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Department of Commerce
Records Management Program

Records Management Inspection Report

National Archives and Records Administration
June 14, 2017

**DEPARTMENT OF COMMERCE
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, in FY 2016, NARA conducted an inspection of the Department of Commerce (DOC) Departmental records management program.

The purpose of this inspection was to examine how well the DOC records management (RM) program and DOC bureau 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.

This inspection focused specifically on RM standards, policies, procedures, and practices at the Department level and their impact on bureaus 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 Department policies and procedures are implemented. The DOC's bureaus were not in and of themselves subjects of this inspection and are included here only to the extent that they intersect with and, to some degree, rely upon the Departmental program in order to be effective.

Although many aspects of DOC's records management program are sound, the program is non-compliant with various 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 normal business operations, for program development, 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 risks associated with noncompliance with 36 CFR Chapter XII, Subchapter B, this report makes 9 findings and 14 recommendations. Follow-up actions required for DOC and NARA are included in Appendix A.

OVERVIEW OF THE DOC RECORDS MANAGEMENT PROGRAM

The DOC records management program is located within the Office of Information Technology Policy and Planning (OITPP) in the Chief Information Officer's (CIO) office, co-located with Enterprise Architecture and Capital Planning and Investment Control (CPIC). The DOC RM program established the DOC CIO, who reports directly to the Secretary of Commerce, as the Senior Agency Official for Records Management (SAORM). The program is staffed by a single

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

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

person who serves as Departmental Records Officer (DRO). DOC refers to this position as the Chief Records Officer (CRO).

The Department RM program's scope includes 12 bureaus plus two operating units, each with a designated Records Officer (RO). Four bureaus are large (more than 5,000 employees and contractors), three medium sized (500 - 5,000 employees and contractors), and five small (fewer than 500 employees and contractors). Of the small bureaus, four are very small with fewer than 100 employees. In addition to the bureau ROs, there are ROs in the Office of the Inspector General and the Office of the Secretary.

The DRO and bureau and office ROs have several ways of communicating including a monthly RM meeting via WebEx, collaboration via Max.gov for document sharing and goal tracking, collaboration via email, and one-on-one meetings. The SAORM meets with the DRO and bureau and office ROs on an as needed basis regarding such records management issues as meeting the goals of the 2012 Office of Management and Budget (OMB)/NARA *Managing Government Records Directive* (M-12-18).³

FINDINGS AND RECOMMENDATIONS

POLICIES AND PROCEDURES

Finding 1: The DOC is working under outdated directives and policy.

The DOC's current records management policy is split across Department Administrative Orders (DAO), which contain obsolete information. One of the DOC RM program's strategic goals is to update and overhaul RM policy. The Department is mid-stream in this policy and guidance overhaul that is expected to result in consolidating from several DAOs to a single DAO, a new SAORM-issued policy, and an Enterprise RM Program Manual.

The Department's RM policy overhaul, though based on sound planning, falls short on execution. The DAO and SAORM-issued policy are labeled "draft" and the Enterprise RM Program Manual is unfinished, with missing links and content. The directive, policy, and manual need to be finalized and formally issued or otherwise provided to bureau ROs and records managers to be of best use.

Recommendation 1.1: The Department of Commerce must issue and disseminate the revised DAO 205-1 and the new SAORM-issued policy. (36 CFR 1220.34(c))

Recommendation 1.2: The Department of Commerce must provide to the bureau ROs RM guidance and tools, including the Enterprise RM Program Manual. (36 CFR 1220.34(f), and 36 CFR 1222.26(e))

³ <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>

Finding 2: The DOC electronic records management policy is outdated, and the draft to replace it is incomplete.

DAO 205-16, “Managing Electronic Records,” is the Department of Commerce’s current policy on the management of electronic records. Issued in 1987, the policy is heavily oriented towards the management of digital records on storage media such as diskettes and magnetic tape.

Commerce is in the process of updating its electronic records management policy. However, DAO 205-16 will not be reissued. Instead, DOC will include electronic records guidance into the new issuance of DAO 205-1 and into its new “Records Management Policy.” While drafts of these new documents contain critical electronic recordkeeping requirements, there are some important aspects of electronic records management not covered, including such high risk areas as data migration, management of records in the cloud, NARA guidance for transferring permanent records, and metadata. The draft “Records Management Policy” includes the requirement that bureau ROs be involved in the planning process for electronic systems, but it does not state what the records management requirements for electronic systems are or where to find them.

