

PART ONE

E-Records Concepts

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CHAPTER 1

E-Records Definitions, Business Drivers, and Benefits

First, some basic definitions of core terms used in this text: The International Organization for Standardization (ISO) defines (business) **records** as “information created, received, and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in the transaction of business.”¹ It further defines **records management** as “[the] field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use, and disposition of records, including the processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records.”²

The U.S.-based Association of Records Managers and Administrators (ARMA), defines a record as “evidence of what an organization does. They capture its business activities and transactions, such as contract negotiations, business correspondence, personnel files, and financial statements. . . .”³

Electronic records management (ERM) has moved to the forefront of business issues with the increasing automation of business processes, and the vast growth in the volume of electronic documents and records that organizations create. These factors, coupled with expanded and tightened reporting laws and compliance regulations, have made ERM increasingly essential for most enterprises—especially highly regulated and public ones—over the past decade.

ERM follows generally the same principles as traditional paper-based records management, that is, there are **classification** and **taxonomy** needs to group and organize the records; and there are **retention** and **disposition** schedules to govern the length of time a record is kept, and its ultimate disposition, whether it is destruction, transfer, or long-term archiving. Yet e-records must be handled differently and they contain more detailed data about their contents and characteristics, known as **meta-data**. (This book discusses these detailed topics in more depth in later chapters.)

E-records are also subject to changes in **information technology (IT)** that may make them difficult to retrieve and view and therefore render them obsolete. These issues can be addressed through a sound ERM program that includes **long-term digital preservation (LTDP)** methods and technologies.

ERM is primarily the organization, management, control, monitoring, and auditing of formal business records that exist in electronic form. But automated ERM systems also track paper-based and other physical records. So ERM goes beyond simply managing electronic records; it is *the management of electronic records and the electronic*

E-records management has become much more critical to enterprises with increased compliance legislation and massively increasing volumes of electronic information.

management of nonelectronic records (e.g., paper, CD/DVDs, magnetic tape, audio-visual, and other physical records).

Most electronic records, or “e-records,” originally had an equivalent in paper form, such as memos (now e-mail), accounting documents (e.g., purchase orders, invoices), personnel documents (e.g., job applications, resumes, tax documents), contractual documents, line-of-business documents (e.g., loan applications, insurance claim forms, health records), and required regulatory documents (e.g., material safety data sheets, MSDS). In the past, many of these documents were first archived to microfilm or microform/microfiche, before e-document software began to mature in the 1990s.

Not all documents rise to the level of being declared a formal business record that needs to be retained; that definition depends on the specific regulatory and legal requirements imposed on the organization, and the internal definitions and requirements the organization imposes on itself, through internal **information governance** (IG) measures and business policies. IG *is the policies, processes, and technologies used to manage and control information throughout the enterprise to meet internal business requirements and external legal and compliance demands.*

ERM is a component of enterprise content management (ECM), just as document management, web content management, digital asset management, enterprise report management, and several other technology sets. ECM encompasses *all* an organization’s unstructured digital content, (which means it excludes structured data i.e., databases). ECM includes the vast majority—over 90 percent—of an organization’s overall information, which must be governed and managed.

ERM extends ECM to provide control and to manage records through their life-cycle—from creation to archiving or destruction. ERM is used to complete the life-cycle management of information, documents, and records.

ERM adds the functionality to complete the management of information and records by applying business rules to manage the maintenance, security, integrity and disposition of records. Both ERM and ECM systems will aid in locating and managing the records and information needed to conduct business efficiently, to comply with legal and regulatory requirements, and effectively destroy (paper) and delete (digital) records that have met their retention policy timeframe requirement, freeing up valuable space, physical and digital, and eliminating records that could be a liability if kept.

E-records management follows the same basic principles as paper-based records management.

E-records management includes the management of electronic and nonelectronic records, like paper and other physical records.

