



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Congressionally Requested Inquiry Into the EPA's Use of Private and Alias Email Accounts

Report No. 13-P-0433

September 26, 2013



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Abbreviations

CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
GAO	U.S. Government Accountability Office
NARA	National Archives and Records Administration
NRPM	National Records Management Program
OIG	Office of Inspector General
OMB	Office of Management and Budget

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At a Glance

Why We Did This Review

We conducted this audit in response to a request by the U.S. House of Representatives Committee on Science, Space, and Technology for information about the U.S. Environmental Protection Agency's (EPA's) practices when using private and alias email accounts to conduct official business.

The EPA's records management program is managed through the agency's National Records Management Program. The agency's records officer, located within the Office of Environmental Information, is responsible for leading the program in accordance with EPA policy, procedures, and federal statutes and regulations.

This report addresses the following EPA theme:

- *Embracing EPA as a high performing organization.*

For further information, contact our public affairs office at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2013/20130926-13-P-0433.pdf

Congressionally Requested Inquiry Into the EPA's Use of Private and Alias Email Accounts

What We Found

We found no evidence that the EPA used, promoted or encouraged the use of private "non-governmental" email accounts to circumvent records management responsibilities or reprimanded, counseled or took administrative actions against personnel for using private email or alias accounts for conducting official government business. EPA senior officials said they were aware of the agency records management policies and, based only on discussions with these senior officials, the OIG found no evidence that these individuals had used private email to circumvent federal recordkeeping responsibilities.

The previous EPA Administrator and the then Acting EPA Administrator who followed were issued two EPA email accounts. One account was made available to the public to communicate with the EPA Administrator and the other was used to communicate internally with EPA personnel. This was the common practice for previous Administrators. The practice is widely used within the agency and is not limited to senior EPA officials. These secondary EPA email accounts present risks to records management efforts if they are not searched to preserve federal records.

The agency recognizes it is not practical to completely eliminate the use of private email accounts. However, the agency had not provided guidance on preserving records from private email accounts. The EPA has not implemented oversight processes to ensure locations provide consistent and regular training on records management responsibilities, and employees complete available training on their delegated National Records Management Program duties. Inconsistencies in employee out-processing procedures pose risks that federal records are not identified and preserved before an employee departs the agency. EPA also lacks an automated tool to create federal records from its new email system.

Recommendations and Planned Agency Corrective Actions

We recommend that the assistant administrator for the Office of Environmental Information develop and implement oversight processes to update agency guidance on the use of private email accounts, train employees and contractors on records management responsibilities, strengthen relationships between federal records preservation and employee out processing, and deliver a system to create federal records from the new system. The EPA concurred with many of our recommendations but did ask that we clarify aspects of two findings. The agency has either completed recommended actions or plans to take corrective actions to address our findings.

Noteworthy Achievements

EPA created a records policy to provide guidance to personnel regarding roles and responsibilities for records management. In fiscal year 2009, the EPA declared electronic content management an agency-level weakness. In its fiscal year 2012 Agency Financial Report, the EPA cited as part of its corrective action plan that it launched two pilot projects to evaluate tools for eDiscovery and the management of email records. Over the past 4 years, the EPA has taken various actions to close out this agency-level weakness.



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

THE INSPECTOR GENERAL

September 26, 2013

MEMORANDUM

SUBJECT: Congressionally Requested Inquiry Into the EPA's Use of
Private and Alias Email Accounts
Report No. 13-P-0433

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: Renee Wynn, Acting Assistant Administrator and 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). This report contains findings that describe the problems the OIG identified and the corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position.

Action Required

The EPA agreed with all five of our recommendations. The agency completed agreed-upon corrective actions associated with recommendations 1 and 2 and the OIG considers these recommendations closed. Recommendations 3 through 5 are considered open with agreed-upon corrective actions pending. We accept EPA's response and planned corrective actions and no further response is needed.

If you or your staff have any questions regarding this report, please contact Richard Eyermann, the acting assistant inspector general for the Office of Audit, at (202) 566-0565 or eyermann.richard@epa.gov; or Rudolph Brevard, director for Information Resources Management Audits, at (202) 566-0893 or brevard.rudy@epa.gov.

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Chapter 1

Introduction

Purpose

We conducted this audit in response to a U.S. House of Representatives Committee on Science, Space, and Technology request for information about whether the U.S. Environmental Protection Agency (EPA) follows applicable laws and regulations when using private and alias email accounts to conduct official business. Specifically, in response to the committee’s request, the Office of the Inspector General (OIG) sought to determine whether the EPA:

- Promoted or encouraged the use of private or alias email accounts to conduct official government business.
- Reprimanded, counseled, or took administrative actions against any employees using private or alias email accounts.
- Established and implemented email records management policies and procedures for collecting, maintaining and accessing records created from any private or alias email accounts.
- Provided adequate training to employees concerning the use of private or alias email accounts to conduct official government business.
- Established and implemented oversight processes to ensure employees comply with federal records management requirements pertaining to electronic records from private or alias email accounts.

Background

National Archives and Records Administration

The National Archives and Records Administration (NARA) is responsible for overseeing agencies’ adequacy of documentation and records disposition programs and practices. NARA issues regulations and provides guidance and assistance to federal agencies on ensuring adequate and proper documentation of the organization, functions, policies, decision, procedures and essential transactions of the federal government; and ensuring proper records disposition, including standards for improving the management of records.

