

# Developing a Records Retention Program

This site is intended to help you design and implement a records retention program for your organization. Here you will find a basic explanation of a records retention program and links to industry-specific records retention information, including an overview of key resources and Web links.

[The following is excerpted from *Developing and Operating a Records Retention Program* (ARMA 1986; <http://www.ama.org/bookstore/productdetail.cfm?ProductID=1024>) and *Electronic Records Retention: New Strategies for Data Life Cycle Management* (<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1203>).]

## What Is a Records Retention and Disposition Program?

A records retention and disposition program is that component of an organization's records management program that defines the period of time during which records are maintained and specifies procedures for the transfer and disposition of records. A records retention and disposition program addresses the following topics:

1. The period of time during which records have operational, legal, fiscal, or historical value
2. The period of time records are considered active and must be maintained in the primary filing area
3. The point in time when records can reasonably be transferred to a secondary storage facility
4. The method of records disposal or disposition
5. The procedures for operating and ensuring compliance with the retention and disposition program
6. The relationship between records retention and other aspects of the records management program such as microfilm, filing, data processing, and historical archives
7. Retention of records and information, regardless of the format of that record (i.e., microfilm, magnetic media, digital storage, etc.) or the storage location (i.e., off-site storage, file servers, electronic documents, etc.)

## **What Are the Benefits of a Retention and Disposition Program?**

1. **Reduced space requirements** - The records retention program provides for the transfer of inactive records from primary space to less expensive secondary storage facilities. It also provides for the elimination of valueless records within the organization. This reduces space requirements for both hard copy and electronic records and provides opportunities to reallocate storage space for other purposes.
2. **Improved operational efficiency** - Valuable records become more accessible when inactive records are transferred and valueless records are destroyed.
3. **Equipment and supply cost savings** - By restricting the use of active file equipment and supplies for active records, costs can be controlled. Inactive records can be maintained away from prime office space and be stored with high-density, lower-cost equipment.
4. **Consistency in records disposition** - By defining the specific procedures and actions to be taken for records retention and disposition, the program reduces the chances for inconsistent, reckless, or personally-motivated disposal of records.
5. **Compliance with legal retention requirements** - The records retention and disposition program identifies the legal requirements that apply to each category of records and specifies the period of time during which the records must be maintained. The existence of the program demonstrates to judicial and governmental authorities that records are disposed of in accordance with published laws, in the regular course of business, and without motivation to conceal unfavorable information.
6. **Protection during litigation or government investigation** - The retention and disposition program ensures that records are properly handled in anticipation of and during litigation or government investigation.

## **Guiding Principles for Developing the Program**

1. Obtain top management support prior to development of the program. This support should be formalized in a comprehensive records management policy.
2. Appoint a records retention coordinator to be responsible for developing and operating the program.
3. Include other participants in the process.
4. Develop the program in a systematic manner.
5. Gather information from individuals within the organization who use, handle, or have knowledge related to the records.

6. Review records to determine their operational, legal, fiscal, and historical value.
7. Review records retention requirements by appropriate staff, including managers, legal counsel, tax advisor, and chief executive officer.
8. Document the process of developing the program and the final program procedures and schedules.
9. Coordinate the development of the program with other aspects of the records management program.
10. Provide for the disposition of the original and the duplicate copies in the records retention schedule.
11. Include all media in the retention and disposition schedule.
12. Include all the legal requirements with which the organization must comply.
13. Destroy records in a systematic manner under the approved program.
14. Document the types, quantities, and dates of the records destroyed.
15. Provide control to halt the destruction of records promptly in case of foreseeable, imminent, or pending litigation or government investigation.
16. Implement audit and compliance procedures.

## **What if the Records Are Electronic?**

The benefits of a retention and disposition program are just as true for electronic records as they are for records in other media. Although space may not be as much an issue, these systems still present potential legal liability if the information in them is not managed according to an established program. The following principles are excerpted from *Electronic Records Retention: New Strategies for Data Life Cycle Management* (<http://www.arma.org/bookstore/productdetail.cfm?ProductID=1203>):

1. Understand the essence of electronic records retention. Identify the body of digital information that needs a separate retention period, decide how long to retain the records, and then express the retention and disposition periods in a manner that makes implementing them practical.
2. Collect appropriate data that describe existing computer applications.
3. Apply the records series concept to electronic records.
4. Conduct interviews with applications developers and end-users.

5. Solicit data from applications developers by questionnaire.
6. Determine retention periods based on conceptually sound methodology.
7. Construct "total life cycle" retention periods.
8. Determine the total retention period based on access requirements.
9. Determine whether data migration and deletion occur automatically.
10. Determine the need for consistent retention periods where redundant data exist on multiple media.
11. Be highly selective about appraising electronic records as "permanent."
12. Use COM or COLD solutions for lengthy retention requirements.
13. Retain PC-based electronic records based on official records status.

