

# State of Florida

## ***MANAGING FLORIDA'S PUBLIC RECORDS***



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## PREFACE

The goal of Florida's Records Management Program is to provide professional assistance to state and local government agencies in managing the records and information required to conduct the business of government. Our society generates and processes information on an unprecedented scale, intensified by rapidly advancing technology and complicated by quickly evolving principles of law governing the legality and admissibility of records created or maintained by this technology.

Managing all this information in an effective and cost-efficient manner can seem an overwhelming task. As records and information managers, we must remain educated and informed so that the decisions we make are consistent with laws and best practices.

In Florida, we are faced with yet another challenge. We must both control costs through the application of sound records and information management principles *and* apply these principles in light of the public's right to know. Florida's Public Records Law (Chapter 119, *Florida Statutes*) is one of the most open public records laws in the country and is a model for other states. Florida has had some form of a public records law since 1909 and is recognized nationally for leadership in accessibility to public records and government information.

The benefits of an effective records and information management program are many. Compliance with legal retention requirements, faster retrieval of information, space savings, fewer lost or misfiled records and reduction of expenditures for records filing equipment or storage media are just a few of the benefits agencies can realize through good records management. *Managing Florida's Public Records* is intended to serve as an introduction to records management and a guide to the ways in which Florida's Records Management Program can help you achieve your goals.

While the recommendations in this handbook reflect best practices, they are not meant to define mandatory standards. Agencies must adhere to the following mandatory standards:

- [Rule 1B-24, Florida Administrative Code, Public Records Scheduling and Disposition](#).
- [Rule 1B-26.003, Florida Administrative Code, Electronic Recordkeeping](#). This rule provides standards for the creation, utilization, maintenance, retention, preservation, storage and disposition of electronic records.
- [Rule 1B-26.0021, Florida Administrative Code, Microfilm Standards](#). This rule provides standards for microfilming public records to assure that the film, photographing methods, processing, handling and storage is in accordance with methods, procedures and specifications designed to protect and preserve such records on microfilm.

For more information, contact the Records Management Program by email at [recmgt@dos.myflorida.com](mailto:recmgt@dos.myflorida.com).

## INTRODUCTION TO RECORDS MANAGEMENT

### **A. The objectives of records and information management.**

The primary concern of Florida's Records Management Program is the efficient, effective and economical management of public records and information. Proper records management ensures that information is available when and where it is needed, in an organized and efficient manner, and in an appropriate environment.

While the importance of records management might not be obvious to everyone, its impact on the ability of an agency to function effectively is indisputable. It is only through the operation of a well-run records management program that an agency retains control of its corporate memory, which allows an agency to conduct business.

Records management is more than the retention, storage and disposition of records. It entails all recordkeeping requirements and policies that allow an agency to establish and maintain control over information flow and administrative operations.

Records management can help answer important questions, such as:

- Where are the agency's records?
- How long are they kept?
- When are they eligible for destruction?
- On what media are they recorded?
- Are the recording media of sufficient stability to maintain the viability of the records for the duration of their retention period?
- What records are vital to the continued operation of the agency?
- Are these vital records sufficiently protected?
- What recovery procedures are in place to help the agency assemble its records and resume administrative operations in the case of a disaster?
- How should the agency manage electronic records?
- Are emails records?
- Are any of the records in the agency historically significant?

With technology constantly evolving and large quantities of records and data being created and maintained, records management is one of the key tools in assisting agencies to answer these questions and to function effectively.

Records management seeks to manage and control records throughout their entire life cycle regardless of their format, from creation, when the records are created or received; through their active life, when the records are accessed frequently (at least once a month); through their inactive life, when the records are no longer frequently accessed but have to be retained for a period of time for legal, fiscal, administrative or historical reasons; until their final disposition, be it destruction or permanent preservation.

### **B. The benefits of records management.**

The benefits of a well-run records management operation are many:

**Space savings.** Space savings can be the most immediately realized benefit of a records management program, particularly for paper-based records. By implementing retention schedules and systematically destroying records that have met their retention requirements, an agency can significantly reduce the space occupied by records.

**Reduced expenditures for filing equipment and storage media.** Appropriate disposition of records can greatly reduce the need for filing cabinets, file folders, electronic storage media, rented storage space, etc.

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**Increased efficiency in information retrieval.** Retrieval of information is made more efficient through improved management of paper records systems and through cost-effective and efficient implementation of electronic records management and document management systems. An added benefit of improved filing systems is the reduction of misfiles and lost records, which can result in costly and time-consuming searches to locate needed records.

**Compliance with legal retention requirements and the establishment of retention requirements based on administrative, fiscal and historical values.** The hallmark of a good records management program is the establishment of and adherence to retention requirements based upon an analysis of the records' legal, fiscal, administrative and historical requirements and values. In the absence of such requirements, many agencies either destroy records that should be retained or retain everything, thereby taking a legal risk or assuming unnecessary operating costs.

**Protection of vital records.** Records management's role in identifying vital records and in preparing a carefully designed disaster preparedness, response and recovery plan can help an agency reduce its vulnerability. The destruction of important records can cost an agency millions of dollars and threaten the agency's ability to function, thus jeopardizing its existence and the well-being of citizens who depend on that agency.

**Control over creation of new records.** A significant percentage of the cost of information is in records creation. Records management, forms management and reports management can help reduce the proliferation of unnecessary reports, documents and copies and at the same time improve the effectiveness of those reports and documents that do need to be created.

**Identification of historical records.** Records managers play a vital role in the identification and protection of historical records. They are often responsible for preserving and making available records having historical or archival value. Records management programs should include procedures for identifying and ensuring the care of Florida's documentary heritage.

## RECORDS MANAGEMENT IN FLORIDA

### A. Florida's Records Management Program.

Florida's Records Management Program is operated by the Bureau of Archives and Records Management, part of the Division of Library and Information Services of the Department of State. The Secretary of State is the custodian of the Great Seal of the State of Florida and the official record keeper of the state. The program's role in this organizational hierarchy is to provide guidance and assistance to local and state government agencies in establishing records and information management programs and in managing public records and the information they create and use daily. To that end, the program offers a variety of services related to records and information management:

- Establishing standards for controlling, retaining, and destroying or preserving public records.
- Providing consulting services and training in the following areas:
  - Compliance with state laws, regulations and policies.
  - Records inventory and appraisal, including archival appraisal.
  - Records retention and disposition.
  - Records storage.
  - Records preservation principles.
  - Electronic recordkeeping requirements and guidelines.
  - Vital records protection and disaster planning and recovery.
  - Managing historical records.
- Providing cost-efficient off-site records storage at the Edward N. Johnson Records and Information Center (State Records Center). State and local government agencies within 120 miles of Leon County may store non-current or inactive records at the State Records Center. This facility is equipped to store paper records, electronic media and microfilm. Electronic media and microfilm are stored in high-security temperature- and humidity-controlled vaults.

### B. Regulatory mandate for records management.

#### (1) Chapter 257, *Florida Statutes*.

Florida's Records Management Program is a cooperative effort between the Division of Library and Information Services/Bureau of Archives and Records Management and state and local government agencies throughout Florida. Chapter 257, *Florida Statutes*, vests in the division the authority to oversee the records management functions of state and local government agencies. Specifically, Section 257.36(1)(a), *Florida Statutes*, mandates that the division will:

*Establish and administer a records management program directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records.*

Section 257.36(5), *Florida Statutes*, specifies the responsibilities of state and local government agencies:

*It is the duty of each agency to:*

- (a) *Cooperate with the division in complying with the provisions of this chapter and designate a records management liaison officer.*

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- (b) *Establish and maintain an active and continuing program for the economical and efficient management of records.*

The designation of a Records Management Liaison Officer (RMLO) is accomplished by a communication from the agency to the division. Please refer to [Starting Your Records Management Program](#), for information regarding the appointment of an RMLO and the suggested duties of that position. See [Appendix A](#) for an RMLO designation form.

**(2) Chapter 119, Florida Statutes.**

To understand the vital role of records management in Florida government, one must have a basic understanding of Florida's Public Records Law, Chapter 119, *Florida Statutes*. The Public Records Law has specific provisions covering important issues such as the definition of public records, access requirements, and exemptions from access.

**(a) What is a Public Record?**

The definition of public records in Section 119.011(12), *Florida Statutes*, is broad and all-inclusive. The statute reads as follows:

*"Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.*

The Florida Supreme Court further defined public records in a seminal 1980 legal decision, *Shevin v. Byron, Harless, Schaffer, Reid, and Associates* (379 So. 2d 633, Fla. 1980), ruling that a public record:

*. . . is any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.*

Any document meeting the above criteria set forth by the Court is a public record, regardless of whether it is in its final form or is designated by the agency as a "draft," "working copy" or "preliminary version." If an agency has circulated a "draft" for review, comment or informational purposes, even just internally, that draft is a public record.

To clarify this definition, the Court further ruled:

*To be contrasted with "public records" are materials prepared as drafts or notes, which constitute mere precursors of governmental "records" and are not, in themselves, intended as final evidence of the knowledge to be recorded. Matters which obviously would not be public records are rough drafts, notes to be used in preparing some other documentary material, and tapes or notes taken by a secretary as dictation. Inter-office memoranda and intra-office memoranda communicating information from one public employee to another or merely prepared for filing, even though not a part of an agency's later, formal public product, would nonetheless constitute public records inasmuch as they supply the final evidence of knowledge obtained in connection with the transaction of official business.*

**(b) Inspection and examination of public records.**

Florida's Public Records Law provides for unparalleled access to the records of government. Section 119.07(1)(a), *Florida Statutes*, states that:

*Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.*



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Additionally, Section 119.01(2)(a), *Florida Statutes*, states the following regarding electronic records:

*Automation of public records must not erode the right of access to those records. As each agency increases its use of and dependence on electronic recordkeeping, each agency must provide reasonable public access to records electronically maintained and must ensure that exempt or confidential records are not disclosed except as otherwise permitted by law.*

The law does not define “reasonable time” or “reasonable public access.” Every agency should clearly define in their records management policies and procedures what constitutes reasonable times and conditions and proper supervision. Many factors will determine the “reasonable” amount of time in which an agency can respond to a request: the nature of the request, the time involved in collecting and generating the information requested, the scope and volume of material involved, the general accessibility of the records, the personnel that will be required, and the information resources necessary to gather or generate the information. All these issues should be considered when an agency develops its public records accessibility policies and procedures.

When requested to copy public records, agencies have the right to charge for those copies under the fee provisions of Section 119.07(4), *Florida Statutes*. These charges apply unless otherwise authorized by statute. In addition, the Public Records Law also allows an agency to charge a requester if the request for information will result in the extensive use of information technology resources or of clerical or supervisory assistance. Again, the law does not define “extensive use,” so each agency should indicate in their records management policies and procedures what constitutes extensive use of either staff or information technology resources.

**(c) Exemptions from disclosure requirements of Florida's Public Records Law.**

Not every record generated by local and state government agencies is open for inspection. Some public records are, by law, exempt or confidential and exempt from the public disclosure requirements of Section 119.07(1), *Florida Statutes*, and Section 24(a), Article I of the State Constitution.

Section 119.071, *Florida Statutes*, lists certain records that are exempt from public disclosure, usually for reasons of public safety, public health, law enforcement and/or personal privacy, and additional exemptions are specified elsewhere throughout *Florida Statutes*. However, it is important to remember two key points. First, Florida's Public Records Law emphasizes a “general state policy on public records” that says, “...all state, county, and municipal records are open for personal inspection and copying by any person” (Section 119.01(1), *Florida Statutes*). In other words, government records are open to public inspection unless *specifically exempted by law*. Second, while exempt or confidential and exempt records are exempt from the public disclosure requirements of Section 119.01, *Florida Statutes*, and Section 24(a), Article I of the State Constitution, they are *not* exempt from other legal records management requirements, such as those concerning records retention scheduling and disposition.

Electronic recordkeeping systems must have appropriate security in place to protect information that is confidential or exempt from disclosure.

See [Appendix B](#) for sources of additional information on public records access and exemption issues.

**(3) Florida Administrative Code.**

Florida's Administrative Code includes the following rules intended to aid agencies in establishing and maintaining a records management program:

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**(a) Rule 1B-24, Public Records Scheduling and Disposition.**

This rule establishes standards and procedures for the scheduling and disposition of public records to promote economical and efficient management of records. Scheduling of records also assists in the identification of records of archival value, which may ultimately result in their transfer to the State Archives of Florida (for state agency records) or to a formally established local government historical records repository (for local government records).

**(b) Rule 1B-26.0021, Records Management - Standards and Requirements - Microfilm Standards.**

This rule provides standards for the microfilming of public records to ensure that the film, photographing methods, processing, handling and storage are in accordance with methods, procedures and specifications designed to protect and preserve such records on microfilm.

**(c) Rule 1B-26.003, Records Management - Standards and Requirements - Electronic Recordkeeping.**

This rule provides standards for record copies of public records that reside in electronic form. These requirements must be incorporated in the design and implementation of new systems and enhancements to existing systems in which electronic records reside.

**(d) Rule 1B-31, Real Property Electronic Recording.**

This rule provides standards for the electronic recording of real property documents in those Florida counties in which the county recorder elects to accept electronic real property documents for recordation.

See [Appendix C](#) for information on accessing or obtaining copies of schedules, handbooks and other resources.

## STARTING YOUR RECORDS MANAGEMENT PROGRAM

Establishing the procedures required to operate an agency records management program might at first appear daunting. The startup will indeed require a concerted effort, patience, cooperation from colleagues, and time. All of this presupposes support from management. Without initial support from management to allocate resources to the project and continuing managerial commitment to the program, the implementation of an effective records management program will be extremely difficult.

One of the first responsibilities in initiating a records management program is the appointment of a Records Management Liaison Officer (RMLO). Every agency is required by law to designate an RMLO to serve as the primary point of contact between the agency and the division's Records Management Program (Section 257.36(5)(a), *Florida Statutes*). To appoint an RMLO, an agency may submit to the division an RMLO designation form (see [Appendix A](#)), under signature of the records custodian or other authorizing official. Agencies may also designate an RMLO by sending a letter, email or other communication. Because the RMLO is in close contact with the division, they will be an important source of information within your agency about division policies and procedures.

The RMLO might perform a variety of records management functions as assigned by the agency, including:

- Inventorying agency records.
- Working with the division to establish new records retention schedules and to ensure the appropriate disposition of records eligible for destruction.
- Training and advising agency staff in records management practices.
- Participating in agency decision-making for issues such as preservation, access, digital imaging, storage and disposal.
- Working with agency information technology staff to ensure information systems comply with records management requirements.
- Responding to public questions regarding agency records and records management practices.
- Reporting annually to the division regarding the agency's compliance with records management statutes and rules.

### **A. Inventory procedures: Identifying records.**

An effective records management program requires an inventory of records maintained by an agency and the identification of existing retention schedules or the establishment of new retention schedules that can be applied to those records. Retention schedules identify records an agency might hold and establish minimum (usually) periods of time for which the records must be retained based on the records' legal, fiscal, administrative and historical values. Once all retention requirements have been met, disposition of the records is strongly recommended (or, in rare cases, legally required). Disposition may be by physical destruction, transfer to another agency (e.g., a successor agency or a public historical records repository) or, in the case of electronic records, erasure. State agency records appraised by division staff as having long-term historical value can be transferred to the State Archives. (See [Archives and Archival Records](#).)

An inventory might take many forms and can be as detailed as the agency requires, but at minimum should identify and describe each **record series** created and/or maintained by the

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agency, including record series maintained in electronic form. A record series, as defined by Rule 1B-24.001(3)(k), *Florida Administrative Code*, is:

*...a group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject or function, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use. A record series might contain records in a variety of forms and formats that document a particular program, function, or activity of the agency.*

Examples of record series might be personnel files, client case files, project research files, equipment maintenance and repair records, or procurement files. Each record series might contain records in a variety of forms and formats that together document a particular program, function or activity of the agency.

The following information should be compiled for each record series:

**Record Series Title.** Use a brief, meaningful phrase summarizing the form, function and/or subject of the records without using agency jargon or abbreviations. For instance:

- “Communications Services Use Tax Returns” – not “Form DR-700019.”
- “Highway Planning Maps” - not “Road Files.”
- “Executive Director’s Correspondence and Administrative Files” – not “Bob Smith’s Files.”
- “Directives/Policies/Procedures” – not “SOPs.”

**Description.** The description of the record series identifies the purpose and function of the record series regarding the agency’s operation. The description indicates why the record series was created and how it is used as well as the type(s) of information or subject matter the records contain. Additional information in the description might include the medium on which the record series is recorded, the office or position holding the record copy, the routing path of duplicate copies (if any), statutory requirements for creating the records, and any other information that would enable someone not familiar with the record series to identify it and understand its contents. If the records fall under an existing retention schedule, there is probably already a description of the records available. For instance, this is the description of records falling under the existing Directives/Policies/Procedures retention schedule (*General Records Schedule GS1-SL for State and Local Government Agencies*, Item #186):

This record series consists of the official management statements of policy for the organization, supporting documents, and the operating procedures that outline the methods for accomplishing the functions and activities assigned to the agency. The series may include, but is not limited to, such materials as employee handbooks, standard operating procedures, management approval documentation, and correspondence and memoranda stating the policies and procedures to be followed by employees.

**Retention.** If a retention schedule is already approved, the retention requirement(s) should be noted on the inventory form. If no retention schedule exists for the record series, note the time period that the record series is administratively active and start the process of establishing a retention schedule for the records (see [Retention of Public Records: Retention Schedules](#)).