Private and Alias Email

Private email accounts for the purposes of this review are defined as any non- “.gov” email addresses used to conduct EPA business. Alias email is defined as a secondary “.epa.gov” account used to conduct EPA business. EPA stated that

alias email accounts have been used by prior EPA Administrators given the large volume of emails sent to their public EPA accounts.

Agency Record Management

The EPA manages its official records through its National Records Management Program (NRMP). The Office of Information Collection within the EPA's Office of Environmental Information oversees the NRMP. The agency records officer is responsible for leading the NRMP in accordance with the EPA policy, procedures, and federal statutes and regulations. The agency records management program lists the following as the agency records officer's responsibilities:

- Developing an overall records management strategy.
- Producing and updating EPA records management policies, procedures, standards and guidance.
- Cooperating with other units in developing policies and guidance on the application of technology to records management.
- Conducting specialized briefings on records management.
- Assisting records programs across the agency with advice and technical expertise.

Noteworthy Achievements

The EPA took steps to improve its records management practices. For example, the EPA created a records policy to provide guidance to personnel on the roles and responsibilities pertaining to records management. In addition, in fiscal year 2009, the EPA declared electronic content management an agency-level weakness. In its fiscal year 2012 Agency Financial Report, the EPA stated that it has either completed or initiated the following corrective actions to address this agency-level weakness:

- Established a new Quality Information Council Electronic Content Subcommittee.
- Developed a charter for the subcommittee.
- Established two enterprise-wide workgroups under the subcommittee.
- Developed interim procedures to address the storage and preservation of electronically stored information.
- Launched two pilot projects to evaluate tools for eDiscovery and the management of email records. The results of the pilot projects will be used to inform the subcommittee's decisions on future policy or tool implementation.

The agency has also stated that it will develop a validation strategy to assess the effectiveness of various activities undertaken to redress the identified weakness. The validation strategy will consist of processes that allow the agency to review and determine whether policies and tools are being implemented and utilized.

Scope and Methodology

We conducted this audit from December 2012 to June 2013. We performed this audit 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.

To obtain a broad understanding of EPA officials records management responsibilities, we reviewed agency records management policies and procedures; the Code of Federal Regulations (CFR) in 36 CFR Chapter XII – National Archives and Records Administration; Office and Management Budget (OMB) Circular A-123, *Management's Responsibilities for Internal Control*; and OMB Circular A-130, *Management of Federal Information Resources*.

We met with the then Acting EPA Administrator (currently the Deputy Administrator), staff and officials from the Office of the Administrator, officials from the Office of General Counsel, and appointed or acting assistant and regional administrators from the following program and regional offices, to gather an understanding of their background and experience with federal records requirements:

- Office of Environmental Information
- Office of Air and Radiation
- Office of International and Tribal Affairs
- Office of Research and Development
- Office of Chemical Safety and Pollution Prevention
- Region 2, New York, New York
- Region 3, Philadelphia, Pennsylvania
- Region 6, Dallas, Texas
- Region 8, Denver, Colorado
- Region 9, San Francisco, California

We met with offices' information management officers, senior information officials, regional records officers, records liaison officers, email administrators, human resource directors, and Freedom of Information Act officers responsible for implementing and complying with the EPA federal records guidance. We also met with the EPA representative responsible for the direct oversight of the agency's NRMP regarding that oversight and to obtain an understanding of the implemented internal controls around EPA's ability to maintain electronic records and other records management practices.

We also met with the former Region 8 regional administrator to gain his perspective on what EPA could do to strengthen its electronic records management practices. We requested interviews with the most recent former EPA Administrator and general counsel to gain their perspective on the agency's

records management practices. We did not receive a response from these two former employees on our requests for interviews.

We followed up on the status of recommendations made by the U.S. Government Accountability Office (GAO) in its report *National Archives and Selected Agencies Need to Strengthen Email Management* (GAO-08-742), issued June 2008. The report recommended that the EPA:

- Revise the agency's policies to ensure that they appropriately reflect NARA's requirement on instructing staff on the management and preservation of email messages sent or received from nongovernmental email systems.
- Develop and apply oversight practices, such as reviews and monitoring of records management training and practices, that are adequate to ensure that policies are effective and staff are adequately trained and implementing policies appropriately.

The GAO noted that the EPA was in the process of improving the implementation of its electronic content management system in order to collect federal records within the agency's email system.

Chapter 2

The EPA's Use of Private and Alias Email Accounts

The EPA lacks internal controls to ensure the identification and preservation of records when using private and alias email accounts for conducting government business. The agency lacks controls to ensure agency employees and contractors are trained on the records management responsibilities and a process to create records from its new email system. Federal guidance issued by NARA requires agencies to appropriately identify and preserve records for its decisions. Federal guidance also specifies records management training requirements as well as the requirements when using automated systems to preserve email records. The weaknesses noted occurred because the EPA had not created records management policies and procedures for private email account usage, and had not conducted oversight to ensure employees and contractors were provided consistent and regular training on records management responsibilities. Further, the EPA lacks controls to ensure out-processing procedures identify potential records, and lacks an automated process to create federal records from its new email system. If these critical issues are not corrected, the agency faces the risk that records needed to document the EPA's decisions would not be available. This could potentially undermine the public's confidence in the transparency of the EPA's operations and ultimately erode the public's trust in the agency's stewardship of the nation's environmental programs.

