

# A Strategy for Openness

## Enhancing E-Records Access in New York State Part I: Executive Summary

*Submitted to:*

*The Honorable David A. Paterson, Governor  
The Honorable Joseph L. Bruno, Temporary President of the Senate  
The Honorable Sheldon Silver, Speaker of the Assembly*



### Executive Co-Sponsors

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**Part I – Executive Summary**

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# Transmittal Letter

May 2008

**Honorable David A. Paterson, Governor**  
**Honorable Joseph Bruno, President Pro Tem of the Senate**  
**Honorable Sheldon Silver, Speaker of the Assembly:**

Pursuant to State Technology Law Section 305(4), we are pleased to jointly provide you with the following report: "*A Strategy for Openness: Enhancing E-Records Access in New York State.*"

As New York State government delivers more of its services and operations electronically, the importance of being able to cost-efficiently preserve our technology records for future reference has grown. This report examines how the State can provide choice, interoperability and vendor neutrality in document creation while ensuring the resulting electronic records remain publicly accessible and under appropriate government control.

Legislative bills in several states reflect growing national recognition that preservation and public access to electronic government records needs improvement. The call for this study in New York State from legislation sponsored by Assemblywoman RoAnn Destito shows recognition by our Legislative and Executive leadership that an examination of the State's existing processes, strengthening public access and electronic record preservation was needed. This report addresses this need.

In addition to our respective staff members, we wish to acknowledge and thank the following partners for their participation in the preparation of this report which are:

- Office of the New York State Attorney General;
- Office of the New York State Comptroller;
- Center for Technology in Government, State University of New York;
- Office of the New York State Historian; and
- Members of the public and vendor community who provided us with their constructive comments.

The report will be published in its entirety on the CIO/OFT website (<http://www.oft.state.ny.us>) in multiple formats including Open Document Format -- a first for any New York State government agency. We look forward to working with you in making meaningful changes to allow New York to lead the nation in providing appropriate and efficient open access to electronic government records.

Sincerely,

## Executive Co-Sponsors



**Dr. Melodie Mayberry-Stewart**  
New York State Chief Information Officer and Director,  
New York State Office for Technology and Office of the  
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And To:

**-- The many members of the public and vendor community who responded to the Request for Public Comments.**

## EXECUTIVE SUMMARY

### Introduction

As New York State government conducts more of its operations electronically, the importance of being able to preserve electronic records for future reference has grown. To address this need, a study was conducted and this report provides the results. The New York State Chief Information Officer/Office for Technology (CIO/OFT), working collaboratively with the State Archivist, are pleased to offer recommendations aimed at ensuring the State's electronic records remain accessible to the public while appropriate government control, that encourages choice, interoperability and vendor neutrality, are maintained.

The 2007 statute sponsored by Assemblywoman RoAnn Destito, Chair of the Government Operations Committee, which led to this report described principles which have frequently been endorsed by New York State government.<sup>1</sup> Specifically, the law required:

*"The director shall study how electronic documents and the mechanisms and processes for obtaining access to and reading electronic data can be created, maintained, exchanged, and preserved by the state in a manner that encourages appropriate government control, access, choice, interoperability, and vendor neutrality. The study shall consider, but not be limited to, the policies of other states and nations, management guidelines for state archives as they pertain to electronic documents, public access, expected storage life of electronic documents, costs of implementation, and savings. The director shall solicit comments regarding the creation, maintenance, exchange, and preservation of electronic documents by the state from stakeholders, including but not limited to, the office of the state comptroller, the office of the attorney general, the state archives, and the state historian. The director shall also solicit comments from members of the public. The director shall report findings and recommendations to the governor, the speaker of the assembly, and the temporary president of the senate on or before January fifteenth, two thousand eight."*

State Laws of 2007, Chapter 477.<sup>2</sup>

The law arose within a specific context. Legislative bills seeking to improve public access to electronic records were introduced in 2007 in California, Connecticut, Florida, Minnesota, Texas and Oregon which would have required those states to create, accept and preserve their electronic records in "open, XML-based file formats." Those legislative sponsors recognized one stumbling block to fuller public access to electronic records was the format in which those records were created and maintained. In its original form, the Minnesota bill, for example, sought to require state agencies to "accept all documents received in open document format for office applications."<sup>3</sup> This proved problematic.

