



CIRCULAR

STATE OF NEW JERSEY DEPARTMENT OF THE TREASURY

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SUBJECT: MICROFILMING OF PUBLIC RECORDS AND PURCHASE OF MICROGRAPHIC EQUIPMENT		
ATTENTION: ADMINISTRATORS, CHIEF FISCAL OFFICERS, AND RECORDS MANAGERS		
FOR INFORMATION CONTACT: BARBARA GOSZKA		PHONE: 609-530-3234

I. PURPOSE

This circular advises State and local governmental unit managers concerning micrographic services provided by the Division of Archives and Records Management (DARM) in the Department of State to state and local government agencies and procedures related to use of a commercial service bureau for micrographic services or the purchase of micrographic equipment from a vendor.

When contemplating outsourcing of microfilming of public records or any functions or services related thereto with a commercial service bureau or the purchase of micrographic equipment from a vendor, state and local governmental unit managers are required, pursuant to the provisions of Executive Order No. 9 (Hughes, 1981), Consolidation of Microfilm Units and Warehouse Operations, to contact the DARM to determine if there are regulations regarding microfilming, public record-keeping, or purchasing of micrographics equipment that should be taken into consideration in the preparation of the specifications for any request for proposal (RFP) or invitations for bid (IFB) and/or contract issued for such outsourced services with a commercial service bureau or purchase of micrographics equipment from a vendor.

Furthermore, this letter reminds state governmental unit managers of the requirements set forth in Circular 97-05-ST, Administration of Public Records of Privatized Functions and Services, at <http://www.state.nj.us/infobank/circular/cir9705t.htm> and local governmental unit managers of Circular 97-07-SCA, Administration of Public Records of Privatized County and Local Functions and Services, at <http://www.state.nj.us/infobank/circular/cir9707c.htm> concerning access to and control of public records that should be taken into consideration in the preparation of the specifications for any RFP or IFB and/or contract issued for outsourced services with commercial service bureaus to provide state and local governmental units services that may gain access to and control of public records in connection with such services.

II. DEFINITIONS

The words and phrases used in this circular shall have the same meaning as defined in the "Glossary of Records Management Terms," ANSI/ARMA 10-1999 as amended and supplemented, as specified in N.J.A.C. 15:3-1.2, except the following words and phrases which shall have the designated meaning, unless the context clearly indicates otherwise:

Microfilm means:

- A. Raw (unexposed and unprocessed) fine-grain, high resolution photographic film with characteristics that make it suitable for use in micrographics;
- B. The process of recording microimages on film; or
- C. A fine-grain, high resolution photographic film containing microimages, including, but not limited to, diazo film, dry silver film, silver halide film, and vesicular film.

Micrographics means:

- A. The process of creating photographic reproductions greatly reduced in size from the original on fine grain, high resolution film, usually of a document or some other type of record; or
- B. The archival and records management technologies and techniques concerned with microimaging and reprographics, including producing, using and preserving microforms.

Microform or "microforms" means:

- A. Any recordkeeping media using photographic technologies containing images greatly reduced in size or microimages, usually on microfilm;
- B. Roll, generally serialized, microforms include, but are not limited to, microfilm on reels, cartridges, and cassettes; and
- C. Flat, generally unitized, microforms include, but are not limited to, microfiche, strips of microfilm in jackets, aperture cards, and opaque microcards.

Microfilm systems or Microimaging systems means microforms and electronic record systems and equipment, including stand-alone micrographic systems, computer-assisted retrieval (CAR) systems, computer-output microfilm (COM) systems, computer-input microfilm (CIM) systems, microfilm and other microforms scanning systems, digitally produced microfilm systems, and electronic microimage transmission systems.

Local Governmental Agency means any county, municipality, school or fire district or other special district, authority, or any public body corporate politic, or any subordinate boards thereof, created or established under any law of this state by or on behalf of any one or more counties or municipalities.

State Governmental Agency means any office, commission, agency, special district, authority, or any public body corporate politic, or any subordinate boards thereof, created or established under the constitution or any law of this state.

Outsourcing is defined in the Report to the Governor on Privatization & Competitive Contracting (1995) by the New Jersey Advisory Commission on Privatization as meaning "the contracting out of services that had previously been provided by the government," and "generally...the transfer to the private sector of [government] services or assets."

Records or Public Records are defined in P.L. 1953, c.410, §2, as amended by P.L. 1994, c.140, §3, (N.J.S.A. 47:3-16) as any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, data processed or image processed document, sound-recording or similar device, or any copy thereof which has been made or is required by law to be received for filing, indexing, or reproducing by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received by any such officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, in connection with the transaction of public business and has been retained by such recipient or its successor as evidence of its activities or because of the information contained therein.

