

3901 Argyle Ter., N.W.

Washington, D.C. 20011

[www.dcogc.org](http://www.dcogc.org) -- 202-780-6020

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**Statement for the Record**

**D.C. Open Government Coalition**

by

Fritz Mulhauser

Co-Chair, Coalition Legal Committee

Submitted to the

Council of the District of Columbia, Committee on Housing & Executive Administration

FY 23 Budget Oversight – Office of the Secretary

March 23, 2022

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Thank you for the opportunity to submit a statement on the budget of the Office of the Secretary, Office of Public Records and Archives.

We communicate today on behalf of the public, the users, to urge you to keep them in mind as you evaluate the D.C. archives budget – the adequacy of staff and other resources for building and operations.

District citizens, elected officials, and government staff can learn from the public-facing mission statement of the U.S. National Archives.[[1]](#endnote-1) It states a goal that D.C. archives can also embrace:

Our mission is to provide public access to Federal Government records in our custody and control. Public access to government records strengthens democracy by allowing Americans to claim their rights of citizenship, hold their government accountable, and understand their history so they can participate more effectively in their government.

In that spirit, public access to D.C. records for education, business, and every kind of study and inspiration, is a key part of open government, along with access to open data and open meetings. Access to records, in turn, depends on sound policies, effective leadership and adequate resources—a joint responsibility shared between executive and Council.

Because the mayor’s budget raises many questions, committee leadership continues to be needed to assure needed resources and to stimulate the necessary progress.

Of the two priorities we highlighted in the February oversight testimony, it’s a pleasure to note one is resolved. The District in April welcomes a new state archivist, Dr. Lopez Matthews. We noted he brings specialized experience with a digital archive, an area where his talents will immediately be put to work since D.C. has decades of catching up to build from scratch our own collection of electronic records.[[2]](#endnote-2)

Our other concern remains – funds and staff so that the new facility is properly planned, not limited by a budget target set years ago, and so that ongoing records management supports the public interest in access to a strong collection.

You have valuable expert testimony of Trudy Peterson for the Archives Advisory Group (AAG), established precisely for the purpose of informing the Council about every aspect of the new facility,[[3]](#endnote-3) and also of Kimberly Bender of the D.C. Archives Advocates. We commend their views to the committee; this year at least, you will hear from no one more expert.

From our perspective of the public users who need your help to assure a good archives program, we have the following observations and questions for the committee to pursue in the coming weeks as the mayor’s FY 2023 budget is marked up.

1. **Increase the capital budget** for the building to match the current price of the program and design set forth initially. That is, the Council should increase the budget and resist cutting the construction and program to fit the $71M figure set seven years ago. The threat is real; we understand the city’s construction agency, the Department of General Services, plans just that, to build a $71M facility, according to testimony this year by Director Keith Anderson. But at today’s costs that could be as little as half what was planned.
2. **Assure prompt public access to the contract** for the next stage of work by Hartman-Cox architects. Without an archivist in place as the chief client for the archive’s construction, the parameters of the further design (including the all-important budget) have been set without full professional consultation, including recalculating the costs of the program that guided plans in 2015. Dr. Matthews should of course be involved from Day 1 on the job, but the contract should be public so that AAG and expert citizen advice can be offered as well.
3. **Assure resources for planning the archive’s contents and move** since there seems to be no dedicated resource. Recall, with limited space over the years, agencies have stored their own records, with uncertain guidance. So, there is an uncertain but big retention backlog needing professional review. An earlier estimate of 500,000 cu. ft. should be verified, and the packing/moving needs soundly estimated. The present staff in the archives office are fully busy and can’t do it. News that most of a $600,000 appropriation for OCTO to help with equipping the new building as needed for digital records may have lapsed is worrisome and we urge the committee to clarify.
4. **Enlarge staff** for #3 above (surveying stored items, deciding on retention, planning move) but also for full agency record retention schedule update and public access programming. Two key parts of an archive are keeping what matters and helping the public use what’s kept. The Secretary testified that records management policy and oversight in the agencies is by contract staff; that suggests a shortage of the skilled professionals that seem needed. The experts can’t understand the budget’s brief statement about nonpersonnel funds; they say as well the present 6 FTE on staff are stretched thin and the budget details and testimony about present staff and proposed additions are confusing as well.