Records Management Business Rationale

Historically, highly regulated industries, such as banking, energy, and pharmaceuticals, have had the greatest need to implement records management programs, due to their compliance and reporting requirements.⁴ However, over the past decade or so, increased regulation and changes to legal statutes and rules have made records management a business necessity for nearly every enterprise (beyond very small businesses).

Notable industry drivers include:

- **Increased government oversight and industry regulation.** It is a fact that government regulations that require greater reporting and accountability were early business drivers that fueled the implementation of formal records management programs. This is true at the federal and state or provincial level. There are a number of laws and regulations related to records management that have been added in the past 10 to 15 years. In the United States, the Sarbanes-Oxley Act of 2002 (SOX) created and enhanced standards of financial reporting and transparency for the boards and executive management of public corporations and accounting firms. It also addressed auditor independence and corporate governance concerns. SOX imposes fines or imprisonment penalties for noncompliance, and requires that senior officers sign off on the veracity of financial statements. It states clearly that pertinent business records cannot be destroyed during litigation or compliance investigations. Since SOX, other countries, such as Japan, Australia, Germany, France, and India, have adopted stricter “SOX-like” governance and financial reporting standards.
- **Changes in legal procedures and requirements during civil litigation.** In 2006, the need to amend the U.S. Federal Rules of Civil Procedure (FRCP) to contain specific rules for handling electronically generated evidence was addressed. The changes included processes and requirements for legal discovery of electronically stored information (ESI) during civil litigation. *Today, e-mail is the leading form of evidence requested in civil trials.* The changes to the U.S. FRCP had a pervasive impact on American enterprises and required them to gain control over their ESI and implement formal records management and electronic discovery (“e-discovery”) programs to meet new requirements. Although they have been ahead of the U.S. in their development and maturity of records management practices, Canadian, British, and Australian law is closely tracking that of the United States in legal discovery. The U.S. is simply a more litigious society so this is not unexpected.
- **Information governance awareness.** *IG, in short, is the set of rules, policies, and business processes used to manage and control the totality of an organization’s information.* Monitoring technologies are required to enforce and audit IG compliance. Beginning with major legislation like SOX in 2002, and continuing

A number of factors provide the business rationale for ERM, including facilitating compliance, supporting information governance (IG), and providing **backup** capabilities in the event of a disaster.

with the massive U.S. FRCP changes in 2006, enterprises have become more “IG aware” and have ramped up efforts to control, manage, and secure their information. *A significant component of any IG program is implementing a records management program that specifies the retention periods and disposition (e.g., destruction, transfer, archive) of formal business records.* This, for instance, allows enterprises to destroy records once their required retention period (based on external regulations, legal requirements, and internal IG policies) has been met, and allows the enterprise to legally destroy records with no negative impact or lingering liability.

- **Business continuity concerns.** In the face of real disasters, such as the 9/11 terrorist attacks, Hurricane Katrina, and in 2012, Superstorm Sandy, executives now realize that disaster recovery and business resumption is something they must plan and prepare for. Disasters really happen and businesses do fail if they are not well-prepared. The focus is on **vital records** (more details on this topic in subsequent chapters), which are necessary to resume operations in the event of a disaster, and managing vital records is a part of an overall records management program.

Why Is Records Management So Challenging?

With these business environment, regulatory, legal, and IG influences and changes comes increased attention to records management as a driver for **corporate compliance**. For most organizations, a lack of defined policies and the enormous and growing volumes of e-documents (e.g., e-mail messages) make implementing a formal records management program challenging and costly. Some reasons for this include:

- **Changing and increasing regulations.** Just when records and compliance managers have sorted through the compliance requirements of federal regulations, new ones at the state or provincial level are created or tightened down.
- **Maturing information governance requirements within the organization.** As senior managers become increasingly aware of information governance—the rules, policies, and processes that control and manage information—they promulgate more reporting and auditing requirements for the management of formal business records.
- **Managing multiple retention and disposition schedules.** Depending on the type of record, retention requirements vary, and they may vary for the same type of record based on state and federal regulations. Further, internal information governance policies may extend retention periods and may fluctuate with management changes.⁵

Implementing ERM is challenging because it requires user support and compliance, adherence to changing laws, and support for new information delivery platforms like mobile and cloud computing.