**Vital Records.** The inventory should indicate whether each record series is considered a vital record in your agency. Vital records are those that are essential to the continuation of operations in an agency or to the protection of the agency’s or citizens’ legal rights in the event of a disaster or emergency.

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**Custodial Office.** The inventory should indicate what office, program or position is the records custodian responsible for the record copy of the record series.

Once this information has been compiled for each record series, the basic information of the inventory has been completed and can be assembled into a file plan, an agency-wide "map" delineating an organization's filing categories and record series, where they are located in the organization, who is responsible for managing them, and their retention requirements. The file plan can be used to help locate needed records as well as to identify redundancies and inefficiencies in an agency's filing systems. The inventory and file plan data should be reviewed and updated periodically as new record series are created, existing series become obsolete, retention requirements change, offices and filing systems are reorganized and records management responsibilities are reassigned.

See [Appendix D](#) for an example of a Records Inventory Worksheet and File Plan Form.

### **B. Retention of public records: Retention schedules.**

**A records retention schedule** describes a record series and sets a **MINIMUM** period of time for which the records must be retained before final disposition of the records can be made. In rare instances, a retention schedule might reflect a maximum period of time by which destruction of the records is required by law. Every record series must have an approved retention schedule in place before records from that series can be destroyed or otherwise disposed of.

Retention and disposition requirements stated in records retention schedules are based upon the legal, fiscal, administrative and historical values of each record series and by the content, nature and purpose of records regardless of the format in which they reside. Records in any format can have a variety of purposes and relate to a variety of program functions and activities. Retention schedules are not intended to cover specific formats or media.

There are two types of retention schedules:

- **General records schedules** establish retention requirements for records common to several or all government agencies.
- **Individual records schedules** establish retention requirements for records that are unique to particular agencies or are not covered by existing general records schedules.

Almost all these retention schedules establish the **MINIMUM** length of time a record series must be maintained. Retention schedules establishing minimum retention periods do not tell you when you must dispose of records; they tell you how long you must retain records before you can dispose of them. Agencies have the discretion to retain records beyond the minimum retention requirements if needed for administrative, legal or other purposes. In keeping with records management best practices, we highly recommend that agencies dispose of records that have met their retention requirements and are no longer needed and that agencies specify in their records management policies if and why, as a matter of practice, they will retain certain records for a period of time beyond the minimum. Adhering to formalized, consistent records management practices will benefit your agency in the event of litigation.

We also recommend that different record series not be interfiled or boxed together. This will help prevent inadvertent premature disposition of records having a longer retention period. However, if your agency interfiles or stores two or more record series together, you must identify each retention schedule that applies to the different record series and retain the combined file in accordance with the retention schedule having the longest retention period.

#### **(1) General records schedules.**

General records schedules establish retention requirements for records documenting administrative and program functions common to several or all government agencies, such

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as personnel, accounting, purchasing and general administration. General records schedules may cover the majority of an agency's record series.

The *General Records Schedule GS1-SL for State and Local Government Agencies* (GS1-SL) can be used by all Florida state and local agencies in determining their records retention requirements.

Certain agencies will also need to use other general records schedules in conjunction with the GS1-SL. General records schedules have been established for groups of agencies conducting equivalent or related functions. These general records schedules establish retention requirements for program records documenting the unique or specialized functions and activities of those types of agencies or institutions.

The following general records schedules are currently in effect for Florida government agencies:

<b>GS1-SL</b>	<b>State and Local Government Agencies</b>
<b>GS2</b>	<b>Law Enforcement, Correctional Facilities and District Medical Examiners</b>
<b>GS3</b>	<b>Election Records</b>
<b>GS4</b>	<b>Public Hospitals, Health Care Facilities and Medical Providers</b>
<b>GS5</b>	<b>Public Universities and Colleges</b>
<b>GS7</b>	<b>Public Schools Pre-K-12 and Adult and Career Education</b>
<b>GS8</b>	<b>Fire Departments</b>
<b>GS9</b>	<b>State Attorneys</b>
<b>GS11</b>	<b>Clerks of Court</b>
<b>GS12</b>	<b>Property Appraisers</b>
<b>GS13</b>	<b>Tax Collectors</b>
<b>GS14</b>	<b>Public Utilities</b>
<b>GS15</b>	<b>Public Libraries</b>

Please contact the Records Management Program to verify which general records schedules are appropriate for use by your agency.

If a similar record series is listed in two general records schedules, the retention requirements contained in the program schedule are generally more stringent and so will usually take precedence. For instance, if a record series is listed in both the GS1-SL and the GS2, law enforcement agencies would usually abide by the retention requirements cited in the GS2. When in doubt, use the retention schedule with the longer retention period. Please contact the Records Management Program to ensure that you are using the correct schedule in the event of a conflict.

### (2) Individual records schedules.

Individual records schedules establish retention requirements for records that are unique to particular agencies or are not covered by existing general records schedules. Many agencies will not require individual records schedules at all or may need them for only a small number of record series. Individual records schedules may *only* be used by the agency for which they were established. However, an agency may model a request for a new individual schedule on an existing schedule for the same or similar records in another agency.

To establish an individual records schedule, an agency must submit a *Request for Records Retention Schedule* (Form LS5E-105REff.2-09) to the Records Management Program for review and approval. This form is available on the Records Management website at [info.florida.gov/records-management/forms-and-publications/](http://info.florida.gov/records-management/forms-and-publications/) and can also be obtained by completing the order form in [Appendix E](#) and mailing or emailing it to the Records Management Program.

Each *Request for Records Retention Schedule* form should be used to schedule **one** record series. To complete the form accurately, agency personnel responsible for creating

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and maintaining that record series must analyze and evaluate the content, purpose and use of the records. Based on this analysis, agency records management personnel develop a record series description and an initial recommendation of the minimum time period that the record series must be kept before disposition can be authorized.

Once the agency submits the proposed retention schedule to the Records Management Program, records analysts with the program and archivists with the State Archives review and analyze the proposed schedule, consult as necessary with agency staff knowledgeable about the records, and research the *Florida Statutes*, administrative rules, operating procedures, applicable federal regulations and other such sources to make a final determination of retention requirements for each record series. If an existing schedule exists that covers the records, the requesting agency will be referred to that schedule.

Once a retention schedule has been established for a record series, the records are eligible for disposal action when they have met their retention requirements. The schedule remains in effect until the series content changes or other factors arise that would affect the retention period, such as a change in state or federal law. The agency should then submit a new schedule request for approval. If a new general records schedule is later established requiring an equal or longer retention period for the same records, that general records schedule supersedes the individual schedule. If you have an individual schedule that requires a longer retention, contact the Records Management Program for guidance.

In addition to establishing reasonable and appropriate minimum retention requirements for each record series, the scheduling process serves the following objectives:

- To describe the use and function of the records series.
- To summarize important characteristics of the records series.
- To identify regulatory or statutory retention requirements.
- To assist in identifying:
  - Vital records.
  - Records of archival value.
  - Preservation issues.
  - Reformatting needs.

See [Appendix E](#) for instructions on completing a *Request for Records Retention Schedule* form.

### **C. Final disposition of public records.**

Section 257.36(6), *Florida Statutes*, states that “[a] public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division.” This means that all records, **regardless** of confidential/exempt status and **regardless** of the presence of retention language in statute, rule, code, ordinance, contracts, policies or elsewhere, **must** be covered by a retention schedule before disposition can occur. Agencies must first identify an appropriate current records retention schedule (either a general schedule or an individual schedule) or create and receive approval for a new records retention schedule before disposing of any record series. Agencies must use only current, active retention schedules to dispose of records; retention schedules that have been superseded or designated as inactive cannot be used to dispose of records. Contact the Records Management Program if you are unsure of the status of a retention schedule.

#### **(1) Records disposition documentation.**

There are two general requirements for disposing of public records; you must 1) ensure that the records have met all retention requirements; knowledge of disposal eligibility is your agency's responsibility; and 2) document internally the disposition of any public records in your custody, per Rule 1B-24.003(9)(d), *Florida Administrative Code*, which requires that:

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*Prior to records disposition, agencies must ensure that all retention requirements have been satisfied. For each record series being disposed of, agencies shall identify and document the following:*

1. *Records retention schedule number,*
2. *Item number,*
3. *Record series title,*
4. *Inclusive dates of the records,*
5. *Volume in cubic feet for paper records; for electronic records, record the number of bytes and/or records and/or files if known, or indicate that the disposed records were in electronic form; and,*
6. *Disposition action (manner of disposition) and date.*

*Agencies are not required to document the disposition of records with a retention of "Retain until obsolete, superseded or administrative value is lost" (OSA) except for records that have been microfilmed or scanned as part of a retrospective conversion project in accordance with Rule 1B-26.0021 or 1B-26.003, Florida Administrative Code, where the microfilm or electronic version will serve as the record (master) copy.*

Your agency may use the model *Records Disposition Document* available on the Records Management Program website at [info.florida.gov/records-management/forms-and-publications/](http://info.florida.gov/records-management/forms-and-publications/) or any form of documentation that is convenient for your agency and that ensures that you maintain the required disposition information.

### **(2) Distinguishing between the different types of retention period requirements.**

When trying to determine when records are eligible for disposition, agencies must understand the different types of retention requirements. For instance, records with a retention of "3 anniversary years" will have a different eligibility date from records with a retention of "3 fiscal years" or "3 calendar years."

#### A. Anniversary Year - from a specific date

Example: 3 anniversary years

If a record series has a retention of "3 anniversary years," the eligibility date would be 3 years after the ending date of the series or the file cutoff date.

#### B. Calendar Year - January 1 through December 31

Example: 3 calendar years

If a record series has a retention of "3 calendar years," the eligibility date would be 3 years after the end of the calendar year of the latest record in the series or the file cutoff date.

#### C. Fiscal Year - depends on agency type

- State government agencies, school districts - July 1 through June 30
- Local government agencies – October 1 through September 30

Example: 3 fiscal years

If a record series has a retention of "3 fiscal years," the eligibility date would be 3 years after the end of the fiscal year of the latest record in the series or the file cutoff date.

#### D. Months or Days

Examples: 6 months; 90 days



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If a record series has a retention of "6 months," the eligibility date would be 6 months after the ending date of the record series or file cutoff date.

If a record series has a retention of "90 days," the eligibility date would be 90 days after the ending date of the record series or file cutoff date.

**E. Retain until obsolete, superseded, or administrative value is lost (OSA)**

With this retention, records become eligible for disposition when they are no longer of any use or value to the agency or have been replaced by more current records. The retention could vary from less than one day to any length of time thereafter.

**F. Triggering Event**

With this retention, records become eligible for disposition upon or after the occurrence of a specific event – the "triggering event."

Examples:

Retain until youth turns age 25.

Retain for life of the structure.

3 anniversary years after final action.

**Examples: Calculating eligibility dates**

If the **ending date** for a specific record series or file cutoff is **7/31/2020**, when are these records eligible for disposition under different retention period types?

Retention Period	Start Counting From	Add # of Years	Retain Through
3 anniversary years	7/31/2020	+3	= 7/31/2023
3 fiscal years (local govt.)	9/30/2020	+3	= 9/30/2023
3 fiscal years (school district)	6/30/2021	+3	= 6/30/2024
3 calendar years	12/31/2020	+3	= 12/31/2023

**(3) Records volume conversion to cubic foot measurements.**

Cassette tapes, 200	1.0 cubic foot
Letter-size file drawer	1.5 cubic feet
Legal-size file drawer	2.0 cubic feet
Letter-size 36" shelf	2.0 cubic feet
Legal-size 36" shelf	2.5 cubic feet
Magnetic Tapes, 12	1.0 cubic foot
3 x 5 cards, ten 12" rows	1.0 cubic foot
3 x 5 cards, five 25" rows	1.0 cubic foot
4 x 6 cards, six 12" rows	1.0 cubic foot
5 x 8 cards, four 12" rows	1.0 cubic foot
16mm microfilm, 100 rolls	1.0 cubic foot
35mm microfilm, 50 rolls	1.0 cubic foot
Map case drawer, 2" x 26" x 38"	1.1 cubic feet
Map case drawer, 2" x 38" x 50"	2.2 cubic feet
Roll storage, 2" x 2" x 38"	0.1 cubic foot
Roll storage, 2" x 2" x 50"	0.2 cubic foot
Roll storage, 4" x 4" x 38"	0.3 cubic foot
Roll storage, 4" x 4" x 50"	0.5 cubic foot

(One roll of microfilm contains approximately 1.0 cubic foot of records.)

Cubic foot calculation: (Length" x Width" x Height") ÷ 1,728 = cubic feet

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### (4) Factors that might influence when records can be disposed.

- a) **Litigation.** When a public agency has been notified or can reasonably anticipate that a potential cause of action might arise or is pending or underway, that agency should **immediately** place a hold on disposition of **any and all** records related to that cause. Your agency's legal counsel should inform the RMLO and/or records custodian(s) when a legal hold must be put in place and when that hold can be lifted so that records can again be disposed of in accordance with retention schedules.
- b) **Public records requests.** According to Section 119.07(1)(h), *Florida Statutes*, the custodian of a public record may not dispose of a record "for a period of 30 days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian of public records by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian of public records may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties."
- c) **Accreditation standards.** Some public agencies receive national or statewide accreditation or certification by professional societies, organizations and/or associations. Examples include the Joint Commission on the Accreditation of Health Care Organizations, the Commission on Accreditation for Law Enforcement Agencies, and COLA (formerly the Commission on Office Laboratory Accreditation). In an effort to enhance the professionalism of their members, these groups may place more stringent recordkeeping requirements on public agencies than those mandated under state or federal law. Agencies may therefore choose to maintain their records for a longer period of time than required by established records retention schedules in order to meet recordkeeping requirements for accreditation. However, records cannot be disposed of before the minimum retention period dictated by the records retention schedules, even if the accrediting organization's retention requirements are less stringent than those set forth in the retention schedules.
- d) **Records in support of financial or performance audits.** These records should be retained in accordance with the following guidelines provided by the Florida Office of the Auditor General:

Records must be retained for **at least** three fiscal years (most financial records must be retained for a minimum of five fiscal years in accordance with guidelines of the Department of Financial Services and the Office of the Auditor General). **If subject to the Federal Single Audit (pursuant to 31 USC, Section 7502, and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, Subpart E) or other federal audit or reporting requirements, records must be maintained for the longer of the stated retention period or three years after the release date of the applicable Federal Single Audit or completion of other federal audit or reporting requirements.** Finally, if any other audit, litigation, claim, negotiation, or other action involving the records has been started before the expiration of the retention period and the disposition of the records, the records must be retained until completion of the action and resolution of all issues which arise from it. However, in no case can such records be disposed of before the three fiscal year minimum.

The Records Management Program does not track or maintain information on which audits apply to which records in which agencies. Different agencies are subject to different types of audits at different times, and each agency is responsible for knowing what audits might be conducted and retaining needed records for that purpose. For instance, some agencies might be subject to the Federal Single Audit, while others are not. In general, any records relating to finances or financial transactions might be subject to audit.

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Audits may be conducted by the Florida Auditor General, independent public accountants, or other state or federal auditors, as well as grant funding agencies and national or statewide professional accreditation or certification groups. Your finance office, your legal office and the Auditor General's Office are good sources of information regarding which specific records your agency should retain for audit purposes.

- e) **Federal, state or local laws and regulations.** In rare instances, laws, rules or regulations for specific agencies or specific types of records might require a longer retention than indicated in general records schedules, particularly with newly enacted laws. Agencies should be aware of all laws and regulations relating to their records and recordkeeping requirements and should submit a *Request for Records Retention Schedule* when such requirements are not already reflected in existing retention schedules.

### D. Disposing of public records.

Physical destruction of public records must be in accordance with the provisions set forth in Rule 1B-24.003(10), *Florida Administrative Code*, which reads as follows:

*Agencies shall ensure that all destruction of records is conducted in a manner that safeguards the interests of the state and the safety, security, and privacy of individuals. In destroying records containing information that is confidential or exempt from disclosure, agencies shall employ destruction methods that prevent unauthorized access to or use of the information and ensure that the information cannot practicably be read, reconstructed, or recovered. The agency shall specify the manner of destruction of such records when documenting disposition. Where possible, recycling following destruction is encouraged.*

*(a) For paper records containing information that is confidential or exempt from disclosure, appropriate destruction methods include burning in an industrial incineration facility, pulping, pulverizing, shredding, or macerating. High wet strength paper, paper mylar, durable-medium paper substitute, or similar water repellent papers are not sufficiently destroyed by pulping and require other methods such as shredding or burning.*

*(b) For electronic records containing information that is confidential or exempt from disclosure, appropriate destruction methods include physical destruction of storage media such as by shredding, crushing, or incineration; high-level overwriting that renders the data unrecoverable; or degaussing/demagnetizing.*

*(c) For other non-paper media containing information that is confidential or exempt from disclosure, such as audio tape, video tape, microforms, photographic films, etc., appropriate destruction methods include pulverizing, shredding, and chemical decomposition/recycling.*

*(d) Agencies shall not bury confidential or exempt records since burying does not ensure complete destruction or unauthorized access.*

While the most common method of disposing of records is destruction, disposition may also mean the transfer of records to another agency. For example, if a public agency transfers records to a public historical records repository, then the custody of those records becomes the responsibility of the agency to which the records are transferred. However, if a private historical society requests a loan of certain records, the agency may loan the records but is still the legally responsible custodian of those public records and is therefore not transferring, or disposing of, the records.

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### E. Records disposition compliance statement and RMLO designation.

