Records Management
For the 21st Century
Practical Approaches for Government

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Why worry about RM?

Poor RM is expensive, inefficient, risky

– Employees spend 25-40% of their day searching for the right information to complete a given task.

– Organizations on average retrieve only about 22% of records relevant to an e-discovery case.

– Settling out of court is often cheaper than defending your agency
Why worry about RM?

- DuPont reviewed 75 million pages and found half were past retention. Cost for review of records past retention - $12 million

- 9% of agency/corporate annual budgets often dedicated to e-discovery
  - The Secretary of State spent 2.5% of its biennial budget in setting up ERMS. Ongoing licensing and maintenance: less than 1% biennially

Know The Laws
Oregon Public Records Law – Retention & Disposition

“Public record” means any information that:
(A) Is prepared, owned, used or retained by a state agency or political subdivision;
(B) Relates to an activity, transaction or function of a state agency or political subdivision; and
(C) Is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the state agency or political subdivision. – ORS 192.005 (5)

Each state agency or political subdivision shall maintain a public record or accurate copy of a public record in accordance with a retention schedule authorized under the law without regard to the technology or medium used to create or communicate the record. – ORS 192.108

Oregon Public Records Law - Access

“Public record” includes any writing containing information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics. – ORS 192.410 (4)

DOJ oversees access & disclosure
Oregon Public Meetings Law

The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.

– ORS 192.620

These laws are Inclusive, not Exclusive

AND

DO NOT distinguish between home and office or personal or publicly owned device: public work is public work
New Rules for Electronic Records
OAR Chapter 166 - Division 17

166-017-0015 - General Requirements

Agencies:

- Must ensure that all public records, regardless of format are retained according to applicable records retention schedules approved by the State Archivist
- Must develop policies & procedures that address access, use, retention and disposition and must perform periodic reviews to ensure compliance
- May contract with external vendors for storage or management of electronic records. Vendors must comply with all rules in Division 17
- Must not enter into a contract if the contract will impair public access or if the custody of the records is transferred, either purposefully or inadvertently, from the agency to the hosting entity
- Contracts for storage of electronic records must require the vendor to return all electronic data files and indexing information to the agency at the expiration of the contract or upon vendor failure to comply with OAR 166, Division 17
OAR Chapter 166-Division 17

166-017-0015 - General Requirements (con’t.)

• Must ensure that electronic public records are accessible to the public for the entire authorized retention period and non-permanent records are destroyed at the end of their authorized retention period
• Must also maintain confidentiality for electronic public records that are exempt from public disclosure.

166-017-0025 - Electronic Records Management Systems

If an agency purchases an Electronic Records Management System (ERMS) to manage electronic records, the system must be Dept. of Defense certified (DoD 5015.2-STD, "Design Criteria Standard for Electronic Records Management Applications, Version 2 or 3").

OAR Chapter 166-Division 17

166-017-0045 - Electronic Record as Official Copy of a Public Record

Electronic records (including digital images) may serve as the official copy of a public record under the following conditions:

Public records with a scheduled retention period of less than 100 years may be stored in electronic format only as long as the standards and requirements specified in OAR 166, Division 17 are met.

Public records with a scheduled retention period of 100 years or more may be stored on electronic records systems provided that the original records are retained in hard copy or on microfilm for the entire scheduled retention period, and in compliance with OAR 166.
Agencies may petition the State Archivist, in writing for exceptions to 166-017-0045(2). The petition must specify whether the records are stored in a DoD 5015.2 certified system and state the file format for the records. The State Archivist will either grant or deny the request based on the information provided.

At a minimum, records stored in an electronic format, with a scheduled retention period of 100 years or more must be maintained in accordance with one of the following:

- TIFF 6.0 (picture)
- ISO 32000-1 2008 PDF (text)
- ISO/IEC 11172-3 1993 MPEG Layer III Audio Encoding (MP3) (audio)

Agencies must develop & adopt policies and procedures to ensure electronic records are retained & managed according to their authorized records retention schedule approved by the State Archivist. They must include provisions for:

- Scheduling the retention & disposition of all electronic records
- Identifying, maintaining & protecting essential records & systems
- Procedures for regular recopying, reformatting & other maintenance to ensure retention, usability & accessibility for the entire authorized retention period.

