The Florida Senate

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Committee on Governmental Operations

IMPROVING ACCESS TO PUBLIC RECORDS

SUMMARY

Technology has changed how agencies can perform their duties in many ways. It is now possible for individuals to observe public meetings occurring hundreds of miles away, to access public records 24 hours a day, and to receive government services, all on-line. The availability of on-line records and service delivery is not uniform across state or local governments but as technology improves, as Internet use grows, and as the public becomes more accustomed to the convenience of e-government, it is likely that more on-line access and services will become available.

The same technologies that permit additional methods of records access and service provision also may cause new challenges. Access may be inadvertently limited if operational systems or document standards are incompatible or outdated and records cannot be read. Further, as technology results in new types of records, such as e-mail or instant messages, and as the numbers of records increase, more data storage capacity is necessary, which increases costs.

Historically, the Legislature has not attempted to minimize potential negative technological impacts on records access by requiring agencies to use specific types of technology or by permitting agencies only to use non-proprietary systems. Instead, it has emphasized that whatever technology is used, it may not limit or erode access to public records. Nevertheless, ensuring access at the state level has been complicated by an information technology (IT) governance structure that was constantly in flux. More than 10 different IT-governance and organizational structures were established in law during the past 40 years.

In an attempt to create a sustainable IT structure, the Legislature created the Agency for Enterprise Information Technology (AEIT) in 2007. Among other duties, the AEIT must define architecture standards for enterprise IT and develop approaches to implement the statewide migration to those standards. The statute assigning these duties, however, does not expressly require the AEIT to consider or apply the access standards currently established in law in the development of enterprise IT architecture standards. Further, no statutory link exists between the AEIT and the Department of State, which is responsible for records retention, to ensure consideration of records retention and archival requirements prior to the creation of IT architecture standards. Further, while the Uniform Electronic Transaction Act provides for the creation of electronic records standards, including interoperability, those duties are still assigned to the former State Technology Office and have not been reassigned. Additionally, no link exists between the AEIT and the Office of Open Government, an entity that was created by executive order to assure compliance with open government requirements.

Coordination of the various entities assigned responsibility for information technology, open government, electronic record standards, and records retention, as well as consideration of the actual requirements of open government, is vital for the development of enterprise IT architecture standards that preserve or enhance access to records and meetings. Further, in order to be effective and efficient, such coordination and consideration should occur at the beginning of the development of enterprise-wide IT architecture standards, not as an afterthought. As such, it is recommended that coordination of these entities and consideration of open government requirements be provided in law.

BACKGROUND

Access Requirements - Florida has some of the broadest requirements for access to records and meetings in the nation. Under the State Constitution[1] as

[1] *See*, s. 24, Art. I of the State Constitution.

well as statutes that preceded it,[2] meetings of a collegial body of an agency[3] must be reasonably noticed and open to the public and a person who has custody of a public record must permit it to be inspected and copied. A "public record" is defined to include traditional paper documents as well as "tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission . . . ."[4] Given the breadth of this definition, information stored on a computer is considered as much a public record as the written page in a book or a tabulation stored in a filing cabinet.[5]

Public Records Act Electronic Requirements - Historically, the Legislature has been aware that technology may have both positive and negative impacts on public records access. Legislative concerns about preserving access were expressed in statutory standards encouraging agencies to adopt new technologies while requiring them to consider negative impacts on access and to limit those impacts. For example, the Public Records Law requires agencies:

- To ensure that automation of public records does not erode access to those records.[6]
- To provide reasonable public access to electronic records and to ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.[7]
- To consider whether an electronic recordkeeping system they are designing or acquiring is capable of providing data in a common format, such as the American Standard Code for Information Interchange (ASCII).[8]
- Not to contract for the creation or maintenance of a public records database that impairs the ability of the public to inspect or copy the public records of the agency, including public records that are on-line or stored in an electronic recordkeeping system.[9]
- To ensure that their use of proprietary software does not diminish the right of the public to inspect and copy a public record.[10]
- To provide a requestor with a copy of an electronic record upon request, redacting any exempt portions, and to provide that copy in the medium requested if the record is maintained in that medium.[11]

Rule 1B-26.003(6)(g)3., F.A.C., requires agencies to ensure that current and proposed electronic recordkeeping systems adequately allow the public to access public records. While access to electronic records is required, proprietary rights of software developers are still protected. Section 119.071(f), F.S., provides that data processing software obtained by an

[2] Sections 119.07(1)(a) and 286.011, F.S.

