

Types of electronic messaging	Examples
Chat/instant messaging.	Google Chat, Skype for Business, IBM Sametime, Novell Groupwise Messenger, Facebook Messaging.
Text messaging, also known as Multimedia Messaging Service and Short Message Service.	iMessage, Short Message Service and Multimedia Messaging Service on devices, such as Blackberry, Windows, Apple or Android devices.
Voicemail messaging—systems that can have voicemail sent to email as an attachment. In addition, messages that can be sent or received from land-line or mobile phones.	Google Voice, voice-to-text conversion.
Other messaging platforms or apps, such as social media or mobile device applications. These include text, media and voice messages.	Twitter Direct Message, Slack, Snapchat, WhatsApp, Pigeon, Yammer, Jive, or other internal collaboration networks.

Source: NARA Bulletin 2015-02, Guidance on Managing Electronic Messages.

The bulletin further states that “electronic messages created or received in the course of agency business are Federal records.” The guidance states:

At this time, current business practices make it more likely other types of electronic messages, such as chat or text messages, contain transitory information or information of value for a much shorter period of time. Regardless, agencies must capture and manage these records in compliance with Federal records management laws, regulations and policies.

In February 2015, the EPA updated its records management policy, which details the agency’s requirements for handling electronic messages—such as text messages—as electronic records. The policy states that EPA staff that generate and receive records are legally required to maintain them, and the policy further requires electronic records—such as substantive or non-transitory text messages—to be transferred to an electronic records management system. The policy states, “Some records are transitory in nature, which means they are of

short-term (180 days or less) interest, including in electronic form, and have minimal or no documentary or evidential value.” However, non-transitory (substantive) records contain informational value and should be stored in an approved records management system.

FOIA requires agencies to make available copies of records, regardless of form and content, when a FOIA request is submitted. Additionally, Congress may send a request for information that may be contained in the form of an electronic message (text message) that also must be provided when requested. As such, the 3.1 million text messages sent and received on EPA mobile devices must be reviewed to identify the relevant text communications subject to federal record-keeping requirements, and FOIA and congressional requests.

In evaluating the 3.1 million text messages sent and received, we interviewed the Administrator and several senior officials on their text message usage. We learned from the Administrator and senior officials, and by inspecting some of their text messages, that the contents were:

- Work related.
- Personal text messages.
- Messages originating from electronic messaging systems.
- One-time passwords used to connect remotely to the EPA’s network.

From our interviews:

- **Work-related texts were described as government business, lunch arrangements, and notices of employees’ work status.**
- **Personal texts were described as family communications.**
- **Texts from electronic messaging systems were described as social media notifications (public tweets from Twitter) and alerts related to weather, traffic, school, or Office of Personnel Management’s notification on federal government operational status.**

Responsible Offices

The Office of Environmental Information (OEI)—which includes the Chief Information Officer—manages the EPA’s National Records Management Program, which provides leadership and direction in managing the records that support the EPA’s mission. Within the Office of the Administrator, the Office of Congressional and Intergovernmental Relations (OCIR) serves as the EPA’s principal point of contact with Congress, states and local governments. OCIR coordinates the EPA’s formal positions and technical assistance to Congress, and manages the agency’s congressional correspondence process.

Scope and Methodology

We performed this audit from January 2015 through July 2016, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit

objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We interviewed the EPA Administrator; Acting Deputy Administrator; Assistant, Associate and Regional Administrators; EPA General Counsel; Agency Records Officer; Agency FOIA Officer; and other EPA employees who were engaged in using EPA-provided (government-issued) mobile devices for text messaging or were responsible for managing the EPA's FOIA and records-keeping programs.

Overall, we conducted 70 interviews within the following offices:

- Office of the Administrator
- Office of Administration and Resources Management
- Office of Air and Radiation
- Office of Chemical Safety and Pollution Prevention
- Office of Enforcement and Compliance Assurance
- Office of Environmental Information
- Office of General Counsel
- Office of Land and Emergency Management
- Office of Research and Development
- Office of Water
- Region 1 (Boston)
- Region 2 (New York)
- Region 6 (Dallas)

Appendix B provides further details on our scope and methodology.

EPA's Region 2 Regional Administrator provided additional details regarding the use of her government-issued mobile device. The Region 2 Regional Administrator also had concerns that the report presented a misleading picture of the use of text messaging within the EPA. We added additional information within the background section to address the Regional Administrator's concerns. Our analysis determined that EPA employees sent or received 3.1 million electronic messages in the form of text messages on government-issued mobile devices. In the context of our audit objectives, these text communications, in addition to text messages from the 247 mobile devices procured outside the WCF, represent the universe of items that must be reviewed to determine whether they are subject to federal recordkeeping requirements, as well as FOIA and congressional requests. The EPA Region 2 Regional Administrator's response is in Appendix C.

Prior Audit Work

In fiscal year 2013, the OIG published a report from a previous congressionally requested inquiry into the EPA's records management practices, *Congressionally Requested Inquiry Into the EPA's Use of Private and Alias Email Accounts*, Report No. [13-P-0433](#), dated September 26, 2013. We made five recommendations for the

EPA to improve its records management program, and the EPA had completed all the corrective actions.

The OIG also published a briefing report, *Review of EPA's Process to Release Information Under the Freedom of Information Act*, Report No. [14-P-0262](#), dated May 16, 2014. We recommended that the EPA issue final FOIA procedures by September 30, 2014, and that senior information officials at each region and program office certify that local FOIA procedures are consistent with the agency's final procedures. The EPA completed all the corrective actions.

Chapter 2

Findings on Issues Raised by Congressional Committee Regarding Preserving Text Message Records

During our audit work to provide responses to a congressional inquiry, we did not find instances where the EPA intentionally circumvented the Federal Records Act when handling text messages. This inquiry also requested the OIG to provide information regarding:

- Employees' knowledge of text message preservation requirements.
- Processes for responding to congressional and FOIA requests.
- Employees' use of text messages for official business.
- Disciplinary actions taken related to missing text message records.
- Correspondences to NARA on potential loss of federal records.

We did find some areas where improvements are needed, related to responding to congressional requests for records, conducting searches on FOIA requests, and preserving text message records. Below are the results of our audit in response to the congressional committee's inquiry for all these areas, regardless of whether the need for process improvements was identified.

Findings Based on Congressional Inquiry

Based on our review of the issues raised by a congressional inquiry, we identified related business practices that could potentially cause the EPA to not comply with federal record-keeping requirements. The issues identified with these related practices could prevent the EPA from identifying and preserving all text message records that may be federal records or responsive to congressional inquiries. As such, the EPA should strengthen controls by:

- Documenting formal procedures for responding to congressional requests.
- Providing instructions to employees on what to search (in particular, government-issued mobile devices) when a FOIA request is submitted to the EPA
- Preserving text communication records before mobile devices are replaced, or when devices are no longer needed for official duty or before they are automatically deleted by the mobile device

Details regarding each of the issues raised by the congressional inquiry follow.

Whether the EPA implemented policies and procedures to determine which text messages to preserve and steps to ensure employees are knowledgeable of this guidance.

The EPA has implemented records management policies and procedures that direct employees on which text messages to preserve, and has taken steps to ensure employees are knowledgeable of the issued guidance.

In February 2015, the EPA updated its records management policy, which details the agency's requirements for handling electronic messages—such as text messages—as electronic records. The policy states that EPA staff that generate and receive records are legally required to maintain those records, and further requires electronic records—such as text messages—to be transferred to an electronic records management system. The policy also states:

Some records are transitory in nature, which means they are of short-term (180 days or less) interest, including in electronic form, and have minimal or no documentary or evidential value.

However, non-transitory (substantive) records contain informational value and should be stored in an approved records management system. The policy further states:

Similarly, users of text messaging, instant messaging or other transient messaging technologies on EPA information systems are responsible for ensuring that messages that result in the creation of a substantive (or non-transitory) federal record are saved for Federal Records Act purposes and placed in a recordkeeping system.

