NATIONAL ARCHIVES

Bulletin 2015-02

July 29, 2015

TO: Heads of Federal Agencies

SUBJECT: Guidance on Managing Electronic Messages

EXPIRATION DATE: Expires when revoked or superseded

1. What is the purpose of this Bulletin?

This Bulletin provides records management guidance for electronic messages. Specifically, this Bulletin applies to text messaging, chat/instant messaging, messaging functionality in social media tools or applications, voice messaging, and similar forms of electronic messaging systems. There are a wide variety of systems and tools that create electronic messages. This Bulletin will help agencies develop strategies for managing their electronic messages.

This Bulletin replaces the FAQ About Instant Messaging. This Bulletin does not contain guidance for email. For guidance on email and social media, see Question 11.

2. What are electronic messages?

The Federal Records Act was amended in November 2014 and added a new definition for electronic messages at 44 U.S.C. 2911. The law states, "The term 'electronic messages' means electronic mail and other electronic messaging systems that are used for purposes of communicating between individuals."

Electronic messaging systems allow users to send communications in real-time or for later viewing. They are used to send messages from one account to another account or from one account to many accounts. Many systems also support the use of attachments. They can reside on agency networks and devices, on personal devices, or be hosted by third party providers.

The following table includes a non-exhaustive list of types of electronic messaging and examples.

Types of Electronic Messaging	Examples
Chat/Instant messaging	Google Chat, Skype for Business, IBM Sametime, Novell Groupwise Messenger, Facebook Messaging

Text messaging, also known as Multimedia Messaging Service (MMS) and Short Message Service (SMS)	iMessage, SMS, MMS on devices, such as Blackberry, Windows, Apple, or Android devices
Voicemail messaging • Can have voicemail sent to email as an attachment. • Messages can be sent or received from landline or mobile phones	Google Voice, voice to text conversion
Other messaging platforms or apps, such as social media or mobile device applications. These include text, media, and voice messages.	Twitter Direct Message, Slack, Snapchat, WhatsApp, Pigeon, Yammer, Jive, or other internal collaboration networks

3. Can electronic messages be Federal records?

Electronic messages created or received in the course of agency business are Federal records. Like all Federal records, these electronic messages must be scheduled for disposition. Some types of electronic messages, such as email messages, are more likely to contain substantive information and thus are likely to require retention for several years, or even permanently.

At this time, current business practices make it more likely other types of electronic messages, such as chat and text messages, contain transitory information or information of value for a much shorter period of time. Regardless, agencies must capture and manage these records in compliance with Federal records management laws, regulations, and policies. As use of the electronic messaging systems changes over time, agencies will need to review and update these policies and procedures.

4. Can electronic messages created in personal accounts be Federal records?

Employees create Federal records when they conduct agency business using personal electronic messaging accounts or devices. This is the case whether or not agencies allow employees to use personal accounts or devices to conduct agency business. This is true for all Federal employees regardless of status. This is also true for contractors, volunteers, and external experts.

Personal accounts should only be used in exceptional circumstances. Agencies must provide clear instructions to all employees on their responsibility to capture electronic messages created or received in personal accounts to meet the requirements in the amended Federal Records Act.

The Federal Records Act (44 U.S.C. 2911 as amended by Pub. L. 113-187) states:

(a) IN GENERAL.—An officer or employee of an executive agency may not create or send a record using a non-official electronic messaging account unless such officer or employee—

(1) copies an official electronic messaging account of the officer or employee in the original creation or transmission of the record; or

(2) forwards a complete copy of the record to an official electronic messaging account of the officer or employee not later than 20 days after the original creation or transmission of the record.

Electronic messages created or received in a personal account meeting the definition of a Federal record must be forwarded to an official electronic messaging account within 20 days. The statutory definition of electronic messages includes email.

5. What are some of the records management challenges associated with electronic messages?

Agencies may face the following challenges with managing electronic messages:

- Electronic messaging systems are not designed with records management functionality, such as the ability to identify, capture, and preserve records;
- The use of multiple electronic messaging systems, types of devices to communicate, and service providers adds complexity to recordkeeping;
- Concern about ownership and control of the records created in third-party systems, such as Facebook or Twitter;
- Limited search capabilities to manage access and retrieval;
- Difficulty in associating messages with individual accounts or case files;
- Identification of appropriate retention periods within large volumes of electronic messages;
- Capture of complete records, including metadata and any attachments, in a manner that ensures their authenticity and availability;
- Development and implementation of records schedules, including the ability to transfer or delete records, apply legal holds on one or several accounts, or perform other records management functions; and
- Public expectations that all electronic messages are both permanently valuable and immediately accessible.

6. How should agencies address the records management challenges associated with the use of electronic messages?

Agencies may use the following list to identify, manage, and capture electronic messages:

- Develop policies on electronic messages that address some of the challenges listed above.

