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FFF

September 30, 2022

Dr. Lopez D. Matthews, Jr.

State Archivist and Public Records Administrator

D.C. Office of Public Records and Archives

1350 Pennsylvania Ave., N.W., Suite 419

Washington, DC 20004

*Sent via email: lopez.matthews@dc.gov*

**RE: Draft Hartman-Cox report on archives building program**

Dear Dr. Matthews:

Thank you for the opportunity to submit comments on the first product from the new archives planning contract, a draft report by the architects.[[1]](#footnote-1)

**Users must be centered in planning**

We communicate today on behalf of the public, the users, to urge you to keep them in mind as you evaluate the plans. That means asking at this early stage, “Is the building designed to maximize the usefulness of the collections for the public?”

The D.C. Council strongly spoke this year in two committee reports on their expectations that the executive branch engage the community on the plans, generally and with special attention to archiving digital records.[[2]](#footnote-2)

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As our Coalition has joined the advocacy for D.C archives in recent years we have drawn inspiration from the public-facing mission statement of the U.S. National Archives.[[3]](#footnote-3) It places public access as the primary goal, one we hope the 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. [Emphasis added.]

In that spirit, public access to D.C. archival records for education, business, and every kind of study and inspiration, is a key part of open government, along with access to open current records, data, and meetings. D.C. archives’ inaccessibility is ending; a new start for access begins with the facility on the drawing board.

Because the draft plan raises many questions, we request the Office of Public Records and DGS not finalize the report as a basis for further design work without significant further public interaction. That can lead to a revised text reflecting solid data, mature understanding, and reflection. Building fundamentals and costs will be set at this stage that may be hard to change later.

**We have five concerns with the draft plans**

1. **What about the records of the other two branches of government?** The plan considers only records of the executive branch, and possibly only parts of that. A planned archive for a city should at least begin with a comprehensive vision, addressing also records of the Council and courts.
2. **How do we know storage is adequate?** The plan cuts archives storage from a 2015 figure (though increasing records center storage), yet space needs for executive branch records are presented without hard evidence and with no clear plan for an actual survey to guide plans soundly.
3. **Has public access been adequately considered in space plans?** 21st century forms of outreach, access, and public education are not described. Brief references in traditional terms such as “exhibits” make it difficult to evaluate the 6,500 square feet cut from 2015 estimates, for example, for research and staff work area let alone public use areas.

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1. **Where are digital records treated in depth?** Given the revolution in record keeping that’s under way, brief references are inadequate to allow evaluation of plans for space and facilities for these collections that are the archives of the future.[[4]](#footnote-4)
2. **Link of plans to costs unclear**. Brief program treatments we fear are driven by a directive to stay within some (unstated) price tag. This year a DGS official testified that the contract price set years ago would guide architects updating plans, but the Mayor’s Senior Advisor contradicted that in later testimony and said funds would be added so that a quality project would not be hampered by a capital budget estimate set long ago. DGS must emphasize the latter view to the architects.

**We suggest a process to be followed**

These five concerns, and others sure to come from other experts in the community, are an agenda for deeper exchange. We recommend several study sessions with a follow-up meeting after the architects consider the points raised, so that there can be mutual understandings.

We were disappointed to note that the text box on the comment form at <https://dc-archives.libwizard.com/f/newoprcomments> limited writers to about 4,000 characters (or about 600 words) and did not allow for attaching a text such as this letter. Planning together will rest on good communication at each stage.

Thus, a broader issue at this point is to work out a plan for the conversations needed, considering the clear concern from the Council that planning include serious engagement with community voices.

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We look forward to working with the Council and other advocates to monitor the archives design and costs, the related program staffing, and the daunting detailed planning to collect scattered

materials from D.C. and federal storage that can now come to their new home for access and use.

The result will be, 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.”**

For any questions and to schedule further discussion, I can be reached at fmulhauser@aol.com and 202-550-4131.

Sincerely,

*/s/*

Fritz Mulhauser

Co-chair, Legal Committee

D.C. Open Government Coalition

cc: Beverly Perry, Office of the Senior Advisor

 Kimberly Bassett, Office of the Secretary

 Solomon Ikotun, Department of General Services

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

* maintains 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. Hartman-Cox with EYP, *Program of Requirements* (Draft, September 1, 2022). Available at: <https://app.box.com/s/7z19vz4mcrqt7xukppi7zabfqbbcnwru>. [↑](#footnote-ref-1)
2. The Committee on Housing and Executive Administration noted in its FY23 budget report that “based on feedback to the Committee, there is room to improve the planning and development of a new DC Archives facility by including voices of the public. … The Committee encourages the Mayor to continue to be proactive and actively engaged in the planning and development [of] the new DC Archives, and provide public comment opportunities.” It urged the Office of the Secretary to “work to ensure that the existing DC Archives facility adequately serves District residents leading up to the opening of a new facility” And that OS “develops a comprehensive plan for the relocation of the DC Archives including soliciting public comments from interested parties.”

And regarding digital materials to be archived, the Committee on Government Operations “strongly” encouraged OCTO to “coordinate with OS, DGS, the interested public (including the Council-appointed Archives Advisory Group), and external contractors involved in Archives design and construction to ensure that the intake, preservation, and accessibility of digital archival materials are consistently considered and addressed in the design of the new facility.” The Committee repeated warnings about archives building issues in its discussion of the Department of General Services, rejecting DGS insistence “that they will not have a role in preparing digital archives.” The Committee said “this response misses the point. Digital archival infrastructure and research activities will need a physical space designed to accommodate them and DGS’s architect needs to be aware of these requirements.” [↑](#footnote-ref-2)
3. Available at: <https://www.archives.gov/about/plans-reports/strategic-plan/strategic-plan-2018-2022#toc-mission-statement->. [↑](#footnote-ref-3)
4. The Council Committee on Human Services in its FY23 budget report recommended a start on ambitious plans to digitize D.C. records, calling on the Board of Ethics and Government Accountability to “develop a budget and process to determine how to digitize records and include community partners to help identify the next steps in achieving this goal… BEGA will need to work collaboratively with stakeholders to determine a clear plan to digitize decades worth of records.”

D.C. should take note of practice in archiving federal government records; digitization is moving rapidly ahead. The Federal Records Act, 44 U.S.C. § 3302, requires NARA to promulgate regulations establishing “standards for the reproduction of records by photographic, microphotographic, or digital processes with a view to the disposal of the original records.” In other words, NARA must develop standards for digitizing records in a regulation so that agencies can destroy originals (both temporary as well as permanent records). On April 10, 2019, NARA published at 84 FR 14265 an update to its Electronic Records Management regulation (final rule) in 36 CFR § 1236.30 adding a new Subpart D on Digitizing Temporary Federal Records. The amended regulation is available at <https://tinyurl.com/n9thwvym> and was effective as of May 10, 2019. Subpart D applies to temporary records and allows agencies to retain records in a digital form suitable for all the uses of the original and to destroy the original paper records. NARA has alerted agencies it will no longer accept paper records for storage at federal records centers after December 2022 and OMB has pressed agencies to manage all records digitally though NARA regulations do not yet address digitization and disposition processes for permanent records. That the plan (p.21) must reach back to the Mayor’s Order 86-28 framing the archives as a place to “collect, store, preserve, conserve and service historical records” suggests archives and agency records issues need modern statutory direction from the Council. [↑](#footnote-ref-4)