Basic Records Management: An Introduction for Local Governments

Records Management Services

DTMB

Course Overview

- Records Management in Michigan
- Records Maintenance
- Disaster Prevention and Response
- Preservation of Historical Records
- Record Reproduction
- E-mail Retention
- Litigation and Discovery
- 10 Steps to Good Records Management

DTMB

Origins

1913:	Michigan Historical Commission
1950:	Little Hoover Commission
1951:	State Office Building Fire
1952:	Records Management Legislation
1954:	State Records Center Opens
Current:	Archives of Michigan, DNR
	Records Management Services, DTMB

DTMB

Out of the Ashes…

February 1951: State Office Building Burns for 3 Days

DTMB

Damage Done

- Injured 15 firefighters
- Over 8000 cubic feet of records and books destroyed
- $3 million damage
- Top floor destroyed

DTMB

Records Management Services

- Retention and Disposal Schedule development, review and approval
- Recordkeeping system consulting
- Imaging and Document Management services
- Education and training
- Records storage services (state agencies only)

DTMB

Our Customers

- Executive Branch
- Legislative Branch
- Judicial Branch
- Local Governments

DTMB

Have you ever contacted the State of Michigan or visited our website to get records management information?

DTMB

Records Management Principles

- If the information is recorded it is a record
- Public records are evidence of government activities
- Destruction must be authorized by an approved Retention and Disposal Schedule
- Records supporting the same business process need to be stored together, when possible, on media that will keep them accessible and usable for the entire retention period
- Every employee who creates, receives or maintains official records is responsible for records retention

DTMB

Lifecycle of a Record

Laws

- Freedom of Information Act, Definitions
  - M.C.L. 15.231-15.232
- Management and Budget Act, Records Management
  - M.C.L. 18.1284-1292
- Historical Commission Act
  - M.C.L. 399.1-10
- Penal Code, Public Records
  - M.C.L. 750.491
- Note: The Michigan Compiled Laws are available online at http://www.legislature.mi.gov/.

DTMB

Public Records

The Michigan Freedom of Information Act (FOIA) (Public Act 442 of 1976, as amended), defines public records as recorded information "prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created."

DTMB

Records Exist in Many Formats

- Records can be stored as paper, photographs, maps, drawings, microfilm, databases, digital images, spreadsheets, e-mail, tweets, etc.
- If a record documents an official government transaction, action, decision, or activity, then it is an official record
  - The format of the record is irrelevant
  - The content of the record is important

Retention and Disposal Schedules

- Inventory of records series created and maintained by an agency, regardless of format
- Identify how long records will be kept
- Identify records with permanent value
- Identify when non-permanent records can be destroyed
- Records not listed on a schedule are permanent, because there is no authorization to destroy them
- Legal documents

Did you know that Retention and Disposal Schedules provide the only legal authorization to destroy records?

Determining Retention Periods

- Keep records as long as they have:
  - Operational/Administrative Value
  - Fiscal Value
  - Legal Value
  - Historical/Archival Value
- Destroy records when their value ceases to exist

Schedule Approval Process

- Approved schedules have the force of law
- Schedules are approved by:
  - Agency representative
  - Records Management Services
  - Archives of Michigan
  - State Administrative Board

General Schedules

- Identify records that are common to a particular function or type of agency
  - Promote consistent retention practices
  - Reduce duplication of effort
- Already approved for use--local governments are not required by law to adopt them, but it is recommended
- Public records not listed on a general schedule must be listed on an agency-specific schedule
  - Do not mandate that records be created
  - Establish retention periods for common records in case they are created
- Retention periods are minimums
  - Local governments are encouraged to keep select records with historical value longer than the minimum
  - Local situations may require that records be kept longer than the minimum
- Do not specify the format of the record (paper, microfilm, electronic, etc.)

General Schedules

1. Nonrecord Material Defined (approved 11-16-2004)
2. Public Schools (approved 12-7-2010)
3. County Registers of Deeds (approved 10-17-2006)
4. County Treasurers (*superseded 9-12-2008 by General Schedule #27*)
5. County Social Services (*superseded 4-17-2007*)
6. County Clerks (approved 5-3-2005)
7. Local Health Departments (approved 10-5-2004)
8. Cities and Villages (approved 4-7-1998, updated 2010)
9. County Roads Commissions (approved 8-4-1998)
10. Townships (approved 7-1-1997, updated 2009)

DTMB

General Schedules

11. Local Law Enforcement (approved 8-2-2005, updated 2009, revised 2012)
16. Trial Courts (approved 11-8-2006)
17. Public Libraries (approved 1-18-2005)
18. Fire/Ambulance Departments (approved 3-6-2007)
19. Prosecuting Attorneys (approved 5-1-2007)
20. Community Mental Health Services Programs (approved 5-1-2007)
21. County Veterans Affairs (approved 11-6-2007)
22. Veterans Trust Fund (approved 12-4-2007)
23. Elections Records (approved 10-16-2007, revised 11-26-2013)

DTMB

General Schedules

24. City and Village Clerks (approved 11-5-2008)
25. Township Clerks (approved 6-17-2008)
26. Local Government Human Resources (approved 10-7-2008)
27. County Treasurers (approved 9-12-2008)
28. City and Village Treasurers (approved 7-20-2010)
29. Township Treasurers (approved 9-1-2009)
30. Local Government Information Technology (approved 12-1-2009)
31. Local Government Financial Records (approved 4-7-2009)
32. Local Government Parks and Recreation Departments (approved 4-20-2010)
34. Local 9-1-1 Call Centers (approved 7-20-2010)

DTMB

Agency-Specific Schedules

- Cover records not listed on general schedules
  - Records may be unique to a particular agency
  - General schedule may not be available
- Retention periods are absolute minimum and maximums
- Specific schedules always override general schedules
  - Agency needs to formally rescind specific schedules, if they want to follow a general schedule instead

DTMB

Developing Schedules

- Inventory the records in the office
  - Survey filing systems: paper, microfilm and electronic
  - Use inventory worksheet to collect information
- Determine how long records are needed
- Complete the Retention and Disposal Schedule form (DTMB-43)
  - Describe the records—why are they created, what information do they contain
- Submit the draft schedule to RMS for review and approval
- RMS will route the schedule to the approving agencies
- RMS will return the approved schedule

DTMB

Non-record Material

- Full definition in General Schedule #1.
- Includes drafts, duplicates/convenience copies, publications and other materials that do not document agency activities.
- Can be disposed of when they no longer have reference value.
- If non-record materials are still in an agency's possession when a FOIA request or discovery hold is received, it needs to be retained until that legal action is over.
- Sometimes multiple offices possess copies of the same record. Only the "office of record" is responsible for following the retention period that is specified. Duplicates do not need to be retained.

DTMB

Why Follow a Retention Schedule?

