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Department of Health and Human Services
Records Management Program

Records Management Inspection Report

National Archives and Records Administration
October 1, 2018

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
RECORDS MANAGEMENT PROGRAM**

INSPECTION REPORT

INTRODUCTION

The National Archives and Records Administration (NARA) is responsible for assessing the proper management of records in all media within Federal agencies to protect rights, assure government accountability, and preserve and make available records of enduring value.¹ In this capacity, and based on authority granted by 44 United States Code (U.S.C.) 2904(c)(7) and 2906, NARA conducted an inspection of the Department of Health and Human Services (HHS) departmental records management program in June 2018.

The purpose of this inspection was to examine how well the HHS records management (RM) program and HHS agencies and office RM programs communicate and cooperate in order to develop and implement effective records management throughout the Department in compliance with Federal records management statutes and regulations. In addition, this inspection included other foundational aspects of the departmental records management program including, but not limited to: directives, training, program evaluations, electronic records and email.

This inspection focused specifically on RM standards, policies, procedures, and practices at the Department level and their impact on agencies and offices. It also examined the controls the Department has implemented to mitigate risks associated with non-compliant handling of records and information and to ensure that departmental policies and procedures are effectively implemented. The HHS agencies and offices were not the focus of this inspection and are included here only to the extent that they intersect with, and to some degree, rely upon the departmental program to be effective.

OVERVIEW OF THE HHS RECORDS MANAGEMENT PROGRAM

The HHS Departmental Records Management program is staffed by one full-time person who serves as the Departmental Records Officer (DRO), and one additional full-time person, both of whom spend 33 percent of their time managing the HHS RM program. The other percentage of their time involves Paperwork Reduction Act (PRA) and Controlled Unclassified Information (CUI) program responsibilities. The DRO also receives support from the Office of the Secretary Records Officer (RO). The DRO is aligned under the Chief Information Officer (CIO) located within the Office of the Assistant Secretary for Administration.

The HHS records management program is decentralized with the DRO providing departmental policy and guidance in support of 11 Operating Divisions (OPDIV) including the Office of the Secretary. The 11 OPDIVs have an assigned RO to administer the RM programs throughout the Department. The OPDIVs vary in size, with the larger ones having 10,000 to 37,000 federal

¹ 44 U.S.C. Chapter 29, <http://www.archives.gov/about/laws/records-management.html>.

employees and contractors, and their own networks and information systems. The smaller OPDIVs, with 200 to 1,000 employees and contractors, share the same network and systems of the Department or one of the larger OPDIVs. Each of the OPDIVs also oversee numerous centers and regional offices throughout the nation for which the ROs are responsible. Some ROs have dedicated RM staff and all have established networks of Records Liaisons at various levels.

The NARA inspection team identified areas of weakness that put the HHS records management program at risk for non-compliance with elements of 36 Code of Federal Regulations (CFR) Chapter XII, Subchapter B. Failure to manage records in a compliant manner increases the risk that records will not be readily accessible for business needs, and for accountability to Congress and the public. It also increases the risk of loss of Federal data and records, and that permanent records may not be retained for eventual transfer to the National Archives, as required by 44 U.S.C. 3101.² To help mitigate the risks associated with non-compliance, this report makes 3 findings and 3 recommendations. Follow-up actions required for HHS and NARA are included in Appendix C.

KEY OBSERVATION

COMMUNICATION AND COLLABORATION

During the course of the inspection, it became clear that the RM programs of HHS's larger OPDIVs operate independently of the HHS RM program, and that little collaboration and sharing between the records officers occurred in the past. Many of HHS's OPDIVs have strong and mature RM programs with very experienced records officers assigned to them, such as the Food and Drug Administration (FDA), the Health Resources and Services Administration (HRSA), the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry (CDC/ATSDR), the Centers for Medicare and Medicaid Services (CMS), the National Institutes of Health (NIH), and the Agency for Healthcare Research and Quality (AHRQ). The records officers in each of these OPDIVs have worked hard to establish strong RM programs, garner internal senior level support and resources, and develop effective RM programs with each implementing practices that would be of benefit if shared with the entire Department.

