**AUDIT OF NARA'S OVERSIGHT OF
ELECTRONIC RECORDS MANAGEMENT
IN THE FEDERAL GOVERNMENT**

OIG Audit Report No. 10-04

April 2, 2010

EXECUTIVE SUMMARY

The National Archives and Records Administration (NARA) serves as our nation's record keeper responsible for safeguarding the records of all three branches of the Federal government. NARA's records management role and responsibility, established through the Federal Records Act (FRA), gives NARA oversight responsibility for Federal records management, including responsibility for identifying and archiving records the Archivist deems to be of permanent value. The FRA also requires Federal agencies ensure their records are created and preserved in accordance with the Act. Under Title 44 U.S.C. the Archivist is responsible for providing guidance and assistance to Federal agencies with respect to ensuring the proper disposition of Federal records; conducting records management studies or designating the heads of executive agencies to conduct such studies; and conducting inspections or surveys of the records and records management programs of Federal agencies. Title 44 also requires the head of each Federal agency to establish and maintain a records management program which adequately complies with records management laws, statutes, and regulations.

Based on these laws, senior program officials in the Office of Records Services – Washington, DC (NW) have identified the development and promulgation of records management regulations and guidance as their primary responsibility and view compliance and compliance monitoring as the responsibility of each individual agency. However, this approach is problematic because NARA cedes responsibility for accomplishing its mission of providing continuing access to the essential documentation of the rights of American citizens and the actions of their government to Federal agencies whose missions are not primarily records related.

The National Archives and Records Administration (NARA) Office of Inspector General (OIG) audited the controls associated with the electronic records of the Federal Government, focusing on those controls pertaining to permanent electronic records. The goal was to determine if the controls provided reasonable assurance permanent electronic records were adequately identified, scheduled and obtained by NARA as appropriate. Our audit identified that controls in place are not adequate to protect permanent Federal electronic records from loss.

Specifically, we found NARA cannot reasonably ensure permanent electronic records are being adequately identified, maintained, and transferred to NARA in accordance with Federal regulations. While NARA is working toward improving electronic records management in the Federal Government, mainly through the development and promulgation of regulations and guidance for the proper management of these records, significant deficiencies remain. We identified the following factors as contributing to this condition:
- NARA does not have a fully integrated program for adequately addressing electronic records management (ERM)
- NARA lacks systematic information on government-wide ERM practices and compliance with electronic record regulations, guidance and policies; including a

program supporting inspections of the record keeping programs and practices of
Federal agencies;

- The universe of electronic records and electronic recordkeeping systems has not
  been adequately identified, and;
- NARA lacks an approach to adequately identify possible gaps in scheduled
  permanent electronic record accessions.

As a result, permanent records which are born and remain digital throughout their
lifecycle are at increased risk of loss, thereby denying their future use to the American
public. These historically significant and valuable records are not being adequately
identified, effectively managed and monitored, and aggressively targeted. Electronic
records of our democracy being born digitally are being put to their grave without a
tombstone offering evidence they ever existed. It is our opinion that this condition
represents a Material Weakness[1] because it significantly affects NARA's ability to fulfill
its statutory role as records manager for the Federal Government and adversely impacts
its mission of safeguarding and preserving essential and important records of our Federal
Government. The lack of a robust and comprehensive program, including appropriate
and adequate internal controls, for the management of electronic records impedes
NARA's efforts to identify, capture, and ultimately make available the permanent
electronic records of the Federal Government.

Managing and preserving records in the digital age presents a unique set of challenges not
just for NARA but for all Federal agencies. Managing electronic records, given their
explosive growth in volume, creates challenges for finite resources. The proliferation of
formats poses technological challenges associated with ensuring records can be preserved
and used years into the future. Changes in technology create issues concerning the
integrity and authenticity of records created and maintained in electronic format. Finally,
the business models for managing records in a paper based environment are no longer
adequate and must be replaced by policies and procedures adapted for records
management in the digital age. It is incumbent upon NARA, whose mission is to
safeguard and preserve the records of our Government, to meet the challenges associated
with managing records in the digital age and to take the actions necessary to ensure
electronic records are identified, scheduled, preserved, and made accessible for as long as
their value dictates.

NARA has tended to focus its records management efforts on developing regulations,
issuing guidance, and providing training to Federal agency officials. There have been
limited examples of inspections, and oversight and enforcement activities have been
taken primarily in response to problems identified in the press or through other sources.
As such, NARA has not undertaken adequate measures to proactively identify
deficiencies independently. However, this view of NARA's role and responsibilities may
be changing. However, this view of NARA's role and responsibilities may be changing.
In responding to the U.S. Senate Committee on Governmental Affairs pre-hearing
questions on his nomination, the recently appointed Archivist indicated NARA needs to

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[1] A Material Weakness in NARA programs is formally defined as a condition that has a significant impact
on NARA's ability to perform its mission.

take more of a leadership role in electronic records management and has responsibility not only for developing and issuing records management policy, but also for ensuring records management standards are met.