- Risks of keeping records too long
  - Wastes space
  - Harder to find records you need
  - Records must be reviewed for FOIA and litigation
- Risks of destroying records too soon
  - Violation of Michigan law
  - Exposes agency to liability if the records are requested via FOIA or litigation
- Avoid random record purging by establishing a routine within the normal course of business

DTMB

RMS Does Not Audit for Compliance

- Agency is responsible for complying with the records management laws
  - Records Management Services provides the tools and the training
- Each government agency must weigh its own risk of non-compliance
  - Inability to produce records that are requested by the public, lawyers, auditors, news media, etc.

DTMB

Freedom of Information Act (FOIA)

- FOIA allows the public to request copies of government records
  - Some records are exempt from disclosure
- If a records still exist when a FOIA request is received, it must be evaluated by FOIA Coordinator for release
  - Records should only be released by authorized individuals
- If records are destroyed regularly, in accordance with approved schedules, they may no longer exist when requested
  - Agency will not be penalized for not releasing the record
- Retrieving records is time consuming, labor intensive and expensive
  - FOIA fees are not sufficient to cover retrieval costs

DTMB

Litigation

- During litigation parties can request records that are relevant evidence to the case
  - Some records that are exempt from disclosure under FOIA and other laws could be admitted as evidence
- Immediately cease all destruction of relevant records when litigation is imminent
  - Government agencies do not want to be charged with destroying evidence
- If records are destroyed regularly, in accordance with approved schedules, they may no longer exist when requested
  - Agency will not be penalized for not releasing the record
- Retrieving records is time consuming, labor intensive and expensive
  - Costs are generally not recovered
  - Records should only be released by authorized individuals

DTMB

Open Meetings Act

- A quorum of members of public bodies (as defined by FOIA) cannot use e-mail or social media sites to deliberate issues outside of a public meeting
- The e-mail and social media accounts of members of public bodies (elected or appointed) can be eligible for release in accordance with FOIA and can be used as evidence in litigation

DTMB

Questions?

DTMB

Record Maintenance

Cost Effective and Efficient

DTMB

Common Recordkeeping Problems

Acceptable Use of Resources

Official Records

- Support employee's performance of official job duties
- Should be stored using government resources
  - Filing cabinets, computers and devices, network space, etc.
- Two types:
  - Administrative
  - Programmatic

Unofficial Records

- Not needed to support official job duties
- Should be destroyed or stored using personal resources
- Three types:
  - Transitory Records
  - Non-record Materials
  - Personal Records

DTMB

Examples of What to Keep

Keep

- Official Records
  - You are the designated recordkeeper
  - Document your duties and responsibilities
  - Document decisions and activities of your office
  - Document guidance or services provided by your office

Don't Keep

- Unofficial Records
  - Publications from outside sources (newsletters)
  - Personal documents (family, personal finances, friends)
  - Mass mailings (received)
  - Drafts
  - Duplicates of official records
  - Records that don't document your duties and responsibilities
  - Reminders
  - Spam, advertisements and junk mail

Official Records: recorded information that is prepared, owned, used, in the possession of, or retained by an agency in the performance of an official function.

Source: Michigan's Freedom of Information Act (FOIA)

Official Records

- Document how you fulfill the duties of your position
- Document the functions of your agency
- You are the designated recordkeeper
- May include correspondence with:
  - General public
  - Customers/clients
  - Other government employees
- May include completed forms, data, photos, reports, etc.
- Includes your work calendar (2 year retention period)
  - Each employee can choose whether they want to keep their work calendar in paper or electronic form
- Should always be stored together in a single location for retrieval, when possible
- Retain according to approved Retention and Disposal Schedules

DTMB

Examples of Official Records

TO: Joe
FROM: Jim
SUBJECT: Contract
Please change the fourth paragraph in contract #10775 to read, "payment must be received within 30 days", removing the phrase "60 days."

TO: Bob
FROM: Carol, Personnel Director
SUBJECT: Reallocation
After further review, it is our decision that there is not sufficient justification to approve the reallocation for Susan's position, based upon the fact that . . .

TO: Vendor
FROM: Lisa
SUBJECT: Contract
Thank you for your question. The intent is to guarantee unit prices to all state agencies and to provide a mechanism to easily obtain imaging services.

TO: Mark
FROM: John
SUBJECT: Appointment
This is your official notification of your appointment to the Taxation Committee. Your responsibilities include . . .

Official Records

Administrative

- Document general office issues
  - Strategic planning, special projects, progress reporting, research, financial transactions, supervision of employees, outreach, public relations, etc.
- Should be organized by topic and/or date

DTMB

Official Records

Programmatic

- Document specific services/activities of the office
- Offices may be responsible for multiple programs, each needing separate filing systems
- Filing system needs to be accessible to all employees involved in the process
- Retention is governed by an agency-specific schedule
- May be organized by number, name, date, etc.

DTMB

Doing Work with Personal Resources

- If you use the following to conduct official government business, then the records that are created may fit the definition of official records
  - Personal e-mail account
  - Social media tools (such as Facebook or Twitter)
  - Personal cell phones
  - Home computer

DTMB

Tip: Know Your Records

- Michigan has a lot of Retention and Disposal Schedules—you don't have to memorize all of them
- Most employees are responsible for filing only a few records series
- Which business processes are you responsible for retaining the official records of?
- What are the retention periods for those particular records?

DTMB

Unofficial Records

- Three types:
  - Transitory Records
  - Non-record Materials
  - Personal Records
- Do not store using government resources
  - Cause space problems
  - Storage is expensive
    - A little bit stored by each person adds up to a lot
  - Official records are harder to identify when mixed with unofficial records

DTMB

Transitory Records: records relating to agency activities that have temporary value and do not need to be retained once their intended purpose has been fulfilled.

Source: General Schedule 5.00

Transitory Records

- Document official work activities, but they have little value once the activity is completed
- Include:
  - Requests or reminders to do a routine task
  - Simple inquiries about policies, office location and hours, etc.
  - Information that is published somewhere, like the internet or a procedure manual
- Other official records are created that document the task itself
- Can be destroyed once the task is completed
- May need to be released to a requestor, if they are responsive to a FOIA request or litigation

DTMB

Examples of Transitory Records

TO: Staff
FROM: Janet
SUBJECT: staff meetings
The staff meetings will be held on Tuesday mornings from now on instead of Thursday afternoons.

TO: Marilyn
FROM: Doug
SUBJECT: supplies
I noticed that there are no more blue ink pens in the supply cabinet. Can you please order more? Thanks.

TO: Doug
FROM: Becky
SUBJECT: Retention Schedule
Would you please e-mail me a copy of the schedule for Administrative Services?

TO: Debbie
FROM: Jim
SUBJECT: training
You have my approval to attend the seminar "Buying over the Internet." Please complete your registration form within the next two weeks.

Non-records: recorded information in the possession of an agency that is not needed to document the performance of an official function.