New formats or technologies for public records must comply with requirements of Oregon Revised Statutes and OAR 166.

Agencies utilizing private records storage facilities (i.e. cloud storage) the agency must ensure that they maintain ownership of all of the agency’s public records.
Records Retention Schedules

Records Retention - *What is it?*

- How long a public record must be kept to satisfy *administrative, legal, fiscal* and *historical* requirements of that public record.
  - Local Agencies: *Minimum*
  - State Agencies: *Minimum & Maximum*
- Determined by *content* of record, *not* format or medium
- Records Retention Schedule
  - Lists ALL records & retention periods
  - Approved by the State Archives
  - *Legal Authorization* to destroy public records
Recorder — General

Recorder is responsible for the care and management of all city records. General documents the management and care of the city’s public records.

1. Annexation Records (166-200-0135(1)) - Minimum retention: Permanent
2. City Charter (166-200-0135(2)) - Minimum retention: Permanent
3. City Code (166-200-0135(3)) - Minimum retention: Permanent
4. Deeds to City-Owned Land (166-200-0135(7)) - Minimum retention:
   (a) Record of sale or property transfer and legal property description, retain permanently;
   (b) All other records, retain until property sold and any applicable audits have been completed
5. Easements (166-200-0135(8)) - Minimum retention: Permanent.
6. Index/Finding Aid Records (166-200-0010(10)) - Minimum retention: Until superseded or obsolete
7. Filing System Records (166-200-0060(5)) - Minimum retention: 5 years after superseded or abolished
9. Microfilm Quality Control Records (166-200-0060(9)) - Minimum retention: Same as related microfilm.
11. Orders - Minimum retention: Permanent
13. Property Dedication Records (166-200-0135(17)) - Minimum retention: Permanent.
15. Records Management Records (166-200-0060(10)) - Minimum retention:
   (a) Destruction records, retain 25 years;
   (b) Index/Finding Aid Records (166-200-0010(10)) Until superseded or obsolete;
   (c) Filing System Records (166-200-0060(5)) 5 years after superseded or abolished;
   (d) Other records, retain 5 years after superseded or obsolete.
17. Waivers of Remonstrance (166-200-0135(20)) - Minimum retention:
   (a) If waiver has an expiration date, retain 6 years after expiration date;
   (b) If waiver carries no expiration date, retain 6 years after completion of project.

How to Apply Retention in an Electronic World

Don’t just store: Manage
**“Filing System”**

- 360 Feedback
- 2007-2009 Budget
- 2007 year end
- A
- Adams law suit
- ADA
- ADR
- All Staff Meeting
- Archived EE Files
- Audits Class Study 05
- Background Checks
- Business Community Plan
- Central Services Survey
- Class Study
- Contested Case Forms
- Desk Manual
- Donated Leave
- Emergency
- Employee Action
- Employees
- Erin’s Stuff
- FLSA
- FMLA_OFLA
- Forms
- Hiring Freeze Reporting
- HRD Policy Audits
- HRD Photos
- HRSD Audits
- Injured Worker IGA
- Layoff
- Making list recruitment
- Macc. Lecs
- MPL Audit
- NEO packets-Erin
- Office Forms
- Ofc. of Admin. Hearings
- ORS 240 Work Group
- PERF EVAL
- Performance Mgmt.
- Permanent Financing
- Personnel Manual
- Prev Pol Review-Errn
- Position Descriptions
- RECLASS
- Recognized Svc. Dates
- RECRUITING
- Recons. Work Gr.
- School-to-work
- Special Matters
- Strategic Plan
- Student Worker
- Technology Plan
- Training
- TS Removal
- Turnover
- Window II
- Window II & IV
- Young II
- 2004 leave Audit Salaries
- Audits.xls
- Blue Sky
- Brochure 2007.pdf
- EEO Self Report Form.pdf
- EE’s w-differ.doc.xls
- EE’s w-differ(NEW).xls
- Employee Files.doc
- ExecOffc.doc
- For Your Improv.doc
- HB2157.doc
- HR Standards.doc
- HRDBrochure04grnty.pdf
- HRDBrochure04pdf
- INS EMPLOY VER.doc
- J’s BA questionair.doc
- Leadership qualities.doc
- MOU, Jones.doc
- MOU, Smith.doc
- ORS Charts.ppt
- PA Form.doc
- PAS2.pdf
- PAS3.pdf
- Per.ForFolder Request bg.xls
- Policy Changes2007.doc
- Policy Changes.doc
- RACFD_Ferpd.pdf
- RACFD_Temp.pdf
- RACFD_Temps.doc
- Skills Matrix.doc
- Succession Planning smw.doc
- SummerIntern3.07.doc
- SummerIntern3.15.doc