NARA has, and continues to take action to address the challenges presented by electronic records, including (1) providing electronic records management guidance in 36 CFR Chapter XII; (2) developing and promulgating supplemental guidance on electronic records management via bulletins, white papers, best practices, and Frequently Asked Questions, and; (3) performing targeted studies and evaluations of electronic records management issues and technologies. In addition, during the conduct of field work for this audit, NARA established the Integrated Electronic Records Program (iERP) Task Force responsible for developing a program structure intended to allow NARA to successfully function and meet its statutory responsibilities in the digital age. NARA has also initiated its first government-wide data collection effort in an attempt to establish baseline records management data for all agencies. However, these actions do not adequately mitigate the weaknesses cited in this report which serve as the basis for our determination that Electronic Records Management should be identified as a Material Weakness.

This report contains seven recommendations which upon adoption we believe will help NARA in its efforts to ensure appropriate management and proper stewardship of the permanent electronic records of the Federal Government.

Background

The framework for records management responsibilities throughout the Federal Government was established through the Federal Records Act (FRA) of 1950. Under the FRA, NARA is responsible for providing oversight of records management throughout the Federal Government, including providing guidance and assistance to Federal agencies on the creation, maintenance, use, and disposition of government records. Under the FRA Federal agencies are responsible for ensuring their records are created and preserved in accordance with the Act. The relevant provisions of the FRA and subsequent records management statutes are largely codified in Chapters 21, 29, 31, and 33 of Title 44 of the United States Code (44 U.S.C.).

NARA's records management responsibilities are further defined in 44 U.S.C. Chapter 29, *Records Management by the Archivist of the United States and by the Administrator of General Services*, while Federal agency responsibilities are further defined through 44 U.S.C. Chapter 31, *Records Management by Federal Agencies*.

44 U.S.C. Chapter 29, requires the Archivist to provide guidance and assistance to Federal agencies with respect to ensuring the proper disposition of Federal records; including the establishment of standards for the selective retention of records of continuing value and assistance to Federal agencies in applying these standards. Under this chapter, the Archivist is assigned specific responsibility for

1. promulgating standards, procedures, and guidelines with respect to records management;
2. directing continued attention of Federal agencies and the Congress on the need for adequate policies governing records management;
3. conducting records management studies, or designating the heads of executive agencies to conduct records management studies, with respect to improving records management;
4. conducting inspections or surveys of the records and records management programs of Federal agencies, and;
5. reporting to the appropriate oversight and appropriations committees of Congress and the Director of OMB on the results of the aforementioned activities throughout the year.

44 U.S.C. Chapter 31, requires the head of each Federal agency to establish and maintain a records management program that will (1) provide effective controls over the creation, maintenance, and use of records, and; (2) apply standards, procedures, and techniques designed to improve management of records; promote the maintenance and security of records deemed appropriate for preservation; and facilitate the segregation and disposal of records of temporary value.

While the FRA and 44 U.S.C. are intended to cover documentary material regardless of physical form or media, records and the processes for managing and archiving them were until recently largely focused on paper documents. Realizing that more detailed guidance specific to electronic records was needed, NARA established guidance for the

management of electronic records in the form of regulations in the Code of Federal Regulations (36 CFR Part 1234).

NARA codified the specific requirements for creating, maintaining, using, and disposing of electronic records in 36 CFR 1234, *Electronic Records Management.*[2] According to these regulations, responsibility for establishing an electronic records management program that adheres to all guidance, policies, and procedures is assigned to the heads of Federal agencies.

Prior Findings Concerning Electronic Records Management

As early as 1999 GAO recognized challenges associated with the management and preservation of electronic records due to their mushrooming volume and changing technologies.[3] A 2001 assessment found Federal records of historical value were not being identified and provided to NARA for archiving, in part, because most electronic records remained unscheduled and therefore their value had not been determined.[4] In 2002, a GAO audit found that difficulties in managing, preserving, and providing access to a rapidly growing volume of electronic records posed challenges for NARA.[5] The audit identified several factors contributing to difficulties in managing electronic records, including records management guidance which was inadequate for a rapidly changing electronic records environment, the low priority given to records management programs, and NARA's lack of systematic inspections of Federal agency records management programs. In 2003 testimony before the House of Representatives Committee on Government Reform, GAO cited steps taken by NARA to improve records management in general and electronic records management in particular. However, GAO also noted NARA had not yet formulated a plan for using inspections or the systematic collection of information to evaluate the efficacy of its government-wide records management guidance.

To address challenges associated with managing electronic records NARA embarked on a redesign of Federal records management which identified nine strategies for improving records management in a rapidly evolving electronic records management environment. This approach was put forward in NARA's Strategic Directions for Federal Records Management, issued in July 2003. In September 2004, NARA issued a status report of progress made in implementing the nine strategies.[6] It stated criteria and procedures for conducting inspections of Federal records management programs had been developed and would be implemented in FY 2005, and records management problems and recommended practices identified through the inspection or survey process would be

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[2] During the course of our audit 36 CFR 1234, *Electronic Records Management*, was revised and is now found at 36 CFR 1236.

[3] National Archives: Preserving Electronic Records in an Era of Rapidly Changing Technology. July 19, 1999, GGD-99-94.

[4] Report on Current Recordkeeping Practices within the Federal Government. December 10, 2001, Prepared under contract for NARA.

[5] Challenges in Managing and Preserving Electronic Records. June 2002, GAO-02-586.