Source: General Schedule #1

Non-record Materials

- Do not need to be retained, per General Schedule #1
- Drafts, duplicates/convenience copies, information that does not document official duties
- Include:
  - Brochures, newsletters and publications received from outside sources
  - Mass mailings, received for informational purposes
  - Advertisements, spam and junk mail
  - Copies of official records, kept for reference
  - Drafts that do not document significant steps (decision making) in the preparation of the final record (drafts might need to be kept until the final version is approved)
  - Tracking documents or tools that are used to ensure that all steps in a business process take place, but are not the official documentation of the action or activity
- May need to be released to a requestor, if they are responsive to a FOIA request or litigation

DTMB

Examples of Non-records

TO: Jim
FROM: Marilyn
CC: Brice
SUBJECT: Contract
For your information, the contract has been mailed to Purchasing.

TO: Debbie
FROM: ARMA
SUBJECT: Books
The Association of Records Managers and Administrators has four new books for sale regarding e-discovery. They are . . .

TO: DMB
FROM: Susan
SUBJECT: Give Blood!
The American Red Cross Blood Drive will be held in Constitution Hall on November 20.

TO: Dave
FROM: Karen
SUBJECT: brochure
The attached Word document is a draft for your review. Please let me know if you have any comments. Thanks.

Personal Records: records that document non-government business or activities. Note: agencies may have policies that prohibit the use of state-owned resources for personal activities.

Personal Records

- Document your personal life
  - Employee benefits
  - Personal financial accounts
  - Health
  - Family
  - Social events with co-workers and friends, etc.
  - Personal purchases and shopping
  - Photos, videos and music used for entertainment
- Store personal records so they are physically separated from official records
- Personal records should not be stored using government resources
- You may place personal appointments on your work calendar to prevent double-booking of a time slot during the work day, and remove them after the event takes place

Examples of Personal Records

TO: Sandy
FROM: Debbie
SUBJECT: Good luck!
Congratulations on your new job! It has been great working with you these past three years. Keep in touch!

TO: Jane Smith
FROM: John Smith
SUBJECT: late
Honey. My meeting is running later than expected. Please save dinner for me. Thanks.

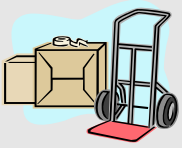
TO: All Division Employees
FROM: Bob Jones, Director
SUBJECT: holiday
This year's annual holiday buffet will be held on December 22 at noon in the conference room. Please remember to sign-up to bring a dish to pass.

TO: Building Employees
FROM: Phyllis
SUBJECT: car
FYI. I noticed that a blue Oldsmobile in the parking lot with the license plate XYZ 123 has its lights on.

Records Clean-up

- As a general rule, in most offices
  - 30% of records need to be retained but are not retrieved regularly, and should be moved off-site to low-cost storage
  - 40% of records have met their retention requirements and should be destroyed
  - 30% of records are needed on-site for active reference and retrieval
- When was the last time your office reviewed its recordkeeping practices?

Move 30% off-site



Inactive Record Storage

- Storing records in their original format is cheaper than converting them to another format
- Proper environmental conditions (temperature and humidity controls) and security (fire and theft prevention) are required
- If storage space is not available within government facilities then a vendor should be selected
  - Storing paper records at vendor facilities is cheaper than digital imaging

Record Storage Conditions

- Select a fire resistant structure with a detection and suppression system
- Install temperature and humidity controls appropriate to the record media
- Maintain ventilation and protection from insects and mold
- Avoid steam, water and sewer pipes
- Keep shelving away from windows, doors, walls and roof
- Keep aisle space clear, maintain good lighting of aisles
- Install shelving above initial flood stage
- Label record containers to identify contents and "owner"
- Maintain an inventory of the records stored
- Identify authorized destruction dates

DTMB

Selecting a Records Storage Vendor

- Reputable company
- Security controls
- Disaster prevention
- Facility is sound
- Courier services
- Company policies
- Environmental controls
- Customer services
- Fees

DTMB

Destroy 40%

DTMB

Suspending Destruction

FOIA, Litigation, Audit

- Immediately cease the destruction of all relevant records (even if destruction is authorized by an approved Retention and Disposal Schedule)
- If relevant records exist in electronic formats, notify information technology staff
- Failure to cease the destruction of relevant records could result in penalties from state or federal courts

DTMB

Disposition of Records

- Effective May 13, 2004, local governments are <u>not</u> required to submit a Certificate of Records Disposal (MH-38) to the State of Michigan prior to disposing of public records
- If the retention period specified on the schedule has been met, the records may be destroyed or transferred to the Archives of Michigan

DTMB

Destruction Methods

- Trash
- Recycling
- Confidential Destruction

DTMB

Trash

- Trash bins and dumpsters are not secured
  - Not locked to prevent access by "dumpster divers"
  - Exposed to the environment
  - Contents can be scattered when transferred to a truck and while in transit
  - Truck drivers do not have to go through security screenings
- Trash is taken to an open landfill
  - Landfill could be in another state or country
  - No control: information could be accessed by anyone
- DO NOT PUT RECORDS IN THE TRASH!

DTMB

Recycling

- Bins and cardboard containers are not locked
- Material is taken to an open warehouse for processing and baling
  - During transit the material is often not secured
  - Truck drivers and handlers may not go through security screenings or background checks
  - Material is hand sorted according to paper grades
- Information in the records is not destroyed
  - Recycled materials will be sent to a paper mill that could be located in another state or country for re-purposing
  - Information stays intact through out the process and could be accessed by anyone until they are actually utilized at a mill
- DO NOT RECYCLE CONFIDENTIAL RECORDS!

DTMB

Bales of Recycled Material

recycled materials are not destroyed until they are re-purposed, and information can be accessed by anyone

DTMB

Shredding May Not Be Good Enough

- Strip cut shreds can still reveal full lines of text
- Shredded records can be reconstructed
- Be aware of how the shreds will be disposed of to prevent reconstruction

DTMB

Not All Shreds are Equal

strip cut shred compared to grinder shred

comparing different particle sizes

DTMB

Confidential Destruction

- Prevents reconstruction of materials
- Prevents inappropriate release of information
- State of Michigan contract requirements
  - Paper: 5/16 inch particle size
    - Can be accomplished with pulverization or grinding
    - Material is recycled
  - Film, computer hard drives and disks: 1/35 inch particle size
    - Accomplished with grinding
  - Meets IRS requirements
- SECURELY DESTROY ALL CONFIDENTIAL RECORDS

DTMB

Rapid Shred

- Statewide Confidential Destruction Service
  - Locked bins are available for storing records until they are picked up for destruction
  - Employees are bonded and have background checks
  - Must destroy records within 24 hours of pickup
  - Transportation and processing areas are secured
  - Flexible scheduling for pickup of materials
  - Each location that hosts a bin is linked to an agency's index code for billing
- Contact:
  - Rapid Shred, 616-735-2900
  - Scott Dennis, President