Results of Review

We found no evidence to support that the EPA used, promoted, or encouraged the use of private email accounts to circumvent records management responsibilities. Furthermore, EPA senior officials indicated that they were aware of the agency records management policies and, based only on discussions with these senior officials, the OIG found no evidence that these individuals had used private or alias email to circumvent federal recordkeeping responsibilities. We noted that the previous EPA Administrator and the subsequent Acting EPA Administrator (the Deputy Administrator) each had two EPA email accounts, one intended for messages from the public and one for communicating with select senior EPA officials. Interviews with selected assistant and regional administrators and records management officials disclosed that the practice of assigning personnel access to multiple email accounts is widely practiced within the agency. We found no evidence to support that the EPA reprimanded, counseled or took administrative actions against personnel for using private and alias email accounts.

Personnel have access to multiple EPA email accounts for various purposes. These include sending out mass email notifications, transmitting or receiving documents in support of special projects, or linking the email account to an agency publicly available website to provide the public with a method to

correspond with the EPA. Each of these additionally assigned email accounts could potentially contain federal records or other documents subject to Freedom of Information Act requests or litigation holds. Our audit disclosed that these secondary email accounts present risks to the agency's records management efforts if they are not searched to preserve federal records.

In addition to needed improvements over internal controls surrounding secondary email accounts, more oversight is needed to strengthen policies and procedures regarding the use of private email accounts, processes for training employees and contractors on their records management responsibilities, and practices for preserving records when employees depart the agency. The EPA should also ensure that it implements a tool to create records directly from its new email system.

The EPA Lacks Records Management Policies and Procedures Regarding Private Email Account Usage

The EPA lacks consistent practices regarding what steps employees should take to preserve federal records when they use private email accounts for conducting government business. Instead, in October 2012, in response to increased attention brought on the agency due to media articles and inquires into the EPA records retention practices, EPA officials placed an alert on its Intranet advising employees the following:

“Do not to use any outside mail systems to conduct official Agency business. If, during in an emergency, you use a non-EPA email system, you are responsible for ensuring that any email records and attachments are saved in your offices' recordkeeping system.”

Title 36 CFR Chapter XII – National Archives and Records Administration, Part 1236, states that agencies that allow employees to send and receive official electronic mail messages using a system not operated by the agency must ensure that federal records sent or received on such systems are preserved in the appropriate agency recordkeeping system.

The EPA had not developed or implemented policies or procedures regarding the preservation of email messages sent or received from private email systems. While the EPA alert advises employees not to use outside email systems to conduct official business, the alert does not instruct employees on the management and preservation of email messages sent from outside email systems if it were to occur. Senior agency officials and office representatives cited reasons why the complete nonuse of personal electronic equipment (which includes computers, mobile devices and email accounts) when the employee is not within the office is not practical.

Senior agency officials and office representatives noted as one reason the proliferation of personal mobile devices that are not allowed access to the agency's

network. The officials also cited as another reason the increased use of unscheduled telework, during which employees unexpectedly worked off site when they did not have their assigned government equipment with them. However, given these growing concerns, the EPA had not taken steps to provide employees guidance as to when they may use private electronic equipment—including computers, mobile devices and email accounts—to conduct government business.

Without effective records management policies and procedures that address collecting, maintaining and accessing records created from private email accounts, the EPA risks the possibility that agency personnel are not conducting government business in a manner consistent with management's desires. The EPA also risks the possibility that agency personnel are not capturing potential records needed to document agency decisions.

The EPA Lacks Records Management Training for Private and Alias Email Usage

The EPA lacks internal controls to ensure that personnel are trained on their responsibilities for preserving records from private and alias accounts used to conduct official government business. As noted, the EPA does not have formal guidance on the use of private email accounts and subsequently has not provided training in this area. Further, the agency has not conducted training on its existing records management policies and procedures, which govern government records since 2009. Our discussion with agency representatives raises doubt as to whether the EPA will meet the latest requirement to inform all personnel of their records management responsibilities.

Federal guidance requires training of personnel on their records management responsibilities. Specifically:

- NARA states that federal agencies must provide guidance and training to all agency personnel on their records management responsibilities, including identification of federal records, in all formats and media.
- OMB Circular A-123 reiterates management's responsibility for establishing internal control to train personnel to possess the proper knowledge and skills to perform their assigned duties. OMB Circular A-130 requires agencies to train all employees and contractors on their federal records management responsibilities.
- OMB Memorandum M-12-18, *Managing Government Records*, requires agencies to inform employees of their records management responsibilities by December 31, 2014.

The EPA had not provided records management training to employees and contractors in over 3 years. The agency last provided agencywide records

management training in fiscal years 2007 and 2009. While the training discussed creating records within government email systems, neither of these two training courses addressed the usage of private email accounts to conduct official government business. The training also has not been updated to place emphasis on creating records when employees are assigned secondary email accounts. The agency plans to incorporate the use of private or secondary email accounts in future training courses to fulfill the OMB training requirement to inform employees of their records management responsibilities. However the agency has not established a firm date for when it would develop or offer the training course.