[6] NARA's Strategic Directions for Federal Records Management: Status Report. September 20, 2004.

included in NARA's annual Performance and Accountability Reports. However, this did not happen. In 2008 GAO found that NARA had yet to institute a systematic inspection program of Federal agency records management practices. Further, they found NARA did not consistently report to Congress and OMB on records management problems, Federal agency responses to NARA recommendations, or recommended practices that were discovered as a result of NARA oversight activities.

Several recent reports and articles have echoed electronic records management challenges and problems identified in prior GAO reports and NARA studies. One such report, based in part on a survey of government records managers, found while NARA has developed and issued a substantial amount of guidance on electronic records management, records management policies at individual agencies are often inconsistent and confusing.[7] The report also pointed out that agency employees lack an understanding of their recordkeeping responsibilities and how those responsibilities can be satisfied. Finally, the report found a systematic lack of meaningful oversight by NARA resulted in agencies not being held accountable for complying with mandatory electronic records management obligations.

A March 2009 article in Federal Computer Week cites four specific problems associated with managing electronic records: (1) NARA lacks comprehensive and specific information on agencies electronic records management practices, making it difficult for NARA to move forward with policies that will make processes more consistent; (2) Use of personal e-mail accounts for the conduct of official business, placing the communication outside of the agency's records keeping system or out of sight of its records management program; (3) The vast array of electronic records and the number of formats in which they can exist, and; (4) a lack of emphasis or consideration of how to store and maintain e-mail messages.[8] An October 2009 article in NextGov.com identified a lack of oversight, or "policing", as the biggest hurdle to effective electronic records management.

Finally, through the Electronic Message Preservation Act, Congress acknowledged the challenges and shortcomings of records management in the digital era. While this bill never became law, it would have required the promulgation of regulations (1) requiring the electronic capture, management, and preservation of electronic records in accordance with the Federal Records Act (FRA); (2) establishing mandatory minimum functional requirements for electronic records management systems, and perhaps most importantly, (3) establishing a process and deadline for certifying Federal agency compliance with electronic recordkeeping requirements.

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[7] Record Chaos: The Deplorable State of Electronic Record Keeping in the Federal Government. Issued by Citizens for Responsibility and Ethics in Washington (CREW), April 2008.
[8] Four Reasons E-Records are Still a Mess by Alice Lipowicz. Federal Computer Week, March 6, 2009.

Objective, Scope, and Methodology

The objective of our audit was to determine whether established controls provide adequate assurance permanent electronic Federal records are identified, scheduled, and accessioned into NARA in fulfillment of NARA's statutory obligations. The review was conducted at Archives II in College Park, MD, with representatives from the Office of Records Services, Washington, DC (NW), the Modern Records Program (NWM), the Lifecycle Management Division (NWML), and the Electronic and Special Media Records Services Division (NWME).

While the objective of our review focused on assessing the adequacy with which NARA fulfills its statutory obligation for receiving (e.g. identifying and ensuring receipt of) permanent electronic records, NARA's approach to, and processes for, identifying and obtaining permanent electronic records did not differ from those for electronic records in general. In many cases this resulted in auditors conducting field work related to electronic records management in general and extrapolating results and applying conclusions specifically to permanent electronic records. In addition, our audit focused on the adequacy with which permanent electronic records are identified, scheduled, and obtained and did not address preservation and future use of electronic records. Obviously, if permanent electronic records are not adequately identified, scheduled and obtained by NARA then they cannot be adequately preserved and made available for future use.

To accomplish our objective we reviewed the Federal Records Act of 1950; chapters 21, 29, 31, and 33 of title 44 of the United States Code; title 36, part 1234 of the Code of Federal Regulations; the E-Government Act of 2002; electronic records guidance on NARA's web page; NARA's Strategic Plan (revised 2009); NARA's 2008 and 2009 Performance and Accountability Reports; quarterly performance reports to the Archivist, and; previous reports and studies concerning electronic records from GAO and other sources. We also reviewed information provided by management during the course of our audit such as the charter for the establishment of an integrated electronic records management program; an update on the progress of the Integrated Electronic Records Program (iERP) Task Force; results from a recently administered NARA survey; and the results of the mandatory requirement Federal agencies schedule all electronic records by September 30, 2009. We also contacted the OIGs for fifty Federal agencies requesting information concerning electronic records management program reviews conducted and spoke directly to several of these agencies IG staff. Finally, we met with NARA personnel involved in scheduling and obtaining electronic records and the chair person of the iERP task force.

It should be noted audit fieldwork was conducted prior to David S. Ferriero being sworn in as the tenth Archivist of the United States.

This performance audit was conducted in accordance with generally accepted government auditing standards (GAGAS) between April 2009 and December 2009. These standards require that we plan and perform the audit to obtain sufficient,

appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Finding

Federal Electronic Records are at Risk

NARA lacks reasonable assurance permanent electronic records of the Federal Government are managed in accordance with Federal regulations and guidelines intended to safeguard and preserve these records. This condition is the result of the following factors: (1) lack of a program for adequately addressing the challenges associated with managing electronic records; (2) lack of systematic information about government-wide electronic records management (ERM) practices, compliance, and monitoring efforts; (3) inadequate methodology for reasonably identifying/verifying the universe of electronic records, and; (4) an inadequate approach to identifying gaps in permanent electronic record accessions. These deficiencies deprive NARA not only of the program structure (including policies, procedures, goals, and resources) necessary for adequately addressing the challenges associated with the management of electronic records but also the information necessary for identifying and managing risks. As a result NARA cannot ensure it is adequately meeting its statutory obligation for overseeing management of the electronic records of the Federal Government in accordance with the Federal Records Act (FRA) nor fulfilling its mission of safeguarding and preserving essential records of the Federal Government thereby allowing their discovery and use by the people. The lack of ERM oversight and compliance monitoring when paired with inherent record keeping limitations throughout the Federal Government place permanent electronic records at increased risk of loss.

