

ELECTRONIC COMMUNICATIONS POLICY

Department: Records Management

Date of Board Approval: 10/11/2018

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Records & Information Management Electronic Communications Policy

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I. STATEMENT OF POLICY:

It is the intent of the Central Florida Expressway Authority (“CFX”) to provide an electronic messaging (“E-mail”) system as an additional means of communication for employees to use while conducting CFX business. E-mail messages are public records and follow the same guidelines, retentions, and exemptions stated in the Florida Public Records Law, Chapter 119, Florida Statutes. The E-mail system *is not* intended to be a record repository for the storage of electronic messages, rather it is to be utilized as a means for transmitting messages which are primarily defined as transitory messages.

The same rules that apply to E-mail, as related to Florida’s Public Records Law requirements for access, retention, and disposition, will be applied to all CFX electronic messaging platforms including instant messaging, text messaging (such as SMS or Blackberry PIN), multimedia messaging (such as MMS), and chat messaging.

CFX will manage all electronic messages as a public record in accordance with Florida’s Public Records law as codified in Chapter 119, Florida Statutes. Upon request these electronic messages will be accessible for inspection, copying, and/or duplication within a reasonable time and under reasonable conditions.

Electronic messages will be captured by the IT Department and retained according to the applicable records retention schedule as described in this policy. The systematic deletion of CFX electronic messages will be conducted in compliance with applicable state disposal requirements and other CFX RIM Procedures.

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II. PURPOSE:

The purpose of this policy is to:

Ensure CFX employees, committee appointees, governing body members, publicly created advisory boards, and private organizations, including contractors that have been delegated the authority to perform some governmental function (“Users”) comply with Florida’s Public Records Law, Chapter 119, Florida Statutes, when utilizing CFX’s E-mail system and other electronic messaging systems;

Ensure users understand and limit the use of E-mail and electronic messaging to communications defined as transitory messages.

Ensure users properly manage and retain E-mail and electronic messages as public records in accordance with the Florida Public Records Laws as well as any other applicable statutes and rules.

Ensure proper usage of CFX’s E-mail and electronic messaging systems and that users understand the types of electronic communications usage which is considered inappropriate and a violation of this policy.

Ensure users understand they should prepare E-mail and electronic messages with the same level of professionalism and courtesy as they would exercise for any other type of written communication.

III. SCOPE:

This policy provides guidelines for the proper use, management and retention of electronic mail (“E-mail”) messages as public records within the Central Florida Expressway Authority (“CFX”). This policy applies to all CFX employees, committee appointees, governing body members, publicly created advisory boards, and private organizations, including contractors that have been delegated the authority to perform some governmental function (“Users”) utilizing CFX’s E-mail system in the conduct of their official duties as prescribed by law.

Additionally, this policy includes and applies to CFX’s other electronic messaging platforms, including instant messaging, text messaging, (such as SMS or Blackberry PIN), multimedia messaging (such as MMS), and chat messaging as related to Florida’s Public Records Law requirements for access, retention, and disposition.

This policy does not provide specific procedures for system backup and recovery.

IV. AUTHORITY:

- Chapters 119 and 257.36, Florida Statutes
- Rule 1B-24, Florida Administrative Code
- Section 24(a), Art I of the State Constitution

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V. DEFINITIONS:

The definitions set forth in section 119.011, Florida Statutes, Rule 1B-24, of the Florida Administrative Code, and the General Records Schedule (GS1-SL) for State and Local Government Agencies as amended from time to time, are incorporated herein by reference for the terms below.

“Administrator Records: Agency Director/Program Manager” consists of office files documenting the substantive actions of elected official or appointed program managers or agency directors and constitute the official record of an agency’s performance of its functions and formulation of policy and program initiative.

“Correspondence and Memoranda: Administrative” consists of routine correspondence and memoranda of a general nature that are associated with administrative practices or routine office activities and issues but that do not create policy or procedure, document the business or a particular program, or act as a receipt.

“Correspondence and Memoranda: Program and Policy Development” consists of correspondence and memoranda documenting policy development, decision-making, or substantive programmatic issues, procedures, or activities.

