



# JOINT CIRCULAR

## STATE OF NEW JERSEY

### DEPARTMENT OF THE TREASURY

NO.: 14-12-DORES/OIT	ORIGINATING AGENCIES: DIVISION OF REVENUE AND ENTERPRISE SERVICES (RECORDS MANAGEMENT SERVICES) OFFICE OF INFORMATION TECHNOLOGY	PAGE: 1 OF 8
EFFECTIVE DATE: APRIL 4, 2014	EXPIRATION DATE: INDEFINITE	SUPERSEDES: N/A
SUBJECT: ENTERPRISE ELECTRONIC MAIL RETENTION AND DISPOSITION FRAMEWORK		
ATTENTION: AGENCY HEADS, CHIEF ADMINISTRATIVE OFFICERS, CHIEF TECHNOLOGY OFFICER/INFORMATION TECHNOLOGY MANAGERS AND RECORDS MANAGEMENT LIAISONS		
FOR INFORMATION CONTACT: DIVISION OF REVENUE AND ENTERPRISE SERVICES PHONE: (609) 530-3201 E-MAIL: DORInfo@treas.state.nj.us		

#### I. PURPOSE

This Circular establishes a framework for managing the general retention and disposition of electronic mail (e-mail) produced, received and/or stored by State government agencies. All Executive Branch agencies are required to address the foundational elements listed in Section IV.A and adopt the Enterprise E-mail Retention and Disposition Program outlined in Section IV.B no later than one calendar year following the signature date.

By implementing this framework, agencies will help to ensure e-mail messages and attachments are managed as public records per the Destruction of Public Records Act, P.L. 1953, c. 410 (N.J.S. 47:3-16), enhancing State government's capacity to capture, retain and dispose of all electronic records uniformly. Compliance with the framework will also improve State government's ability to meet the requirements of the New Jersey Open Public Records Act (OPRA) efficiently by establishing how long e-mail and attachments must be maintained, and how and when to dispose of the content in an orderly, documented and accountable manner. Storage and operational efficiencies will result from timely disposition of e-mail and attachments in accordance with approved retention periods.

#### II. SCOPE

All Executive Branch agencies that use a system to transport e-mail messages and attachments from one computer user to another are required to implement the framework. E-mail systems range from local systems that move messages to users within an agency or office over a local area network (LAN), to enterprise-wide systems that carry messages over a wide-area network (WAN), to systems that send and receive messages over the Internet.

Systems maintained by Executive Branch agencies or by third-party service providers on behalf of any agency, whether on State office premises or on the service provider's premises, are covered by the framework.

All e-mail content produced, received and stored by Executive Branch e-mail systems is within the scope of the framework. This applies to all of the elements of the content, including messages, attachments and system-produced information that describe the content (meta-data). E-mail content from both current and legacy (decommissioned) systems is within the scope of the framework.

### III. AUTHORITY

Two bodies of law serve as the basis for the framework.

First, the Open Public Records Act (OPRA), P.L. 2001, c. 404 (N.J.S.A. 47:1A-1.1) defines a "government record" or "record" as:

*"... any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material."*

For the purposes of OPRA compliance, e-mail messages and attachments that serve to document organizational functions, policies, decisions, procedures, operations or other official activities meet the definition of a government record. Such content must therefore be available to the public *for the length of its designated retention period*, unless it falls under one of the exceptions enumerated in the law.

Second, all public records defined in State law (N.J.S.A. 47:3-16), *whether open to public access or not*, must be retained according to records retention and disposition schedules approved by the State Records Committee (N.J.S.A. 47:3-20).

The definition for public records under N.J.S.A. 47:3-16 states in part:

*"... public records mean any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, data processed or image processed document, sound recording or in a similar device, or any copy thereof, that has been made or required by law to be received for filing, indexing, or reproducing by any officer, commission, agency, or authority of the State or any political subdivision thereof, including any subordinate boards thereof, or that has been received in the course of his or its official business by such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof, in connection with the transaction of public business and has been retained by such recipient or its successor as evidence of its activities or because of the information contained therein."*

Given the definition above, e-mail, attachments and associated meta-data fall within the scope of the public records law set forth in N.J.S.A. 47-3 et seq.

#### IV. FRAMEWORK

The framework consists of six foundational elements (IV.A) and an aligned e-mail retention and disposition program (IV.B).

