

FDA STAFF MANUAL GUIDES, VOLUME III - GENERAL ADMINISTRATION

INFORMATION RESOURCES MANAGEMENT

RECORDS MANAGEMENT

ELECTRONIC MESSAGING SERVICE

Effective Date: 05/25/2016

1. Purpose
2. Background
3. Policy
4. Responsibilities
5. References
6. Effective Date
7. History

1. PURPOSE.

This SMG publishes the policy for using Microsoft Lync 2010 and managing Instant Messages at the Food and Drug Administration (FDA). The purpose of this policy is to ensure Instant Messages are used in an appropriate fashion and managed in accordance with applicable records retention policies.

2. BACKGROUND

Microsoft Lync 2010, is an electronic tool or application that affords FDA Information Technology (IT) network users an efficient method of communication with colleagues via real-time messaging that allows users to have textual conversations with colleagues, in addition to computer-to-computer voice conversations, screen sharing and video conferencing. Currently, FDA's workforce uses the Microsoft Lync 2010 tool for these purposes.

3. POLICY

It is the policy of the FDA to capture and manage all Federal records. This includes Instant Messages that qualify as Federal records in accordance with the system described in this guide.

Federal records are defined in 44 U.S.C. 3301 and include all machine readable materials made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business.

Instant messages are records if they document or are in furtherance of official FDA business and must be managed in accordance with FDA records management policies. As such, Federal records created using the Microsoft Lync 2010 tool must be retained in accordance with FDA's records schedules. Moreover, these records will be treated as any other Federal record and can be recovered and used in response to discovery requests under the Federal Rules of Civil Procedure, Freedom of Information Act or other lawful request for FDA's electronically stored information.

Microsoft Lync 2010 is often used to quickly initiate a conversation with a colleague based on their availability as indicated by Lync. However, an individual's availability as indicated by this technology is not a reliable record for purposes of employee tracking or determining if an employee is engaged in official FDA business. These tools merely indicate user availability as interpreted by the tool. More specifically, monitoring an employee's availability utilizing Instant Messaging technology cannot be used as evidence of the employee's time worked or used as proof to demonstrate an employee's failure to work. Accordingly, this information should not be used as a basis or justification for any adverse employment action.

4. RESPONSIBILITIES

- A. FDA IT - Microsoft Lync 2010 has the ability to save a record of Instant Message conversations in Outlook. The Office of Information Management and Technology (OIMT) will ensure that the Microsoft Lync 2010's message capture function is turned on as the default setting. Instant Message client software will capture the message content as either a plain text file or in a format native to the client.
- B. FDA Employees – Creators of Instant Messages should handle and manage Instant Messages as they would any other record. Instant Messages that qualify as Federal records should be retained in accordance with FDA Records Schedules and General Record Schedules. Creators of Instant Messages should carefully review the content and determine which record control schedule should be used to manage its disposition. In addition to retaining the content of Instant Messages that qualify as a Federal record, the transmission and receipt data that identifies the sender, recipient(s), date and time the message was sent and/or received must be captured as well. Employees may not take any action to disable the automatic capturing of Instant Messages.

Sometimes it may be necessary to transcribe or capture the message in another format, much as you would for a telephone conversation or other verbal communication, when it is needed to document your activities. Please note that FDA and NARA records schedules are media neutral. Accordingly, personal communications via Instant Message should be deleted as soon as they are no longer needed.

As with all FDA IT tools, employees must use sound judgment and appropriate conduct when communicating via Microsoft Lync 2010. Inappropriate use of Microsoft Lync 2010 may result in disciplinary action.

C. FDA Supervisors- Microsoft Lync is not an employee tracking tool and should not be used as such.

5. REFERENCES

NARA Frequently Asked Questions about Instant Messaging - <http://www.archives.gov/records-mgmt/initiatives/im-faq.html>

Federal Rules of Civil Procedure Rule 26 (b)(2)(B)

6. EFFECTIVE DATE

The effective date of this guide is May 25, 2016.

7. Document History - SMG 3291.8, Electronic Messaging Service

STATUS (I, R, C)	DATE APPROVED	LOCATION OF CHANGE HISTORY	CONTACT	APPROVING OFFICIAL
Initial	05/24/2016	N/a	OIMT/RERM	Walter S. Harris, MBA, PMP, Deputy Commissioner for Operations, Chief Operating Officer