“Electronic Records” means any information that is recorded in machine readable form.

“Electronic Messages” written communication created or received via instant messaging, text messaging, (such as SMS or Blackberry PIN), multimedia messaging (such as MMS), and chat messaging.

“E-mail” is the electronic transfer of information, typically in the form of electronic messages, memoranda, and attached documents, from a sending party to one or more receiving parties by means of an intermediated telecommunications system.

“Exempt” means public records that have been identified in Chapter 119 or other applicable Florida Statutes as exempt from public disclosure.

“Public Records” means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

“Record Series” means a group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject or function, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use.

“Record Retention Schedule” means retention requirements established by the Florida Department of State for public records held by a specific agency within the state of Florida indicating the minimum time such records must be kept.

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“Transitory Message” means records that are created primarily to communicate information of short-term value. “Transitory” refers to short-term *value* based on the content and purpose of the message, *not* the format or technology used to transmit it. Examples of transitory messages include, but are not limited to, reminders to employees about scheduled meetings or appointments, most telephone messages (whether in paper, voice mail, or other electronic form), announcements or office events such as holiday parties or group lunches, and recipient copies not intended to formalize or perpetuate knowledge and do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt.

VI. E-MAIL / ELECTRONIC MESSAGES AS A PUBLIC RECORD:

E-mails and/or electronic messages created or received by CFX employees, committee appointees, governing body members, publicly created advisory boards, and private organizations, including contractors that have been delegated the authority to perform some governmental function in connection with the transaction of official business of CFX are public records and are subject to disclosure in the absence of an exemption.

E-mails and/or electronic messages created or received for personal use are not generally considered public records and do not fall within the definition of public records by virtue of their placement on a CFX owned computer system. However, if CFX discovers misuse of the E-mail system or electronic messaging systems, personal E-mails or electronic messages that are identified as being in violation of CFX policy may become public record as part of an investigation.

VII. USE OF E-MAIL SYSTEM:

CFX’s E-mail system is to be used to conduct official CFX business and is not to be used for any other purposes, unless expressly approved and authorized by CFX management. E-mail may be used to communicate with CFX personnel and with other public and private entities to conduct official CFX business.

Incidental, personal use of the CFX E-mail system is permitted, however the personal use must be brief, must not interfere with the employee’s work or the work of others, must not subject CFX to any additional cost, and must not be prohibited by this policy or any federal, state or local law, statute, ordinance, rule or regulation.

VIII. USE OF ELECTRONIC MESSAGING SYSTEMS:

As stated previously, the same rules apply to all CFX electronic messaging systems including instant messaging, text messaging, multimedia messaging, chat messaging, as well as to any other electronic messaging systems not yet created or used at this time.

IX. PROHIBITED USES OF E-MAIL SYSTEM:

CFX’s E-mail system shall not be used for any unauthorized purposes including, but not limited to:

Sending solicitations including, but not limited to, advertising the sale of goods or services or other commercial activities, which have not been approved by CFX.

Sending copies of documents in violation of copyright laws or licensing agreements.

Sending information or material prohibited or restricted by government security laws or regulations.

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Sending information or material which may reflect unfavorably on CFX or adversely affect CFX's ability to carry out its mission.

Sending information or material which may be perceived as representing CFX's official position on any matter when authority to disseminate such information has not been expressly granted.

Sending confidential or proprietary information or data to persons not authorized to receive such information, either within or outside of CFX.

Sending messages or requesting information or material that is *fraudulent, harassing, obscene, offensive, discriminatory, lewd, sexually suggestive, sexually explicit, pornographic, intimidating, defamatory, derogatory, violent or which contains profanity or vulgarity, regardless of intent*. Among those which are considered offensive include, but are not limited to, messages containing jokes, slurs, epithets, pictures, caricatures, or other material demonstrating animosity, hatred, disdain or contempt for a person or group of people because of race, color, age, national origin, gender, religious or political beliefs, marital status, disability, sexual orientation or any other classification protected by the law.

Sending messages or requesting information reflecting or containing chain letters or any illegal activity, including, but not limited to gambling.