To establish closer working relationships, the DRO has already contacted all of the OPDIV ROs and has reinstated the HHS Records Officer Council (ROC) holding bi-monthly meetings to improve communications, collaboration, and sharing of RM program information among the HHS OPDIV ROs. This effort by the DRO, with support from the CIO, has set the foundation for HHS ROs to work collaboratively and share information and best practices already in place in HHS OPDIVs. This includes discussions among HHS's ROs to improve areas of the program such as whether department-wide schedules would be beneficial to the Department, replacing the Department's current portal for disseminating RM information, sharing RL training materials, and applying program evaluation practices working well in some of the OPDIVs. The DRO has also begun briefing the HHS CIO Council to provide updates of HHS's RM programs and Departmental efforts to meet the M-12-18 goal of managing permanent records electronically.

² 44 U.S.C. Chapter 31, <https://www.archives.gov/about/laws/fed-agencies.html#records>.

NARA acknowledges that Federal regulations do not require agency ROs to communicate, coordinate, or collaborate amongst themselves within their Department, but only with their SAORM as defined in NARA Bulletin 2017-02.³ NARA has found, however, that Departments and agencies with strong communication channels between the Department and its components ROs often develop mature and compliant RM programs, minimizing risk to their records. NARA commends the DRO and OPDIV ROs for their efforts to improve communications and share information to benefit the program throughout the Department, and therefore, does not make any specific finding and recommendation in this area. NARA will monitor progress in this area through future inspections of HHS OPDIVs and through data collected annually in the Records Management Self-Assessment (RMSA).⁴

FINDINGS AND RECOMMENDATIONS

PROGRAM MANAGEMENT

Finding 1: The Department has not appointed a Senior Agency Official for Records Management.

The Office of Management and Budget (OMB)/NARA *Managing Government Records Directive* (M-12-18) requires Federal agencies to designate a Senior Agency Official for Records Management (SAORM) who has “overall agency-wide responsibility for records management,” which includes “coordinating with the Agency Records Officer and appropriate agency officials to ensure the agency’s compliance with records management statutes and regulations.”⁵ Key SAORM responsibilities include providing executive level support, strategic direction, and advocacy for the RM program, particularly in areas that need improvement. OMB Circular A-130, *Managing Information as a Strategic Resource*, and NARA Bulletin 2017-02, *Guidance on Senior Agency Official for Records Management*, provide further guidance for the SAORM and define the SAORM’s role and responsibilities.⁶

At the time of the inspection, the HHS SAORM position had been vacant since March 2018. Appointing a SAORM is critical to establishing the strategic direction for records management within HHS, enabling the DRO to leverage executive-level support for more resources from senior leaders throughout the Department, and providing overall oversight for the Department’s RM programs.

Recommendation 1: The Department must appoint a SAORM to provide leadership, resources, and ensure accountability for compliant RM programs throughout the Department. (OMB/NARA M-12-18 and NARA Bulletin 2017-02)

³ NARA Bulletin 2017-02, <https://www.archives.gov/records-mgmt/bulletins/2017/2017-02-html>.

⁴ NARA RMSA, <https://www.archives.gov/records-mgmt/resources/self-assessment.html>.

⁵ OMB/NARA M-12-18, <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

⁶ OMB Circular A-130, <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A130/a130revised.pdf>.

Finding 2: The Department’s RM strategic plan is in draft form and has not been implemented.

In 2013, HHS developed a draft Electronic Records Management Roadmap laying out a vision and plan to meet the requirements in OMB/NARA Memorandum M-12-18. The draft roadmap, which was never implemented, listed common goals for managing electronic records and email, and a plan for identifying and scheduling unscheduled records, completing RM training at all levels, and prioritizing improvements for the RM programs of the OPDIVs based on an analysis of the Department’s previous RMSA results. Some of the larger OPDIVs have since drafted or developed their own RM strategic plans with performance goals and measures, many of which have the same goals identified in the Department’s 2013 draft roadmap. The smaller OPDIVs rely on the Department for strategic planning, policy, and training, and are waiting for the Department’s roadmap.

Recommendation 2: The SAORM, the DRO and RM Council must update and approve a Departmental RM strategic plan/roadmap that establishes goals to improve and strengthen the RM programs in HHS. (36 CFR 1222.26(e) and OMB Circular A-130)

Finding 3: The Department’s RM policy is missing key areas including managing electronic records in cloud environments and information for handling and reporting allegations of unauthorized disposition.

The Department’s RM policy, dated June 22, 2016, provides basic information for roles and responsibilities and policies for most areas of RM including the identification, creation, organization, maintenance, and use of records. It also includes information for the scheduling of records, mandates training, evaluations, and the use of file plans; as well as policies for managing electronic records including social media and instant messaging; and references other policies for managing email and litigation holds. It also contains policies for maintaining the custody and control of records when employees depart HHS. What it lacks are policies for managing electronic records in cloud environments and for handling allegations related to the unauthorized disposition of Federal records.

