FivePaths

Records Retention for Government Agencies

Best Policies/Practices

Overview

Records management is the efficient and systematic control of the creation, receipt, maintenance, use, and disposition of records. Records retention policies (known commonly as records retention and disposition schedules, records retention schedules, records schedules, or simply as schedules) define how long data items must be kept and provide disposal guidelines for how data items should be discarded. Retention policy decisions are based on an agency's specific array of records along with the Agency's determination of risk for each group of records identified. A Records Retention Schedule is a core policy of an overall record management policy.

A "record" is information produced for the purposes of conducting government business regardless of the format the record might take.

Records exist in all types of media. Physical records include papers, maps, blueprints, printed publications, etc. Electronic records include computer files, databases, emails, web pages, texts, social media, etc. Website records include content - such as posts to the site and what users post to the site or send to the Agency through the site (via web forms, for example). Website operations records include website design records, retention policies, copyright information, software application information, and user access documentation.

Risk is determined by looking at threats, visibility, consequences, and sensitivity for each group of records. A threat assessment looks at the possibility of legal action based on the record, the risk of losing vital records, and the inability to find the record should it be requested. Visibility assessed how exposed the information is to the public. Consequences look at the implications for the agency's brand, organization, finances, etc., should there be a problem managing the record. Sensitivity is primarily an analysis of how important the information is to the Agency / how likely it is that the agency will significantly react to a problem managing this information.

Approach

Record determination and retention are based on the content, not the medium. Most government agencies are developing records retention policies that are not specifically focused on the medium (such as web files) but more often focused on the record itself and often how that record is organized within departments of the Agency. Thus the retention policies cover all records. Examples include (pdf/xls links): Alameda County, Los Angeles County, Marin County, and the City of Oakland.

The basic approach starts with researching and identifying existing policies. The core question is - can the Agency simply reference existing policy or adopt an existing policy with minimal changes? There may be some existing policies to review. The County has a policy - can this be referenced by the Agency or adopted with minimal changes?

Should the Agency need to go further, the Agency should review guiding policies as well as models for Document Retention. We have documented International, Federal, State, County, and Local policies for use as guidelines below. After this work, the Agency should complete the inventory of records, determine risks, build the document retention schedule, and assign roles and responsibilities for managing and implementing this policy.

Recommendation

We recommend the Agency follow this approach for determining a records retention policy for the website:

First, the Agency should determine whether existing policy exists to use or adopt.

- Research Agency Record Retention Policy: Does the Agency have an older records retention policy? If so, review this first and determine what needs updating so that the Agency does not redo work unnecessarily.
- Review County Record Retention Policy: Review the County Records Retention Policy and determine how similar the Agency should be to this policy or whether this policy is sufficient for the Agency to be governed by.

If the Agency determines that more document retention policies should be developed, we recommend following these additional steps:

- Review external county and city document retention models to gain insight into how to organize

policy information around records retention.

- Inventory Agency records (website records and all other records in the Agency). Review Federal Archive guidelines for what constitutes a record and how to determine electronic and web records.
- Determine record "risk" for the Agency and the governing policy you are following.
- Develop a records retention schedule - use existing county or city models or the models provided by the RMA at the California State Archives.
- Determine the people and teams responsible for managing and implementing this policy. It should include a centralized body and a representative from each department to ensure records are regularly managed as needed and changes can be surfaced and documented.
- Document this policy online - reference it in a website Terms of Use policy.

Applicable Policy and Standards

The following policy bears directly on Records Retention in Government. The most useful for Alameda CTC is the County Regulation and California State regulation. The Federal regulation has some strong guidelines, cited in a section further below:

- International Standard: ISO 15489 records management standard.

https://committee.iso.org/sites/tc46sc11/home/projects/published/iso-15489-records-management.html

- Federal Standard: The Federal Government provides a number of useful guides for records management and retention, cited further below. https://www.archives.gov/records-mgmt/policy
- California State Regulation: The State Records Management Act (Government Code Sections 12270-12279) directs California's Secretary of State to establish and administer a records management program that applies efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of State records. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.&title=2.&part=2.&chapter=3.&article=7.
- CA County Regulation: California Code 26202 enumerates the County Board of Supervisors and heads of departments of counties (26202.6) power for the disposition or destruction of county documents.

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?
sectionNum=26202.&nodeTreePath=4.2.2.15&lawCode=GOV

- Local Government Records Program (LoCal): Establishes guidelines for local government records retention.

https://www.sos.ca.gov/archives/admin-programs/local-gov-program

- Local Regulation: At the local level, cities are required to retain any record that is less than two years old. Cal. Gov't Code § 34090 GC - https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?
lawCode=GOV&sectionNum=34090

The California Public Records Act requires that government agencies promptly provide open access to unprivileged government records. This is NOT a records retention statute, but focuses on the related issue of how to provide access to records.

- California Public Records Act:

https://www.ftb.ca.gov/your-rights/california-public-records-act.html

- CA Cities Guide to the Public Records Act: The guide provides a useful table for scanning frequently requested records, whether they must be disclosed and what the applicable authority is.

https://www.calcities.org/resource/the-people's-business-a-guide-to-the-california-public-records-act

County and City Document Retention Policies

Here are a few model county and city Document Retention Schedule policies:

- Alameda County: https://www.alamedaca.gov/files/assets/public/departments/alameda/city-clerk/documents/record-retention-schedule.pdf

- LA County:
  http://file.lacounty.gov/SDSInter/bos/supdocs/Records.pdf
- Marin County: https://www.marincounty.org/-/media/files/departments/is/countywiderecordsretentionschedule.pdf
- City of Oakland (xls file):
  https://www.oaklandcityattorney.org/PDFS/Records%20Retention%20Schedule%20-%202003.xls

Templates for Creating a Document Retention Schedule

These are provided by the Records Management and Appraisal (RMA) unit within the California State Archives. They provide a template for organizing an inventory of records along with disposition rules, including details such as the record name, description, media, location, years of records available, how readily available they should be, and more. https://www.sos.ca.gov/archives/records-management-and-appraisal

- Main RMA Records Management Page:
  https://www.sos.ca.gov/archives/records-management-and-appraisal
- Records Inventory Worksheet (STD 70): https://archives.cdn.sos.ca.gov/pdf/calrim-std070-records-inventory.pdf
- Records Retention Schedule Worksheet (STD 73):
  https://archives.cdn.sos.ca.gov/calrim/forms/2018-std073-retention-schedule-page2.xlsx

Guidelines Specific to Document Retention for Electronic Records

These resources comment specifically on how to consider electronic/digital/web records. The overarching principle is that web records do not follow distinctive rules in the governing policy. These resources can help Alameda CTC more quickly evaluate what information online constitutes a record and some management best practices.

- CalRIM Electronic Records Guidebook: CalRIM is a department of the RMA unity within the California State Archives:
  https://archives.cdn.sos.ca.gov/pdf/calrim_e_records_guidebook_full.pdf

- Federal Archive guide for managing web records

https://www.archives.gov/records-mgmt/policy/managing-web-records-index.html

- Federal Archive guide for managing web records - disposition of web records

https://www.archives.gov/records-mgmt/policy/managing-web-records-scheduling.html