Confidential Destruction Process

Destroy Records Appropriately

- **Trash:** used for materials that are not records
  - Material is sent to an open landfill
- **Recycling:** used for records that do not contain confidential or sensitive information
  - Material is not destroyed until it is re-purposed
- **Confidential Destruction:** used to prevent inappropriate release or re-construction of material
  - Material is ground to 5/16 inch particle size

Maintain 30% on-site

Benefits of Being Organized

- Effective management does not happen by accident
- Result of careful planning and implementation
- Goal is more efficient retrieval of information to save time and money--ability to find files days, weeks, months or years after they are created
- Easier to share files with co-workers, especially if everyone in the office follows the same rules
- Saves storage space
- Recordkeeping is an on-going process

Filing is Important

- Computers and cabinets do not require that records be organized, it is the responsibility of the user
- Each file/folder and each document needs a logical place in the filing system, so arbitrary decisions are limited
- Filing systems must be easy to understand

Shared Filing Systems

- All employees involved in a business process should use the official file
- Employees should not create renegade/rogue files (duplicates of the official file for their own use)
- Naming conventions promote consistency
- Consistency supports fast and easy retrieval of information

Renegade/Rogue File Problems

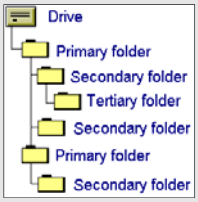
- Version control issues
- Risk of inconsistency with the official file
- Waste storage resources
- More work to clean up after the file is closed

Naming Conventions for Files/Folders

- Determine what information users have about the contents of the file prior to accessing it?
- Is the "subject" assigned a number or code that can be used in the file title?
- Consistently use abbreviations, shortened names, acronyms, uppercase and lowercase, etc.
- If a name changes, determine how/when/who will change the title of the file?
- Are sub-folders needed to separate document types, such as core documents and routine correspondence?

Sub-folders

While there are no limits to the number of sub-folders that you can create, your filing system may become confusing if you have more than 3 or 4 levels of sub-folders.



Naming Conventions for Documents

- Titles may need to identify a document type, form number, name of "subject," date, etc.
- Titles may need to identify drafts versus final versions
- Avoid duplicate titles, or similar titles that cause confusion
- Where are the blank templates kept?
- Use default application extensions for e-documents
  - Example -- c:\train\organize e-files.doc

Implementing Record Retention

- Records management is not the primary job duty of most employees
- Employees don't have time to review records and follow schedules
- Implementation needs to be a routine practice that is mandated from the top/down
- Most employees routinely use only a few record series
- Must be easy = avoid weeding individual documents

Filing for Chronological Retention Periods

- Examples: creation date, fiscal year, current year
- Organize the folders chronologically
- Create separate folders for each month or year
- Pull entire folders when the retention period is met
  - Avoid weeding the contents of a folder

DTMB

Filing for Conditional Retention Periods

- Examples: while active, until event, until closed, until expired, etc.
- Organize by entity (such as a person, group, location or project)
- Pull entire folder when the condition is met
  - Avoid weeding the contents of a folder

DTMB

Filing for Mixed Retention Periods

- Combination of both--conditional and chronological retention period
  - Example: active plus 5 years
  - Organize the folders by entity while they are active
  - Physically move the folders to an inactive storage location, and organize the folders chronologically
    - Some computers systems allow a "closed" date to be entered, which can trigger retention
- Pull entire folders when the retention period is met
  - Avoid weeding the contents of a folder

DTMB

Special Media

Special Considerations

DTMB

Media Longevity

• Acid-free paper	500 years
• Acidic paper	100 years
• Microfilm (silver/polyester base)	500 years
• Hardware and software	10 years

- Most computer technology will become obsolete before its life expectancy is met, and before the records dependent upon it have fulfilled their retention requirements

DTMB

Permanent Records

- Stable storage media
  - Acid free paper, folders and boxes
  - Microfilm
  - Black and white photography
- Environmental controls
  - Constant temperature and relative humidity
  - See chart in the Records Management Manual
- Conservation
  - Suppliers
  - Labs

DTMB

Electronic Records

- Include digital images, e-mail, databases, word processed documents, spreadsheets, CAD, GIS, web pages, etc.
- Dependent upon specific hardware and software to be accessed and used
- Original technology used to create electronic records will eventually be obsolete
- Need to work with information technology staff to develop preservation plans for retaining electronic records long-term (more than 10 years)

Types of Disasters in Michigan

- Tornado
- Fire
- Flooding
- Burst water pipe
- Roof cave in
- Power outage
- Human error
- Infestation
- Terrorist attack
- Computer virus

Vital Records

- Records that are absolutely essential to continued operations, and must be protected in case of a disaster
- Support mission-critical activities (such as financial records, student records, etc.)
- More than just "important records"

How to Protect Vital Records

- Original Records
  - Vaults, safes and other fire-proof structures
- Built-in Dispersal
  - Duplicate copy is maintained in the normal course of business
  - Records are microfilmed for other reasons, besides vital records protection, and the original microfilm is stored in a secure site
- Improvised Dispersal
  - Duplicate copy is made for disaster recovery process only (for example, paper records are microfilmed and the original copy of the microfilm is stored in an off-site location)
- Vital records update cycle
  - Ensure that current and accurate records are retrieved

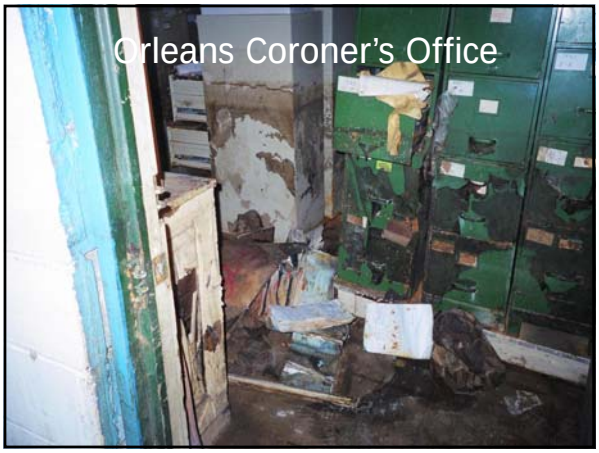
Lessons Learned: 2005 Hurricanes

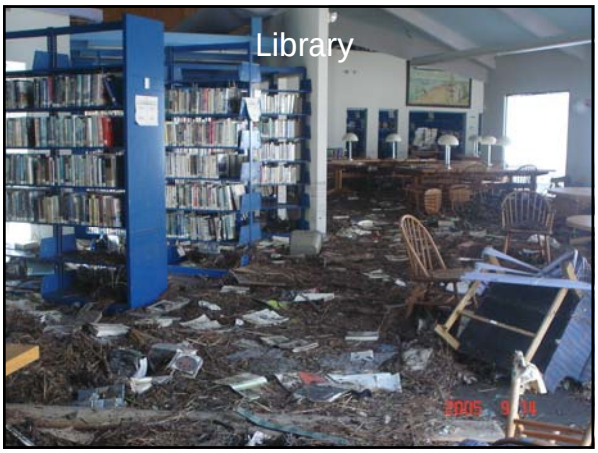
- More than 900 state and local governmental entities were in the affected areas
- Combined scale and scope of storms was unprecedented
- Impacted: transportation, housing, communications, law enforcement, resources, supplies, information
- Access: infrastructure and areas were flooded, damaged, or blocked

Time is of the Essence

- Most disaster recovery literature encourages action within 48 hours. Actions started after that may not be successful.
- Some businesses and agencies were unable to access their offices and records for two to four months.
- Some agencies used media pressure to get authorities to let them into the city to access their facilities.
- Some agencies had to use vendors to do inspections due to hazard concerns.

