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United States Senate

COMMITTEES
ARMED SERVICES
AGRICULTURE, NUTRITION
AND FORESTRY
SMALL BUSINESS
AND ENTREPRENEURSHIP

August 14, 2024

The Honorable Adrienne Todman
Acting Secretary
U.S Department of Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

Dear Acting Secretary Todman,

A whistleblower with first-hand knowledge recently approached my office with troubling allegations against the Department of Housing and Urban Development (HUD) and its employees.

According to this whistleblower, HUD employees are abusing remote work flexibilities to engage in personal activities while also claiming 100 percent of their working time as taxpayer-funded union time. In addition, this whistleblower alleged HUD performs no meaningful verification of funds disbursed pursuant to taxpayer-funded union time before the money is sent out the door.

The most egregious independently verifiable allegation the whistleblower made was against Tracy Vargas. Ms. Vargas is a 20-year employee of HUD and the former president of the American Federation of Government Employees Local 3138.¹ From 2020 through 2022, Ms. Vargas was arrested four times, including one arrest for driving under the influence of alcohol on Friday, May 1, 2020, at 3:28 PM.² On The day Ms. Vargas drank and drove on the taxpayer dime, she is alleged to have successfully claimed and received payment, asserting she was engaged in union activities pursuant to taxpayer-funded union time. It is unacceptable for any employee to be paid on taxpayer-funded union time while sitting in a jail cell.

According to the whistleblower, Ms. Vargas's first arrest resulted in a four-day jail stay. Disturbingly, the whistleblower further alleges Ms. Vargas submitted no leave request, suggesting she may have been paid for taxpayer-funded union time work while she was held at a county jail in Oklahoma.³

¹ Union Profiles, Government Employees, 222 - National Council Of HUD Locals, Union Employee Details, UnionFact.com website, accessed July 31, 2024; <https://www.unionfacts.com/local/employee/516618/AFGE/222/TRACY/VARGAS/>.

² "Oklahoma Bookings," Arrests.org, accessed July 31, 2024; <https://oklahoma.arrests.org/search.php?fname=tracy&lname=vargas&fpartial=True>.

³ Mugshots available here: <https://oklahoma.arrests.org/search.php?fname=tracy&lname=vargas&fpartial=True>

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Arrest Information

Full Name: Tracy Jean Vargas
Date: 01/25/2020
Time: 4:06 AM

Charges

#1 Driving Under the Influence
Misdemeanor Charge



Arrest Information

Full Name: Tracy Jean Vargas
Date: 04/09/2020
Time: 1:09 AM

Charges

Unknown



Arrest Information

Full Name: Tracy Jean Vargas
Date: 05/01/2020
Time: 3:28 PM

Charges

#1 Driving Under the Influence of Alcohol



Arrest Information

Full Name: Tracy Jean Vargas
Date: 02/17/2022
Time: 12:14 AM

Charges

#1 Driving Under the Influence, Second
Offense in 10 Years

The whistleblower contends multiple DUIs weren't sufficient grounds for suspension from her job at HUD. According to documents the whistleblower provided my office, Ms. Vargas remained a HUD employee until she was fired for embezzling over \$20,000 of union funds in August 2023.⁴

Notably, on June 26, 2024, the Department of Labor Office of Labor-Management Standards (OLMS) brought criminal charges against Ms. Vargas in the United States District Court for the Western District of Oklahoma.⁵ Specifically, Ms. Vargas is being prosecuted for making false statements and fraudulently reporting no receipts of union funds to conceal how she was embezzling them for personal use.⁶

The United States Attorney charges:

COUNT 1
(False Statement)

On or about March 31, 2023, in the Western District of Oklahoma,

----- **TRACY VARGAS** -----

willfully and knowingly made a materially false, fictitious, and fraudulent statement in a matter within the jurisdiction of the executive branch of the United States government. Specifically, **VARGAS** signed and submitted a Form LM-4 Labor Organization Annual Report to the U.S. Department of Labor that falsely reported no payments of labor union funds to officers and employees for the purpose of concealing the conversion of labor union funds by **VARGAS** for her own personal use.