In March 2015, the EPA issued instructions on forwarding text messages from government-issued mobile devices to the EPA's email system. The EPA also distributed quarterly records management broadcasts via email to reiterate employees' responsibilities for preserving federal records, including text messages. Based on the employees interviewed regarding their awareness of the agency's text message preservation guidance, we found that most employees were knowledgeable of the new guidance for preserving text messages.

In October 2015, the EPA deployed its annual records management training to further inform employees of their records management responsibilities, which included managing text message records. We evaluated the training, and found that it reinforced the February 2015 records management policy—specifically, the preservation of text messages from mobile devices.

There are no findings or recommendations for this area.

Whether the EPA implemented processes to respond to congressional and FOIA requests involving agency employees' text messages.

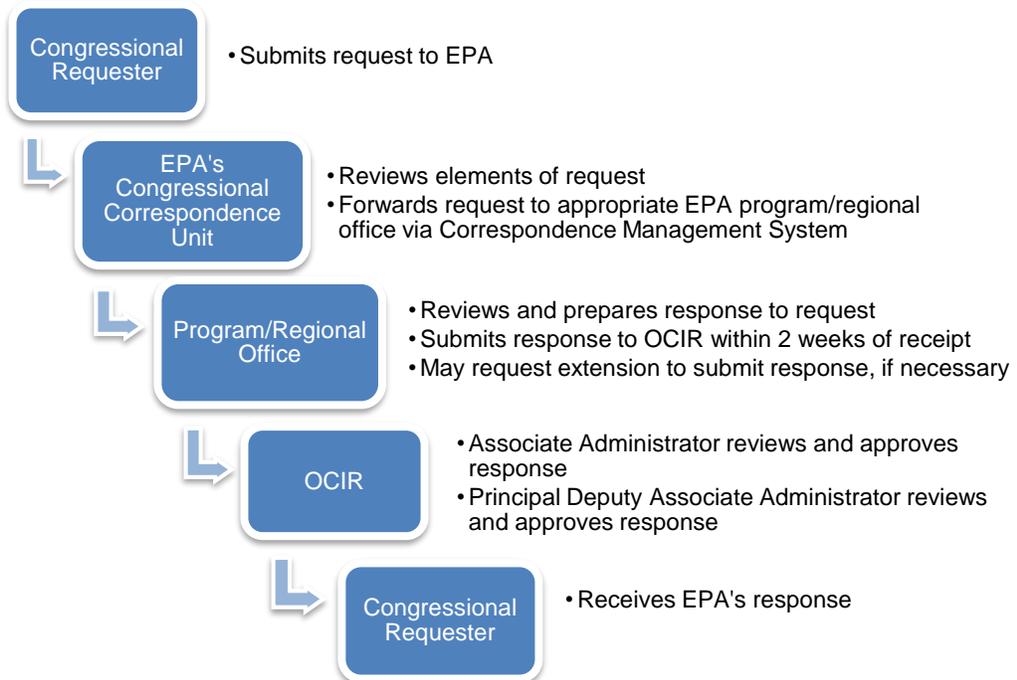
Responding to Congressional Requests

OCIR has implemented an overall process for responding to congressional requests for records. However, OCIR has not documented procedures for responding to congressional requests to include agency employees' text message records.

We requested that OCIR provide us the documented procedures for the EPA's process for responding to congressional requests. OCIR provided a template for responding to members of Congress. The template only describes the format of the correspondence letter for responding to the request. An OCIR official stated that they have a process for handling congressional requests, but the process is undocumented. The OCIR official also stated that all employees responding to congressional requests are trained and familiar with responding to congressional requests.

The task for responding to congressional requests involves several critical steps and levels of review. Figure 1 illustrates these undocumented steps.

Figure 1: OCIR undocumented congressional response process



Source: Information compiled by OIG.

OCIR stated that it is currently piloting an initiative that will make the congressional response process more efficient and effective. Once the pilot of the new process is completed, OCIR plans to roll it out agencywide and have a formal written process that will reflect the new way of processing congressional correspondence. The EPA completed the roll-out in the fall of 2016, and plans to issue final procedures by end of fiscal year 2017. However, until the agency documents its procedures for responding to congressional requests for federal records, including text records, the EPA lacks a standard for handling congressional responses across the agency's program and regional offices.

A recommendation for this area is included at the end of this chapter.

Responding to FOIA Requests

The EPA's national FOIA program, managed at headquarters, has an overall process and a detailed procedure for responding to FOIA requests. However, the procedure does not include steps for FOIA personnel to follow regarding searching mobile devices for responsive text message records. As a result, FOIA personnel outside of headquarters indicated that unless the FOIA request specifically requires the agency to search for text messages, this media is neither searched nor included in the response. According to the agency FOIA officer, when text messages are required to be searched, the agency relies on the employees to capture and preserve text messages as records. The FOIA officer also indicated that the process—as specified in agency guidance—is supposed to be used by employees to preserve the records within the EPA's record-keeping system, where they could be subsequently searched in response to FOIA requests.

Our audit work disclosed that government-issued mobile devices of senior officials are searched for text messages that need to be preserved as records at different intervals. For example, some senior EPA officials have their staff search their mobile devices from periodically (at least monthly) to every 20 days.

Based on the above, the possibility exists that the EPA could receive a FOIA request before an employee forwards and preserves their potential text message records within the agency's record-keeping system and, thus, the impacted government-issued mobile device would not have been searched. As such, improving instructions to employees about FOIA and their record responsibilities could strengthen the agency's record-keeping internal controls for searching all potential sources of records in the event an employee has not already captured the applicable records in the agency's record-keeping system.

A recommendation for this area is included at the end of this chapter.

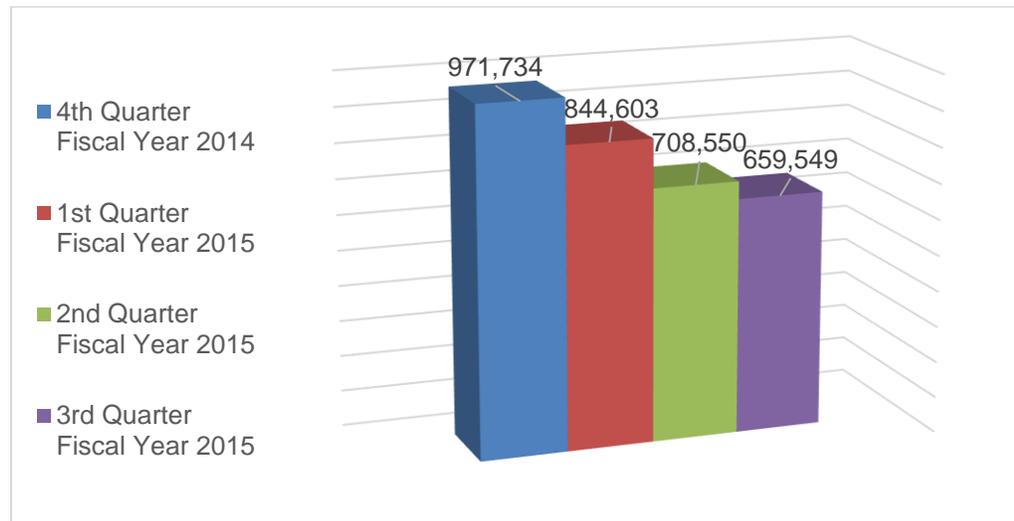
Whether the EPA used text messages (on government-issued or personal devices) for official business.

EPA employees use their government-issued mobile devices to send and receive text messages for official business. Our review of a sample of text messages currently residing on government-issued mobile devices for the EPA Administrator and senior officials found that most of the messages were work-related but transitory in nature.

“Transitory” means records of short-term interest that have minimum or no documentary or evidential value.

From July 1, 2014, through June 30, 2015, EPA employees sent and received over 3.1 million text messages using government-issued mobile devices procured under the WCF. Figure 2 illustrates the volume of these text messages during this 12-month period by quarter.

Figure 2: Agency total volume of text messages by quarter



Source: Information compiled by OIG from EPA Quarterly Mobile Device Utilization Reports.

We interviewed 16 senior officials and 22 staff employees about their text usage. The EPA Administrator and senior officials indicated that most of their text messages were:

- One-time passwords to connect remotely to the EPA’s network.
- Messages to staff or other EPA officials regarding office meetings.
- Traffic alerts and public tweets.