## **Upper Management Support**

This support should take the form of a policy statement establishing the records retention and disposition program as a part of an overall records management program, directives to organizations managers and staff to cooperate with the program, and on-going funding and support for the program.

The records management policy statement should include the following elements: (policy statement examples can be found in Developing and Operating a Records Retention Program; <http://www.arma.org/bookstore/productdetail.cfm?ProductID=1024>)

- a. Objectives and/or purpose of the records management program
- b. A description of the scope and responsibilities of the records management program
- c. Delegation of authority to the records manager to develop and coordinate the program
- d. A description of the composition and functions of the records retention committee for developing and implementing the program

## The Records Inventory

The records inventory is particularly important for the retention and disposition program. The purpose of the inventory is to identify the organization's records and to gain an understanding of how the information is used within the organization. The data gathered during the inventory assists in planning elements of the records management program such as the retention and disposition program, the vital records protection and disaster recovery plan, filing systems, and media selection.

The inventory is generally conducted through interviews with departmental representatives in conjunction with site visits by the records manager. The inventory process should result in the following:

1. Floor plans showing active file areas and how the cabinets (if used) are arranged. This information can assist in determining whether alternative filing equipment can make the information more accessible.
2. Identification of all records series within the organization – This listing should also identify the department(s) in which the records are used.
3. Identification of records in special formats, such as microfilm, microfiche, optical disks, and magnetic media.
4. Records description – Describe the content of the records series.
5. Organization of the records – Describe how they are filed, e.g., by project name or by year, then company name.
6. Volume of records stored – This can assist in planning more efficient file areas and in projecting needs for growth in either active or inactive storage areas.
7. Office of record – This identifies the primary custodian of the official record.
8. Period of use – This identifies the operational value of the record; how long does the department need the record for conducting its normal business?

Sample inventory forms are included in *Developing and Operating a Records Retention Program* and in *Sample Forms for Archival and Records Management* (<http://www.arma.org/bookstore/productdetail.cfm?ProductID=1191>).

## **Data Analysis**

After the data have been collected, the records manager begins determining the values that each record series has, the period during which each records series is active, the point in time when the records become inactive, and the appropriate destruction method for each.

### ***Determining record values***

Each record series may have value in the following areas:

1. Operational value – This is the period of time during which an organization or a department uses a record to perform its primary function. This reflects only the time records are required to meet user needs and not legal requirements. Generally two periods are determined: the retention period during which the records should be maintained in active storage and the period of time the records should be maintained in inactive storage.
2. Legal value – This refers to those records required to be kept by law or those that may be needed in case of litigation or government investigation. Legal value is determined by the following factors:
  - Statutes or regulations requiring records to be kept for specific periods
  - Statutes or regulations requiring records to be kept, but not specifying retention time periods
  - Limitations of actions stating the period during which legal actions can be started. These are not records retention requirements, but are periods of time during which the organization may want to keep the records. This can be used as a guideline in those cases where retention times are not specified.
  - Judicial or administrative opinions rarely involve specific requirements for records but may have an impact on the retention program if legal counsel determines it should extend the retention time period.
  - Letter opinions – Such letter opinions are binding only on the individual or organization specifically addressed.
3. Fiscal value – This refers to those that relate to the financial transactions of an organization, especially those required for audit or tax purposes.
4. Historical value – This is the long-term value of records to document past events. This may arise from exceptional age and/or connection with some significant historical event or person within, or associated with the organization. Identification of historical records will differ between public and private organizations, as public organizations are sometimes mandated by law to maintain records for historical preservation that would not be viewed as historical in a private organization.

### ***Determining the Retention Period***

Once the appropriate values have been assessed to each record series, the records manager can determine the overall retention period for the series. Generally, the records series will be maintained in the active filing area for the period specified in the operational column and in the inactive records area for the remainder of the retention period.

### ***Determining the Disposition Method***

The proper disposition of records may require their transfer to an historical archives for permanent preservation. When this is the case, it should be noted on the retention and disposition schedule. The records management manual should indicate the procedures to be followed to make sure the transfer is handled appropriately.

Records destruction procedures should ensure that the records are destroyed in a controlled, supervised environment. A relatively small number of records may be classified as proprietary or confidential. These may require more expensive destruction methods, such as shredding, maceration, or pulping to ensure that information is totally obliterated.