DTMB





Create a Plan for Your Records

- "Pocket Response Plan" is a disaster plan template, it includes: responsibilities, names, contact information, emergency service providers, utility information, etc. http://www.michigan.gov/documents/hal/prep-template_172553_7.pdf
- List of additional online resources is available from the Records Management Services' website
- Talk to emergency responders before you have an disaster

DTMB

Records Management is Risk Management

- Understand the risk of loss--loss is not just inadvertent destruction…
  - Disaster (fire, flood, etc)
  - Intentional and illegal destruction or alteration
  - Security breech (theft, misuse or fraud)
  - System backup process failed
  - Human error
  - Technology obsolescence
  - Deterioration
  - Pests (rodents, insects, etc.)

DTMB

What is Negative Impact?

- Financial loss
- Lost opportunity
- Litigation/audit/investigation
- System repair/recovery costs
- Customer inconvenience
- Lost time/productivity
- Public embarrassment or scrutiny

DTMB

How to Mitigate Risk?

- Select appropriate recordkeeping systems (efficient and effective retrieval)
- Policies, procedures, documentation
- Security (inappropriate use or alteration, protect private information)
- System backup
- Redundancy
- Disaster plan
- Implement retention routinely in accordance with an approved schedule
- Maintain proper storage conditions

DTMB

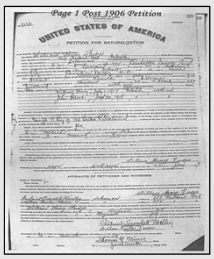
Questions?

Preservation of Historical Records

Archives of Michigan

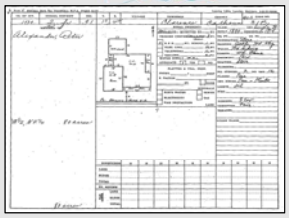
Mission

- The Archives of Michigan identifies and permanently preserves public and private records that document significant government activities and historic eras/events.
- Historically significant public records:
  - Document how government operates
  - Protect the rights of citizens
  - Document society or important events



Examples of Archival Records

- Naturalization records
- Circuit court case files
- Tax rolls
- Sanatorium patient records
- Poor farm records
- Property inventory cards (equalization cards)
- Log marks registration
- Licensed professional registrations



Transferring Records to the Archives

- Check the Retention and Disposal Schedule first
- Complete the Direct Records Transmittal (MH-85) and send it to the Archives
- Archives of Michigan will contact the office to arrange the transfer

Benefits of the Archives

- State of the art storage conditions for preserving Michigan's most valuable records
  - Acid-free containers
  - Environmentally-controlled storage area
  - Fire and theft prevention
- Records are preserved permanently
- Records are made available to public in variety of ways

Using Records at the Archives

- Monday - Friday (1:00 - 5:00 p.m.), Saturday (10:00 a.m. - 4:00 p.m.)
  - Closed state holidays
- All records are open to the public, unless they are confidential
- Records are used in a monitored reading room, and cannot leave the Archives' facility
  - Researchers must show picture ID
  - Records can be reproduced
- Questions answered by phone, e-mail, letter and on-site visit
  - Compliance with FOIA timelines
  - Some items available online via www.seekingmichigan.org

DTMB

Depository Agreements

- Local governments cannot relinquish legal custody of their public records
- Cannot sell the official copy of a public record
- Under certain conditions, a local government may deposit (transfer physical custody of) its public records with an alternative institution that is willing to store and provide access to the records
- Depository agreement will specify the terms of the arrangement
- Model agreement is included in the Records Management Manual

DTMB

Examples of Deposited Records

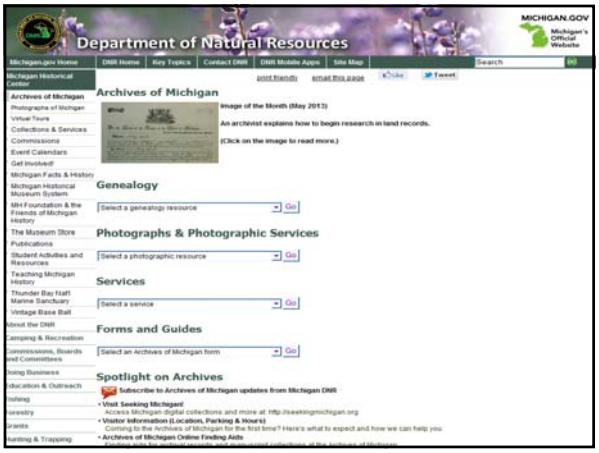
- Permanent records that the government agency rarely references
- Records with historical value that have fulfilled the minimum retention period listed on the schedule, but are not authorized for transfer to the Archives
- Original paper copy when the government agency will be keeping the microfilm
- Records that do not contain confidential or sensitive information

DTMB

Potential Alternate Depositories

- Public library
- College/university library or archives
- Local historical society

DTMB



Archives of Michigan

702 West Kalamazoo Street
Lansing, Michigan 48913
(517) 373-3559 (select option #3 from the voice menu)
archives@michigan.gov
http://www.michigan.gov/archivesofmi/

DTMB

Questions?

Record Reproduction

Microfilm and Digital Imaging

Does your office microfilm any of its records?

Does your office scan any of its records into digital images?

