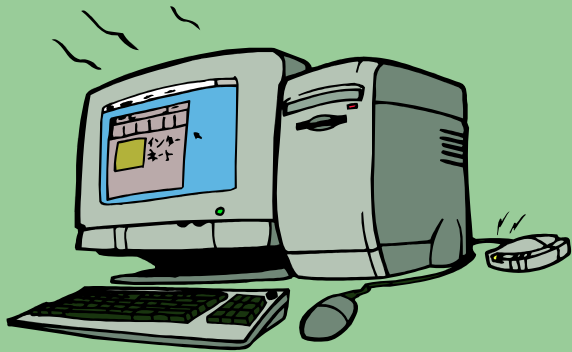


NAVIGATING TECHNOLOGY ISSUES IN GOVERNMENT



Florida Audit Forum

The Public Records Law defines "public records" to include:



all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, **regardless of the physical form, characteristics, or means of transmission**, made or received . . .in connection with the transaction of official business

Electronic Media



- Hard drives and storage media accessed, used or stored on, in, or through the following:
 - computers, networks, servers & archives
 - smartphones
 - digital and video cameras
 - printers, copiers, scanners,
 - any backups for these devices

Moving to “The Cloud”



General Records Schedule GS1-SL

Section VI

- Electronic records must be retained in accordance with the minimum retention requirements, whether the electronic records are the record copy or duplicates.
- Printouts of electronic communication (e-mail, text messaging, social networking, etc.) are acceptable if the printed version contains all date/time stamps and routing information.

Rule 1B-26.003

Florida Administrative Code

“Each agency which maintains public records in an electronic recordkeeping system shall provide to any person making a public records request . . . a copy of any data in such records which is not exempt from disclosure by statute. Said copy shall be on paper, disk . . . or any other electronic storage media requested by the person, if the agency currently maintains the record in that form.”

Public Records Retention and Disposition, 1B-24.003, F.A.C.

- Retention generally
- Retention of confidential information
- Disposition generally
- Disposition of confidential information
- Conversion of hardcopy records to digital format
- Confidential or exempt information must be destroyed in a way that ensures no unauthorized access

General Records Schedule GS1-SL

- When a public agency has been notified that a potential cause of action is pending, that agency should immediately place a hold on disposition of any and all related records.
- Public agency must maintain in native format any and all related and legally discoverable electronic files (printouts may not be acceptable).



Audit Exemption - Section 119.0713(2)(b)

Audit report of an internal auditor and the investigative report of the inspector general prepared for or on behalf of a unit of local government becomes a public record when the audit or investigation becomes final (when the report is presented to the unit of local government).

Audit Exemption – Section 119.0713(2)(b)

- Audit workpapers and notes related to such audit and information received, produced, or derived from an investigation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the audit or investigation is complete and the audit report becomes final or when the investigation is no longer active.

Metadata

```
[0].name  
msMessage  
"hidden"  
= [0].name
```

- Data about Data
- Examples of metadata include:
 - file designation
 - create and edit dates
 - authorship
 - comments
 - edit history

Fraud Hotlines – Reporting Anonymously



- Fraud may be reported anonymously through a hotline, however any written or e-mail material received or generated may become public record.
- “If you wish to report anonymously via e-mail, please do so through a public computer such as those located at the Public Libraries.”

Can you truly have a paperless government office?



Specific requirements when implementing an electronic record keeping system include:

- System must be secure
- System must provide for disposition of records
- Electronic records must be scanned with a density of 300 dots per inch (DPI), among other requirements



Facebook – AGO 2009-19

- Placement of information on a Facebook page communicates knowledge as anticipated by Public Records Law if made or received in connection with transaction of official business of government
- Post a warning regarding the application and implications of Public Records Law
- Follow record retention schedules

Twitter



- Inf. AG Op. to Shalley, June 1, 2016 - , “if the tweets the public official is sending are public records [because they were sent in connection with the transaction of official business] then a list of blocked accounts, prepared in connection with those public records ‘tweets’, could well be determined by a court to be a public record.” *Id.*

Text messages



- Texts regarding official city business are public records which must be preserved.
- Search of texts to properly respond to a public records request may be possible.
- A judge could request to search your cell phone in certain circumstances (in camera inspection).

Text messages - (City of Ontario v. Quon)

- Police officer sued City arguing search of text messages on city-issued pager was a violation of his Fourth Amendment privacy rights
- Because the search was motivated by a legitimate work-related purpose and not excessive in scope, the United States Supreme Court found there was no violation

The E-Workplace – Privacy Issues



- The expanding set of technology platforms and apps challenge employers on how to restrict, monitor and scrutinize and preserve employees' technology usage
- Employees' privacy rights vs. employers' information security programs, including the use of cloud technology, social media and other forms of communications

The E-Workplace – Privacy Issues

- What are the employers' rights to limit employees' social media posts and the ability to discipline for such posts if needed?
- What are the prohibitions on forced disclosure of personal log-in credentials?
- What are proactive steps employers can take to minimize risks of data theft and compliance with laws restricting the use of employees' biometric information (GINA)?

The E-Workplace – Privacy Issues

- Can have rules regarding personal technology usage during working hours
- Cannot violate first amendment rights of employees
- Cannot prohibit employees from posting regarding collective bargaining rights
- If providing digital access for employees, digital platforms must be accessible

Seen on internal audit websites near you – PDFs of the following:

- Fraud policy
- Audit plan
- Code of Ethics
- Annual audit report
- Internal audit policy and procedures manual
- Annual risk assessment



ADA Definition of Disability

- A physical or mental impairment that substantially limits one or more major life activities or
- A record of such impairment or
- Being regarded as having such impairment



Title II: Services and Programs

The ADA prohibits discrimination by any public entity against any qualified individual with a disability from receiving services, and/or participation in or be denied the benefits of services, programs or activities of the entity.



Website Accessibility – Common Barriers



- Persons with disabilities use “assistive technology” to access the internet
- People who are blind or have low vision may use screen readers (devices that speak text)
- Some use voice recognition software to control computers with verbal commands
- Poorly designed websites create barriers
- Reasonable accommodation language is probably not enough

Website Accessibility – Common Barriers

- Content that is not able to be adjusted by font, size or color contrast
- Audio information without captioning
- Flashing visual content
- Content organization (lack of titles, section headings, or ways to bypass blocks of info)
- Graphic images without labeling with “alternative text” (i.e. scanned PDFs)

Website Accessibility – Compliance

- Website accessibility policy or statement
- Provide as many accessibility features as possible
- Place Text or Icon on the Home Page for Accessibility Info
- Conduct website audits on a regular basis
- Conduct training on a regular basis
- Provide accessible PDF and other documents

Best Practices – Consult Resources

- Your City or County Attorney or General Counsel
- Title II Regulations
- The World Wide Web Consortium compiled a list of various sites that assess website accessibility at www.w3.org/WAI/ER/tools/complete
- Update, Update, Update

Updates are Crucial



Search ID: aba0350
"Due to recent technological advances,
everything I taught you about computers
is no longer valid."