



Tuesday, October 26
4:30pm-6:00pm

810 - New Insights in Record Management Compliance

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Stratify, Inc. - an Iron Mountain Company

Faculty Biographies

Robert Feldman, Esq.

Robert N. Feldman is the senior legal counsel for litigation at Citrix Systems, Inc. Citrix is a leading provider of virtualization, networking and cloud computing solutions for more than 230,000 organizations worldwide. As Citrix's chief litigation counsel, Mr. Feldman oversees all company litigation and dispute resolution. He currently manages several large patent litigations, along with various other commercial disputes in various jurisdictions. Mr. Feldman's other responsibilities at Citrix include employment, compliance and electronic records and electronic discovery management.

Prior to joining Citrix, he practiced as business and intellectual property litigator, first at the Boston law firm, Testa, Hurwitz & Thibault, LLP, and then as a founding partner at Birnbaum & Godkin, LLP. During his years in private practice, Mr. Feldman litigated dozens of large litigations on behalf of large and small technology clients. Prior to leaving private practice, he secured a six-figure sanction award against the opposing party resulting from an e-discovery dispute.

Over the last ten years, through pro bono efforts, Mr. Feldman helped free four wrongly-convicted individuals by using DNA testing to prove their innocence.

Mr. Feldman earned his law degree from The George Washington University Law School and his undergraduate degree from the University of Massachusetts at Amherst.

Christopher Mirabile

Christopher Mirabile is managing director and general counsel of Race Point Capital Fund LLC, a venture investment fund focused on seed and early-stage investments in the high technology and green technology areas.

Mr. Mirabile is the former CFO and general counsel of IONA Technologies PLC, a Nasdaq-listed provider of enterprise infrastructure software to Global 1000 companies. Before joining IONA, Mr. Mirabile was a member of the corporate department of Testa, Hurwitz & Thibault, LLP, where he represented venture capital and private equity funds on investments and fund formation, as well as privately- and publicly-owned companies in fund-raising, corporate and securities law, public and private securities offerings, investments and mergers and acquisitions. While at Testa, Hurwitz, Mr. Mirabile represented IONA in its initial public offering. Prior to obtaining his law degree, he was a management consultant with Price Waterhouse's Strategic Consulting Group.

Mr. Mirabile is a member of the board of directors of Boston World Partnerships, an executive-in-residence at Northeastern University's College of Business and the President of ACC's Northeast Chapter. Mr. Mirabile was honored as one of the 2007 "In-House Leaders" in the Northeast by the editors of New England In-House Magazine. He is a

member of Boston College Law School's Business Advisory Council; an advisory board member of the Boston University School of Management Executive Business Education for Lawyers; and an editorial board member of New England In-House Magazine.

Mr. Mirabile earned his JD from Boston College Law School and his BA, with honors, from Colgate University.

Stephen Whetstone

Stratify, Inc. - an Iron Mountain Company

LITIGATION & COMPLIANCE



New Insights into Records Management Compliance

October 26, 2010

Speakers

Stephen D. Whetstone, Esq., General Manager
Iron Mountain Legal Discovery

Christopher Mirabile, Esq., Managing Director & General Counsel
Race Point Capital Group LLC

Robert Feldman, Esq., Senior Litigation Counsel
Citrix Systems, Inc.

Brian Wycliff, Principal
PricewaterhouseCoopers Forensic Technology Solutions

Agenda

- The Benchmark Report Survey Process
- New Insights for General Counsel
- Five Records Management Best Practice Areas
- Panel Discussion
- Audience Q & A

The Benchmark Report Survey Process

- Large-scale, cross-industry study
- Input from 3500 General Counsel, CIOs, Records Managers, etc.
- Top represented industries include:
 - Financial Services/Banking
 - Legal Services
 - Manufacturing
 - Healthcare Providers
 - Insurance

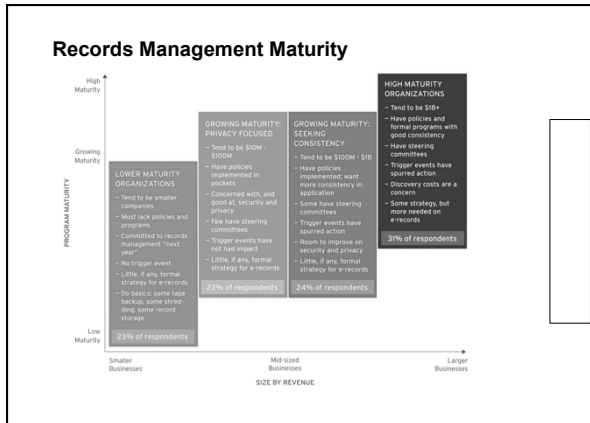
The "Health Scale" Rating System

- Standardized five-point scale with "1" being "Undetermined" and "5" being "Optimal"
- Designed to evaluate performance in a Best Practice area
- Average health score was a 3.5



SECTION 1

New Insights for General Counsel



Litigation Concerns are Growing

- **1 in 4** companies with over a billion in revenue say stricter regulations raise their concerns over increased litigation.*
- **22%** of companies with over a billion in revenue spend more than \$10 million/year on litigation (net of settlements costs).*
- **40%** of companies with over a billion in revenue have targeted electronic discovery for increased spending.

**Fulbright & Jaworski's Seventh Annual Litigation Trends Survey*

Here's Why: Electronically Stored Data is an Achilles Heel

- **13%** of all organizations manage electronically stored information (ESI) in accordance with a retention schedule.
- **27%** have established procedures for discovery.
- **52%** still struggle with the FRCP ESI provisions.
- **66%** have no formal methods for accessing and managing ESI for discovery purposes.

Warning: ESI May Be Hazardous to General Counsel's Health

Complexity and Stress:

- Increasing data volumes, file types and languages
- More lawsuits and investigations seeking ESI
- New technologies decisions (e.g., "cloud" vs. in-house)

Increased Risk:

- Greater chance of missing critical, relevant data
- Gap between stated policies and actual practices
- Errors can lead to \$ sanctions and adverse decisions

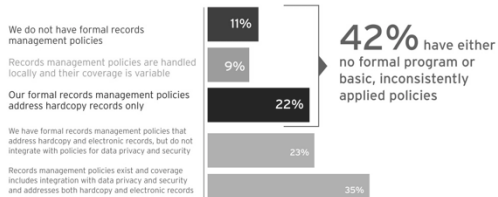
Higher Costs:

- Inefficient ESI practices hamper worker productivity
- More data x more law suits = soaring litigation costs
- Despite economy, outside counsel fees continue to rise

SECTION 2

Five Records Management Best Practice Areas

Policies and Procedures



Policies and Procedures: General Counsel Truth or Dare?

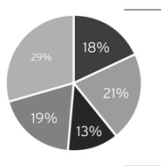
Why can't I just take a model records and information management policy and have my CIO implement it?

Our policy is to destroy all email after 90 days – regardless of content. That way, if we're ever challenged, we can show we operated without any bias or intent.

We've had a records management policy in place for more than a decade... so, we're OK, right?

Retention

- No records retention schedule
- Hardcopy records only
- Hardcopy records and backup tapes
- Hardcopy records, backup tapes and selected electronic records
- Hardcopy records, backup tapes and all electronic records, including email and instant messages



71% have no or limited policies in place for electronic records retention

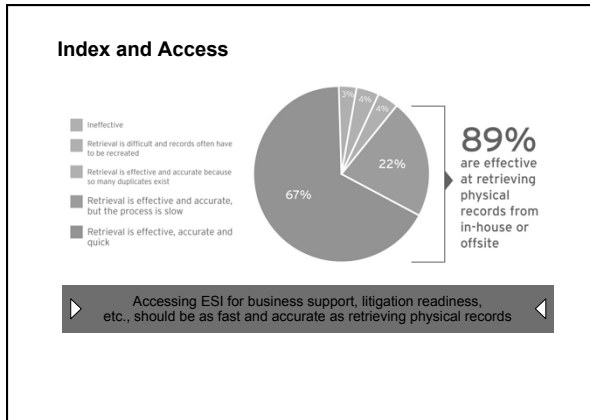
Consistent adherence to retention policy, **regardless of media**, is critical to litigation preparedness

Retention: General Counsel Truth or Dare?

I don't know what to keep... It's not practical or a good use of my credibility to spin up the entire organization on some elaborate program. So, I say "keep everything," instead of wasting time and money drafting a policy we won't follow.

We store all data on back-up tapes, so I don't need to worry about laptops and smart phones, right?

We found a whole bunch of old computers and tapes at one of our acquired companies. Should we restore to see what's on them, ignore them, store them, or just throw them out?