Recommendation 2: DOC must issue more complete electronic records management policy and guidance. (36 CFR 1236 Subpart B)

COMMUNICATION

Finding 3: DOC’s methods for making records management information available to all staff are ineffective.

DOC has multiple methods for distributing RM information including Max.gov and two public websites. The DOC is using the Max.gov site to collaborate effectively with and communicate to bureau ROs. However, the Max.gov site is not designed to be used by general DOC staff members or contractors looking for information about how to handle Federal records. For this purpose, the DOC has two different active DOC records management websites: <http://www.osec.doc.gov/recmgmt/> and <https://ocio.commerce.gov/ocio/office-information-technology-policy-and-planning>. Neither website effectively communicates RM policy and guidance Department-wide as required by 36 CFR 1220.34(f). The first website contains outdated information, broken links, and inaccurate contact information. The second website, which appears to have been updated during the course of this inspection, has had records management information mostly stripped from the site.

In order to ensure that *all* DOC staff, not just RM staff, have access to DOC’s most current RM policies, directives, guidance, schedules, and points of contact, the DOC RM program must designate an “official” DOC RM page in a single location that *all* staff can access. The location of this information and how to access it must also be communicated periodically to all staff. In addition, the DOC RM program should also institute a review schedule to ensure information posted is up to date.

Recommendation 3.1: DOC must make available to all staff the most current RM policies, directives, guidance, schedules, and RM contact information in a prominent location. DOC should also create and implement a review schedule to ensure information is kept current. (36 CFR 1220.34(f))

Recommendation 3.2: DOC should create a method to periodically inform all staff of how to locate and access DOC RM policies, directives, guidance, schedules, and RM contact information. (36 CFR 1220.34(f))

INFORMATION RESOURCE MANAGEMENT AND STRATEGIC PLANNING

Finding 4: The DOC’s information technology strategic plan does not incorporate records management.

The DOC “Strategic Information Technology Plan, 2011-2015” (dated September 2010) does not adequately incorporate records management into information technology (IT) strategy. The Department has recently incorporated RM into their IT Enterprise Architecture. However, as required by the Paperwork Reduction Act (44 U.S.C. 3506(b)(2)) and OMB Circular A-130, records management must be included in the strategic goals or objectives of agency Information Resource Management (IRM) plans.⁴ Specifically, IRM plans must include data management strategies and tactics for use in proposing or designing new systems that create and maintain records or for use when such systems are enhanced or retired. By not meeting these requirements, DOC risks that records in its systems may not be managed appropriately. It also risks being non-compliant with 36 CFR 1236 and being unable to manage permanent electronic records in electronic format by December 31, 2019, in accordance with M-12-18 and OMB Circular A-130.

The DOC is drafting a new IRM plan, but it was not at a point where it could be made available to the inspection team. NARA expects that the new plan will fully incorporate RM and recordkeeping requirements. If not, risks of mismanaging electronic records will remain elevated in the Department.

Recommendation 4: The Department must fully incorporate records management and recordkeeping requirements into the goals and objectives of its IT strategic planning as required by 44 U.S.C. 3506(b)(2) and OMB Circular A-130.

⁴ <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A130/a130revised.pdf>. As part of the Paperwork Reduction Act (PRA) of 1995, OMB requires agencies to develop and maintain an IRM plan (44 U.S.C. 3506(b)(2)) and “implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format” (44 U.S.C. 3506(f)). In addition to the PRA, the recent issuance of new IT guidance in OMB Circular A-130, *Managing Information as a Strategic Resource*, places much greater emphasis than previously on records management.

RECORDS MANAGEMENT PROGRAM OVERSIGHT

Finding 5: The DOC RM program does not ensure that all bureaus and offices conduct formal, regular, and comprehensive records management evaluations.

Federal regulations require agencies to conduct formal evaluations to measure the effectiveness of their records management programs and practices (36 CFR 1220.34(j)). The Department performs informal oversight through optional development of bureau program documentation and identifying compliance gaps. It also includes an informal review of NARA's annual Records Management Self-Assessment (RMSA) results and trend analysis. Only three DOC bureaus and offices NARA interviewed conduct periodic RM program evaluations. A few other bureaus are making plans to begin RM oversight.