NARA does not have a fully integrated program for adequately addressing electronic records management (ERM)

NARA lacks a fully integrated program structure and coherent and coordinated policies necessary for addressing the challenges associated with the management of records in the digital age. Specifically, NARA lacks the well defined goals, strategies, policies, resources (staff and funding), and organizational structure necessary for adequately carrying out its statutory obligations and fulfilling its mission relative to electronic records. The establishment of a mature, integrated program and associated internal controls are critical to achieving program success.

While NARA has undertaken several efforts to assess and address the challenges brought about by the proliferation of electronic records, they have yet to establish the program structure and internal controls necessary for effectively managing digital records. For instance, NARA undertook a business process reengineering effort (BPR) in 1999 to address its internal processes and interaction with agencies in an era of increasing electronic communication. At the time the Government Accountability Office (GAO) recommended NARA undertake an effort to gather baseline information on records management across the Federal Government. This should have given NARA the best information possible to guide its BPR effort, thereby improving electronic records management across the government. However, NARA chose not to implement this

recommendation, opting instead to gather information from a limited sample of agencies. In 2003 NARA acknowledged its records management program was designed primarily around paper records, and again sought to redefine its approach to managing records in the electronic age through its Strategic Directions for Federal Records Management. Such efforts produced strategic goals and strategies associated with electronic records management, obtained information on the state of electronic records management within targeted agencies, and led to the formulation of guidance for managing various types of electronic records. However, it did not produce an integrated and coherent program structure which has endured and evolved. NARA has pointed to its past efforts, such as the BPR and Records Management Initiative, as necessary steps in a progression for understanding and addressing electronic records management in the Federal Government and cites past actions as necessary for laying the groundwork for where they are today.

In May 2009, almost ten years after NARA's initial efforts to transition itself into an agency capable of managing electronic as well as paper records, NARA announced the formation of a Task Force to identify key elements of an electronic records management program which adequately addresses the impact of technology on government record keeping. This task force, known as the Task Force for Development of an Integrated Electronic Records Program (iERP) reports to, and receives guidance from, a team of senior NARA managers (known as the Lifecycle Guidance Team, LGT). The charter specifically tasked the iERP with:

1. Drafting proposed revisions to electronic records management goals in NARA's Strategic Plan that reflect the current and future records management operating environment;
2. Identifying goals, strategies, and policies appropriate for a full electronic records management program encompassing the lifecycle of records;
3. Recommending specific actions for accomplishing goals and implementing strategies and policies; and
4. Identifying the resources and infrastructure necessary to successfully achieve program goals and objectives.

Our review revealed task 1 has been completed, but neither the iERP nor the LGT met the due dates for tasks 2 and 3 established in the iERP charter. The deliverable date for task 4 was contingent upon LGT approval of deliverables 2 and 3. According to the Charter, a final report addressing all deliverables was to have been submitted in November 2009. According to the Task Force chairperson, deliverables 2 and 3 are now scheduled to be delivered for LGT review in February 2010. Once approved by the LGT, for which no estimated date was provided, the Task Force can then address deliverable 4 and move toward issuance of a final report for acceptance by the Archivist. It is critical to NARA's success as an agency for the iERP to complete the tasks identified in the Charter. To effectively serve as the nation's record keeper in the digital age NARA must have goals, strategies, and policies appropriate for a comprehensive electronic records management program encompassing the lifecycle of records. Finally, to take such a program from conception to a working reality, the iERP's work must culminate in the identification of, and request for, necessary resources.

In the absence of an integrated, comprehensive, and sufficient program for the management of electronic records - including the identification of goals; development of strategies and policies for attaining identified goals; collection of information necessary for evaluating performance and guiding decision making, and; identification of necessary resources, infrastructure, and organizational structure - NARA lacks reasonable assurance that electronic records of the Federal Government are identified, managed, maintained, and rendered accessible for as long as their value requires.

Recommendation 1. The Archivist of the United States (N) should:
(a) Fully exercise the authority and responsibilities for records management provided him under the law. If current law does not adequately support the exercise of authority and responsibilities in furtherance of NARA's mission, the Archivist should take appropriate action.
(b) Identify and request the resources necessary to adequately accomplish NARA's mission.

Management Response

Management concurred with our recommendation.

NARA Lacks Government wide Information on Agencies' Electronic Records Management Efforts and Compliance

Our review revealed that while NARA has performed numerous studies and reviews of ERM practices, policies, and technologies, NARA has not systematically collected information on ERM programs, practices, and regulatory compliance government-wide. Such information is necessary for NARA to keep abreast of changes in a rapidly evolving technological environment, draft meaningful regulations, evaluate the efficacy of guidance, and better identify potential records management risks. Compounding this lack of monitoring and oversight is the fact that agencies do not appear to be performing adequate reviews of their electronic records management programs and practices. Thus NARA and the Federal agencies themselves are limited in their understanding of the current state of the Federal ERM environment and thus risks that exist may go unrecognized and unaddressed.

