GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2007-157
July 5, 2007

SUBJECT: Citywide Email Retention Policy

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) of the District of Columbia Home Rule Act, as amended, 87 Stat. 790, D.C. Official Code § 1-204.22 (6) (2001), and pursuant to D.C. Official Code §§ 28-4901 *et seq.* (2006 Supp.) it is hereby **ORDERED** that:

The following issuance regarding email retention shall be directed to all subordinate and independent agencies of the District of Columbia whose email is stored centrally on DC Government email servers maintained by the Office of the Chief Technology Officer (OCTO).

I. Application

This order applies to:

- All electronic mail systems, services, and records provided or owned by the DC Government and maintained by OCTO.
- All users of D.C. Government email services, including:
  - Full and part-time employees
  - Contractors authorized to use D.C. Government-owned equipment or network resources
  - Volunteers who have been provided with an email account/service and
  - All other users of D.C. Government information technology resources.

II. Background

Email is an efficient communications tool provided by the D.C. Government to its employees, contractors, and volunteers to help them execute D.C. Government functions and conduct the government's business within its own organization, with government and private business partners, and with the public. The D.C. Government email system provides messaging services that are virus-free, secure, redundant, disaster-ready, failover-capable, and accessible from both wireline and wireless devices. OCTO maintains the District's email system and servers and performs limited storage of email on backup tapes, solely for disaster recovery purposes.

The District email system not only supports the day-to-day business of the D.C. Government, but also plays an essential role in delivering critical services. For example, during emergencies, citywide Emergency Liaison Officers use the email system to coordinate agency responses and provide accurate status updates; the Department of Transportation uses the email system to notify snowplow operators to report for immediate duty before or during a snowstorm; and email is an essential element of cross-agency workflows, such as the PASS procurement system, which notifies individuals in the procurement approval chain of procurement matters that they must process.

The D.C. Government email system is designed to provide communication services to support day-to-day and emergency government functions, not to provide document retention. The system serves approximately 35,000 simultaneous users. Excessive retention of email in a system of this size risks system downtime, compromises the system's failover capability, and dramatically increases system management costs. For these reasons, other jurisdictions have adopted best practices designed to limit email retention to levels that permit consistent email system availability and reliability within applicable budget constraints. Many comparable jurisdictions retain email for 30-90 days.

III. Purpose and Scope

This Order relies on technical and jurisdictional best practices to define email retention parameters that will permit reasonable email retention while ensuring a consistently accessible, reliable, and failover-capable citywide email system. This Order does not alter the District's general record retention requirements or the duties of individuals and agencies thereunder to identify those documents created or received in the course of District business that are public records and maintain such documents for the applicable retention periods.

IV. Policy

A. General Rule

Consistent with best practices in comparable jurisdictions, OCTO will store all email residing on D.C. Government email servers for six months. All email bearing a date older than six months before the current date—regardless of agency, sender, recipient, or any other attribute--will be deleted automatically and permanently from the D.C. Government email system. This deleted email will not be retained on any media or log. Full backups of emails on the system will be taken each week and stored on electronic tape. These backup tapes will be kept for eight weeks and will then be recycled.

B. Exception: Claims against the Government

Notwithstanding the general rule above, any emails (whether stored on active servers or backup tapes) relating to a matter that is the subject of a claim by or against the D.C. Government or any agency, office, instrumentality, or entity of the government shall be preserved as described in this paragraph IV B.

The Office of Attorney General (OAG) (or, in the case of any non-subordinate agency whose email servers are managed by OCTO, but whose lawyers are not part of OAG, the General Counsel, or equivalent, of such agency) or the Office of Risk Management (ORM), when it is the recipient of a claim against the District, shall notify OCTO's General Counsel, in writing, whenever a claim or lawsuit requires the preservation of emails. This notification may be based on the filing of a lawsuit, receipt of a claim letter, receipt of a letter raising allegations of misconduct or negligence, or a request for information from a federal or District agency having investigatory authority or oversight over the District operations, or an internal communication from an employee indicating that the employee is alleging workplace misconduct or wrongdoing (including but not limited to an allegation of sexual harassment, discrimination or whistle-blower activities). OAG (or, in the case of any non-subordinate agency whose email servers are managed by OCTO, but whose lawyers are not part of OAG, the General Counsel, or equivalent, of such agency) or ORM shall also notify OCTO, in writing, whenever a claim or lawsuit no longer requires the preservation of emails because the claim has been settled or the lawsuit has been concluded.

OCTO will preserve all emails identified in such preservation requests for a time period designated by the requesting agency, or, where there is no designation, for three years. Thirty days before the end of the preservation period, OCTO will notify the requesting agency that OCTO will stop preserving the identified emails unless the requesting agency notifies OCTO, in writing, by the end of the preservation period, that the preservation must continue. If the requesting agency fails to respond to the OCTO notice by the end of the preservation period, OCTO will stop preserving the identified emails. If the agency responds by the end of the preservation period with a direction that the preservation must continue, absent further notice from the agency, OCTO will continue preserving the emails and notifying the agency 30 days before the end of each successive preservation period until the requesting agency either fails to respond to the OCTO notice or notifies OCTO in writing that the claim or lawsuit no longer requires the preservation of emails.

C. Exception: Agencies Demonstrating Compelling Need

Notwithstanding the general rule above, the Counsel to the Mayor in the Executive Office of the Mayor may waive the general rule for any agency that demonstrates, in writing, a compelling business or legal need for an email retention period longer than six months. The retention period for each such agency shall be the shortest possible period that is reasonably calculated to meet the asserted compelling business need.

D. Historical and Permanently Valuable Records

On a bi-annual basis, email data from the Office of the Mayor, Executive Office of the Mayor, and heads of agencies (to be specified) will be provided in electronic form to the Office of Public Records.

(1) System and Process for Preserving Selected Emails

a. Emails Transferred to the Office of Public Records.

The Office of Public Records is interested in emails from the Office of the Mayor, Executive Office of the Mayor, and cabinet members/heads of agencies for purposes of preservation.

The Office of Public Records will, on its own, preserve some or all of the email data provided to it based upon email data pertaining to policies, procedures, plans, proposals, initiatives, major decisions, reports, briefing papers, white papers, concept papers, opinions, recommendations, correspondence, subject files, memorandum, and other related records that document the functions, services, organization, operation, administration, and management of the D.C. Government. The process of appraising and selecting historical and permanently valuable records contained in the emails will be the responsibility of the Office of Public Records.

OCTO is requested to provide an electronic copy (in DVD form) of specific mailbox data cited above to the Office of Public Records for their manual review and preservation.

V. EFFECTIVE DATE: This Order shall become effective immediately. Inasmuch as the Policy is being promulgated as a pilot program, we will assess the effectiveness of the Policy during the initial six-month period from the effective date and will either extend the Policy as now written or make revisions as appropriate.

ADRIAN M. FENTY
MAYOR

ATTEST: _____
STEPHANIE D. SCOTT
SECRETARY OF THE DISTRICT OF COLUMBIA