Electronic Record Management Guidelines for Arkansas State Government

Developed by the

Arkansas Records Retention Workgroup

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Part I: Electronic Records Management

Introduction

The widespread use of technology to conduct government business has resulted in an increase of electronic state records. Sources of electronic records range from workstation applications such as word processing, spreadsheets, presentations and E-mail to agency applications such as financial systems, human resource systems and databases. With the evolution from paper record keeping to electronic records, new requirements for the collection, storage, and long-term retention of records in digital form are emerging. *These guidelines have been developed to assist agencies in adopting electronic record management practices that provide proper controls over the creation and maintenance of records in accordance with the Arkansas General Records Retention Schedule.*

Statement of Benefit

The implementation of sound record management practices for electronic records can result in a number of benefits for government. One of the more important benefits is to ensure the creation, preservation and retention of accurate and reliable electronic records. This benefit allows agencies to fulfill legal mandates regarding the protection of their records. Other agency benefits include ensuring the legal acceptability of agency electronic records, reducing costs for the retrieval of records no longer needed to be maintained on the system, reducing the burden of paper record keeping, identifying appropriate means for the movement of records to successive generations of technology and systems, and improving citizen access to public information.

Guidelines for Electronic Records Management and Preservation

Creating and Managing Electronic Records

Government agencies need to create, manage, and maintain electronic records that are accessible over time for business and other purposes. An effective records management system should maintain adequate search and retrieval capabilities to ensure that electronic records can be retrieved for all legitimate government purposes for their full retention period. Depending on volume and other considerations, this could require special technology such as indexing and search tools.

Electronic Records Storage and Retrieval

Agencies should adopt a framework which allows for capturing, archiving and accessing electronic records as needed for the long term. This record format should not be dependent upon a particular computer system (hardware or software). The approach relies on the use of published 'standards' for software and storage (i.e., text-based format, XML [eXtensible Markup Language]) rather than the use of specific applications or programs which may change over time and become incompatible with requirements for record keeping. Record keeping requires a long-term approach, but computer systems and applications may change or become obsolete. The following can become barriers to the long-term preservation/retention of electronic records:

1. Over time, document formats change and become unreadable even by subsequent releases of the software that created them.

2. Electronic objects can be subject to undetectable change, thereby making it difficult to maintain the evidentiary status of the records.

3. Some systems for managing electronic documents do not preserve the content, structure, context and integrity of the record for as long as the record may be required.

Part II: Electronic Mail Management

Introduction

Electronic mail–commonly called e-mail–is becoming the communications method of choice for public officials. Agency use of the Internet for official business is growing at a phenomenal pace, and more users are conducting business and exchanging documents via Internet e-mail. E-mail is often used as a substitute for a phone call but has the same potential evidentiary value as any other record documenting the transaction of public business. Like the telephone, it is specifically intended to handle communications ranging from those immediately discardable to those worthy of retention. However, e-mails have characteristics of a document in that they remain in existence after the communication ends. E-mail is also similar to postal mail because a message sent or received by e-mail is documented–"written" onto an electronic medium at the time of transmission–and can be stored for later retrieval or reproduction.

Government agencies that use electronic mail should make employees aware that e-mail messages, like paper records, must be retained and destroyed according to established records retention procedures as set forth by Arkansas and federal law. Agencies should set up or modify e-mail systems to facilitate electronic records management. Procedures and system configurations will vary according to the agency's needs and the particular hardware and software in place.

Whether the e-mail content serves to document the organization's functions, policies, decisions, procedures, operations or other activities is the deciding factor as to its status as a record. This is true of any communication, whether electronic or paper.

E-mail messages that meet the criteria of the definition of a record may be considered public records and must be available to the public. A record must meet the definition of a public record as defined in the *Arkansas Freedom of Information Act.*

As with any format, an e-mail message may be considered a public record, unless it falls under one of the exceptions listed in *Section 25-19-105b.* All public records must be maintained through the appropriate retention period and be made accessible to the public upon request.