The EPA's NRMP did not establish controls to ensure consistent training of records management responsibilities within the regional and program offices or ensure employees with specific NRPM responsibilities took available training. We noted that the EPA created an organizational structure for its records management program with clearly defined roles and responsibilities. The EPA also has training available for agency records officers, liaisons and coordinators. However, the agency lacked processes to ensure the structure functioned as intended and specialized training was taken when needed.

According to a program office records liaison officer, the officers rely upon the headquarters NRPM official to provide training for them to use to train their personnel. Records liaison officers could not provide records to show how many personnel within their offices were trained on records management responsibilities in general or specifically trained on the office's policy on using personnel email accounts when conducting official government business. Our interviews also disclosed that the agency relies upon the records liaison officers to take additional training to carry out their delegated duties and the agency does not monitor whether the records liaison officers took training.

The lack of consistent records management training increases the risk that agency employees neither understand nor fully comply with federal records management requirements. This also has led to records management training, when given, being delivered in an ad hoc and informal manner with no measure to ensure the information reached the specified target audience. As such, we believe the agency has limited assurance that all applicable personnel are trained on records management responsibilities, and raises questions as to whether any provided training was delivered in sufficient frequency to ensure personnel could appropriately carry out their responsibilities.

The EPA Lacks Practices for Collecting and Preserving Records for Employees Separating From Regional Offices

The EPA lacks internal controls to ensure that regional offices consistently collect and preserve electronic records for separating employees. Our audit disclosed that regional offices lacked processes for notifying individuals with records management responsibilities about employee separation from the agency, to

ensure that all records were identified before the employee's departure. Management at regional offices did not consistently validate that separating employees turned over electronic records. This included collecting and preserving electronic records in alias email accounts known as "mail-in accounts," as well as files on flash drives and external hard drives.

EPA Order 3110.5A and Employee Separation Checklist Form 3110-1 outline the agency's employee separation procedures. The procedures state that management is responsible for certifying receipt of items listed on Form 3110-1, which includes the identification and transfer of agency records. The procedure assigns departing employees with responsibility to identify and transfer agency records. The procedure also assigns the employee's supervisor and program office records manager responsibility to validate the receipt of records through signature.

Weaknesses within regional separation procedures exist due to the NRMP manager not conducting oversight to ensure that federal records procedures were fully integrated. Our review disclosed that regional notification procedures for departing employees did not allow time to identify and preserve official records. We also found that managers with records responsibilities did not consistently take steps to validate collection and preservation of records before employee departure. For example:

- Regions lacked internal controls to ensure employee separation checklists reached individuals with records management responsibilities in order for them to preserve federal records. This included taking steps to have employees search for potential records residing within alias email accounts the employee manages or on other electronic media devices within the employee's control.
- Some employees bypass their supervisor or administrative officer and go directly to the regional human resource office to start the separation process. As such, individuals tasked with records management responsibilities do not know that an employee is departing until the employee arrives with the separation checklist for clearance signature.
- Regional separation checklists did not include an area where regional office managers tasked with records management responsibilities could sign off on employee separation forms. Some regional separation checklist forms did not include an agency requirement to identify and transfer records.
- Regional office managers not tasked with records management responsibilities were signing off on employee separation forms without conducting steps to ensure that collection and preservation of the separating employees' electronic records had occurred. One regional human resource staff member also stated that they typically have to sign off on employee clearance forms for employees who depart at the end of the year, when most supervisors are taking leave (use or lose) at holiday time.

Without effective employee separation processes that ensure identification and collection of agency records from all electronic media used for collection and storage, the EPA risks losing historical records that support its decisions. EPA human resource offices are signing off that agency records were preserved even though they were not in a position to know this information. The weaknesses have also left regional counsels with insufficient time to have employees search to ensure that all records are preserved for litigation holds, and with the information to prompt employees to search for records that may be contained within alias email accounts, flash drives and external hard drives.

The EPA Lacks Tool to Place Email in Its Electronic Content Management System for Its New Email System

The EPA deployed its new email system without the capability to place new email system records in its electronic content management system. During its audit, the GAO noted that email records retention in the EPA was primarily a print-and-file system and noted that the EPA developed an oversight plan and pilot-tested a records management survey tool.

Subsequent to the GAO report, in fiscal year 2009, the EPA declared electronic content management an agency-level weakness. In its fiscal year 2012 Agency Financial Report, the EPA noted that inconsistencies in how electronic content is maintained and stored have started to impact critical processes related to electronic records management. The EPA cited as part of its corrective action plan that it would launch two pilot projects to evaluate tools for eDiscovery and the management of email records.

The EPA implemented its new email system without providing a means for agency employees to create federal records in the agency's electronic content management system. During the past 4 fiscal years, the EPA has been taking steps to complete corrective actions to close out the electronic content management agency-level weakness by the projected completion date of fiscal year 2013. Based on information on the agency's electronic content management website, employees are directed to print and file email records until an electronic content management system is in place to store records. However, the website provides no information as to when the EPA would provide a solution for creating federal records from its new email system. We believe that the EPA will not be in a position to close out the agency-level weakness by its projected fiscal year 2013 completion date.