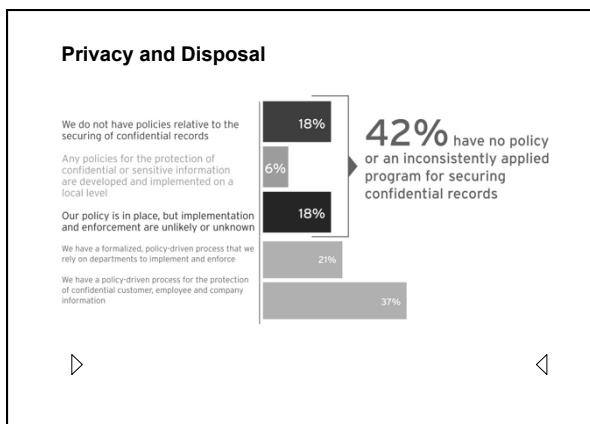


Index and Access: General Counsel Truth or Dare?

I will just deal with our records and ESI if and when we get sued... That way, everyone will understand my request's importance and I can get the policy adopted then. Pretty smart, huh?"

Too much is made of "forensic" collections. It's a scare play and windfall for 3rd party providers. So, we always have our employees self-collect their own data instead.

We're not the experts when it comes to search and retrieval of ESI. So, we rely on outside counsel. They know what to do.



Privacy and Disposal: General Counsel Truth or Dare?

Why would I want to throw a lot of records away? We run our company ethically and in compliance with the law. So, the stuff we have is likely exculpatory.

Due to the EU personal privacy laws, we don't have any EU data in the US. So, none of that will be at play in a US lawsuit, right?

We have a company-wide "shred party" each December. It's a great team-building and house-cleaning event. Any issues?

Audit & Accountability

- Legal/Compliance involvement in Records Management
- Proactive and consistent efforts to apply retention best practices against electronic records
- Collaboration with IT to ensure consistent process and technology for discovery

Records Management reports to Legal, Compliance, Risk Management or Audit:



▶ Strategic advantage to General Counsel involvement in records management ◀

Audit & Accountability: General Counsel Truth or Dare?

Our CIO and CFO would rather spend money on rolling out new features and improving the robustness of our IT systems. This legal "sky is falling" stuff just isn't a priority - how do I convince them?

For each legal matter, we assign a different team of people to oversee the data identification, preservation and collections efforts. That way, everyone gets exposure to the process and we have redundancy if someone gets busy or leaves the company.

Our outside counsel designs and manages most of our retention, preservation, collection and legal review efforts. We sleep easier knowing it's their risk and responsibility if something goes wrong.

What Drives Discovery Success?

- Legal and Compliance team involvement in Records Management
- Proactive and consistent efforts to apply retention best practices against ESI
- Collaboration with IT to ensure consistent process and technology for discovery

Records Management reports to Legal, Compliance, Risk Management or Audit:

2007 > 18%
2009 > 25%

▶ Strategic advantage if General Counsel is involved in records management ◀

Your Mission: Conduct A Litmus Test for Maturity

RETENTION

- Records retention schedule adheres to internal business requirements and all legal requirements in the jurisdictions in which the organization does business
- Records retention schedule is updated at regular intervals at least every two years
- All electronic files are classified and retained in compliance with the records retention schedule
- One enterprise-wide retention schedule exists

POLICIES & PROCEDURES

- Formal, enterprise-wide records management program includes employee acknowledgment
- Regularly scheduled training on all aspects of the records management program

INDEX & ACCESS

- Records are organized by business function, then by record name/document type

PRIVACY & DISPOSAL

- A policy for the destruction of confidential information along with a consistently applied program

AUDIT & ACCOUNTABILITY

- Systematic compliance monitoring by records manager with periodic reviews of key measures and performance indicators concerning retention and destruction of paper and electronic records
- A steering committee comprised of key business unit heads oversees records management policies and procedures

Iron Mountain Compliant Records & Information Services

Iron Mountain can...

1. Evaluate your RIM program
2. Compare it against industry best practices
3. Help you design, build and execute a legally-defensible, yet pragmatic, RIM plan
4. Provide leading records, information, and litigation readiness and management expertise



BEST PRACTICES FOR RECORDS MANAGEMENT



Iron Mountain Compliance Benchmark Report

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Risk Today

64% of organizations surveyed stated that they are very committed to records management program improvement.

29% of all respondents say they have no written employee notification procedure should there be a need to cease disposal of records related to legal actions, investigations or audits.

13% of all organizations surveyed manage electronic records in compliance with a records retention schedule.

63% of all respondents do not have a records training program.

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EXECUTIVE SUMMARY

This Report encompasses a diverse, broad-based sample of 2,679 organizations of all sizes in the private, publicly traded, government and non-profit sectors. It reviews and compares current records management programs across five Best Practice Areas.

BEST PRACTICE AREAS

1. Policies and Procedures
2. Retention
3. Index and Access
4. Privacy and Disposal
5. Audit and Accountability

In each of these areas, the Compliance Benchmark Report presents a concise analysis of cross-industry data, followed by a discussion of results and a summary of how to align your program more closely with the five Best Practice Areas.

The findings are clear. The Best Practice Area of Index and Access is a strength for many organizations, specifically around paper records, while Policies and Procedures and Audit and Accountability are areas where improvement is needed. What's more, electronic records management and discovery present challenges for enterprises of all sizes.

Those companies with weaknesses around policies and procedures are deficient in the precise areas that most impact their ability to manage the inherent risks relating to compliance. This is significant because consistent, up-to-date practices are the lifeblood of effective records management, as well as a necessity for compliance.

Our data also indicates a shift in where Records Management reports in the overall organization – with a larger percentage reporting to Legal/Compliance and Audit/Risk Management. This shift correlates with stronger scores and emphasizes the importance of Records Management having the highest

possible level of support and the ability to work freely with peers in IT, Legal, Audit, Risk Management and Compliance.

In addition to exploring performance across the five Best Practice Areas, we conducted an in-depth statistical analysis of the data that uncovered new insights into compliant records management maturity. The research was able to link the commitment level of organizations to improving their records management programs with their responses in several key areas – resulting in the creation of an index for records management maturity. Once indexed, the data was further explored to identify demographic trends and develop maturity profiles that can be used as a comparison to an organization's own practices.

Virtually all higher maturity organizations have formal records management programs and policies, complemented by strong steering committees. Less mature companies have far to go in these areas – although they claim to be committed to records management “next year.” Interestingly, all organizations across the maturity spectrum struggle with training and discovery. Electronic records also pose a challenge, from both an index and access perspective and in terms of the consistent application of policies and practices.

The most mature practitioners of records management best practices tend to be larger, publicly held companies that have responded to the regulatory mandates by which they are governed. With nearly half reporting revenues greater than \$1 billion, the majority are in highly regulated industries, such as Financial Services, Insurance, Pharmaceuticals and Healthcare.

The less mature companies tend to be smaller organizations with revenues in the \$10 million to \$100 million range, where a large percentage of respondents are only beginning to implement best practices and, thus, are exposed to regulatory and legal risk.

In the middle are "growing maturity" organizations, which tend to range in size from \$10 million to \$1 billion – with the majority coming from the Business Services, Manufacturing and Legal market segments.

The 2010 edition of the Iron Mountain Compliance Benchmark Report provides a "state of the industry" overview by which organizations can evaluate their current practices, recognize areas for improvement and hone an approach to records management that will prepare them for the future.

THE BENCHMARK REPORT SURVEY PROCESS

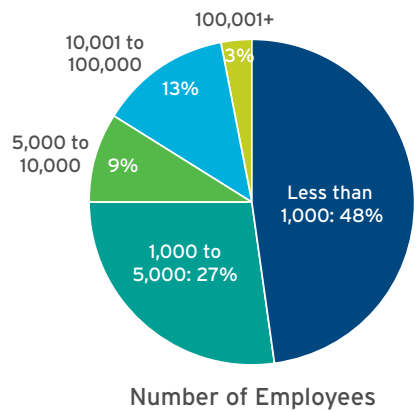
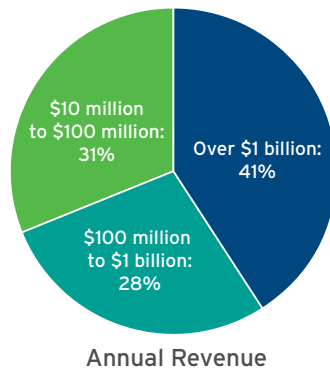
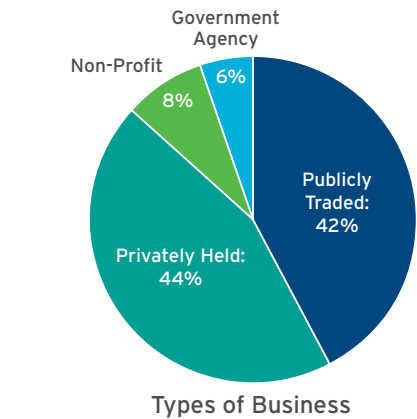
Benchmarks are broad metrics that help organizations understand where they stand in a defined area and how they compare to their peers.