Records Reproduction Act

- MCL 24.401 - 24.406
- Authorizes the reproduction of public records by Michigan government agencies at all levels
- Requires that certain technical standards be promulgated to regulate quality
  - Microfilm
  - Digital imaging
  - Digital migration

Imaging and Microfilming Standards

- Reproductions cannot be used as official records if they were not created according to SOM standards
- Standards were promulgated August 2005:
  - Conversion of Paper or Microfilm to Digital Images
  - Conversion of Paper to Microfilm
  - Conversion of Digital Images to Microfilm
- "Best Practice" documents explain how and why these technologies should be used

Common Threads

- Records must…regardless of the format
  - Be authentic
  - Be reliable
  - Have integrity
  - Be usable and accessible
- Agency is responsible for the proper management of records and information for the life of the retention schedule
- Records Management Services is responsible for providing guidance/direction about compliance

DTMB

Common Misconceptions

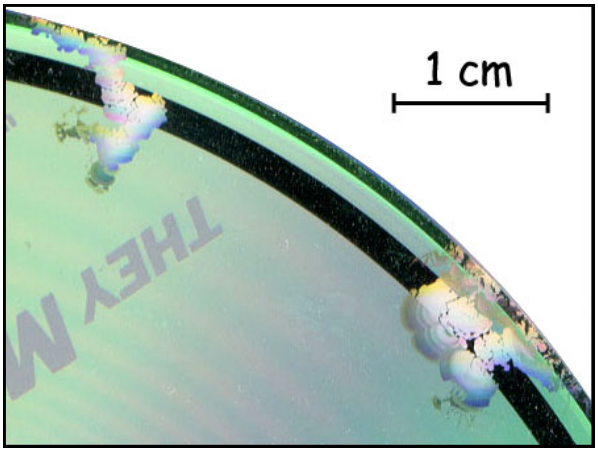
- Electronic storage is cheap
- Imaging is the best solution
- CDs will last for 50 years or more
- Microfilm is an obsolete technology
- Paper storage is expensive
- Paperless is better

DTMB

CD Rot (Wikipedia)

- CD rot (or DVD rot) is a common phrase describing the tendency of CD or DVD discs to become unreadable within a few years of manufacture. The causes of this effect vary from oxidation of the data carrying layer to ultra-violet light damage and debonding of the adhesive used to stick the layers of the disc together. Since much use is made of CDs and DVDs as backup media, the potential impact of data loss is great.

DTMB



Choosing a Recordkeeping System

- Define your problem
- Define your current processes
- Identify all potential solutions
  - Reduce retention schedule requirements
  - Eliminate unnecessary or redundant processes
  - Off-site storage
  - Microfilm
  - Born electronic
  - Document imaging
- Analyze and compare the costs of the solutions

DTMB

Paper Benefits

- No conversion costs
- Established filing rules
- Satisfies long-term storage requirements
- May be eligible for low-cost off-site storage

DTMB

Paper Disadvantages

- No disaster recovery
- Single user/single location access
- Expensive to duplicate
- Easy to misfile or lose

When to Use Paper

- Low retrieval activity
- Low volume of records
- Original signatures are required by law
- Physical storage space is available
- Be aware that electronic storage is more expensive than paper storage if the record was originally created in a paper format

Microfilm Benefits

- Reduce space requirements (~ 98%)
- Ease of duplication and distribution
- Preserve information (long-term stability)
- Minimal system dependence
- Security/protection (working and security copies)
- Integrity of records
- Improve filing and retrieval activity
- Eliminate misfiles ($125 per incident)

When to use Microfilm

Records

- Static
- Voluminous
- Long retention period
- Low retrieval activity
- Centralized access is sufficient

Document Imaging Benefits

- Reduce space requirements (~ 50,000 pages fit on a disk)
- Indexing and cross-reference
- High speed retrieval
- Sharing documents across a network or the internet
- Easily integrated with document management systems, databases and other tools

When to use Document Imaging

Records

- Static and dynamic
- Voluminous
- High retrieval activity
- De-centralized access from multiple locations
- Simultaneous multi-user access

Hybrid Microfilm/Imaging

- Digital images satisfy the need for short-term high-volume retrieval
- Microfilm satisfies the need for reduced storage and long-term accessibility, while avoiding digital migration costs
- Media can be produced simultaneously or independently

Document Management

"… consists of technologies, tools, and methods used to capture, manage, store, preserve, and deliver information, content, and documents related to organizational processes." --AIIM

Benefits of Document Management

- Centralized storage
- Robust searching
- Improved sharing
- Reduced duplication
- Robust security
- Enhanced authenticity
- Improved disaster prevention
- Cost savings through efficiency
- Document mobility
- Organized file plans

When to Use Document Management

- Need to share filing systems for electronic documents among many employees
- Improve consistent filing practices by employees
- High turnover of employees
- Need improved security of documents
- Improve search and retrieval of documents
- Automate record disposition

State of Michigan Contracts

- Microfilm conversion (from paper or images)
- Imaging conversion (from paper or microfilm)
- Microfilm storage
- Microfilm inspection and repair

Services Provided

- Budget Quote
- Full Review and Analysis
- Statement of Work Development
- Products and Services

Additional Benefits

- Contracts were competitively bid (government agencies do not need to re-bid to procure the services)
- Billing is handled by SOM
- SOM monitors vendor compliance and resolves issues
- SOM develops the SOW to help agencies get the services they need, instead of the services the vendor wants to sell

DTMB

Contact Information

Graphic Sciences, Inc.
Greg Colton, President
colton@gsiinc.com
800-397-6620
(mention the SOM contract)

DTMB

Questions?

DTMB

E-mail Retention

Yes. E-mail is a record!

DTMB

Quiz: True or False?

Q. My information technology department automatically deletes all e-mail in the system after 90 days, so I am not responsible for keeping e-mail beyond that period of time.

A. FALSE: We don't keep all paper records for only 90 days. If an e-mail message is related to a contract, we need to keep it as long as all other contract records. If the message is related to a personnel issue, we need to keep it as long as all other personnel records.

DTMB

Quiz

Q. I am the only person who can see the messages in my government e-mail account. It is private.

A. FALSE: Information technology staff and management may choose to monitor the activity in your e-mail account. In addition, the messages may become the subject of a FOIA request or litigation. If this happens, legal staff may review your e-mail messages to find evidence.

DTMB

Quiz

Q. If I am one of 50 people who receive a message, and I do not have to fulfill an assignment as a result of that message, then I can destroy it.

A. TRUE: The sender should retain the message, as well as any employees who are assigned a task as a result of the message.

Quiz

Q. I should create a folder called "e-mail" and store all of my e-mail messages in it.

A. FALSE: E-mail messages should be stored in topical folders with other paper or electronic records that document the same business process.

Quiz

Q. It is best to save all e-mail messages that I send and receive, in case I need to prove I did something.

A. FALSE: It is best to destroy e-mail messages that have fulfilled their retention period so they do not waste space on the computer system. Also, these messages could become a liability if a FOIA request or litigation discovery request is received.

E-mail Management

Would you keep all of your mail in your mailbox?
Why would you keep all of your e-mail in your inbox?

Over 40 Years Worth of E-mail

- E-mail was invented in October 1971
  - Technology to support sending electronic messages between computers in different locations
- E-mail use increased steadily over the past 20 years, and the trend will continue
- Today, most employees cannot function effectively at work without e-mail

E-mail Retention Principles

- Purpose of the e-mail system is to send and receive e-mail messages
- E-mail system is not a record retention/storage tool
- Official records should be stored in the official filing system for the business process

What is the Retention Period for E-mail?