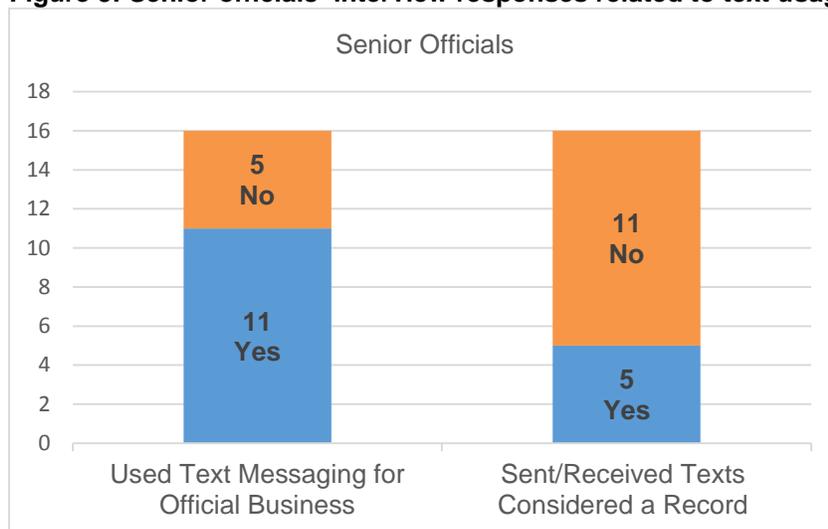
Additionally, one senior official and some staff indicated they have used their government-issued mobile device for personal reasons, along with sending personal text messages to communicate with family. The EPA Administrator and

senior officials stated that they do not conduct official business on their personal mobile devices. Other staff employees interviewed provided the same responses.

Based on the EPA’s records management policy, records are typically created while conducting official business. However, the EPA notes that “not all information created or received constitutes a record.” As such, it is possible for an EPA employee to use text messaging for official business, without any of those text messages being considered records that require preserving. As noted in Figure 3, 11 officials used text messaging for official business; however, less than half (five of 11) sent or received text messages that were considered a record by the senior official. Likewise, as noted in Figure 4, only 18 percent of the interviewees (four of 22) sent or received text messages that were considered a record by the employee.

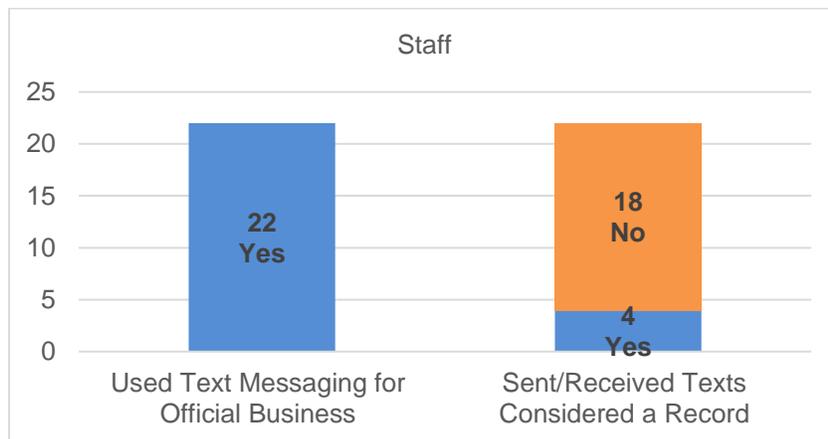
There are no findings or recommendations for this area.

Figure 3: Senior officials’ interview responses related to text usage



Source: Information compiled by OIG.

Figure 4: Staff interview responses related to text usage



Source: Information compiled by OIG.

Whether the EPA deleted, destroyed, lost or misplaced text messages needed for records management; and, if applicable, the rationale for destroying text communication records.

The EPA Administrator, senior officials and other employees interviewed indicated they did not delete, destroy, lose or misplace text messages needed for records management. However, our field work noted instances where potential text message records could have been deleted or lost as a result of employee actions. For example:

- During the replacement of the government-issued mobile device for one Regional Administrator, the possibility existed that text message records were not captured within the agency's record-keeping system. The information technology director stated the Regional Administrator signed a form indicating the replaced government-issued mobile device was searched for potential records. The information technology director also stated that they did not search the replaced device for records. The region representatives indicated they were unsure, during the period in question, whether they had a process to regularly search the Regional Administrator's government-issued mobile device for potential text message records. It was about 8 months after the Regional Administrator received his new government-issued mobile device that the region implemented such a process. We were not able to determine whether actual text message records were lost because the Regional Administrator's previous mobile device was not available for inspection.
- A senior official with a high level of text message usage may have lost text messages that could have been considered federal records. We requested text message samples from this senior official's mobile device for January 2015 and March 2015. The senior official responded that they did not have any text messages on the device for that time period. The senior official's mobile device was set to automatically delete text messages every 30 days. Therefore, some of those deleted text messages could be substantive in nature, and need to be preserved in the agency's record-keeping system.
- When we requested a sample of current text messages from a headquarters senior official, the official indicated there were no text messages on the government-issued mobile phone even though the EPA's quarterly mobile device usage report documented frequent text message usage by this official for the period in question. Since the official indicated that there were no text messages on his mobile device, we did not inspect the senior official's mobile device and, therefore, we were not able to determine whether actual text message records were lost.

A recommendation for this area is included at the end of this chapter.

Whether the EPA took disciplinary actions against employees for deleting, destroying, losing or misplacing text communication records.

We did not identify instances where the EPA should consider taking disciplinary actions against employees for deleting, destroying, losing or misplacing text communication records. During our interviews, the EPA Administrator and other senior officials indicated that for those employees reporting directly to them, they were not aware of any employees deleting, destroying, losing or misplacing text messages records, and thus they did not have the necessity to take disciplinary actions against any employees. Interviews with regional counsel from Regions 1, 2 and 6, as well as staff from the EPA's Office of Human Resources, indicated they had no knowledge of an employee being disciplined within the last 3 years for unlawfully deleting, destroying, losing or misplacing text communication records.

There are no recommendations for this area.

Whether the EPA notified NARA about the potential loss of any federal text records, and how often the losses occurred.

We found that the EPA notified NARA regarding potentially or actually lost, damaged or destroyed records nine times between 2006 and 2014. According to the agency, only one of these notifications was related to the possibility of destruction of text messages. The agency's letter to NARA, dated October 9, 2014, states that the text messages requested under FOIA by an outside group were not produced or preserved. The letter further states that:

... EPA determined that it is not aware of federal records that were unlawfully destroyed. For the reasons discussed below, EPA has no reason to believe that text messages existed that qualified as federal records and were unlawfully destroyed. EPA cannot, however, determine with absolute, unequivocal certainty the content of every single text message that may at one point have existed.

There are no findings or recommendations for this area.

Conclusion

While the EPA has a records management program, the agency can strengthen its internal controls to ensure employees fully comply with documented records management policies and procedures. We noted a lack of documented procedures for retrieving text messages in response to congressional requests, FOIA procedures not including instructions to search government-issued mobile devices

for unpreserved text message records, employees not preserving potential text message records when replacing their government-issued mobile devices, and employees not being able to produce text messages on government-issued mobile devices. These deficiencies create gaps in the agency's ability to capture all potential text message records needed to support agency decisions that impact human health and the environment.

Recommendations

We recommend that the Deputy Administrator:

1. Require the Office of Congressional and Intergovernmental Relations to document formal procedures for responding to congressional requests for records, including text records.

We recommend that the Chief Information Officer, Office of Environmental Information:

2. Remind agency employees that, as appropriate, all text messages that are potentially responsive to a Freedom of Information Act or a congressional request must be available for inclusion in searches conducted by the agency to prepare responses to these requests.
3. Determine whether potential text message records were lost during the replacement of the noted mobile device during the instance where the senior official could not provide the requested text messages (Page 12, Bullet 1), or during the instance when the senior official's mobile device automatically deleted messages after 30 days (Page 12, Bullet 2), and notify the National Archives and Records Administration if warranted.