These metrics, which are based on anonymous aggregate data, can also be valuable in drawing cross-industry comparisons and in revealing trends over time. The trends, in turn, can serve as a generic barometer to gauge how organizations are functioning and also as a basis for creating standards and best practices. So, how are current records management programs performing relative to best practices and what are the implications for compliance?

Using the resources of our Sales and Account Services organizations, we designed and executed a large-scale, cross-industry study on the state of records management. This study encompasses the responses of over 3,500 voluntary participants in private, publicly traded, government and non-profit organizations with employee size ranges of less than 1,000 to more than 100,000 and revenues of less than \$1 million to greater than \$30 billion. Input came from various titles within surveyed organizations and included General Counsel, CIOs and Records Managers.

These assessments, which calculate mean and comprehensive ratings for each area, also provide the foundation for individualized continuous improvement plans, which Iron Mountain provides to organizations that complete the assessment.

DEMOGRAPHICS



Records Management reports to Legal, Compliance, Risk Management or Audit:

2007 > **18%**

2009 > **25%**

As of 2009, the survey results show a shift in where organizations' records management departments report. More respondents say they report to Legal/Compliance and Audit/Risk Management. This is a positive trend that shows a greater awareness of the value of a strong records management function.

TOP FIVE INDUSTRIES REPRESENTED:¹

- Financial Services/Banking
- Legal Services
- Manufacturing
- Healthcare Providers
- Insurance

OTHER SIGNIFICANT INDUSTRIES REPRESENTED:²

- Accounting
- Architecture, Construction, Engineering and Consulting
- Business Services/Management Consulting
- Communications
- Energy/Utilities
- Entertainment
- Food Service
- Healthcare Support Services
- Pharmaceuticals
- Real Estate
- Retail
- State and Federal Government
- Technology

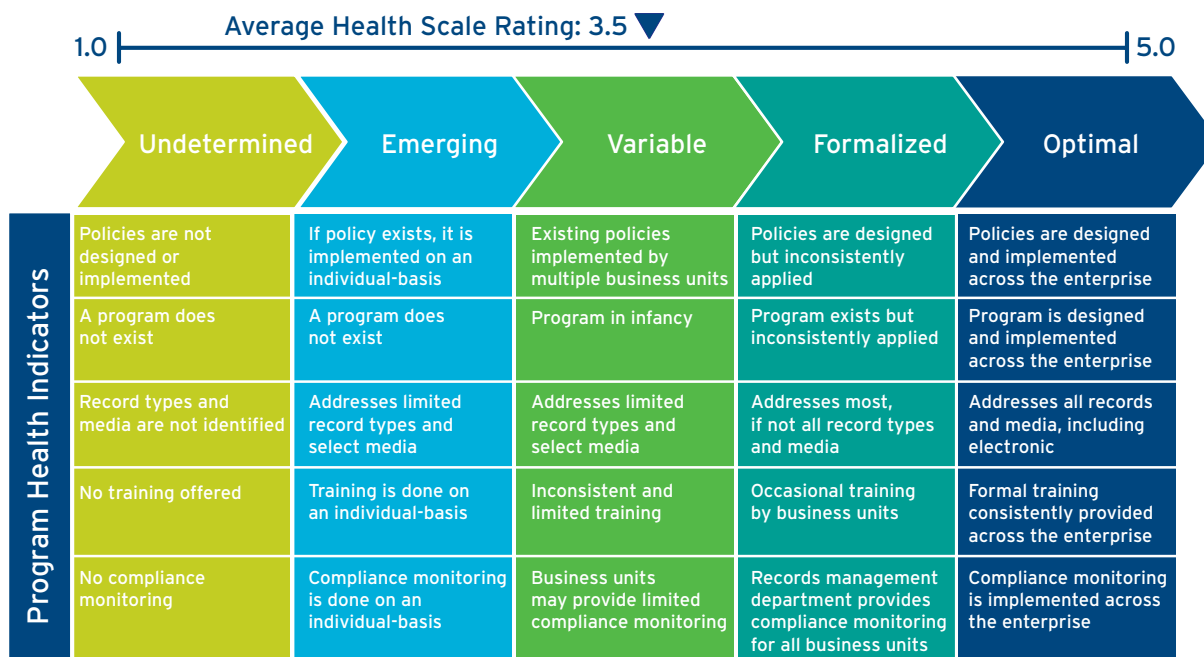
¹ Top five industries represent in total 55% of the entire survey participant sample, with each individual industry in the top five representing a range of 7-15% of the entire sample data.

² Significant industries represent in total 34% of the entire survey participant sample, with each individual industry in this category representing a range of 1-4% of the sample data.

Understanding the "Health Scale" Rating System

The Iron Mountain Health Scale provides a uniform evaluation of an organization's performance and procedures in a defined Best Practice Area, in addition to an overall assessment of compliant records management performance.

The Health Scale range is a standardized five-point scale with ratings from "1," which indicates an "Undetermined" status, and escalating to "5," which is defined as "Optimal." Decimal numbers demonstrate that a final score falls in between two ratings. For example, a ranking of 4.2 in Retention communicates that an organization is just past "Formalized" – and on its way to "Optimal" – in its implementation of best practices in that area.



The average overall Health Scale score was a 3.5 on a scale of 5. Results varied by industry and by the degree of regulatory impact within each industry. More than half of the industries that we studied received an average score at or above 3.5. (See the Health Scale figure above.) Our most recent figures show the highly regulated segments of Financial Services/Banking (3.7) and Pharmaceuticals (3.7) as having the highest overall scores. These are followed closely by their heavily scrutinized counterparts in Accounting (3.6), Energy/Utilities (3.6), Food Service (3.6), Government (3.6), Healthcare Providers (3.6), Healthcare Support Services (3.6), Insurance (3.6) and Manufacturing (3.6), which all achieved above average Health Scale ratings.

Of the entire sample, 17% of respondents scored a Health Scale rating that categorizes their level of compliance as "Undetermined" or "Emerging." This means their records management program is at a high risk of exposure for lack

of compliance with standards and best practices. Thirty percent of respondents achieved a score corresponding with "Variable" on the Health Scale, which means their records management program, while demonstrating progress, is still at risk of being non-compliant in many key areas. Finally, 47% of respondents attained Health Scale scores at the "Formalized" level and 6% reached the "Optimal" level. These organizations are performing well in many areas. But, as you will read later in this report, even those performing at the highest levels have room for improvement in such critical areas as electronic records management and discovery.

Later in this report, we will examine specific records management dependencies and other significant findings in greater detail. It is our sincere hope that doing so will assist you in your own compliant records management efforts. But first, let's take a look at what's changed since the Compliance Benchmark Report was last released in 2007.

NEW INSIGHTS: HOW RECORDS MANAGEMENT PRACTICES ARE EVOLVING



What have we learned about the state of organizations' records management programs since this report was first issued in 2007?

Now that the role of records management programs in reducing risk is better understood – and there's more at stake when best practices are not followed – are organizations doing a better job of managing their physical and electronic assets? Are they building stronger records management programs, procedures and policies? Do they have a handle on privacy and disposal, especially for electronic records?