[3] "Agency" is defined by s. 119.011(2), F.S., to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law . . . and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." Article I, s. 24 of the State Constitution expressly applies open records requirements to the Legislature and the judicial branch though the requirements of ch. 119, F.S., do not apply.

[4] Section 119.011(11), F.S., further provides that these are records that are ". . . made or received pursuant to law or ordinance or in connection with the transaction of official business. . . ."

[5] *Siegle v. Barry*, 422 So.2d 63 (4th DCA), petition for review denied, 431 So.2d 988. *See, however*, Op. Atty. Gen. 85-87 which finds that machine-readable intermediate files which are mere precursors of governmental records are not in themselves intended as final evidence of knowledge to be recorded but rather are utilized by data processing computer equipment to prepare further records which are intended to perpetuate, communicate, or formalize knowledge of some type.

[6] Section 119.01(2)(a), F.S.

[7] *Ibid.*

[8] Section 119.01(2)(b), F.S.

[9] Section 119.01(2)(c), F.S. Additionally, s. 287.058(1)(c), F.S., requires that every procurement for contracted services by a state agency in excess of the Category Two threshold be evidenced by a written agreement containing a provision allowing unilateral cancellation by the agency for the contractor's refusal to allow public access to public records, unless those records are exempt. The exceptions that are authorized relate to the health and mental health services.
Section 287.017, F.S., provides that Category Two purchases are $25,000 to $49,999.99.

[10] Section 119.01(2)(d), F.S. Also, it should be noted that s. 119.084, F.S., expressly authorizes agencies to copyright and sell data processing software they develop. If that software is necessary solely for application to information maintained or generated by the agency that created the information, then the standard public record fee applies, not the sale price for the copyrighted software.

[11] Section 119.01(2)(f), F.S. Thus, if asked for a copy of a software disk used by the agency, a copy of the disk must be provided; a typed copy would not suffice. However, an agency is not generally required to reformat its records to meet a requestor's needs. *See*, AGO 91-61.

agency under a licensing agreement which prohibits its disclosure and which is a trade secret, and agency-produced data processing software which is sensitive, are exempt. The term "sensitive" is defined to mean only those portions of data processing software, including the specifications and documentation, used to:

- collect, process, store, and retrieve information which is exempt;
- collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or
- control and direct access authorizations and security measures for automated systems.[12]

Uniform Electronic Transaction Act - Additionally, under the Uniform Electronic Transaction Act (UETA),[13] each governmental agency[14] must determine whether, and the extent to which, it will create and retain electronic records[15] and convert written records to electronic records.[16] Each governmental agency also is required to determine whether, and the extent to which, it will send and accept electronic records and signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.[17] To the extent that the agency uses electronic records and signatures, the State Technology Office (STO),[18] in consultation with the governmental agency, may specify: (a) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes; (b) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.[19]

Under s. 668.50(19), F.S., the STO may encourage and promote consistency and interoperability with similar requirements adopted by other government agencies in Florida, other states, the Federal Government, and nongovernmental persons. Those standards may specify differing levels of standards from which governmental agencies may choose in implementing the most appropriate standards for a particular application.

Internet Access - The Legislature has encouraged Internet access to public records by establishing the following policy:

> Providing access to public records by remote electronic means is an *additional* method of access that agencies should strive to provide to the extent feasible. If an agency provides access to public records by remote electronic means, such access should be provided in the most cost-effective and efficient manner available to the agency providing the information *[emphasis added]*.[20]

This additional means is authorized so long as the custodian provides safeguards to protect the records from unauthorized electronic access or alteration and to prevent the disclosure or modification of those portions of the records that are exempt from disclosure.[21] Further, a custodian is authorized to charge a fee for remote electronic access granted under a contractual arrangement with a user which includes the direct and indirect costs of providing remote access. Fees for remote electronic access provided to the general public, however, must meet the standard fees authorized in s. 119.07(4), F.S.