Agency Response and OIG Evaluation

The EPA generally agreed with our findings and partially agreed with our recommendations.

For Recommendation 1, OCIR indicated it would document the procedures for responding to a congressional request for records by summer 2017. We revised the recommendation and consider this recommendation resolved with corrective actions pending.

For Recommendation 2, OEI initially indicated that by December 31, 2016, it would complete a proposed alternate corrective action to notify agency Senior Information Officials to direct them to ensure that all text messages responsive to a FOIA or congressional request are available. This alternative corrective action did not address our concerns. The office should adopt a more structured method to notify its government-issued mobile device users and the individuals responsible

for handling FOIA and congressional requests about the text message requirement. The proposed alternative corrective action would make notifications within the agency dependent upon others normally not involved in processing FOIA or congressional requests. This information should be made widely available for employees' immediate reference, similar to other records management information available on the agency's National Records Management website. Upon further discussions, OEI indicated that by March 31, 2017, it would add language to the fiscal year 2017 mandatory records management training to address our concerns and reinforce the importance of searching government-issued devices for unpreserved text message records. We accept the proposed recommendation and consider this recommendation resolved with corrective actions pending.

OEI partially agreed with Recommendation 3 and stated the respective EPA office has the initial responsibility for determining whether a record was lost. The office proposed an alternative corrective action that calls for the agency to determine whether a record was lost by December 31, 2016. We did not agree with this proposed corrective action because the action did not satisfy the intent of our recommendation. The proposed alternative corrective action is vague and unclear as to whether the National Records program would have oversight to ensure all potential lost records are reported to NARA as required. According to the EPA, the Agency Records Officer is within OEI and this individual "is responsible for providing leadership and direction for the Agency's records management program." Upon further discussions, OEI indicated:

- Regarding the potential loss of text records when a senior official's government-issued mobile device was replaced, the EPA concluded that no text records were lost and that the EPA will provide results of its investigation to the Agency Records Officer by December 31, 2016.
- Regarding the senior official's government-issued mobile service configured to delete text messages at 30 days, the EPA will investigate this matter to determine whether any text records were lost, and provide the results to the Agency Records Officer by December 31, 2016. Also, by January 31, 2017, the Agency Records Officer will consult with the Office of General Counsel to determine whether a notification to NARA is required to document the potential loss of text records.

The corrective actions for Recommendation 3 meet the intent of our recommendation, and we consider this recommendation resolved with corrective actions pending.

Chapter 3

Additional Areas for Improvement Noted in EPA's Mobile Device Management to Better Preserve Text Message Records

In addition to the issues discussed in Chapter 2, we noted further ways in which the EPA's mobile device management processes can be improved to better capture and preserve text message records residing on government-issued mobile devices. Office of Management and Budget Circular A-123, *Management's Responsibility for Internal Controls*, dated December 21, 2004, indicates that management is responsible for establishing and maintaining internal controls and, due to the rapid changes in information technology, these controls must be adjusted to remain effective. The EPA's ability to capture and preserve text messages on government-issued mobile devices is hindered by the lack of:

- A strategy to manage text records on all government-issued mobile devices.
- A mobile device management (MDM) solution to manage text messages.

As a result, of the over 3.1 million text messages used on government-issued mobile devices (procured under the WCF) from July 1, 2014, to June 30, 2015, the EPA cannot be assured that those text messages that qualified as federal records were appropriately captured and preserved, or made available in response to external party inquiries.

Strategy Needed to Manage Configuration Settings of All Government-Issued Mobile Devices

EPA employees have access to government-issued mobile devices that allows them to change the configuration of each device's text message retention settings. NARA Bulletin 2015-02, *Guidance on Managing Electronic Messages*, encourages federal agencies to remove reliance on individual users to increase the ability to capture and produce records. However, we noted the following:

WCF Mobile Devices: Our observation of 15 government-issued mobile devices procured through the WCF disclosed that the EPA does not have a permanent configuration setting that prevents employees from changing how long text messages are retained on the device. The employee has the ability to choose a text message retention period of 30 days, 1 year or forever. As a result, the mobile device would auto-delete text messages based on the specified time period (30 days or 1 year) if the configuration setting is not set to retain text messages forever. While most government-issued mobile devices were configured to retain text messages "forever," our analysis disclosed that at least one Assistant Administrator with high text message usage had a government-

issued mobile phone that was configured to delete text messages after 30 days. Because this senior official's mobile device was not configured to prevent the deletion of text messages, text messages potentially substantive in nature could have been deleted before being preserved in the agency's record-keeping system.

Non-WCF Mobile Devices: Ten EPA offices reported having mobile devices with text messaging capabilities procured outside of the EPA's WCF. Unlike mobile devices procured under the WCF, these devices are not compatible with, and are not managed by, the EPA's MDM solution that manages configuration settings on mobile devices. The lack of a configuration control setting to preserve or capture text records on these devices exposes the EPA to the potential loss and destruction of federal records. The EPA's OEI has no oversight of these government-issued mobile devices' settings to ensure they comply with EPA standards. As such, having oversight to ensure the devices comply with current and planned agency mobile device configuration settings is important to ensure all required text messages are preserved and available to meet the EPA's FOIA and congressional requests, as well as records management responsibilities.

Subsequent to the release of our discussion document, EPA officials indicated the contracts for non-WCF government-issued mobile devices had expired, and these devices are now covered under a contract overseen by the WCF. However, our review of the provided documentation disclosed that 47 percent (202 of 429) of the non-WCF government-issued mobile devices with text message capabilities are not covered under the WCF contract or the management of the MDM solution. In addition, OEI is uncertain as to whether all non-WCF mobile devices have been replaced with new devices that can be managed by the agency's enterprise MDM solution. As such, the EPA is in a position where it cannot effectively manage all government-issued mobile devices' configuration settings to facilitate the preservation of required text messages to meet its records management responsibilities.

Mobile Device Management Solution Does Not Manage Text Messages

The EPA implemented an enterprise MDM in fiscal year 2015 to manage and configure the inventory of mobile devices procured under the agency's WCF. EPA personnel indicated that the agency will use its MDM to manage:

- A variety of mobile devices with multiple operating systems across multiple service providers.
- Password security.
- Applications on mobile devices.

During earlier conversations with the agency, OEI representatives indicated the MDM does not have the capability to prevent the deletion of text messages, and the EPA did not have current plans to add text message management capabilities to

restrict employees from arbitrarily changing a device's text messaging retention settings. We noted that the EPA's actions regarding the implementation of its MDM solution appear to be consistent with practices outlined by the National Institute of Standards and Technology Special Publication 800-124 Rev. 1, *Guidelines for Managing the Security of Mobile Devices in the Enterprise*.

The EPA's MDM solution manages the security aspect of mobile devices. However, the EPA has not found a solution to manage the agency's records management responsibilities created by using text messaging. To meet the records management challenges associated with using electronic messaging (text messaging), NARA Bulletin 2015-02 recommends, among other things, that an agency:

- Configure electronic messaging systems to allow for automated capture of electronic messages and metadata; removing reliance on individual users will increase ability to capture and produce messages.
- Use third-party services to capture messages, such as a service that captures all email, chat and text messages created through agency-operated electronic messaging systems.

The volume of EPA text message communications versus the number of text messages saved as federal records leaves questions about whether all potential records were saved. The inability of senior officials to provide text messages when requested, and the inability of the MDM solution to capture and preserve or prevent the deletion of text messages, also raises doubt that all potential text message records were saved. As such, these issues warrant the need for the EPA to reassess the capabilities of its MDM solution and consider NARA's recommendations for preserving text messages, to comply with records management requirements.

Subsequent to the release of our discussion document, an EPA representative indicated they were conducting research to identify an alternative solution to capture text messages on mobile devices. We requested documentation from the office regarding its research. The documentation provided indicates that the EPA has identified possible solutions for managing text messaging on its government-issued mobile devices. However, the EPA representative stated the agency is still exploring its options.

Conclusion

The agency could improve transparency of environmental and human health decisions by enhancing its record management controls that affect the preservation and availability of records.