Once a year, the Records Management Program will send to each agency a *Records Management Compliance Statement* form, including instructions on how to complete the form. On this form, the agency must indicate its compliance with records management laws and rules and provide updated agency and RMLO information. Your agency should complete and return the form promptly, as compliance data from all agencies is compiled and submitted annually in a report to the Governor and Legislature.

Compliance reporting is required by law. Rule 1B-24.003(11) and (12), *Florida Administrative Code*, require that "Each agency shall submit to the Division, once a year, a signed statement attesting to the agency's compliance with records management laws, rules, and procedures...The Division shall compile an annual summary of agency records scheduling and disposition activities to inform the Governor and the Legislature regarding statewide records management practices and program compliance."

If your agency does not receive a *Records Management Compliance Statement* form by the end of November each year and a parent agency is not reporting for you (for instance, a city police department being reported by the city), please contact the Records Management Program.

### F. Developing a records management policy.

Developing and adhering to a formal, written records management policy is the best way to ensure that records management requirements are met in a consistent, effective and efficient manner. A formal records management policy will help to minimize your agency's vulnerability to potential public records litigation and is also a useful tool in training new employees. Agencies should therefore work closely with their legal office in developing their records management policies.

The following are some common components of a records management policy. The Department of State's internal records management policy is provided in [Appendix F](#) as an example. ***This is not a statewide policy and applies only to the Florida Department of State.*** The specific components or information included in any agency's policy will depend on the needs and circumstances of that particular agency.

***Introductory matter.*** Indicate the overall state, county, municipal or institutional policy objectives that the records management policy is intended to achieve and the legal authority (statutes, administrative rules, county or municipal ordinances, etc.) that drives those policies. Indicate how the agency's internal administrative policies support those policy objectives. Note the specific purpose for implementing the policy and its scope of coverage, including to whom the policy does or does not apply.

***Definitions.*** Define key terms to ensure that all employees and others who read and use the policy have the same understanding of the terminology used.

***Agency authority and responsibility.*** Indicate where in the agency's organizational structure the records management program and the designated RMLO are located. As a best practice and to increase the chances for success, the records management responsibility should be placed at a senior level or report to a senior manager. Note which office or position is designated as the legal custodian of public records for specific program areas or for the agency as a whole.

***Inventory procedures.*** Outline procedures for developing or maintaining an inventory, file plan or equivalent method of maintaining current information on the agency's public records, including those designated as vital records. For example, some agencies use a list of retention schedules that apply to their records as the basis of their inventory.

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**Filing and storage.** Indicate how the agency organizes and files records for efficient retrieval, including protection of and access to vital records.

**Record copy designation.** Indicate which office or position maintains the record copy of specified records when copies are distributed to other offices.

**Retention.** Note which retention schedules apply to the agency's records (general schedules and/or individual agency retention schedules) and where staff can consult those retention schedules to ensure that records are retained for the required period of time. Also note if it is the agency's policy to retain certain records for a period beyond the minimum retention period and the justification for doing so.

**Disposition.** Indicate who has responsibility for and authority to conduct disposition of public records, including methods of physical destruction of records that have satisfied all retention requirements and are no longer needed, as well as transfer of records having archival value (see [Archives and Archival Records](#)) to an appropriate public historical records repository, or otherwise ensuring the preservation of archival records. Specify the agency's disposition documentation procedures.

**Legal holds.** Indicate the agency's procedures for placing and lifting legal holds on records relating to current or potential litigation to ensure that such records are not disposed of until any such litigation or threat of litigation is resolved.

**Electronic records.** Note how the agency integrates management of electronic records, including email and other born-digital records as well as digitizing of hard-copy records, into its overall records management program and procedures.

**Public records requests.** Indicate the agency's overall policy and specific procedures for responding to requests for public records. Note the office or position to which public records requests should be directed; timeframes for responding to requests; methods of accepting payment for copies; formulas for calculating any extensive use fees as authorized by Section 119.07(4)(d), *Florida Statutes*; procedures for ensuring the protection of information that is statutorily confidential and/or exempt from public disclosure, including redaction procedures; times and conditions for inspection of records; and any other related procedures.

### **G. Records management training.**

While the Records Management Program cannot require training, we highly recommend that records management staff, administrative staff, office managers, IT professionals and other agency personnel take advantage of the benefits of records management training. Such training can help all employees to:

- Apply records management principles and best practices to ensure compliance with Florida's Public Records Law.
- Be familiar with and understand legal mandates.
- Identify public records.
- Determine appropriate retention schedules for their records.
- Adhere to retention and disposition requirements.
- Manage electronic records including email.
- Be familiar with and understand public records access requirements.

The Records Management Program offers several training options, including on-site and web-based. Training is also available from other governmental entities and the private sector, although you will want to ensure they have experience with Florida's Public Records Law and

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the most current information regarding the rules, policies and procedures of the Records Management Program.

## MANAGING PAPER RECORDS

Paper records are expensive to create and maintain, but they can be an asset to an agency if the information is available for use. By implementing proper files management - selecting and using appropriate filing systems, arrangements and equipment - agencies should be able to locate paper records with ease. Whether developing a new filing system for paper records or revamping an existing system, agencies should evaluate how the records will be accessed, handled and stored.

### **A. Filing Arrangements.**

There are five commonly used filing arrangements that are designed to file and reference records in different ways: alphabetical, numerical, alpha-numerical, chronological and geographical. Each has advantages for certain types of records and reference needs, and each possesses distinct patterns of arrangement and indexing. Agencies should choose a filing arrangement that best suits the character of the content being filed and the business needs of the agency, and that can be understood by the employees of the agency. Often the simplest method is the best.

#### **(1) Alphabetical.**

The most commonly used filing arrangement is alphabetical filing. Alphabetical files can be arranged in two different ways:

- a. Dictionary order – each subject gets an individual folder and all are arranged alphabetically. Subject/reference files might be arranged alphabetically by topic; for example, “Budgeting” would come before “Contract Negotiations.” Correspondence files might be arranged alphabetically by last name of writer, a particularly useful filing arrangement if the correspondence will frequently need to be accessed by name.
- b. Encyclopedic order – subjects are grouped into major headings, with individual folders arranged alphabetically behind each heading. For example, a major heading could be “Contracts” followed by individual folders for “Alpha Printing,” “Beta Shredding,” and “Charlie’s Recycling.”

#### **(2) Numerical.**

In a numerical filing system, the files are arranged sequentially by number rather than by name. Numerical files can be organized in two different ways:

- a. Serial number – used for files having a pre-printed or pre-assigned number, such as a system-generated purchase request number that is assigned when the record is created in the system.
- b. Digit filing – uses an applied number to identify files, such as a social security number, student identification number, patient number or budget line number.

#### **(3) Alpha-Numerical.**

Alpha-numerical filing is the classification of records by codes that should give information about the contents of the folders. Typically, users locate filings through a hierarchical or alphabetical list that indicates the code designed for filing or retrieval.

#### **(4) Chronological.**

Chronological filing is useful for records that are created and monitored on a daily, or regular, basis. Folders are arranged sequentially by date. Chronological filing should be used with caution, as it might hamper access by other methods such as name.

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**(5) Geographical.**

Geographical filing is an arrangement in which files are labeled and arranged, often alphabetically, according to a geographical location, such as the city or county location of an agency district office, organization or person. This arrangement can be useful when access to records of certain locations is required.

Once an arrangement is chosen, a file procedures manual should be established and should be used by everyone working with the files to maintain the integrity of the filing system.

**B. Establishing a filing system.**

The cost and efficiency of filing operations are directly affected by the type of equipment used. A major aim in filing equipment management is to purchase only necessary filing equipment that will provide the most efficient file retrieval at the lowest cost and use the least amount of office space.

**(1) Equipment selection criteria.**

Office equipment manufacturers offer numerous types, sizes, styles and price ranges of filing equipment. Equipment should be selected based on criteria such as:

**Accessibility.** Equipment should provide quick and easy access to the records it houses. Since records are filed for future reference, retrieval of the information should be a foremost consideration. The records should be as open as possible to authorized users, located near their work area and have the potential to be used by several people simultaneously.

**Cost.** Soaring office costs require selection of the most economical equipment that provides the required accessibility and retrieval speed. Compare equipment in terms of cost per square inch of actual filing space.

**Space Utilization.** Office space is a recurring cost. Equipment requiring excessive space could cost more over the long term than the original cost of more expensive, but more compact, equipment. Filing equipment should consume minimum office space.

**Security.** Since agencies are responsible for protecting their records, security is another strong consideration in selecting equipment. Most filing equipment can be equipped with locks to provide controlled access. If you rely on locks, make sure the locking hardware and mechanisms are strong and not easily broken or bypassed and that keys are unique to each lock. For better file security, secure the entire filing area and restrict access to that area.

**Mobility.** Filing equipment should be evaluated for its mobility. Offices that move or reorganize often should procure relatively mobile equipment.

**(2) Types of filing equipment.**

Common types of filing equipment include vertical, lateral, shelf or mechanized. Both traditional vertical pull-drawer file cabinets and lateral rollout drawer cabinets help protect records from light, dust and physical damage. However, they require significant floor space to house and allow for opening of drawers. Drawers can only be opened one at a time, limiting quick viewing of files and the effectiveness of any color coding or bar coding the agency might want to employ. Other options include:

**Mechanical (power elevator) files** – These files offer potential floor to ceiling high density storage of records housed in carriers that may be accessed by the touch of a key or a few keys, with the mechanical carriers rotating the desired record tiers to a comfortable workstation level. Mechanical files use only a moderate amount of floor space while utilizing often wasted high space and can be used with end-tabbed, color-coded or bar-coded folders. However, as with pull-drawer cabinets, only one person at a



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time can access the records and only a limited portion of the files can be viewed at any one time.

**Open shelf files (lateral shelf files)** – These are available either as basic shelf units without any covers, as self-contained units with covers and locks for each tier, or as “data box” units that may be easily expanded and contracted by adding or deleting individual click-in boxes. These systems allow visual access to all files, are readily adaptable for use with color coding and bar coding, conserve floor space, and use often wasted high space.

**Mobile shelving/compact shelving** - Designed to provide high-density storage for paper and other records media, mobile shelves are constructed on tracks and moved by mechanical or electrical systems to allow access to files using a minimum amount of floor space. However, only one aisle of records can be open for access at a time, maintenance costs over time must be accounted for, and it is critical to have professional engineers study your floor load capacity to ensure your facility can accommodate the weight of high-density storage.

### (3) Tools to use with paper files.

A variety of simple tools help to systematically organize and efficiently locate and retrieve needed files:

**Folders.** The most common type of filing tool is the simple paper or manila file folder that serves as a container for a specified set of paper records. File folders are often scored on the bottom edge, allowing for expansion to hold more pages without overstuffing the folder and reducing the risk of the file bending and/or sliding under other folders.

**Hanging and suspension folders.** Hanging and suspension folders hold one or more traditional file folders and so require considerably more supplies and file cabinet space. They can also make it more difficult to place files in boxes for storage or disposition. However, they help prevent file folders from bending or slipping under each other and are especially useful in organizing large files.

**Binder folders.** Folders with prong fasteners should be avoided. While these folders do hold paper securely, fasteners require extra time to punch holes and secure the pages in place and to remove pages when necessary, such as for copying. They also increase the risk of damage, such as from rust or tears, and are more expensive than standard folders.

**Guides.** Guides are file drawer dividers that divide a set of files into distinct labeled sections to permit quick and easy location of a specific file. Their sturdy construction can also help to support the files and prevent sagging. Guides with side tabs that can be read from either side are available for use with open shelf files. Primary guides indicate a principal division of the file, while secondary guides indicate a subdivision of the file and are often used with larger file series.

**Tabs.** All folders and guides should have a tab with space for a label or caption indicating file content. Tabs can be constructed of the same material as the folder or guide, of more durable material such as metal, or of clear plastic to protect the labels. Tabs can be straight or slanted, printed or blank, and of various widths or cuts, depending on filing needs.

**Labels.** Labels on guide tabs and folder tabs identify the contents of the records. Labeling in a uniform style makes it easier to locate needed files. Printed labels are preferable where possible so that labels can be easily read.

**Color-coding.** Color-coded filing systems aid in filing and retrieval of all types of files, from financial records to personnel files. The assignment of colors to letters, numbers, or other identifiers in a particular position on a file folder results in a color block pattern

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that gives a quick, clear visual identification of any misfiles. It is especially well-suited for use with shelf filing because the ends of the folders are readily visible. Color coding of files minimizes hidden misfiles, increases speed and accuracy in filing and retrieval, and allows rapid presorting by color.

**Bar coding.** Bar coding can easily be accomplished in back file conversions with procedures as simple as applying self-adhesive bar code labels to folders or boxes and recording the bar code numbers in a database to make computer-based tracking and management of that file immediately possible. Many systems provide for on demand automated printing of bar code labels and the scanning and uploading of that bar code data into the database.

## MANAGING ELECTRONIC RECORDS

Electronic records are any data or information that has been captured and fixed for storage and manipulation in an automated system and requires the use of a system to render it intelligible by a person. Electronic records include numeric, graphic, audio, video and textual information that is recorded or transmitted in analog or digital form such as electronic spreadsheets, word processing files, databases, electronic mail, instant messages, scanned images, digital photographs and multimedia files.

Electronic records that meet the definition of a "public record" as defined by Section 119.011(12), *Florida Statutes*, must be managed and made available according to applicable laws and rules. As provided by Section 119.01(2)(a), *Florida Statutes*, "Automation of public records must not erode the right of access to those records."

Electronic public records, just like paper records, must be created and maintained in accordance with Florida statutes and administrative rules. Electronic records:

- Are subject to retention requirements.
- Should be disposed when they have satisfied all retention requirements.
- Must be documented when disposed/erased.
- Must be made available for inspection and examination upon request.
- Must be protected to prevent release of confidential or exempt information.
- Are subject to legal holds for current or potential litigation.
- Are subject to audits.

Rule 1B-26.003, *Florida Administrative Code*:

- Provides standards for the creation, maintenance and backup of electronic public records, including standards for digitizing records of long-term or permanent value.
- Establishes procedures for regular recopying, reformatting and other necessary maintenance to ensure the retention and usability of electronic records throughout their authorized life cycle.
- Provides for transfer of electronic records and any related documentation and indexes to the State Archives of Florida at the time specified in the records retention schedule, if applicable.
- Establishes requirements for destruction of electronic records. Electronic records may be destroyed only in accordance with the provisions of Rule 1B-24, *Florida Administrative Code*. At a minimum each agency shall ensure that:
  - Electronic records scheduled for destruction are disposed of in a manner that ensures that any information that is confidential or exempt from disclosure, including proprietary, or security information, cannot practicably be read or reconstructed.
  - Recording media previously used for electronic records containing information that is confidential or exempt from disclosure, including proprietary or security information, are not reused if the previously recorded information can be compromised in any way by reuse.

### **A. Sustainable formats.**

Typically, agencies select electronic formats based on business needs and current technical requirements. Selected formats should be sustainable, that is, accessible both throughout their lifecycle and as technology evolves, regardless of the technology used when it was originally created. A sustainable format is one that increases the likelihood of a record being accessible

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in the future. Formats that are not sustainable may cause records to become obsolete and inaccessible before they are eligible for deletion as authorized in the approved records retention schedule.

Rule 1B-26.003, *Florida Administrative Code*, defines long-term records as those with a retention requirement of more than 10 years. When records need to be maintained over the long term (sustainability), agencies should consider each of the following characteristics of formats:

- **Published documentation and open disclosure** – Also known as “open-source” or “non-proprietary,” these are formats for which specifications are published and accessible to the public. This allows developers or anyone else to freely work with the format to create a wide variety of applications or tools to read, process and validate files, including accessing information in obsolete formats and/or migrating files to new formats. Tagged Image File Format (TIFF) and the Portable Document Format family (PDF, PDF/A, etc.) are examples of formats based on a publicly available, authoritative specification for scanned images.
- **Widespread adoption and use** - Formats adopted for widespread use by information creators, disseminators and users have a higher probability of being sustainable over time. When a format has been widely adopted by users, it is likely that multiple software tools have been created to open, read and access the records and that the market supports ongoing sustainability of the file format. This extends the time that the information can be maintained in the format using readily available tools. Hyper-text Markup Language (HTML) is an example of a format that has been widely adopted for Internet use.
- **Self-describing formats** - Self-describing formats contain embedded metadata needed to interpret the content, context and/or structure of the file. Embedded metadata, such as file name, creation date or field names, minimizes the need to rely on external documentation and the risk of disassociation of metadata from the file over time. While self-describing formats provide the capability for including metadata (for instance, in the file header or through tags within the file structure), they may not necessarily mandate it in the format specification. If present, the metadata should be easily accessible to ensure that descriptive information about the record is sustainable. Extensible Markup Language (XML) is an example of a self-documenting format because it describes its structure and field names.

When agencies use formats that exhibit these characteristics, they increase the likelihood that the information will be accessible over the long term.

When creating electronic records or converting source data, agencies can enhance sustainability by maintaining the original quality of source data. The following methods are typically applied through software settings and vary depending on the format being used.

- **Technical protection mechanisms** – Long-term records should be unrestricted and/or unencrypted so that user IDs and/or passwords are not needed to maintain the file. User IDs and passwords can be lost over time. This does not mean that confidential or exempt information should be released to the public, but that the agency must ensure its own access to all its records.
- **Maintain integrity of source data** – When using compression to reduce file size, agencies should use lossless compression to maintain the integrity of source data. Lossless compression produces smaller file sizes without removing any information. Maintaining the original quality of source data can facilitate future migration and conversion. Minimizing subsequent modification of the records after production is also recommended to maintain integrity.