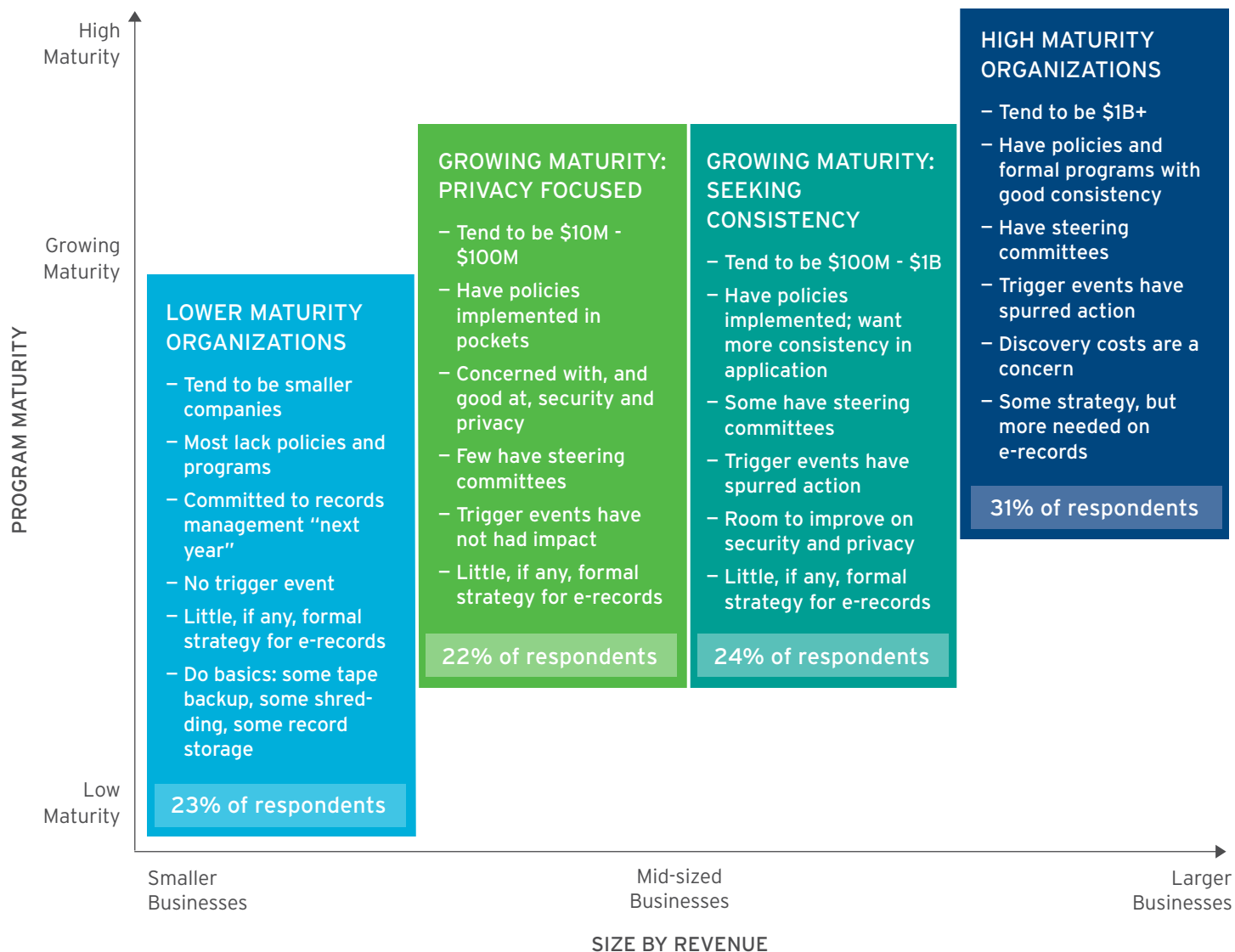
The surprising answer is not necessarily – the survey data does not show a marked improvement in compliance across the board. And, that's particularly unexpected given increasing regulatory requirements, more severe penalties and fines and growing concerns around litigation. To be clear, there are some bright spots. But, our analysis of more than 3,500 customer Risk Assessments – nearly half of which were recorded after Rule 26 of the Federal Rules of Civil Procedure (FRCP) regarding electronic discovery went into effect – shows that, in aggregate, companies have not significantly improved their records management programs over time.

RECORDS MANAGEMENT MATURITY

To find out more about how organizations are approaching records management, we conducted a deep statistical analysis of the Compliance Risk Assessment data. Following are the key insights gained from this study. An important outcome of this analysis is a profile of records management maturity, which provides a context for understanding where organizations fall in their approach to a best practices-based records management program. The research cross-referenced the commitment level of organizations to improving their records management programs against actual behaviors to determine a maturity index. What we found is that their answers to a subset of 10 questions in the Iron Mountain Compliance Risk Assessment could be a predictor of their overall scores. This allowed us to segment the maturity levels, explore their demographics and observe trends where they exist.

Responses in the Best Practice Areas of Policy, Accountability and Retention were found to have the strongest relationship with organizations' overall ratings of their records management program. Moreover, the analysis found that records management maturity falls into four broad categories as shown in the illustration on the next page.

Compliant Records Management Maturity Model



MATURE ORGANIZATIONS BENEFIT FROM STRONG GUIDANCE AND FORMAL RETENTION SCHEDULES, POLICIES AND PROGRAMS

Roughly one-third of organizations surveyed are on the higher end of the maturity model, indicating that their records management practices are more evolved than most. For the most part, organizations in this segment are larger, publicly traded firms and predominately in the Financial Services, Healthcare and Pharmaceutical industries. They have the basics well covered with formal retention schedules, policies and programs. In addition, they have established steering committees boasting a high degree of authority for oversight of records management practices. Most have experienced a trigger event of some kind, such as an audit or litigation fine, which is a likely contributor to their more mature practices.

Training for new and current employees is a weak point, even for these higher maturity organizations. They do a better job than those at the middle and lower end of the spectrum – and we've seen improvement over previous years' responses – but they fall far short of the best practice level, which is defined as having a regularly scheduled, mandatory, professionally produced training program.

Despite performing well in the areas of Policy, Accountability and Retention, these organizations still struggle with electronic records management and discovery, as evidenced by a lack of formal strategy for electronic records.

ORGANIZATIONS WITH LOWER RECORDS MANAGEMENT MATURITY STRUGGLE WITH THE BASICS

Twenty-three percent of the organizations that participated in the Risk Assessment process fall at the lower end of the maturity spectrum. This group is largely comprised of smaller organizations with revenues of \$100 million or less. Most lack formal records management policies and programs, which are the basics and an absolute foundation for a best practices-based approach. This fact belies their stated intent to improve their position "next year." Few have experienced a trigger event, which might explain the lack of action taken. In addition, they struggle with defining a formal electronic records strategy, something that is a challenge for organizations at all levels of maturity.

BEST PRACTICE: Making Training a Part of Your Records Management Program

Consistent, enterprise-wide staff training is an essential element of a best practices-based records management program. Establish a process to implement the records and information management policy to include initial and ongoing training programs for all employees within the organization. Distribute the records management program policies and procedures to new employees. Establish and enforce employee accountability for compliance with the program. This can be done by including it as an element in performance appraisals and instituting disciplinary actions for violations.

For more information about ways to improve your records management program, visit Iron Mountain's Knowledge Center: www.imknowledgecenter.com

BEST PRACTICE: Improving Management of Electronic Records

Email management is arguably the single largest area of focus for every organization's electronic records management program. Begin by involving the right people in formulating your email strategy. Conduct collaborative workshops with senior-level stakeholders from IT, Legal, Compliance and Records Management to collect data about business requirements and achieve a higher level of organizational awareness. This approach ensures that no single department or business unit is focused solely on its own individual interests or obligations.

Visit Iron Mountain's Knowledge Center (www.imknowledgecenter.com) to learn more about records management best practices.

THE GROWING MATURITY “MIDDLE” SHOWS COMMITMENT, YET HAS FAR TO GO

In the middle of the maturity model are those organizations that demonstrate clear commitment to improving their records management programs, but still have significant work to do to implement the full scope of best practices. Representing nearly half of all respondents, these organizations can be further divided into two groups based upon observed demographic characteristics: larger and smaller mid-sized firms.

Larger mid-sized firms have revenues ranging from \$100 million to \$1 billion and more – with many falling into the Business Services market segment. Most have formal retention schedules and policies, but fall short in such areas as document security and confidentiality, training and auditing. Most, but not all, have steering committees in place. However, many of those steering committees lack the full authority to direct records management policies. Without this authority, these organizations are at risk in terms of the consistency with which their programs are applied. And, they are not reaping the full benefit that comes from a steering committee that drives records management policies and behaviors across the company. Finally, they also struggle with applying adequate policies and procedures to their electronic records. As a result of these weaknesses, larger mid-sized firms have difficulty achieving a consistent, well-integrated records management program.

The smaller mid-sized companies in the Growing Maturity group tend to have revenues from \$10 million to \$1 billion and many are in the Manufacturing and Legal Services sectors. The largest percent of these organizations are in the \$10 million to \$100 million range. While most have formal retention policies and schedules, they are implemented in pockets rather than on an enterprise-wide basis, which presents a risk of inconsistently applied rules. These firms do not typically have steering committees in place, yet they appear to be further ahead than the larger mid-sized firms in the Growing Maturity group when it comes to privacy and security around documents. Many companies in this segment have faced a trigger event, but – surprisingly – most claim to feel little impact from the experience. As for management of electronic records, these organizations report using ad hoc procedures, at best.

By defining this compliant records management maturity model based on the actual practices of thousands of Iron Mountain customers, we hope to provide a perspective, structure and goals that organizations of all sizes and in all industries can use to measure their progress toward better records management practices.