- There is no single retention period for all e-mail, just like there is no single retention period for all paper.
- E-mail is a format that a record is stored in.
- Retention is based upon the content of the message, and the business process it supports.
  - If an e-mail message is related to a contract, it needs to be kept as long as all other contract records.
  - If the message is related to a personnel issue, it needs to be kept as long as all other personnel records.

DTMB

Retaining Records

- Do you need to keep the record to document your work? Is it evidence?
- Is the conversation completed, or could additional records follow that you will want to retain?
- Is this a record that your co-workers are receiving too? Are you responsible for retention or is someone else responsible?
- Should this record be stored in a shared file? Do your co-workers need to access it when you are out of the office?

DTMB

Who is Responsible for Retention?

- **Senders/authors:** are the "person of record" and are responsible for retention
- **Recipients:**
  - May need the record to support their business functions
  - If recipients do not share the author's filing system, they may need to keep the record
  - **Groups:** should designate someone to be responsible for retaining the record into a shared file to reduce duplication
  - Do not retain records distributed for informational purposes only

DTMB

Employee Responsibilities

- Decide which messages to keep and which to destroy
- Empty e-mail trash bins to purge deleted messages frequently
- File the messages that are retained in the official filing system for the business process
- Identify which retention schedule mandates the message's retention or authorizes its destruction

DTMB

Management Responsibilities

- Ensure that Retention and Disposal Schedules are accurate and comprehensive
- Adopt and distribute an e-mail retention policy for staff
- Adopt and distribute an acceptable use/etiquette policy
- Communicate with relevant employees, attorneys and information technology staff when a FOIA request is received or when litigation appears to be imminent

DTMB

Policies

- Model e-mail retention policy (fill-in-the-blank) is available from the RMS website
  - Defines status of e-mail as records
  - Responsibilities
  - Storage options

DTMB

Attorney Responsibilities

Zubulake v UBS Warburg (2004)

- Counsel must actively oversee and direct the discovery and preservation process—merely issuing an order or memo is not enough
- Counsel must meet with key players in the litigation to ensure they understand their role and duties
- Counsel must take steps to protect relevant records
- Counsel must be familiar with the client's document retention policies
- "The litigation hold instructions must be reiterated regularly and compliance must be monitored."

Information Technology Responsibilities

- Maintaining a full and accurate inventory of resources that are used
- Documenting backup procedures in writing
- Ensuring a complete and successful backup of data and records
- Purging backup tapes on a regular basis to ensure that deleted e-mail messages and other electronic records cannot be recovered
- Restoring data and records from backup tapes
- Working with attorneys to protect e-mail messages that are needed as evidence
- It may be difficult to fulfill these responsibilities if you use a private service provider (such as G-mail, Twitter, Facebook, etc.), since you do not have physical custody of the records and do not control their disposition

Other Communications Tools

- Instant/Text Messages, Voice Mail, Blogs, Social Media sites, RSS Feeds, etc.
  - Same records management principles apply:
    - If the communication is recorded it is a record
    - Status about the communication as a public record depends up on the content
    - Who should retain it depends upon responsibilities of sender/receiver
    - Records supporting the same business process need to be stored together on media that will keep them accessible and usable for the entire retention period
    - Records can be a liability or an asset
    - Content created and stored on government resources is not private
    - Resources not owned and managed by government could contain public records, and these records may become the subject of FOIA requests and litigation

E-mail is Not Private

- Do not write something in an e-mail message that you do not want to see published in the newspaper or on television news reports.

E-mail Liabilities

- In recent years, public officials and government employees have been caught using electronic messaging systems inappropriately, saying things they did not want to be public knowledge, or destroying electronic records illegally.
  - Some have lost their jobs
  - Some have had to pay hefty fines
  - Some have gone to jail

You are Effectively Managing Your E-mail If…

- Messages that are still in your e-mail account (inbox and sent mail):
  - Have not been read yet, or
  - Are related to tasks awaiting further action
- Messages that are official records are filed in with other records that document the business process, either electronically or in paper form
- Messages that are not official records are deleted

E-mail Storage Options

- No "one size fits all" solution
  - Each option has pros and cons
- Options:
  - Keep messages in the active e-mail account
  - Print and file messages in a hard copy system – destroy electronic copy
    - Permitted as long as there is no active FOIA or litigation activity
  - Save the messages on a network drive
    - Permitted as long as there is no active FOIA or litigation activity
  - Move messages to the e-mail system's archive
  - File messages in a document management system

DTMB

Tips for Cleaning E-mail Accounts

- **Don't Wait:** Make retention decisions right away
  - The longer you wait to clean out messages, the harder it will be to remember which messages are important
  - Know which records you are responsible for filing to support your job duties, and their retention period
- **Message Strings:** Retain only the last message in the conversation, if it includes the content (including attachments) of all the previous messages
- **Don't Keep Duplicates:** Rely upon the official file, so there is less confusion about drafts and versions
- **Calendars:** Retain appointments for 2 years
- **Trash:** Empty deleted items and junk mail daily

DTMB

First Steps

1. Personal Records
   - Delete personal records that are not needed
   - Do not retain those you keep using government resources
2. Non-records
   - Delete non-records that are not needed
   - Retain those you keep for reference purposes separately from official records
3. Transitory Records
   - Delete transitory records when issue is addressed and they are no longer needed

DTMB

Next Steps

4. Official Records
   - Identify if the records are covered by a general schedule or an agency-specific schedule
     - If records are not already covered by a schedule, prepare an agency-specific schedule and submit it for approval
   - Destroy records that have already met their retention period
   - Retain all records that document a business process together, regardless of format (paper, e-mail, electronic documents, digital images, etc.)
   - Most employees are only responsible for only a few record series

DTMB

More Steps

5. Manage e-mail daily
   - Don't let the volume of e-mail get out of control
   - Make retention decisions upon receiving or sending a message
6. Establish a routine (standard operating procedure) for destroying records (paper and electronic) that have met their retention period as part of your normal course of business
7. Understand when it is necessary to suspend the destruction of records
   - FOIA, Litigation, Audit, Investigation

DTMB

Celebrate the Little Victories

- Deleting the unofficial records is easy
- Most messages will have the same retention period--even if you have a lot of records
- Start developing new habits today--it feels good!
- Smaller e-mail accounts are less overwhelming

DTMB

Feeling Overwhelmed?