Of the various states' bills referenced above only the Minnesota bill passed. The version which passed had been converted to a study bill. Rather than imposing "open document format" requirements, the law instead required a study of open access for state's electronic records.<sup>4</sup> The language of the New York State statute closely mirrors the language of Minnesota's law.

A chart showing the results and status of the bills introduced by the states is shown in **Table 1**.

**Table 1:**  
**Open Document Format Bills Introduced in State Legislatures, 2007**

STATE:	California	Connecticut	Florida	Minnesota	Oregon	Texas
<b>Bill No. / Introduced</b>	AB 1668 was introduced on February 23, 2007	H.B. No. 5299 was introduced on January 10, 2007	S.B. 1974 was introduced on February 22, 2007	H.F. No. 176 was introduced on January 17, 2007	H.B. 2920 was introduced on March 27, 2007	H.B. 1794 was introduced on February 5, 2007
<b>Summary of Bill</b>	Would have required "all state agencies, beginning on or after January 1, 2008, to create, exchange, and preserve all documents, as specified, in an open extensible markup language-based, XML-based file format, and to start to become equipped to receive any document in an open, XML-based file format, as specified."	Would have required each Connecticut state agency to "consider the availability of open source code software when purchasing, licensing or procuring computer software, as an alternative to proprietary software. Such comparison shall be based upon a comparison of costs and quality standards of such software."	Proposed committee substitute introduced on March 28, 2007 would have required the new Office for Enterprise Information Technology to "develop a plan and a business case analysis for the creation, exchange, and maintenance of documents by state agencies in an open format."	Preservation of State Documents Act, if passed, would have required that all documents "including text, spreadsheets and presentations" of the state be created in ODF.	Bill would have required "state agencies to disclose public records in electronic form in certain circumstances and, when practicable, in open formats for which freeware is available."	Bill would have required each state agency to "be able to receive electronic documents in an open, Extensible Markup Language-based file format for office applications and may not change documents to a file format used by only one vendor."
<b>Status</b>	The bill remained in committee.	A public hearing was scheduled for February 21, 2007. The bill remained in committee.	No action was taken by the Committee on adding the proposed language. The bill became law on June 12, 2007 without that language.	The bill language was changed on March 23, 2007 to require an electronic records study be conducted by January 15, 2008, and was enacted into law. The study was published in February 2008.	The bill remained in committee.	The bill remained in committee, but the committee is preparing a report concerning "how electronic documents can be created, maintained, exchanged, and preserved by the state in a manner that encourages appropriate government control, access, choice, interoperability, and vendor neutrality."

### **New York Bill Requirements**

The New York State law required the report take into account the following:

- The policies of other states and nations;
- Management guidelines for State Archives as they pertain to electronic documents;
- Public access;
- Expected storage life of electronic documents;
- Costs of implementation; and
- Potential savings.

Further the law required the solicitation of input concerning these issues from other stakeholders such as the Offices of the State Comptroller, Attorney General, State Archives and State Historian, as well as from members of the public which includes the vendor community.

In accordance with this mandate, CIO/OFT convened a workgroup consisting of representatives from the following agencies:

- Office of the Chief Information Officer/Office for Technology;<sup>5</sup>
- Office of the Attorney General;<sup>6</sup>
- Office of the State Comptroller;<sup>7</sup>
- State Archives;<sup>8</sup>
- Office of the State Historian;<sup>9</sup> and the
- Center for Technology in Government, University at Albany, State University of New York.<sup>10</sup>

The workgroup spent considerable amounts of time drafting the sections of this report for presentation to the CIO/OFT Director and the leaders of the other government entities participating in the workgroup for their consideration. Workgroup members then briefed the CIO/OFT Director on the findings and draft recommendations contained in the report. This report reflects those recommendations that the CIO/OFT and State Archives have adopted as their own.

Each step of the workgroup's analysis reinforced several consistently repeating themes. A persistent theme was that an incremental approach towards obtaining more open technology would best serve the State's interests.

