



# Economic Realities in the Management of Public Records

George Bakolia

Senior Deputy State Chief Information Officer

November 4, 2011





# Outline

- Statutory and other requirements
- Hidden vs. direct costs
- Records life cycle
- Discussion





# Requirements

## Public Records Act

### Broad definition of a public record in G.S. 132-1

- all documents
- regardless of physical form or characteristics
- made or received pursuant to law or ordinance in connection with the transaction of public business
- by any agency of North Carolina government or its subdivisions

### What is an agency?

- every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.





# Destruction of a public record

## **§ 132-3. Destruction of records regulated.**

**(a)** Prohibition. – No public official may destroy, sell, loan, or otherwise dispose of any public record... without the consent of the Department of Cultural Resources.

**(b)** Note: Consent is expressed in the signing of an approved records retention schedule.





Violation is a criminal offense

Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).





# Additional e-mail requirement

## Executive Order 18—Signed by Governor Perdue on July 7, 2009 (replaced Governor Easley's EO 150)

- Executive Branch employees may not permanently delete any e-mail they send or receive for at least 24 hours
- Only exception is e-mails received not related to state business, such as spam
- Agencies must copy all e-mail sent and received daily
- Agencies must keep copies 10 years





# Hidden vs. direct costs

## Direct

Reflect costs required to implement the project and typical on-going support costs:

- Hardware
- Software licenses
- Maintenance costs
- Project Management activities
- Training

These costs are fairly easy to predict, budget and monitor.





# Hidden vs. direct cost (cont.)

## Indirect or Hidden costs

Those activities that contribute to the deployment of solution, but are harder to measure:

- Failure to think through the indexing scheme for records can make the process of record recovery (e-discovery/litigation) take longer and cost more
- Storage costs—Are multiple copies of records being kept in multiple platforms? This can increase project costs
- Planning for obsolescence
- Change of provider = \$\$\$
  - Discontinuance of IT solution
  - Possible need for conversion
  - Impact to customers' productivity
- Older records not yet digitized
  - What do you do with them?



# Records Life Cycle





# Phase I -- Creation

## A business function

### Information Technology plays a major role

- Most records today are created in electronic form
- Electronic format creates more challenges

### Regulatory compliance adds complexity

- HIPAA, FERPA, PCI, OSHA, IRS 1075...

### Save-it-all is not a strategy

- High cost of storing everything
- Not easy to find anything

### Clearly define what constitutes a record

- Work with legal and policy team
- Follow records retention schedule





# Phase II -- Organization

Categorizing/indexing later is not an option

Categorizing upfront is most cost effective

Categorization should be decided by business and legal, not IT

- How business looks at records?
- How they classify and sub-classify records?
- What terminology they use?
- What would legal staff search on during discovery process?
- Categorization should be part of normal work process

Auto-classification using tools

- Key word based tagging
- Tools will do approximate classification
- It is not a substitute for upfront classification done by business

Smart tagging

- Technology can facilitate Key word/attribute based tagging





# Phase III -- Record archival

## Refer to retention policy

- Short term, mid term, long term, permanent retention
- Match archival media with retention needs

## Establish standards for record format

- DCR has established guidelines for archiving records
- <http://www.records.ncdcr.gov/guidelines.htm>
- Example: PDF/A instead of PDF file, Rich Text Format (RTF) instead of .doc

## Archival tools

- Understand how e-discovery works before you buy records archival tool
- Not a backup/restore tool

## Watch out for duplicative recordkeeping

- If possible avoid keeping both paper and electronic copy, even for short term

## On-site, off-site and custodian storage

- Use appropriate site based on retention period





# Phase IV – Record discovery

Be aware of policy and technology mismatch in e-discovery market

- Business Need: discover records for a project from email, file share & blogs
- Vendor solution: e-discovery tool for Microsoft Exchange

Federated e-discovery

- Ability to maintain centralized policy and enforce it in various tools
- No single solution exists today
- You may have to buy multiple tools
- Understand how e-discovery works before you buy records archival tool

Perform regular fire drills (tests)

- Only way to know if e-discovery will work in real life

Public Record Requests

- Redact confidential information
- May recoup cost of record production from a requestor - NC G.S. § 132-6.2





## Phase V – Record Disposal

Clearly define disposition policy for each record type

Enforce record disposition policy

- If you kept more than one copy, destroy extras

Make sure you do not violate legal holds before disposition

- Preserve records involved in litigation





# Questions?