BEST PRACTICE: Enhancing Document Security and Confidentiality

Improving security and confidentiality starts with protecting your organization's sensitive information, such as financial data, customer lists, personal information and trade secrets, as well as its vital records, such as intellectual property, including patents, copyrights and trademarks, and records relating to product quality and safety. Review all official records that have fulfilled their retention period to ensure their timely destruction. For items such as backup tapes, DVDs and other non-paper media, ensure the disposal is environmentally friendly, compliant with standard policies and procedures and that the records are free of all retention holds.

To learn more about ways to improve your records management program, visit Iron Mountain's Knowledge Center: www.imknowledgecenter.com

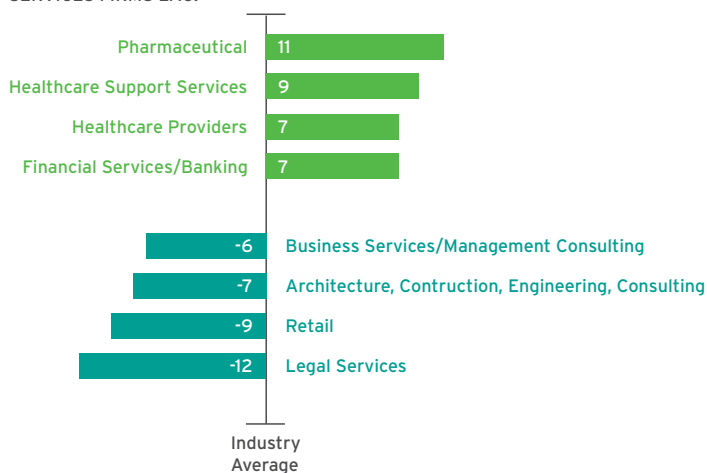
LEADING RECORDS MANAGEMENT PRACTITIONERS DO A FEW THINGS VERY WELL

Along with the maturity model, we now have a clearer understanding of how the most adept practitioners of records management are operating. These are organizations that affirm a strong commitment to following the principles of compliant records management in the coming year. And, the data shows that they demonstrate that dedication by performing well in key areas of records management policy and accountability. Specifically, the most accomplished organizations share the following characteristics:

- Virtually all have formal, enterprise-wide records management policies and programs, including a legally credible and current retention schedule, which are set with the guidance of a functional steering committee that includes members from a cross-section of departments
- They offer new employee training and periodic classes for current employees that cover all aspects of their records management program
- There is a well-defined and effective policy to cease disposal activities in the face of actual or pending legal actions, investigations or audits
- Policies are in place to identify and protect vital or mission-critical records
- Records management policy and procedure compliance is systematically monitored and periodically audited – with senior-level visibility into results and remediation plans

What's more, those organizations with the greatest commitment to records management have a strong focus on following retention schedule best practices, such as implementing their retention schedule on an enterprise-wide basis and ensuring that it is regularly maintained and addresses the full scope of both hardcopy and electronic records. These retention schedules reflect a comprehensive understanding of all business and legal requirements in all the geographic areas in which these organizations do business and include guidelines for the systematic disposal of records at the end of their defined useful life.

PHARMACEUTICAL, HEALTHCARE AND FINANCIAL SERVICES COMPANIES ARE MORE "MATURE" IN THEIR PRACTICES, WHILE BUSINESS AND LEGAL SERVICES FIRMS LAG.



This chart measures the relative distance from average "maturity score", across industries (average = 100)

While the reason that overall records management performance has not seen great improvement since 2007 is unknown, there's little doubt that organizations are faced with finite manpower and funds to devote to these initiatives. Regardless, the need for improvement is real.

Thus the important takeaway: any organization would do well to focus its limited resources and attention on the Best Practice Areas of Policy, Accountability and Retention highlighted in the column on the left – those that mark the most dedicated compliant records management practitioners. When these foundational elements are in place, organizations are able to drive better consistency in their records management programs across the entire enterprise. And, consistency is an important attribute when a program is being scrutinized, such as in the case of litigation or regulatory audit.

BEST PRACTICE: Boosting Audit and Accountability

For a records management program to be successful there should be a Corporate Records Manager to administer the program at the corporate level, as well as a designee in each business unit accountable for implementation in their division. To ensure ongoing compliance, the program should be integrated into the organization's internal audit process.

For more information about ways to improve your records management program, visit Iron Mountain's Knowledge Center: www.imknowledgecenter.com

RECORDS MANAGEMENT CONTINUES TO BE AN AREA OF STRENGTH

As in our 2007 report, Index and Access remains a bright spot with a mean score on the Health Scale of 4.5. Most companies surveyed – regardless of size, industry or commitment to records management best practices – have the basics well in hand, following such best practices as:

- Ensuring backup tapes are stored in an offsite facility that features security, climate controls, round-the-clock emergency response and secure retrieval services
- Arranging for offsite hardcopy storage (company-owned or via a third party) that is designed to provide secure records storage with an inventory management system that controls storage and service activity
- Implementing effective, accurate and rapid retrieval capabilities for hardcopy records, both on-site and off

The ability to quickly respond to record requests continues to be a core function of records management departments, and one that is essential to compliance with discovery regulations and mandates. Technology remains a significant aid to achieving a higher level of competency in this area.

ELECTRONIC RECORDS REMAIN A UNIVERSAL ACHILLES HEEL

In contrast to the above, few organizations have mastered procedures for legal holds and discovery, electronic records policies, training and cross-functional records management steering committee oversight.

Most notably, practices related to the discovery, retention and disposition of electronic records remain a challenge for organizations of all sizes, across all industries and regardless of their maturity or position on the Health Scale. When explored, we determined that while many companies have built a solid foundation for management of physical records, including a retention schedule, they have not extended it to electronic records. This shortcoming must be an area of extreme focus in the years to come, particularly in light of an ever-growing volume of electronic information to be stored, managed and protected.

WHAT DRIVES RECORDS MANAGEMENT MATURITY?

There's no doubt that painful trigger events, such as poor audit findings or litigation fines, represent a wakeup call for organizations of all sizes. The mere threat of fines or potential negative audit reports does not appear to compel action. By and large, companies are demonstrating they are reactive – not proactive. Often it takes the pain of fines or an official rebuke before they act.

Smaller organizations (those with fewer than 1,000 employees) have taken some basic steps to improve their records management programs since our last report. These firms have made advances in a number of areas, including management of tape backups, disposal of confidential information and destruction of active hardcopy records.

The data also indicates that organizations of all sizes have shown improvement related to disposal of sensitive information, which has likely been influenced by the preponderance of privacy laws, including FACTA and the many state laws.

Another interesting trend apparent in the data is the reporting structure of Records Management. Our most recent survey responses – those collected in the last two years – are showing a shift in where Records Management reports. There is a reduction in Records Management reporting to Business/Administrative Services and an increase in Records Management reporting to Legal/Compliance and Audit/Risk Management. This is particularly prevalent in larger organizations with more than 10,000 employees. While the numbers for Records Management reporting to Facilities have increased slightly, this seems to be specific to certain industries (Healthcare and Manufacturing) and only in organizations with fewer than 5,000 employees.

And, the change in reporting structure is paying off. The data shows higher scores within each of the five Best Practice Areas for organizations that have aligned Records Management with Legal/Compliance or Audit/Risk Management functions than those that have aligned with Facilities or Business/Administrative Services.

By providing insight into what drives records management maturity – and knowing where the most mature organizations focus their attention – it is our hope that organizations have a newfound ability to apply their limited resources to those Best Practice Areas that are proven predictors of long-term success.

FIVE AREAS OF RECORDS MANAGEMENT BEST PRACTICES

Based upon feedback from thousands of our customers, Iron Mountain has defined five records management Best Practice Areas.

The specific best practices that comprise these areas are used as a foundation for many consulting engagements, and provide the basis for a compliant records management program and a proactive framework for the protection of an organization's information assets. These Best Practice Areas are:

1. Policies and Procedures
2. Retention
3. Index and Access
4. Privacy and Disposal
5. Audit and Accountability

The five Best Practice Areas are analogous to the vital signs a doctor would typically monitor during a medical exam. In the same manner that systematically measuring a patient's heart beat, breathing rate, temperature and blood pressure provides a baseline assessment of an individual's overall health, assessing an organization's adherence to the best practices covered in each of the areas will reveal the overall health of its records management program.

These records management best practices serve as the foundation for all of the key findings in this Benchmark Report, including the insightful Health Scale Rating.

DEFINING BEST PRACTICES: POLICIES AND PROCEDURES

An enterprise-wide records management policy sets overall standards and provides evidence that there is support and investment in a compliant records management program.

It is under this broad umbrella that the finer points for record creation, retention, destruction, access and storage are conceived and documented.