While selecting appropriate formats does not guarantee sustainability, it does significantly increase the probability that those records will remain accessible and readable for as long as

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necessary. Of course, agencies need to follow other record policies and procedures governing creation and management of electronic records and adhere to approved records retention schedules to further ensure that records are maintained properly.

**B. Scanning records.**

Scanning of public records must be conducted in accordance with Rule 1B-26.003, *Florida Administrative Code*.

- Records with a minimum retention of over 10 years must be scanned at a minimum 300 PPI (300 DPI) to “a published International Organization for Standardization (ISO) open standard image format.” These formats include TIFF, PDF, PDF/A and others. To find out if a particular format is a published ISO format, go to the ISO website at <http://www.iso.org/> and search for the format (e.g., search for PDF, TIFF, etc.).
- For records with a minimum retention requirement of 10 years or less, any PPI/DPI and image format can be used; however, the agency still must ensure that the records remain fully accessible and readable for as long as they are required to be retained.
- In general, scanned images of public records can be designated as the record copies, and the original hard copy can be designated as duplicates and disposed of when no longer needed, provided that the electronic records are in compliance with Rule 1B-26.003, *Florida Administrative Code*, and the completeness and accuracy of the scanned copies have been verified. The electronic version, once designated as the record copy, must be retained for the retention period stated in the applicable retention schedule and in accordance with Rule 1B-26.003, *Florida Administrative Code*. The paper original can then be designated as a duplicate and disposed of at any time.
- Rule 1B-24.003(9)(a), *Florida Administrative Code*, states, “An agency that designates an electronic or microfilmed copy as the record (master) copy may then designate the paper original as a duplicate and dispose of it in accordance with the retention requirement for duplicates in the applicable retention schedule unless another law, rule, or ordinance specifically requires its retention.” Although this is a rare exception, we recommend that agencies consult with their legal counsel for guidance if they are unsure if their records must be maintained in their original paper form.

**C. File naming.**

File naming is an important part of managing any system of records. A file name is the principal identifier for a record or set of records. Having a unified naming system can help place records in context with other records as well as associated record series and retention schedules. Records that are named using a consistent, logical system can be more easily located and shared among users. Agencies may want to consider an agency-wide file naming policy as part of their strategy for managing electronic records.

File naming policies will vary depending on the business needs of the agency or office. When developing a file naming policy, consider including as part of the file name some of the following common conventions:

- Version number (e.g., version 1 [v1, vers1])
- Date of creation (e.g., April 14, 2017 [04142017, 04\_14\_2017])
- Name of creator (e.g., Edward N. Johnson [ENJohnson, ENJ])
- Description of content (e.g., media kit [medkit, mk])
- Name of intended audience (e.g., general public [pub])
- Name of group associated with the record (e.g., Committee ABC [CommABC])

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- Release date (e.g., released on March 24, 2018 at 10:30 a.m. eastern time [03242018\_1030ET])
- Publication date (e.g., published on December 31, 2020 [pub12312020])
- Project number (e.g., project number 625 [PN625])
- Department number (e.g., Department 126 [Dept126])
- Record series (e.g., Series2036)

Also consider the following issues when developing a file naming policy:

- **Access and ease of use.** The policy should be simple and straightforward. A simple policy will help staff members logically and easily name records and help ensure that records are accessible to staff members and/or to the public. A simple policy will be more consistently used, resulting in records that are consistently named and thus easier to organize and access.
- **Ease of administration.** The policy should work with your computer infrastructure so that you can monitor policy compliance, manage records and record series, gather metadata (as discussed in section A, metadata in the context of records management is data describing context, content, and structure of records and their management through time), and perform other administrative tasks easily and in compliance with all legal requirements. For example, if all the records in a specific record series are easily identifiable by file name, they will be easier to gather and manage.
- **Uniqueness.** To prevent conflicting file names when files are moved from one location to another, each file name should be unique. Having multiple files with the same name is confusing and creates a risk that a file might automatically overwrite another file with the same name. How you arrive at unique file names will require some thought. Once you have developed a system, it is important to standardize and adhere to it.
- **Version control.** Determine whether and how to indicate the version of the record. Sometimes current and obsolete drafts are put in different electronic file folders without altering the file name. However, when these records are moved from the active electronic file folder to another storage area, identical file names may conflict and cause confusion.
- **Scalability.** Consider how scalable your file naming policy needs to be. For example, if you want to include the project number, do not limit your project numbers to two digits, or you can only have 99 projects.
- **Persistence over time.** File names should outlast the records creator who originally named the file. With good staff input and training, you should be able to develop file names that make sense to staff members once the file creators are no longer available.

### **D. Automated systems to manage electronic records.**

Agencies may want to consider acquiring computer software written specifically to manage electronic records. These systems can be costly and require a substantial commitment to implement, but they offer features that help control documents and records and some have built-in records management features to help safeguard the agency's records. Agencies considering acquiring such systems should understand the differences in the types of systems available.

- **Electronic Records Management Systems (ERMS)** are designed primarily to manage an organization's electronic records, although they can be used for some physical records management functions also. Users cannot revise or edit documents once they are declared to the system. ERMS functionality includes:

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- Capture of electronic records and their accompanying metadata.
  - Discovery.
  - Records retention in accordance with set schedules or rules.
  - Authorized disposition.
  - Litigation holds.
  - Other functionality designed to ensure the appropriate maintenance, accessibility, authenticity, and security of records for as long as required by the organization.
- **Electronic Document Management Systems (EDMS)** are also widely used in organizations to control the creation, use and destruction of electronic documents to facilitate workflow. EDMS often lack some of the functionality needed to fully manage records but support such functions as:
    - Indexing of documents.
    - Storage management.
    - Version control.
    - Close integration with desktop applications.
    - Retrieval tools to access the documents.

The United States Department of Defense (DoD) has functional requirements and standards for that Department's electronic records management systems that can be helpful to Florida agencies planning to acquire these types of systems. DoD standard DoD 5015.2-STD, Electronic Records Management Software Applications Design Criteria Standard, April 25, 2007, is a requirement for DoD records management applications and is endorsed by the National Archives and Records Administration (NARA) for use by all federal agencies. DoD 5015.2-STD is *not* a requirement for Florida agencies and includes many functions that do not apply to Florida public records or agencies. However, it can serve as a useful reference for agencies evaluating ERMS software and/or developing their own functional requirements. The standard is available at

<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/501502std.pdf>.

### (1) Implementing automated systems.

When creating electronic records and implementing automated systems that will contain public records, agencies must take steps to ensure the records are maintained according to applicable public records laws and rules.

#### (a) Incorporate recordkeeping requirements into system design.

Rule 1B-26.003, *Florida Administrative Code*, states that electronic recordkeeping requirements "must be incorporated in the system design and implementation of new systems and enhancements to existing systems in which electronic records reside." Agencies must "establish procedures for addressing records management requirements, including recordkeeping requirements and disposition, before approving, recommending, adopting, or implementing new electronic recordkeeping systems or enhancements to existing systems." Recordkeeping requirements are best addressed and incorporated when automated systems are being planned and designed. Selected technologies must accommodate records retention, exemption and access requirements. For instance, an agency implementing a new surveillance recording system must ensure that the system can accommodate the minimum 30-day retention requirement for surveillance recordings as well as the ability to preserve the recordings longer in the event of an incident investigation (*General Records Schedule GS1-SL for State and Local Government Agencies*, Item #302, Surveillance Recordings).

If an agency utilizes an information system development methodology (ISDM), system development life cycle (SDLC), or similar process when designing and planning information systems, records management requirements should be included in the earliest stages of this process.

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**(b) Agencies should include steps to ensure that:**

- Records can be migrated to new storage media or formats to avoid loss due to media decay or technology obsolescence.
- Records can be disposed of when they have met their required retention.
- Records needed for legal discovery are withheld from disposal and retained in their native format until litigation is resolved.

**(2) Document electronic recordkeeping systems.**

Maintaining documentation of all agency systems that store electronic records is a best practice for both records management and information technology. Often, but not always, the IT program maintains such documentation.

Electronic records systems documentation should include written descriptions and procedures that provide information about a computer program or a computer system so that it can be properly used and maintained. The documentation should also:

- Identify all defined inputs and outputs of the system.
- Define the contents of the files and records.
- Determine restrictions on access and use.
- Provide an understanding of the purpose(s) and function(s) of the system.
- Describe update cycles or conditions and rules for adding information to the system, changing information in it, or deleting information.

For purchased software, the documentation supplied by the software vendor, along with any agency-specific documentation that IT maintains such as user permissions, etc., will likely be sufficient. The agency should develop similar documentation for software that is developed in-house.

**E. Electronic communications as public records.**

Electronic communication is the electronic transfer of information, typically in the form of electronic messages, memoranda and attached documents, from a sending party to one or more receiving parties by means of an intermediate telecommunications system. Electronic communications include email, instant messaging, text messaging (such as SMS, Blackberry PIN, etc.), multimedia messaging (such as MMS), chat messaging, social networking (such as Facebook, Twitter, etc.), or any other current or future electronic messaging technology sent or received by any device. Any such communications that meet the definition of public record must be managed accordingly.

There is no single retention period that applies to all electronic messages or communications. Retention periods are determined by the content, nature and purpose of records, and are set based on their legal, fiscal, administrative and historical values, regardless of the format in which they reside or the method or device by which they are transmitted. Electronic communications, as with records in other formats, can have a variety of purposes and relate to a variety of program functions and activities. The retention of any particular electronic message will generally be the same as the retention for records in any other format that document the same program function or activity.

**(1) Email.**

Agencies should develop and adhere to a formal, written email policy to ensure email is managed consistently throughout the agency. The specific components or information included in any agency's policy will depend on the needs and circumstances of that agency. The Department of State's internal email is provided in [Appendix G](#) as an example. ***This is the Department of State's internal electronic mail policy and is***



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*provided as an example. This is not a statewide policy and applies only to the Florida Department of State.*

Acceptable ways to manage emails include:

- **Folders/Individual Email Management.** Sorting electronic communications such as email into appropriate folders can help individual employees to manage these records and to ensure that appropriate retention requirements are identified and met. That is, just as file cabinets with folders are set up to house different sets of physical files and employees know where to file paper records in those files, email files and folders can be set up with the appropriate retention period designated for each of those files and folders. This may be done with shared email folders as well. For example, an employee could set up folders such as these:

### Inbox

Information Request Records, GS1-SL #23

Fiscal Year 2018-2019

Fiscal Year 2019-2020

Fiscal Year 2020-2021

Correspondence: Administrative, GS1-SL #17

Fiscal Year 2018-2019

Fiscal Year 2019-2020

Fiscal Year 2020-2021

- **Big buckets.** The “big bucket” approach groups records in broad categories that correspond to major activities, functions or work processes. Unlike a traditional retention schedule, which may specify different retention periods for individual record series associated with a given function, the records included in a big bucket category have identical or similar retention requirements, and a uniform retention period is applied to the entire category. The retention period is based on the longest retention requirement for any record series covered by the category.
- **Enterprise Email Management.** With this approach, the agency controls email storage and retention and establishes uniform storage periods for all agency email. This can assist in dealing with unmanaged backlogs of emails and can facilitate ease of management going forward. Here is how you can implement this approach in your agency:
  - 1) Determine if you keep the record copy of any long-term or permanent records (over 10-year retention) in email form. It is likely that you do not – for instance, you probably do not keep the record copy of official meeting minutes, asbestos records, or personnel records in the form of email. If you do keep the record copy of any long-term or permanent records in email form, identify those emails and make sure they are secured and backed up. If they do not need to be produced for litigation, you might want to convert them to another format to ensure they remain accessible in the future.
  - 2) Of the remaining emails, determine what the longest retention period would be. For instance, you probably have emails that fall under a number of retention items, which may include records such as:
    - Transitory Messages (OSA)
    - Administrative Convenience Records (OSA)
    - Administrative Support Records (OSA)
    - Drafts and Working Papers (OSA)
    - Subject/Reference Files (OSA)
    - Information Request Records (1 FY)
    - Attendance and Leave Records (3 FY)
    - Correspondence and Memoranda: Administrative (3 FY)

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- Correspondence and Memoranda: Program and Policy Development (5 FY)
- HIPAA/Protected Health Information Records (6 AY from trigger date)
- Administrator Records: Agency Director/Program Manager (10 AY)
- Permits: Building (10 AY)
- Others?

- 3) Once you have determined what the longest retention would be for your non-long-term/non-permanent emails, set that time period as your email storage period. For instance, in the example above, the longest retention is 10 anniversary years, so you would store all the emails for that period of time and dispose of them as they reach the 10-year mark. By setting the longest retention as your storage period, you will ensure that no records are disposed of prematurely, although many will be retained much longer than required. You could also establish different uniform storage periods for different departments, as long as the selected storage period meets the retention requirements of all of each department's emails.
- 4) Before disposing of the emails, be sure that no record copy long-term/permanent records are included and that records needed for litigation holds or other purposes are not included in the purge.

- **Email archiving.** Email archiving generally refers to applications that remove email from the mail server and store it in a central location also known as an archive. Although email archiving applications may provide business benefits to an agency, they can be limited in their capabilities to keep and organize records according to records management laws, regulations, and policies.

Recordkeeping systems that include electronic mail messages, including email archiving systems being used to store record copy emails, must:

- Provide for the grouping of related records into classifications according to the business purposes the records serve.
- Permit easy and timely retrieval of both individual records and files or other groupings of related records.
- Retain the records in a usable format for their required retention period and allow their disposal when the retention is met.
- Be accessible by individuals who have a business need for information in the system.
- Preserve the transmission and receipt data specified in agency instructions.

While email archiving applications offer business benefits, agencies are responsible for ensuring the technology meets all the requirements of the public records laws and rules.

- **Printing emails.** Printouts of email files are acceptable in place of the electronic files provided that the printed version contains all date/time stamps, routing information, etc. This information usually prints automatically at the top of each printed email and includes name of the sender, names of all recipients (including To, CC and BCC), date/time sent or received, subject line, and an indication if an attachment was present (attachments should be printed and retained with the printed email). This can be applied broadly to other types of electronic records that you are going to print and retain only in paper form. Any metadata that is necessary to understanding the nature and content of the record should be printed along with the record.

However, as indicated in the **E-Discovery** section, **in the event of litigation or reasonably anticipated litigation, existing records in electronic form must be**

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**maintained in their current electronic format until all legal discovery issues are closed.**

**(2) Social media.**

Postings on a website or social networking site that meet the definition of a public record should be retained according to retention schedules based on the content, nature and purpose of the posting.

Attorney General's Opinion Number AGO 2009-19 (April 23, 2009) states the following regarding Facebook pages established by a city – this will of course apply to any public agency maintaining a Facebook page:

Since the city is authorized to exercise powers for a municipal purpose, the creation of a Facebook page must be for a municipal, not private purpose. The placement of material on the city's page would presumably be in furtherance of such purpose and in connection with the transaction of official business and thus subject to the provisions of Chapter 119, Florida Statutes. In any given instance, however, the determination would have to be made based upon the definition of "public record" contained in section 119.11, Florida Statutes. . .

The city is under an obligation to follow the public records retention schedules established by law. . .

Communications on the city's Facebook page regarding city business by city commissioners may be subject to Florida's Government in the Sunshine Law, section 286.011, Florida Statutes. Thus, members of a city board or commission must not engage on the city's Facebook page in an exchange or discussion of matters that foreseeably will come before the board or commission for official action. . .

It is the nature of the record created rather than the means by which it is created which determines whether it is a public record. The placement of information on the city's Facebook page would appear to communicate knowledge. Thus, the determination in any given instance as to whether information constitutes a public record will depend on whether such information was made or received in connection with the transaction of official business by the city. . .

Similarly, a 2009 Department of State's General Counsel's Office opinion states that "A posting or comment to a state agency page on a social networking site is a public record when the content of the posting or comment satisfies the definition of "public record" in section 119.011(12), Fla. Stat. (2008) . . . those comments whose content falls within the definition of public record must be retained by agencies in accordance with the appropriate Division retention schedules."

If you post a copy of a public record (such as the minutes of a meeting) to a website or social networking site, it is not necessary to maintain that Web copy indefinitely as long as you retain the record copy in your office in accordance with the applicable retention schedule.

So, it is the nature, content and purpose of the record that will determine if it meets the definition of public record and, if so, what the retention of that record would be. For example, while some Twitter messages ("tweets") might indeed be transitory messages, other tweets might fall under other retention schedules, such as one of the CORRESPONDENCE items, again depending on the content of the message. Just as with public records in any other form, agencies will need to determine the appropriate retention item based on the nature, content and purpose of the record and ensure that it is retained for that time period.

One possible option when using Facebook or some other social networking technologies is to disallow postings from outside sources, thus saving the agency the trouble of

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determining and implementing retention requirements for those outside postings. If outside postings are allowed, the agency will need to find a way to ensure the appropriate retention of those postings that are public records. We advise agencies to carefully consider public records access and retention requirements, responsibilities and implications when considering the use of any social networking technologies.

Social media "archiving" software may be employed to assist agencies in managing their social media public records. Technology for social media archiving is constantly evolving, and we cannot recommend or endorse any specific products, but listed below for your convenience are some social media and web archiving products and services that you might want to investigate:

- [ArchiveSocial](#) – widely used in government agencies, including some Florida agencies.
- [SMARSH](#) – also widely used in government agencies, including some Florida agencies.
- [Archive-IT](#) – used by many organizations, including a number of state archives, for web archiving.
- [Erado](#) – an early entrant in the field; used by regulated industries (financial institutions, financial management companies, etc.) as well as government organizations.
- [Social Feed Manager](#) – an open-source tool used primarily by libraries and archives to collect and provide research access to social media and web resources.
- [PageFreezer](#) – used by financial, government, business and educational institutions.
- [Conifer](#) (formerly Webrecorder) – an open-source tool for capturing interactive copies of webpages.