Sending or requesting information or material that proselytizes or promotes a religious or political view, cause, position or action.

X. NO RIGHT TO PRIVACY:

CFX employees, committee appointees, governing body members, publicly created advisory boards, and private organizations, including contractors that have been delegated the authority to perform some governmental function, have no right of personal privacy in any material created, stored in, received or sent over CFX's IT systems or services. CFX reserves and may exercise the right, at any time and without prior notice or permission, to intercept, monitor, access, search, retrieve, record, copy, inspect, review, block, delete or disclose any electronic communications or material created, stored in, received, or sent over CFX's IT systems or services.

XI. RETENTION REQUIREMENTS FOR E-MAIL / ELECTRONIC MESSAGING:

All public records must have an approved record retention schedule in place before they can be destroyed or otherwise disposed. Retention periods are determined by the content, nature and purpose of the records and are set based on their legal, fiscal, administrative and historical values, regardless of their form.

CFX will apply record series rules to the agency's E-mail system as well as to any other identifiable electronic messaging systems to ensure systematic disposition pursuant to law. All public business conducted via E-mail should be done within CFX's E-mail system.

CFX employees shall not use personal E-mail accounts to conduct official CFX business. However, in the event a CFX employee receives an E-mail for official CFX business at his/her personal E-mail account, he/she must forward that E-mail to his/her CFX E-mail account for proper retention.

This same rule applies to instant messages, text messages, multimedia messages, chat messages, or other electronic messaging systems not yet created, if these types of messages are sent or received on a personal device. These electronic messages must be forwarded to his/her CFX account for proper retention.

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CFX will systematically dispose of E-mail and electronic messages utilizing the available software tools and applications which currently manage CFX's E-mails and electronic messages. CFX ensures it has controls in place to suspend the systematic disposal of its E-mail and electronic messaging systems in response to any legal hold or other valid preservation requests. Upon the expiration of any legal hold or preservation request, CFX will resume with the systematic disposal of its E-mail and electronic messages.

XII. VIOLATION

Violation of this policy may result in disciplinary action, up to and including termination of employment as well as those penalties prescribed by section 119.10, Florida Statutes.

XIII. EFFECTIVE DATE AND REPEAL

This policy shall become effective upon adoption by the CFX governing body and shall supersede and repeal in its entirety any previously adopted policies to the extent they may conflict with the provisions contained herein.

**A RESOLUTION OF THE
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
ADOPTING AN ELECTRONIC COMMUNICATIONS POLICY**

WHEREAS, the Central Florida Expressway ("CFX"), is empowered by Chapter 348, Part III, Florida Statutes, to acquire, hold, construct, improve, maintain, and operate the Central Florida Expressway System, and is further authorized to exercise all powers necessary, appurtenant, convenient, or incidental to the implementation of the stated purposes; and

WHEREAS, CFX has an existing Records & Information Management Policy establishing a comprehensive Records & Information Management Plan; and

WHEREAS, to accommodate the complex and diverse nature of managing electronic messages, the governing Board of CFX wishes to adopt an Electronic Communications Policy to address the proper use, management, and retention of electronic messages.

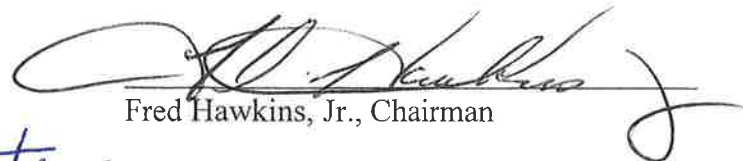
NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY, IN A REGULAR PUBLIC MEETING, AS FOLLOWS:

1. ADOPTION: The CFX governing Board does hereby adopt the attached Records & Information Management Electronic Communications Policy (**Exhibit "A"**) as the official Electronic Communications Policy for CFX.


2. EFFECTIVE DATE: This Resolution shall become effective upon adoption by the CFX governing Board.

ADOPTED this 11th day of October, 2018

ATTEST: 
Regla (Mimi) Lamaute
Board Service Coordinator


Fred Hawkins, Jr., Chairman

Approved as to form and legality


Joseph L. Passiatore, General Counsel