Policies and procedures are the rules and processes that support and guide each records management program component. An organization may have separate policies and procedures for any number of categories. However, some of the more common areas are records retention, active file management, inactive file management, destruction, privacy and vital records. Each should address all records, regardless of media type, format, business unit ownership or geography.

Records management program guidelines must be consistently and universally applied. Roles and oversight responsibilities need to be designated and defined. Policies and procedures should be accessible and communicated throughout the workforce to ensure consistent application.

IMPORTANCE OF A FORMAL RECORDS MANAGEMENT PROGRAM RECOGNIZED

The key to driving consistent behavior is the implementation of a records management program that works in conjunction with policies, procedures and a current retention schedule, but 31% of respondents have only basic records management policy documentation without a consistently applied program. And, 11% of the participants said that they do not currently have a records management policy in place at all.

However, there is growing recognition of the importance of records management policies and programs as evidenced by the fact that 23% of respondents have formal policies and an additional 35% report that their policies are integrated with data privacy and security practices, address both physical and electronic records and are communicated via a formal program. Pharmaceuticals leads the way in Policies and

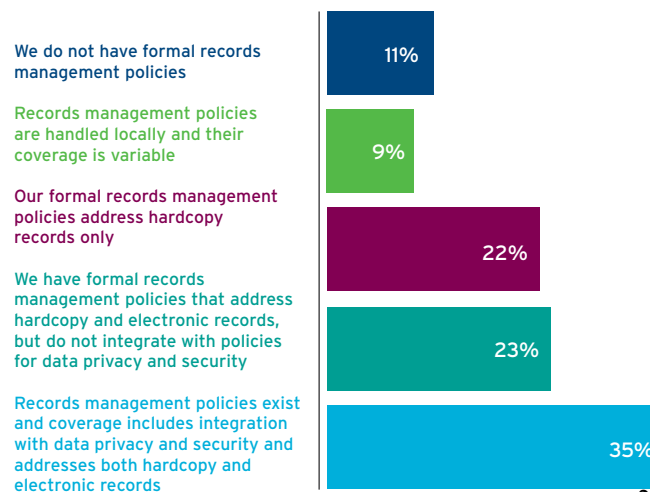
Procedures, with a score of 3.3 for this Best Practice Area. Financial Services and State and Federal Government are close behind with scores of 3.1.



Overall, these results reflect that respondents recognize the need for policies and procedures, but application varies widely in the adoption, implementation and enforcement of a formal program. Creating a policy is a positive step; however, organizations need to integrate these into a documented, comprehensive program and communicate the importance of compliance throughout the organization.

More importantly, formal, written policies and procedures provide the most detailed and easy-to-digest evidence of an organization's records management position. This, in turn, delivers ready proof for audit and regulatory compliance and helps to demonstrate "good faith" amid scrutiny during legal matters.

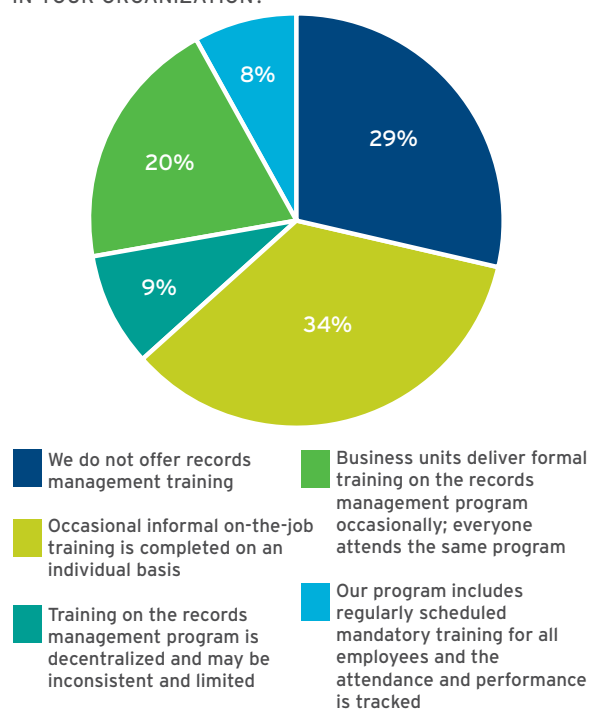
DOES YOUR ORGANIZATION HAVE A SET OF COMPREHENSIVE RECORDS MANAGEMENT POLICIES?



RECORDS MANAGEMENT TRAINING CONTINUES TO FALL SHORT OF THE MARK

To be effective, any compliance program requires rigorous, ongoing education. Yet, regardless of the level of records management maturity, survey responses from organizations of all sizes and across many industries indicate that training is often overlooked or inadequate. A full 29% of the sample stated that they do not conduct any training, with another 43% offering only informal or limited training on an inconsistent basis. Interestingly, the State and Federal Government and Pharmaceutical verticals were the most likely to have formalized, scheduled training programs.

HOW IS RECORDS MANAGEMENT TRAINING DELIVERED IN YOUR ORGANIZATION?



On the other side, a progressive 8% of respondents hold regularly scheduled education on all aspects of their records management programs, and another 20% conduct formal training for all employees on an occasional basis, in addition to a session for new hires. And, results indicate that the largest organizations are more likely to have training and have shown improvement over previous years. These organizations recognize that the only way to achieve compliance is through their people. When policies aren't formally communicated, a general lack of awareness and implementation can follow because the policy is not seen as "real." A formal employee training and internal communication strategy is essential to raising awareness that policies exist and to educate those who may not

understand how the policies affect them. A training program also makes a very clear statement that the organization is committed to records management.

"DESTRUCTION HOLD" POLICIES ARE IMPROVING, BUT NOT ENOUGH

In the event of litigation, audit or government investigation, a "hold" system should be in place for records that need to be kept from being destroyed. The revised FRCP makes litigation holds especially critical elements for compliance. In that scenario, records that are under such an order cannot be destroyed even when otherwise permitted by the organization's records retention schedule.

Our latest survey results show that 67% of organizations have limited or no written procedures for notification to cease destruction of records. This is actually an improvement over the 2007 data. However, it remains a significant area of weakness for many organizations with average scores in some industries falling as low as 2.2 – indicating ad hoc practices related to litigation holds.

This data is evidence that most organizations still do not have ingrained hold policies and, therefore, are exposed to litigation liability. Litigation holds are issued so that a company does not discard a record that might be relevant to a current matter. In order to be able to execute this, a company needs to know exactly where its information resides at all times. Specifically, once an organization receives a subpoena or notification of a pending investigation or audit by a governing agency, disposal of records that are potentially relevant to the particular claim needs to be suspended from the routine disposal process. Thus, organizations without procedures to quickly and temporarily cease destruction of relevant records create significant risk for themselves. However, an enterprise with a formal compliant records management program will be better protected from legal exposures, because it will be able to locate, analyze, hold from destruction and present requested records in a timely manner.

Organizations with limited or no written procedures for notification to cease destruction of records.

2007 > 80%
2009 > 67%

“In litigation, a company with an excellent retention system will usually have a good defense, and the courts recognize compliant destruction. I know records are stored and filed systematically, and we’ve reduced the cost of storage, as well as the monetary and time expenses related to records retrieval.”

– Senior VP and General Counsel, major Homebuilding Company

THE SIX STEPS ON THE ROADMAP TO COMPLIANT RECORDS MANAGEMENT



POLICIES AND PROCEDURES: ACHIEVING BEST PRACTICE LEVEL COMPLIANCE

As noted earlier in this report, there is a strong relationship between an organization's performance with respect to policies and procedures and the maturity level of its overall records management program. To evolve to a more mature position, organizations should take steps to develop and implement an overarching records management program with a formal policy that covers such necessary components as accountability, communication, implementation and regular training. To that aim, they must develop and manage records policies that reflect all of their business transactions – regardless of media type – and state how long specific records should be retained before they are destroyed.

A records management program should be treated as an ongoing endeavor, not a one-time project. Creating and implementing initial policies and procedures is only part of what should be a continual process of improving and optimizing all aspects of records management throughout an organization. What's more, these guidelines should be consistently and universally applied on an enterprise-wide basis.

In addition, organizations should educate all employees regarding their records management policies and procedures and establish well-defined and formalized accountability throughout the enterprise. To improve employee compliance and help clarify specific roles, organizations should consider defining role-specific responsibilities in their records management policies and procedures.

Proactive companies have implemented an Employee Acknowledgement policy, which requires employees to read and sign a document indicating they understand the records management program and agree to abide by its terms. To keep a records management program visible, organizations should regularly communicate their programs' policies and procedures.

To comply with rules and policies concerning government investigation or litigation, a records management program should include procedures that ensure notification of responsible parties with regard to the proper record disposal process at the end of their retention period.