Recommendations

We recommend that the Chief Information Officer, Office of Environmental Information:

4. Develop and implement a strategy instructing employees not to change the text message retention settings.
5. Develop a plan to replace any phones not technically compatible with the new mobile device management solution identified during market research in response to Recommendation 6. Also, develop a process to approve waivers for any office that identifies a significant business need to keep the existing device and identifies an alternative solution for records management for that existing device.
6. Formalize a plan with milestone dates to conduct market research to determine whether an enterprise mobile device management solution can manage text message communications to help the agency meet its record-keeping responsibilities. Document a management decision if a new solution is appropriate for implementation and, if needed, create a project plan with milestone dates for implementing the new solution.

Agency Response and OIG Evaluation

OEI did not agree with Recommendation 4 and proposed an alternative corrective action. OEI indicated it will modify the EPA's Mobile Device Employee Notice by December 31, 2016, to state that employees shall not modify the text message retention settings. The alternative corrective action would address our concerns, and we modified the report accordingly. We consider this recommendation resolved with corrective actions pending.

OEI indicated that corrective action has been completed for Recommendation 5. However, the EPA did not provide all the requested documentation to demonstrate that the actions taken fully addressed the recommendation. The EPA had not provided documentation to support that the previous non-WCF mobile devices were replaced with newer devices that can be managed by the enterprise MDM solution. OEI requested that we remove the original recommendation of replacing previous non-WCF mobile devices with newer devices to be managed by the MDM, because the EPA has not identified a technical solution compatible with EPA's MDM to capture text records on mobile devices. We modified the recommendation to correspond with the planned corrective action and milestone date for Recommendation 6. As such, we accept the corrective action and consider this recommendation resolved with corrective actions pending.

OEI agreed with Recommendation 6. OEI indicated that it just completed market research and did not find a tool capable of meeting its needs. OEI indicated it

would complete new market research no later than September 30, 2018. We consider this recommendation resolved with corrective actions pending.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

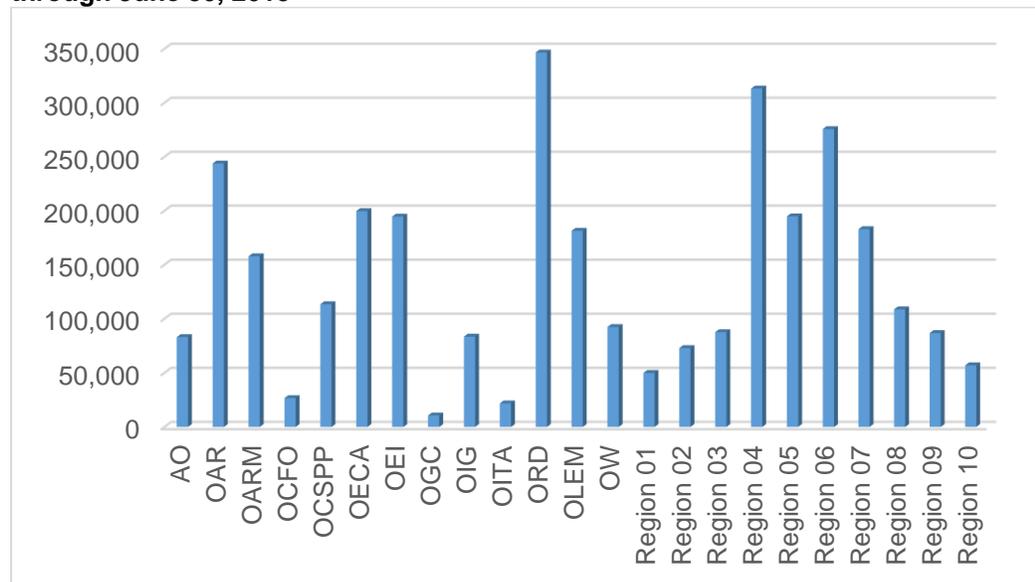
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	14	Require the Office of Congressional and Intergovernmental Relations to document formal procedures for responding to congressional requests for records, including text records.	O	Deputy Administrator	9/30/17	
2	14	Remind agency employees that, as appropriate, all text messages that are potentially responsive to a Freedom of Information Act or a congressional request must be available for inclusion in searches conducted by the agency to prepare responses to these requests.	O	Chief Information Officer, Office of Environmental Information	3/31/17	
3	14	Determine whether potential text message records were lost during the replacement of the noted mobile device during the instance where the senior official could not provide the requested text messages (Page 12, Bullet 1), or during the instance when the senior official's mobile device automatically deleted messages after 30 days (Page 12, Bullet 2), and notify the National Archives and Records Administration if warranted.	O	Chief Information Officer, Office of Environmental Information	1/31/17	
4	19	Develop and implement a strategy instructing employees not to change the text message retention settings.	O	Chief Information Officer, Office of Environmental Information	12/31/16	
5	19	Develop a plan to replace any phones not technically compatible with the new mobile device management solution identified during market research in response to Recommendation 6. Also, develop a process to approve waivers for any office that identifies a significant business need to keep the existing device and identifies an alternative solution for records management for that existing device.	O	Chief Information Officer, Office of Environmental Information	9/30/18	
6	19	Formalize a plan with milestone dates to conduct market research to determine whether an enterprise mobile device management solution can manage text message communications to help the agency meet its record-keeping responsibilities. Document a management decision if a new solution is appropriate for the implementation and, if needed, create a project plan with milestone dates for implementing the new solution.	O	Chief Information Officer, Office of Environmental Information	9/30/18	

¹ O = Recommendation is open with agreed-to corrective actions pending.
 C = Recommendation is closed with all agreed-to actions completed.
 U = Recommendation is unresolved with resolution efforts in progress.

Distribution of EPA Text Messages by EPA Offices and Senior Officials

For the 12-month period from July 1, 2014, to June 30, 2015, the EPA’s quarterly mobile device utilization reports show that over 3.1 million text messages were sent or received by EPA employees who had government-issued mobile devices procured under the agency’s WCF. Figure A-1 illustrates the volume of text messages sent or received from WCF mobile devices by program/regional office.

Figure A-1: Volume of text messages sent or received by office from July 1, 2014, through June 30, 2015

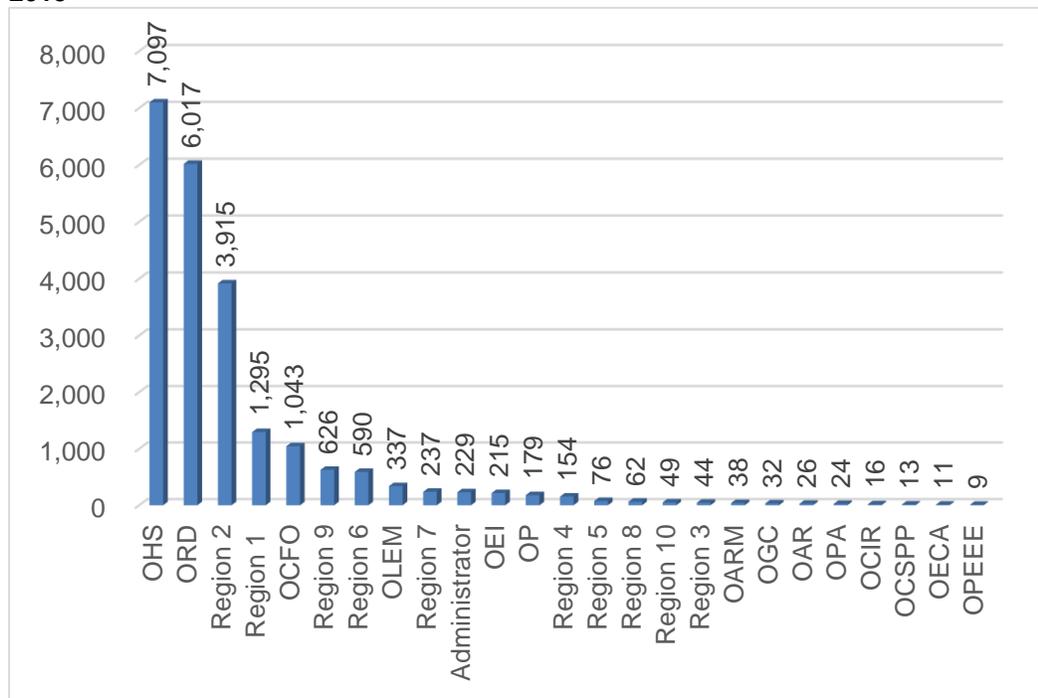


Source: Information compiled by the OIG.

