

Emerging Technology Subcommittee

Report for June 22, 2011

The Emerging Technology Subcommittee provides the following report.

1. The majority of records fall into a record set that has default classifications. There are 15,000 record sets that have been marked as "public" by state records committee. This does not mean that every document in the record set is automatically public, but that is the default assumption. Documents in these records sets should be classified at time of creation or finalization and made immediately available. In those cases, 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
- Small organizations will only be able to provide online documents if they can piggyback on the efforts of larger 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. We determined that the existing statute would be made more clear by the addition of the following clause to the statutory definition of what is a record: "...in pursuit of a legal

obligation or in the transaction of public business." This would make the statutory definition consistent with existing definitions from records management professionals. The current statute says:

(22) (a) *"Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:*

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

We would add

(iii) where the record was created in pursuit of a legal obligation or in the transaction of public business.

We believe this provides further guidance to individuals making decisions about what to retain and manage.

7. We discussed SMS messages at some length and reached the following conclusions:

(a) If an SMS is a record, then it is usually going to be administrative in nature and classified as transitory, meaning that it only need be retained as long as the administrative reason for it remains.

(b) An SMS message may not, in all cases, be able to be reproduced given current technology and thus does not constitute a record given the definition of a record in statute. Copying the SMS message by hand or other means may not be sufficient since all of the meta data characterizing the message (such as timestamps, routing, etc.) might be lost. SMS messages should only be considered records if systems exist for consistently and complete copying the SMS message stream can be put in place.

8. State contracts with service providers should take GRAMA into account where possible and reasonable. For example, if reasonable state contracts with SMS

9. Regarding personal notes, the carveout in **63G-2-201(22)(b)(i)** for personal notes and communication should apply regardless of the technology used to create the record.

10. The vast flexibility in GRAMA creates a situation where (a) citizens find it difficult to navigate the various laws, rules, and regulations necessary get access to documents from multiple jurisdictions and (b) creating technology solutions for access to records is expensive and error prone. By way of example, we note with some consternation that there are 25,000 retention schedules in the State. Some effort to create consistency in how records are managed and classified would make it easier for the public to access documents and for technology systems to be created to automatically process many documents, saving time and money.