eRecording – An Overview

I. Industry Terms and Definitions

Catcher: The recorder's part of the system that receives the electronic document.

Certificate authority (CA): A trusted third party that issues digital certificates to subscribers. A CA vouches for an individual's identity and effectively binds that person to a key pair, including the public key contained in a digital certificate. CAs will often issue different classes of digital certificates, each class offering a different degree of trust. See also certificate practice statement, certificate revocation list, registration authority. Common CAs: Digital Signature Trust Co., VeriSign, USERTrust

Client: A software program that runs on a personal computer or workstation and connects to a network server to perform certain operations. Client applications are generally designed to require little memory and storage space, routing most of the data processing load to the server. A good example is the e-mail client, which allows a user to access the contents of an e-mail account hosted on a remote server.

Common Gateway Interface: Industry Standard that assists communication between computers and web servers.

Digital certificate: An electronic file that is issued to a user by a certificate authority (CA). The primary purpose of a digital certificate is to link the certificate holder to a public key. Digital certificate information is commonly included along with digital signatures. Digital certificates generally include the following information:

1. The name of the subscriber
2. The subscriber's public key
3. The name of the CA that issued the certificate
4. The issuing CA's public key
5. The digital signature of the CA
6. The expiration date of the certificate

Digital Notarization (e-notarization): A notary public signs an electronic document to endorse the signer's acknowledgement with digital notarization. In an electronic environment, the notarization process is identical to the creation of a digital signature, where in a paper environment a notary stamp is applied to the original paper document.

Digital Signature: Electronic data that is embedded in an electronic document. The purpose of the data is to verify the document integrity and signer identity.

Electronic Signature: There are many methods that link a person to a document or action using electronic data. With the personal intent to sign, any embedded electronic element can serve as a signature. Most commonly used methods are digitized signature (scanned image of person's handwritten signature), digital signature (electronic data that contains encoded information about the document and the person who signed it), voice authorization (audio recording), text-based signature

(typed name), biometric signature (electronic signature that is the result from scanning a physical part of the person like a fingerprint or retina).

Schema: A method for specifying the structure and content of specific types of electronic documents. Created in XML format.

Submitter: System or party sending the document.

TIFF File Format: Industry standard used in many image based computer applications. The goal of the format is to allow easy exchange of the image data between different computer systems. Tiff files are very commonly used in the recording industry when scanning and storing images.

Validation: A process by which a digitally signed document is authenticated and then checked for validity based on specific external requirements. During signature authentication, the embedded digital signature is decrypted using the signer's public key, to verify the signer's identity and the document's integrity. The second part of the process involves making sure that the document follows a specific set of conventions. For example, the document must have the required elements, and all information must be in the correct format.

Wet signature: An original representation of person's name, written by hand with pen and ink, applied to a legal document. This type of signature is referred to as wet to distinguish it from other kinds of signatures: photocopies or facsimiles of handwritten signatures, digital signatures, digitized signatures, and so on.

XML: Data language format used to carry information between different computer systems.

II Levels of eRecording

Level 1: Digitized Paper Image

A level 1 document recording operates most similarly to the existing paper world. The submitter prepares, prints, signs and notarized the paper document as in their current environment, but instead of mailing or hand delivering the paper to the recording office, the submitter scans the documents, which converts it to electronic form. The image is then sent to the recording office via secure network or Internet connection.

Level 1 eliminates delays in transportation of the document, and time and mail expenses, but it does not eliminate any of the manual data entry performed at the recording office. The county will continue to process the document as normal with the exception of scanning.

Level 2: Digital Document Image with Attached Recording Data

This model is a hybrid solution between the paper world and the electronic world (level 3). The document is created electronically, however, the data is stored in a separate file. The electronic document and the data file are bundled together and then submitted to the county office. The recorder then visually compares the two to verify continuity between them.

This model will eliminate the need for data entry, but it still requires human intervention to record a document. Because of the personal contact with this model, data integrity could be compromised in comparison to the total automated environment of level 3.

Level 3: Complete Automation

This model is the most technically advanced option. It is completely automated and fully integrated electronic recording. There is no physical paper generated. A digital document is prepared with a digital signature and digital notarization embedded directly into the electronic document. All of the information required for recording is contained in a single file.

When the county receives the electronic document for recording, the system will validate the transaction data and determine recordability. Optionally, the recorder may review the document prior to accepting the document for recording. For complete automation, the system should be integrated with the county cashiering and indexing system.

After the document is recorded, the recorded information is accompanied by the recorder's digital signature and embedded into an electronic file. This file is then returned, with a receipt to the document submitter. At the county, the document is then automatically indexed and the information is then used to generate an image (representative of a paper document).

All of these steps are done within seconds without human intervention. Level 3 eRecording offers the most significant gains in comparison to the other models, both in recording efficiency and data accuracy.

