

# Records Management For the 21<sup>st</sup> Century

## Practical Approaches for Government

Mary Beth Herkert, State Archivist  
Oregon State Archives

## 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**

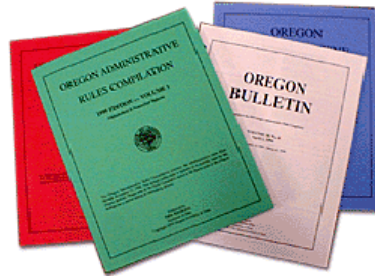
These laws are **Inclusive**, not **Exclusive**

**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



## 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

## OAR Chapter 166-Division 17

### **166-017-0045 - Electronic Record as Official Copy of a Public Record (con't.)**

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:

- (a) **TIFF 6.0** (picture)
- (b) ISO 32000-1 2008 **PDF** (text)
- (c) ISO/IEC 11172-3 1993 MPEG Layer III Audio Encoding (**MP3**) (audio)
- (d) ISO/IEC 14496-14 2003 MPEG 4 File Format (**MP4**), Version 2 (video)

## OAR Chapter 166-Division 17

### **166-017-0085 - Records Retention Requirements**

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.

### **166-017-0095 - Use of Alternate Formats and New Technologies for Public Records**

- 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



**166-200-0380**

**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
- (8) Forms Development Records (166-200-0060(6)) - Minimum retention: Until superseded or obsolete.
- (9) Microfilm Quality Control Records (166-200-0060(9)) - Minimum retention: Same as related microfilm.
- (10) Oaths of Office (166-200-0135(13)) - Minimum retention: 6 years after most recent oath expired.
- (11) Orders - Minimum retention: Permanent
- (12) Ordinances (166-200-0135(14)) - Minimum retention: Permanent.
- (13) Property Dedication Records (166-200-0135(17)) - Minimum retention: Permanent.
- (14) Property Vacation Records (166-200-0135(18)) - 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.
- (16) Council Resolutions (166-200-0135(6)) - Minimum retention: Permanent.
- (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*

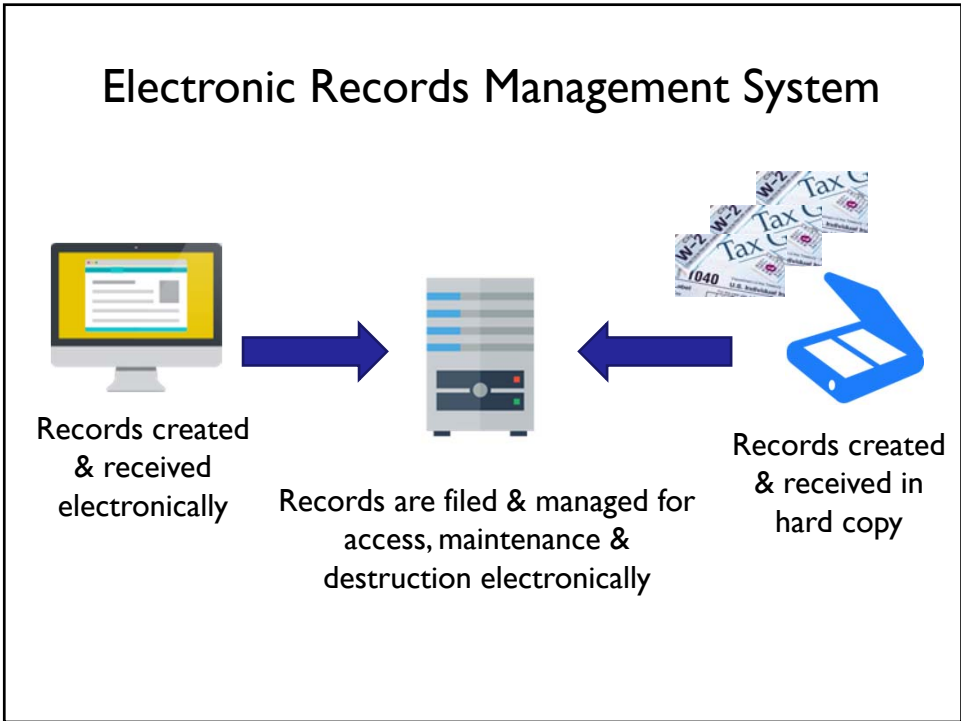
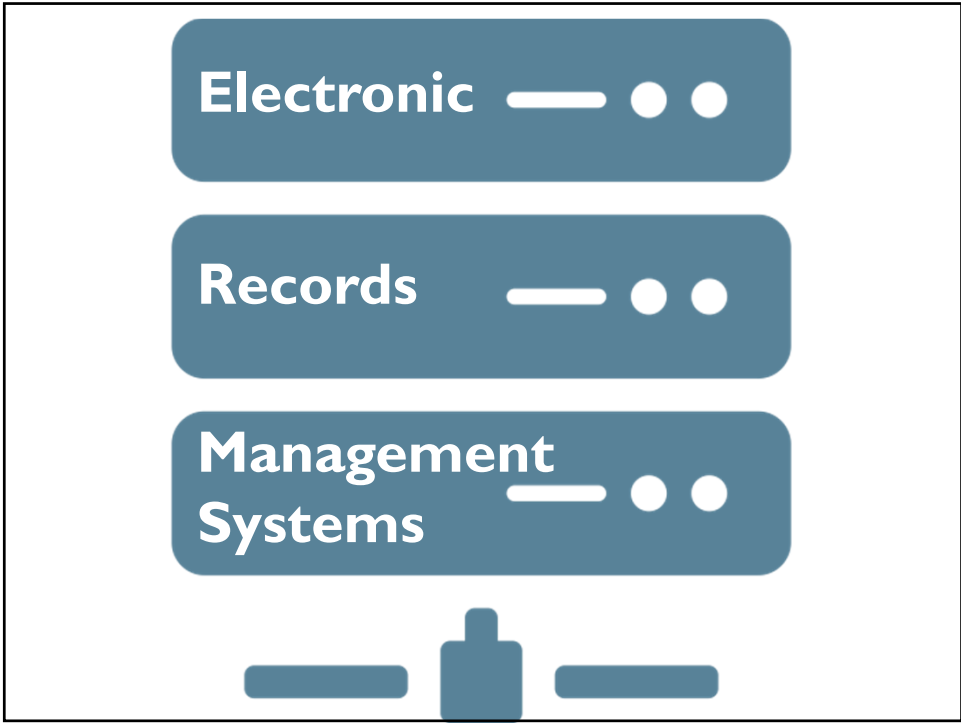