### **F. Storage and maintenance of electronic records and media.**

There is often a presumption that because information is stored in a computer or on some digital storage medium (server, disc, tape, etc.), it is somehow automatically preserved for all time. Unfortunately, electronic storage media can easily become unreadable over time due to physical, chemical or other deterioration. Special care and precautionary measures must be taken to avoid the loss of records stored on electronic media.

#### **(1) Electronic storage media maintenance.**

Rule 1B-26.003(11), *Florida Administrative Code*, specifies maintenance requirements for electronic storage media.

- Preservation duplicates of permanent or long-term records shall be stored in an off-site storage facility, which may include cloud storage, geographically separated from the risks associated with the agency's location, with constant temperature (below 68 degrees Fahrenheit) and relative humidity (30-45 percent) levels.
- Storage and handling of magnetic tape containing permanent or long-term records must conform to the magnetic tape standard AES22-1997 (r2003), "AES recommended practice for audio preservation and restoration - Storage and handling - Storage of polyester-base magnetic tape," available from the Audio Engineering Society, Incorporated, and at the Internet Uniform Resource Locator: <http://www.aes.org/publications/standards/search.cfm>.

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- Agencies must annually read a statistical sample of all electronic media containing permanent or long-term records to identify any loss of information and to discover and correct the cause of data loss.
- Agencies must conduct data integrity testing on all media containing permanent or long-term electronic records at least every 10 years and verify that the media are free of permanent errors. More frequent testing (e.g., at least every 5 years) is highly recommended. If a checksum was previously run on the digital media, testing can be conducted by running the same checksum.

### (2) Environmental controls.

- Electronic records storage media should be stored in a cool, dry, dark environment (maximum temperature 73 degrees Fahrenheit, relative humidity 20-50 percent). See section **(1) Electronic storage media maintenance** for environmental controls for preservation duplicates of permanent or long-term records.
- Electronic records storage media must not be stored closer than 6 feet to sources of magnetic fields, including generators, elevators, transformers, loudspeakers, microphones, headphones, magnetic cabinet latches and magnetized tools.
- Electronic records on magnetic tape or disk must not be stored in metal containers unless the metal is non-magnetic.
- Storage containers must be resistant to impact, dust intrusion and moisture.
- Compact disks must be stored in hard cases, and not in cardboard, paper, or flimsy sleeves.

### (3) Selecting storage media.

As specified in Rule 1B-26.003(10), *Florida Administrative Code*, agencies shall select appropriate media for storing record copies of electronic public records throughout their life cycle that meet the following requirements:

- Permit easy and accurate retrieval in a timely fashion.
- Retain the records in a usable format until their authorized disposition.
- When appropriate, meet the requirements necessary for transfer to the State Archives of Florida.

Agencies should consider the following factors before selecting a storage media or converting from one media to another:

- The authorized retention of the records.
- The maintenance necessary to retain the records.
- The cost of storing and retrieving the records.
- The access time to retrieve the stored records.
- The portability of the medium (can be read by multiple manufacturers' equipment).
- The ability to transfer the information from one medium to another.

When storing permanent or long-term records, agencies must adhere to additional standards. Long-term records are defined as those that have an established retention of more than 10 years.

- Permanent or long-term records may be stored on hard drive (cloud-based or internal), optical disc (preferably write-once discs with an inert dye layer), or on polyester-based magnetic data tape.

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- Agencies shall not use flash memory media (such as thumb drives, SD cards, CF cards and micro-SD cards), floppy disks, audio cassette tapes or VHS video cassette tapes for the storage of record copies of permanent or long-term records.
- Agencies shall use only previously unrecorded audio or video tape for record copies of permanent or long-term audio or video recordings.
- Record copies of scanned images created by the agency from hard copy permanent or long-term records must be stored in accordance with a published International Organization for Standardization (ISO) open standard image format. Published standards can be found at <http://www.iso.org/iso/home.htm>. Examples of acceptable formats are TIFF, PDF and PDF/A.

### (4) Using CDs and DVDs for storage.

CDs and DVDs are not recommended for storing the record copy of permanent or long-term records. If you choose to use CDs and DVDs for storing short-term records, you should understand their properties and limitations.

- The color of a CD/DVD indicates its quality. It is best to look for a gold or silver CD/DVD; look at the color from the underside of the disk, not the top.
- To assure the highest quality of a CD-R, look for those manufactured using phthalocyanine dye with gold or silver reflective layers. Do not use Azo- or (plain) cyanine-dyed media.
- For DVD-Rs, use double-sided/single-layer with a gold reflective underside.
- Acquire new CDs/DVDs as they are needed. According to the Optical Storage Technology Association (OSTA), the shelf life of unrecorded CD-R/DVD-R disks is conservatively estimated to be between 5 and 10 years.
- Recorded CDs/DVDs can show a life expectancy of anywhere from as low as a year or two to 25 or 30 years.
- We recommend testing your media at least every two to five years to assure your records are still readable.

### (5) Media conversion.

- Agencies must convert storage media to provide compatibility with the agency's current hardware and software to ensure that information is not lost due to changing technology or deterioration of storage media.
- Before conversion of information to different media, agencies must determine that authorized disposition of the electronic records can be implemented after conversion.

### (6) Cloud computing.

Cloud computing is a term that refers to accessing via the Internet computer resources that are owned and operated by a service provider in one or more data center locations. Cloud computing customers use resources as a service and pay only for resources that they use, thereby avoiding capital expenditure on hardware and software. Services may include data storage and management, software, and computing resources.

Agencies considering cloud computing should have a clear understanding of exactly what the agency needs and what the service provider is offering. Records management requirements apply to public records maintained in the cloud just as they do to records stored on agency computers. Some of the issues that should be considered:

- **Scope** – What agency records will be stored, processed or accessed through the cloud? Will they include confidential or exempt records?

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- **Access** – How frequently and quickly will the agency need to retrieve records from the cloud? What are the terms, costs and performance benchmarks for accessing records?
- **Retention** – With cloud computing services, often multiple copies of the data are stored on geographically-dispersed resources for data protection and access. How will the vendor ensure destruction of all copies of records that have met their retention?
- **Location** – It is not uncommon for the end-user to have no idea where their information is stored or processed in the cloud. If agency records must be maintained within jurisdictional boundaries, this requirement should be included in the vendor contract.
- **Legal/Policy Compliance** – Cloud computing may not adequately address some compliance issues such as those related to the Health Insurance Portability and Accountability Act (HIPAA), the Sarbanes-Oxley Act of 2002, and the Payment Card Industry (PCI) security requirements.
- **E-Discovery** – How will the agency ensure that it can comply with an e-discovery order if some or all of its records are stored in the cloud?
- **Interoperability** – As with any information technology, it is important to ensure that records are not trapped in a proprietary system in the cloud that will require considerable expense or effort to remove it from that system or move it to another system.
- **Security** – There is debate as to whether cloud services provide more or less security than traditional IT infrastructure. Some argue that data is more secure when managed internally, while others argue that cloud providers have a strong incentive to maintain trust and as such employ a higher level of security.

Agencies considering cloud computing services should address these and related issues up front. **Have the provider demonstrate or describe in detail how they can meet all agency requirements, and clearly delineate those functional and performance requirements in the contract with the provider.**

### **G. Electronic records backup for disaster recovery.**

Backups are created and maintained SOLELY for disaster recovery and/or business continuity. Backing up means to copy data and files onto stable media for use in restoring lost or corrupted data and/or for recovery of operating systems or application files. Retention of backups is based on each agency's backup rotation schedule/protocol.

Backing up data or files is different from data archiving. Data archiving means to move less active data and files to separate storage until retention requirements have been satisfied. Retention of archived data is based on records retention requirements.

Data archiving is different from preserving and managing records that have long-term historical research value – archival records in the traditional sense. Archival records are selected for permanent preservation because they have been determined to have permanent or enduring value. Archival records are often referred to as historical records, but their value can be historical, administrative, legal or financial. See the [Archives and Archival Records](#) section for more on this.

- Agencies must back up electronic records on a regular basis to safeguard against loss of information due to equipment malfunctions, human error or other disaster. Additional backups are strongly recommended for permanent and long-term records.

## MANAGING ELECTRONIC RECORDS

- Backup media should be stored in an off-site storage facility, which may include cloud storage, geographically separated from the risks associated with the agency's location.
- The storage environment for backup media must be maintained at constant temperature (below 68 degrees Fahrenheit) and relative humidity (30-45 percent) levels.
- If, for any reason (for instance, a disaster erases emails on your server), the only existing copy of an item that has not met its retention period is on a backup medium, the agency must ensure that the record on the backup is maintained for the appropriate retention period. A backup containing record copies or the only existing copies of records that have not passed their retention would have to be retained for the length of the longest unmet retention period. It is strongly recommended that any such records be restored to an accessible storage device from the backup to ensure that the backup is not used as a records retention tool.
- Agency IT policies should establish, and agencies should adhere to, a regular cycle of backup overwrites based on the agency's operational, security and disaster recovery needs.
- There is no retention schedule for backup tapes or other forms of data backup. As discussed earlier, a backup tape or drive should be kept solely as a security precaution and not to serve as the record copy or as a records retention tool. In the case of disaster, the backup would be used to restore lost records. Agency records that have not met their retention should not be disposed of based on the existence of a backup.

### H. E-Discovery.

Electronic discovery (or e-discovery) refers to discovery in civil litigation of electronically stored information, or ESI.

The Federal Rules of Civil Procedure (FRCP) do not require agencies to keep **all** of their emails (or other electronic records) permanently. Courts expect organizations to produce **relevant** ESI in the same electronic format in which the organization normally created or maintained it for business purposes. Therefore, in the event of litigation or reasonably anticipated litigation, existing records in electronic form must be maintained in their current electronic format; printing them out or converting them to another format at that point might not only be unnecessary, but also might be unacceptable to the court. If an agency has a print and file policy for email, deletion of emails once printed must be suspended until all legal discovery issues are closed.

Agencies can do the following to prepare for e-discovery:

- Have a formal, active records management program and policy that applies to all records regardless of format.
- Maintain records inventories or other means of identifying and locating all agency records.
- Ensure that retention schedules and all other retention requirements have been met before disposing of records in any form, including electronic records.
- Properly document disposition of records.
- Have a formal procedure for placing a litigation hold on records in all formats that might be relevant to anticipated, pending or ongoing litigation.
- Ensure regular consultation among agency legal staff, records management staff and information technology staff.



## MANAGING ELECTRONIC RECORDS

Consultation between agency legal, records management and information technology staff is critical to ensuring that appropriate policies and procedures are in place and all the key players are familiar with their responsibilities relating to e-discovery and other records management requirements. Agencies should always consult with their legal counsel to verify their legal requirements for compliance with these and other rules of civil and criminal procedure.

### I. Essential characteristics of electronic records and legal admissibility.

Managing and preserving electronic records can be challenging since they are easily revised, deleted, or manipulated. If appropriate measures are not taken, the essential characteristics of records can be altered or lost. Careful planning and system design are required to guarantee that the essential characteristics of electronic records are both captured and maintained for the lifetime of the record.

The essential characteristics of electronic records are:

**Content** - Information in the record that documents government business. Content can be composed of numbers, text, symbols, data, images or sound. The information content of a record should be an accurate reflection of a particular business transaction or activity.

**Context** - Information that shows how the record is related to the business of the agency and other records. Contextual information is crucial to the evidentiary function of records. If a record lacks key information about its creator, the time of its creation, or its relationship to other records, its value as a record is severely diminished or lost entirely.

**Structure** – Appearance and arrangement of a record's content and technical characteristics of the record (e.g., file format, data organization, relationships between fields, page layout, style, fonts, page and paragraph breaks, hyperlinks, headers, footnotes). It is easier to preserve a record over time if it has a simple record structure. It is also advisable to base record structure on open standards to avoid dependence on a specific company or organization.

For records to serve as evidence, these three essential characteristics must be maintained. Whenever one of the characteristics is altered, the ability of records to accurately reflect the activities of an agency is diminished.

Legal admissibility concerns whether a piece of evidence would be accepted by a court of law. If the authenticity and accuracy of the records can be demonstrated, then they will have evidential weight; if a record does not hold evidential weight, it could potentially harm a case being fought. There are two main elements that demonstrate authenticity of electronic records:

- The system's ability to "freeze" a record at a specific moment in time.
- Maintenance of a documented audit trail.

### J. Electronic records management training.

Agencies must provide for appropriate training for users of systems in which electronic records reside, including training in the operation, care and handling of the equipment, software, media used in the system, system security controls, and management of records. Training for staff who create, edit, store, retrieve or dispose of records is a critical aspect of electronic records management. Training should enable staff to identify electronic public records and understand how those records are filed and safeguarded, procedures for editing records, and how to dispose of records in accordance with legal requirements.

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**MANAGING ELECTRONIC RECORDS**

**K. Electronic signatures requirements.**

The statutory governance for electronic signatures is Florida's Electronic Signature Act of 1996, Section 668.001-006, *Florida Statutes*, and Uniform Electronic Transaction Act, Section 668.50, *Florida Statutes*. In particular, the following sections may apply:

668.004 Force and effect of electronic signature. — Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.

668.50(7) LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS. —

(a) A record or signature may not be denied legal effect or enforceability solely because the record or signature is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in the formation of the contract.

(c) If a provision of law requires a record to be in writing, an electronic record satisfies such provision.

(d) If a provision of law requires a signature, an electronic signature satisfies such provision.

668.50(13) ADMISSIBILITY IN EVIDENCE. — In a proceeding, evidence of a record or signature may not be excluded solely because the record or signature is in electronic form.

In essence, unless otherwise specified by law or administrative rule, electronic signatures are acceptable, including digital signatures. Agencies are advised to review Chapter 668, *Florida Statutes*, as well as consult with their legal counsel for further guidance on this issue.

**L. Professionally sealed documents.**

Documents that have been sealed by professionals, such as building plans sealed by professional engineers, can be scanned for retention purposes.

- Raised impression or embossed seals must be clearly visible after scanning. This can be done by, for example, lightly shading with a pencil, rubbing the impression with carbon paper or using an embossment ink.
- Agencies must maintain unaltered copies of professionally sealed records. Any markups made by the agency should be done on a duplicate of the record. Each copy must be retained according to its applicable retention schedule.

It is not necessary for agencies to follow standards established by the Board of Professional Engineers. Their standards are for professional engineers, not governmental entities receiving or approving plans.

## **ADDITIONAL RECORDS MANAGEMENT INFORMATION**

The Division of Library and Information Services has a Records Management website at [info.florida.gov/records-management/](http://info.florida.gov/records-management/) providing general information, guidance and resources regarding Florida public records. The website includes all current general records schedules as well as information regarding retention scheduling and disposition, RMLOs, applicable statutes and rules, disaster recovery and training opportunities.

The division also produces handbooks providing additional information on records management topics. These handbooks, as well as other publications and forms, are available on the Records Management website. Available handbooks include:

**Managing Florida's Public Records**

**Florida State Records Center Handbook**

**Public Records Center Facilities Guidelines**

**Records Storage and Facilities Guidelines for Archives and Historical Records Repositories**

**Records Management Self-Evaluation Guide**

**Micrographics Handbook**

See [Appendix H](#) for contact information for records management and archivist professional organizations.

## ARCHIVES AND ARCHIVAL RECORDS

Archival records are selected for permanent preservation because they have been determined to have permanent or enduring value. Archival records are often referred to as historical records, but their value can be historical, administrative, legal or financial.

An archives is the agency, office or program responsible for collecting, preserving and making available records determined to have archival value. "Archives" also refers to the building in which an archival institution is housed and to the collections managed by the archives program.

Florida's archival records are an invaluable source of information on the history and development of the state, its government and the lives of its citizens. Archival records document and therefore protect our rights and privileges as citizens and the responsibilities, duties and limitations of our government. Archival records document the actions and decisions of our government, our personal lives, our businesses and professions, our environment, and our society and culture. They are used to provide information on the programs and functions of government, to prove ownership of property and to document family history. Historical records need to be preserved because our government is obligated to maintain them and because they tell us where we have been, offer insights into where we are now and provide vision for our future.

Archivists and records managers work together to identify, select and preserve historical records. Records managers, through the application of standard records management practices, ensure that records and information are properly identified and managed in the office and that, through the scheduling and disposition process, archival records are preserved.

Archivists consider a number of factors when appraising records to determine archival value. Age and format are just two of these considerations. Records and information being created today can have archival value equal to that of records created centuries ago. Similarly, information maintained electronically can have archival value equal to that of records on paper or bound in a volume. Key characteristics of records that justify their continued retention as archives include such values as:

- **Evidential value.** The value of the evidence that records provide of the origins, structure, functions and operations of the agency that created them.
- **Informational value.** The research or reference value of the information contained in the records beyond their evidential value.
- **Financial, legal and administrative value.** The value of the records for the conduct of current and future agency business.
- **Intrinsic value.** The value of records deriving from their association with a historical event or person or from their unique physical format.

### A. State Agencies.

The State Archives of Florida, a program of the Division of Library and Information Services, serves as the central repository for the archives of state government. In the broadest sense, the purpose of the State Archives of Florida is to preserve and make available the permanent public and private records in its custody. The Archives' specific mandate in Section 257.35, *Florida Statutes*, authorizes the State Archives of Florida, Division of Library and Information Services, to collect, preserve and make available for research the historically significant public records of the state, as well as private manuscripts, local government records, photographs and other materials that complement the official state records.