Access and Costs - While computer technology has the ability to transform the way government business is conducted and government services are provided, the transition from labor-intensive, paper-driven systems to electronic systems has not been uniform within state or local governments. Some entities are more highly

[12] Section 119.011(13), F.S.
[13] Section 668.50, F.S., was enacted by ch. 2000-164, L.O.F. While the CS for CS for SB 1334 was the bill that passed both houses, that part of the bill creating the UETA was added on the Senate floor to reflect the contents of the House bill. The House bill analysis for HB 1891 contains an analysis of the UETA.
[14] Section 668.50(2)(i), F.S., defines "governmental agency" to include an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the state, including a county, municipality, or other political subdivision of this state and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
[15] Section 668.50(g), F.S., defines "electronic record" to mean a record created, generated, sent, communicated, received, or stored by electronic means.
[16] Section 668.50(17), F.S.
[17] Section 668.50(18), F.S.
[18] The STO was eliminated by ch. 2007-105, L.O.F.
[19] *Ibid.*
[20] Section 119.01(2)(d), F.S.
[21] Section 119.07(2), F.S.

mechanized than others and, within those entities that are more computerized, some systems are better than others. Further, some older systems have limited capabilities and not all newer systems have been designed with a level of public access that is most effective or efficient. As a result, the means of providing access to public records may differ depending on the type and format of the record held, as well as by the particular agency holding the record.

There are times when these contingencies might have an impact on authorized costs under a special service charge provision where extensive technology resources or clerical or supervisory assistance are required to fulfill a request.[22] Whether the nature or volume of the records requested is such as to require extensive clerical or supervisory assistance or extensive use of the information technology resources is a determination that must be made on a case-by-case basis.[23]

Some agencies are better than others at attempting to help limit costs and preserve access. For example, one state agency attempted to require a records requestor to pay for a systems programmer to retrieve and review older agency e-mail messages under the extensive use provision. [24] In that case, the circuit court determined that the decision to archive older e-mail messages on tapes so that they could not be retrieved or printed without a systems programmer was an internal policy decision made with full knowledge that the agency might have to retrieve the records pursuant to a records request. Further, this policy decision was determined to be analogous to a decision to store records off-premises and, as such, the agency, not the requestor, was held responsible for bearing the costs. In another case, the agency found a creative way to respond to a request for a substantial number of records about its mayor by setting up a static web page so the requestor could view the documents. The cost of collecting and posting the documents was $360, which was substantially less than the cost of producing and copying the requested documents on paper. The requesting party was provided an access code to the static web page after paying the $360. The requesting party had no objection to having access to the records provided in this manner and the Attorney General noted that the method complied with the spirit and intent of the law on access.[25]

Open Source - One technological development that has received a great deal of attention recently is "open source" software. There does not appear to be a single authoritative definition of the term but most definitions share the idea that the "source code"[26] is open and comprehensible by a programmer and governed by a license under which it can be freely modified, permitting users to create software content incrementally or through collaboration. Open source software typically has relaxed or non-existent intellectual property restrictions. Open source software is contrasted with "proprietary software" where the source code is not available for study, modification, and redistribution. Proprietary software is licensed for use under the conditions set by the owner.

The open source model is becoming increasingly important. One study of open source notes:

> The Internet itself runs on open-source software, and a growing number of large commercial firms are supporting open-source software as part of their commercial strategies. Just as the Internet has facilitated the development of global open standards, it has also made global collaboration on open software development possible.[27]

As will be discussed *infra*, a substantial percentage of state agencies and local governments in Florida report that they currently use some open source software.

Proponents of open source software emphasize that it can be freely modified for the particular user's needs and argue that it would save government funds and reduce reliance on software firms. Opponents of open source software typically raise concerns about the lack of support for such software and some question its security.[28]

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[22] Section 119.07(4)(d), F.S., permits a special service charge where the nature or volume of the public records requested requires an extensive use of information technology resources or extensive clerical or supervisory assistance, or both. This charge is in addition to the actual cost of duplication. This charge may not be routinely imposed. *See*, AGO 92-38.

[23] AGO 90-7.

[24] *Cone & Graham, Inc. v. State*, No. 97-4047 (Fla. 2d Cir. Ct. October 7, 1997).

