CREATING A RETENTION SCHEDULE: UNDERSTANDING YOUR OPTIONS

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AGENDA

1. Introduction
2. What is a Retention Schedule?
3. Retention Program Requirements
4. Options for Developing a Retention Schedule
5. How to get Started
6. Questions & Resources
INTRODUCTION

Gone are the days when organizations, large or small, can keep information forever. Current or coming privacy regulations require a complete understanding of information and content, what it is, how it’s used, and how long it is to be retained. How long it is retained is defined in the organization’s Retention Schedule. To develop it, the organization needs to understand its regulatory requirements, contractual obligations, and business need. Once complete, it becomes company policy. Creating a Retention Schedule can be challenging. During this presentation, the speakers, who have a combined 65 years’ experience in developing, researching, and implementing retention schedules, will discuss the various options for creating and managing a retention schedule for your organization.
WHAT IS A RETENTION SCHEDULE?
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• Company policy.
• Companion to Information Governance/Records Management policy.
• Specifies retention requirement for company records.
• Often includes data and non-record retention requirements.

• Retention requirements is longer of:
  - Legal requirements, including federal, state, and local.
  - Legal considerations.
  - Business requirements, including non-governmental regulatory organizations.
  - Archival considerations.

Includes consideration of:
  - Privacy requirements.
  - Risk considerations.
<table>
<thead>
<tr>
<th>Schedule Title</th>
<th>Schedule Description</th>
<th>Total Retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPS-98 Transmission &amp; Distribution: NERC Call &amp; Voice Recordings &amp; Activity Logs</td>
<td>Call and voice recordings or system logs required by NERC and created to document transmission and distribution operations and interactions with regional power authorities, business partners, or other, internal and external parties. Retention Event: Retain for current month. Retention begins on the first day of the following month. File Plan Entries: OPS-98-000 Call Recordings, OPS-98-100 Voice Recordings, OPS-98-200 Activity Logs.</td>
<td>Current Year + 3 Years</td>
</tr>
<tr>
<td>PAY-00 Employee Payroll File</td>
<td>Records related to payment of wages to an employee. Includes earnings and related records. Retention Event: Retain for duration of employment. Retention begins January 1 of the following year. Office of Record: Payroll. File Plan Entries: PAY-00-100 Employee Payroll File.</td>
<td>Duration of Employment + 6 Years</td>
</tr>
<tr>
<td>PAY-05 Employee Payroll &amp; Direct Deposit Elections</td>
<td>Records related to tax treatment, direct deposit, and direct disbursements related to dues, donations, other contributions. Retention Event: Retain while active and in force. Retention begins January 1 of the following year. Office of Record: Payroll. File Plan Entries: PAY-05-000 Employee Payroll Elections. - Credit Union Forms - Direct Deposit Elections - PAC Contributions - Union Dues - Pre-Note Reports - Direct Deposit Waiver Forms - Savings Bond Forms - IRS Form W-4 - IRS Form W-5</td>
<td>Active + 6 Years</td>
</tr>
</tbody>
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RETENTION PROGRAM REQUIREMENTS
RETENTION PROGRAM REQUIREMENTS.

- Developed in the "normal course of business".
- Includes all records, including copies.
- Includes all formats.
- Written approvals for the program and the Retention Schedule.
- Systematic destruction of content as required by the Retention Schedule.
- Legal hold process.
- Program management and controls.
- Documentation of program development, implementation, management, and employee training.

Source: Donald Skupsky, JD, CRM, FAI, MIT, Information Requirements Clearinghouse.
OPTIONS FOR DEVELOPING A RETENTION SCHEDULE
RETENTION SCHEDULE OPTIONS:

1. Engage outside counsel.
2. Outsource creation & management.
3. Contract with retention software provider.
5. Do it yourself:
   5A. License retention software.
   5B. Research using online resources.
CONSIDERATIONS:

1. Management preference.
2. Funding availability.
3. Expertise availability.
4. Regulatory environment.
5. Operating jurisdictions.
6. Geographical Exceptions
7. Timing requirement.
8. Organizational complexity.
9. Functional v. Organizational Schedule
1. ENGAGE OUTSIDE COUNSEL

Benefits:
• Outside counsel typically understands your business.
• Familiar with applicable regulatory requirements.
• Legal research resources & experience.
• Existing contractual relationship.