Agency Actions Prior to Issuance of Final Report

On June 28, 2013, the EPA issued Interim Records Management Policy CIO 2155.2. This policy states that official agency business should first and foremost be done on official EPA information systems (e.g., email, instant messaging, computer work stations, and shared service solutions). The policy specifies that the record creator must ensure that any use of a non-governmental

system does not affect the preservation of federal records for Federal Records Act purposes, or the ability to identify and process those records, if requested, under the Freedom of Information Act or for other official business (e.g., litigation or congressional oversight requests.).

Also, on July 31, 2013, the agency deployed its new mandatory records management training for all agency staff, contractors and grantees that have access to EPA information systems. The EPA indicated that over 30 percent of agency employees have already taken the training.

Recommendations

We recommend that the assistant administrator and chief information officer, Office of Environmental Information:

1. Develop and implement records management policies and procedures regarding the use of private email accounts when conducting official government business.
2. Develop internal controls to ensure that all EPA employees and contractors complete training on their records management responsibilities.
3. Develop and implement internal controls to monitor and track completion of training for personnel with specific delegated duties and responsibilities outlined in the NRMP guidance.
4. Conduct outreach with all EPA offices to ensure that locally developed separation policies and procedures, as well as the associated employee separation checklist, include records management retention practices consistent with agency guidance. This should include ensuring that:
 - a. Locations' out-processing procedures contain practices where notifications are sent to individuals with records management responsibilities in a timely manner to aid in capturing electronic records from separating employees.
 - b. Locations include steps to have employees search for potential records residing within alias email accounts that the employee manages or on other electronic media devices within the employee's control.
 - c. Locations have special out-processing procedures that contain a method for collecting records from departing employees during the holiday season or times of limited staffing.

- d. Locations update their locally developed out-processing checklist to ensure an area exists for where records managers can note their records management certifications as required by agency policy.
5. Establish a revised date for when the EPA will implement an electronic content management tool to capture email records within the agency's new email system.

Agency Response and OIG Evaluation

The agency provided a corrective action plan with milestones to address all the report recommendations. The agency completed corrective actions associated with recommendations 1 and 2 and the OIG considers these recommendations closed. Recommendations 3, 4 and 5 are considered open with corrective actions pending.

Although the EPA agreed to perform corrective actions for our recommendations, the agency believed the report did not:

- Recognize the distinction between secondary accounts used by EPA Administrators for a specific purpose and secondary email accounts used for purposes such as sending out mass email notifications, transmitting or receiving documents in support of special projects, or linking the email account to an agency publicly available website to provide the public with a method to correspond with the EPA.
- Reflect the issuance of the EPA Interim Records Management Policy CIO 2155.2 on June 28, 2013, which strongly discourages the use of private non-EPA email accounts

Our audit disclosed that the agency uses secondary email accounts similarly throughout the EPA. These secondary email accounts can send and receive email messages as well as create records that could be subject to Freedom of Information Act or litigation requests. The agency also had not implemented policies that make distinctions between secondary email accounts used by senior agency official and secondary email accounts used for other purposes. As such, we made no differentiation between these accounts during our audit. Our audit disclosed that secondary email accounts pose risks to the agency and the EPA should take steps to strengthen the management control structure surrounding these accounts.

We updated the final report to recognize that the EPA issued its interim records management procedure subsequent to the OIG issuing its discussion draft report.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	11	Develop and implement records management policies and procedures regarding the use of private email accounts when conducting official government business.	C	Assistant Administrator and Chief Information Officer, Office of Environmental Information	6/28/13		
2	11	Develop internal controls to ensure that all EPA employees and contractors complete training on their records management responsibilities.	C	Assistant Administrator and Chief Information Officer, Office of Environmental Information	7/31/13		
3	11	Develop and implement internal controls to monitor and track completion of training for personnel with specific delegated duties and responsibilities outlined in the NRMP guidance.	O	Assistant Administrator and Chief Information Officer, Office of Environmental Information	12/31/13		
4	11	Conduct outreach with all EPA offices to ensure that locally developed separation policies and procedures, as well as the associated employee separation checklist, include records management retention practices consistent with agency guidance. This should include ensuring that: <ul style="list-style-type: none"> a. Locations' out-processing procedures contain practices where notifications are sent to individuals with records management responsibilities in a timely manner to aid in capturing electronic records from separating employees. b. Locations include steps to have employees search for potential records residing within alias email accounts that the employee manages or on other electronic media devices within the employee's control. c. Locations have special out-processing procedures that contain a method for collecting records from departing employees during the holiday season or times of limited staffing. d. Locations update their locally developed out-processing checklist to ensure an area exists for where records managers can note their records management certifications as required by agency policy. 	O	Assistant Administrator and Chief Information Officer, Office of Environmental Information	12/31/13		
5	12	Establish a revised date for when the EPA will implement an electronic content management tool to capture email records within the agency's new email system.	O	Assistant Administrator and Chief Information Officer, Office of Environmental Information	12/31/13		

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

Agency Response to Draft Report

August 27, 2013

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Draft Report No. OA-FY13-0113
Congressionally Requested Inquiry into the EPA's Use of Private and Alias Email
Accounts, dated July 19, 2013

FROM: Renee P. Wynn
Acting Assistant Administrator and Chief Information Officer

TO: Arthur A. Elkins, Jr.
Inspector General

Thank you for the opportunity to respond to the issues and recommendations described in Draft Report No. OA-FY13-0113.