DAO 205-1 requires the DRO to conduct "triennial reviews and evaluations of operating unit (bureau) programs to ensure conformance with government-wide and Department records management standards." In the new draft DAO 205-1, this requirement has been removed. Removing the DRO's oversight responsibility creates a gap between the SAORM and the bureau and operating unit ROs. As there is no compliance role identified for the DRO, there is no way to ensure that the SAORM is being informed of the results of compliance activities in the bureaus and offices.

Recommendation 5.1: The DRO and the bureau ROs must establish a formal records management evaluation program in accordance with 36 CFR Chapter XII, Subchapter B. (36 CFR 1220.34(j))

Recommendation 5.2: The DAO 205-1 must prescribe a role for the DRO in RM oversight. (36 CFR 1220.34(j))

RECORDS MANAGEMENT TRAINING

Finding 6: The DOC does not require that all staff and contractors take records management training, and some of the records management training offered within the DOC does not contain agency-specific content.

Federal regulations require agencies to provide records management guidance and training to all personnel (36 CFR 1220.34(f)). Further regulatory requirements state that employees be provided with "specific guidance" (36 CFR 1224.10(e)). In addition, NARA Bulletin 2017-01 provides the minimum requirements for agency RM training programs. The Bulletin identifies who must take RM training and how often this training must be provided. In partial fulfillment of these requirements, the DRO has made available to all DOC bureaus and operating units a generic high-level RM course developed by the Federal Records Officer Network (FRON) titled FRON RM 101. However, the current DAO 205-1 does not require all employees to take the training. The Department's July 2016 RM Training Report shows that only 317 people out of nearly 47,000 employees took the training during the previous 12 month period. In addition, the content of this course has not been customized to reflect policies, procedures, or examples unique to DOC, as required by the CFR and as needed to make the training meaningful and

relevant.

Recommendation 6.1: The DOC must require that all staff take records management training annually and monitor staff compliance. (36 CFR 1220.34)

Recommendation 6.2: The DOC DRO must support and monitor bureaus in their efforts to customize RM training that reflects their unique records environment. (36 CFR 1224.10(e))

RECORDS MANAGEMENT PROGRAM SUPPORT

Finding 7: Greater SAORM support is needed to enhance records management Department-wide.

OMB Circular A-130 and M-12-18 require agencies to designate an 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.” In carrying out this responsibility, the DOC SAORM meets regularly with the bureau leadership and other senior leaders of the Department. The SAORM also meets with the DRO and bureau and office ROs on an as needed basis.

Although the DOC has utilized the SAORM role to some success, several of the bureaus indicated having little to no interaction with the SAORM. Some also indicated that having an SAORM within their own bureau would be beneficial in terms of increased visibility for RM. If DOC continues to designate an SAORM only at the Departmental-level, it needs to ensure that the bureaus benefit from the higher-level management support and strategic direction provided by the SAORM position.

The draft DAO addresses the SAORM position but does not address the SAORM responsibility to convey the criticality of RM to the senior leaders of the Department. It also does not address the SAORM responsibility to advocate on behalf of the Department’s RM program upward to the Secretary and across the organization through his colleagues.

Recommendation 7: DOC should add language to DAO 205-1 that specifies that the SAORM and bureau and operating unit leadership coordinate in order to provide support and resources for RM programs throughout the Department.

Finding 8: Smaller bureaus and offices need more support from the Department in order to bring their programs into compliance.

DOC has a few small bureaus with designated Agency Records Officers who can only dedicate just a small percentage of time to records management. Only three of DOC’s designated ROs (all from the largest bureaus) perform RM duties full-time. The other ROs perform RM duties part-time, ranging from 50% time to as little as 5% time. Also, the three largest bureaus and some of the medium bureaus have additional RM staff and networks of Records Liaison Officers (RLOs) at regional offices and divisions. None of the smaller bureaus have additional RM staff or RLOs. This is proving to be a challenge to at least one, and likely more, small-bureau ROs charged with

implementing an effective RM program. All of the DOC bureaus and offices that scored in the high-risk category of NARA's annual RMSA in 2015 have 500 employees or fewer, indicating that smaller bureaus need more support to bring their programs into compliance.⁵

Recommendation 8.1: The Department Records Officer should work with RM programs of its smaller bureaus and offices to create a plan to bring them into compliance.

Recommendation 8.2: The DOC SAORM should engage the Department and bureau leadership on a regular basis to ensure bureau records officers have the resources needed to implement compliant RM programs.

EMAIL MANAGEMENT

Finding 9: The implementation of the Capstone approach to email management at the DOC lacks clear direction, communication, and coordination necessary to be successful.