Title to any records transferred to the State Archives of Florida is vested in the Division of Library and Information Services. Public records in the State Archives are available to the public and the creating agency in accordance with *Florida Statutes*.

## ARCHIVES AND ARCHIVAL RECORDS

All public records transferred to the State Archives of Florida must be properly scheduled through the Records Management Program as described in this handbook. Once the scheduling process is complete, state agencies should contact the State Archives staff for instructions and assistance in completing archival appraisal and, if appropriate, transfer of the records to the Archives, including types of storage boxes to use, packing and labeling the boxes, and documenting the records transfer (contact information is located at the end of this section).

### **B. Local Agencies.**

Some local government agencies and jurisdictions also have formal archives programs. Local government archival records reflect and touch the lives of most citizens. Such records may document property ownership, birth, death, marriage, school attendance, work, community activities and relations, and many other aspects of our lives. The valuable information they contain must be preserved and made available for people to use. There are many avenues a local government can take to preserve and make available its archival records; not all need to establish a formal archival program as found at the state and national level, although this is the ideal approach.

The first step local governments should take to formally begin the process is to pass an ordinance or resolution officially authorizing the operation of an archives program. This demonstrates the local government's commitment to preserving its historical records and emphasizes the importance of this activity to managers, employees and the public. There are several options a local government might consider when planning to care for its archival records. Governments can:

- Establish an independent archives program, including an archives building and a staff of professional archivists, with a recurring budget line item or other dedicated source of funding. This option requires the largest amount of resources and commitment but will best ensure the appropriate preservation of and access to the records.
- Create a multi-government archival program where several local agencies or jurisdictions pool their resources to preserve and make available local historical records. For example, the county Clerk of Court, Board of County Commissioners and School Board could work together to form one archival program documenting the county's history, or a city and county could form a cooperative archives program.
- Incorporate an archives program into a comprehensive records management program. Records centers can be adapted to store archival records and staff can receive basic archival and preservation training to handle the archival records. The RMLO or another individual can be given the archives responsibility and can serve as the point of contact for researchers using the records. This option should include provisions for a proper storage environment for the archival records and, if possible, for engaging the services of at least one experienced professional archivist as an employee, consultant or volunteer.
- Include the identification, preservation and availability of archival records as a part of the government's overall recordkeeping process. This option requires the records custodian(s) to care for the records from creation to disposal or permanent retention. Office records are identified, scheduled and maintained in the creating office, and inventories are created to assist researchers in using the records. Office staff assist researchers using the records. This option is useful for governments with few archival records, such as school boards, and is economical in that existing office staff and facilities are used to maintain the records.

Local governments interested in establishing an archives program are encouraged to contact the Division of Library and Information Services for assistance. The division can provide technical assistance and training in all areas of archives management including program

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**ARCHIVES AND ARCHIVAL RECORDS**

establishment, records identification and selection, access and public programs, general preservation principles and program assessment.

For more information regarding archival records, contact the State Archives by phone at 850.245.6700 or by email at [archives@dos.myflorida.com](mailto:archives@dos.myflorida.com).

## GLOSSARY

**Active Records:** Records that have sufficient administrative, fiscal, legal or historical value to warrant their continued storage in an easily accessible area (e.g., office area).

**Agency:** “[A]ny state, county, or municipal officer, department, district, division, board, bureau, commission or other separate unit of government created or established by law.” (Rule 1B-24.001(3)(a), *Florida Administrative Code*)

**Appraisal:** The process of determining the value and thus the disposition of records based upon a broad range of considerations, among them their current administrative, legal and fiscal use; their long-term evidential and informational or research value; their arrangement; and their relationship to other records.

**Archives:** An organization dedicated to the preservation of and access to records deemed to have enduring historical significance. Usually an archives will accept, arrange and preserve such records according to approved archival practices. See also [State Archives of Florida](#).

**Custodian:** “[T]he elected or appointed state, county, district, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.” (Rule 1B-24.001(3)(b), *Florida Administrative Code*)

**Disaster Preparedness:** Policies and procedures for preventing, responding to, and assessing and recovering from the damage resulting from a natural or man-made disaster or emergency, including the systematic identification of those records that are vital to an agency’s purpose and operations and a plan to protect such records. See also [Vital Records](#).

**Disposition:** “[F]inal actions taken with regard to public records that have met all retention requirements and are no longer needed for current government business as indicated in General Records Schedules or Records Retention Schedules. Disposition may include either destruction of public records or transfer of public records to the custody of another public agency such as the Florida State Archives or a local government archives or records repository.” (Rule 1B-24.001(3)(c), *Florida Administrative Code*)

**Division:** “[T]he Division of Library and Information Services of the Department of State.” (Rule 1B-24.001(3)(d), *Florida Administrative Code*)

**Drafts:** Materials that constitute precursors of public records, have not been communicated or circulated for review or comment and are not in themselves intended as final evidence of the knowledge to be recorded. Information in a preliminary form that is not intended to perpetuate, communicate or formalize knowledge of some type and that is fully represented in the final product is a “draft” and not a “public record.” (Florida Supreme Court, *Shevin v. Byron, Harless, Schaffer, Reid, and Associates* (379 So. 2d 633, Fla. 1980))

**Duplicate (or Convenience) Records:** Reproductions of record copies, prepared simultaneously or separately, which are designated as not being the official copy.

**Electronic Records:** Any data or information that has been captured and fixed for storage and manipulation in an automated system and requires the use of a system to render it intelligible by a person. Electronic records include numeric, graphic, audio, video, and textual information that is recorded or transmitted in analog or digital form such as electronic spreadsheets, word processing files, databases, electronic mail, instant messages, scanned images, digital photographs, and multimedia files.

**Florida State Archives:** See [State Archives of Florida](#).

**General Records Schedules:** “[R]etention requirements established by the Division for public records common to all agencies or specified types of agencies within the State of Florida indicating the minimum time such records must be kept.” (Rule 1B-24.001(3)(g), *Florida*)

**GLOSSARY**

*Administrative Code*) See [Appendix C](#) for a complete list of Florida's general records schedules and information on obtaining them.

**Inactive Records:** Records that have lost some of their value or have been superseded by new records but have not yet met all of their retention requirements. These records can be stored off-site until final disposition. Sometimes referred to as "semi-active records."

**Intermediate Files/Processing Files:** "[T]emporary electronic files used to create, correct, reorganize, update, or derive output from master data files. Intermediate files are precursors of public records, and are not, in themselves, public records which must be retained. Intermediate files only exist provided a final product is subsequently generated which perpetuates, communicates, or formalizes knowledge of some type. In the absence of such a final product, processing files constitute final evidence of the knowledge to be recorded and shall not be construed as intermediate files . . ." (Rule 1B-24.001(3)(h), *Florida Administrative Code*)

**Public Records:** "[A]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." (Section 119.011(12), *Florida Statutes*)

**Record Copy:** "[P]ublic records specifically designated by the custodian as the official record." (Rule 1B-24.001(3)(j), *Florida Administrative Code*)

**Record Series:** "[A] group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject or function, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use. A record series might contain records in a variety of forms and formats that document a particular program, function, or activity of the agency." (Rule 1B-24.001(3)(k), *Florida Administrative Code*)

**Records Center:** A facility especially designed and constructed for the low-cost and efficient storage of inactive records and the furnishing of reference service on inactive records pending their final disposition.

**Records Inventory:** The systematic identification of records in an agency conducted to 1) facilitate efficient management of, and access to, their records, and 2) to develop or identify appropriate retention schedules for their records.

**Records Management:** The application of systematic controls to manage an agency's records throughout their life cycle from their creation, distribution, filing and use through their final disposition, whether by destruction or permanent retention.

**Records Management Liaison Officer (RMLO):** The individual designated by the agency who serves as a contact person to the division and is assigned records management responsibilities by the Custodian. Section 257.36(5)(a), *Florida Statutes* requires all agencies to designate an RMLO.

**Records Retention Schedule:** "[R]etention requirements established by the Division for public records held by a specified agency within the State of Florida indicating the minimum time such records must be kept." (Rule 1B-24.001(3)(l), *Florida Administrative Code*) Agencies may initiate the process by submitting to the division a *Request for Records Retention Schedule*, Form LS5E-105REff.2-09.

**Retention Period:** The minimum period of time for which a record series must be retained before final disposition, based upon the legal, fiscal, administrative and historical values of the record series. In rare instances, a retention period might establish the maximum period of time to retain records before they must be destroyed. Retention values are determined by the nature, content and purpose of the record series and not by the physical format (e.g., paper, electronic, microfilm) in which the series resides.



**GLOSSARY**

**Semi-Active Records:** See [Inactive Records](#).

**State Archives of Florida:** “[T]he program maintained by the Division for the preservation of those public records and other papers that have been determined by the Division to have sufficient historical or other value to warrant their continued preservation by the state and which have been accepted by the Division for transfer to its custody.” (Rule 1B-24.001(3)(f), *Florida Administrative Code*) See also [Archives](#).

**Supporting Documents:** Public records assembled or created to be used in the preparation of other records that are needed to trace or explain actions, steps and decisions covered in the final or record copy.

**Vital Records:** Records that are essential to the operations of an agency and/or to protecting the rights of individuals and that are needed in order to resume the critical business of the agency after a disaster or emergency, regardless of whether they have a permanent, long-term or short-term retention. Vital records should be identified during the records inventory process and as part of a disaster preparedness program. See also [Disaster Preparedness](#).

## APPENDIX A

### Records Management Liaison Officer (RMLO) Designation Form

Please provide current information about your agency RMLO in the spaces below.

Agency Name: \_\_\_\_\_

Agency Mailing Address: \_\_\_\_\_

RMLO Name: \_\_\_\_\_

RMLO Email Address: \_\_\_\_\_

RMLO Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Authorizing Official Name: \_\_\_\_\_

Authorizing Official Title: \_\_\_\_\_

Authorizing Official Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**PLEASE RETURN TO:**

State Library and Archives of Florida  
Records Management Program  
500 South Bronough Street  
Mail Station 9E  
Tallahassee, FL 32399-0250  
Email: [recmgt@dos.myflorida.com](mailto:recmgt@dos.myflorida.com)

## APPENDIX B

### Public Records and Freedom of Information Policy Sources

The ***Government-in-the-Sunshine Manual***, compiled annually by the Office of the Attorney General, is a comprehensive guide to Florida's open government requirements and responsibilities, including open meetings and public records. The *Manual* provides answers to many questions regarding access to public records, including an extensive list of exemptions from disclosure. To order a copy, contact the publisher at:

**First Amendment Foundation**  
317 East Park Avenue, Lower Level  
Tallahassee, Florida 32301  
Main Office: 850.224.4555  
Hotline: 850.222-3518  
Toll-Free: 800.337.3518  
Email: [info@floridafaf.org](mailto:info@floridafaf.org)  
[floridafaf.org](http://floridafaf.org)

The ***Brechner Report*** is a monthly newsletter providing news and information regarding public records, access and freedom of information issues. For more information, contact the publisher at:

**Brechner Center for Freedom of Information**  
Post Office Box 118400  
3208 Weimer Hall  
University of Florida  
Gainesville, Florida 32611-8400  
Phone: 352.392.2273  
Fax: 352.392.9173  
[brechner.org](http://brechner.org)

The **Office of Open Government** provides advice regarding public records access issues to assure full and expeditious compliance with Florida's open government and public records laws. For more information, contact the Office of Open Government at:

**Office of Open Government**  
The Executive Office of the Governor  
The Capitol  
400 South Monroe Street  
Tallahassee, Florida 32399-0001  
Phone: 850.717.9248  
Email: [desantis.opengov@eog.myflorida.com](mailto:desantis.opengov@eog.myflorida.com)  
[flgov.com/open\\_government](http://flgov.com/open_government)

## APPENDIX C

### Obtaining Schedules, Handbooks and Other Resources

The publications and resources of Florida's Records Management Program are available on the records management website at [info.florida.gov/records-management](http://info.florida.gov/records-management). We recommend that you consult these publications on the web to ensure that you are working with the most current information. To control expenses, we do not print or stock quantities of these resources. However, if you are unable to access these materials on the web, we can provide you with an individual copy. Please complete and mail or [email](mailto:recmgt@dos.myflorida.com) this form to:

**State Library and Archives of Florida  
Records Management Program  
Mail Station 9E  
Tallahassee, Florida 32399-0250  
recmgt@dos.myflorida.com**

#### PLEASE CHECK THE ITEMS DESIRED

- GS1-SL for State and Local Government Agencies
- GS2 for Law Enforcement, Correctional Facilities and District Medical Examiners
- GS3 for Election Records
- GS4 for Public Hospitals, Health Care Facilities and Medical Providers
- GS5 for Public Universities and Colleges
- GS7 for Public Schools Pre-K-12 and Adult and Career Education
- GS8 for Fire Departments
- GS9 for State Attorneys
- GS11 for Clerks of Court
- GS12 for Property Appraisers
- GS13 for Tax Collectors
- GS14 for Public Utilities
- GS15 for Public Libraries
- Request for Records Retention Schedule (Form LS5E-105REff.2-09)
- Managing Florida's Public Records
- Records Management Self-Evaluation Guide
- Micrographics Handbook
- Public Records Center Facilities Guidelines
- Records Storage and Facilities Guidelines for Archives and Historical Records Repositories
- Chapter 119, *Florida Statutes* - Public Records
- Chapter 257, *Florida Statutes* - Public Libraries and State Archives
- Rule 1B-24, *Florida Administrative Code* - Public Records Scheduling and Disposition
- Rule 1B-26.0021, *Florida Administrative Code* - Microfilm Standards
- Rule 1B-26.003, *Florida Administrative Code* - Electronic Recordkeeping

Name/Title: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

## APPENDIX D


### Records Inventory Worksheet (two pages)

Fillable Worksheet form in PDF format available at [info.florida.gov/records-management/forms-and-publications/](http://info.florida.gov/records-management/forms-and-publications/).

<b>RECORDS INVENTORY WORKSHEET</b>				
Department/Section _____		Contact _____		Phone No. _____
Location of Records Room _____ File _____		Schedule No. _____		Item No. _____
Records Series Title _____				
Record/File Title _____				
Description (Contents, purpose, and use: Include form title and numbers, if any) _____ _____ _____				
<input type="checkbox"/> Record Copy <input type="checkbox"/> Duplicate Copy				
<b>File Type</b> <input type="checkbox"/> Subject <input type="checkbox"/> Case/Business Activity <input type="checkbox"/> Working Papers <input type="checkbox"/> Reference <input type="checkbox"/> Index		<b>Cut-Off Date</b> <input type="checkbox"/> Calendar Year <input type="checkbox"/> Fiscal Year <input type="checkbox"/> Anniversary <input type="checkbox"/> Continuous <input type="checkbox"/> Other _____		<b>Arrangement</b> <input type="checkbox"/> Alphabetic by _____ <input type="checkbox"/> Alphanumeric by _____ <input type="checkbox"/> Numeric by _____ <input type="checkbox"/> Chronological by _____ <input type="checkbox"/> Other _____
				<b>Authorization for Series</b> <input type="checkbox"/> a. Statute <input type="checkbox"/> b. Regulations <input type="checkbox"/> c. Administrative _____ (Citation)
<b>Record Form</b> <input type="checkbox"/> 8-1/2" x 11" paper (letter size) <input type="checkbox"/> 11" x 15" computer printouts <input type="checkbox"/> Computer disks <input type="checkbox"/> 8-1/2" x 14" paper (legal size) <input type="checkbox"/> 11" x 8-1/2" computer printouts <input type="checkbox"/> Compact disks <input type="checkbox"/> Bound books, catalogs <input type="checkbox"/> Roll microfilm <input type="checkbox"/> Computer tapes/cartridges <input type="checkbox"/> 3" x 5" Cards <input type="checkbox"/> Microfiche <input type="checkbox"/> Video tapes <input type="checkbox"/> 4" x 6" Cards <input type="checkbox"/> Other _____ <input type="checkbox"/> Optical disks				
<b>Electronic Records Filing</b> a. What is the name of the system? _____ b. Who owns the system? _____ c. What operating system is needed to retrieve and view files? _____ d. What application software is needed to retrieve and view files? _____ e. What is the file format? (.doc, .xls, .tif, .rtf, etc.) _____ f. What is current age of media on which records are stored? (1 year, 5 years, etc.) _____ g. How quickly is this information usually needed? (within minutes, days, weeks, etc.) _____ h. How often is this information accessed? (daily, weekly, monthly, etc.) _____ i. What business activity do these records support? _____ j. Are there any records related to these records? _____ k. Do you need more assistance with assessing these records? _____				
<b>Current Holdings</b>				
Year (Inclusive Dates)	Paper Cubic Feet	Electronic Bytes/Item Count	Type Filing Equipment Used	Quantity
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

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<b>How active are these records?</b> <input type="checkbox"/> Active (accessed frequently, weekly or immediately) <input type="checkbox"/> Semi-active (accessed periodically, monthly or less often) <input type="checkbox"/> Inactive (no need to retain in the active office area)		<b>Who uses these records?</b> 		
Place an "X" in the proper column. If the answer is "yes," explain in the space below.			YES	NO
1. Is this Department the official record holder?			<input type="checkbox"/>	<input type="checkbox"/>
2. Are there copies of this record series (or major portion of it) in this Department?			<input type="checkbox"/>	<input type="checkbox"/>
3. Are there copies of this record series (or major portion of it) in another Department?			<input type="checkbox"/>	<input type="checkbox"/>
4. Does this record series contain information exempt from public access?			<input type="checkbox"/>	<input type="checkbox"/>
5. Is there any legal requirement affecting disposal of this record series?			<input type="checkbox"/>	<input type="checkbox"/>
6. Does this record series contain information subject to regulatory requirements?			<input type="checkbox"/>	<input type="checkbox"/>
7. Does this record series contain information subject to legal requirements?			<input type="checkbox"/>	<input type="checkbox"/>
8. Does this record series contain information used in the subject to audits?			<input type="checkbox"/>	<input type="checkbox"/>
9. Is this record series needed because of archival or historic interest?			<input type="checkbox"/>	<input type="checkbox"/>
10. Are these vital records?			<input type="checkbox"/>	<input type="checkbox"/>
Responses to Questions and Additional Comments				
Retention		Recommended Retention		
Inventoried By	Date	Reviewed By	Date	

**APPENDIX D**

**File Plan Form**

Fillable File Plan form available at [info.florida.gov/records-management/forms-and-publications/](http://info.florida.gov/records-management/forms-and-publications/).