## Major Findings

The following major findings support the recommendations proposed in this report:

1. There is a distinct concern which the statute authorizing this study sought to address -- with increasing usage of electronic records, New York State has a growing business and legal need for the type of openness in formats which ensures access to those records over time.
2. Openness is only one important feature among the State's many technology needs. Technology vendors offer other features, the sufficiency of which in any "best value" analysis by the State must be weighed against the degree of "openness" in the vendor's products.
3. In various formal documents the State has already expressly embraced the use of open standards as an IT policy choice. However, this policy choice has not been fully operationalized through the selection, adoption and implementation of open standards known as open formats.
4. Questions about the standardization and interoperability of office suite formats are undergoing a rich international debate. Office suite electronic records -- word processing documents, spreadsheets and presentations -- are the best representative example around which to focus. However, because the principles which pertain to office suite e-records are equally important for other types of State electronic records, such as e-mail or databases, the State needs to operationalize openness of standards and formats for all electronic records.
5. The State does not currently have a State Electronic Records Committee (ERC) in place for governance oversight as many states do. An ERC could provide the type of continuous analysis and collaborative work needed to ensure operationalizing openness retains focus and reaches all levels of government operations.
6. The State has tools and resources in place which could be used to further operationalize openness, such as CIO/OFT's Enterprise IT approach, CIO Council Action Teams, and its procurement modernization plans and processes.
7. In the office suite format debate, there currently is no compelling solution for the State's openness needs. The State needs open standards and formats. Simultaneously, the State needs electronic records to be preserved in their original formats whenever possible. Many Request for Public Comments commenters, particularly in response to the e-discovery questions, stated preserving a record in the same format as it was created results in a more faithful record and diminishes the possibility of expensive e-discovery disputes. This is important to ensure future generations of New Yorkers can access the permanently valuable electronic records being created today. Moreover, State Archives emphasizes creating records in open formats makes it easier to preserve their essential characteristics and demonstrates they are authentic (i.e., they were created in the course of State government business and have not been altered without proper authorization).

8. There are few available options for meeting the State’s openness needs. Available software either leans towards greater utility but less format openness, or lesser utility but greater format openness. To some extent this is a “chicken and egg” problem. For example, assistive technology vendors are less likely to convert their applications to office suite software which directly support more open formats until such software is in greater demand.
9. Increased numbers of formats for doing the same office tasks *do not increase choice in any positive manner*. Use of multiple formats increases complexity and ongoing costs. The use of single, standardized formats increases efficiencies and furthers compatibility and interoperability. Choice comes into play in two ways: (a) the choices made by vendors to directly support accepted standards; and (b) the ability of the State to choose among vendors who support accepted standards.
10. It is not in the State's best interests to insert itself into any argument between competing document formats. Rather, State policy issues and business needs should drive its choices of technology tools. The State should buy technology that enables openness because State policy is to ensure access to its e-records so the State can conduct its business in an open, interoperable and transparent manner.
11. There are many features in technologies the State needs. Given the State's increasing reliance upon electronic records and the variety of users who need access to those records, the State must refine its desired technology features to include the additional features of openness.
12. The most measured and successful method for furthering the State’s need for maximum accessibility of electronic records is to identify and operationalize technology openness using the existing State Information Technology policies and procurement processes.

## Key Recommendations

As a result of the study, the workgroup developed the following recommendations to ensure the State's electronic records are:

- Created and preserved in ways that encourage choice, interoperability, and vendor neutrality;
- Accessible to the public; and
- Kept under proposed appropriate government control.

The proposed recommendations were placed into three categories and are briefly summarized below.

### Recommendations for the Legislature

**Recommendation 1:** The State Legislature should not mandate in statute the use of any specific document creation and preservation technologies, as technologies can easily become outdated.

**Recommendation 2:** The State Legislature should consider legislation to:

**A.** Establish in statute a statewide, cross-government Electronic Records Committee (ERC) charged with addressing, in a formal and collaborative fashion, all aspects of electronic record creation, management, and preservation. The task would be a statewide policy.

The creation of the ERC in statute is critical to facilitate State agency buy-in, place the vendor community on notice that technology openness is a long-term commitment of the State, and ensure the ERC will continue to exist through successive governmental transitions.