[25] AGO 2006-30.

[26] Source code is any sequence of statements and/or declarations written in some human-readable computer programming language.

[27] Open Standards, Open Source, and Open Innovation: Harnessing the Benefits of Openness, A Report by the Digital Connections Council of the Committee for Economic Development, p. 3, April 2006. Report on file or available at www.ced.org.

[28] *Ibid* at 38. It has been noted that the very openness of the Internet, which has created a worldwide means of

While the various benefits and deficiencies of open source versus proprietary software can be debated, it appears that for public records access purposes, interoperability of software and hardware is the most important issue when choosing technology, not whether a system is proprietary or open source.[29] "Interoperability" is

> . . . the capability of different programs to exchange data via a common set of business procedures, and to read and write the same file formats and use the same protocols.[30]

Essentially, interoperability is the ability of software and hardware on different machines from different vendors to share data.[31]

Without interoperability, technology can, at best, make it more difficult for individuals to access records or services and, at worst, limit or deny access to records or services. As was noted supra, s. 668.50(19), F.S., currently encourages and promotes interoperability.

Coordination of Agencies with Public Records and Retention Responsibilities - There is no single entity created in law to assist agencies in applying open government requirements, but responsibilities related to public records have been assigned to a number of entities. A public records mediation program is created in the Office of the Attorney General to help resolve disputes.[32] The office also produces the "Government-in-the-Sunshine Manual" which provides guidance on open government requirements. Additionally, given the large number of records that are generated by agencies, the Department of State, Division of Library and Information Services,[33] is responsible for records information and management,[34] including the development of rules for records retention.[35] Further, the State Archives of Florida is the central repository for the archives of Florida's state government. It is mandated to collect, preserve, and make available for research the historically significant records of the state, as well as private manuscripts, local government records, photographs, and other materials that complement the official state records.

Also, the STO,[36] which was housed in the Department of Management Services (DMS), was assigned certain responsibilities for electronic records under the Uniform Electronic Transaction Act.[37] The scope of the UETA covers "transactions," which is defined as ". . . an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, insurance, or governmental affairs."[38] It does not appear that the STO developed the standards authorized by the act and, as the STO was eliminated in 2007,[39] it cannot do so in the future. Further, the UETA was not amended to reflect the repeal of the STO, and it is unclear who is responsible for implementation.

On January 2, 2007, a non-statutory entity was created to assist agencies and individuals with open government questions and issues. The Governor established the Office of Open Government within the Executive Office of the Governor[40] by Executive Order.[41] The purpose of the office is to: (a) assure full and expeditious compliance with the open government and public records laws; and (b) to provide training on transparency and accountability.[42] The order states in part:

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communication, also has facilitated the creation of spam, phishing, and malware.

[29] The State of Massachusetts, which originally decided to use only nonproprietary document formats in state-affiliated offices beginning January 1, 2007, has since determined to move toward open, XML-based document formats without reflecting a vendor or commercial bias. *See*, Statement on ETRM v4.0 Public Review Comments - August 1, 2007.

[30] http://en.wikipedia.org/wiki/Interoperability.

[31] http://www.webopedia.com/TERM/i/interoperability.

[32] Section 16.60, F.S.

[33] Section 20.10(2), F.S.

[34] Section 257.36, F.S.

[35] *See*, Rules 1B-24 and 1B-26.003, F.A.C.

[36] The STO was housed in the Department of Management Services but it was eliminated by CS/CS/SB 1974 during the 2007 session and replaced by a "Technology Program." Other responsibilities of the former STO were transferred to the new Agency for Enterprise Information Technology. It is not clear whether the program at DMS or the new agency is responsible for s. 668.50, F.S.

[37] Section 668.50, F.S.

[38] Section 668.50(2)(p), F.S.

[39] Ch. 2007-105, L.O.F.

[40] The Executive Office of the Governor (EOG) is created by s. 14.201, F.S., which designates the Governor as the agency head. The EOG houses statutorily-created entities and statutorily-delegated functions assigned by the Legislature and should not be confused with the Office of the Governor which is created in s. 1, Art. IV of the State Constitution and is the office in which the constitutional powers of the Governor reside.