### ***Finalizing the Retention and Disposition Program***

*Program Approvals:* Once the records manager has determined the requirements for the program, they must be approved by the retention committee, which is made up of decision-making authorities that are responsible for ensuring the organization's needs are met from a legal and fiscal perspective. Generally, the department heads, the fiscal manager, and legal counsel must approve the proposed schedule.

*Retaining the Work Papers:* The records manager is responsible for retaining the worksheets, procedures, and legal research related to the records retention and disposition program.

*Publishing the Program:* The records retention and disposition schedule should be integrated with the records management program manual, which describes all the procedures necessary to ensure compliance with the program. From this manual, employees should clearly understand their responsibilities related to the records retention program and the procedures they are expected to follow.

The records manager should meet with the department records coordinators periodically to provide ongoing training in the implementation of the records retention program.

## ***On-going Compliance***

*Program Review:* The records retention program should be reviewed at least annually. More frequent reviews may be appropriate for changed circumstances, such as establishment of offices in new states, new major projects, or corporate acquisitions or mergers. The legal research should be reviewed to locate new or revised requirements.

*Destruction Procedures:* Dispose of records in an orderly manner in the normal course of business after the retention period has expired. This procedure is necessary to comply with the legal requirements of the records retention and disposition program to demonstrate that records have not been destroyed to conceal unfavorable evidence in anticipation of litigation or government investigation.

Prior to destruction of records, a destruction authorization form should be distributed for appropriate review and approval. The form contains a listing of records eligible for destruction and contains space for approval signatures by the department manager, legal counsel, and the fiscal manager. The decision to postpone destruction of records should be reserved for extraordinary circumstances, such as imminent or pending litigation or government investigation or new, unforeseen circumstances which now make these records relevant.

When approvals for destruction are received, each carton of records should be examined to be certain that the records it contains correspond with the list of records authorized for destruction. When records are destroyed, the date and the records manager's signature should be placed on the destruction authorization form, certifying that the records have been destroyed.

*Program Suspension:* Procedures should be in place to suspend automatic destruction of all records when litigation or government investigation is imminent or pending. The organization's legal counsel is responsible for determining the scope of the litigation or investigation and the types of records affected and for communicating this information to the records manager.

*Retention and Disposition Program Audit:* Compliance with the records retention program should be reviewed at least annually. Part of the audit consists of comparing those records that were scheduled to be destroyed or transferred with those records that were actually destroyed or transferred. Departments or subdivisions that have failed to destroy records under the program may be sent a letter encouraging compliance. Audits may indicate a need for additional training or for revising the records management manual so that the procedures are more clear.

## **Records Retention and Archival Preservation: The Connection** (See Information and Records Management, pp. 512-513)

Unless the organization's archival records are properly preserved and accessible, the organization's history and culture will ultimately be lost. The records retention schedule is frequently used as the means of identifying records possessing permanent archival or historical value and scheduling them for transfer to the organization's archive at a point in their life cycle when they have no further value for operational, legal, or other business purposes. Archives management programs may be operated as a part of the records management program.

### **Additional Resources**

**Developing and Operating a Records Retention Program** - This book outlines program principles, staff and management structure, and program development strategies. Eight appendices contain samples of policy statements, inventory forms, retention worksheets, destruction authorization forms, legal requirements index, and manual and automated retention schedule forms. (<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1024>)

**Electronic Records Retention: New Strategies for Data Life Cycle Management** - This introductory book takes the first steps towards articulating a practical methodology for implementing the functional requirements of electronic records retention. Issues addressed include: the automatic migration of documents and data from costly, online media to secondary, less expensive media; the automatic deletion of expired electronic records at the conclusion of their life cycle; and the permanent retention of electronic records possessing archival value. (<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1203>)

**Retention 6.1** - Software tools to help the user identify business activities that impact the organization, zero in on the "regulated parties" associated with each business activity, and quickly identify the specific records that must be retained and for how long. The full text of the related citation is provided for a more complete review. (<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1120>)

**Records Retention: Law and Practice** - A comprehensive guide, designed especially for legal and accounting professionals in Canadian businesses. It provides a complete reference to the principles and practices of records retention and to the legal obligations of Canadian businesses to retain documents and files. (<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1117>)

**Records Retention: Statutes and Regulations** - Provides a unique database of the Canadian records retention requirements and direction on classification of records for storage included in federal and provincial statutes and regulations. (<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1118>)

**Retention Manager™** - A software and data program to facilitate legal research and development of legally defensible records retention schedules. The data includes more than 8,500 U.S. federal and state records retention laws, fully indexed and searchable, plus more than 400 pre-defined record series and more than 125 pre-defined records retention categories for common business records.  
(<http://www.ama.org/bookstore/productdetail.cfm?ProductID=1121>)