The ERC should be co-chaired by the Chief Information Officer and the Commissioner of the State Education Department, or their designees. Committee members may consist of representatives from agencies having statutory or regulatory authority over various records-related matters, including all of the agencies involved in the writing of this report. Also, it is recommended the Legislature have representatives on the ERC. [Additional information about a proposed structure is available in Part II, a separate document.]

**B.** Expand the enforcement authority of the State Archives so that the Archives can ensure that:

- State agencies develop and implement appropriate records retention schedules;
- Archival State government records are transferred to the Archives in an appropriate and timely manner.

**C.** With the Division of Budget, support State agencies' budgetary requests intended to implement State electronic records policies and best practices consistent with this strategy. The use of e-records by the State is growing exponentially and highlights the need for electronic access and record preservation. Therefore, agency requests for financial support may increase.

## Recommendations for Electronic Records Governance

**Recommendation 1:** The existing work group formed to develop this report should continue for the purpose of monitoring technology openness developments until the Electronic Records Committee is formally established by statute. An ongoing effective working relationship between CIO/OFT and State Archives is a critical success factor to ensure successful implementation of openness across the State enterprise.

**Recommendation 2:** Once created by statute, the Electronic Records Committee's initial priorities should focus on:

- A.** Developing an accepted definition of "openness" in standards and formats which best serves the needs of the State and its constituents and can be relied upon with consistency in the State's procurement of information technology;
- B.** Working with other State agencies to further investigate and develop the shared functionality, access, and file format needs of all State government stakeholders, and communicate these needs to the State's IT workforce;
- C.** Working with vendors and the CIO Council action teams to assess, in a lab environment, the utility of tools for converting the State's electronic records to open formats for purposes of preservation or public dissemination. [This will include assessing the degree to which conversion affects appearance, content and other essential characteristics];
- D.** Determining the specific requirements which will allow State agencies to begin accepting Office Suite documents in open formats;
- E.** Making specific recommendations for mechanisms to incorporate the acquisition of openness features into all State technology planning and procurement processes; and
- F.** Working with the National Association of State Chief Information Officers (NASCIO) and other interested organizations to develop consistent approaches to working with open formatted documents in office suite software.

## Technology and Operational Recommendations

**Recommendation 1:** Successful implementation of an open environment needed by the State will not be realized unless an openness policy consensus is embraced by the IT workforce. To operationalize this consensus, the State, through its IT professionals, should:

- A.** Require the use of any electronic record format, either provisionally or as a final recommendation, only when there is a consensus among the impacted State agencies to further those agencies' needs for openness and accessibility of their electronic records;
- B.** Take into account other considerations such as cost and software functionality when operationalizing openness solutions; and
- C.** Deploy sustainable methods for implementing open standards and formats across the State's IT enterprise, including but not limited to:
  - The creation of an interoperability framework as a companion to other New York State enterprise architecture frameworks;
  - The incorporation of specific strategic goals for open document formats within future versions of the State's Enterprise IT Strategic Plan and agencies' IT plans and future procurements;
  - Revisions to the State's existing IT Enterprise Architecture to expressly add open formats to its list of principles; and
  - The addition of terms and conditions to centralized, aggregate and enterprise level software contracts addressing the use of open standards and formats, and evaluating the extent to which bids supply those features during the Request for Proposals (RFP) and Plan to Procure (ATP/ITP) processes.

## The Methodology and Workgroup

To complete the study, the workgroup met on a bi-weekly basis between August 22, 2007 and February 27, 2008 and periodically thereafter to complete the report. The workgroup began by researching a variety of issues relevant to the study, which included:

- **Legal Matters.** The workgroup reviewed State laws that address the creation and maintenance of electronic State government records, including the State Technology Law, Finance Law, and Arts and Cultural Affairs Law. Also, it examined the legislative history behind the NYS statute mandating this study and reviewed similar laws introduced in other jurisdictions. In addition, workgroup members attended continuing education classes concerning electronic discovery and assessed the impact of new electronic discovery litigation rules upon the creation and maintenance of electronic data.
- **Technical Concerns.** The workgroup examined existing CIO/OFT technology policies and guidelines, versions of the Massachusetts Enterprise Information Technology Architecture and other similar interoperability architectures from around the world, and the office suite format specifications and comments submitted during international standards-setting processes (e.g. before the European Computer Manufacturers Association and the International Standards Organization).
- **Fiscal Concerns.** The workgroup examined contracts let by the NYS Office of General Services and technology purchases processed through the State's "Annual Technology Plan" (ATP) and "Intent to Purchase" (ITP) processes to determine usage of software formats and applications within NYS government. It examined studies that projected costs which might arise from entities using certain document formats or outlined the actual costs borne by entities that had adopted a particular electronic document format.
- **Records Management and Access Guidance.** Workgroup members reviewed existing electronic records management and access guidelines from CIO/OFT and New York State Archives, as well as from the National Archives and other state archives. They examined National Association of Chief Information Officers studies concerning electronic records management and access and sought information from the CIO Offices in Massachusetts, Minnesota, and from the Electronic Records Committees in several other states.
- **National and State/Provincial Technology Policies.** The workgroup researched the electronic document policies other political jurisdictions adopted at the state/provincial or national level and outlined its findings in comparative grids (see Part II). It closely followed the work of Minnesota's Office of the Chief Information Officer, which began its electronic document study shortly before the workgroup convened. The workgroup reviewed dozens of resources identified by people and organizations who responded to Minnesota's RFI and closely examined the final report issued by Minnesota's Office of the Chief Information Officer. In addition, the workgroup reviewed audits of the Massachusetts Enterprise Information Technology Architecture prepared by the Massachusetts State Senate and the Massachusetts State Auditor.

Following the workgroup's research and in accordance with the statute's requirement for public input, the workgroup drafted a Request for Public Comments (RFPC) which was posted to the Internet on December 12, 2007.<sup>11</sup> The original deadline for submitting responses was December 28, 2007 and CIO/OFT received several dozen responses. Compiled into a word-processing document, they totaled over one hundred thirty (130) single-spaced pages.

The RFPC was covered in the news media, and interest in the study was extensive. Several prospective respondents asked for additional response time. After consultation with the statute's sponsors the response deadline was extended through January 18, 2008. CIO/OFT and State Archives sent follow-up messages to stakeholders who received initial notices, and CIO/OFT posted the new deadline on its website on December 26, 2007 with formal notice in the NYS Register.

As the extended deadline of January 18, 2008 passed, CIO/OFT received one hundred fourteen (114) responses containing approximately six-hundred (600) single-spaced pages of written comments. Fifty-nine (59) responses were from individuals, nineteen (19) from governments, eleven (11) from non-profit entities, and twenty-five (25) from commercial entities. The commenters and major themes are summarized below:

#### Commenters:

- Most of the individual commenters work in the information technology sector of the economy. Also, there were comments from individuals in other states (California, Florida, Georgia, Massachusetts, Tennessee and Washington State) and one comment from overseas (The Netherlands). Of the fifty-eight commenters, twenty (20) did not provide any type of identifying information besides their e-mail addresses. The others work for commercial employers, are in other professions (e.g. social work and law) or are affiliated with educational institutions as either students or teachers.
- The government commenters were from New York State agencies, two federal agencies and two New York State-based local governments.
- The non-profit commenters represented a range of activities, including a public employee labor union based in Albany, New York; two private law schools based in New York State; two "progressive" advocacy organizations based respectively in Washington, D.C., and New York City; two open documents advocacy organizations based in Washington, D.C. with mixed industry, government and non-profit participation; four technology industry advocacy organizations, (three based in Washington, D.C.), and one based in Canada and Sweden with a New York City office.
- All but two of the commercial commenters are information technology industry businesses. The other two commercial commenters were New York City-based companies involved in book publishing and filmmaking.<sup>12</sup>

*Major Themes:*

There were a number of recurring themes presented in the comments received:

- An overwhelming majority of individuals who responded recommended an open document format (ODF) be adopted by the State for creating, editing and maintaining electronic documents. Government agencies, on the other hand, predominantly recommended State agencies be further canvassed to ascertain their individual needs, applications and cost factors before a centralized approach on this topic is recommended or mandated.
- The non-profit entity commenters appeared equally divided among those who believed it would be in the State's best interest to adopt open document standards and formats for use in the creation, retention and sharing of electronic documents, and those who favored the State not taking a single approach or mandating a sole solution.
- Several commercial commenters strongly suggested Open Document Format (ODF) is preferable for accessing and reading government records, for encouraging choice and vendor neutrality, and for actualizing cost benefits for citizens and other stakeholders. Several equally argued true choice and vendor neutrality can only be achieved through the acquisition and use of information technology tools selected to meet the needs of government players in particular situations. These commenters maintained the State should not focus on particular evolving technologies or office suite formats in addressing the questions raised in this study, but instead should focus IT acquisitions on achieving the State's business needs and the pursuit of best value investments across all State IT systems.
- Other commercial commenters suggested the State not settle on a specific office suite format at this time, but instead consider the questions raised in the Request for Public Comments in the context of goals and priorities as set forth in a New York State Enterprise strategic information IT plan and enterprise architecture. In this fashion, the State would address electronic document management standards and formats from a coordinated and long-term perspective. In this same vein, it was suggested if openness is a strategic priority, New York State should work with the National Association of State Chief Information Officers (NASCIO) to establish openness standards for states to adopt and, thus, create more market demand for including open document formats in applications.
- Workgroup members analyzed and discussed all public comments received and used them in forming the recommendations contained within this report.

## Organization of the Report

The full report consists of three parts:

- Part I is this **Executive Summary** of the study, findings and major recommendations.
- Part II is **Supporting Documentation** and includes comparative graphs of approaches by other governmental jurisdictions, a deeper analysis of individual issues raised in the Request for Public Comments, and specific proposals for the composition of an Electronic Records Committee. It is approximately 138 pages in length.
- Part III contains the **Public Comments** from a Request for Public Comments. This part provides a detailed analysis of the recurring themes in the comments received, and verbatim copies of the comments. It is approximately 640 pages in length.

## **Suggested Implementation Timetable - Next Steps**

The workgroup recommends the State continue to operationalize this openness strategy with the proposed timetable:

- **APRIL 30, 2008** - Dr. Melodie Mayberry-Stewart, New York State Chief Information Officer and Ms. Christine Ward, New York's Archivist, delivered a preliminary draft to the legislative sponsor for review and comments, Honorable Assemblywoman Destito, Chair of the Government Operations Committee of the Assembly.
- **MAY 2008** - Dr. Melodie Mayberry-Stewart, New York State Chief Information Officer and Ms. Christine Ward, New York's Archivist, will deliver the study to Governor Paterson and the Legislative Leaders.
- **AUGUST 2008** - A Legislative statute to create an Electronic Records Committee to develop and implement Statewide open records policy is recommended for passage.
- **OCTOBER 2008** - The Electronic Records Committee, if passed, will convene to operationalize the openness strategy.
- **APRIL 2009** - The Electronic Records Committee will develop and publish a final open records policy, begin issuing a series of standards and guidelines for expressly implementing the policy and take other appropriate actions to further the recommendations in this report and monitor policy compliance.

## ENDNOTES

<sup>1</sup> In recent years, in numerous formal documents concerning electronic data the State has repeatedly acknowledged the value of using open standards and enhancing public access to e-records. For example:

- In the 2002 Electronic Signature & Records Act (ESRA) report the Office for Technology (OFT) vowed to *"work with the State Archives to better focus on and address the issue of long-term preservation of electronic records by State and local government entities."*
- In the 2004 ESRA report OFT noted that *"New York State should reflect on the efforts made by some states to address [e-records preservation] issues and challenges through an interagency collaborative approach."*
- In the 2004 New York State CIO Council Technology Committee's *"Principles Governing The New York State Information Technology Enterprise Architecture,"* the State formally embraced open standards in Principle # 32: *"The EA [Enterprise Architecture] will favor products and solutions that use open standards to facilitate interoperability between applications, systems and organizations."*
- In the 2006 New York State Information Technology Strategic Plan, the State's CIO Council called for *"eliminating technical barriers to information sharing" and "establishing technology standards for information sharing as part of the state's enterprise architecture principles."*
- And in the 2007 ESRA Guidelines, State agencies were encouraged to *"Provide access to e-records in the form the user prefers."*

<sup>2</sup> Codified at New York State Technology Law § 305(4)).

