

Source: Tex. Lib. & Arch. Comm

**Model Policy for Records Management Requirements for
Electronic Mail
[LOCAL GOVERNMENT] [DATE]**

SECTION 1. INTRODUCTION

This policy applies to e-mail used within the government and e-mail used conjointly with the Internet, and does not supersede any state or federal laws, nor any other government policies regarding confidentiality, information dissemination, or standards of conduct. Generally, e-mail should be used only for legitimate government business; however, brief and occasional e-mail messages of a personal nature may be sent and received if the following conditions are met.

SECTION 2. GENERAL GUIDELINES

Personal use of e-mail is a privilege, not a right. Abuse of the privilege may result in appropriate disciplinary action. Employees need to keep in mind that all e-mail is recorded and stored along with the source and destination. Management has the ability and right to view employees' e-mail. Recorded e-mail messages are the property of the agency and therefore the taxpayers of the State of Texas. Thus, they are subject to the requirements of the Texas Public Information Act and the laws applicable to State records retention. Employees should be aware that when sending an e-mail message of a personal nature, there is always the danger of the employees' words being interpreted as official government policy or opinion. Therefore, when an employee sends a personal e-mail, especially if the content of the e-mail could be interpreted as an official government statement, the employee should use the following disclaimer at the end of the message:

"This e-mail contains the thoughts and opinions of [employee name]
and does not represent official [government name] policy."

[OPTIONAL] If the content of the e-mail contains sensitive or confidential information the employee may use the following message at the end of the message:

"This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail and delete the message."

SECTION 3. RESTRICTIONS [OPTIONAL]

Personal e-mail should not impede the conduct of government business; only incidental amounts of employee time--time periods comparable to reasonable coffee breaks during the day--should be used to attend to personal matters. Racist, sexist, threatening, or otherwise objectionable language is strictly prohibited. E-mail should not be used for any personal monetary interests or gain. Employees should not subscribe to mailing lists or mail services strictly for personal use. Personal e-mail should not cause the government to incur a direct cost in addition to the general overhead of e-mail.

SECTION 4. POLICY

It is the policy of [NAME OF GOVERNMENT] to provide for the efficient, economical and effective management of electronic mail records in accordance with Texas Administrative Code (TAC), Chapter 7, Sections 7.71-7.79 and Local Government Code (LGC), Chapter 205, Sections 205.001-205.009 (*Local Government Bulletin B, Electronic Records Standards and Procedures*). TAC, Chapter 7, Section 7.72(d), provides that the governing body of a local government or designated records management officer must administer a program for the management of records created, received, maintained, used, or stored on electronic media.

The [NAME OF GOVERNMENT] desires to adopt a policy for that purpose and to prescribe guidelines and procedures for the management of electronic mail consistent with the Electronic Records Standards and Procedures and in the interest of cost-effective and efficient recordkeeping, including long-term records retention.

SECTION 5. DEFINITIONS

(1) Electronic mail message-A record created or received on an electronic mail system including brief notes, more formal or substantive narrative documents, and any attachments which may be transmitted with the message.

(2) Electronic mail receipt data-Information in electronic mail systems regarding the date and time of receipt of a message, and/or acknowledgment of receipt or access by addressee(s).

(3) Electronic mail system-A computer application used to create, receive, retain and transmit messages and other records. Excluded from this definition are file transfer utilities.

(4) Electronic mail transmission data-Information in electronic mail systems regarding the identities of sender and addressee(s), and the date and time messages were sent.

(5) Electronic media-All media capable of being read by a computer including computer hard disks, magnetic tapes, optical disks, or similar machine-readable media.

(6) Electronic record-The information that is maintained in electronic format in a computer for computer processing and the product of computer processing of that information that satisfies the definition of a government record in the Local Government Code, Chapter 201, Section 210.003(8).

(7) Electronic records system-Any information system that produces, manipulates, and stores state records by using a computer.

(8) Mailing list service-An electronic mailing list hosting service (e.g., Listserv) used for discussions and announcements within a specified group of individuals. Subscribers to the service participate by sending information to and receiving information from the list using electronic mail messages.

(9) Records management officer-The person who administers the records management program established in each local government under the Local Government Code, Chapter 203, Section 203.026.