Over the last several months, the agency has undertaken many important actions designed to improve the agency's records management and preservation program. Because of the connection between these efforts and some of the issues discussed in your draft report, and because we believe the report should be evaluated with an understanding of these efforts, I detail the efforts below.

Improved Training on Information Management Responsibilities

The EPA has launched a multi-faceted training effort to ensure every employee at the agency understands his or her records management responsibilities. First and foremost in the agency's training program is mandatory training for all employees of the EPA on records management. On July 31, 2013, Deputy Administrator Robert Perciasepe announced the availability of this new training, reminding employees that "records management is the daily responsibility of every EPA employee." The training focuses on the foundations of records management, providing guidance on how to identify and preserve Federal records. Less than three weeks after the training was announced - and more than a month before the training must be completed on September 30, 2013 - over 30% of agency employees have already taken the training.

In addition to training for all employees, the EPA is working with the Department of Justice's Office of Information Policy on in-depth training for the agency's Freedom of Information Act (FOIA) professionals. The Office of Information Policy is the office within the Department of Justice that develops guidance for Executive Branch agencies on our responsibilities under FOIA, and is understood by government and non-government organizations alike as the government's foremost FOIA experts. The EPA is excited to welcome DOJ for this training, which the agency expects to conduct in September 2013.

Following up on 2013's Records Management training, the EPA will conduct mandatory training for all of our employees on their individual and collective responsibilities under FOIA in 2014. This training is expected to focus on the requirements of FOIA; the importance of timely, accurate responses; and the role every employee plays in the agency's efforts to comply with the Act. In addition to these training modules, the EPA has completely overhauled our Records intranet site. This site, at <http://intranet.epa.gov/records>, serves as an agency-wide records management resource, and provides guidance to employees as well as links to a variety of information law resources.

Updated Policies For Employee Conduct

In addition to a renewed focus on training for employees, the EPA has begun the process of reviewing, updating, and reissuing agency policies for the effective management of agency information resources. First among that effort was a review of the agency's Records Policy, with the specific intent of addressing the use of personal email and consolidating our records retention schedules to make them easier for staff to use and more adaptable to electronic records management tools.

In June 2013, the EPA issued its Interim Records Management Policy CI0-2155.2, which strongly discourages the use of private non-EPA email accounts, stating that "Official Agency business should first and foremost be done on official EPA information systems." Further, the Interim Policy goes on to instruct employees on how to manage and preserve email messages sent from outside email systems if use of a non-EPA email system were to occur. The Interim Policy instructs employees that once the electronic files have been captured in an approved EPA records management system, they should be removed from non-EPA information systems, unless subject to an obligation to preserve the files in their original location. The EPA initiated the process to finalize this policy shortly after issuing in interim form.

On September 30th, the EPA will issue its first agency-wide Interim FOIA Procedures. The EPA expects these procedures will increase consistency and predictability in the processing of FOIA requests across the agency's programs and regions. The procedures define key roles and responsibilities in the processing of FOIA requests, and detail the basic steps of processing a request, from receipt to document collection to production.

Advanced Technology for Managing Agency Information

The EPA has also embarked on an ambitious effort to improve the technology available to employees for managing, preserving, and producing agency information. In 2010, the EPA established the Electronic Content Subcommittee of the Quality and Information Council. (The Council was established in 1999, to address enterprise-wide information management issues and to develop agency policies to guide the EPA in the areas of information technology and information management.) The Electronic Content Subcommittee was established to focus particularly on the challenge of creating, preserving, maintaining, and retrieving the range of electronic information at the agency. Under the auspices of that Committee, the agency's eDiscovery Workgroup led the way in launching an enterprise-wide litigation hold solution in October of 2012. For the first time, the EPA now issues, maintains, tracks, and monitors all litigation holds issued to agency employees in a single system. This consolidation helps the

agency ensure it is preserving all information subject to a litigation-based preservation obligation, and increases consistency and efficiency at the same time. The Workgroup has also made significant progress towards the full launch of electronic search and review tools that will be used for more comprehensive and efficient information requests and document productions.

The agency is also poised to release an "EZ Records" tool to assist employees with their records management obligations. The EZ Records tool will allow employees to designate emails as records with just one click of a mouse, increasing the likelihood that employees will preserve email records as soon as they are created. To help encourage use of the tool, in October 2013, the EPA will launch an Agency-wide, mandatory training on how to capture email records using the new EPA-developed tools for records preservation.

Response to the Draft Report

The agency has welcomed this evaluation by the Office of Inspector General. The "Agency's Response to Report Recommendations" attachment details EPA's response to each recommendation and provides an estimated date of completion. In addition to the responses to the Report's specific recommendations, the agency would also like to respond to certain aspects of the narrative portions of the report as well.

