

Managing Your Local Government Records

Local Government Records Retention Schedules



Overview

- Local Government Record Retention Schedules Background and Process
- Records and Retention Schedules
- Local Government Schedules
- Electronic Records in Brief

Local Government Record Retention Schedules Background and Process

How the Schedules Work

The retention schedules indicate the minimum length of time records must be retained before they may be disposed of legally. They are a replacement of the Chapter 10 Rules for Disposition of Local Government Records. The schedules were prepared, approved and issued by the Maine State Archives/Archives Advisory Board pursuant to Maine Title 5, Chapter 6, §95-B in 2018, providing the legal basis for local agencies to incorporate these schedules as part of an active records management program.

The purpose of these schedules is to:

- establish retention requirements for temporary records and ensure records are retained for administrative, legal and fiscal purposes;
- ensure records with enduring historical and other research value are identified and retained permanently; and
- facilitate the systematic disposal of unneeded records.

State and local agencies are required *by law* to manage their records to ensure access.



Maine Statute Pertaining to Local Government Records Title 5, Chapter 6

Local Government Responsibility

Protection of records. Local government officials shall carefully protect and preserve the records of their office from deterioration, mutilation, loss or destruction.

Disposition of records. Records may not be destroyed or otherwise disposed of by any local government official, except as provided by the records retention schedule established by the State Archivist pursuant to section 95-C, subsection 2, paragraph A, subparagraph (3). Records that have been determined to possess archival value must be preserved by the municipality.

What is a Record?

Record means all documentary material in any format (paper, microfilm, digital records including email messages and attachments), made or received and maintained by an agency in accordance with law or rule, or in the transaction of its official business.

Specific Types of Records

Archival/Permanent Records - Records required to be kept indefinitely because they have enduring or historical significance. Once business needs of the agency are met, archival records contain a secondary, research value.

Closed Records - This typically occurs when the normal business process has concluded. Records would then either be destroyed or a retention period would begin.

Confidential Records - Records which are exempt from public inspection according to law.

Current (Active) Records - Those records needed for day-to-day business use.

Electronic Records - Records that cannot be read without the use of electronic equipment. Includes both digital and analog records.

Non-Records - Non retention materials

Temporary Records - Records which will be destroyed once they have met their agreed to retention period. These can be short or long-term retention records.

Transitory Records - Records having short-term value. Usually we think of correspondence in this category which would typically be less than 30 days.

Vital Records (related to business continuity) - These are records necessary to re-start an organization's operations in the event of a disaster.



VS.



Examples of Potential Records:

Local government correspondence, FOAA requests, meeting minutes, tax information, election documents, applications, licenses, and policies

Examples of Non-Retention Materials or Non-Records:

Vendor catalogs, duplicate copies saved for convenience, stock copies (bulk forms, etc.), and personal messages

Your Records are Informational Assets

People will come and go but the agency continues to operate because RECORDS provide the continuity for the ongoing operations and mission of the agency.

What is Records Management

“...field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records including the processes for capture and maintaining evidence of and information about business activities and transactions in the form of records.” (ISO 15489)



Records Management is all about CLASSIFICATION



A great example of classification is a grocery store. Think about the organizational structure when you walk into a grocery store - all the aisles are labeled accordingly, and the shelves are arranged categorically.

Records Management should be thought of that same way.

RM is knowing what you have, where you have it and how long you have to keep it. Everything has a place and there's a place for everything. The other thing grocery stores are good at is getting rid of the *stuff* that has become expired or is outdated.

Get Rid of the ROT

Redundant

Outdated/Obsolete

Trivial (Transitory)

Agencies need to get rid of the ROT!

So many agencies have records in closets, in basements or other obscure places that they don't even know about. Or the big issue we are finding now is that electronic "stuff" is being retained way beyond retention periods. This is all part of the ROT of your agency. Think about that.

Major Reasons Why Good Records Management Is Vital

- ✓ Supports Better Management Decision Making
- ✓ Improves Efficiency and Productivity

HOW – by organizing active records, by setting retention and disposition of all agency records and therefore managing all inactive records

- ✓ Promotes a Positive Reputation for State Agencies
- ✓ Protects the Agency and the Records

HOW – ensures compliance with laws and policies and provides consistency throughout the agency (so all employees are keeping records for the same amount of time)

- ✓ Safeguards Vital Information

HOW – provides the agency with an inventory and plan to protect of all the records which are necessary to re-start the agency's operations in the event of a disaster.

