



**Electronic Records**

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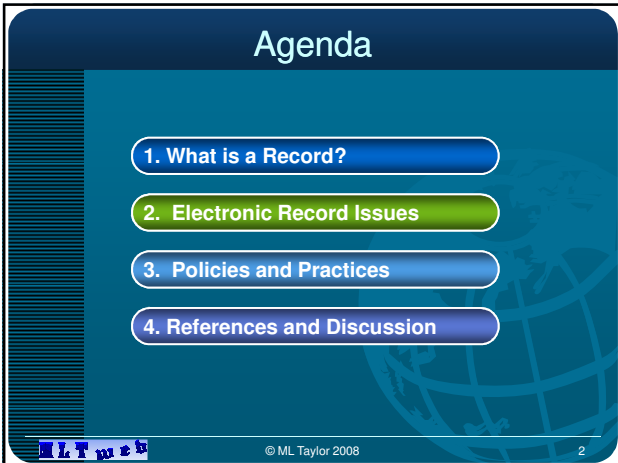
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**Agenda**

1. What is a Record?
2. Electronic Record Issues
3. Policies and Practices
4. References and Discussion

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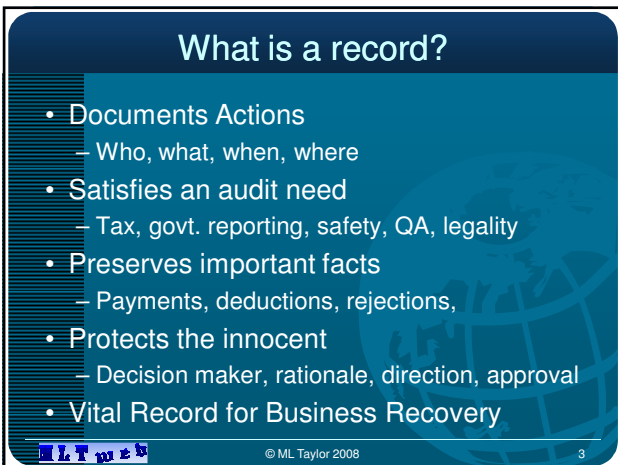
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**What is a record?**

- Documents Actions
  - Who, what, when, where
- Satisfies an audit need
  - Tax, govt. reporting, safety, QA, legality
- Preserves important facts
  - Payments, deductions, rejections,
- Protects the innocent
  - Decision maker, rationale, direction, approval
- Vital Record for Business Recovery

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### Salient Issues

- Meeting Record Storage Requirements
  - Searching, versioning,
- Meeting Business needs for information availability
  - Native files vs PDF vs System unique documents (eg SAP)
- Meeting Legal Requirements
  - Authenticity, change control,

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### Essential "Recordness"

- Secure from change
- Authentic
- Recoverable
- Version control
- Retention Policy

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### example

- A pump purchased for the Hanford site, cost charged to the Department of Energy. Government DCAA auditor is verifying the transaction.
  - Purchase was made in my electronic contract system – there is no paper purchase order
  - Invoice scanned on receipt, approved electronically and sent to electronic record storage system – no paper copy kept
  - Correspondence is primarily email

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[www.digitalarchives.wa.gov/Content.aspx?txt=legal](http://www.digitalarchives.wa.gov/Content.aspx?txt=legal)

Washington State Digital Archives

Home > Legal Aspects of Electronic Records

**Legal Aspects of Electronic Records - Q&A**

**Aren't electronic records different from paper records?**

**No. Although physically different, Washington State law makes no legal distinction between paper records and electronic records.**

Chapter 40.14 RCW (which governs the retention, destruction and long-term archival preservation of public records) makes no distinction between "paper records" and "electronic records." Both are subject to the laws and regulations governing records retention periods, and the potential destruction or long-term archival preservation of such records.

RCW 40.14.010 defines a "public records" as "...any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100."

Chapter 42.17 RCW (the Public Disclosure Act) also makes no distinction "paper records" and "electronic records." Both are subject to regulations governing the disclosure of public records.

RCW 42.17.020(36) defines a "public record" as "...any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics..."

The Office of the Attorney General [Open Government Internet Deskbook, Chapter One](#), provides excellent guidance in determining what is a public record.

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## Issues

- E-commerce data
  - Who owns the record and the rights to it
- Meta Data
- Ambiguity
- Sox
  - Management intent, policy, common practices
- Privacy

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## Record Pitfalls

- Fraud, deliberate omissions,
- Collusion
- "Inflammatory" Language
- Security
- Inconsistent retention policy
- Location, Location, Location

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### Scenarios

- Disgruntled employee
- Computer Glitch
- Natural Disaster
- Government

**Files are lost or destroyed**  
**Files are scrambled / changed**  
**Files are made public**  
**Files are sold to the highest bidder**  
**Files come back to haunt you**

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### Retention Policy

- Definition, location & storage process
- Archiving and long-term retainage
- Recovery plan
- Retirement plan

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### Google Search

- NARA
- "Digital Signature Act"
- "E-Discovery"
- "record management"

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[www.archives.gov/era/index.html](http://www.archives.gov/era/index.html)

**Electronic Records Archives (ERA)**



ERA is the National Archives and Records Administration's strategic initiative to preserve and provide long-term access to uniquely valuable electronic records of the U.S. Government, and to transition government-wide management of the lifecycle of all records into the realm of e-government.

[www.archives.gov/records-mgmt/initiatives/erm-guidance.html](http://www.archives.gov/records-mgmt/initiatives/erm-guidance.html)

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GAO United States General Accounting Office  
Report to the Chairman, Committee on Governmental Affairs, U.S. Senate

May 1992

**DOE MANAGEMENT**

**Better Planning Needed to Correct Records Management Problems**

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[www.archives.gov/records-mgmt/initiatives/erm-guidance.html](http://www.archives.gov/records-mgmt/initiatives/erm-guidance.html)

**Guidance for Building an Effective Enterprise-wide Electronic Records Management (ERM) Governance Structure**  
Defines governance and its importance to the success of IT, the purpose and function of that governance, how project-specific governance (such as those instituted for enterprise-wide ERM) fits within and alongside other established governance structures, and the risks attendant in the absence of good governance.  
<http://www.archives.gov/records-mgmt/policy/governance-guidance.html>

**Recommended Practice: Evaluating Commercial Off-the-Shelf (COTS) Electronic Records Management (ERM) Applications**  
Summarizes the Environmental Protection Agency's (EPA) experience identifying the COTS products that would best meet the needs of agency staff for both Electronic Document Management (EDM) and Electronic Records Management (ERM).  
<http://www.archives.gov/records-mgmt/policy/cots-eval-guidance.html>

**Guidance for Coordinating the Evaluation of Capital Planning and Investment Control (CPIC) Proposals for ERM Applications**  
Provides a set of decision points to help determine if office-specific ERM systems should be funded independently or integrated with an agency's enterprise-wide ERM system.  
<http://www.archives.gov/records-mgmt/policy/cpic-guidance.html>

**Electronic Records Management Guidance on Methodology for**

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