Specifically on the use of private, non-EPA email accounts, the report correctly finds that the agency has not "promoted or encouraged the use of private ' non-governmental' email accounts to conduct official government business." In fact, the agency has taken many steps to discourage the use of non-EPA email accounts unless necessitated by special circumstances. Since 2009, the agency has stated both in its records training for senior officials and on its records intranet site Frequently Asked Questions that EPA staff generally should not use non-government email accounts to conduct official agency business. EPA's records officer provides this information as part of the on-boarding process for political appointees and senior officials in Headquarters, as well as consults with Records Liaison Officers to provide this information to officials located in the agency's regional office. We believe that the report should more clearly recognize these previous efforts to provide guidance on this issue. In addition, the report does not reflect that all employees at headquarters receive basic records management training as part of the onboarding process, and are provided information about the extensive self-help section of the Records Program intranet site.

The agency believes that the report could be more helpful for our efforts to improve our records management program by making a clearer distinction among the types of email accounts addressed in the report. The report uses both "private" and "personal" to describe email accounts that are not maintained on an EPA system. We encourage the OIG to use consistent nomenclature in the final report, to ensure all recipients of the report understand the guidance provided.

We also strongly encourage the OIG to more clearly distinguish between non-EPA email accounts and "secondary" official epa.gov email accounts. Secondary epa.gov accounts are official government accounts that are assigned to an employee to a program within the EPA as part of that employee's or programs official government duties. Emails sent to or from these

accounts are sent two or from the EPA email system in the same manner and form as an email to or from a "primary" account is sent to or from the EPA email system. These accounts are different from non-EPA email accounts, and, as such the two may require different actions to ensure compliance with an employee's information management responsibilities.

Additionally, the report also seems to conflate various types of secondary official epa.gov email accounts. There are a variety of uses for secondary accounts that are different from a regular, day to day email account of a single employee. Currently, the agency has only identified a need for the Administrator or Deputy Administrator to have a secondary account that is specific to her or him and that is used as her or his day to day official government email account. These secondary, official government accounts permit the Administrator and Deputy Administrator to conduct agency business by maintaining a manageable, working email account for daily correspondence with staff and other officials, and the EPA's practice of issuing such accounts has been reported and documented to the National Archives and Records Administration (NARA) since 2008. This practice is appropriate and commonplace within the federal government. The Administrator's primary account, which is provided to the public, is rendered impractical because of the large volume (over 1 million emails annually) of mail it receives from outside the agency. The EPA actively monitors both the primary and secondary accounts, and ensures that all emails to either type of account are properly reviewed for preservation under the Federal Records Act and produced under the FOIA or other production obligation. The agency strongly believes that the final report should more clearly reflect the very limited existence and use of this type of secondary official email account.

The other types of "secondary" accounts discussed in the report are generally not accounts assigned to or used by an individual employee for her day to day email communications. These accounts are also used for practical purposes, such as sending out mass email notifications, transmitting or receiving documents in support of special projects, or linking the email account to a publicly available website of the agency to provide the public with a method to correspond with the EPA. An example of this type of secondary account is the "contact us" email account for the EPA's Sun Wise program. This account is used to answer questions from the public about the Sun Wise program and is designated as Sun Wise Staff (sunwise@epa.gov) . This type of secondary account might be more clearly identified as a "group" account or "special purpose" account. We strongly believe that the final report should make this distinction, and clarify the draft report's conclusion that: "This practice is widely used within the agency and not limited to senior officials." My office has no information that indicates the use of "secondary" day to day government email accounts, such as the one used by the Administrator and which was the subject of the Congressional inquiry, is widely used within the agency, and the draft report does not include information to the contrary.

The use of both types of secondary accounts is authorized and appropriate, therefore, the agency has not reprimanded, counseled, or taken administrative actions against personnel using the accounts for conducting official government business. Use of secondary accounts does not alter or interfere with the preservation requirements under the Federal Records Act or disclosure requirements under the Freedom of Information Act and Congressional document requests. Further, all agency-issued email accounts, including primary accounts and any type of secondary accounts, are subject to the same current agency records policies and procedures for managing

records, both created and received on these accounts and are subject to the current agency disclosure policies for responding to information requests. In addition, the report does not indicate in the Scope and Methodology section that staff members who manage the secondary official government account assigned to the Administrator were consulted during this audit. I believe that these individuals may provide valuable additional information about existing practices and procedures for capturing and producing records from these accounts to ensure the agency complies with preservation and disclosure requirements.

Finally, while the agency agrees with many of the recommendations in the report, some of the recommendations (specifically 3 and 4) go beyond the issue of "Private and Alias" email account usage. As you can see from the information detailed above, these recommendations relate to issues already identified and actively being addressed by the EPA's Office of Environmental Information (OEI).

Our response to your recommendations is attached.

We look forward to discussing this report with you and to working with your office to improve EPA's records management program. If you have any questions regarding this response, please contact John Ellis, Agency Records Officer, of the Office of Information Collection/Collection Strategies Division/Records and Content Management Branch on (202) 566-1643.