This is a sample file plan form and can be adapted to meet your agency’s needs. Feel free to add or remove columns as needed. Additional columns can help further identify your records such as specific names of individuals responsible for the records, legal requirement for the records, filing arrangement, or comments.

File Plan			
For instructions, see "Usage Notes" sheet			
Agency Names	Retention Schedule #	Description	Access/Use Restrictions
Contact Names	Item #	Format(s)	Location
Phone Numbers	Record Series Title	Retention	
Custodial Office/Division	Custodial Position	Last Updated:	

# APPENDIX E

## Request for Records Retention Schedule Form

STATE OF FLORIDA DEPARTMENT OF STATE Division of Library and Information Services Form LSSE-105REF.2-09 Rule 1B-24.003, F.A.C.	<b>Request for                  RECORDS RETENTION SCHEDULE</b>	<i>Department of State Use Only</i> SCHEDULE NO. _____ Agency No. _____ <input type="checkbox"/> New Schedule <input type="checkbox"/> Revise Existing Schd # _____			
<b>Agency Information</b>					
<b>1. Agency</b> Name: _____ Division: _____ Bureau: _____	<b>2. RMLO Contact Information</b> Name: _____ Phone: _____ E-mail: _____ Address: _____				
<b>3. Custodian</b> Name: _____ Phone: _____					
<b>Record Series Information</b>					
Retention schedules are established for record series, regardless of media or format. A record series is a group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject or function, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use.					
<b>4. Proposed Record Series Title.</b> Provide a brief phrase summarizing the form, function and/or subject of the records, without using agency jargon or abbreviations. _____					
<b>5. Record Series Description.</b> Provide a general description of the record series, including its purpose and use. This information should enable someone not familiar with the record series to identify it and understand its contents. Please attach any related forms or other documentation. _____					
<b>6. What is the primary purpose of this record series?</b> <input type="checkbox"/> <i>Administrative</i> <input type="checkbox"/> <i>Legal</i> <input type="checkbox"/> <i>Fiscal</i>  Is this record series subject to audit? <input type="checkbox"/> <i>Yes</i> <input type="checkbox"/> <i>No</i>  List any federal, state, or local statutes, laws, ordinances, rules or other legal or regulatory requirements specifically relating to this record series. Please attach copies, if available. _____					
<b>Agency Recommended Retention</b>					
<b>7. Based on your agency's knowledge of the record series and its function, what is your agency's recommended retention period?</b> Record Copy: _____ Duplicate Copies: _____					
<b>Agency Authorization</b>					
<b>8. Authorized by:</b> _____ <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; border: none;">Signature</td> <td style="width: 33%; border: none;">Title</td> <td style="width: 33%; border: none;">Date</td> </tr> </table>			Signature	Title	Date
Signature	Title	Date			
PLEASE SUBMIT TO:    Florida Department of State State Library and Archives of Florida Mail Station 9A Tallahassee, Florida 32399-0250					
Please note that this is a retention schedule request and that the schedule is not available for use until reviewed and approved by the Department of State. You will be notified when this review is complete.					



**APPENDIX E**

**Completing the *Request for Records Retention Schedule* Form LS5E-105REff.2-09**

The *Request for Records Retention Schedule* is a two-page form. Agencies will complete and submit Page 1, available on our website at [info.florida.gov/records-management/forms-and-publications/](http://info.florida.gov/records-management/forms-and-publications/). The Records Management Program will complete Page 2 as part of the Program's approval process.

**STEP 1. NEW OR EXISTING SCHEDULE**

In the upper right corner of Page 1, indicate if the proposed schedule is a new schedule or a revision to an existing schedule. If a revision to an existing schedule, indicate the existing schedule number.

**STEP 2. AGENCY INFORMATION**

In Sections 1-3, identify the agency, the custodian of the record series (name and telephone number) and the contact person or RMLO (name, telephone number, email and mailing address). The contact person should be the individual most familiar with the record series being scheduled and is often the person completing the form.

**STEP 3. RECORD SERIES INFORMATION**

In Section 4, enter the title of the record series. The title should be a brief phrase summarizing the form, function and/or subject of the records without using agency jargon or abbreviations (see above under [Inventory Procedures](#)).

In Section 5, enter a description of the record series indicating the purpose and use of the records, the type(s) of information or subject matter the records contain, if the record series is considered a vital record in your agency (vital records are those that are essential to the continuation of operations in an agency in the event of a disaster or emergency) and any other information that would enable someone not familiar with the record series to identify it and understand its contents and use.

In Section 6, indicate the primary purpose of the record series:

- **Administrative value** reflects use for general office operations and activities.
- **Legal value** means that the records may be used in or are often subject to litigation; or a specific state or federal law (such as statute of limitations) regulates the length of retention; or the records are significant documentation of the legal rights or responsibilities of government or citizens.
- **Fiscal value** indicates that the records are needed for financial audit and/or to document financial transactions of the agency such as budgets, payrolls, procurements or payments.

Also, in Section 6, indicate if the record series is subject to audit in your agency. Agencies need to be aware of any audit requirements relating to such records. See [Final Disposition of Public Records](#), subsection (2)(d) for information regarding audits.

Finally, in Section 6, list and/or attach copies of any applicable local, state or federal statutes, rules, regulations, ordinances, policies, etc., relating to creation or retention of the records. Reference to specific sections of statutes or rules will expedite the Records Management Program's review and approval of your retention schedule and will serve as supporting documentation should your agency's authority to dispose of the records ever be questioned.

**STEP 4. RECOMMENDED RETENTION PERIOD**

In Section 7, indicate your agency's recommended retention for both the record copy and for duplicates, based on your familiarity with the record series and its function in your office. This should be the MINIMUM length of time the record series must be retained to meet all administrative, legal and fiscal requirements (as discussed

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above) before it is eligible for disposition. A fourth value, historical/archival value, will be reviewed and evaluated by the State Archives staff in consultation with your agency.

The recommended retention is for the information contained in the records, regardless of whether the records are kept in paper, electronic, microfilm or some other format. Retention is based on the nature, content and purpose of the records and not their physical format.

**STEP 5. AUTHORIZATION**

Section 8 is for the signature of the records custodian or their designee. This person might be the RMLO or some other person with authority to approve disposition of the agency's records. The form will not be processed without this signed authorization.

**STEP 6. SUBMIT THE REQUEST**

When you submit your *Request for Records Retention Schedule* to the Records Management Program, a records analyst will review the submitted information and the recommended retention schedule for compliance with legal requirements and/or any administrative or fiscal value the records might have. The analyst will also review established retention schedules for similar records from other agencies for consistency with existing retention practices. In many cases, the analyst will contact the agency for additional information or clarification.

An archivist from the State Archives will then review the schedule to determine if the records might have **long-term historical or archival value**. This helps to ensure the preservation of significant and unique records documenting the operation of government and the history of Florida and Floridians and thereby to protect the rights and interests of the citizens of the state. If the records are determined to be archival or potentially archival, the descriptive language will indicate this in the final, approved retention schedule. In the event that state government records are of archival value, the records should be transferred to the State Archives of Florida once all retention requirements have been met or, for records scheduled as permanent, once they are no longer in active agency use. Local government records having archival value may be transferred to local government historical records repositories or loaned to other local historical records repositories for preservation, provided they are maintained under the public records access provisions of Chapter 119, *Florida Statutes*. Only a very small percentage of an agency's records are generally targeted for transfer to an archives.

**STEP 7. OFFICIAL RECORDS RETENTION SCHEDULE**

Finally, the analyst will complete Page 2, which serves as the official retention schedule. This page includes the schedule number and the final record series title, description and retention requirements, and signatures of authorized division staff and managers. The Records Management Program will retain the original signed schedule and will provide a copy to the originating agency.

Should the analyst determine that the records covered by the requested schedule are already covered under an existing retention schedule, or should the analyst be unable to get sufficient explanatory information or justification for the schedule from the originating agency, the analyst will disapprove the request and will return a copy of the disapproved request to the agency.

Questions regarding the completion of the *Request for Records Retention Schedule* should be addressed to the Records Management Program at 850.245.6750 or [recmgt@dos.myflorida.com](mailto:recmgt@dos.myflorida.com).

## APPENDIX F

***This is the Department of State's internal records management policy and is provided as an example. This is not a statewide policy and applies only to the Florida Department of State.***

### **Department of State Records Management and Public Records Request Policy**

#### 1. Introduction

The records that Florida's state and local government agencies keep in the course of carrying out their duties and responsibilities are public records. Public records are different from records of businesses and private organizations because Florida law requires public records to be readily accessible and available to the public upon request. All employees must ensure that public records in their custody are maintained and accessible as required by Florida law. Employees and agencies do not have the authority to withhold records deemed "sensitive." The only records that can be withheld from public disclosure are those specifically designated by the Florida Statutes as confidential or exempt. This policy will provide employees with the information necessary to understand and carry out their public records responsibilities.

#### 2. Purpose

The purpose of this policy is to provide Department of State employees with the information and procedures necessary to understand and carry out their responsibilities under the Florida Public Records Law, including:

- a. The requirements for managing Department of State public records, and
- b. The manner in which public records requests are to be processed to ensure that responses to the requests are organized, inclusive, and in compliance with applicable statutes and rules.

#### 3. Scope

This policy applies to all Department of State employees, as well as publicly created advisory boards and private organizations (such as Citizen Support Organizations), that have been delegated the authority to perform some governmental function. This policy applies to all public records of the Department of State, regardless of the medium in which they exist (i.e., paper, electronic, or other).

#### 4. Policy

It is the Department of State's policy to ensure that public records in the Department's custody are maintained and managed as required by the Florida Public Records Law. This law provides that all materials made or received by Florida's state and local government agencies in connection with their official business are public records.

It is also the policy of the Department of State to ensure that all public records in its custody that are not exempt or confidential are open for inspection and copying by any person, for any reason, at any reasonable time, under reasonable conditions, as required by the Florida Public Records Law. Requested public records may not be withheld for any reason, except if the record or a portion of the record is specifically designated under law as confidential or exempt from public disclosure.

## Managing Florida's Public Records

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The Department of State places a high priority on efficient, effective, and economical management of public records to ensure that information is available when and where it is needed, in an organized and efficient manner, and in an appropriate environment.

#### 5. Authority

- a. Sections 257.36(5)(b) and (6), 119.07, 119.011(12), and 119.021, *Florida Statutes*.
- b. Rules 1-2.0031, 1B-24, 1B-26.003, and 1B-26.0021, *Florida Administrative Code*.

#### 6. Definitions

- a. "Confidential" means public records that have been identified in the *Florida Statutes* as confidential. The information in these records is not subject to inspection by the public and may be released only to the persons and entities designated in the statute.
- b. "Department of State Individual Records Retention Schedule" means individual retention schedules for records that are unique to the Department of State. The Department of State individual records retention schedules are available on the Department's Intranet at <http://dosintraweb/index.html>.
- c. "Exempt" means public records that have been identified in Chapter 119 or other applicable Florida Statutes as exempt from public disclosure.
- d. "GS1-SL" means the *General Records Schedule GS1-SL for State and Local Government Agencies*, which is available at [info.florida.gov/records-management/general-records-schedules/](http://info.florida.gov/records-management/general-records-schedules/).
- e. "Inactive Records" means records which have lost some of their value or have been superseded by new records, but have not reached their specified retention. Records that are referenced less than once per month are usually considered inactive.
- f. "Public record" as defined by section 119.011(12), *Florida Statutes*, means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
- g. "Record (Master) Copy" as defined in Rule 1B-24.001(3)(j), *Florida Administrative Code*, means the public records specifically designated by the custodian as the official record.
- h. "Record Series" as defined in Rule 1B-24.001(3)(k), *Florida Administrative Code*, means a group of related documents arranged under a single filing arrangement or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common characteristics.

#### 7. Procedures

- a. Records Management: Records management entails retention, storage, disposition, and all other record-keeping requirements and practices that support Department programs, activities, operations, and accomplishments in order to best serve the public.
  - i. Organization and Maintenance:

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1. Public records shall be organized, arranged, and maintained using a filing or record-keeping system that:
    - Is appropriate to the nature, purpose, and use of the records.
    - Can be easily understood by all users.
    - Facilitates the location of and access to those records by all users, when and where it is needed.
  2. All records shall be stored on an appropriate media format to ensure their preservation for the entire length of their required retention.
  3. Inactive records can be boxed until the applicable retention period has been met. Records shall be boxed according to the applicable records series to facilitate disposal of the records in a timely manner.
- ii. Inventory: Each division or office in the Department must maintain a current inventory of all record series in their custody or control. The inventory can be in any format at the discretion of each division or office, including, but not limited to, one of the following methods:
1. Document each record series the office maintains in a Microsoft Word document or Excel spreadsheet.
  2. Highlight each applicable records series in the GS1-SL and the individual records schedules.
- iii. Records Retention Schedules: All records created and maintained by the Department must have a records retention schedule approved by the Division of Library and Information Services.

Many of the Department's public records are covered by the *General Records Schedule GS1-SL for State and Local Government Agencies*. The Division of Elections may also use the *General Records Schedule GS3 for Election Records*. The State Library of Florida may also use the *General Records Schedule GS15 for Public Libraries*.

Any records not covered by general records schedules must have an individual records retention schedule. To establish an individual records retention schedule, contact the department Records Management Liaison Officer or your division Records Coordinator (see Section 8) for assistance.

- iv. Disposition: Each division or office in the Department must systematically dispose of public records that have met their retention requirements and are no longer needed.
1. The record holder or custodian must properly document disposition of these records. A records disposition document form is available from the Division of Library and Information Services' Web site at [info.florida.gov/records-management/forms-and-publications/](http://info.florida.gov/records-management/forms-and-publications/).
  2. The Records Management Liaison Officer or Records Coordinator must permanently retain the completed disposition forms.

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3. Records with retention of "retain until obsolete, superseded, or administrative value is lost" (OSA) do not have to be documented when disposed, except for records that have been microfilmed or scanned where the microfilm or electronic version will serve as the record copy.
  4. Records determined by the State Archives of Florida to have archival value shall be transferred to the Archives in accordance with Archives procedures.
  - v. Employment separation: When an employee separates from employment with the Department, that employee's electronic public records, including but not limited to his/her computer user drive and email, shall be transferred to his/her immediate supervisor or the supervisor's designee for appropriate management, retention, and disposition. Hard copy public records shall remain in the program office for appropriate use, retention, and disposition by staff and/or managers of that office.
  - vi. Employee separation within the Office of the Secretary: When a Secretary of State separates, his/her electronic public records shall be transferred to the Assistant Secretary of State or his/her designee.
- b. Public Records Requests:
- i. Request:
    1. A public records request is a request to either inspect or copy, or both, public records pursuant to Chapter 119, *Florida Statutes*.
    2. There is no requirement that the request be made in person or in writing, or be in any particular form.
    3. The person making the request is not required to identify himself/herself, or to provide information about the reason for the request or how the records will be used.
    4. The request must be clear enough to enable the agency to conduct a meaningful search. The agency may ask questions about the request in order to respond to the request fully and in a timely manner.
    5. All requests should be directed to the appropriate division or office, with one exception. **Requests for Division of Elections records should be directed to the Public Information Office in the Office of the Secretary of State.**
    6. Reference requests to the State Archives of Florida are not considered public records requests.
  - ii. Responding to the request:
    1. Upon receipt of a request for public records by email, the Department shall send an acknowledgment of receipt of the request to the requestor via email within two business days. (See sample at Attachment A.) For requests received by any other means, an acknowledgment letter is necessary only if the request cannot be fulfilled within two days.

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2. The Department shall respond to all public records requests in a reasonable time, taking into account the extent and nature of the request. Within five business days of receipt of the request, the Department must take one of the following actions:
  - Send an invoice with a cover letter to the requestor outlining the fees as calculated by section 7.b.iii, "Fees," and the total amount due. (See sample invoice and letter at Attachment B.)
  - Notify the requestor of estimated costs and request payment in advance if the nature or volume of the requested records will require extensive use of information technology resources, extensive clerical or supervisory assistance, or both, in addition to the actual cost of duplication or production.
  - Inform the requestor that the Department is working on their request; give them an estimated time of completion and advise them about any specific circumstances affecting completion of the request.
  - Inform the requestor that the requested materials do not exist or are not in the custody of the Department.
3. Upon receipt of payment, the Department shall provide the requested materials. If for any reason the materials cannot be provided within five business days, the Department shall contact the requestor with an estimated time of completion.
4. Certified Copies of Public Records:
  - Certification Statement: When more than five pages of certified copies are requested, a certification statement may be used, instead of certifying each page. In this statement, which is a cover page for the group of documents, the custodian certifies that the copies provided are true and correct copies of the originals. (See sample certification at Attachment C.)
  - Page Certification: When each page of the record is requested to be certified, the following statement shall be typed on each page, either on the bottom or on the back of the page, depending on where space is available, and signed by the custodian of the records:

I, (insert name, title, and section), Florida Department of State, hereby certify that this is a true and correct copy of the record of the Florida Department of State.  
Certified this (date) day of (month), (year).