III. MICROGRAPHIC SERVICES

Pursuant to the provisions of Executive Order No. 9 (Hughes, 1981), Consolidation of Microfilm Units and Warehouse Operations, to be found on the internet at: <http://njlegallib.rutgers.edu/eo/docs/byrne/order109-/index.pdf>, the DARM in the Department of State, as successor to the Bureau of Archives and History in the Department of Education pursuant to the Governor's Reorganization Plan, filed April 25, 1983, per P.L. 1994, c.140, §10 (N.J.S.A. 47:1-15) and N.J.S.A. 18A:73-26, operates the Central Microfilm Facility for State agencies and has technical control over all microfilm units in State government. The services that the DARM provides include:

- Production of State standards-compliant microfilm reproductions of source documents for State agencies and
- county and other local governments
- Preparation of documents for microfilming
- Microfilming of large documents and books
- Pick-up and delivery of records
- State standards compliant destruction of microfilmed records
- Storage of master copies of microfilm
- Inspection and certification of microfilm
- Consultation, advise, and approval of micrographic equipment and systems

The DARM will assist state and local governmental agencies to microfilm records or images of records as defined under P.L. 1953, c.410, §2, as amended by P.L. 1994, c.140, §3 (N.J.S.A. 47:3-16). Pursuant to P.L. 1951, c.410, §5 (N.J.S.A. 47:3-19) recommendations or requirements for microfilming such records are proposed by DARM in cooperation with state and local government agencies and incorporated in record retention schedules for individual record series approved by the State Records Committee as established under P.L. 1953, c.410, §6 (N.J.S.A. 47:3-20).

Micrographic services for cabinet level Executive Branch agencies are funded by the Public Records Preservation Account established under P.L. 2003, c.117, §38 and 39 (N.J.S.A. 22:4-4.2) for management, storage, and preservation of public records. Fees for micrographic services for other State and local government agencies are regulated by the State Records Committee. Current fees for microfilming and related services may be obtained by contacting Barbara Goszka, Manager of Imaging Services, telephone 609-530-3234, or e-mail barbara.goszka@sos.state.nj.us.

IV. RESPONSIBILITIES OF STATE AND LOCAL GOVERNMENT AGENCIES

In order to adequately protect the public interest in the effective, economic, and efficient management of all of the records of state and local government in the State of New Jersey and to ensure the preservation of the historical heritage of the state for future generations, every public agency, as defined in N.J.A.C. 15:3-1.2, shall:

- A. Pursuant to N.J.A.C. 15:3-15(a)3, assign responsibility for an agency-wide records management program and notify the Division of the name and title of the person assigned the responsibility;
- B. Strictly apply State standards and rules for the creation and use of microform records;

- C. Manage microform records as part of other records and information resources management programs of the agency;
- D. Include microform records management objectives, responsibilities, and authorities in pertinent agency directives and disseminate them to appropriate officials;
- E. Address records management issues, including disposition, before approving new microform records systems or enhancements to existing systems;
- F. Train the managers and users of microform records;
- G. Develop records retention schedules covering both source documents (originals) and microform records and finding aids with the assistance of the DARM, secure State Records Committee approval of the such records retention schedules, and apply the disposition instructions;
- H. Create, maintain, and preserve computerized indexes associated with microform records.
- I. Ensure that paper records are not destroyed after microfilming without prior written authorization from the DARM; and
- J. Review practices used to create and manage microform records periodically to ensure compliance with State standards pursuant to N.J.A.C. 15:3-3.1 through 3.18.

All State or local government agencies engaged in microfilming public records or causing their records to be microfilmed shall:

- A. Submit samples of one or more rolls of microfilm for inspection by the Manager of Imaging Services at the DARM before proceeding with any project for microfilming any record series or series of records of any such state or local government agency. No microfilm project shall proceed unless or until such microfilm has been inspected and certified by the Manager of Imaging Services as conforming to State standards as published in N.J.A.C. 15:3-3.1 through 3.18.
- B. Submit a sample of one roll of microfilm for inspection by the Manager of Imaging Services along with any request sent to the DARM for authorization for the destruction of any record series or series of records that has been microfilmed or requires microfilm backup. No authorization for the destruction of such records shall proceed unless or until such microfilm has been inspected and certified by the Manager of Imaging Services as conforming to State standards;
- C. Submit samples of one or more rolls of microfilm for inspection by the Manager of Imaging Services at least once in each six months period beginning with each calendar year. If the Manager of Imaging Services determines that such microfilm does not conform to State standards, such microfilm project shall not proceed unless or until any deficiencies or errors are corrected and such microfilm has been inspected and certified by the Manager of Imaging Services as conforming to the aforementioned state standards; and
- D. Submit a copy of any specifications for microfilming of public records or the production or duplication of microfilm of public records contained in a RFP, contract or similar document to the Manager of Imaging Services for technical review to determine that they conform to state standards.