## “Filing System”

360 Feedback	Donated Leave	MPL Audit	Special Merits	For Your Improv.doc
2007-2009 Budget	Emergency	NEO packets-Erin	Strategic Plan	HB2157.doc
2007 year end	Employee Action	Office Forms	Student Worker	HR Standards.doc
AA	Employees	Ofc. of Admin. Hearings	Technology Plan	HRDBrochure04gray.pdf
Adams law suit	Erin's Stuff	ORS 240 Work Group	Training	INS EMPLOY VER.doc
ADA	FLSA	PERF EVAL	TS Removal	J's BIA questionnaire.doc
ADR	FMLA_OFLA	Performance Mgmt.	Turnover	Leadership qualities.doc
All Staff Meeting	Forms	Permanent Financing	Window III	MOU, Jones.doc
Archived EE Files	Hiring Freeze Reporting	Personnel Manual	Window III & IV	MOU, Smith.doc
Audits Class Study 05	HRD Policy Audits	Prsnl Pol Review-Erin	Young II	ORG Charts.ppt
Background Checks	HRD Photos	Position Descriptions		PA Form.doc
Business Continuity Plan	HRSD Audits	RECLASS		PAS2.pdf
Central Services Survey	Injured Worker IGA	Recognized Svc. Dates		PAS3.pdf
Class Study	Layoff	RECRUITING		Pers.Folder Request log.xls
Contested Case Forms	Mailing list recruitment	Recruit. Work Grp.		Policy Changes2007.doc
Desk Manual	Misc. Ltrs	School-to-work		Policy Changes.doc
				RACFID.Temps.doc
				RACFIDPerm.doc
				Skills Matrix.doc
				Succession Planning sow.doc
				SummerIntern3.07.doc
				SummerIntern3.15.doc

## File Structure





## 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

## 21<sup>st</sup> 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!**



The image displays a collection of social media and mobile technology icons arranged around a central text block. The icons include: a grey square with a white smiley face (Reddit), a blue square with a white 'S' (Skype), a red and white play button (YouTube), a blue square with a white 't' (Twitter), a blue square with a white 'f' (Facebook), a grey square with a white speech bubble (iMessage), a blue square with a white speech bubble (WhatsApp), a blue square with a white 'Bē' (Beats), a grey square with a white speech bubble (Slack), a blue square with a white 'v' (Vimeo), a green square with a white speech bubble (WhatsApp), a grey square with a white speech bubble (Skype), a blue square with a white speech bubble (Viber), an orange square with a white speech bubble (RSS), and a blue square with a white speech bubble (Skype).

## 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

Oregon State Archives

Records Management Unit

Phone: **503-373-0701**, option **3**

E-mail: [stephanie.clark@state.or.us](mailto:stephanie.clark@state.or.us)

or [mary.e.herkert@state.or.us](mailto:mary.e.herkert@state.or.us)

Website: <http://sos.oregon.gov/archives>

Image credits: CC 3.0 license: "Administration" by DaKirby309; "Fiscal," "Legal," "Historical" by Vecteezy; Computer by Sazonova Kseniya; Scanner by icons8.com. Server by Jerry Low, webhostingsecretrevealed.net

# OAMR Records Management Manual