Where Do You Begin? Determine What You Have



It's always best to start from the beginning!

Identify Your Records

Conduct a Records Inventory

An Inventory is an important first step in determining what records your agency is creating and retaining. It is a gathering and documenting of all the information created, received and stored by your agency.

A Records Inventory can tell you:

- Records Series
- Format
- Location
- Date range
- Volume of material

Different methods of information gathering:

- The survey/questionnaire technique offers considerable advantages over a records inventory in terms of the resources needed to conduct it. If you have designed an appropriate form/questionnaire, you should yield quality results.
- The results of the interview can be considered more informative and detailed than can be obtained from a standard survey form.

Building a Structure

Once you know something about your records, you can begin building a structure.

You will need to know what to label records and how to arrange them.

This is the agency's instruction booklet on how to manage and retain all the agency records to make it as user-friendly as possible.

Analyze your results and think about the functions of the records. Once you have determined what each record is used for, you can then build a structure that reflects those different uses.



Record-keeping in Your Agency

Things to Consider



- What records will you retain and for what purpose?
- How long should you retain records for?
- What format are the records in?
- Do any statutory requirements apply to your records in terms of their retention?
- Are they all covered by the Local Government Record Retention Schedules?
- How will records be managed if they are not covered by schedules? (Is there any RM policy in the agency?)
- Where will records be stored and who will have access to them?
- What process will be in place to destroy records once retention is reached (for both paper or electronic records)?

Managing Your Records

In order to have the information you need (when it's required), there has to be a way to identify, manage and retain records for the right amount of time.

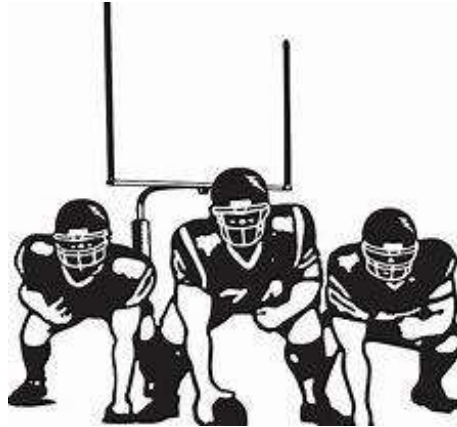
What Is a Records Schedule?

A Records Retention Schedule lists all the titles of a records series, length of time each series will be retained as an active record, the reason for its retention and disposition agreed by the agency and Records Management.

Basically, the retention schedule is a set of work instructions for everyone in the agency.

Without these written instructions, staff can't be expected to be held accountable and keep records on a consistent basis.

Schedules Provide a Defensible Position



Retention Schedules are your first line of defense because they tell you what to do with your records.

Schedules provide the defense and support for any actions your agency takes regarding the records in your office. So if there is ever any question about records being kept or destroyed or any legal issues, you have the schedules as your justifiable defense. So you want to make sure everything is covered under the Local Government Record Retention Schedules, by statute or approved policy.

How a Schedule Can Work for Your Agency

Agency policy document
List of work instructions
Compliance document

The major goal is to provide clear guidance for agency employees on how long they should be retaining their records and to make sure everyone is retaining records in a consistent manner.



How Are Retention Schedules Written

These are your schedules, not ours. We establish them on behalf of the municipalities, but YOU are the experts as to what records are being created and what value these records have to your local government agency for administrative, fiscal and legal purposes.

Local Government Record Retention Schedules

Introduction - Overview

Schedule 1 – Administrative Records

Schedule 2 – Financial Records

Schedule 3 – Payroll Records

Schedule 4 – Personnel Records

Schedule 5 – Election Records

Schedule 6 – Licenses and Permits

Schedule 7 – Vehicle Registrations

Schedule 8 – Vital Records

Schedule 9 – Building/Land Records

Schedule 10 – Parks/Recreation Records

Schedule 11 – Public Works

Schedule 12 – Assessor's Records

Schedule 13 – Tax Records

Schedule 14 – County Clerk,
Commissioners, Treasurers

Schedule 15 – Register of Deeds

Schedule 16 – Register of Probate

Schedule 17 – District Attorneys

Schedule 18 – School Records

Schedule 19 – Law Enforcement

Schedule 20 - Jail Records

Schedule 21 - Fire Departments

Appendix A-G

What Makes a Record Series

A series is a grouping of records that support similar business processes or contain similar information and have related legal or operational retention requirements.