NARA has not systematically collected data on ERM programs, practices and regulatory compliance government wide
In 1999, GAO recommended that NARA conduct a comprehensive baseline assessment survey of electronic records management in the Federal Government, and use the information to guide NARA in its business process reengineering efforts to improve electronic records management in the Federal Government. NARA eschewed this recommendation in favor of obtaining information from a limited sample of agencies, thereby denying comprehensive baseline information to their BPR effort.

Additionally, under 36 CFR 1234 NARA promulgated regulations specific to managing electronic records, and has augmented this with guidance on its website, including checklists for conducting evaluations. However, NARA has not systematically gathered the information necessary for monitoring and ensuring compliance or evaluating the efficacy of regulations and guidance. NARA has not exercised the authority given to the Archivist under 44 U.S.C. Chapter 21 to systematically and proactively obtain information from Federal agencies on their records management programs and compliance with existing records management regulations nor designated the heads of agencies to conduct studies of the records management programs and practices in their respective agencies.[9] Both of these approaches, if applied systematically, would assist NARA in gathering baseline information on records management programs and practices useful for informing future actions.

NARA has not conducted agency records management inspections since FY 2000
In fulfillment of its statutory obligation to provide oversight of Federal records management and assist agencies in managing electronic records NARA developed Strategic Directions for Federal Records Management in 2003. This document acknowledged the records management program administered by NARA was designed around paper records and needed to be updated to address challenges and changes associated with managing records in the digital age. NARA identified several tactics for accomplishing this, including (a) oversight of records management practices via inspections, studies, and reporting to Congress and OMB, and (b) formulation of tools agencies could use to evaluate their records management programs.

NARA has traditionally taken a more passive approach in its role as records manager for the Federal Government. NARA has long defined its records management oversight responsibilities as promulgating regulations and providing guidance while giving Federal agencies responsibility for developing and implementing specific policies and procedures and ensuring compliance with records management requirements. Many of these distinctions in roles and responsibilities have been codified in the applicable chapters of the United States Code and the Code of Federal Regulations. In addition to these distinctions in roles, NARA views the resources necessary for it to monitor/oversee Federal agency compliance with records management requirements as prohibitive and furthermore has historically avoided actions which may be viewed as confrontational or negatively construed by Federal agencies. Inspections and evaluations in particular have long been viewed by NARA as tools of last resort for gathering and assessing information about agency records management practices and programs because NARA believes they are very resource intensive and viewed by Federal agencies as adversarial. Despite this, in 2003 NARA identified a strategy for performing inspections of agency records management programs under exceptional circumstances[10] and performed an assessment in 2004 to identify Federal records and records management programs that met the

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[9] As noted in the Executive Summary, NARA has recently undertaken its first systematic, government-wide, data collection effort. However, the results of this effort were not available at the time of this audit report.
[10] Strategic Directions: Inspections and Studies of Records Management in Federal Agencies. October 2003.

criteria. NARA's analysis of the results concluded risks to records were being adequately addressed by current records management practices within NARA and the Federal agencies and did not result in the identification of records management risks that met the criteria for triggering inspections. As a result, NARA has not conducted a records management inspection since FY 2000.

Agencies are not routinely conducting reviews of their ERM programs, practices and compliance

In the absence of NARA maintained information on compliance with Federal ERM regulations, the OIG sought to obtain such information from Federal agencies. Through fifty agencies OIG's we requested any audits, reviews, or studies, performed by agency staff or through contract, of ERM programs and practices since the establishment of the E-Government Act in 2002. Eleven agencies indicated they had performed such reviews. However, upon reviewing the responses and material provided by the eleven agencies we concluded that only five had conducted what we consider to be a review of ERM compliance at the program level (e.g. the reviews included an evaluation of electronic records management policy, adherence by program staff to the policy and recommendations for corrective action as appropriate). The results of the reviews for these five agencies revealed controls over records management, including electronic records management, were not sufficient to ensure records were maintained and preserved in accordance with Federal regulations and NARA guidance. The OIG for one agency responded they were unable to perform a planned audit of the agencies records management program because there was essentially no records management program to audit. They stated their agency's records management program lacked policies, procedures, and knowledgeable staff. In another response an agency OIG found the agency could not demonstrate controls were sufficient to ensure Federal records were managed in accordance with Federal regulations. In that case, agency management responded to the OIG that controls must be sufficient given the absence of any NARA identified instances of non-compliance. The fallacy of this statement aside, based on the fact NARA does not consistently or systematically monitor or evaluate Federal agency compliance, the risk is other agencies use this rationale in pronouncing their records management programs as adequate. The material provided by the remaining six agencies reflected audits of ERM compliance for specific systems and not ERM evaluations at the program level. Thus only five of fifty (10 per cent) contacted agencies responded with program level ERM reviews conducted since 2002, revealing a lack of evaluation and compliance monitoring by the agencies.