A good approach is to treat the records management program as formally as other compliance-oriented initiatives, such as mandates from the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA) or the Securities and Exchange Commission (SEC).

DEFINING BEST PRACTICES: RETENTION



Retention addresses the preservation of information assets, as well as the systematic destruction of records at the end of their lifecycle. Proper retention practices are paramount to a comprehensive records management program.

A records retention schedule supports an organization's effort to manage intellectual property, control the costs of information storage, locate and retrieve documents for legal discovery and dispose of records at the end of their business life. It also represents all records created by an organization across divisions and functions, regardless of media type (hardcopy or electronic).

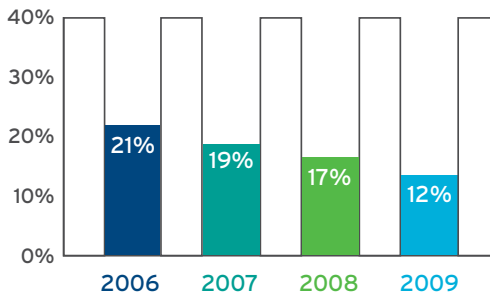
As a best practice, an organization should adopt a universal records retention schedule that is applied across all business units and addresses all of its records, regardless of media, that are created or received by the organization in the conduct of business. This retention schedule should be updated every 12 to 18 months to reflect changes in regulations, industry and the business.

MOST ORGANIZATIONS HAVE A RETENTION SCHEDULE

Just over half of all respondents (54%) report that their organizations use an enterprise-wide retention schedule, and an additional 12% state that only some of their business departments or units have a records retention schedule.

Since 2006, we have seen a steady decline in the number of organizations without retention schedules.

PERCENTAGE OF ORGANIZATIONS WITHOUT RETENTION SCHEDULES



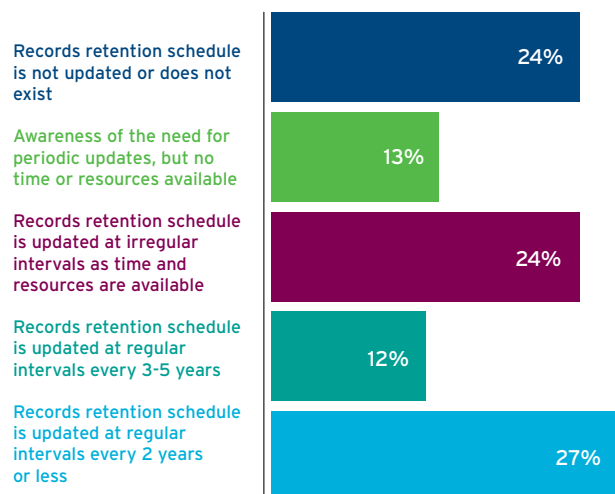
These results show that organizations are, indeed, investing in records management, particularly in the areas of retention schedules and policies. Companies are making incremental progress, although most have not yet consistently covered their organizations thoroughly, leaving gaps and/or significant areas uncovered or with inconsistent practices. These are all symptoms of programs that are in the early stages of a multi-year roll out.

A records retention schedule provides the blueprint for all records management activities, including assurance that obsolete records are disposed of in a systematic and controlled manner. An "end of life" disposal plan is intended to make certain that records are destroyed in a consistent manner that complies with the retention schedule. The disposal plan must also specify the chain of custody of the information until it is destroyed, in order to meet the requirements of new data privacy regulations. Absence of a proper disposal program can cause an organization to become reluctant to destroy any records, and thereby accumulate an excessive volume of obsolete records.

RETENTION SCHEDULE MATURITY VARIES

While 27% of organizations update their records retention schedules at regular intervals of two years or less, 61% of all surveyed organizations report nonexistent, irregular or infrequent updates, presenting a significant risk.

HOW OFTEN DOES YOUR ORGANIZATION UPDATE ITS RECORDS RETENTION SCHEDULE?

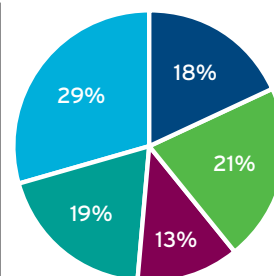


With the legal and regulatory landscape changing so rapidly, frequent re-examination is imperative. After all, successful compliance and governance programs are not one-off events, but instead require a continuous process of assessment and refinement. While many organizations are pursuing a long-term vision for their records management program, a significant majority have incomplete programs that leave many areas exposed to risk.

In addition, more than half of the respondents have an incomplete approach to the types of records covered by their retention schedule, with 21% of those having a retention schedule for hardcopy records only. As noted earlier in this report, electronic records management is an area of weakness for organizations across the entire spectrum of records management maturity.

DOES YOUR RECORDS RETENTION SCHEDULE ADDRESS RECORDS ON ALL MEDIA?

- No records retention schedule
- Hardcopy records only
- Hardcopy records and backup tapes
- Hardcopy records, backup tapes and selected electronic records
- Hardcopy records, backup tapes and all electronic records, including email and instant messages



The need to create and implement a records retention schedule that focuses on managing electronic records, as well as physical records, is an essential step for all organizations. And, it means going beyond the basic "file storage and archiving" via backup tapes, to bringing a broader range of items under the purview of records management, such as email and instant messages.

PROTECTION OF DISTRIBUTED INFORMATION REMAINS A CHALLENGE

While processes to ensure compliance for electronic records under the control of end users are still emerging (with only 29% of organizations performing at a 4 "Formalized" or 5 "Optimal" competency level), organizations do appear to recognize the growing importance of managing these assets. There are some basic safeguards in place among most surveyed organizations. Thirty-three percent of

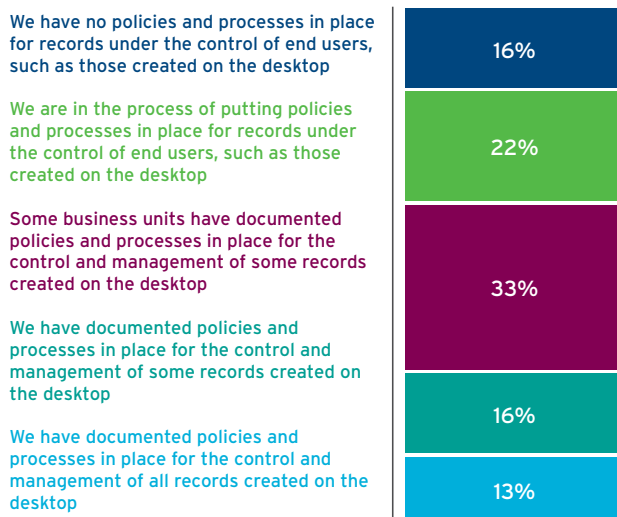
respondents simply ask employees to delete electronic files at their discretion and when their individual storage limits have been reached. Thirty-eight percent state that they have policies that require additional storage to be added or that they use a broadcast email to direct all employees to delete unnecessary files when limits are near capacity.

With a mean score of 2.9, the management of electronic records under the control of end users remains the weakest spot under Retention. The same policies and procedures that organizations impose on their centralized records absolutely apply to their distributed information – regardless of how difficult it is to inventory or control – because these records are no different in the eyes of regulators and auditors.

The very fact that an organization has less control over distributed records makes these files a particular exposure point. It is important to remember that consistency is the goal. Inconsistency will create distributed pockets of compliance, but not comprehensive coverage. And in light of legal obligations, a lack of consistency puts an organization at a disadvantage when trying to defend its records management practices during litigation. Without a uniformly implemented records program, selective storage and destruction of records will still exist.

Applying retention to electronic records also helps to keep the sheer volume of information to a minimum, thus facilitating discovery efforts and reducing storage costs.

WHAT POLICIES AND PROCEDURES ARE IN PLACE FOR ELECTRONIC RECORDS THAT ARE UNDER THE CONTROL OF END USERS (EMAIL, WORD PROCESSING AND SPREADSHEETS)?



“We actively monitor compliance with our records management policies and procedures and our records retention schedule throughout the organization. Our records management department keeps everyone informed with periodic reminders on policy. And, the closing of client files includes an audit; we employ a standardized, systematic organization of documents and pages within the file itself.”

