Social Media and GRAMA Laws
by Megan Crowley, CPPA

Social media has been adopted by many federal, state, and local governments as a way to get information to and from interested citizens. In Utah, many cities, towns, counties, and special districts are now using services such as Twitter, Facebook, and YouTube to connect with citizens. This is a great opportunity to involve “the people” in government’s service delivery, policy-making, and community enhancements. As local governments create their social media program, policies, and systems, it’s a good idea to take a closer look at the GRAMA law and how it is related.

GRAMA is the acronym for the Government Records Access and Management Act, Title 63G, Chapter 2 of the Utah Code, that defines what a public record is and establishes the criteria for accessing public records.

A record is “a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics: that is prepared, owned, received, or retained by a governmental entity or political subdivision; and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.”(§63G-2-103).

But what about when a city council member posts a 140 character tweet in Twitter, or a Senator posts policy related information on Facebook? Is that a public record?

The answer to this question lies in analyzing the content and the person posting:

- Does the information exist in another or original (record-copy) format?
- Is the information meaningful in conducting government business and for how long?
- Is the social media page being presented by a person in an official government role, or is it presented as their own personal page?

Let’s address the first question; does the information exist in another or original format? Quite often social media is used to post information that exists in another format or document. That document may be the record-copy and information posted in the social media site a duplicate copy. For example, if a city clerk creates a meeting agenda in Microsoft Word and then copies the information to the city’s Facebook page, the Word document is the official record, not the Facebook page.

The second question is a bit more subjective in the use of the word “meaningful”. It is not very likely that a meaningful piece of public business can occur in Twitter’s 140 character limit. On the other hand, a Facebook announcement of a new policy on recycling could be very meaningful. What about the transitory nature of social media postings? If a mayor tweets about today’s nice weather, this not only falls outside of meaningful business, but it is also very transitory in nature, so would not be considered a public record.

The third question to consider is whether or not a person using social media is acting in a government role, or as an individual. For example, is the Facebook page for Councilman Smith or for Mr. Smith, the person? The role needs to be clear on the social media page and the content must follow the role. A person on Facebook as an individual and not representing a government agency, although formally in a government role, should not discuss government business on their personal pages. If the person is discussing government business, then the role should be clear on the social media site and GRAMA laws should be observed and followed.

There are a couple of other related issues with social media and GRAMA: Access and Management. Utah’s GRAMA laws also include the following:
Every person has the right to inspect a public record free of charge (§63G-2-201).

Every governmental entity needs to submit a schedule for the retention and disposition of its records to the State Records Committee (§63G-2-604).

If the public record only exists in a social media context, then you must provide an alternative way to view this record. This could be as a paper document or as alternate electronic files. This is also related to the next issue, retention and disposition. Since many social media postings “go away” after a period of time, there are archiving issues if your social media postings are the primary and only source of that record. There are many 3rd party software services and packages that are designed to archive Twitter posts. Sara Perez writes of **10 Ways to Archive Your Tweets** in an article on ReadWriteWeb at www.readwriteweb.com/archives/10_ways_to_archive_your_tweets.php.

Facebook postings present a bit more of a challenge in archiving. A good practice would be to only post government information on Facebook when it exists in another original form. The original form would then become the public record.

So what are the recommendations for government entities embarking into this new media? Create internal policies to answer these questions:

1. Who can represent the agency
2. What types of information will be posted?
3. What is the process for posting (i.e. will there be an originating document that is the public record?)?
4. What is the process for archiving?

In addition, you will want to train those who do the actual posting. Social media tends to be fairly user friendly so this should not be too time consuming.

The State of Utah has achieved a number of awards in web site implementations. We now have an opportunity to lead the nation in our ability to implement and make the most of social media in our governments.

For more information on Utah’s public records laws, go to: www.archives.state.ut.us/recordsmanagement/government-records-law.html

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