Pursuant to N.J.A.C. 15:3-3.(c), the Manager of Imaging Services may request, at his or her discretion, any State or local government agency engaged in microfilming public records or causing their records to be microfilmed to submit one or more rolls of microfilm for inspection. If the Manager of Imaging Services determines that such microfilm does not conform to State standards pursuant to this subchapter, such microfilm project or projects shall not proceed unless or until any deficiencies or errors are corrected and such microfilm has been inspected and certified by the Manager of Imaging Services as conforming to State standards.

V. MICROFILM STANDARDS; REPRODUCTION OF ORIGINAL RECORDS

Pursuant to the "Destruction of Public Records Law," P.L. 1953, c.410 (N.J.S.A. 47:3-15 to 32 as amended), the photograph, microphotograph, microfilm, or data processed or image processed document or a certified copy of a public record shall have the same force and effect as the original record, provided it conforms to the standards, procedures and rules established by the DARM with the approval of the State Records Committee. The original records may be destroyed or the records therein effectively obliterated after they have been microfilmed, provided the Division has first given its written consent to such destruction or other disposition.

The standards for production of microfilm must be met for documentation and authentication before permission to destroy the originals is granted. Since many factors are involved in the use of micro-photography for records management, a careful analysis of each record group should be made before microfilming.

Following are some of the most important factors in determining which records are to be filmed:

Retention period and volume are perhaps the most important aspects to consider. Since microfilming is expensive, only a large volume of records with retention periods of ten years or longer are ordinarily considered good candidates for microfilming. There are, however, exceptions to this rule. Records of shorter retention periods but of such volume or use that storage becomes a problem would be one such exception.

Another important factor to be considered is the usage and rate of reference to records. Records with high reference rates or unusual methods of indexing or retrieval may be poor subjects for microfilming. Records considered for filming must be sufficiently arranged, identified and indexed to insure efficient access to and retrieval of records after they are microfilmed.

When converting documents to microfilm, appropriate measures must be taken to insure quality, legality, and adequate access to information contained on the microfilm. The microforms must contain all information shown on the original records to ensure that they can be used for the purposes the original records served.

If records have been imaged utilizing a certified imaging system, the production of microfilm reproductions of the documents by the DARM Imaging Services are only eligible for digital production from such images, which have the status as the original (official) documents pursuant to Section 12 of P.L. 1996, c.140; therefore, microfilm reproduction of the documents may not be produced by any photographic or other processes from any other copies of such records.

A master negative shall be created and maintained for any microfilmed public record or records. Polyester-based silver gelatin type film that conforms to standards specified in N.J.A.C. 15:3-3.6 must be used for the master copies of all microforms. The master roll of microfilm should be the first roll of microfilm produced. Copies of the microfilm must be used for jacketed microfilm for the production of microfiche and the uncut first roll of microfilm must be maintained as a master copy. The master copy should not be used for reference, except for creating duplicate copies, and must be stored in a secure, off-site storage facility pursuant to N.J.A.C. 15:3-3.12 and N.J.A.C. 15:3-6.4. If needed, a duplicate reference copy or use copy of microfilm must be created for use and retrieval of the records.

The formats specified in N.J.A.C. 15:3-3.6 must be used for microfilming source documents on 16 millimeter (16mm) and 35 millimeter (35mm) roll film, including the appropriate reduction ratio and format for meeting the image quality requirements. A reduction ratio no greater than 1:24 is recommended for typewritten or correspondence types of documents.

The targets that must be utilized in the creation of all microfilm copies of public records, with the exception of microfilm created from digital images which must use image processing system targets, are specified in N.J.A.C. 15:3-3.6 and are available on the DARM website, www.njarchives.org, or by request from the Division. The sequence in which such targets should appear on the film is specified in N.J.A.C. 15:3-3.6 and must be strictly adhered to.

Pursuant to N.J.A.C. 15:3-3.17, if, after considering all relevant factors, a public agency selects a particular record series to be microfilmed, notice shall be given to the DARM of such intention, specifying the record series involved. Such notification shall give the Division's technical staff an opportunity to make constructive recommendations concerning the proposed microfilm project and shall insure proper conformance with the state statutes and regulation pertaining thereto.

VI. DISPOSAL OF ORIGINAL RECORDS AFTER MICROFILMING

The State Records Committee must approve a records retention schedule and a Request and Authorization for Records Disposal form shall be filed and approved by the Division before any public records, including source documents, can be destroyed.

No original record may be destroyed after microfilming unless the agency obtains permission to do so from the Division pursuant N.J.A.C. 15:3-2.2(a) and (c). A "Request and Authorization for Records Disposal" form, as set forth in N.J.A.C. 15:3-2.2(f), must be used for this purpose. Signed certification shall accompany the form stating that the listed records have been microfilmed in accordance with the rules and regulations of the State and that with the creation of these microfilm copies, the original records have ceased to have sufficient value to warrant their retention.