Over the past few years, questions have arisen about the difference between paper versus electronic records. For example: "How long do we have to keep correspondence we've received in the mail versus how long we have to keep our electronic mail?" There is no difference. It does not matter in which form the correspondence was received, paper through the U.S. mail or electronically via the Internet. The record is still "correspondence" and the retention period is the same. Just like paper records, e-mail records must be evaluated for their content and purpose to determine the length of time the message must be retained in accordance with the state and federal retention schedule.

Retention of Electronic Mail

E-mail messages that meet the definition of a public record in the *Arkansas Freedom of Information Act (Arkansas Code § 25-19-103)* are official records and must be retained according to the state and federal retention schedules.

Transmitting such records electronically does not alter the obligation to retain these e-mail records, nor does it alter corresponding retention periods. The content of e-mail messages may vary considerably and, therefore, this content must be evaluated to determine the length of time the message must be retained using the Arkansas General Records Retention Schedule.

E-Mail and the Retention Schedule

All retained E-mail should be organized and stored in such a way where it can be easily retrieved when needed. The Arkansas General Records Retention Schedule is grounded in the principle that e-mail, like any other record, should be filed and retained on the basis of its content.

Responsibilities of Government Employees Who Use E-Mail

- Government employees are responsible for managing E-mail messages the same as they do for other records.

- Government employees are responsible for organizing their e-mail messages so they can be located and used.

- Government employees are responsible for using the state retention law to identify how long e-mail messages must be kept.

- Government employees are responsible for ensuring that e-mail messages are accessible for the duration of applicable state or federal retention schedules.

- Government employees are responsible for deleting messages in accordance with the Arkansas General Records Retention Schedule and the Arkansas General Records Schedule Procedural Handbook.

E-Mail Storage

Agencies have many options for storing e-mail, each of which has benefits and disadvantages. Administrators and information technology staff should agree upon which option works best for agency staff. Options include

- On-line storage in the active e-mail system

- The creation of e-mail archives for storing messages

- Near-line storage on hard drives or peripheral drives

- Offline storage (such as printing to paper).

Regardless of which option an agency selects, a procedure for all staff to follow should be written and distributed to affected individuals. E-mail messages should be organized in a way that makes them easy to find. E-mail may be organized by work project, subject area, case number, or some other retrieval system.

Many computer systems have storage limitations so that only 60 to 90 days of messages may be stored before operational problems are experienced. E-mail records that must be maintained in electronic format past that time can be downloaded to some other magnetic storage media such as hard disk, tape, diskette or optical disk. The retention period for the particular category is the best indicator of which storage media to choose. E-mail that must be retained longer than two years may be best retained on some removable media such as CD, DVD, or magnetic tape.

Agencies that do not have the technical capability to maintain e-mail records for the full retention period in an electronic format should print out a paper copy of their e-mail records.

Records managers should be aware that federal court decisions in the case of *Armstrong v. the Executive Office of the President* has raised questions about the adequacy of using paper printouts of e-mail as the official record. The court ruled that in the particular situation involving

e-mail, the paper printout was not adequate for preserving e-mail records because fundamental pieces of information were omitted on the printout that were an integral part of the electronic records such as the identity of the sender and/or recipient and the time of receipt. If a hard copy printout of e-mail is to be preserved as the official record, it is essential that procedures be implemented for routinely printing e-mail records, including all transmission and receipt data in the system, and filing the printouts in the normal course of business.

In order for an e-mail message to be considered a complete record, it is vital that the message header, which contains all the identification lines at the beginning of an e-mail message such as To:, From:, Subject: and Date, be captured and preserved along with the message content itself. Typically, the following header information is captured and permanently recorded (in unaltered state) along with the message:

- The Sender's e-mail name and address

- The Recipient's e-mail name and address

- Names/Addresses of any additional recipients

- Message Subject, as declared by sender

- Date/Time of transmission and receipt

Copy of Record

In most cases where e-mail communication is between a sender and a recipient, the sender's copy is designated as the official version and, therefore, any retention requirements would apply to the official version. All other copies are merely "duplicates" and can be disposed of at will. This does not apply to e-mail received from the public. In that case, the recipient's copy is designated as the official version.