Attachment

cc: Vaughn Noga
Andrew Battin
Jeff Wells
John Moses
Erin Collard
John Ellis
Scott Dockum
Brenda Young

AGENCY'S RESPONSE TO RECOMMENDATIONS: OIG Report OA-FY13-113

No.	Draft Report Recommendation	Agency Response	Estimated Completion by Quarter and FY
1.	Develop and implement records management policies and procedures regarding the use of private email accounts when conducting official government business. (page 11)	EPA issued an Interim Records Management Policy CIO-2155.2, on June 28, 2013 which strongly discourages the use of private non-EPA email accounts and instructs employees on the management and preservation of email messages sent from outside email systems if it were to occur. EPA has initiated a process to finalize Records Management Policy CIO-2155.2	Completed Q3 FY2013 In progress Q3 FY2014
2.	Develop internal controls to ensure that all EPA employees and contractors complete training on their records management responsibilities. (page 11)	EPA developed mandatory records management training for all EPA staff, contractors and grantees. The training was deployed agencywide July 31, 2013 and is to be completed by September 30, 2013.	In progress - Q4 FY2013
3.	Develop and implement internal controls to monitor and track completion of training for personnel with specific delegated duties and responsibilities outlined in the National Records Management Program (NRMP) guidance. (page 11)	Records Liaison Officers are required to obtain the NARA Certification in Federal Records Management. This training is tracked by NARA and periodically reported to the Agency Records Officers. Although this recommendation does not appear to specifically relate to private or secondary email accounts, the NRMP will request an updated report from NARA and follow-up with any RLO that has not received the certification. Non compliance will be reported to the management for appropriate action.	Q1 FY2014
4.	Conduct outreach with all EPA offices to ensure that locally developed separation policies and procedures, as well as the associated employee separation checklist, include records management retention practices consistent with agency guidance.	EPA's National Records Management Program, via the Quality and Information Council's agency-wide Records Workgroup, has been working with OARM to develop a consolidated employee separation and transfer procedure. Although this recommendation	Q1 FY 2014

	<p>This should include ensuring that:</p> <p>a. Locations' out-processing procedures contain practices where notifications are sent to individuals with records management responsibilities in a timely manner to aid in capturing electronic records from separating employees. (page 11)</p>	<p>does not appear to specifically relate to private or secondary email accounts, the procedure will include a requirement that Records Liaison Officers, Records Contacts and Document Control Staff are notified 2 weeks in advance of an employee's separation, when possible. This will alert the staff with specific records management responsibilities to aid separating staff in capturing their records.</p>	
4.	<p>b. Locations include steps to have employees search for potential records residing within alias email accounts that the employee manages or on other electronic media devices within the employee's control. (page 11)</p>	<p>EPA's National Records Management Program, via the Quality and Information Council's agency-wide Records Workgroup, and OARM will include in the separation process and procedures, steps to have employees search for potential records residing within the secondary or group email accounts that the employee manages. A checklist will also be provided which will include all possible locations where records (paper and electronic) might be found.</p>	Q1 FY 2014
4.	<p>c. Locations have special out-processing procedures that contain a method for collecting records from departing employees during the holiday season or times of limited staffing. (page 11)</p>	<p>Although this recommendation does not appear to specifically relate to private or secondary email accounts, the EPA's National Records Management Program, via the Quality and Information Council's agency-wide Records Workgroup, and OARM will include in the separation procedure safeguards to ensure that separating employee information is captured during the holiday season and other times of limited staffing.</p>	Q1 FY 2014
4.	<p>d. Locations update their locally developed out-processing checklist to ensure an area exists for where records managers can note their records management certifications as required by agency policy. (page 12)</p>	<p>Although this recommendation does not appear to specifically relate to private or secondary email accounts, the EPA's National Records Management Program and OARM will include in the separation process and procedures an out-processing checklist to ensure an area exists</p>	Q1 FY2014

		for records managers to certify as required by policy.	
5.	Establish a revised date for when the EPA will implement an electronic content management tool to capture email records within the agency's new email system. (page 12)	In addition to the Lotus Notes email records solution, which is already developed, an email records solution for MS Office 365 is under development. Although this recommendation does not appear to specifically relate to private or secondary email accounts, the EPA will deploy agency-wide the email records solution for both Lotus Notes and MS Office 365.	Q4 FY2013 Q1 FY2014

No.	Findings	Agency Explanation/Response	Proposed Alternative
1.	The report states that, "the previous EPA Administrator and current Acting EPA Administrator each had two EPA email accounts, one intended for messages from the public and one for communicating with select senior officials." (page 5) Further the report notes, "that the practice of assigning personnel access to multiple email accounts is widely practiced within the agency." (page 5)	This statement does not recognize the distinction between secondary accounts used by EPA Administrators for a specific purpose, and secondary email accounts used for purposes such as sending out mass email notifications, transmitting or receiving documents in support of special projects, or linking the email account to an agency publicly available website to provide the public with a method to correspond with the EPA.	Revise the report to recognize this distinction.
2.	The report states that "EPA had not developed or implemented policies or procedures regarding the preservation of email messages sent or received from private email systems." (page 6) Further, the report notes that [EPA], "...does not instruct employees on the management and preservation of email messages sent from outside email systems if it were to occur." (page 6)	Please modify the statement to reflect the issuance of the EPA Interim Records Management Policy CIO-2155.2, on June 28, 2013 which strongly discourages the use of private non-EPA email accounts and instructs employees on the management and preservation of email messages sent from outside email systems if it were to occur. EPA has initiated the process to finalize EPA Records Management Policy CIO-2155.2	Revise the report to indicate that EPA put in place policy and procedures and training regarding the proper management of email records sent from private accounts. In progress Q3 FY2014

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