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MEMORANDUM TO MUNICIPAL CLIENTS

RECEIVED

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To: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY
CITY AND TOWN CLERK

BOARD OF SELECTMEN

Re: Retention of Electronic Mail

As you may be aware, in recent days there has been intense media scrutiny concerning retention of e-mails by municipalities. As such, we wanted to remind municipal officials of the applicability of the Public Records Law to retention of e-mail and other municipal records.

- All records made or received by a governmental body, official, or employee, regardless of physical form, are public records for purposes of Massachusetts law. Thus, e-mail is a public record and is subject to the maintenance and disclosure requirements imposed by law. G.L. c. 4, §7, clause 26 (definition of public records and exemptions); G.L. c.66, §§8, 10 (retention and disclosure requirements, respectively).
- General Laws c.66, §8 provides that all public records must be maintained for a period of seven years, or for the amount of time specifically provided in an applicable records disposal schedule approved by the Supervisor of Records.
- The Supervisor of Records has approved over 20 departmental disposal schedules, as well as an Administration and Personnel schedule applicable to records held by any department. Copies of all municipal disposal schedules are posted on the Secretary's website at <http://www.sec.state.ma.us/arc/arcrmu/rmurds/rdsmds.htm>.
- To determine how long a record must be maintained, a records custodian must initially review the content of the record (subject matter), rather than the form (letter, e-mail, or video tape). Thus, for example, a complaint filed with a municipal board of health, regardless of whether it is in the form of a paper letter or an e-mail, must be retained for the same period of time.
- Once the content of the record has been identified, a records custodian must first consult the appropriate departmental records disposal schedule. If the record appears on the departmental disposal schedule, then the record must be maintained for the period of time indicated. If the record does not appear on the departmental schedule, then reference must be made to the Administration and Personnel schedule. As indicated above, if the record does not appear on any schedule, then the record must be maintained for a period of seven years.