AO:	Office of the Administrator	OEI:	Office of Environmental Information
OAR:	Office of Air and Radiation	OGC:	Office of General Counsel
OARM:	Office of Administration and Resources Management	OIG:	Office of Inspector General
OCFO:	Office of the Chief Financial Officer	OITA:	Office of International and Tribal Affairs
OCSP:	Office of Chemical Safety and Pollution Prevention	ORD:	Office of Research and Development
OECA:	Office of Enforcement and Compliance Assurance	OLEM:	Office of Land and Emergency Management
		OW:	Office of Water

Figure A-2 illustrates the volume of text messages sent or received from WCF devices of the Administrator and other senior official from July 1, 2014, through June 30, 2015.

Figure A-2: EPA senior officials' text messages from July 1, 2014, through June 30, 2015



Source: Information compiled by the OIG from EPA Quarterly Mobile Device Utilization Reports.

OAR:	Assistant Administrator for Air and Radiation	OGC:	General Counsel
OARM:	Assistant Administrator for Administration and Resources Management	OHS:	Associate Administrator for Homeland Security
OCFO:	Chief Financial Officer	OLEM:	Assistant Administrator for Land and Emergency Management
OCIR:	Associate Administrator for Congressional and Intergovernmental Relations	OP:	Associate Administrator for Policy
OCSP:	Assistant Administrator for Chemical Safety and Pollution Prevention	OPA:	Associate Administrator for Public Affairs
OECA:	Assistant Administrator for Enforcement and Compliance Assurance	OPEEE:	Associate Administrator for Public Engagement and Environmental Education
OEI:	Chief Information Officer, Office of Environmental Information	ORD:	Assistant Administrator for Research and Development
		Regions:	Regional Administrators

Details on Scope and Methodology

Text Message Usage of EPA's Senior Officials and EPA Staff Analysis

We obtained, reviewed and analyzed the EPA's Quarterly Mobile Device Utilization Reports that summarize the agency's mobile device usage for devices purchased and managed under the WCF from October 1, 2014, to June 30, 2015. We did not use the actual mobile device billing invoices. We created a spreadsheet that analyzes the EPA mobile device billing reports to determine the users with the most or high text message usage, and found that 3.1 million text messages were sent or received on these WCF mobile devices. From these analyses, we selected and interviewed senior officials and staff from headquarters in Washington, D.C., and Regional Administrators and select regional staff from Regions 1, 2 and 6, based on text message usage. During the interviews, we determined to what extent the senior officials and staff use text messages on their government-issued mobile devices for official business, and their knowledge of preserving text messages as federal records.

We also interviewed these individuals regarding their text usage (e.g., personal, work-related, alerts) and reviewed or inquired about the configuration settings on their devices for retaining text messages that may be records. We obtained a listing of mobile devices procured outside the WCF (non-WCF) from EPA program and regional offices.

We analyzed the device listing and identified the mobile devices used for text messaging. We selected and interviewed Region 1 users because the region had users who had mobile devices that exceeded their allowance for text messages. We also reviewed a sample of text messages that resided on the government-issued mobile devices of the EPA Administrator and the Regional Administrators from Regions 1, 2 and 6. We selected the Assistant Administrators with the highest text message usage, and requested samples of text messages from their government-issued mobile devices with a date range of January 2015 to March 2015. We were not able to collect and review a sample of text messages residing on all these selected officials' government-issued mobile devices, because one senior official's device deleted the text messages after 30 days, and another senior official stated that he did not have any text messages even though the EPA's quarterly mobile device usage report documented a high number of text messages during the time frame for the requested text messages. We also obtained text message records of EPA employees, including the EPA Administrator, who preserved text messages in the EPA's record-keeping system from 2009 to June 30, 2015.

Agency Records Management Review

We reviewed the EPA's *Interim Records Management Policy*, dated June 28, 2013, and the revised *Records Management Policy*, dated February 12, 2015, to determine if any guidance existed for preserving text messages as federal records. We reviewed the EPA's records

management policies and procedures for information relevant to preserving federal records created using text messaging technologies.

NARA Notification Review

We interviewed the agency's records officer and records management staff, and obtained documentation to determine the number of times the EPA notified NARA regarding lost or misplaced federal records over the past 15 years, to include the current and previous EPA Administrators' tenures.

FOIA and Congressional Request Processing Review

We interviewed the EPA headquarters FOIA officer and select regional FOIA personnel responsible for managing FOIA and congressional requests. We gathered and evaluated information regarding each office's FOIA and congressional request processing procedures.

Region 2 Response to Draft Report

MEMORANDUM

DATE: October 4, 2016

SUBJECT: Response to Office of Inspector General Draft Report No. OA-FY15-0063 "Review Resulting from Congressional Inquiry Found EPA Needs to Improve Processes for Preserving Text Messages as Federal Records," - Additional Information

FROM: Judith Enck
Regional Administrator, Region 2

TO: Rudolph M. Brevard, Director
Information Resources Management Audits
Office of Inspector General

As you are aware, I provided my comments to the subject draft report on September 19, 2016 (copy attached). Since my response, I was provided with additional information and data which I believe is important information to supplement my previous response.

The attached data provides the detail of text messaging activity on my EPA cell phone account for the period of July 1, 2015 through September 15, 2015. As you will note, there were 708 text messages. Of these 708 messages, 699 (98.7%) of these were incoming tweets from Twitter feeds that I subscribed to. Please note that the code "40404" is Twitter's feed number.

Given this detailed information, and existing EPA records retention policies, it is clear that these incoming tweets are not records of the Agency and they do not meet the criteria as established for records retention. With this, I again strongly recommend that the nature and content of this report, along with illustrations contained in the draft report be modified to be responsive to Congress' request for a review on this subject.

As this data would seemingly be available for the other accounts included in this review, it could be useful for the information be gathered to further clarify to the readers of this report that person-to-person texts, as well as tweets are considered "text messages" in this context. These tweets do not meet the requirements to constitute a record of the receiver of the tweet. I think that this information further supports my previous recommendation that the OIG consider deleting the statement that "[t]he volume of EPA test message communications versus the number of text messages saved as federal records leaves questions about whether all potential records were saved."

I would be more than happy to request all text messaging information sent/received on my EPA cell phone account for a greater period of time should your office require this information.

cc: Ann Dunkin, OEI
Kevin Christensen, OIG
Charles Sheehan, OIG
John Svec, R2

MEMORANDUM

DATE: September 16, 2016

SUBJECT: Response to Office of Inspector General Draft Report No. OA-FY15-0063
“Review Resulting from Congressional Inquiry Found EPA Needs to Improve Processes for Preserving Text Messages as Federal Records,” dated August 25, 2016.

