
From: ARS-Notice
Sent: Tuesday, December 30, 2014 9:10 AM
To: ARS-ALL
Subject: Use of Personal or Non-Official Electronic Messaging Accounts for Official Business

Categories: Communication

From: ACTIVITIES, GOV-INFO
Sent: Monday, December 29, 2014 3:13 PM
To: WCTS - ALL-USDA-2K
Subject: Use of Personal or Non-Official Electronic Messaging Accounts for Official Business

**The following message is being transmitted to you as a Departmental Management (DM) service to all USDA employees.
Agency E-mail administrators: Please forward this message to all USDA employees.**

MEMORANDUM FOR ALL EMPLOYEES

FROM: Jeffrey M. Prieto
Acting General Counsel

SUBJECT: **Use of Personal or Non-Official Electronic Messaging Accounts for Official Business**

USDA employees have long been discouraged from conducting official business using non-official or private electronic messaging accounts under USDA Departmental Regulations. On November 26, 2014, President Obama signed into law the Presidential and Federal Records Act Amendments of 2014. Amongst other changes, this law creates strict new disclosure requirements for those rare circumstances when employees have to use private electronic messaging accounts, and severe penalties for failure to follow those requirements. The law is effective immediately.

Specifically, federal government employees may not create or send a record (document, e-mail, text message, etc.) using a non-official account unless the employee *either*:

- copies his or her official electronic messaging account in the original creation or transmission, *or*
- forwards a complete copy of the record to his or her official electronic messaging account not later than 20 days after the original creation or transmission.

Pub. L. No. 113-187, § 10 (to be codified at 44 U.S.C. § 2911). Please note that electronic messages in this context includes both e-mail and other electronic messaging systems used for communicating between individuals, such as text messaging, and instant messaging programs.

Further, the new law expressly provides that, under some circumstances, intentional violation of this requirement shall be a basis for a disciplinary action against the officer or employee, up to and including removal.

In accordance with existing Departmental policies, USDA employees are again discouraged from conducting official business using non-official or private electronic messaging accounts. Under the unusual circumstances where a USDA employee does use a non-official account to conduct official business, he or she **must** comply with the copying or forwarding requirements outlined above.

For technical questions, including about copying or forwarding messages, please contact your agency's information technology staff. For legal questions, please contact the appropriate Office of the General Counsel Field Office or the General Law and Research Division.