RECORDS MANAGEMENT & THE PUBLIC INFORMATION ACT

In 2019, the Records Management Division of the Department of General Services ("DGS") and the Maryland State Archives ("MSA") conducted Records Management 101, an introduction to records management in the State of Maryland. During these sessions, questions were asked about the relationship between records management and the Public Information Act ("PIA"). The following is an explanation of records management, the PIA and the relationship between the two programs.

Records Management

The Annotated Code of Maryland State Government Article 10, § 608-611, and COMAR 14.18.02 govern records management in Maryland. Each unit of the State government is required to have a program for the continual, economical, and efficient management of the records of the unit.

The core of any records management program is approved records retention and disposal schedules (retention schedules). Retention schedules describe every record within a unit and how long a unit will retain the record before it is destroyed (in the case of non-permanent records) or transferred to the MSA (in the case of permanent records). Units are also required to file disposal certificates when disposing of records.

The Public Information Act

Maryland's Public Information Act, Title 4 of the General Provisions Article, grants the public a broad right of access to records that are in the custody and control of a unit.

A unit must provide access to requested records unless such access falls within one of the exceptions in the statute. The PIA identifies the time limit a unit has to respond to requests. Under the PIA, agencies may recoup the actual cost to fulfill a request in excess of the first two hours of preparation. Lastly, the PIA provides remedies that requestors or agencies may seek in disputes involving fees, timeliness of responses, denials and other issues.

How do Records Management and the PIA Relate?

While records management and the PIA are separate programs, and are codified in different parts of the law, they relate in the following ways:

- At the most basic level, retention schedules identify what records are within a unit, and, therefore, what records within a unit are available under the PIA. This helps requestors make effective requests and helps agencies avoid receiving requests that are not within their custody.

- Retention schedules support timely responses to PIA requests by identifying the location and access restrictions of a unit's records.

- As noted previously, retention schedules provide the authority to dispose of records. This can be helpful resolving a dispute concerning availability of records, as an agency can demonstrate that records were retained or transferred to the MSA in accordance with an approved retention schedule.

- In the case of non-permanent records, disposal certificates provide the "receipt" that a unit's records were disposed in accordance with the law.

- Records responsive to PIA requests are sometimes used in subsequent actions, such as litigation. A unit may identify the retention of records responsive to PIA requests on a retention schedule, ensuring that those records are retained regardless of the original

- retention of the records that are gathered in response to a request.

Conclusion
In short, records management helps you fulfill your PIA responsibilities by letting you know what records you have, where they are, and what access restrictions apply.

Would a joint records management/PIA training be helpful to you? Please let us know at dgs.src@maryland.gov.
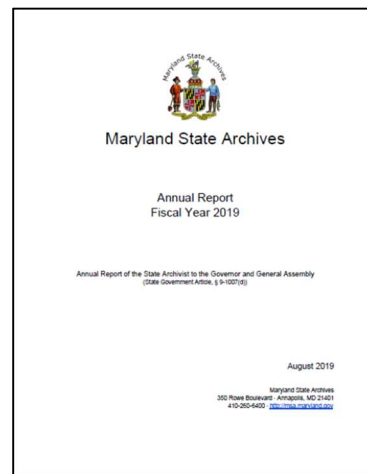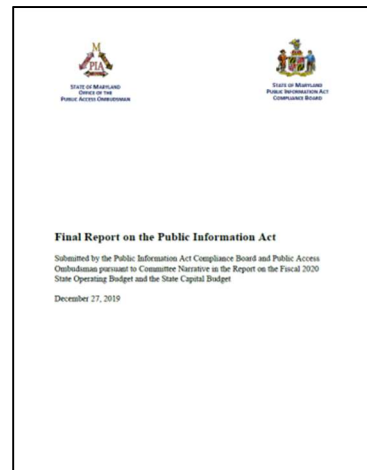
DGS's 2019 Annual Report can be found below:

https://tinyurl.com/yzjqd8g9

The MSA's 2019 Annual Report can be found below:

https://tinyurl.com/yjxn9o2x

The PIA Ombudsman's Joint Chairman's Report on the Public Information Act can be found below:

https://tinyurl.com/uj4mwml

Questions and comments are welcome! Contact the Records Management Division at 410.799.1930 or the State Archives at 410.260.6400.
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