Finally, although NARA is statutorily required to annually report to OMB and Congress on records management concerns (e.g. Federal agency violations in carrying out their duties and responsibilities in accordance with 44 USC chapters 21, 25, 29, 31, or 33), NARA had not done so until FY 2008. While NARA does not have a methodology in place for systematically collecting information from Federal agencies or evaluating their compliance with existing records management regulations and requirements, NARA does receive information, albeit in a less systematic manner, through other means such as monitoring news reports and contacts with Federal agency records management staff. NARA reported five agencies as "high risk" because of their records management

practices in the FY 2008 Performance and Accountability Report (PAR) and identified five agencies in the FY 2009 PAR. Only one agency identified as "high risk" in the 2008 PAR was again identified as "high risk" in the 2009 PAR, leading one to conclude problems with the remaining four agencies from FY 2008 had been adequately resolved and thus the risks sufficiently mitigated to allow their removal from the FY 2009 list. However, we found that neither NARA nor OMB had performed any formal, documented review of actions taken by the "high risk" agencies identified in FY 2008 to support their removal from the list identified in FY 2009, highlighting the ad-hoc and informal nature of such monitoring and reporting activities.

Lack of electronic records scheduling indicates problems with regulatory compliance
As a result of lack of compliance with existing electronic records management regulations we found electronic records are not identified and scheduled in a timely manner. 36 CFR 1234, *Management of Electronic Records*, assigns responsibility to the head of each Federal agency for

- developing and maintaining up-to-date documentation about all electronic information systems, including that which is necessary to ensure the timely, authorized disposition of the records;
- maintaining an inventory of electronic information systems to facilitate disposition; and
- developing records disposition schedules, securing NARA approval, and ensuring disposition in accordance with the schedules.

Through the E-Government Act of 2002, the Archivist established a deadline of September 30, 2009, for scheduling of all electronic records. Although NARA reminded the heads of Federal agencies of the requirement in December 2005 and again in March 2008, we found that the deadline was not met. Specifically, 143 agencies had responded and 114 had not responded to the scheduling requirement. Thus, forty-four percent of the Federal agencies had failed to comply with the regulation. Furthermore, of the 143 agencies which had responded, it is unclear as to whether their responses are complete and accurate. This is because many agencies failed to provide NARA with requested information about the percent of their electronic records/systems which were scheduled and NARA has not yet developed a methodology or approach for adequately validating agency responses.

It should also be noted the requirement for identifying and scheduling electronic records in a timely manner has been in existence for years, since such requirements were first established under both the United States Code and Code of Federal Regulations. The necessity of reiterating this requirement and establishing a scheduling deadline under the E-Government Act highlights weaknesses in monitoring and enforcement of existing requirements. That such a deadline has not been met reinforces the challenges NARA faces in ensuring permanent electronic records are identified, scheduled, and obtained for future use.

Recommendation 2. The Archivist of the United States should consider using the authority given to him under title 44 of the United States Code to direct Federal agencies

to perform assessments of their electronic records management programs based on requirements contained in 36 CFR Part 1236. Preferably such an assessment would be conducted by an independent body such as the OIG of each agency. If it is not conducted by a sufficiently independent body, NARA should develop a methodology for adequately verifying results. This effort should be undertaken in the near future in order to provide NARA with baseline information on electronic records management throughout the Federal Government to better inform NARA's actions going forward.

Recommendation 3. The Archivist of the United States should ensure NARA establishes a strategy for consistently and systematically monitoring compliance with electronic records regulations and guidance throughout the Federal Government.

Recommendation 4. The Assistant Archivist for Records Services, Washington D.C. (NW) should ensure NARA's strategy for monitoring and evaluating Federal agency compliance with electronic records management regulations and guidance results in adequate identification and mitigation of risks to permanent electronic records. If agencies do not take actions which adequately mitigate risks in a timely manner the Archivist should use the authority provided to him under 44 U.S.C. Chapter 21 to report the matter to the President and the Congress.

Management Response

Management requested these recommendations be held in abeyance until recommendation 1 has been completed.

The Universe of Electronic Records Has Not Been Adequately Identified

NARA has not developed an adequate approach for sufficiently identifying the universe of electronic records, further impeding effective oversight and management. The electronic record scheduling requirements contained in section 207(e) of the E-Government Act is an attempt to establish an inventory of electronic records in existence or to provide a snapshot in time. While this approach may be useful and has resulted in the identification of a large volume of records for scheduling (over 6500 systems or series of previously unscheduled electronic records), it is not sufficient.

NARA officials contend several factors constrain their ability to establish an accurate and complete inventory of Federal electronic records. These include (1) reliance on agencies to drive identification and scheduling of electronic records; (2) the dynamic nature of electronic systems in which systems and the records they contain are constantly migrated and new electronic systems are implemented; and (3) the resources necessary to adequately monitor and/or verify the accuracy and completeness of agency scheduling efforts. NARA officials state that it is neither achievable nor sustainable to identify and capture electronic records at the item or series level. Rather, an approach of working with agencies to identify mission related business processes and ensuring the attendant

records are identified and captured, is advocated as a more reasonable and achievable goal.

In order for NARA to fulfill its mission of ensuring records are managed for as long as their value requires and ensuring records of permanent value are transferred, NARA needs to take a more active approach to reasonably ensuring the universe of electronic records, especially permanent electronic records, are identified and accounted for. A more assertive approach to identifying and reasonably establishing the universe of electronic records, or verifying the accuracy and completeness of agency driven scheduling efforts, will assist NARA in its effort to identify permanently valuable electronic records, wherever they exist, capture them, and make them available to the public, as stated in NARA's Strategic Plan.