[41] *See*, Executive Order 07-01.

[42] Additionally, the Governor has created a "Commission on Open Government" to review a number of issues impacting access to public records and meetings.

> Each agency secretary is further directed to designate a person at his or her agency who will act as the agency's public records/open government contact person. That individual will be responsible for complying with public records/open government requests and compliance at their respective agency and will also be the primary liaison between that agency and the Office of Open Government for purposes of training and compliance.

Just as there is no single entity responsible for all aspects of public records, historically, there has not been a single entity responsible for information technology (IT) for the state. It has been estimated that the cumulative annual investment of state funds in technology infrastructure for state agencies is in excess of $2.14 billion.[43] During the past 40 years at the state level, more than 10 different IT-governance and organizational structures were established in law, but none proved to be particularly effective or ultimately sustainable.[44] One of the reasons cited for the historic ineffectiveness of IT in state government was that ". . . governance structures lack clear authority and unambiguous policy necessary for successful implementation and operation of the enterprise systems under their jurisdiction."[45] The Office of Program, Policy Analysis and Government Accountability (OPPAGA) has documented a number of problems related to IT at the state level.[46]

In an attempt to resolve state level IT deficiencies in the executive branch, legislation was enacted[47] and signed into law[48] that created a new entity with clear authority for enterprise IT issues.[49] The Agency for Enterprise Information Technology (AEIT) is headed by the Governor and Cabinet and is directed by an executive director who is appointed by the agency head and confirmed by the Senate. The executive director also is designated as the chief information officer of the state.[50]

Section 14.204(2), F.S., requires the AEIT to:

- Develop and implement strategies for the design, delivery, and management of the enterprise information technology services established in law.
- Monitor the delivery and management of the enterprise information technology services as established in law.
- Make recommendations concerning other information technology services that should be designed, delivered, and managed at the enterprise level.[51]
- Plan and establish policies for managing proposed statutorily authorized enterprise information technology services; establish and coordinate project-management teams; establish formal risk-assessment and mitigation processes; and provide for independent monitoring of projects for recommended corrective actions.
- Define the architecture standards for enterprise information technology and develop implementation approaches for statewide migration to those standards.
- Develop and publish a strategic enterprise information technology plan that identifies and recommends strategies for how enterprise information technology will deliver effective and efficient government services to state residents and improve the operations of state agencies.
- Assess and recommend minimum operating procedures for ensuring an adequate level of security for all data and information technology resources for executive branch agencies.[52]

Section 282.3055(2)(e), F.S., requires each agency chief information officer to assist the AEIT in the development of strategies for implementing enterprise information technology services and for developing

[43] *Enterprise Information Technology, Senate Review and Study*, Report No. 2007-140, by the Senate Committee on Governmental Operations, p. 4 (January 2007).
[44] *Ibid*, p. 6.
[45] *Ibid*, p. 7.
[46] For examples of some of the problems that have arisen in this transition, *see* OPPAGA Report No. 05-60, *DBPR Re-Engineering Has Achieved Cost-Savings But More Can Be Done to Centralize Functions and Improve Services*; OPPAGA Report No. 06-39, *While Improving, People First Still Lacks Intended Functionality, Limitations Increase State Agency Workload and Costs*; OPPAGA Report No. 07-06, *State Agency Electronic Records Management Could Be Improved*.
[47] The CS for CS for SB 1974 by the Senate Governmental Operations Committee.
[48] June 12, 2007.
[49] Ch. 2007-105, L.O.F.
[50] Section 14.204(1), F.S.
[51] Section 282.0041, F.S., defines "enterprise level" to mean all executive branch agencies created or authorized in statute to perform legislatively delegated functions.
[52] Section 282.318(2)(a), F.S.

recommendations for enterprise information technology policy. The Agency Chief Information Officers Council also is required to assist the AEIT in its endeavors.[53]

METHODOLOGY

A survey of agencies, at the state and local level, was conducted. Thirty-one state entities were surveyed and 29 responded to the survey. Fifteen cities were surveyed and six responded. Fifteen counties were surveyed and ten responded. The state and local agencies were surveyed about a wide variety of issues related to public records, particularly electronic records. Additionally, they were questioned regarding their use of open source software. Public and private computer and IT consultants also were interviewed.