The retention and disposition program is based on a broadband seven-year retention period that **encompasses existing (approved) records retention schedules** for most common types of records including internal and external correspondence, agency fiscal records and subject file material. This approach facilitates e-mail management, but at the same time entails drawbacks that will be addressed over time. For example, it does not address the segregation and deletion of non-record and transient e-mail messages, or more timely disposition of short-term retention items such as non-policy related internal correspondence (see the NJ Records Manual, Chapter 7, for a discussion of e-mail record types – <http://www.nj.gov/treasury/revenue/rms/RecordsManual.shtml>). Also, the approach does not provide for any degree of granularity with regard to distinguishing record copies (official versions) and duplicates.

Despite these drawbacks, **as a starting point**, the approach is simple enough for most agencies to implement and manage on a continued basis. Moreover, as e-mail, records and content management technologies and techniques evolve and improve, agencies will be able to adopt practices that address these drawbacks. In the same connection, looking forward, the framework will evolve and encompass these new practices. Finally, the framework does not mandate that agencies effectuate e-mail records disposal actions. It merely provides a rules-based framework that enables agencies to implement such actions in an accountable fashion.

##### A. Foundational Elements

Agencies must implement, or otherwise have in place, the following foundational elements no later than 180 days following the effective date of this Circular and in advance of signing the Certificate of Participation outlined in B.1 below.

1. Acceptable use policies covering e-mail and the Internet. Acceptable use policies describe the permissible uses of e-mail and the Internet (a resource aligned with e-mail usage), employees' responsibility with respect to these permitted uses, and the potential sanctions for non-compliance. The State's policies can be found at <http://www.state.nj.us/it/ps/fullindex/>.

**Ensure each employee receives and reviews these policies.**

2. Litigation hold process. A legal hold is a communication issued as a result of current or reasonably anticipated litigation, audit, government investigation, or other such matter that suspends the normal disposition or processing of records. Legal holds may encompass procedures affecting data that is accessible as well as data that is not reasonably accessible. A legal hold directs recipients to identify and locate records pertaining to the matter or subject of the legal hold and is an order to cease destruction and preserve all records, regardless of form, related to the nature or subject of the legal hold. Overall, the litigation hold process covers the agency's obligation to identify and preserve records, including e-mail and attachments, which are relevant to civil and criminal proceedings. Broadly, it encompasses the technical and operational requirements for identification, preservation, and, ultimately, production and presentation of relevant records. See the New Jersey Records Manual for background information on the process – <http://www.nj.gov/treasury/revenue/rms/RecordsManual.shtml>.

**Ensure all e-mail system administrators, records custodians and legal advisers are aware of and can respond effectively to litigation hold requests.**

3. OPRA response/tracking process. As noted, because e-mail messages and attachments serve to document organizational functions, policies, decisions, procedures, operations or other official activities, all such content meets the definition of a government record under OPRA. The content must,

therefore, be available to the public *for the length of its designated retention period*, unless it falls under one of the exceptions enumerated in the law.

**Ensure all e-mail system administrators, records custodians and legal advisers are aware of and can respond effectively to OPRA requests. See the Government Records Council's guidance to records custodians for more information – <http://www.nj.gov/grc/custodians/>. Also, call the OPRA contact line at 866-850-0511.**

4. E-mail vaulting/journaling platform combined with central management of end-user e-mail boxes. Institute an e-mail vaulting/journaling platform that makes exact copies of all content flowing from/to individual e-mail mailboxes, across the agency, to a separate, secure and centrally controlled repository that allows authorized agency end-users to access their vaulted/journaled content. Also, ensure the platform can manage all *end-user mailbox content* from a centralized console. In this context, centralized management includes the ability to copy, move, transfer, and delete end-user e-mail boxes or selected content from the e-boxes by an authorized system administrator.

**The State Enterprise Messaging system – which the Office of Information Technology (OIT) plans to implement during the course of Calendar Year 2014 with on-premises and cloud-based versions – will include the requisite vaulting/journaling and central management features.**

5. System security. Develop and document technical, procedural and physical controls that will be applied:

- a) To prevent unauthorized or unintended access, use, distribution, modification, or destruction of e-mail records; and,
- b) To assure message authenticity, integrity and retrievability/usability over time. Generally, this is the responsibility of information officers and, if applicable, any third-party service providers.

**The State Enterprise Messaging system – which the Office of Information Technology (OIT) plans to implement during the course of Calendar Year 2014 with on-premises and cloud-based versions – will include the requisite system security.**

6. E-mail back-up/recovery and disaster recovery/continuity of operations programs. Develop, implement and document a back-up and recovery program for both real time e-mail and content archive content, and institute a fail-over disaster recovery/continuity of operations capability for the e-mail system.