- Update policies when new tools are deployed or the agency becomes aware that employees are using a new tool.
- Train employees on the identification and capture of records created when using electronic messaging accounts, including when employees use their personal or non-official electronic messaging accounts.

- Configure electronic messaging systems to allow for automated capture of electronic messages and metadata. Removing reliance on individual users will increase ability to capture and produce messages.
- Consider how terms of service and privacy policies may affect records management before agreeing to use electronic messaging systems. In addition, where possible, agencies should negotiate amended terms that allow the agency to collect records from the electronic messaging systems.

- Use third-party services to capture messages, such as a service that captures all email, chat, and text messages created through agency-operated electronic messaging systems.
- Ensure electronic messages with associated metadata and attachments can be exported from the original system to meet any agency needs, including long term preservation.

7. What other information governance requirements are associated with electronic messages?

In addition to records management statutes and regulations, other information governance statutes and obligations apply to electronic messages and have implications for their management. Records officers should work with their agency's privacy office, Freedom of Information Act office, and General Counsel to ensure electronic messages are both protected from unauthorized disclosure and available for release or production when needed.

8. What should agencies consider when developing policies on the use of electronic messages?

Electronic messaging is a fluid, evolving technology and new tools are always being created. Agencies constantly balance the concerns of providing practical records management guidance with the needs of employees to use the best tools available to conduct agency business. Simply prohibiting the use of electronic messaging accounts to conduct agency business is difficult to enforce and does not acknowledge the ways employees communicate.

NARA recommends agencies provide the appropriate tools to employees, and where appropriate to contractors, volunteers, and external experts, to communicate and complete their work. By providing these tools, agencies maintain more control over the systems. Agencies can then determine a strategy to manage and capture content created in those systems. Agencies run the risk of employees conducting business on personal accounts when they do not provide these tools.

Records management staff should work with legal staff, information technology staff, and any other relevant stakeholders in the policy making process. This ensures the agency's overall information management strategy includes records management.

9. What possible approaches could agencies use to manage electronic messages?

Agencies are responsible for determining the best possible approaches to managing electronic messages. The following are possible approaches to consider.

Agencies should determine a minimum time frame to keep electronic messages in order to meet ongoing business, audit, and access needs. Electronic messages should be kept electronically in a searchable and retrievable manner.

Agencies should capture content from electronic messaging accounts whether administered by the agency or third-party providers. The ability to capture will be dependent on the capabilities and configurations of the electronic messaging system. By setting a capture point and determining a minimum time frame, agencies remove the need for employees to make message by message record determinations.

Agencies should consider adopting a Capstone approach to scheduling and managing electronic messaging accounts. They may implement policies and technology to capture all electronic messages in certain Capstone positions for permanent retention. Similarly, agencies may implement policies and technology for the temporary retention of non-Capstone officials' electronic messages. Extending the Capstone approach may help agencies with the challenges of managing electronic messages.

Regardless of the approach, agencies must have records schedules that cover electronic messages. The General Records Schedules provide disposition authority for administrative records common to all Federal agencies and may be applicable to some electronic messages. If an existing authority does not cover electronic messages that are records, agencies must develop a new disposition authority. Electronic messages may have short-term, long-term, or permanent value and will need to be scheduled and managed accordingly. By law, unscheduled records must be treated as permanent.

Agencies will need to transfer permanent electronic messages to NARA in accordance with the guidance in place at the time of the transfer.

10. How do agencies report the loss of electronic messages?

In accordance with the Federal Records Act (44 U.S.C. 2905(a) and 3106) and its implementing regulations (36 CFR Part 1230), when an agency becomes aware of an incident of unauthorized destruction, they must report the incident to the Office of the Chief Records Officer for the U.S. Government. The report should describe the records, the circumstances in which the unauthorized destruction took place, and the corrective steps being taken to properly manage the records in the future. If NARA learns of the incident before the agency has reported it, NARA

will notify the agency and request similar information. The goal of this process is to ensure that the circumstances that may have led to the loss of Federal records are corrected and that similar losses do not occur in the future.

11. What other NARA guidance is available for email and social media?

For related guidance about email or social media, see the following:

- 2014-06: Guidance on Managing Email, September 15, 2014 as transmitted by OMB M-14-16
- 2014-04: Revised Format Guidance for the Transfer of Permanent Electronic Records, January 31, 2014
- 2014-02: Guidance on Managing Social Media Records, October 25, 2013
- 2013-03: Guidance for Agency Employees on the Management of Federal Records, Including Email Accounts, and the Protection of Federal Records from Unauthorized Removal, September 09, 2013
- 2013-02: Guidance on a New Approach to Managing Email Records, August 29, 2013

12. Whom do I contact for more information?

Agency staff should contact their agency records officers to discuss records management issues for electronic messages. Your agency's records officer may contact the NARA appraisal archivist with whom your agency normally works.

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