Some characteristics of a record series are:

- Produced by the same activity
- Documents a certain kind of transaction
- Relates to a particular subject
- Arranged under a single filing system

Each record series consists of a description of the process the records support and examples of the types of records that fall under the series.

A retention period is associated with each record series (and must be the same for all records in a series).

Parts of a Record Series

1.9	Citizen Complaints	Communications from citizens making a complaint, as well as the associated agency response. This record series may contain: Correspondence, nature of complaint and steps taken by the office to answer the complaint.	3 years from resolution
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Schedule and Series Number: 1.9

Series Title: Citizen Complaints

Series Description: Communication from citizens making a complaint, as well as the associated agency response. This record series may contain: correspondence, nature of complaint and steps taken by the office to answer the complaint.

Retention: 3 years from resolution

(Destroy is assumed unless it states permanent)



When Does Retention Begin

Retention starts at some Trigger Event - something which occurs to initiate the beginning of the retention period. Typically, for most government records, it is when a record is considered closed (when the normal business process has concluded).

For other records it could be based on a specific event such as the termination of employee; end of a contract; or settlement of litigation.

Decide what your trigger event for your records will be so you know when the retention period should begin.

SCHEDULE 1

Administrative Records

These would be considered general office or other operating records not captured by a more specific schedule

Schedule 1 – Administrative Records

Here is a consolidated list of what is included:

- Accident/Incident Reports, Employees and Public
- Administrative Calendars
- Annual Reports Created by Local Government (one copy)
- Appointments/Oaths
- Board of Appeals Files
- Bond Records, Contractor/Surety
- Bond Records, Employee/Fidelity
- Charters
- Citizen Complaints
- Comprehensive Plans (Adopted)
- Correspondence - General
- Correspondence - Official
- Correspondence – Program
- Correspondence - Transitory
- Equipment/Asset Inventory
- Freedom of Access Requests
- Grants
- Hazardous Chemicals - Chemical Identification List and Related Records
- Hazardous Chemicals - Safety Data Sheets
- Historical Records of the Town
- Hospital Liens - Discharged
- Hospital Liens - Not Discharged
- Insurance Claims
- Insurance Policies, All Other
- Insurance Policies, General Liability
- Labor Citations - Safety Violations
- Mail Delivery and Receipt
- Minutes of Meetings, Official
- Minutes of Meetings, Recordings
- Minutes of Meetings,
- Transitory Minutes of Meetings, Verbatim Transcript
- Municipal Ordinances
- Policies
- Records Disposition Documentation
- Surveillance Records
- Warrants - Municipal
- Welfare records - Applications and Case Files

SCHEDULE 2

Financial Records

Many financial records will have a retention time of 6 years and destroy. Records include accounts payable/receivable; banking records; audit information; budget documents, etc.



SCHEDULE 3

Payroll Records

Example:

3.8	Tax Forms	Forms and reports used to report the collection, distribution, deposit, and transmittal of payroll and other tax related information for employees. Including: W-2 or W-3, Wage & Tax Statement; W-4, Employees Withholding; Form 940, Unemployment Tax; Form 941, Quarterly Tax; 1099 Forms, Miscellaneous income or other distributions	6 years after fiscal reporting year
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Schedule 4

Personnel Records

Example:

4.6.a	Personnel Records - Employment History	Employment history (including dates of employment, salary history, full time/part time status).	60 years after separation unless employer has been notified that the former employee has died; in which case 10 years after former employee's death
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SCHEDULE 5

Election Records

Municipal election officials should not destroy records without first checking applicable statutes, which are noted for each series, to make certain statutes have not been changed. Questions concerning election records should be referred to the Division of Elections.

Schedule 6

Licenses and Permits

This schedule lists licenses and permits that local government agencies are required to maintain, plus licenses and permits that may be maintained.

This schedule includes 72 series so is quite an extensive list.