The failure of Federal agencies and NARA to adequately monitor compliance with electronic record regulations, specifically those for identifying, scheduling, and transferring records of permanent value, supports the notion that better controls need to be established. Therefore NARA needs to take a more rigorous, systematic approach toward reasonably establishing the universe of electronic records.

Recommendation 5. The Assistant Archivist for Records Services, Washington D.C. should ensure development of controls to adequately monitor agency scheduling of electronic records in an effort to reasonably ensure electronic records/systems are scheduled in a timely manner and therefore provide a reasonably accurate reflection of the universe.

Recommendation 6. The Assistant Archivist for Records Services, Washington D.C. should ensure a methodology for verifying the accuracy/completeness of Federal agency responses to electronic records scheduling requirements resulting from the E-Government Act of 2002.

Management Response

Management requested these recommendations be held in abeyance until recommendation 1 has been completed.

The Process for Identifying "Gaps" in Scheduled Permanent Electronic Records Needs to be Strengthened

NARA faces constraints in its efforts to identify and obtain scheduled permanent electronic records. Using a database known as the Comprehensive Accounting of Scheduled Permanent Electronic Records (CASPER) NARA captures key information about scheduled permanent electronic records, identifies "gaps" in the transfer to NARA of these records, and selects records to target for transfer. While this approach has resulted in the transfer of some permanent electronic records to NARA, it is not a

comprehensive approach for identifying all permanent electronic records which should be transferred to NARA. Specifically,

- This approach targets only those permanent records which NARA knows about because they have been scheduled or records in the series have been previously transferred to NARA. It excludes electronic records, including those which are valuable enough to be permanent, that have not been scheduled. Because current controls do not adequately ensure electronic records are identified, scheduled, and transferred, NARA's information about the universe of electronic records is incomplete, and permanent electronic records are by definition excluded from this approach.

- On an annual basis CASPER is queried to identify records eligible for transfer during the fiscal year, and records eligible from previous years but which have not yet transferred to NARA. This query is culled to identify records from "target agencies" (currently agencies subject to the CFO Act). From this list of "target agencies" NARA staff further cull the list of agencies they will target for transfer activity. Their selection is based on prior experience with the agencies assigned to them (e.g. the track record of the agency in transferring permanent electronic records), what they know about the records (e.g. the relative historical and research value of the records), and other criteria. This list is further culled in an effort to establish realistic transfer targets given staff workload.

NARA has recently made several changes in its approach to scheduling records in an effort to make scheduling easier. NARA officials believe these changes benefit both NARA and the agencies. However, they do pose challenges in identifying "gaps" in permanent electronic records. Examples include "media neutral" schedules which do not always specify whether the permanent record is in textual or electronic format thereby excluding it from capture in the CASPER database and "big bucket" scheduling which has resulted in broad schedules in which permanent items are frequently not individually identified and therefore not captured in the CASPER database.

Recommendation 7. The Assistant Archivist for Records Services, Washington D.C. should ensure development and application of a methodology for adequately identifying gaps in electronic record accessions. This methodology should reasonably ensure permanent electronic records are identified, scheduled, and ultimately obtained by NARA.

Management Response

Management requested these recommendations be held in abeyance until recommendation 1 has been completed.

National Archives and Records Administration

Date: March 30, 2010

To: OIG

From: NW

Subject: OIG Draft Audit Report No. 10-04

Thank you for the opportunity to comment on the OIG Draft Audit Report No. 10-04, Audit of NARA's Oversight of Electronic Records Management in the Federal Government, dated February 17, 2010, and edited and resubmitted for comment to NW on March 26, 2010.

We share the OIG's concern about the electronic records management challenges confronting NARA and the Federal agencies. As you write in the draft audit report, NARA has worked to address this challenge for many years, starting with the analysis that led to "NARA's Strategic Directions for Federal Records Management" issued in July 2003. We appreciate the OIG's interest in an issue that has long-term implications for NARA's ability to carry out successfully its mission.

Before addressing the specific recommendations, we would like to make the following general points about the findings:

1. NARA does not have a fully integrated program for adequately addressing electronic records management.

In addition to "NARA's Strategic Directions for Federal Records Management" that contains three goals, nine strategies, 26 tactics, and six measures of success, NARA updated its strategic plan in November 2009. In Goal One, NARA outlined six specific strategies related to records management, and in Goal Three, NARA outlined five specific strategies related to the electronic records challenge.

NARA dedicates significant staff and other resources to these challenges, and generally works effectively to carry out its activities. Improvements can always be made, including having a better integrated – or fully integrated - approach to the electronic records management challenge. We are always exploring how to better organize our work and manage ourselves to meet this challenge.

2. NARA lacks government-wide information on agencies' electronic records management efforts and compliance.

If the intended meaning of the finding is that NARA needs to collect comprehensive data from each and every Federal agency, then this finding is correct. This approach, however, is impractical and not feasible based on NARA's experience working with Federal

agencies. NARA has, however, collected data from agencies on ERM in systematic fashion through RM surveys, RM studies, the E-Records project, the resource allocation project, and other similar projects that include data and findings collected from a representative sample of Federal agencies. Using this approach, NARA has developed empirical data that provides insight into how agencies are identifying and managing their electronic records. These data also support follow up actions, such as reports to OMB, Congress, and to agencies concerning their compliance with Federal RM requirements.