- **Compliance costs and requirements with limited staff.** Records management and compliance departments are notoriously understaffed, since they do not generate revenue. Departments responsible for executing and proving compliance with new and increasing regulatory requirements must do so expeditiously, often with only skeletal staffs. This leads to expensive outsourcing solutions, or staff increases. The cost of compliance must be balanced with the risk of maintaining a minimum level of compliance.
- **Changing information delivery platforms.** With cloud computing, mobile computing, Web 2.0, social media and other changes to information delivery and storage platforms, records and compliance managers must stay apprised of the latest information technology trends and provide records on multiple platforms – while maintaining the security and integrity of organizational records.
- **Security concerns.** Protecting and preserving corporate records is of paramount importance, yet users must have reasonable access to “official” records to conduct everyday business. “Organizations are struggling to balance the need to provide accessibility to critical corporate information with the need to protect the integrity of corporate records.”⁶
- **Dependence on the information technology (IT) department or provider.** Since tracking and auditing use of formal business records requires IT, and records and compliance departments are typically understaffed, they must rely on assistance from their IT department or outsourced IT provider—which often do not have the same perspective and priorities as the departments they serve.
- **User assistance and compliance.** Users often “go their own way” with regard to records, ignoring directives from records managers to stop storing “shadow” files of records on their desktop (for their own convenience), and inconsistently following directives to classify records as they are created. Getting users across a range of departments in the enterprise to comply uniformly with records and compliance requirements is a daunting and unending task that requires constant attention and reinforcement.⁷ But it can be done through methodical steps.

Benefits of Electronic Records Management

There are a number of business drivers and benefits that combine to create a strong case for implementing an enterprise ERM program. Most are tactical, such as cost savings, time savings, and building space savings. *But some drivers can be thought of as strategic*, in that they proactively give the enterprise an advantage. One example may be the advantages gained in litigation by having more control and ready access to complete business records, which yields more accurate results, and more time for corporate attorneys to develop strategies—while the opposition is wading through reams of

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information, never knowing if they have found the complete set of records they need. Another example of a strategic benefit is more complete and better information for managers to base decisions upon.

Implementing ERM represents a significant investment. *An investment in ERM is an investment in business process automation and yields document control, document integrity, and security benefits.* The volume of records in organizations has often exceeded the employees' ability to manage them. ERM systems do for the information age what the assembly line did for the industrial age. The cost/benefit justification for ERM is sometimes difficult to determine, although there are real labor and cost savings. Also, many of the benefits are intangible or difficult to calculate, but help to justify the capital investment. There are many ways in which an organization can gain significant business benefits with ERM.

More detail on business benefits is provided in Chapter 20, Building the Business Case, but hard, calculable benefits (when compared to storing paper files) include office space savings, office supplies savings, cutting wasted search time, and reduced office automation costs (e.g., fewer printers, copiers, cutting automated filing cabinets).

In addition, implementing ERM will provide the organization with improved capabilities for enforcing IG over business documents and records, and improved, more complete, and more accurate searches; improved knowledge worker productivity; reduced risk of compliance actions or legal consequences; improved records security; improved ability to demonstrate legally defensible records management practices; and increased working confidence in making searches, which should improve decision-making.

Additional Intangible Benefits

The U.S. Environmental Protection Agency (EPA), a pioneer and leader in e-records implementation in the federal sector, lists some additional benefits⁸ of implementing ERM:

1. **To Control the Creation and Growth of Records.** Despite decades of using various nonpaper storage media, the amount of paper in our offices continues to escalate. An effective records management program addresses both creation control (limits the generation of

ERM benefits are both tangible and intangible or difficult to calculate.