SCHEDULE 7

Vehicle Registrations

Series	Series Title	Description	Retention
7.1	ATVs	Registrations for all terrain vehicles.	6 years
7.2	Automobiles	Registrations for automobiles, trucks, etc.	5 years Confidential, Federal Driver Privacy Protection Act (18 U.S.C. Chapter 123) ²
7.3	Boats	Registrations for boats.	6 years
7.4	Registration Reports - BMV	BMV reports, municipal request for supplies and BMV inventory transmittal sheets.	5 years Confidential
7.5	Snowmobiles	Registrations for snowmobiles.	6 years
7.6	Trailers	Registrations for trailers.	5 years Confidential, Federal Driver Privacy Protection Act (18 U.S.C. Chapter 123)



SCHEDULE 8

Vital Records

- 8.1. Births – Permanent
- 8.3. Consent to Marriage Given by Parents, Legal Guardians, or Judges of Probate - Permanent
- 8.4. Correspondence with Judge of Probate Concerning Marriage of Persons Under 16 Years Of Age – changed from 2 years to Permanent
- 8.5. Deaths - Permanent
- 8.6. Marriage Certificates – Permanent
- 8.7. Marriage Intentions – Permanent

All the above are considered “closed records” per Title 22, §2706. Requestor must meet requirements for requesting record (proof of direct and legitimate interest).

SCHEDULE 9

Building/Land Records

This is a new schedule which we are hoping to expand on. It includes items such as property records, zoning records and site plans.

9.1	Abandoned Property	Any records associated with the management of abandoned properties including but not limited to regulating the care, maintenance and security of property determined to be abandoned and addressing the property defects after notice and opportunity to comply has been given to responsible parties. According to statute, the municipality may recover its costs from the responsible parties.	Until all actions are settled/closed plus 6 years 30-A MRSA, §3106(A), (B)
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SCHEDULE 10

Parks and Recreation Records

Records related to facilities, equipment and programs.



SCHEDULE 11

Public Works

11.1	E911 Project Lists
11.2	Excavation Permits
11.3	Field Books
11.4	Landfill Monitoring
11.5.a	Solid Waste Management - Agronomic Utilization of Residuals
11.5.b	Solid Waste Management - Processing Facilities
11.6	Street Files
11.7	Work Orders



Schedule 12

Assessor's Records

Series related to property records / tax records

<http://maine.gov/revenue/propertytax/propertytaxlaw/propertytaxlaw.htm>

The screenshot displays the Maine.gov website interface. At the top, there is a navigation bar with the Maine.gov logo, a search bar, and a language selection dropdown. Below this is a header for the Department of Administrative & Financial Services, specifically for Maine Revenue Services. A secondary navigation bar includes links for Home, Tax Divisions, Electronic Services, Forms, Publications & Applications, and Tax Relief. The main content area is titled "Property Tax Law" and contains introductory text about the law's purpose and a list of reference materials such as "Title 36: Taxation", "Online Law Book", and "Rules". A sidebar on the left lists various tax categories, and a sidebar on the right features a "Featured Links" section with numerous links to related topics like "Applications, Rules, and Publications" and "Commercial Forestry Excise Tax". Social media sharing buttons for Twitter, Facebook, and Email are located at the bottom of the main content area.

SCHEDULE 13

Tax Records

Tax records other than those kept specifically under Schedule 12 or by the Register of Deeds including:



- County Tax Reports (Permanent)
- Tax Commitments (Permanent)
- Tax Liens (Discharged, 10 years; Not Discharged, Permanent)
- Taxpayer Lists (Until Updated)

SCHEDULE 14

County Clerks, Commissioners, Treasurers

Series	Series Title	Description	Retention
14.1	Canceled Bonds	Bonds that have been paid off by the county.	Permanent
14.2	Census Reports	County copies of US census reports.	Permanent
14.3	Deputy Bonds	Deputy sheriff performance bonds.	6 years, after expiration
14.4	Distribution Book	Record of tax dollars collected and expended, by line item.	Permanent
14.5	Petitions for License	Petitions for licenses granted at the county level.	6 years
14.6	Revenue Sharing Records	Record of revenue sharing funds received and expended by county.	Permanent

According to Title 30-A, §181-§183, County Treasurers are responsible for the following records:

All county receipts and payments to the commissioners of the county.

Annual accounting of county books. Account of money or effects.

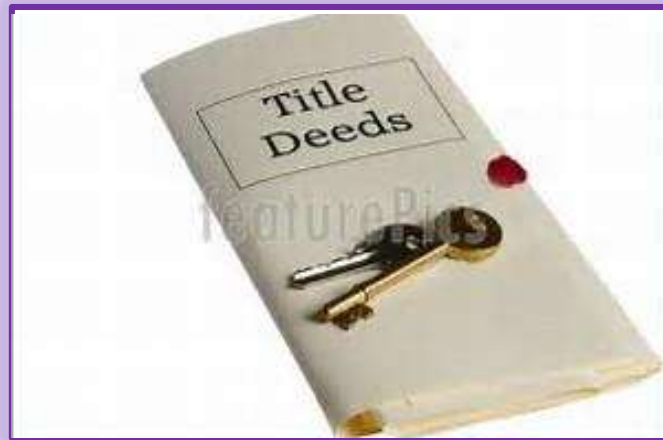
Account of federal money for use of jails.

