

From: Hoffer, Doug [Doug.Hoffer@vermont.gov]
Sent: Wednesday, December 07, 2016 12:19 PM
To: London, Sarah
CC: Springer, Darren
Subject: records retention
Attachments: Records retention memo 12.7.16.pdf

Sarah

Attached is a memo with some questions. I appreciate your help and look forward to hearing from you.

Thanks,
Doug

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DOUGLAS R. HOFFER
STATE AUDITOR



STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

To: Sarah London, General Counsel to the Governor
From: Doug Hoffer, Vermont State Auditor *DH*
Date: December 7, 2016
RE: Records retention
CC: Darren Springer, Chief of Staff

Dear Ms. London:

The retention of records in both electronic and hard copy form is an issue that is of critical interest to my office. We rely on such records to fulfill our statutory responsibilities under 32 V.S.A. §163 and they are required to be made available under 32 V.S.A. §167. As there will be a change in Administration shortly, along with an accompanying change in agency leadership with institutional knowledge, this issue is of immediate concern.

A December 2, 2016 article in VT Digger (*Shumlin Administration Looks to Lock Down Certain Agency Records*) quotes multiple sources citing actions allegedly being taken pertaining to the identification and disposition of records that may be deemed to be covered by executive privilege. In light of this article I am seeking clarification of how records that may be deemed to be covered by executive privilege or are otherwise being archived due to the change in administration are being handled. Specifically, I would like to know the answers to the following questions.

1. Has there been any written or electronic communication providing guidance or instructions to executive branch organizations on the identification and disposal of records (including, but not limited to, agency copies of email correspondence) that may be deemed to be covered by executive privilege. If so, please provide a copy of any such communication. If not, please provide a written summary of verbal communication that has been provided.
2. Has there been any written or electronic communication providing guidance or instructions to executive branch organizations on the identification and disposal of other records that is being undertaken due to the change in administration. If so, please provide

a copy of any such communication. If not, please provide a written summary of verbal communication that has been provided.

3. According to the VTDigger article, “Sources also say agencies have been asked to bundle the documents, and in some cases, contracts, and funnel them through the governor’s office before they are sent to the state archive.” Please provide written assurance that executive branch organizations will continue to maintain all contracts in hard copy *and* electronic form in order that they can be identified and accessed in future audits.
4. Are any contracts or grants being labeled as covered by executive privilege? If so, under what authority is this being claimed?
5. Have executive branch organizations been asked or instructed to delete electronic versions of certain types of emails or documents and to only keep paper copies? If yes, please provide clarification of when this situation would apply and the types of electronic records to which this would apply.
6. We understand that emails identified for the archive along with the Governor’s records are being converted to PDF format using Sperry Software. Please confirm that the original emails—without any redaction or other alteration—are being preserved.

Because this is a time sensitive issue due to the change in Administration, I would appreciate a written response to the above questions by no later than Tuesday, December 13. Thank you for your attention to this matter.