<sup>3</sup> Eric Lai and Gregg Kaiser, *"Microsoft trounces pro-ODF forces in state battles over open document formats"* (June 3, 2007): <http://www.computerworld.com/action/article.do?command=printArticleBasic&articleId=9022878>

<sup>4</sup> For example, the Minnesota bill, entitled the *"Preservation of State Documents Act,"* originally required as of July 1, 2008 state government in Minnesota must *"accept all documents received in open document format for office applications" and not in a file format "currently used by only one organization."* Moreover, all state electronic documents including text, spreadsheets, and presentations were to be *"created, exchanged, maintained, and preserved in an open, XML-based file format" that was:*

- "(1) interoperable among diverse internal and external platforms and applications;*
- (2) fully published and available royalty-free;*
- (3) implemented by multiple vendors; and*
- (4) controlled by an open industry organization with a well-defined inclusive process for evolution of the standard."*

See: Minnesota Legislature, *S.F. No. 131, as introduced - 85th Legislative Session (2007-2008)*, (January 17, 2007), <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=S0131.0.html&session=ls85>

The bill as revised and enacted requires:

"Subdivision 1. Study. The chief information officer shall study how electronic data, hardware, software, and media can be created, maintained, exchanged, and preserved by the state to ensure access, competition, and interoperability. The evaluation must consider, but not be limited to, the policies of other states and nations with regard to electronic records management guidelines for state archives, public access to information, expected storage life of electronic data, costs of implementation, and potential cost savings. The chief information officer shall solicit comments from stakeholders.

Subdivision 2. Report. The chief information officer shall report the officer's findings and recommendations to the chairs of the senate State and Local Government Operations and Oversight Committee, house of representatives Governmental Operations, Reform, Technology and Elections Committee, and the senate and house of representatives State Government Finance Divisions by January 15, 2008."

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See: Minnesota Legislature, *S.F. No. 131, 1st Engrossment - 85th Legislative Session (2007-2008)* (March 12, 2007) <https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=SO131.1.html&session=ls85>

This language is similar to the language of New York's statute.

5 <http://www.oft.state.ny.us>

6 <http://www.oag.state.ny.us/home.html>

7 <http://www.osc.state.ny.us/>

8 <http://www.archives.nysed.gov/aindex.shtml>

9 <http://www.nysm.nysed.gov/services/srvstate.html> (webpage may be slightly outdated; a State Historian was recently appointed)

10 <http://www.ctg.albany.edu/>

11 The Request for Public Comments consisted of two parts: Part A, an initial list of general questions and Part B, a lengthy series of detailed questions. The workgroup hoped the general questions would encourage input from members of the public interested in the broader issues. Those who were more invested in the topic could drill down in Part II for more detail on the electronic records creation and preservation topic. Given the numerous thoughtful responses received, this approach was successful.

Interested parties were encouraged to submit full or partial responses, irrespective of whether they currently did business with or intended to participate in future procurements by CIO/OFT and the State of New York. Participants were reassured no contracts would be awarded based on responses to the Request for Public Comments.

The workgroup publicized the Request for Public Comments in a variety of ways. Notice was published in the NYS Register on December 12, 2007. State Archives and CIO/OFT directly mailed individual courtesy notices about the Request for Public Comments to dozens of potentially interested stakeholders, including:

- Commercial entities that develop office suite applications;
- State and local government agencies;
- Non-profit organizations advocating adoption of open standards;
- Organizations serving users of assistive software technologies; and
- Archival and records management professional associations.

12 Part III, a separate document, contains the public comments. Most of the responses were submitted via e-mail to a CIO/OFT address created specifically for this purpose. Reinforcing concerns about the multitude of formats commonly in use, public comments were received in a variety of file formats, such as:

- Portable Document Format (saved as an image);
- Portable Document Format (saved with embedded, searchable text);
- Microsoft Word;
- Open Document Format;
- WordPerfect;
- ASCII text; and
- HTML.