FROM: Judith Enck
Regional Administrator, Region 2

TO: Rudolph M. Brevard, Director
Information Resources Management Audits
Office of Inspector General

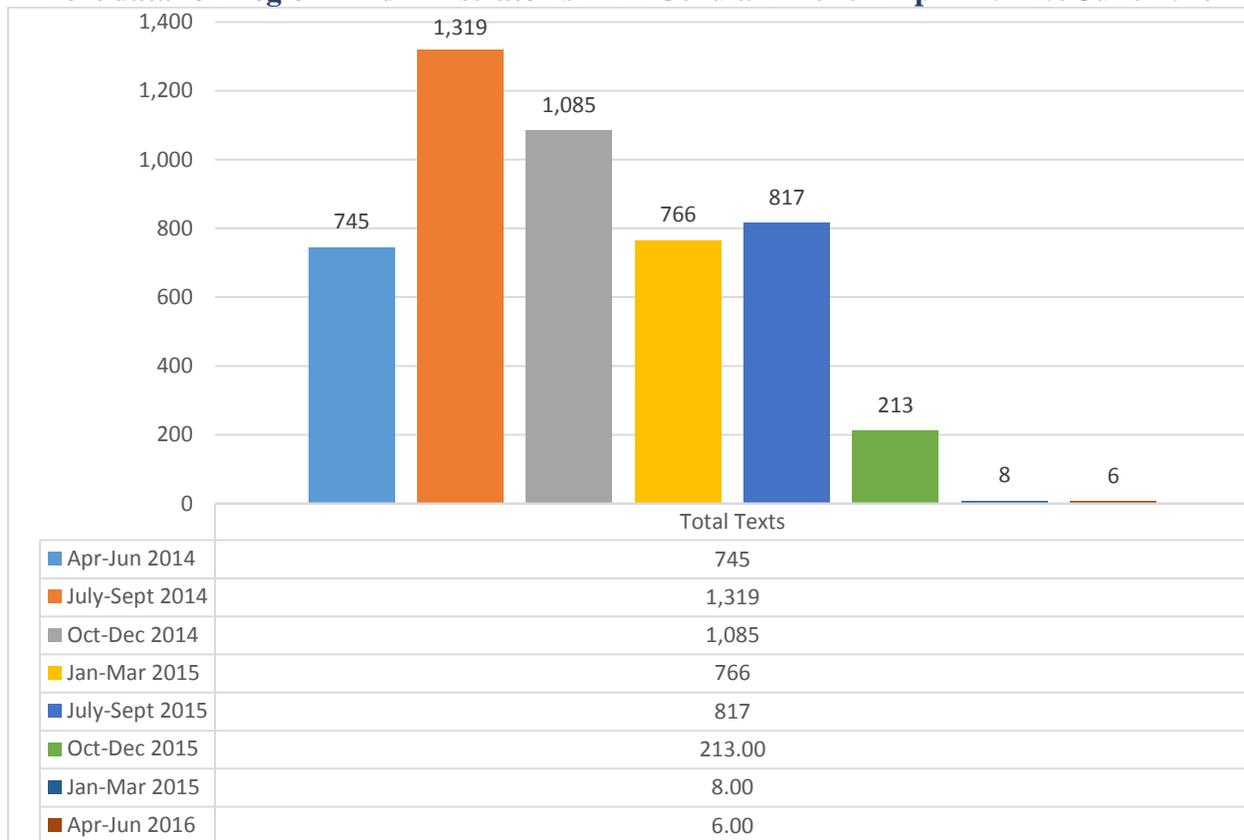
Thank you for the opportunity to respond to the issues and recommendations in this draft audit report. Following is a summary of Region 2’s overall position along with our request to eliminate the charts on pages 2 and 3, to provide a more accurate representation of the data reported.

REGION 2’S OVERALL POSITION

Region 2 does not concur with this report’s portrayal of “text messaging” at EPA and with the statistics provided by the OIG on Figures 1 and 2 of the draft report on text message usage. This draft report is inaccurate and provides a misleading impression in that it counts incoming public tweets and other social media communication (traffic reports, weather alerts, etc.) as text messages. As a result, the draft report gives an inaccurate picture of the volume and nature of text messaging by EPA employees. This fact greatly distorts the statistics provided by the OIG on the usage of text messaging. Based on our review of data on text usage, it is evident that I rarely use text messages for agency communication. Yet, Figure 2 on page 3 of the draft report states that I have sent or received 3,915 texts from July 1, 2014 through June 30, 2015. Over 99% of these are likely incoming (never outgoing) public tweets.

After I met with IG investigators on August 11, 2015, I disabled my ability to receive public tweets on my EPA phone and the number of texts dropped from 4,732 texts during the period from April 2014 through September 2015, to 227 texts during the period from October 2015 through June 2016. The following chart illustrates this important fact.

Text data for Region 2 Administrator’s EPA Cellular Phone – April 2014 to June 2016



Most importantly, to meet the definition of a record, an item must be (1) recorded information, (2) created or received in the conduct of agency business, and (3) preserved as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational value of data in them.

Because tweets do not meet these characteristics and were for informational purposes only, they are not considered records, and EPA policy and guidance advise that they should be deleted when they are no longer needed for reference.

Including incoming public tweets is not responsive to Congress’ request to have accurate information about preserving text messages. The fundamental design of this IG report does not answer that question and I believe should be revised. If the systems and technology that are available to EPA cannot distinguish between a text and a tweet, then while time consuming, each so-called text should be reviewed and classified accordingly.

If this cannot be done, the entire premise of this report needs to be reconsidered. I am also suggesting that the IG modify the language of this Draft Report at the beginning to make clear to readers that IG investigators were unable to distinguish between “text messages” that were person-to-person communications and those that were other types of communications including public broadcast messages. This is fundamental to providing an informed response to the Congressional inquiry, as well as a clear and accurate report to the public.

Region 2 requests the OIG to revise Figures 1 and 2 of the report, so that the distorted figures from Region 2 are more accurate.

Further, please consider deleting the statement in Chapter 3 that “[t]he volume of EPA text message communications versus the number of text messages saved as federal records leaves questions about whether all potential records were saved.” While the IG may find an adequate basis in other evidence to conclude that there are questions about whether all potential records were saved, the 3.1 million volume figure does not provide an appropriate basis for that conclusion.

CONTACT INFORMATION

If you have any questions regarding this response, please feel free to contact me at (212) 637-5000, enck.judith@epa.gov or have your staff contact Region 2’s Audit Coordinator, John Svec, at (212) 637-3699, svec.john@epa.gov.

Thank you.

cc: Ann Dunkin, OEI
Kevin Christensen, OIG
John Svec, R2

EPA Headquarters Consolidated Response to Draft Report

September 30, 2016

MEMORANDUM

SUBJECT: Response to Office of Inspector General Report No. OA-FY15-0063, Audit of EPA's Text Message Practices," dated August 25, 2016.

FROM: Ann Dunkin
Chief Information Officer

TO: Arthur A. Elkins, Jr.
Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. Following is a summary of the agency's overall position, along with its position on each of the report recommendations. For those report recommendations with which the agency agrees, we have provided either high-level intended corrective actions and estimated completion dates to the extent we can or reasons why we are unable to provide high-level intended corrective actions and estimated completion dates at this time. For those report recommendations with which the agency does not agree, we have explained our position, and proposed alternatives to recommendations.

We appreciate the dialogue that has occurred in this matter between our offices because it has provided the Agency with an opportunity to share the latest information on EPA efforts to address a complex area of technology and records management. However, we still have some concerns with your recommendations that have not been addressed. We have noted those and our non-concurrence with the recommendations at this time, in the attached table.

If you have any questions regarding this response, please contact Judi Maguire, OEI's Audit Follow-up Coordinator at maguire.judi@epa.gov or (202)564-7422.

Attachment

cc: Rudy Brevard
Judi Maguire
Vincent Campbell
Theresa Richardson
Elena Larsen

Wendy Blake
Lynn Kelly
Liza Hearn
Rena Keys
Robin Richardson
Rebecca Moser
Pam Shenefiel
Tom Reilly

EPA Response for Audit OA-14-0063 "EPA's Process for Preserving Text Messages"

<u>page #</u>	<u>Recommendation</u>	<u>Agency Response</u>	<u>Corrective Action OR Proposed Alternative Recommendation</u>
14	<p>Rec. #1</p> <p>Require the Office of Congressional and Intergovernmental Relations to document formal procedures for responding to congressional requests for records.</p>	<p>OCIR concurs with the OIG's recommendation of updating its procedures for responding to congressional requests for records. OCIR is currently undergoing a Lean initiative that will result in formal written procedures for processing congressional correspondence more efficiently in the future. However, OCIR does not concur in the recommendation to also include in those procedures "searching and providing record from all media, including text message records" as searches and production of records are done by program offices working with OEI. OCIR proposes alternative recommendation language.</p> <p>If the purpose of this audit recommendation is to ensure that text message records are properly captured when responding to congressional requests for records, we would recommend eliminating from recommendation #1 the second sentence referring to including searches and production of records in OCIRs procedures. Instead we would recommend revising recommendation #2 to include Congressional requests in its scope.</p>	<p>Proposed alternative recommendation: Require the Office of Congressional and Intergovernmental Relations to document formal procedures for responding to congressional requests for records.</p> <p>Corrective action: OCIR will document its procedures for responding to a Congressional Request for records by summer of 2017</p>