Authority to destroy the paper records may be withheld when inspection reveals improper photographic exposure, distorted or unreadable microfilm images, or evidence of loss of the integrity of the original files through inadequate identification, lack of proper targets, indexing, or rearrangement of papers in such a manner that their original identity and usability is lost.

The Division will not approve the destruction of original records that have intrinsic value or original records that are scheduled as having permanent long-term retention and that have other characteristics that would limit the usefulness of microform copies for public reference. When an agency intends to retain the original microforms of permanent records and destroy the original paper records, the agency must certify in writing that the microform will be stored in compliance with state standards and inspected as required state statutes and rules.

Disposal of paper records after microfilming shall be conducted according to procedures established in N.J.A.C. 15:3-2.2(c), concerning audit of fiscal records, and N.J.A.C. 15:3-2.2(f), concerning physical destruction of public records.

VII. INSPECTION OF MICROFORMS, MICROGRAPHICS EQUIPMENT AND PROCEDURES

The Manager of Imaging Services, at his or her discretion, has the right, pursuant to P.L. 1920, c.46, § 3 (N.J.S.A. 47:2-4) and N.J.A.C. 15:3-1.4(a) and N.J.A.C. 15:3-3.15, to unrestricted access to and examination of microforms, micrographics equipment and procedures in any State or local government agency in order to assure that microfilm copies are usable and legible reproductions of the original record, that microfilm reproduction will have the same acceptability and legal status as the original record, and microfilm reproduction continues to meet standards of archival quality.

VIII. OUTSOURCING MICROGRAPHIC SERVICES

The DARM will assist local governmental units that wish to contract for outsourced services by identifying public records that may be in the custody of a prospective commercial vendor under the terms of the contract. DARM may recommend including language in such RFPs or IFBs and contracts which affirms the local governmental unit's legal ownership of any public records and the vendor's acceptance of responsibility to administer them in accordance with the state's public records laws.

Although not all records handled by commercial vendors in the performance of contracts for outsourced micrographic services will be affected by the Destruction of Public Records Act, P.L. 1953, c.410, it is necessary for local governmental units to determine prior to the time of contracting if there is a need for concern about the maintenance and final disposition of public records in the custody of a commercial vendor.

IX. PROCEDURES

State and local governmental units that intend to outsource micrographic services that will involve the maintenance or disposal of public records are hereby directed to incorporate in their RFP or IFBs and in final contracts for such services explicit terms affirming the governmental unit's legal ownership of any public records accessed under the contract and the vendor's acceptance of responsibility to administer the records in accordance with the State's public records laws and regulations.

The following is a sample of recommended language for inclusion in notifications to vendors, RFPs or IFBs, and contracts concerning outsourced services:

Records received, retained, retrieved, or transmitted under the terms of this contract constitute public records of [insert name of governmental unit] as defined by N.J.S.A. 47:3-16, and are legal property of [insert name of governmental unit]. The vendor(s) named in this contract must agree to administer and dispose of such records in compliance with the state's public records laws and associated administrative rules.

The [insert name of governmental unit] has identified the following as public records under this contract, subject to the above-cited provisions: [List all public records by series title and number as set forth in the agency's record retention schedule approved by the State Records Committee.]

Although the state has used its best efforts to identify all records which qualify as public records under this contract, the state reserves the right to amend the above list from time to time as warranted.

Any records slated to be disposed of or destroyed after microfilming or other processes by said vendor shall not be destroyed or disposed of until such action has been submitted to and approved by the DARM per the procedures established under P.L. 1953, c.410, §3 (N.J.S.A. 47:3-17 et al.). Any shredding of records shall be carried out per regulations in administrative rules N.J.A.C. 15:3-2.2.


Pursuant to the provisions of Circular 97-05-ST, Administration of Public Records of Privatized Functions and Services, and Circular 97-07-SCA, Administration of Public Records of Privatized County and Local Functions and Services, existing contracts for outsourcing micrographic services to commercial service bureaus may need to be revisited for consistency with these guidelines. Those contracts shall be reviewed by the originating governmental unit and DARM to determine if a public records provision should be incorporated and/or modified. Where appropriate, the state or local governmental unit shall attempt to negotiate with the vendor a revision to the contract to ensure secure access to and control and proper and uninterrupted maintenance of public records.

X. SUPPORT FOR MICROFILMING SERVICES AND ADMINISTRATION OF PUBLIC RECORDS

For assistance with interpreting and applying the state's laws, standards, rules and regulations for microfilming, purchase of micrographics equipment, or public records administration, managers of state and local government units and contract vendors of micrographic goods and services are referred to the DARM in the Department of State, which offers guidance with records and information management, systems life cycle analysis and program development, imaging, storage, and archival services.

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