(10) Local government record- Any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) Extra identical copies of documents created only for convenience of reference of research by officers or employees of the local government;

(B) Note, journals diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) Blank forms;

(D) Stocks of publications;

(E) Library and museum materials acquired solely for the purposes of reference of display;

(F) Copies of document in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code or other state law;

(G) Any records, correspondence, notes memoranda or documents, other than a final written agreement described by Section 2009.054(c), Government Code, associated with a state department of institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

SECTION 6. SCOPE

This policy applies to any electronic mail messages created, received, retained, used, or disposed of using the [NAME OF GOVERNMENT'S] electronic mail system.

SECTION 7. RETENTION REQUIREMENTS

The [NAME OF GOVERNMENT'S] approved Control Schedule or Declaration of Compliance with the *Local Government Records Retention Schedules* provide access to the record series and the retention period for each series. It is the content and function of an e-mail message that determines the retention period for that message. All e-mail sent or received by a government is considered a government record. Therefore, all e-mail messages must be retained or disposed of according to the government's retention requirements. E-mail generally (but not always) falls into two common record series categories. These are:

Local Schedule GR, 1000-26, Correspondence and Internal Memoranda:

(b) Administrative – Correspondence and internal memoranda pertaining to or arising from routine administration or operation of the policies, programs, services, and projects of a local government. Retention: 2 years.

(c) Routine – Correspondence and internal memoranda such as letters of transmittal, requests for publications, internal meeting notice and similar routine matters. Retention: AV (after purpose of record is no longer deemed administratively valuable.)

SECTION 8. USER RESPONSIBILITIES

It is the responsibility of the user of the e-mail system, with guidance and training from the Records Management Officer, to manage e-mail messages according to the government's established retention periods. It is the responsibility of the sender of e-mail messages within the government's e-mail system and recipients of messages from outside the government to retain the messages for the approved retention period. Names of sender, recipient, date/time of the message, as well as any attachments must be retained with the message. Except for listserv mailing services, distribution lists must be able to identify the sender and recipient of the message. User responsibilities may be mitigated by the use of a server level automated classification system.

SECTION 9. MAINTENANCE OF ELECTRONIC MAIL

Records created using an e-mail system may be saved for their approved retention period by one of the following:

- (1) Print message and file in appropriate hard copy file.
- (2) Place in folders and save on personal network drive or C:drive.
- (3) Save to removable disk. 3.5" disks are not recommended for retention periods of more than one year due to the instability of this medium.
- (4) Transfer to an automated records management software application.

(5) Managed at the server by an automated classification system.

Note: Government may include specific instructions for saving e-mail messages to a hard drive. For example using Microsoft Outlook E-mail Application:

How to create a personal folder for e-mail that resides on the C: Drive (your hard drive).

1. *Open Outlook*
2. *Click on "Tools"*
3. *Click on "Services"*
4. *Click on the "Add" button*
5. *Click the bottom line in the text box that says "Personal Folders"*
6. *This box allows you to designate the drive and folder you want your e-mail to go to. It will default to the Outlook folder. You might want to direct it instead to a folder you have created. Once you designate the folder (at the top of the text box), then name the file that your e-mails will reside in and click "OK" or "Apply" whichever is listed.*
7. *Now your personal file should appear on the left-hand column of your outlook screen. You can add subdirectories to this (just like you would with the "inbox"). If you file your e-mail here it avoids server problems and gives you some more leeway in storing your files.*

SECTION 10. DISPOSITION OF ELECTRONIC MAIL

The process for the legal disposition of government records (including electronic mail) is subject to the same documentation requirements as any other format or medium. This usually requires management permission and some type of disposition log to adequately document disposition and destruction of electronic records. (Local Governments are not required to keep a disposition/ destruction log but the practice is strongly advised.) Section 7.78 of the *Electronic Records Standards and Procedures* (relating to the Destruction of Electronic Records) states that:

- (a) Electronic records may be destroyed only in accordance with the Local Government Code, Section 202.001
- (b) Each local government must ensure that:
 - (1) Electronic records scheduled for destruction are disposed of in a manner that ensure protection of any confidential information; and
 - (2) Magnetic storage media previously used for electronic records containing confidential information are not reused if the previously recorded information can be compromised by reuse in anyway.