Risks:
• Law firms may have limited retention research experience.
• Aversion to risk may result in extended retention timeframes.
• Typically focused on legal requirements & considerations.
2. OUTSOURCE CREATION & MANAGEMENT

Benefits:
- Experienced professional services.
- Possible business relationship.
- Familiarity with business.
- Broad business knowledge.

Risks:
- May not have Retention Schedule experience.
- Lack of control.
- Lack of citations.
- Cookie cutter design.
- Focus often on area of expertise.
3. CONTRACT WITH RETENTION SERVICE PROVIDER

Benefits:
- Experienced professional services.
- Benchmarking with similar clients.
- Detailed legal retention expertise.
- Availability of companion technologies.
- Knowledgeable in best practices.

Risks:
- Lack of specific understanding of your business.
- Domestic v. International focus.
- Possible knowledge transfer failures.
- Annual maintenance expense.
- Inability for organization to explain rationale.
4. CONTRACT WITH RETENTION CONSULTANT

Benefits:
- Learning opportunity.
- Close working relationship.
- Experience sharing.
- Consultant’s ability to network.
- Detailed knowledge transfer.
- Expedited delivery.
- Future update availability.

Risks:
- May not have detailed industry experience.
- May be expensive.
- Commitment to engagement.
- Lack of contract clarity.
5A. DO IT YOURSELF: LICENSE RETENTION SOFTWARE

Benefits:
• Minimal external expense.
• Update service availability.
• Preconfigured structure & options.
• Best practices.
• Training & technical assistance.
• Detailed learning & practical experience.
• Integration with ECM or RM platforms.

Risks:
• Steep learning curve.
• General, not specific, industry knowledge.
• Significant time commitment.
• Software complexity.
5B. DO IT YOURSELF: RESEARCH ONLINE RESOURCES

Benefits:
• Lowest external expense.
• Legal deep dive.
• Practical experience.
• Organizational knowledge gain.

Risks:
• Manual process, including updates.
• Administration and publication challenges.
• Steep learning curve.
• Legal risk.
• Considerable time commitment.
• Online resource complexity.
• Outdated or misleading resources.
HOW TO GET STARTED.
THE WAY TO GET STARTED IS TO QUIT TALKING AND BEGIN DOING.

Walt Disney
GETTING STARTED

Requirements:
• Leverage others experience.
• Learn the language.
• Ask questions.
• Learn the business.
• Engage business stakeholders.
• Inventory existing records.
• Networking.

Tasks:
• Evaluate options.
• Identify business champions.
• Obtain management program approval.
• Identify and engage resources.
• Conduct inventory.
• Develop & obtain approval for Retention Schedule.
• Implement Retention Program.
• Retention Schedule maintenance.
FINAL THOUGHTS

Most larger organizations currently have a retention schedule. Many will be changed due to current and pending privacy regulations. Many smaller organizations have not yet created a schedule, simply deciding the effort was not warranted due to the low risk. Privacy changes that. Going forward, every organization will be required to manage retention of content and data.
QUESTIONS & RESOURCES
RESOURCES

Mentoring:
• Twin Cities ARMA – The Area’s Leading Association for RIM Professionals
• www.facebook.com/northdakotaarma
• ARMA International

Legal Resource Examples:
• https://www.law.cornell.edu/cfr
• https://www.ecfr.gov/
• 2023 MN Statutes
• MN Rules
• https://www.lexisnexis.com/

Vendor Resources:
• www.accesscorp.com
• cadence-group.com
• www.contoural.com
• www.irch.com
• www.ironmountain.com
• www.zasio.com
THANK YOU!

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