A statement of the financial condition of the county

SCHEDULE 15

Register of Deeds

Deeds, mortgages, foreclosures, liens; everything listed here has a permanent retention



SCHEDULE 16

Register of Probate

Legal documents or documents filed through the courts; the majority of these series have a permanent retention. Some items of note:

16.2	Application for Emergency Involuntary Admission to a Mental Hospital	The 'blue' form used for this purpose.	1 year
16.8.a	Notice of Publication - Affidavits	Documentation that notice was published when the law requires this.	Permanent
16.8.b	Notice of Publication - Newspaper Clippings	Clippings containing published notices.	1 year

SCHEDULE 17

District Attorneys

Includes 11 series basically related to court cases. The retentions are listed as minimum retention periods. Records should be retained as long as they continue to facilitate the District Attorney's legal and administrative needs.



SCHEDULE 18

School Records

The school schedules are self-contained in a sense and are broken down into the following categories: General Student Records, Individual Student Records, Curriculum/Program Records, Correspondence Records, Administrative Records – General Operations, Administrative Records – Property (Facility/Equipment/Land), Financial Records, Personnel Records, Payroll Records, and School Board Records. Some Series are duplicates or similar to those found elsewhere in the Local Government Record Retention Schedules.

Schedules Relating to Specific Departments

SCHEDULE 19: Law Enforcement

SCHEDULE 20: Jail Records

SCHEDULE 21: Fire Departments

When You Find Records in the Office Not on the Schedules

How to Evaluate Record Retention Value

Retention and Disposition

Unfortunately, there is no specific, universal guide to determine retention periods and disposition methods. It's possible towns might use records in different ways. Typically, however, there are standards for many common records, which is the concept for the Retention Schedules.

We need YOUR input!

It's also important to remember this principle: **content, not format, determines retention.**

Determining Retention Periods - 4 Part Criteria

- 1. Administrative use:** Value of the records in carrying out the function of the organization. Records are needed for immediate retrieval. Day to day business operation; correspondence, memos, reports – typical need for these records is under 5 years.
- 2. Legal requirements:** Records specified with certain periods for compliance with statutes, agency rules or protection of legal rights and interests. State/Federal retention periods involved. Records mandated by law or regulation which may be needed as evidence in legal cases or leases, contracts, court case files. Typically there will be specific language stating how long records are required to be retained for legal purposes.
- 3. Fiscal requirements:** Records required to be retained for the completion of fiscal activities such as audit or budget. They document an agency's fiscal responsibilities; invoices, receipts, purchase orders. Typically, audit records are kept 6 or 7 years. Some Federal requirements may be 10 years.
- 4. Historical or research purposes:** These records may document historical events or the history and development of the organization. Records which have archival/enduring value; board minutes, agency policy decisions, Commissioner's correspondence.

Where to Start

Start with business or administrative need. An agency shouldn't get rid of a record before you're through using it. Active business use determines the minimum retention period for a records series.

Next, as part of the business process, determine if there are any fiscal or audit purposes for the records for which a specific retention time can be applied.

Determining legal requirements may prove more difficult especially in Maine. Maine Statutes often times mention the "how" of records but not the "when."



For the sake of “CYA” it would be easy just to keep everything for as long as possible *just in case* someone, someday might want the records or in case they will provide some evidentiary information for a possible lawsuit or investigation.

However, this type of retention is both costly and impractical and would be considered poor records management.

Some reasons people want to retain records longer than necessary:

- They overestimate the real, ongoing value of their records;
- They assume records must be kept longer for legal reasons than is actually required;
- They assume they must be able to answer any inquiry, regardless of how unreasonable or how old the information requested;
- They assume the legal risks regarding their records extend much further into the past than they really do;
- They are basing it on purely hypothetical worst-case scenarios, or some past one-in-a-million occurrence;
- They are simply afraid to “let go.”

Determining Final Disposition

ARCHIVAL

First, determine if the records have any historical significance. Once they have served the needs of the agency, will these records show: the history of the agency or historical events; how policy was formed; or other significant records which will be important to the general public hundreds of years in the future?