\_\_\_\_\_ Signature
5. The Department may not delay production of records. Records must be produced within the time reasonably required to identify, collect, and copy them for the requesting party. The Department must make a good faith effort to satisfy the request promptly, consistent with available resources and other priorities.

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6. The Public Records Law does not require the Department to generate or create records not already in the Department's custody in response to a public records request. Records that are responsive to the public records request that are available as of the date the request is fulfilled must be provided, even if such records did not exist as of the date the request was received.
7. Confidential or exempt records:
  - If the requested records are confidential or exempt from public disclosure by statute, the records may not be disclosed. The Department must inform the requestor that the records are exempt from disclosure and cite the applicable statute establishing the exemption. (See sample letter at Attachment D.)
  - If only part of the record is confidential or exempt, the Department must redact that information and provide the remaining record to the requestor. The most efficient method should be used to redact information. One method of redacting is to black out the exempt information on a copy of the original, photocopying the marked copy, and providing the final photocopy to the requestor. The marked copy may be destroyed. Other methods are acceptable and may be used as long as the confidential or exempt information is not released to the requestor.

For questions or guidance regarding records exempt from disclosure, contact the General Counsel's Office.

8. The office responding to the request shall maintain the request, acknowledgment, response, invoice, materials produced, or a record of what was produced; any related correspondence; and receipt of payment.
9. The Department shall not dispose of requested records for a period of 30 days after the date on which a request for the records was made. This requirement is in addition to, and does not lessen, the obligation of the Department to retain records pursuant to the otherwise required records retention schedules.

iii. Fees

1. Fees may be paid by cash, check, or money order made payable to the Florida Department of State.
2. Copies or certified copies of records shall be furnished upon payment of the fee prescribed by Section 119.07(4), *Florida Statutes*:
  - Up to 15 cents may be charged per one-sided copy of not more than 14 inches by 8<sup>1</sup>/<sub>2</sub> inches.
  - No more than an additional five cents may be charged for each two-sided copy.



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- For all other copies, the actual cost of duplication may be charged.
3. Other costs:
    - \$0.85 for each CD-ROM.
    - \$1.15 for each DVD.
  4. Certified copies of public records shall be furnished upon payment of the fees listed below:
    - Per page certification. A charge of \$1 per page shall be assessed for each individually certified page. (Section 119.07(4), *Florida Statutes*)
    - Certification statement. Charge of \$5 for the certification statement plus any fees for copies calculated under section 2.
    - The Division of Corporations shall furnish certified copies in accordance with sections 608.452 and 620.1109, *Florida Statutes*.
  5. The cost of mailing or shipping the requested material may also be added if the requestor asks that the material be delivered (instead of the requestor picking up the material in person).
  6. If the nature or volume of the public records requested to be inspected or copied is such that it requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel, or both, in addition to the actual cost of duplication, a special service charge may be assessed. This charge shall be reasonable and shall be based on the actual cost incurred for information technology resources and/or the labor cost of the clerical and supervisory personnel providing the service. (Section 119.07(4)(d), *Florida Statutes*)

The requestor shall not be charged for the first 30 minutes expended to fulfil the request; the extensive use charge shall be calculated after the first 30 minutes.
  7. When records can be sent by email, the Department will do so in the interest of efficiency and to minimize costs. In these cases, the Department will charge only for extensive time, if applicable. If the records must be placed on CD, DVD, or other media because they are too voluminous to email or because the requester does not want them sent by email, the costs of the media provided to the requester will be recovered.

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- 8. The wage expense portion of public records special service charges<sup>1</sup> shall be calculated based on the following formulas<sup>2</sup>:

$$\text{Public Records Special Service Charge} = (\text{Hourly Base Rate of Pay} + \text{Hourly Value of Benefits}) \times \text{Number of Hours Worked}$$

$$\text{Hourly Base Rate of Pay} = \frac{\text{Annual Base Rate of Pay (or Monthly Base Rate} \times 12 \text{ or Biweekly Base Rate} \times 26)}{2080 \text{ Hours (\# work hours per year)}}$$

2080 Hours (# work hours per year)

$$\text{Hourly Value of Benefits for Career Service and Select Exempt} = \text{Hourly Base Rate of Pay} \times \text{Benefit Factor}^3$$

- 9. Upon receipt of payment, fees should be processed according to the revenue receipt procedures of the division or forwarded to the Support Services Administrator in the Office of Support Services.
- 10. Notwithstanding what is stated herein, no charges will be assessed against the requestor if the cost of production is less than \$5.00.

8. Records Management Liaison Officer and Records Coordinator

The Department's Records Management Liaison Officer (RMLO) is designated by the Secretary and serves as the department's contact for records management. In addition, each division shall appoint a Records Coordinator who will be the RMLO's records contact for that division. Address all questions, issues, or concerns relating to records in the Department to the RMLO or Records Coordinator. Contact the Secretary of State's Office or the applicable division director's office for current designations or appointments.

9. Violation

Violation of this policy may result in disciplinary action, up to and including termination of employment.

Approved by:

\_\_\_\_\_  
Secretary of State or Designee

\_\_\_\_\_  
Date

<sup>1</sup> This charge is authorized by Section 119.07(4)(d), *Florida Statutes*, and Department of State Rule 1-2.0031(2)(a), *Florida Administrative Code*, which is entitled "Public Records Requests: Special Service Charge."

<sup>2</sup> The first two formulas (for calculation of hourly rates of pay) are derived from DMS Rule 60L-32.002, *Florida Administrative Code*, which is entitled "Computation of Hourly Rate."

<sup>3</sup> The benefit factor (in the third formula) is based on expenditures in the Department's Salary and Benefits appropriation category, and is calculated by dividing the salary expenditures by the benefit expenditures. This factor may be obtained from the Department's Bureau of Planning, Budget and Financial Services.

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Records Management and Public Records Request Policy  
Attachment A

*(Acknowledgement Letter – Use Agency Letterhead or send by email)*

*(Date)*

*(Requestor's Name)*

*(Requestor's Address)*

RE: Acknowledgement of Public Records Request

Dear *(Insert name of requestor)*:

We have received your public records request. Your request will be processed in accordance with the Florida Public Records Law. You will be advised as soon as possible regarding estimated costs. Payment will be due in advance by cash, check, or money order made payable to the Florida Department of State.

If you have any questions, you may contact me at *(insert telephone number)* or by email at *(insert email address)*.

Sincerely,

*(Name)*

*(Title)*

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Attachment B

*(Invoice Cover Letter – Use Agency Letterhead)*

*(Date)*

*(Requestor's Name)*  
*(Requestor)*

RE: Public Records Request

Dear *(Insert name of requestor)*:

Please find enclosed an invoice for your public records request. Upon payment of the invoice amount, we will provide you with copies of the records. Please make your check or money order payable to the Florida Department of State and send it to \_\_\_\_\_.

Please let me know if I may be of further assistance.

Sincerely,

*(Name)*  
*(Title)*

Enclosure

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Records Management and Public Records Request Policy  
Attachment B

*(Use Agency Letterhead)*

**INVOICE**

**INVOICE NO:** *(Insert invoice number)*

**DATE:** *(Insert date)*

To: *(Requestor's Name)*  
*(Requestor's Address)*

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
		SUBTOTAL	
		SHIPPING & HANDLING	
		<b>TOTAL DUE</b>	

Make checks or money orders payable to: Florida Department of State  
If you have any questions concerning this invoice, call: *(Insert name and phone number)*.

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Records Management and Public Records Request Policy  
Attachment C

*(Certification Statement – Use Agency Letterhead)*

*I, (insert name, title, and section), Florida Department of State, hereby certify that the attached are true and correct copies of (insert description of public records, including the number of pages), and that I am the official custodian of the records.*

**CERTIFIED** *this (date) day of (month), (year).*

BY: \_\_\_\_\_

*(Insert name)*

*(Insert title)*

*(Insert section/office and division)*

*Florida Department of State*

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Records Management and Public Records Request Policy  
Attachment D

*(Response Letter for Confidential/Exempt Records – Use Agency Letterhead)*

*(Date)*

*(Requestor's Name)*

*(Requestor's Address)*

RE: Public Records Request

Dear *(Insert name of requestor)*:

Please find enclosed the materials related to your request for public records.

Some of the material contains information that is confidential or exempt from public disclosure in accordance with Florida Statutes. *(Provide the reason and statutory authority for all redactions, e.g., all social security numbers have been redacted per Section 119.071(5)(a)3, Florida Statutes.)*

If you have any questions, you may contact me at *(insert phone number)* or by email at *(insert email address)*.

Sincerely,

*(Name)*

*(Title)*

## APPENDIX G

*This is the Department of State's internal electronic mail policy and is provided as an example. This is not a statewide policy and applies only to the Florida Department of State.*

### Department of State Email Policy Florida Department of State

#### ELECTRONIC MAIL POLICY

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1. Scope

This policy provides guidelines for the management and usage of electronic mail (email) messages as public records within the Florida Department of State ("Department"). This policy applies to the entire Department workforce with access to the Department's email system including all offices, divisions, bureaus, advisory bodies, and contract agents of the Department in the conduct of their official duties as prescribed by law.

This policy does not provide specific procedures for system backups or "archiving" of inactive email. Employees should refer to internal Department operating procedures for this information.

2. Purposes

The purposes of this policy are to:

- a. Ensure that Department employees comply with Florida's Public Records Law, Chapter 119, Florida Statutes, when using the Department's email system;
- b. Ensure that Department employees properly manage and retain email as public records in accordance with applicable records management statutes and rules; and
- c. Ensure proper usage of the Department's email system and that users understand the types of email usage that are considered inappropriate and a violation of this policy.

3. Authority

- a. Chapters 119, 257, and 282, Florida Statutes;
- b. Rules 1B-24 and 60DD-2, Florida Administrative Code.

4. Definition of Email

Email is the electronic transfer of information, typically in the form of electronic messages, memoranda, and attached documents, from a sending party to one or more receiving parties by means of an intermediate telecommunications system.

5. Email as a Public Record

- a. Email which is created or received by a Department employee in connection with the transaction of official business of the Department is considered a public record and is subject to inspection and/or copying in accordance with Chapter 119, Florida Statutes, and is subject to applicable state retention laws and regulations, unless expressly exempted by law.
- b. Emails created or received for personal use are not generally considered public records and do not fall within the definition of public records by virtue of their placement on a government-owned computer system. However, if the Department discovers misuse of the email system, personal emails that are identified as being in violation of Department policy may become public record as part of an investigation.



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- c. The Florida Statutes contain numerous specific exemptions to the access and inspection requirements of the Public Records Law. Employees are responsible for ensuring that electronic public records which are exempt from access or inspection by statute are properly safeguarded.

6. Use of Email System

- a. The Department's email system is to be used to conduct official Department business and is not to be used for any other purpose unless expressly approved by authorized Department officials. Email may be used to communicate with Department staff and with other public and private entities to conduct official Department business.
- b. Incidental, personal use of the email system is permitted; however, the personal use must be brief, must not interfere with the employee's work or the work of others, must not subject the Department to any additional cost, and must not be prohibited by this policy or any federal, state or local law, statute, ordinance, rule or regulation.

7. Prohibited Uses of Email

The Department's email system shall not be used for any unauthorized purpose including, but not limited to:

- a. Sending solicitations including, but not limited to, advertising the sale of goods or services or other commercial activities, which have not been approved by the Department.
- b. Sending copies of documents in violation of copyright laws or licensing agreements.
- c. Sending information or material prohibited or restricted by government security laws or regulations.
- d. Sending information or material which may reflect unfavorably on the Department or adversely affect the Department's ability to carry out its mission.
- e. Sending information or material which may be perceived as representing the Department's official position on any matter when authority to disseminate such information has not been expressly granted.
- f. Sending confidential or proprietary information or data to persons not authorized to receive such information, either within or outside the Department.
- g. Sending messages or requesting information or material that is *fraudulent, harassing, obscene, offensive, discriminatory, lewd, sexually suggestive, sexually explicit, pornographic, intimidating, defamatory, derogatory, violent or which contains profanity or vulgarity*, regardless of intent. Among those which are considered offensive include, but are not limited to, messages containing jokes, slurs, epithets, pictures, caricatures, or other material demonstrating animosity, hatred, disdain or contempt for a person or group of people because of race, color, age, national origin, gender, religious or political beliefs, marital status, disability, sexual orientation or any other classification protected by law.
- h. Sending messages or requesting information reflecting or containing chain letters or any illegal activity, including, but not limited to gambling.
- i. Sending or requesting information or material that proselytizes or promotes a religious or political view, cause, position or action.

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8. No Right of Privacy

Department employees have no right of personal privacy in any material created, stored in, received, or sent over the Department's email system. The Department reserves and may exercise the right, at any time and without prior notice or permission, to intercept, monitor, access, search, retrieve, record, copy, inspect, review, block, delete and/or disclose any material created, stored in, received, or sent over the Department's email system for the purpose of protecting the system from unauthorized or improper use or criminal activity.

9. Retention Requirements for Email

- a. All public records must have an approved retention schedule in place before they can be destroyed or otherwise disposed of. Retention periods are determined by the content, nature and purpose of records, and are set based on their legal, fiscal, administrative and historical values, regardless of their form. Therefore, there is no single retention schedule that would apply across the board to all emails. Email, like other records, irrespective of its form, can have a variety of purposes and relate to a variety of program functions and activities. The retention period of any particular email message will generally be the same as the retention for records in any other form that document the same program function or activity.
- b. Department employees are required to relate each email that is created or received by the employee through the Department's email system to the activity it documents, as well as to other records documenting that activity, and apply the appropriate retention period based on that activity or function. Approved retention schedules for State Government Agencies can be found at [http://dliis.dos.state.fl.us/recordsmgmt/gen\\_records\\_schedules.cfm](http://dliis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm).
- c. It is the responsibility of each Department employee to ensure that email and other public records in their custody are maintained for the required retention period(s). Although the Department routinely backs up its servers, each backup is maintained only briefly for disaster recovery purposes and therefore cannot be regarded as a tool for meeting public records retention requirements.

10. Transitory Messages

Many, though not all, emails fall under the retention schedule for "TRANSITORY MESSAGES" (General Records Schedule GS1-SL for State and Local Government Agencies, Item #146). "Transitory Messages" are messages that do not set policy, establish guidelines or procedures, certify a transaction or become a receipt. For instance, an email message notifying employees of an upcoming meeting would only have value until the meeting has been attended or the employee receiving the message has marked the date and time in the calendar. The informal nature of transitory messages might be compared to a telephone conversation or a conversation in an office hallway. The retention requirements for Transitory Messages is "Retain until obsolete, superseded or administrative value is lost." Therefore, emails that fall into this category can be disposed of at any time once they are no longer needed.

11. Managing Email

Sorting email into appropriate personal folders is a helpful way to manage these records and to ensure that appropriate retention requirements are identified and met. That is, just as file cabinets are set up to house different sets of files and employees know where to file paper records in those files, email files and folders can be set up with the appropriate retention period designated for each of those files and folders. If no retention schedule exists for records relating to a particular activity, then one must be established and that retention schedule would then apply to all documentation of that activity, regardless of form (paper, film, electronic, etc.).

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12. Violations

Violations of this policy may result in disciplinary action, up to and including termination of employment.

APPROVED BY:

*(Original Signature on File)*

Dawn Roberts  
Assistant Secretary of State/Chief of Staff

Date Approved: 4/18/07

This policy amends the Department's Email Policy dated June 30, 2005, to update references to the General Records Schedule in Section 10.

## APPENDIX H

### Professional Organizations

**ARMA International**  
(formerly the Association of Records Managers and Administrators Inc.)  
11880 College Blvd., Suite 450  
Overland Park, Kansas 66210  
Phone: 913.444.9174 / Toll free: 844.565.2120  
Fax: 913.257.3855  
Email: [headquarters@armaintl.org](mailto:headquarters@armaintl.org)  
[arma.org](http://arma.org)

**National Association of Government Archives and Records Administrators (NAGARA)**  
444 N. Capitol Street, NW, Suite 237  
Washington, D.C. 20001  
Phone: 202.508.3800  
Fax: 202.508.3801  
Email: [info@nagara.org](mailto:info@nagara.org)  
[nagara.org](http://nagara.org)

**Association for Information and Image Management (AIIM)**  
1100 Wayne Avenue, Suite 1100  
Silver Spring, Maryland 20910  
Phone: 301.587.8202 / Toll free: 800.477.2446  
Fax: 301.587.2711  
Email: [aiim@aiim.org](mailto:aiim@aiim.org)  
[aiim.org](http://aiim.org)

**Society of American Archivists (SAA)**  
17 North State Street, Suite 1425  
Chicago, Illinois 60602-4061  
Phone: 312.606.0722 / Toll free: 866.722.7858  
Fax: 312.606.0728  
[archivists.org](http://archivists.org)

**Society of Florida Archivists (SFA)**  
Post Office Box 5645  
Tampa, Florida 33675  
Email: [societyoffloridaarchivists@gmail.com](mailto:societyoffloridaarchivists@gmail.com)  
[florida-archivists.org](http://florida-archivists.org)

**Florida Records Management Association (FRMA)**  
5004 E. Fowler Avenue, Suite C-338  
Tampa, Florida 33617  
Email: [frma\\_mail@yahoo.com](mailto:frma_mail@yahoo.com)  
[frma.org](http://frma.org)