**File Structure**

- SOS - Human Resources - Administration
  - Blue Sky - Retention – 10 years
  - Employee Personnel Record
    - ADA
      - Retention – 3 years after separation
    - Background Check Documentation
      - Retention – 90 days
    - FMLA_OFLA
      - Retention – 10 years after separation
    - Position Reclassifications - Retention – 5 years
  - 19s
    - Retention – 3 years after hire date
  - Personnel Actions
    - Retention – 10 years after separation
  - Training
    - Retention – 3 years
  - I9s
    - Retention – 3 years after separation
Electronic Records Management System

Records created & received electronically

Records are filed & managed for access, maintenance & destruction electronically

Records created & received in hard copy
Why ERMS?

• Manual RM doesn’t work in electronic world
  – Too much stuff
  – No physical reminders
  – Copies abound, not much administration
  – Security a big concern
  – PR requests & e-discovery = time and $
  – Files need monitoring to ensure ongoing access

ERMS Benefits

Government Efficiency
– Paper and electronic information managed together
– Dramatic improvements in response time for public records and e-discovery requests = a happy public
– Server space reduction: less unnecessary redundancy
– IT resources available for other projects
ERMS Benefits

**Transparency & Accountability**
- Information is easy to locate and find
- Rules are consistently applied to all information
- Security classifications control access
- Audit trails of all actions taken
- Information created is systematically and routinely managed and maintained.

ERMS Options

- **Agency standalone system**
  - Must be DoD 5015.2-STD certified*
  - Different software options, but look closely: Document Management **DOES NOT** equal Records Management

- **Statewide ERMS system**
  - Over 40 state & local agencies implementing
  - Uses HP Records Manager software
  - Agencies pay per user, no hardware or software costs
  - Support provided by State Archives & Chaves Consulting
21st Century Records Management

Email

- Exploding Volume
- Third party cloud vendors
- IT policies often control deletion
- Lots of potential public records
- Attached documents may be records as well
- How to schedule?
  - Existing retention schedules apply
  - **Content** of record, not format, important
  - BUT difficult to sort & handle in a practical way
A Practical Approach to Email

• Two lessons learned:
  – Less sorting = greater compliance
  – Email content can be predicted

• How should I retain emails?
  – Routine business correspondence: based on position
    • What does that person touch?
  – Projects, Case files, Contracts: There’s a folder for that!

Social Media and Mobile Tech

New Technology, Same Records
Social Media

SM content **CAN** be a Public Record
- Is it used to conduct agency business?
- Is the content unique?

Need to have written policies & procedures
- Must address **Use, Access, Retention and Ownership**

Plan for capturing content
- Built-in mechanisms
- Capture with software
- Compose and control locally

Text Messages

Who holds them?
- Probably not you

How long are they retained?
- Hours, maybe days

Must control through policy
- “Substantive business-related discussions are **not** to take place via Short Messaging Services (SMS)”

Can also use installed software on devices
- Mobile Device Management
Acceptable Use of Text Messages

Requesting or offering logistical assistance ("Can you help me get these boxes to the courthouse?")

Forwarding any person’s contact information ("I'm at 503-378-6002.")

Explaining your current whereabouts or asking about someone else ("We're discussing this morning's announcement. Are you around?")

Describing facts or events that don’t relate to work ("Spilled coffee all over myself right before trial!"), or that have been or will be recorded elsewhere ("Mr. Jones testified that our bill will cost taxpayers $3 million.")

Inquiring about events like those in the previous bullet ("Has Mr. Jones testified in committee yet?")

Further Advice

• Storage of information ≠ management of information

• Know and understand the Laws and your Records Retention Schedule

• Have written policies & procedures addressing use, access, retention and ownership of your information

• Administration, Records Management, IT and Legal ALL need to be involved in discussion about new information systems
For More Information

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OAMR
Records Management Manual