DOC operates both Microsoft Office 365 and Google email systems. The Department's Microsoft Office 365 is one system with eight instances. The Office of the Chief Information Officer manages one of the instances to provide coverage for the Office of the Secretary and the Department's small bureaus and operating units. The remainder are managed by IT divisions within particular bureaus. One DOC agency is the outlier and uses a separate Google system.

The current policy and practice for managing email throughout the DOC is print and file. However, the Department is moving towards a unified approach to managing email based on the Capstone approach.⁶ DOC has issued a Capstone policy, notified its NARA appraisal archivist of its intention to use Capstone, and has been working with bureau and operating unit ROs to identify Capstone accounts.

There is a lack of communication and collaboration, however, between bureau CIOs in the DOC responsible for implementing Capstone. Even though the Department is taking an enterprise approach with Capstone, each bureau CIO is responsible for implementing the approach separately and has had little communication with counterparts in other bureaus. Bureaus have been separately evaluating third party solutions that will meet Capstone requirements. Coordinated effort among the CIOs implementing Capstone could save resources and might ensure RM requirements for managing electronic records are met, including those presented in NARA's *Success Criteria for Managing Email Records in Compliance with M-12-18*, and thus minimizing the potential risks to email records.⁷

Recommendation 9: The DOC SAORM should increase coordination with and among bureau CIOs to implement the Capstone approach to email.

⁵ Each year, Federal agencies are required to conduct a Records Management Self-Assessment and submit the findings to NARA, <https://www.archives.gov/records-mgmt/resources/self-assessment.html>.

⁶ NARA Bulletin 2013-02, August 29, 2013, <https://www.archives.gov/records-mgmt/bulletins/2013/2013-02.html>.

⁷ <https://www.archives.gov/files/records-mgmt/email-management/2016-email-mgmt-success-criteria.pdf>.

CONCLUSION

The DOC records program is staffed by a single person, the DRO, who is responsible for overseeing records management in the Department's 12 bureaus and 13 offices. Departments with a similar number of components have larger staffs dedicated to records management. As a single person shop, the DRO has been able to effectively leverage the online collaboration tool Max.gov to communicate and coordinate with bureau RM staff. In addition, the DRO has ensured that the RM program is visible to senior leaders at the DOC.

While the small DOC RM program has come up with some creative ways to influence records management in the Department, there are some areas of noncompliance in the program creating risk of mishandling and loss of Federal records. This inspection found that DOC is working under outdated RM directives and policy that it does not have an RM evaluation program in place to verify compliance, and that staff are not trained on their RM responsibilities. By making the improvements recommended in this report, the DOC Departmental RM program would further strengthen its program and help the Department achieve its mission.

APPENDIX A 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

FOLLOW-UP ACTIONS

- ACTION PLAN

DOC will submit to NARA within 60 days after the date of transmittal of this report to the head of the agency a Plan of Corrective Action (PoCA) that specifies how the agency will address each recommendation, including a timeline for completion and proposed progress reporting dates.

- NARA REVIEW

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

- PROGRESS REPORTS

DOC will submit to NARA semi-annual progress reports on the implementation of the action plan until all actions are completed. NARA will inform DOC when progress reports are no longer needed.

APPENDIX B INSPECTION PROCESS

OBJECTIVE AND SCOPE

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

This inspection focused specifically on RM standards, policies, procedures, and practices at the Department level and their impact on bureaus 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 Department policies and procedures are implemented. The DOC's bureaus were not in and of themselves subjects of this inspection and are included here only to the extent that they intersect with and, to some degree, rely upon the Departmental program in order to be effective.

METHODOLOGY

NARA carried out this inspection by conducting site visits at DOC Headquarters and the headquarters of some DOC bureaus in the Washington, DC, Metro area and by reviewing DOC program documentation. More specifically, the inspection team:

- reviewed records management policies, directives, and other documentation provided by DOC;
- interviewed RM representatives from the Departmental records management program and from 12 DOC bureaus and 2 offices;
- guided the course of the inspection using a detailed checklist of questions based on Federal statutes, Federal regulations, and NARA guidance; and
- reviewed DOC and bureau responses to current and past annual Records Management Self-Assessments (RMSA) and current and past reports of DOC's Senior Agency Official for Records Management (SAORM).

