

Congress of the United States
Washington, DC 20515

August 15, 2013

The Honorable Lisa P. Jackson
Vice President of Environmental Initiatives
Apple Inc.
1 Infinite Loop
Cupertino, CA 95014

Dear Ms. Jackson:

We write to inquire about your use of non-official e-mail accounts to conduct official business as the Administrator for the Environmental Protection Agency. In particular, documents released pursuant to litigation and recently obtained by the Committee reveal that you intentionally sought to use a non-official e-mail account to conduct official business.¹ We are concerned that your use of a non-official e-mail account was a deliberate attempt to circumvent federal transparency laws and Congressional oversight. Accordingly, we are writing to request your cooperation as the Committee investigates this matter.

In the limited productions viewed by our respective Committees, it appears that on at least one occasion you instructed an environmental lobbyist, Siemens Corporation Vice President Alison Taylor, to use your personal e-mail account for future correspondence.² Specifically, in an e-mail to Ms. Taylor, you stated, "P.S. Can you use my home email rather than this one when you need to contact me directly? Tx, Lisa."³ It is unclear whether you attempted to preserve any official correspondence conducted on a non-official e-mail account as an EPA record.

The use of a non-official account raises concerns that during your tenure as EPA Administrator, you attempted to insulate communications with Taylor and possibly other e-mail

¹ See E-mail from Ms. Lisa Jackson, Administrator, U.S. Environmental Protection Agency, to Ms. Alison Taylor, Vice President, Siemens Corporation, (December 10, 2009). Available at http://www.epa.gov/foia/docs/Fifth_Release_Attachments_Part_A.pdf.

² *Id.*

³ *Id.*

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correspondence from Congressional inquiries and Freedom of Information Act⁴ requests. Moreover, your actions may also constitute violation of the Federal Records Act (FRA).⁵ In accordance with the FRA and guidance from the D.C. Circuit, federal agencies must preserve e-mail messages if they are:

made or received by an agency of the United States Government under Federal law or in *connection with the transaction of public business* and preserved or appropriate for preservation by that agency or its legitimate successor 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.⁶ (emphasis added).

As the EPA Administrator, we expect you would have knowledge of EPA's policy that explicitly prohibits use of non-EPA.gov e-mail for business purposes. In 2008, EPA wrote to the Government Accountability Office that "EPA has a clear and consistent policy framework against the use of nongovernmental e-mail systems for official EPA business."⁷ During EPA's briefing on Records Management to incoming political appointees in 2009, EPA instructed, "[d]o not use any outside e-mail account to conduct official Agency business."⁸ More recently, in October 2012, EPA sent an agency-wide e-mail reminding employees of this policy. Specifically, the e-mail stated: "[t]his is a reminder to all EPA Employees that *EPA prohibits the use of non-EPA E-Mail Systems when conducting agency business*. This guidance is stated in Agency Records Training, New Employee Orientations and Briefings for Senior Agency Officials."⁹ (emphasis added).

In both the agency-wide e-mail and the Frequently Asked Questions about E-Mail and Records webpage, EPA states that employees are prohibited from using "any outside e-mail system to conduct official Agency business. If, *during an emergency*, you use a non-EPA e-mail system, you are responsible for ensuring that any e-mail records and attachments are saved in your office's recordkeeping system."¹⁰ (emphasis added) It does not appear that there were any emergency circumstances surrounding the use of your personal e-mail. Thus, under all plausible circumstances, your private e-mails demonstrate a clear violation of EPA policy and possibly the law.

In an effort to better understand your use of a non-official e-mail account to conduct official business, we request that you provide all e-mails sent or received from any private e-mail account (.com, .net or .edu) from January 23, 2009 through Feb. 19, 2013 that refer or relate to your responsibilities as an EPA official, such as all e-mails with lobbyists, or other individuals

⁴ See 5 U.S.C. § 552

⁵ See 44 U.S.C. § 31

⁶ *Armstrong v. Executive Office of the President*, 1 F.3d 1274, 1278 (D.C. Cir. 1993).

⁷ GOV'T ACCOUNTABILITY OFFICE, FEDERAL RECORDS: NATIONAL ARCHIVES AND SELECTED AGENCIES NEED TO STRENGTHEN E-MAIL MANAGEMENT, 61, GAO008-742 (June 2008).

⁸ *Records and ECMS Briefing, EPA Incoming Political Appointees 2009* [On file with Committee].

⁹ *NRMP Alert: Do Not Use Outside Email Systems to Conduct Agency Business* [On file with Committee].

¹⁰ ENVTL. PROT. AGENCY, *Frequent Questions about E-Mail and Records* <http://www.epa.gov/records/faqs/email.htm> (last accessed Jan. 16, 2013).

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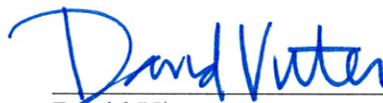
seeking to influence the official business of the EPA. This request includes all e-mails sent or received by you, whether or not they are currently in your "inbox." During the same date range above, we also request that you list all non- government e-mail addresses that you used to conduct official business.

Thank you for your prompt attention to this matter. If you have any questions, please contact Tyler Grimm with the Committee on Oversight and Government Reform at (202) 225-5074 or Kristina Moore with the Committee on Environment and Public Works at (202) 224-6176.

Sincerely,



Darrell Issa
Chairman
Committee on Oversight and
Government Reform



David Vitter
Ranking Member
Committee on Environment and
Public Works

cc: The Honorable Barbara Boxer, Chairman
Committee on Environment and Public Works

The Honorable Elijah Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

Enclosure