Instead, experts also say twice as many staff are realistically required now for backlogged work and that 20 will be needed when work starts in the new facility behind the scenes and with the public. The Secretary testified that “telling agencies what to keep” is done by contractors; is that standard practice or accommodation to inadequate staffing?

Our own experience, as members of the public seeking information about records held and access to them, also suggests challenges here, possibly explained by a staff stretched thin:

* Long after the deadline, we have no answer to our FOIA request to the Secretary of D.C. for agreements governing court and Council records in OS/OPRA custody.
* In preparing testimony on ANCs and open government, we found few ANC records shown as archived.
* To answer a citizen inquiry about records possibly available, we looked for details of an agency archive and found no posted agency records management schedule (nor, in fact, any agency) that might have answered the question; we heard the Secretary say in testimony that police records are exempt from archiving, but when we looked at the web information for details of such exemptions, that isn’t spelled out in online materials, that some agency records are kept elsewhere, or where. We thought agencies don’t get to decide about their records, it’s set in law and legislative clarification may be needed if some other regime of decentralization and agency autonomy has taken hold.
* Also, we found that general schedules for general types of records are all a decade old.
1. **Consider structuring the archives as an independent body.** The long unfilled archivist position and multiple actors in past years overseeing the project contrast with the brilliant record of the D.C Public Library, led by an executive backed by a board, modernizing D.C. branches and the downtown showpiece, the M.L. King Jr. Library. We trust the new archivist is empowered to lead all aspects of the exciting new facility with similar success; that experience will be telling. A greater degree of budget and program independence and records management authority may be needed.

The D.C. archives hold what Kimberly Bender in her testimony eloquently called “the single most comprehensive record of the lives and culture of those who have called DC home.” We look forward to working with the Council and other advocates to monitor the archives design and costs, and related program staffing, so that the result is, again adapting the words of the U.S. National Archives’ mission statement, “**cutting-edge access to extraordinary volumes of government informa­tion and unprecedented engagement to bring greater meaning to the [District of Columbia] experience.”**

The Open Government Coalition is a citizens’ group established in 2009 to enhance public access to government information and ensure the transparency of D.C. government operations. Transparency promotes civic engagement and is critical to responsive and accountable government. We strive to improve the processes by which the public gains access to government records (including data) and proceedings, and to educate the public and government officials about the principles and benefits of open government in a democratic society.

We work to maintain the legal foundation assuring open government –- the Open Meetings Act, the Freedom of Information Act and the mayor’s Open Data Policy — through public education, legislative advocacy, and litigation. For example, the Coalition has an extensive website with practical advice for finding information and a blog on news, holds public forums such as an annual Summit during Sunshine Week in March, testifies to the D.C. Council, and files complaints and court actions to correct agency problems. The Coalition has no staff but does its work through the volunteer efforts of 16 directors, who include reporters, community activists, experts with open government institutions overseas and at the federal level, and attorneys in media law, nonprofit legal services, and criminal defense. The Coalition participates in a National Freedom of Information Coalition where advocates from dozens of states work together on common issues all are facing.

1. ENDNOTES

 Available at: <https://www.archives.gov/about/plans-reports/strategic-plan/strategic-plan-2018-2022#toc-mission-statement->. [↑](#endnote-ref-1)
2. We’re told the D.C. Archives presently holds no electronic records. This is astonishing, 20 years into the 21st century. Our previous testimony is available here: <https://dcogc.org/wp-content/uploads/2022/02/OGC-testimony-on-OS-2-9-22-1.docx>. [↑](#endnote-ref-2)
3. The Advisory Group was authorized by the Archives Advisory Group Act of 2020, Sec. 1001 of the FY 2021 Budget Support Act of 2020, available here: <https://tinyurl.com/2p92c388>. In appointing the members, Council Chairman Phil Mendelson said in a November 30, 2021, statement, “The DC Archives is important to the District and while council members have some awareness of its value, it’s just not a cause that rises to the top when we consider the budget and other matters.” He continued, “This Advisory Group is constituted because of your engaged interest and your ability to focus and advocate for a new, state-of-the-art Archives.” The chairman’s statement is available here: <https://thedcline.org/2021/11/30/press-release-chairman-mendelson-swears-in-archives-advisory-group/>.

Contact: Fritz Mulhauser, fmulhauser@aol.com; 202-550-4131 [↑](#endnote-ref-3)