Simplification & Centralization Subcommittee

May 11, 2011

Consensus Recommendations

1. Records officers for state agencies and political subdivisions should certify annually through online GRAMA training provided by the state archives.

2. Rule-making authority and resources should be specifically provided to the state archives to facilitate up-to-date training.

3. The state archives should maintain a Website with the name of every records officer in the state with an up-to-date record of their certification.

4. An office of the GRAMA ombudsman should be established within the state archives as a resource to requestors and responders. The GRAMA ombudsman should possess appropriate qualifications to provide expert guidance on GRAMA, including legal training.
   a. The ombudsman would be a resource to inexperienced requestors.
   b. The ombudsman would have authority to mediate disputes between requestors and responders.
   c. Following guidance from the ombudsman might support a showing of good faith compliance by a responder -- but this provision need not be codified. Failure to use ombudsman should not be construed as lack of good faith. (See Recommendation 5)
   d. Analogous to other similar positions, the ombudsman could be appointed by executive director of administrative services with the concurrence of state records committee.
   e. The ombudsman would be required to provide an annual report to the Legislature regarding GRAMA and PMRA.

5. Amend Utah Code 63G-2-801 (Criminal Penalties) to provide good faith language. Good faith might be shown based on use of training, checklist, consultation with counsel and ombudsman, but these provisions need not be codified.

Under Consideration

Allow an appeal from all political subdivisions to the Records Committee with additional resources allocated to the Records Committee to facilitate increased remote participation. The subcommittee or task force should hear from representatives of political subdivisions, the media and citizen groups about concerns, if any, regarding possible costs involved with such an appeal.

Emerging Technology Subcommittee

Report for May 11, 2011

We tried to focus on what we could agree on. The following items were things that all present agreed on:

1. Electronic records should be classified at time of finalization (when a final version is created) and, if public, made immediately available online:
• public documents automatic
• protected/private documents by index only (title, description, category, abstract, etc.)
• this will require systems be created to support this efficiently and effectively for all levels of government

2. Charge the State CIO with managing the creation of egovernment systems that support open records and incorporate such into the DTS budgeting and rate creation processes.
• state created system will provide consistent access across all levels of government and types of organizations to ease access
• process should give preference to standards and open systems

3. Structured documents should maintain their original structure insofar as possible
• i.e. Word docs remain Word docs, not PDFs. Calendar files are made available as ICalendar format, etc.
• this ensures that resulting documents are as useful as possible
• structured documents may permit automatic redaction of protected portions for some records

4. State should help cities and counties with eGovernment process
• State systems should be created in a way that they support multi-tenancy so that every government organization, to include schools, cities, counties, quasi-public agencies, etc. are able to use them
• Critical to making this doable for small organizations

5. Software developed by and for government should be classified as PUBLIC by default
• Government should not consider their software systems proprietary
• consistent access should be provided

6. Official communication (Gov provided email, contact forms, etc.) should be considered PUBLIC but should provide advisory to sender on possibility of disclosure.
• should be consistent across all levels of government and types of organizations

7. GRAMA should not attempt to address issues with SMS messages at this time and take a "wait and see" approach.

Cost & Timeliness Subcommittee

Conclusions & Recommendations

May 11, 2011

1. In the context of our discussion, three categories of government records exist:

    a. **Records that are public, that should be immediately available, at no cost.** Each branch, department, agency, and subdivision of government should be required by statute to identify these records and make them immediately available to the public, at no cost. We recommend that a central, searchable, on-line repository/database be created by the state to which these records can be uploaded and posted, available to anyone with Internet access. Precedent exists for this sort of repository.

    This category covers the vast majority of records and eliminates the issues of cost and timeliness for these records.

    b. **Records that are public, but will require time and effort to reformat.**

    c. **Private/protected records which will require review to determine whether to make available**.

    Categories b. and c. are those frequently resulting in disputes over cost and timeliness. We suggest:

        i. Establish by statute a standard fee formula, defining such things as full employee/labor costs (including benefits); lowest cost available employee; overhead and administration. Each government entity can then plug its own data into the formula to determine fees. This will make fees more standard and predictable.

        ii. Publish fees so they are available and transparent.

        iii. Provide more guidance on fee waivers, but allow significant agency discretion, with quick appeal to the State Records Committee or courts.

        iv. Timeliness: We don't recommend significant changes to current statute. Deadlines must be reasonable, but with flexibility to deal with large, complex requests. Allow quick appeal to the State Records Committee. Publish and make available deadlines. Consider providing flexibility (more time) for part-time elected officials who must respond to a GRAMA request.

2. Other recommendations to improve the GRAMA process, reduce confusion, and encourage consistency.

    a. Require on-line and/or in-person GRAMA training, and/or GRAMA certification, for relevant employees at all levels of government to create more consistency in the application of the law.

    b. Provide and publicize at relevant government offices and on-line, easy on-line access to information about how to navigate the GRAMA process (including appeals process), the rights of those requesting records, importance of privacy, etc.