OMB Circular A-130 requires Federal agencies to fully incorporate “records management functions and retention and disposition requirements into information life cycle processes and stages, including the design, development, implementation, and decommissioning of information systems, particularly Internet resources to include storage solutions and cloud-based services such as software as a service, platform as a service, and infrastructure as a service.” Many of HHS’s OPDIVs are using Microsoft SharePoint cloud services to store and manage electronic records. While HHS’s Enterprise Performance Life Cycle (EPLC) Framework and Capital Planning and Investment Control (CPIC) processes involve the ROs and incorporate RM requirements into system development processes, HHS’s RM Policy does not include cloud platforms or environments when managing electronic records.

In addition, HHS’s RM policy has no information for handling and reporting allegations of unauthorized disposition due to accidental or intentional destruction of records. Federal regulation requires agencies to establish policies and procedures and to notify NARA when

unauthorized disposals occur. Agencies then must investigate such incidents, determine their cause, and explain how the situation will be mitigated to prevent future incidents.

Recommendation 3.1: The Department must update its RM policy to include policies for managing records in cloud environments. (36 CFR 1236)

Recommendation 3.2: The Department must update its RM policy to include policy and procedures for handling and reporting unauthorized dispositions. (36 CFR 1230)

OTHER OBSERVATIONS

SENIOR LEADERSHIP SUPPORT

While an SAORM has not yet been designated at the Department level, the FDA has its own SAORM and CMS has a senior executive official providing similar support. Both OPDIV ROs stated they receive very good support from their SAORM and senior executive respectively for their RM programs. Other OPDIV ROs have expressed a desire to appoint a SAORM in their OPDIV, with only two OPDIVs indicating that they could use more internal support from their CIOs for their programs. Fulfillment of Recommendation 1 will strengthen senior leader support across the Department and offer more support to the two OPDIVs that need it. The ROC also offers the opportunity to identify which OPDIVs could further benefit by appointing additional SAORMs in HHS.

RM INTEGRATION INTO IT PROCESSES

HHS has successfully integrated RM into IT processes using HHS's EPLC Framework process and involving the OPDIV ROs in other IT and contracting processes. The EPLC Framework is particularly noteworthy in that it establishes the ROs as a "critical partner" in all phases of HHS's project management processes. Several of the OPDIV ROs that utilize the EPLC Framework have found it to be very effective to ensure RM requirements are incorporated into electronic information systems (EIS) containing records, and also in scheduling those systems. The OPDIV ROs that have not utilized the EPLC framework have established other means for integrating RM into IT processes, such as becoming a member of OPDIV Technical Review Boards (TRB) and CPIC. One OPDIV RO is also involved in the contract review process to ensure RM requirements are captured for all OPDIV systems containing records.

ELECTRONIC RECORDS MANAGEMENT

Most of HHS's ROs are focused on implementing the goal of managing permanent electronic records electronically (M-12-18, Goal 1.1). Two of the OPDIVs (AHRQ and SAMHSA) are close to meeting the requirement based on NARA's *Criteria for Successfully Managing Permanent Electronic Records*.⁷ Five of HHS's larger OPDIVs currently store and manage their electronic records using Microsoft SharePoint's Records Management Extension, while other

⁷ Success Criteria for Managing Permanent Electronic Records, <https://www.archives.gov/files/records-mgmt/policy/2019-perm-electronic-records-success-criteria.pdf>.

OPDIVs are using structured shared drives. Many of these efforts are the result of several digitization projects originally initiated due to building consolidations, downsizing, and paperwork reduction efforts that have evolved into a common initiative to manage all electronic records electronically. Two of the OPDIVs developed their own or used NARA's Universal Electronic Records Management (ERM) Requirements (NIH and CMS respectively) to implement their current solutions.⁸

FDA and HRSA are currently testing the use of EMC[®] Documentum Records Manager, configured and connected to HHS's Microsoft SharePoint platform. Their goals are to expand the RM capabilities not readily available in SharePoint's Records Management Extension, and to lower the storage costs of records in SharePoint. The DRO is monitoring this effort with the overall goal of ensuring the OPDIVs meet the M-12-18 Goal by December 2019.

EMAIL MANAGEMENT

HHS and all of its OPDIVs have successfully coordinated and implemented the Capstone approach to managing email using General Records Schedule (GRS) 6.1.⁹ The Department and its OPDIVs maintaining their own email systems received approval from NARA in 2016 to implement the Capstone approach and have developed implementing instructions for use throughout the Department.