Improved professionalism, preserving corporate memory, and support for better decision-making are key intangible benefits of ERM.

- records or copies not required to operate the business) and records retention (a system for destroying useless records or retiring inactive records), thus stabilizing the growth of records in all formats.
2. **To Assimilate New Records Management Technologies.** A good records management program provides an organization with the capability to assimilate new technologies and take advantage of their many benefits. Investments in new computer systems don't solve filing problems unless current manual recordkeeping systems are analyzed (and occasionally, overhauled) before automation is applied.
 3. **To Safeguard Vital Information.** Every organization, public or private, needs a comprehensive program for protecting its vital records and information from catastrophe or disaster, because every organization is vulnerable to loss. Operated as part of the overall records management program, vital records programs preserve the integrity and confidentiality of the most important records and safeguard the vital information assets according to a "Plan" to protect the records.
 4. **To Preserve the Corporate Memory.** An organization's files contain its institutional memory, an irreplaceable asset that is often overlooked. Every business day, you create the records that could become background data for future management decisions and planning. These records document the activities of the Agency that future scholars may use to research the workings of the Environmental Protection Agency.
 5. **To Foster Professionalism in Running the Business.** A business office with files askew, stacked on top of file cabinets and in boxes everywhere, creates a poor working environment. The perceptions of customers and the public, and "image" and "morale" of the staff, though hard to quantify in cost-benefit terms, may be among the best reasons to establish a good records management program.⁹

So there are a variety of tangible and intangible benefits derived from ERM programs, yet the business rationale that fits for your organization depends on its specific needs and business objectives.

CHAPTER SUMMARY: KEY POINTS

- According to ISO, a record is "information created, received, and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in the transaction of business."¹⁰

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- Records management is “[the] field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use, and disposition of records, including the processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records.”¹¹
- Electronic records management (ERM) includes the management of electronic and nonelectronic records, like paper and other physical records.
- ERM has become much more critical to enterprises with increased compliance legislation and massively increasing volumes of electronic information.
- ERM follows the same basic principles as paper-based records management.
- A number of factors provide the business rationale for ERM, including facilitating compliance, supporting information governance (IG), and providing backup capabilities in the event of a disaster.
- Implementing ERM is challenging since it requires user support and compliance, adherence to changing laws, and support for new information delivery platforms like mobile and cloud computing.
- ERM benefits are both tangible and intangible or difficult to calculate. Tangible benefits include space savings, office automation and supplies savings, and search time reduction.
- Improved professionalism, preserving corporate memory, support for better decision-making, and safeguarding vital records are key intangible benefits of ERM.

Notes

1. International Organization for Standardization, “Information and Documentation—Records Management. Part 1: General,” ISO 15489-1:2001 section 3.15 (Geneva: ISO, 2001).
2. International Organization for Standardization, “Information and Documentation—Records Management. Part 1: General,” ISO 15489-1:2001, section 3.16 (Geneva: ISO, 2011).
3. ARMA.org, “What Is Records Management?” 2009, www.arma.org/pdf/WhatIsRIM.pdf.
4. www.microsoft.com/en-us/download/details.aspx?id=15932, “Records Management with Office SharePoint Server,” Microsoft White Paper, 2007. Used with permission from Microsoft.
5. Ibid.
6. Ibid.
7. “Records Management with Office SharePoint Server.”
8. EPA, “Why Records Management? Ten Business Reasons,” updated March 8, 2012, www.epa.gov/records/what/quest1.htm.
9. Ibid.
10. International Organization for Standardization, “Information and Documentation—Records Management. Part 1: General,” ISO 15489-1:2001, section 3.15 (Geneva: ISO, 2001).
11. International Organization for Standardization, “Information and Documentation—Records Management. Part 1: General,” ISO 15489-1:2001, section 3.16 (Geneva: ISO, 2011).