Other things to consider:

- Is this duplicate material which can be found elsewhere?
- Is this confidential?
- Is this a collection of miscellaneous items valuable to one (for reference purposes) but, can either be found elsewhere, or would not necessarily be of value to the public for research/history?

If Non-Archival - DESTROY

If you have determined records are non-archival (non-permanent), retention is based completely on the record's time-value to the business functions of the agency. Records will be destroyed once they have met their retention.

Electronic Records Management

Electronic Records

Electronic records are public records and subject to the same laws as paper records. Public records include anything created in the course of public business *regardless of format.*

The retention and disposition of records is determined by their content, not by their format or storage location. There is no blanket retention period for email messages or other electronic files. Retention is always based on content (value), regardless of format.

Remember, a record, is a record, is a record. Electronic records must be managed just as paper records. This means when the record copy is in electronic format, it must follow the retention schedule; be retained and purged appropriately. (In other words, just because you CAN keep records indefinitely, doesn't mean you SHOULD.)

Maintaining Electronic Records

Records must not only be accessible, they must also be legally admissible as evidence in court. According to Maine Title 16:

If a rule of law requires that certain records be retained, that requirement is met by retaining electronic records as long as the following conditions are satisfied:

- The information contained in the electronic record remains accessible;
- The electronic record is retained in the format in which it was created **or** in a format that can accurately reflect the information as originally created; **and**
- Any information that enables the identification of the source or origin (any attached metadata).

When records are kept in more than one format, you should identify an **official “record copy”** to which you will apply the full retention period. When the record copy is electronic, it’s important to identify the storage location (directory and subdirectory) so all changes are made there and records are purged once they have met their retention.

Emails Records

If you are conducting government business in an email it is considered a record (communication sent or received in the transaction of government business.)

Remember...email is a format, not a record. Retention is determined by the content of the email. Records are unique and email is subject to the same retention requirements as paper correspondence.

Email is typically considered general correspondence. Correspondence records are covered under Schedule 1 - Administrative Records.



Things to Consider



- Think about what types of email you send and receive.
- Non-retention material such as spam or personnel messages should be deleted immediately.
- Transitory records can be deleted when no longer needed and should be kept no longer than 30 days.
- If emails are CC's or Forwards where no action is taken or required they typically can be deleted.
- If you are the official custodian of any email records YOU are the person responsible for retaining them until they have served their retention.

Scanning Temporary Records

- Records must be on an approved records retention schedule.
- Records must be non-archival (for scan and toss).

Once paper records have been converted to a scanned digital image and verified, those original paper records can be destroyed as long as they are temporary (retention) records and no other state or federal laws apply requiring the original document.

Archival (permanent) records can only be scanned for access, not for replacement of paper records. The original paper record will remain the official record. The paper may not be destroyed.

Recordkeeping Systems

At a minimum, electronic recordkeeping systems must:

- Allow for the grouping of related records, to ensure their proper context.
- Make records accessible to authorized staff, to ensure their usefulness to the agency.
- Preserve records for their authorized retention period, to ensure their availability for agency use, to preserve the rights of the government and citizens and to allow agencies to be held accountable for their actions.

Electronic Document Management Systems

Does your agency have records in an electronic management system? Is it being used to store records or to manage them? Are records being managed (purged) per retention schedules?

Electronic Record Preservation

Electronic records are generally suitable for official copies that will be retained for 10 years or less. These records can be saved with reasonable assurance that they will remain readable until they have fulfilled their retention periods. Additional action is required to ensure the continued readability of electronic records with longer retention periods.

Agencies must ensure that all records in an electronic system are retrievable and usable for as long as needed to conduct agency business and to meet approved dispositions. Agencies must develop procedures to enable the migration of records and their associated metadata to new storage media or formats in order to avoid loss due to media decay or technology obsolescence.

Final Note - Legal Implications

Organizing and managing records (including electronic records) limits your liability for deleting records you shouldn't, and gives you authority to delete files you should delete. It will also reduce legal exposure in discovery proceedings on records that otherwise should have been destroyed.

In other words...if it exists
and someone asks to see it,
YOU MUST PRODUCE IT!

For more information on
Freedom of Access Act
see the FOAA website
<http://www.maine.gov/foaa/>





QUESTIONS?

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Maine State Archives: <http://www.maine.gov/sos/arc/records/local/>