RM TRAINING

HHS policy requires all employees and contractors to receive RM training within 30 days of employment, and annually thereafter. The Department developed a custom RM training course for all OPDIVs that is available in HHS's Learning Management System. In addition, HHS policy requires all incoming and outgoing senior officials and political appointees to receive RM training for managing, preserving, and disposing of records under their immediate control. A Departmental form is used to document the chain of custody for records received from departing officials.

All of HHS's OPDIVs provide new employee RM orientation and annual RM refresher training that is tracked by the OPDIV ROs. The CDC, FDA, and NIH also provide tailored training to include OPDIV unique information, and additional role-based training courses or hands-on training for RLs. CDC/ATSDR, in particular, developed very thorough role-based training courses with topical knowledge checks for employees, RLs and Senior RLs.

INTERNAL EVALUATIONS

HHS's five largest OPDIVs (NIH, FDA, IHS, CDC/ATSDR, and HRSA) conduct formal evaluations or assessments of its RM programs, with other OPDIVs conducting informal staff assistance visits. At the time of the inspection, the Department was making plans to initiate

⁸ Universal ERM Requirements, <https://www.archives.gov/records-mgmt/policy/universalerrequirements>.

⁹ NARA Bulletin 2013-2, <https://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html>; GRS 6.1, <https://www.archives.gov/files/records-mgmt/grs/grs06-1.pdf>.

formal evaluations of the OPDIVs. It is important to note that most of the five OPDIVs conducting formal evaluations receive very good support from their senior leaders and are very well resourced with additional RM staff supporting the OPDIV ROs, and some with RM program budgets.

Particularly noteworthy are the evaluation practices of HRSA, FDA, CDC/ATSDR, and NIH. HRSA initiated formal evaluations in January 2017, developing comprehensive planning documents and templates for questionnaires, formal reports, and action plans. HRSA's evaluation reports also include a maturity model, cross walked with the questionnaire, providing office supervisors with a score along with recommendations. Supervisors are required to sign and submit a formal response with corrective actions that the HRSA RO tracks. FDA, CDC/ATSDR, and NIH also have similar formal evaluation practices that have been in-place for a few years, with evaluations that were in progress at the time of the inspection. The evaluation practices of these OPDIVs serve as a model for the DRO and the SAORM to implement across the Department to ensure compliance and make program improvements where needed.

CONCLUSION

Overall, HHS has a number of strong and mature RM programs in its OPDIVs with good practices in the areas of RM integration into IT processes and training and evaluations that can be shared to improve and strengthen the RM programs throughout the Department. HHS's implementation of Capstone GRS 6.1, and efforts towards meeting the requirement to manage permanent electronic records electronically also show very good progress towards meeting the M-12-18 requirements to manage permanent electronic records electronically by December 31, 2019.

While many aspects of the HHS RM program are well established and contain many strengths, making the improvements recommended in this report, such as appointing a new SAORM and updating its strategic plan and policies, will help mitigate risks to departmental records, further strengthen the HHS's Departmental and OPDIV RM programs, contribute to the Department's overall mission, and enhance the effective management and preservation of the Department's records.

APPENDIX A

INSPECTION PROCESS

OBJECTIVE AND SCOPE

The objective of this inspection was to determine if the HHS implements standards, policies, procedures, and other records management coordination practices to ensure that the Department and its agencies and offices have effective records management programs.

METHODOLOGY

NARA carried out this inspection by conducting interviews at the HHS Headquarters with all of the HHS Operating Divisions and the Office of the Secretary and by reviewing HHS program documentation. More specifically, the inspection team:

- reviewed records management policies, directives, and other documentation provided by HHS and its agencies;
- interviewed RM representatives from the Departmental Records Management program, ten Operating Divisions, and the Office of the Secretary;
- guided the course of the inspection using a detailed checklist of questions based on Federal statutes, Federal regulations, and NARA guidance; and
- reviewed HHS agency responses to current and past annual Records Management Self-Assessments (RMSA) and current and past reports of Senior Agency Official for Records Management (SAORM).

OFFICES INTERVIEWED

NARA visited and had conference calls with HHS ROs June 19-21, 26, and 28, 2018.