It should also be pointed out that in FY 2009 NARA initiated a new approach called RM self-assessments to systematically gather comprehensive information about agency RM programs that could be used to create a baseline regarding records management in the Government. The self assessments, which will be conducted annually and are mandatory for all agencies, is intended to provide this type of information.

3. NARA has not conducted agency records management inspections since FY 2000.

NARA has not avoided confrontations with Federal agencies. When we have discovered problems, such as unauthorized disposals, we have not hesitated to take appropriate follow up action, even at the cost of antagonizing the agencies in question.

OIG is, however, correct that NARA has not conducted any inspections since FY 2000. However, we will resume this work in FY 2010 with two inspections and will continue it in the future. Inspections, however, are resource intensive and the NRMP lacks the resources for conducting inspections government wide. It has also been shown to be true that inspections, as they were conducted prior to FY 2000, had minimal impact on agency effectiveness. It is for these and other related reasons that comprehensive inspections were discontinued, and not as the report states, because they were "viewed as tools of last resort." Moreover, inspections as they will be conducted going forward will be targeted and more focused than previously, which we believe will have greater impact and more immediate results.

4. Agencies are not routinely conducting reviews of their ERM programs, practices and compliance.

It is important to note that the Federal Records Act assigns responsibilities to agency heads, and not to NARA, for performing records management functions, including periodic reviews. We do, however, agree that NARA needs to do more in this area to ensure that agencies are carrying out their responsibilities. To do so, NARA will need additional resources and support from other oversight agencies to effectively enforce the existing requirements.

To partially remedy the stated problem, we included a question about self-inspections in the FY 2009 self-assessment. We are currently assessing the data we obtained and will shortly determine what steps NARA should take in this area. As part of this work, we will explore approaches to enforcing compliance in FY 2011 as follow up actions for each year's annual self-assessment.

5. Lack of electronic records scheduling indicates problems with regulatory compliance.

   The process of identifying and scheduling electronic records is complex, difficult, and time consuming. It is an activity that Federal agencies are getting better at, and NARA has played a significant role in providing the training and guidance to ensure that agencies can systematically identify and schedule their records, and be compliant with the regulations. While the OIG is correct that many agencies still have not scheduled all their electronic systems, with NARA's active direction, Federal agencies government-wide have made considerable progress.

   We recognize that much work remains to be done and recently issued NARA Bulletin 2010-02 requiring semiannual reporting of the universe of electronic records in each Federal agency. Specifically, this Bulletin reiterates the requirement for scheduling all electronic records and includes reporting requirements: agencies must "report to NARA semi-annually on the status of their electronic records scheduling activities. The report must include (a) the name and description of all unscheduled electronic records series or systems; (b) the progress on drafting records schedules for these unscheduled electronic records series and systems, including when they will be submitted to NARA for approval; and (c) the percentage towards completion for scheduling all existing electronic records series and systems."

6. The universe of electronic records has not been adequately identified.

   We acknowledge that the finding is generally accurate, and more work needs to be done to better identify, schedule and appraise, and eventually transfer to NARA permanently valuable electronic records.

   However, given the changing nature of the Federal Government and the continual development of electronic records and IT systems that contain electronic records, it is unclear what the definition of the phrases "adequate[ly] identified" or "reasonably establishing the universe of electronic records" is from an auditable perspective.

7. The process for identifying "gaps" in scheduled permanent electronic records needs to be strengthened.

   NARA is taking steps to better ensure that permanent electronic records are accessioned in a timely fashion. When processing media neutral schedules, appraisers routinely determine whether any of the permanent series are currently maintained in an electronic format so capture in CASPER is feasible. In the electronic SF 115 in ERA, there is a required field for both permanent and temporary items that captures whether or not records are currently electronic. When an agency substitutes electronic records for hard copy in the case of a permanent media neutral series, it is required to notify NARA of the change and provide additional information concerning the electronic records. To supplement this requirement which is in our regulations, we will shortly issue a Bulletin that provides additional guidance and includes a form that must be filled out.

Regarding big bucket schedules, NARA will very shortly issue a Bulletin that spells out in considerable detail what agencies must do in the case of permanent big bucket items. This bulletin includes a requirement that agencies must itemize all known components of a big bucket series, including all electronic systems.

NARA has always recognized that media neutral and big bucket schedules pose certain challenges. However, we implemented both approaches because in our view, the benefits to NARA and agencies outweigh the risks. It is still too soon to determine whether or not this is, in fact, the case. Over the next year or two, we will be in a better position to make a judgment and will, if need be, revise one or both approaches accordingly.

The draft audit report provides seven main recommendations related to the findings.

We concur with the first recommendation:

Recommendation 1. The Archivist of the United States (N) should:

(a) Fully exercise the authority and responsibilities (sic) for records management provided him under the law. If current law is (sic) does not adequately support the exercise of authority and responsibilities in furtherance of NARA's mission, the Archivist should take appropriate action.
(b) Identify and request resources necessary to adequately accomplish NARA's mission.

Regarding the other six recommendations, we request that they be held in abeyance until Recommendation 1 is complete. At that time, we will reexamine Recommendations 2 through 7 in the context of Recommendation 1.

If you have any questions regarding this response, please contact Paul Wester.

MICHAEL J. KURTZ
Assistant Archivist for
Records Services – Washington, DC

NARA's web site is http://www.archives.gov