- Try moving all messages older than January 1 of this year from the inbox and sent mail into a folder titled according to the date range
- Wait 3-6 months to clean it up
- Start new recordkeeping practices today
- After the grace period ends, begin cleaning up the older records

DTMB

Additional Resources

Materials on the website

- Frequently Asked Questions about E-mail Retention
- E-mail Retention Guidance
- Model E-mail Retention Policy
- E-mail Storage Options
- File Plan Template

DTMB

More Training

E-mail Retention Class

- **Free** web-based user training
- Course takes 30 minutes to complete
- Go to http://www.quicknowledge.com/qk/hal/email
- Each user must fill out a registration profile
- Enter the QuicKey code: **EMAILHAL** in the field at the bottom of the registration page
- Select the "State of Michigan E-mail Retention Training" from the course catalog and follow the online instructions

DTMB

Questions?

DTMB

Litigation and Discovery

Protecting Your Government Agency

DTMB

e-Discovery

- **Discovery** is the process in which records are sought, located, secured, and searched with the intent of using them as evidence in a civil or criminal legal case
- **E-Discovery** is the process for addressing the unique issues associated with using electronically stored information (ESI) as evidence

DTMB

Court Rules

- Federal Rules of Civil Procedure
  - Amended December 1, 2006
- Michigan Court Rules for Civil Procedure
  - Amended January 1, 2009
- Address the role of electronically stored information (ESI) as evidence in court proceedings
- E-discovery is a key tool used by lawyers to win cases

DTMB

Electronically Stored Information

- It's about more than e-mail
- Desktop e-records (unstructured data)
- Databases, GIS, CAD (structured data)
- Data management tools (logs) that track activity
- Processes for creating, accessing, editing, destroying ESI
- Backup tapes are often a target in discovery
- Deleted files
- Random Access Memory (RAM)

DTMB

Challenges

- Volume of ESI is steadily increasing
- Users control most aspects of the lifecycle
- Duplication
- Disorganization
- Lack of acceptable use/etiquette controls
- Technology obsolescence
- Lack of security
- Lack of awareness/consequences

DTMB

The Trap

Litigation Strategy of Some Lawyers

"We write them a letter advising them we are considering litigation, sending it to the lowest level person in their legal group. We know it will take at least a month for this letter to bubble up. After 120 days we actually file the suit. Our first action is to discover e-mail, focusing on finding the e-mail that were created when the initial letter was sent. Typically, these have not been saved, and the backup tapes have already been rotated. We immediately press for a summary judgment based on destruction of evidence."

DTMB

Be Aware

- Procedural issues (such as failure to preserve evidence) are decided by judges, not juries. Judges no longer have patience with parties that fail to comply with the FRCP.
  - Imminent
  - Litigation Hold
  - Discovery
  - Normal Course of Business
  - Spoliation (destruction or tampering of evidence)
  - Adverse Inference
  - Preclusion
  - Dismissal
  - Obstruction of Justice
  - Exclusion of Witnesses

DTMB

Advance Preparation

- It is difficult to know when litigation is imminent and when to place a hold.
- Responding to litigation holds is difficult and expensive.
- Managing a discovery request must begin before a request is made. Even if your agency never receives a request, preparation remains critical.
- Policy, procedures, systems, staff training, and supporting plans must be collaboratively developed by a diverse group of stakeholders to adequately respond to a discovery request.

DTMB

Stakeholders

- Legal Counsel
  - Should take the lead role
- Information Technology
  - Knows were and how the data is stored
- Internal Audit
  - Documents compliance with procedures
- Records Coordinator
  - Knows record retention requirements, and where non-electronic records are stored
- Management
  - The buck stops here

DTMB

Who is at fault?

- **Employer:** did not establish policies, and did not train employees about the policies—employer is at fault
- **Employee:** received the policies and the training, but failed to follow them—employee is at fault
- **Attorney:** received notification about litigation, but failed to notify custodians of the evidence—attorney is at fault
- **IT:** did not inventory assets and establish data maintenance policies—IT is at fault

DTMB

Sources for More Information

- Sedona Conference
  - http://www.thesedonaconference.org/
  - Publications
    - Commentary on Legal Holds: The Trigger and The Process
    - Best Practice Recommendations and Principles for Addressing Electronic Document Production
    - Best Practice Guidelines and Commentary for Managing Information and Records in the Electronic Age
    - Commentary on ESI Evidence and Admissibility
    - Best Practices for the Selection of Electronic Discovery Vendors

DTMB

Questions?

DTMB

Don't Feel Overwhelmed…

10 Steps for Getting Started with Record Retention

DTMB

First Steps

1. Distribute schedules (agency-specific and/or general) to staff
   - Publish on the agency's intranet site
   - Brief supervisors about the importance of following the schedule, expectations and consequences
2. Have staff identify any records that are not listed on an approved schedule
   - Get an agency-specific schedule approved to authorize their destruction

DTMB

Next Steps

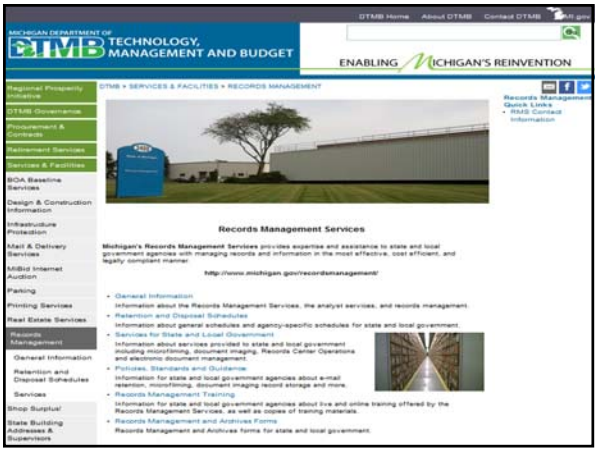
3. Training: ensure all staff have some basic awareness of the record retention requirements relevant to their job
4. Separate official records from unofficial records
5. Separate public records from personal records
6. Keep records that document a business process together

More Steps

7. Establish a routine (standard operating procedure) for destroying records that have met their retention period as part of your normal course of business
8. Manage e-mail daily
   - Don't let the volume of e-mail get out of control
   - Don't employ automatic purging routines
   - Analyze backup systems and procedures

A few more…

9. Adopt an Acceptable Use Policy for IT resources
   - Distribute to anyone who accesses IT resources (employees, independent contractors, etc.)
   - Require users to sign a compliance statement or implement a pop-up screen to acknowledge the policy upon access
10. Understand when it is necessary to suspend the destruction of records
   - FOIA, Litigation, Audit, Investigation
   - Establish procedures for notifying relevant individuals
   - Adopt a FOIA policy and designate a FOIA coordinator



Free Training

- Basic Records Management for Local Governments
  - Online video (1 hour)
  - http://www.michigan.gov/documents/dmb/rms_localrmworkshoponlineflyer_339127_7.pdf
- E-mail Retention
  - Online tutorial (30 minutes)
  - http://www.michigan.gov/documents/hal/mhc_rm_email_class_175020_7.pdf

We can help!

Records Management Services
3400 N. Grand River Ave.
Lansing, Michigan 48909
(517) 335-9132
http://www.michigan.gov/recordsmanagement/