OFFICES VISITED/INTERVIEWED

Department of Commerce Headquarters and the headquarters of various bureaus, Washington, DC, Metro area July 26-29, 2016, and Nov 15-17, 2016

- Bureau of Economic Analysis (BEA)
- Bureau of Industry and Security (BIS)
- Bureau of the Census (Census)
- Department of Commerce Office of the Executive Secretariat (EXECSEC)
- Economic Development Administration (EDA)
- Economics and Statistics Administration (ESA)
- International Trade Administration (ITA)
- Minority Business Development Agency (MBDA)

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- National Institute of Standards and Technology (NIST)
 - National Oceanic and Atmospheric Administration (NOAA)
 - National Technical Information Service (NTIS)
 - National Telecommunications and Information Administration (NTIA)
 - Office of Inspector General U.S. Department of Commerce (OIG)
 - U.S. Patent and Trademark Office (USPTO)

APPENDIX C
RELEVANT INSPECTION DOCUMENTATION

“DOC Records Management Program,” Department of Commerce, July 27, 2016 (new draft DAO 205-1).

“Enterprise Records Manual (draft),” Department of Commerce, May 13, 2016.

Letter to Representative Smith re: Commerce Use of Personal Email to Conduct Official Government Business, Department of Commerce Office of the Inspector General, May 20, 2013.

“Managing Electronic Records,” Department of Commerce, Department Administrative Order 205-16.

“Program Strategy and Goals for Records Management,” Department of Commerce, undated (draft).

“Records Management,” Department of Commerce, Department Administrative Order 205-1.

“Records Management Policy (draft),” Department of Commerce, July 27, 2016.

“Removal of Records and Other Documents,” Department of Commerce, Department Administrative Order 205-3.

“Systems Inventory Detail Report,” Department of Commerce, July 21, 2016.

APPENDIX D

NOTABLE PRACTICES OF DOC RECORDS MANAGEMENT PROGRAM

The NARA team has identified the following notable practices of the DOC RM program.

Strategic Goals and NARA Records Management Self-Assessment

The DOC RM program analyzed NARA's Records Management Self-Assessment (RMSA) scores to identify strengths, weaknesses, opportunities, and threats to DOC records management. The analysis utilized data from all bureaus going back to 2009. Based on the analysis, the Department developed a tactical plan to achieve strategic goals. The DRO gained bureau records officer buy-in through coordination meetings and uploaded the analysis and scores to MAX.gov for all bureaus to access.

OMB MAX

The DRO is using the Max.gov Federal Community collaboration site to good effect. Bureau and office ROs can log on to the site at any time and get useful information about the RM program Department wide. For example, the DRO has posted on the site draft policy documents and templates bureaus can use to create their own program documentation, and the site is used to track progress towards Department-wide implementation of strategic goals like the adoption of the Capstone approach for the management of senior-level email.

Transition process for political appointed employees

The DRO has been integrated into the process for exiting political appointed employees. The records management plan for the transition is both reusable for future transitions and comprehensive. The plan applies to exiting political appointees, the transition staff, and the incoming political appointees. The DRO created talking points and outreach materials and shared them with DOC bureaus and with the Federal Records Officer Network (FRON). The DRO began executing the plan in early 2016 with auditorium presentations and by visiting individual offices. In addition, the RM office has teamed with Digital Engagement to ensure transition of social media accounts from the Office of the Secretary in order to preserve these records.

Federal Records Officer Network

The DRO is a co-founder of the FRON and currently serves as a co-chair. The FRON provides an on-going forum for Federal agency records officers to share best practices and to discuss current issues and challenges. The FRON provides in person and virtual programs, including an online forum hosted by OMB MAX.

APPENDIX E
ACRONYMS AND ABBREVIATIONS

| | |
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| CFR | Code of Federal Regulations |
| CIO | Chief Information Officer |
| CPIC | Capital Planning and Investment Control |
| CRO | Chief Records Officer |
| DAO | Department Administrative Order |
| DOC | Department of Commerce |
| DRO | Departmental Records Officer |
| FRON | Federal Records Officer Network |
| IRM | Information Resources Management |
| IT | Information Technology |
| NARA | National Archives and Records Administration |
| OITPP | Office of Information Technology Policy and Planning |
| OMB | Office of Management and Budget |
| PoCA | Plan of Corrective Action |
| PRA | Paperwork Reduction Act |
| RLO | Records Liaison Officer |
| RM | Records Management |
| RMSA | Records Management Self-Assessment |
| RO | Records Officer |
| SAORM | Senior Agency Official for Records Management |
| U.S.C. | United States Code |



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