July 25, 2016

Subject: Recommendations for Developing Strategies for Retention and Preservation of State and Local Government Electronic Records.

Background

The following recommendations may be used by State and Local Government to develop management strategies for electronic records. It is critical for agencies to include their IT staff in the development of internal guidelines and procedures to control the creation, receipt, transmission, maintenance, and disposition of electronic records in accordance with these recommendations. Government agencies are responsible for ensuring that their electronic records are accessible, accountable, secure, serviceable and have met all administrative, legal and fiscal requirements for the duration of their retention period. Retention periods are determined by consulting the appropriate general and/or agency specific retention schedule(s). This is not a comprehensive list of actions but rather a starting point for discussions on policy development.

General Information Regarding Electronic Records and Retentions

- An electronic record is a record that is created, generated, sent, communicated, received or stored by electronic means
- The Delaware Public Archives (DPA) only accepts the transfer of electronic records for permanent preservation and does not accept any electronic records for temporary storage
- If records with differing retention are maintained in a single database, content management system, or the like which does not readily permit selective destruction, the records are to be destroyed in accordance with the longest retention period
- The destruction of Electronic Records requires a Destruction Notice authorized by the DPA. 29 *Del. C.* § 504(b)
- For additional information regarding record retention and retention schedules, please contact the Delaware Public Archives

Policy Development Recommendations

Accessibility and Inventory Control:
- Inventory procedures
- Procedures for checking storage media to ensure records are still accessible and that electronic formats are not obsolete (at least once per year)

Backup and Contingency Records:
- Frequency based on risk assessment and the entity's Recovery Point Objectives (tolerance for lost data)
- Backup functions are a Continuity of Operations tool and not a preservation tool

Legal Requirements:
- Consult with your agency's legal counsel to determine if there are any regulatory or statuary conditions or prohibitions as well as any evidentiary requirements
- Uniform Electronic Transactions Act (6 *Del. C.* c 12A)
- Uniform Real Property Electronic Recording Act (25 *Del. C.* c 1)

Preventing Obsolescence:
- Hardware must be upgraded periodically
- Software and file formats must be migrated to supported versions

Staff Role in Records Management:
- All staff should be informed of their responsibility to comply with their agency records management procedures and receive training appropriate to their role

Security:
- Prevention of accidental and unauthorized access to confidential or protected information
- Prevention of accidental deletion, modification or movement of records by setting system permissions to limit access
- Prevention of file corruption and technical failures

Vendor Agreements:
- Consult the State's Department or Technology and Information (DTI) or the local government equivalent
- Agencies and their IT staff should review DPA's Model Guidelines for Electronic Records during the planning process
- Records created, maintained and/or used by a vendor on behalf of state/local government agencies remain the responsibility of the state/local government agency
- Records must be managed in accordance with state and federal regulations, statutes, polices and applicable retention schedules.

Effective: July 25, 2016

References:
Delaware Public Records Law: 29 *Del. C.* c. 5
Delaware Uniform Electronic Transactions Act: 6 *Del. C.* c. 12A
Delaware Uniform Real Property Electronic Recording Act. 25 *Del. C.* c. 1
Delaware Public Archives: Model Guidelines for Electronic Records
Delaware Department of Technology and Information: State of Delaware Enterprise Standards and Policies
Department of Defense: Department of Defense Standard 5015.2 Electronic Records Management Software Applications Design Criteria Standard; April 25, 2007
ANSI/AIIM Standard TR31-2004 "Legal Acceptance of Records Produced by Information Technology Systems."
National Archives and Records Administration