**The State Enterprise Messaging system – which the Office of Information Technology (OIT) plans to implement during the course of Calendar Year 2014 with on-premises and cloud-based versions – will include the requisite features in this area.**

**NOTES ON BEST PRACTICE:** End-user awareness and training programs will help agencies achieve success with regard to e-mail retention and disposition. See the Department of the Treasury's NJ Records Management Services Video Overview, especially the segments on "Electronic Records, E-mail and Storing E-mail," at <http://www.nj.gov/treasury/revenue/rms/training.shtml> for an example of introductory training in this area.

The State Enterprise Messaging system, which features centralized management of e-mail content, will address the general retention and disposition of e-mail associated with employees who separate from State government service. However, agencies may still wish to develop their own policies that address how former employees' e-mail is handled – e.g., providing for review of the e-mail and designating the individual(s) who will have continued access to it prior to its authorized disposition.

E-mail retention and disposition requirements apply to all e-mail systems and content – current and any legacy systems/content. Therefore, if agencies are updating to new e-mail systems, they should arrange to have e-mail from the legacy system either migrated to and managed by the replacement system's archive/journal facility, or manage the legacy content by storing it on accessible, readable and secure media for the length of the latest retention period for any record series involved.

Agencies should also direct their internal and/or third-party audit teams to include checks for compliance with general records management requirements, including this framework.

#### **B. Retention and Disposition Program Elements**

Agencies must formally adopt and administer the Enterprise E-mail Records Retention and Disposition Program by completing the steps below. Note that the program is based on, and designed to operate in conjunction with, basic records management program concepts and practices, which are covered in the New Jersey Records Manual (<http://www.nj.gov/treasury/revenue/rms/RecordsManual.shtml>).

Agencies are encouraged to review the manual *before* adopting the Enterprise E-mail Retention and Disposition Program and to contact the Department of the Treasury's Records Management Services Unit for guidance and support on general records management.

**1. Sign the Certificate of Participation.** Once the foundational elements noted in Section 3 are in place, each agency Chief Technology Officer or Chief Administrative Officer shall adopt the Enterprise E-mail Records Retention and Disposition Program by signing the Enterprise E-mail Certificate of Participation (E-COP) attached to this circular letter and e-mailing the signed version to [DORInfo@treas.state.nj.us](mailto:DORInfo@treas.state.nj.us). By signing, the agency attests that it:

- a) Has all of the foundational elements listed in Section A above in place.
  - b) Acknowledges all e-mail content produced, received and/or stored by agency employees during the course of official business is considered a public record, and that this status applies to all of the elements of the content, including messages, attachments, and system-produced information that describes the content (meta-data). As such, e-mail content may be subject to disclosure/retention under the provisions of OPRA at N.J.S.A. 47:1A et seq. and the provisions of the public records law at N.J.S.A. 47:3 et seq.
- 2. Is aware of its responsibility for ensuring that e-mail content is available for public inspection in accordance with OPRA and for adhering to records retention and disposition requirements set forth in the public records law.**
- a) Will keep records for the State Enterprise Retention Period of seven years, meaning that any record series that must be kept seven years or less can be maintained in the e-mail system, and content from the e-mail system may be used as the source for record copies of such record series. (A record series is a group of identical or related records that is normally filed together and evaluated as a unit to determine how long it should be maintained. Examples include internal and external correspondence, subject files and most fiscal records. Record copies are the original or official versions of records.) The Division of Revenue and Enterprise Services will publish the record series used to identify e-mail content subject to the Enterprise Retention Period on its Records Management Services web page at <http://www.nj.gov/treasury/revenue/rms/index.shtml>
  - b) Will manage e-mail records subject to the seven-year retention period centrally via a vault or journaling system and manage end-user e-mail boxes centrally with respect to disposition actions. Specifically, e-mail content stored in end-users' mailboxes that falls under the Enterprise Retention Schedule and is seven years or older at the time an agency proceeds

with an authorized disposition action, will be disposed of along with the centrally stored record copy versions. (See next point on electronic records cumulative retention periods exceeding seven years.)

- c) Will, within two calendar years following the effective date of this Circular, identify all electronic records, including e-mail, with cumulative retention periods exceeding seven years and maintain them in a separate records storage system(s) or in separate electronic e-mail folders for the required time periods, using an Electronic File Plan (E-FP) that documents the location of the records and their retention periods. Authorizations for disposition of these longer-term retention items will also flow through the disposition program outlined in 2 below. Agencies shall work with the Department of the Treasury's Records Management Services Unit 609-530-3201 or [DORInfo@treas.state.nj.us](mailto:DORInfo@treas.state.nj.us) to develop the E-FP.\*

**\*Option:** With regard to the Electronic File Plan (E-FP), agencies may work with Records Management Services to include specific electronic records that may be disposed of in less time than the seven-year broadband retention period, and incorporate them into the plan for use in the Enterprise disposition process. Note, however, that if agencies wish to use this option, they must demonstrate to Records Management Services that they can identify and segregate, for disposition purposes, e-mail with shorter-term retention periods accurately and on a consistent basis.