- Department of Health and Human Services (HHS)
- Administration for Children and Families (ACF) (conference call)
- Administration for Community Living (ACL)
- Agency for Healthcare Research and Quality (AHRQ)
- Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) (conference call)
- Centers for Medicare and Medicaid Services (CMS)
- Food and Drug Administration (FDA)
- Health Resources and Services Administration (HRSA)
- Indian Health Service (IHS)
- National Institutes of Health (NIH)
- Office of the Secretary (OS)
- Substance Abuse and Mental Health Services Administration (SAMHSA)

APPENDIX B
RELEVANT INSPECTION DOCUMENTATION

“HHS Policy for Records Management,” June 22, 2016.

“HHS Policy for Electronic Mail (Email) Records Management,” December 29, 2016.

“Department of Health and Human Services Policy for Litigation Holds,” November 29, 2016.

“Policy for Information Technology (IT) Enterprise Performance Life Cycle (EPLC),”
November 30, 2016.

“HHS Electronic Records Management Roadmap (DRAFT),” December 18, 2013.

Various HHS Operating Divisions’ RM policies, strategic plans, performance goals, training, evaluations, and system inventories.

HHS and its Operating Divisions’ Records Management Self-Assessments (2009-2017), Federal Email Management Reports (2016-2017), and Senior Agency Official for Records Management Reports (2015-2017).

HHS and its Operating Divisions’ records schedules, agency disposition profiles, and NARA Forms 1005, Email Managed under a Capstone Approach.

APPENDIX C

AUTHORITIES AND FOLLOW-UP ACTIONS

AUTHORITIES

- 44 U.S.C. Chapter 29
- 36 CFR Chapter XII, Subchapter B
- 36 CFR 1239, Program Assistance and Inspections

OTHER GUIDANCE

- OMB/NARA *Managing Government Records Directive* (M-12-18)
- OMB/NARA *Guidance on Managing Email* (M-14-16)
- Other NARA Bulletins currently in effect

STATUTES AND REGULATIONS

36 CFR Chapter XII, Subchapter B, specifies policies for Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, and records disposition. The regulations in this Subchapter implement the provisions of 44 U.S.C. Chapters 21, 29, 31, and 33. NARA provides additional policy and guidance to agencies at its records management website - <http://www.archives.gov/records-mgmt/>.

At a high level, agency heads are responsible for ensuring several things, including:

- The adequate and proper documentation of agency activities (44 U.S.C. 3101);
- A program of management to ensure effective controls over the creation, maintenance, and use of records in the conduct of their current business (44 U.S.C. 3102(1)); and
- Compliance with NARA guidance and regulations, and compliance with other sections of the Federal Records Act that give NARA authority to promulgate guidance, regulations, and records disposition authority to Federal agencies (44 U.S.C. 3102(2) and (3)).

FOLLOW-UP ACTIONS

HHS will submit to NARA a Plan of Corrective Action (PoCA) that specifies how the agency will address each inspection report recommendation, including a timeline for completion and proposed progress reporting dates. The plan must be submitted within 60 days after the date of transmittal of the final report to the head of the agency.

NARA will analyze the adequacy of HHS's action plan, provide comments to HHS on the plan within 60 calendar days of receipt, and assist HHS in implementing recommendations.

HHS will submit to NARA progress reports on the implementation of the action plan until all actions are completed. The frequency of progress reports will be determined during development of the POCA. NARA will inform HHS when progress reports are no longer needed.

APPENDIX D
ACRONYMS AND ABBREVIATIONS

ACF	Administration for Children and Families
ACL	Administration for Community Living
AHRQ	Agency for Healthcare Research and Quality
ATSDR	Agency for Toxic Substances and Disease Registry
CDC	Centers for Disease Control and Prevention
CFR	Code of Federal Regulations
CIO	Chief Information Officer
CMS	Centers for Medicare and Medicaid Services
CPIC	Capital Planning and Investment Control
CRO	Chief Records Officer for the U.S. Government
DRO	Department Records Officer
EPLC	Enterprise Performance Life Cycle
EIS	Electronic Information Systems
FDA	Food and Drug Administration
GRS	General Records Schedule
HRSA	Health Resources and Services Administration
IHS	Indian Health Service
IT	Information Technology
NARA	National Archives and Records Administration
NIH	National Institutes of Health
OGC	Office of the General Counsel
OMB	Office of Management and Budget
OPDIV	Operating Divisions
OS	Office of the Secretary
PoCA	Plan of Corrective Action
RL	Records Liaison
RM	Records Management
RMSA	Records Management Self-Assessment
RO	Records Officer
SAMHSA	Substance Abuse and Mental Health Services Administration
SAORM	Senior Agency Official for Records Management
U.S.C.	United States Code



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