FINDINGS

Historically, the Legislature has not attempted to minimize potential negative technological impacts on records access by requiring agencies to use specific types of technology or by permitting agencies only to use non-proprietary systems. Instead, the Legislature has emphasized that the use of any technology may not limit or erode access to public records.

Further, the Florida Statutes contain a number of standards that guarantee access to public records regardless of the format of those records. Among the methods of ensuring access to records stored in or manipulated by proprietary software reported by agencies are built-in functionalities to convert to a common format, or routines that permit conversion to a common format; making translators or conversion tools available on the agency website to ensure access to a record; providing records in multiple forms;[54] and purchase of licenses that permit public access. Further, a number of agencies reported that proprietary software, such as a database management system, might be used to process and store data but such proprietary software would not prevent access to the data required to be available to the public.

While statutory standards, built-in functionalities, and translators or converters, allow for public access to electronic records, inadvertent limitations on access may occur by the use of aging legacy systems, non-standard or outdated formats, and new systems that are not designed with public access requirements built in their architecture. While there are ways to work around such limitations to provide access in these situations, working around these systems can result in slower response rates, may affect the format of the record provided, or possibly result in the assessment of higher charges depending upon the circumstances. Any of these could effectively result in an erosion of access to public records over time. These issues could be alleviated by encouraging the interoperability of technological systems, as provided in s. 668.50(19), F.S. Further, coordination of the entities responsible for implementing public records standards, electronic records standards, and retention standards also could help to mitigate these problems.

Current law does not require or prohibit the use of open source software. Based upon the results of a survey of agencies conducted during the interim, 69% of state agency respondents currently use some open source software. Of the counties responding, 60% indicated they currently use some open source software. Only 16% of city respondents indicated they used open source software. Agencies who responded that they do not use open source software typically raised concerns regarding the availability of support for the software and questioned the security of such software.

When asked whether agencies should be required to use a common format, 52% of state agencies surveyed answered "no," 31% of state agencies were unsure and only 17% answered "yes." County respondents were equally divided between those who think use of a common format should be required and those that do not (40% each), while 20% of county respondents were unsure. Thirty-three percent of city respondents responded positively toward required use of a common format, but 50% were unsure and 17% were opposed.

While the various benefits and deficiencies of open source versus proprietary software can be debated, it appears that the most important issue for agencies choosing technology is not whether that system is proprietary or open source but whether that system is interoperable, that is, whether the software and hardware on different machines from different vendors share data with other systems. Section 668.50(19), F.S., currently promotes interoperability.

Florida law already provides for records retention and archiving. Responsibility for these functions is housed in the Department of State. Further, authority to develop certain standards for electronic records, including interoperability, is provided in the Uniform

[53] Section 282.315(1), F.S.
[54] Such as Microsoft Office or Adobe PDF.

Electronic Transaction Act. That authority, however, is assigned to the State Technology Office, which no longer exists, and responsibilities under the act have not been transferred.

While not created in law, the Office of Open Government, in the Executive Office of the Governor, helps to ensure compliance with open government requirements by agencies headed by gubernatorial appointees. Additionally, a mediation process for access disputes is created in law in the Office of the Attorney General.

Further, the State of Florida now has an enterprise level IT agency, the Agency for Enterprise Information Technology, which has been assigned the responsibility to define the architecture standards for enterprise information technology and develop implementation approaches for statewide migration to those standards, among other duties. As currently provided in law, however, there is no express requirement that the AEIT consider or apply the requirements of open government in the development of those standards. Further, there is no requirement that the AEIT coordinate and consult with agencies with specific expertise and statutory responsibility for public records access in the development of IT architecture standards.

RECOMMENDATIONS

In order to ensure adequate consideration of public records access and retention standards prior to the creation of enterprise IT standards, staff recommends:

1. Creating links in law between the Agency for Enterprise Information Technology, the Office of Open Government, and the Division of Library and Information Services.

2. Establishing in law the Office of Open Government and defining its duties.

3. Determining whether the AEIT or the DMS is responsible for implementing the electronic records standards provided in s. 668.50, F.S., as well as any other duties formerly assigned to the former STO, and making any necessary statutory reference changes.