As you know, some federal employees may receive payments under taxpayer-funded union time, pursuant to 5 U.S.C. § 7131. These employees engage in labor union-related activities instead of their assigned duties during regular working hours but keep their taxpayer-funded salary.

The American people deserve to know how much money in taxpayer-funded union time they are on the hook for across the government, including at HUD. They should have no questions as to whether employees being paid for taxpayer-funded union time are performing their duties or in a county jail.

Accordingly, I ask you respond to the following questions as soon as possible, but no later than September 4, 2024.

Tracy Vargas

1. What disciplinary actions did HUD take against Ms. Vargas during her 20-year tenure?⁷
2. How many taxpayer-funded union time hours did Ms. Vargas work annually from calendar year 2020 through 2022?
3. How many leave requests did Ms. Vargas submit from calendar year 2020 through 2022? When were these requests submitted and for what dates was leave approved?

⁴ Union suspension letter provided by the whistleblower (on file with sender).

⁵ 2024 Criminal Enforcement Actions, U.S. Department of Labor Office of Labor-Management Standards, accessed July 30, 2024; <https://www.dol.gov/agencies/olms/criminal-enforcement/2024>.

⁶ United States of America v. Vargas, LexisNexis, accessed July 30, 2024: <https://advance.lexis.com/document/?pdmfid=1519217&crd=2fa30b17>

⁷ Tracy Vargas LinkedIn profile, accessed July 30, 2024; <https://www.linkedin.com/in/tracy-vargas-05b30b2a>.

4. Did HUD pay Ms. Vargas in any form or fashion during the time she spent in jail?

HUD Policies, Documentation, and Data Requests

1. Except for direct supervisor oversight, what methods does HUD use to verify teleworking employees are adhering to their work schedules?
2. How does HUD verify taxpayer-funded union time hours are accurately submitted and union duties are performed?
3. What measures, other than supervisor oversight, are in place to audit and review employee adherence to relevant rules, regulations, and policies regarding taxpayer-funded union time and telework arrangements?
4. What protocols are in place to ensure employees submit accurate and timely leave requests, particularly in cases of unexpected absences?
5. How does HUD handle instances where employees are found to violate telework policies, and what disciplinary actions are taken in such cases?
6. Does the Office of the Chief Human Capital Officer, the Office of Human Resources, or any other similar office at HUD retain data sufficient to confirm its managers across the agency are abiding by the *Douglas* factors?⁸
7. From Fiscal Year (FY) 2020 through FY2023, how many HUD employee Absence Without Leave (AWOL) events became the basis for initiating an adverse action?⁹
8. How does HUD categorize jail sentences in relation to events that may warrant leave requests?
9. For FY2021, FY2022, and FY2023, respectively:
 - a. What was the total cost of taxpayer-funded union time for HUD?
 - b. How many HUD employees were eligible to claim taxpayer-funded union time?
 - c. How many taxpayer-funded union time hours did HUD employees work?
 - d. How many HUD employees were working 100 percent of their working time as taxpayer-funded union time?
 - e. How many HUD employees had their telework agreement revoked? For what reasons were these agreements revoked?

Thank you for your time and attention to this inquiry. If you have questions or concerns, please reach out to me or my staff, at 202-224-3254. I look forward to your response.

Sincerely,



Joni K. Ernst
United States Senator

⁸ *Douglas v. Veterans Administration*, 5 M.S.P.R. 280, 305-06 (1981).

⁹ Department of Housing and Urban Development absence and leave policy, <https://www.hud.gov/sites/documents/6001C3ADMH.PDF>.

CC:

The Honorable Ms. Rae Oliver Davis
Inspector General
U.S. Department of Housing and Urban Development

Ms. Lori Michalski
Chief Human Capital Officer
U.S. Department of Housing and Urban Development

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