III. Benefits of eRecording

1. Lender-customers can prepare and transmit documents to the Register of Deeds quickly.
2. Lender-customers get immediate feedback when their documents have obvious errors.
3. Lender-customers receive recorded images immediately after they are recorded and do not need to wait weeks or months for the document to be returned in the US Mail.
4. Fewer errors are made on the part of the lender-customer and the Register of Deeds staff because of software system requirements.
5. The Register of Deeds can review documents for statutory requirements and immediately send back any documents that do not conform to law. Notes can be added explaining the problem and the documents are sent back to the customer electronically.
6. The Register of Deeds can process the documents with the push of a button. The e-Recording system records, receipts, indexes in the grantor-grantee, indexes in the tract, "scans" and "mails" back the document image in one operation. Whereas it would normally take 24 hours to get the document recorded, indexed in the grantor-grantee and scanned, that process takes 8 to 16 seconds per document with electronic recording.
7. The Register of Deeds can use electronic recording to address an increasing workload despite county hiring freezes. The majority of documents will continue to be on paper but over time, the use of electronic recording will increase staff productivity significantly.
8. Staff time, printing materials and postage are saved for both the lender and the Register of Deeds.

IV. Project Objectives

With today's increasing demands, reduction in budgets and time constraints, people are looking even more to technology to help resolve limitations. It is now even more important that the energy allocated to introducing a new service in your office delivers a successful outcome. Listed below are some objectives to consider when designing an eRecording plan.

1. To alleviate the paper document load coming into the county. (Think about what kind of volume you would need to alleviate to make implementing eRecording successful. Start by knowing your existing volume and your turnaround time. If you could magically decrease your daily volume from 500 to 300 per day, would the decrease allow you to speed up your turnaround to 2 days?
2. To support an eRecording product that provides highly accurate and timely Recording. (Investigate how the products measure accuracy and time and set some goals for your office).
3. Support a product that you know will continue to evolve as the standards continue to evolve. (Investigate the vendor's commitment to development and participation in the local and national standard setting organizations).
4. Support a product that will continue to evolve with new technology. The goal here is to continue to improve accuracy and speed, which equals cost savings. (Again, investigate the vendor's commitment to research and development.
5. Partner with a vendor that is committed to bringing you volume through eRecording (Find out who the submitting partners are and what volume the submitters are already sending to your office).
6. Because the success of this project equates to cost saving in your office, make sure the vendor you partner with can implement the eRecording system in a timely manner without a lot of disruption to your environment. Inquire into the vendor's implementation methodologies. Find out what their average implementation time frame is. Ask for references.

V. Other commonly asked Questions and Answers:

Q. Are electronic document recorded as soon as they arrive at the courthouse?

A. The answer to this depends on the county. Some counties plan on recording eDocs as soon as they arrive. Others plan on processing eDocs at specific intervals throughout the day.

Q. If a submitter is filing several documents and want them recorded in a specific way, should they record them in any particular way?

A. Yes. They should record them in the order to which they want them processed.

Q. How does the county get its recording fee for an eRecorded document?

A. Typically fees are paid by Credit Card, Escrow account or ACH.

Q. What type of turnaround time can a submitter expect to have if using eRecording?

A. At the most (unless document is filed late on a Friday) 24 hours.

Q. What does it do other than transmit information electronically?

A. eRecording allows us to capture different parts of a document so that each can move separately and independently from the others. (Currently only Level 2&3 separates information out)

Q. How much does eRecording cost a county?

A. That depends…for specific information you will need to speak to your vendor to determine the actual cost to your county. Your outlay will depend on your choice of software and the type of integration into your indexing system.

Q. Do I have to move towards eRecording?

A. eRecording is almost tripling in use each year, and this means that more and more county recorders will be asked to implement the technology into their offices. Counties with higher volumes of mortgages to process are likely to feel the pressure to move to eRecording sooner than smaller counties.

Q. Why Develop Standards for eRecording?

- Standards ensure that communication between parties is possible.
- Standards save money.
- Standards provide a platform for future development which ultimately provides more choices for customers.

Q. Who sets the Standards?

- MISMO – Mortgage Industry Standards Maintenance Organization
- PRIA – Property Records Industry Association
- CMSA – Commercial Mortgage Securities Association (through MISMO commercial)
- State and County Systems

Q. Who is representing County Recorders?

A. PRIA is the first national group formed to jointly represent the public and private sectors in identifying problems and finding solutions to problems faced in the property records industry.

Q. If I adopt electronic recording, can I still accept paper documents?

A. Yes. Electronic recording does not have to replace your current paper process. It is simply another tool, geared to help you receive and process more documents in less time.

Q. What types of documents can be recorded?

A. Satisfactions, Releases, Mortgages, Assignments and Deeds without transfer tax

Q. Can I legally accept electronic records?

A. It depends. With the passage of the national E-SIGN act and state passage of UETA legislation, most states are able to legally accept digital documents for recording. Be sure to check with your local legal counsel for the status of digital document laws in your area.

Q. How do I return an electronic document?

A. Most digital documents are transmitted securely over the Internet. If, for any reason, the document needs to be returned to someone not connected to the Internet, it is always possible to print the recorded document and mail it.