- d) Will adhere to the Enterprise standard records disposition process for e-mail set forth below.

**NOTES ON BEST PRACTICE:** Best practice with respect to handling e-mail records with longer-term retention periods (seven years or more in the context of Framework 2) includes the development of classification schemes based on key words and other identifiers (such as institutional roles/titles, business processes or system user names) that allow staff, or preferably an automated system, to flag in-bound and out-bound communications for segregation and longer-term maintenance. Further, agencies may wish to consider moving longer-term retention content to file shares or more advanced collaboration and information access sites, and then applying access and disposition policies via these platforms.

3. Implement the Enterprise e-mail disposition process. The Agency Chief Technology Officer or Chief Administrative Officer of each participating agency shall implement the disposition program by executing the steps below at least once per year. (The responsible officer should coordinate all actions as applicable with OIT and/or or by third-party service providers.)

- a) Identify vaulted/journaled and end-user e-mail content that is eligible for disposition – i.e., e-mail that the agency *has not* listed in its Electronic Filing Plan as having retention periods greater than seven years and that is *aged to seven years*.\*
- b) Document the impending disposition action by submitting a Request and Authorization for Records Disposal to the Division of Revenue and Enterprise Services. Agencies may request forms and procedures by writing to [DORInfo@treas.state.nj.us](mailto:DORInfo@treas.state.nj.us). Note that the Division will provide an online request process as soon as possible. The online system, which is now accessible to county and local agencies, can be found at <http://www.state.nj.us/treasury/revenue/rms/artemis.shtml>.
- c) Upon clearance to proceed, segregate and securely delete the aged e-mail content (from central storage, end-users' mailboxes and, if applicable, back-up media).
- d) Document the destruction actions as required by the Request and Authorization process noted above.

\*After the agency develops the Electronic File Plan discussed in Section IV.B.1.f, it may also employ the disposition process outlined above by applying the applicable retention periods. In cases involving records identified as "Archival" or requiring "Archival Review," agencies should contact the State Archives through the Records Management Services Unit to arrange for any transfer actions (to the Archives) that may be required.

4. Implement and administer an annual e-mail system sustainability assessment. In conjunction with OIT and the Department of the Treasury's Records Management Services Unit, the Agency Chief Technology Officer or Chief Administrative Officer of each participating agency shall conduct a sustainability assessment each year to gauge the ongoing viability of the agency's e-mail system and/or any need to consider system upgrades or content migration strategies. The baseline requirements for the assessment can be found in the New Jersey Records Manual, Chapter 10 (<http://www.nj.gov/treasury/revenue/rms/RecordsManual.shtml>).

The Department of the Treasury's Records Management Services Unit will assist agencies in conducting these assessments (609) 530-3201 or [DORInfo@treas.state.nj.us](mailto:DORInfo@treas.state.nj.us).



---

James J. Fruscione, Director  
Division of Enterprise Services



---

E. Steven Emanuel, Chief Technology Officer  
Office of Information Technology  
State Chief Information Officer

**State of New Jersey  
Department of the Treasury  
Records Management Services  
Enterprise E-mail Certificate of Participation**

This Certificate is associated with Joint Circular 14-12-DORES/OIT, which establishes a framework for managing the general retention and disposition of electronic mail (e-mail) produced, received and/or stored by State government agencies. By implementing the framework, agencies will help to ensure that the e-mail messages and attachments they send and receive are managed as public records per the Destruction of Public Records Act, P.L. 1953, c.410 (N.J.S. 47:3-15). The CL is attached and incorporated herewith by reference.

By signing this Certificate, the signee confirms that the agency he or she represents:

1. Has implemented all of the foundational elements required for participation in the program (Section IV.A of the CL).
2. Is now adopting the Enterprise E-mail Records Retention and Disposition Program (Section IV.B of the Circular).
3. Will, within two calendar years following the signature date of this Certificate, identify all electronic records, including e-mail, with cumulative retention periods exceeding seven years, and maintain them in a separate records storage system(s) or in separate electronic e-mail folders for the required time periods, using a documented Electronic File Plan as the basis for the storage arrangement.

<b>Signature</b>	<b>Date</b>
<b>Name (Printed)</b>	<b>Title</b>
<b>Department/Agency</b>	<b>Division/Office</b>