<p>14</p>	<p>Rec. #2</p> <p>Remind Agency employees that, as appropriate, all text messages that are potentially responsive to a FOIA request or a Congressional request must be available for inclusion in searches conducted by the Agency to prepare responses to these requests.</p>	<p>OEI does not concur with recommendation #2, and proposes an alternative recommendation. While OEI concurs with ensuring that text messages are searched for and located, as appropriate, in response to FOIA requests, we are concerned that this recommendation could be misinterpreted as requiring the Agency to search for already deleted text messages, because it asks EPA to search for “unpreserved” messages.</p> <p>EPA policy already requires employees to ensure that text message records are saved to the official recordkeeping system within 20 days. http://intranet.epa.gov/records/faqs/pda.html#types-of-pda-records</p> <p>We also refer to the following FAQ text available to all employees at http://intranet.epa.gov/records/faqs/pda.html:</p> <p>“[I]nformation on your Agency-issued mobile device may be requested under FOIA, in response to litigation or in response to a Congressional request. The same rules and exemptions that apply to the release of all other EPA documents under these laws also apply to documents contained on mobile devices. It is important to note that if information on your mobile device is responsive to a litigation hold, FOIA, or other request, you must preserve the information even if it is a transitory record that could otherwise be deleted consistent with the Federal Records Act requirements.”</p> <p>OEI recommends changing the recommendation to clarify its intended meaning as follows:</p> <p>Remind Agency employees that, as appropriate, all text messages that are potentially responsive to a FOIA request or a Congressional request must be available for inclusion in searches conducted by the Agency to prepare responses to these requests.</p>	<p>Proposed alternative recommendation: Remind Agency employees that, as appropriate, all text messages that are potentially responsive to a FOIA request or a Congressional request must be available for inclusion in searches conducted by the Agency to prepare responses to these requests.</p> <p>Corrective action:</p> <p>EPA will add the following text to the FY17 Records Management Training. This training is mandatory, so will reach all employees:</p> <p>“Once you forward a text message record to your email account, it is available to be searched within your email for future document requests. You must also forward to your email account any non-record text messages that are responsive to a FOIA or other document request that are still available at the time you are notified of the request. These messages, once in the EPA’s email system are then available for information searches/collections in response to FOIA requests, congressional inquiries or litigation. If you have any text messages responsive to a document request which have not been forwarded to your EPA email account (for example, they are non-records or are less than 20 days old), you must forward those messages to your email account and coordinate with the office in charge of the document request to ensure those responsive messages are identified and collected.”</p>
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<u>page #</u>	<u>Recommendation</u>	<u>Agency Response</u>	<u>Corrective Action OR Proposed Alternative Recommendation</u>
14	<p>Rec. #3</p> <p>Determine whether potential text message records were lost during the replacement of the noted mobile device during the instance where the senior official could not provide the requested text messages (Bullet 1, Page 12), or during the instance when the senior official's mobile device automatically deleted messages after 30 days (Bullet 2, Page 12), and notify National Archives and Records Administration if warranted.</p>	<p>EPA partially concurs with Recommendation #3. The first individual cited signed a form indicating that the mobile device had been searched for records, and he followed policy. We do not believe that any further investigation is necessary in this case but we will document the actions taken to date to support our position that no records were lost. EPA will provide documentation supporting this stance to the Agency Records Officer.</p> <p>Regarding the second individual, we first note that the determination as to whether a record was lost lies with the Region or Program office, not with OEI. Therefore we recommend that the affected office will provide appropriate documentation on the specifics of this case to the Agency Records Officer, who in turn will determine whether a report to NARA is necessary.</p>	<p>Corrective action:</p> <p>Regarding the first individual, the affected office will provide documentation to the Agency Records Officer supporting its conclusion that no records were lost, by 12/31/2016.</p> <p>Regarding the second individual, the affected office will provide documentation regarding this matter and an assessment as to whether records were lost, to the Agency Records Officer by 12/31/2016.</p> <p>In each case, in consultation with the Office of General Counsel, the Agency Records Officer will determine whether a report to NARA is needed by January 31, 2017.</p>
18	<p>Rec. #4</p> <p>Develop and implement a strategy instructing employees not to change the text message retention settings.</p>	<p>OEI does not concur and proposes an alternative recommendation. There is no technical solution to prevent employees from changing text message retention settings on their devices. We can update the Mobile Device Policy Notice to specifically prohibit employees from changing the text message retention settings. The default setting does not auto-delete, and by policy, employees are to download their text records to a record keeping system within 20 days.</p>	<p>Proposed alternative recommendation: Develop and implement a strategy instructing employees not to change the text message retention settings.</p> <p>Corrective action: By December 31, 2016, EPA will modify the Mobile Device Employee Notice to state that employees shall not modify the text message retention settings.</p>

<u>page #</u>	<u>Recommendation</u>	<u>Agency Response</u>	<u>Corrective Action OR Proposed Alternative Recommendation</u>
18	<p>Rec. #5</p> <p>Develop a plan to replace any phones not technically compatible with the new mobile device management solution identified during market research in response to recommendation 6. The CIO should develop a process to approve waivers for any office that identifies a significant need to keep the existing device and identifies an alternative solution for records management for that existing device.</p>	<p>OEI does not concur with this recommendation. OARM with assistance from OEI migrated all mobile devices to the Working Capital Fund (WCF) contract, but OEI does not concur with the recommendation to replace all devices that were formerly not on the contract with newer devices. Some offices have migrated older mobile devices (e.g. flip phones) to the WCF contract and may continue to have a business need for those devices (e.g., audio quality is more important than smart phone capabilities.) These older devices, now on the WCF contract, are still not capable of being managed by the MDM. However as discussed in the response to recommendation #6 below, EPA has not identified a suitable software at this time that offers records management capabilities, so replacing those devices with newer ones capable of being managed by the MDM offers no records benefit, and may interfere with the business needs of the office.</p> <p>Therefore OEI does not concur with the recommendations and recommends removing the recommendation. If the recommendation is retained, OEI suggests that it be changed to reflect the time-frame of recommendation #6 below.</p>	<p>OEI recommends removing this recommendation, due to the fact that it does not result in improvements to the retention of text message content by the Agency.</p> <p>In the alternative, OEI proposes the following alternative recommendation:</p> <p>Proposed Alternative Recommendation: If the Agency identifies a records-management solution for mobile devices after the review scheduled to be conducted between 6/30/18 and no later than 9/30/18, develop a plan to replace any phones not technically compatible with any identified solution within 6 months of implementation of the identified solution (unless a program office identifies a significant business need to keep the existing device and identifies an alternative solution for records management for that existing device).</p>

<u>page #</u>	<u>Recommendation</u>	<u>Agency Response</u>	<u>Corrective Action OR Proposed Alternative Recommendation</u>
18	<p>Rec. #6</p> <p>Formalize a plan with milestone dates to conduct market research to determine whether an enterprise mobile device management solution exist that can manage text message communications to help the agency meet its record-keeping responsibilities. Document a management decision if a new solution is appropriate for implementation and if needed, create a project plan with milestone dates for implementing the new solution.</p>	<p>OEI concurs, with a caveat. OEI recently concluded market research to determine if an enterprise tool was available to meet Federal security, legal and records management requirements. No such tool is currently available. This finding is consistent with a draft white paper from NARA indicating that none of the Federal Agencies they have interviewed have a system to automatically capture text messages into a recordkeeping system. https://www.archives.gov/records-mgmt/resources/emessageswp.pdf.</p> <p>This may change as new IT solutions or products evolve over time and OEI will commit to revisiting this research in FY18. OEI will continue to require personal responsibility by the employees to manage any records that are text messages.</p> <p>OEI will agree to develop a plan for implementation if an acceptable solution is identified after the market research is finished in 2018.</p>	<p>Corrective action: OEI will complete this new research no sooner than 6/30/18 and no later than 9/30/18.</p>

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