– Records Manager, large privately held Legal Services Firm

RETENTION: ACHIEVING BEST PRACTICE LEVEL COMPLIANCE

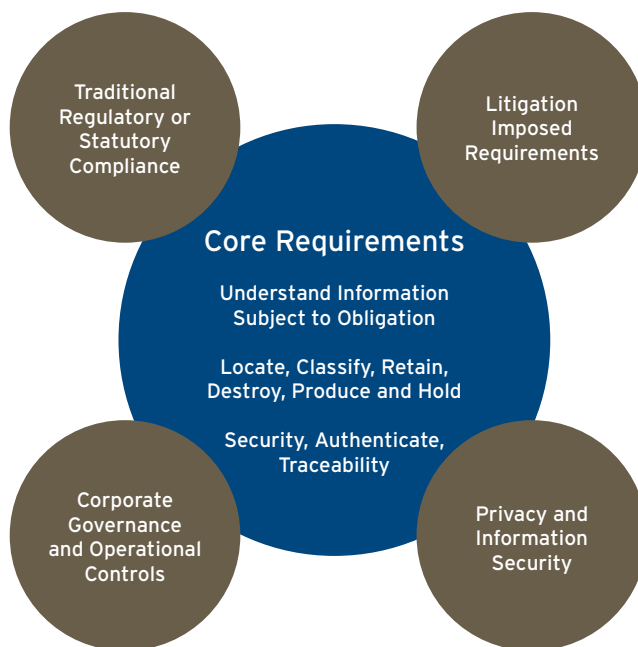
The results of this survey indicate that while organizations are demonstrating significant effort and investment in implementing a records retention schedule and records management program, consistent application across all types of records remains a challenge.

To achieve greater consistency, enterprises should consider implementing a single, organization-wide retention policy in stages. The best approach is to begin with critical records from high-risk areas. Next, systematically address distributed records, both physical and electronic. This staged approach should also be outlined as a multi-year records management program roadmap that clearly articulates the overarching implementation plan and identifies all physical and electronic records – their locations and their retention models. This multi-year roadmap should also address a common set of obligations and the core requirements that flow from these obligations, as shown in the figure to the right.

Organizations should also take steps to reduce risk by regularly and consistently reviewing and updating their records retention schedule across all media types, geographies and business units. As part of such a process, for example, an organization might realize that its existing legal retention and access requirements are inadequate and determine that a better solution is necessary. This change would be incorporated into the overall retention schedule and policy. Since email is universal and generates an enormous volume of data, it is susceptible to the “casual use” phenomenon, and should be managed as part of a total records management program.

Historically, there have been conflicting opinions regarding the legal status of email. However, the FRCP amendments define electronically stored information (ESI) specifically and list guidelines for proper management. There is plenty of room for improvement, as current survey results show little change in this area from pre-FRCP Rule 26 levels.

CONVERGING OBLIGATIONS REQUIRE ORGANIZATIONS TO PRIORITIZE WHICH RECORDS TO RETAIN BASED ON POTENTIAL RISK EXPOSURE.



DEFINING BEST PRACTICES: INDEX AND ACCESS

The Index and Access Best Practice Area addresses an organization's ability to successfully retrieve records using defined criteria, such as subject matter, record creator, method of creation, system of creation, intended recipient, date and so on.

Proper records indexing ensures easy access and reduces retrieval time and costs. Poor indexing methods result in the inability to satisfy record retrieval requirements, which can lead to increased cost of discovery, fines and the degradation of overall service quality within an organization.

Index and access go hand-in-hand because records must be properly organized to enable timely, accurate and controlled access. A records index directs the user to a particular place, such as a paper or microfilm filing system or electronic storage location, where the required information is located. Once the location is identified, access can be authorized by various security controls.

Designed for disaster recovery, backup tapes are not well suited for retention, legal discovery or low-cost, long-term archiving of electronic records. Therefore, electronic records, including email, should be migrated to a digital archive that offers capabilities for easy searching, discovery, organization and retention management. An organization should develop a strategy for each of the different record types based on the likelihood of those records being requested, priority of record content and speed and cost to produce the records.

FAST, ACCURATE RETRIEVAL IS THE NORM

Although participants may have different standards to assess the speed at which they can retrieve active records from on-site filing areas and offsite storage facilities, 89% rate their ability to do so as effective and accurate. This

indicates that most people are generally satisfied that their ability to retrieve records is in alignment with the needs of their businesses, and that most seem to understand the basics of record storage, indexing and retrieval.

With 67% rating their retrieval process as "quick," it appears that strategic investments in indexing and tracking systems are providing good performance for organizations. In fact, there is a positive correlation between systems and performance. All of these respondents indicating quick retrieval also reported having an inventory management system for inactive hardcopy records and three-quarters have records retention schedules.

Unfortunately, the same cannot be said for electronic records. Respondents are having challenges related to the access of electronic records, particularly in the event of discovery, and are finding the costs associated with early case assessment for litigation to be burdensome.

For example, 68% of respondents report having no formal methods in place for accessing and managing electronic records for discovery. What's more, the 27% who do have formal procedures say they are under pressure to reduce the significant cost of using outside legal resources to perform these duties. This may be related to not having the proper foundation in place. For example, although the majority of companies have methods for archiving electronic files, 71% lack policies related to electronic records on the desktop.

Rapid and easy access to physical and electronic records is particularly important because the inability to satisfy retrieval requirements in a timely manner can result in fines and sanctions and is one of the surest ways to degrade overall service quality within an organization. A well-managed process for indexing and accessing records can minimize the scope and expense of discovery.

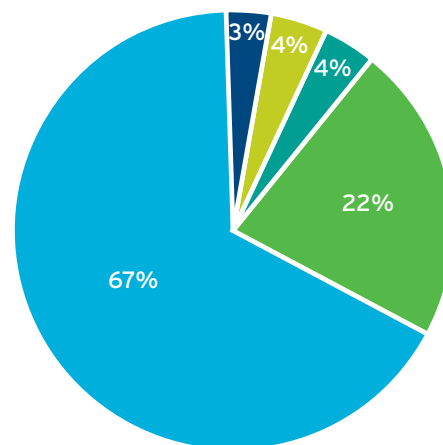
INDEX AND ACCESS: ACHIEVING BEST PRACTICE LEVEL COMPLIANCE

An organization's ability to access information for business support, litigation response and/or regulatory compliance is essential to the success of its records management program. What's more, the amended FRCP specifies that each party involved in a lawsuit must proactively provide a description of all records relevant to the stipulated facts – thus accelerating the exchange of information during the pre-trial process. It is therefore crucial that organizations institute proactive measures that facilitate timely and effective record recovery as a means to avoid sanctions and loss of rights.

A first step is to complete a systematic indexing of all records by subject matter, regardless of the storage medium or location. An organization should also establish a consolidated records management process that links records to the retention schedule through a record classification scheme. The record classification scheme (also known as a taxonomy or file plan) should be populated with standard indexing parameters that include record class code, business function, record creator, dates and others, as needed.

Access procedures must be addressed, as well. At a minimum, enterprises should establish ownership profiles of records and designate authorization rights for each type of record in order to control access to confidential information. And to further protect data, they should consider limiting individual employee access to only what is necessary to conduct authorized business in accordance with established organizational practices and procedures.

How effective and accurate is your organization's ability to retrieve records from both on-site filing areas, as well as offsite storage facilities?



- Ineffective
- Retrieval is difficult and records often have to be recreated
- Retrieval is effective and accurate because so many duplicates exist
- Retrieval is effective and accurate, but the process is slow
- Retrieval is effective, accurate and quick

DEFINING BEST PRACTICES: PRIVACY AND DISPOSAL

The Privacy and Disposal Best Practice Area addresses the destruction of records according to the required retention period, as well as policies related to sensitive or confidential assets.

Privacy and disposal policies should cover both archived inactive records and active records. When conducted in accordance with a legally credible records retention schedule, consistent disposal practices facilitate retention, reduce storage costs and decrease corporate risk.

Today, companies face negative brand exposure if they do not protect confidential information. This is driven by a growing body of legislation that requires public notification in the event of inadvertent disclosure of personal or private information. Over 40 states now have these laws, making this a strategic issue that needs to be managed on two fronts: privacy and disposal.

With stories of identity theft making headlines on a regular basis, companies need to be committed to customer and employee privacy and take extra steps to safeguard confidential information. There are increasingly stringent regulations governing the proper disposal of confidential information. Examples include the Fair and Accurate Credit Transactions Act of 2003 (FACTA) and new FACTA Red Flag Rules, which requires that creditor and financial institutions develop identity theft prevention programs, Gramm-Leach-Bliley (GLB), the Family Educational Rights and Privacy Act of 1997 (also known as the Buckley Amendment; FERPA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and various SEC regulations.

Many states are passing legislation, as well. For example, Massachusetts' data privacy law (201 CMR 17.00) impacts organizations of any size and in any state or country that store a Massachusetts resident's personal information, such as that of a customer or employee. And, Nevada Senate Bill 227 requires adherence to Payment Card Industry (PCI) standards and imposes new encryption standards for personal information.

While some of these laws address the proper destruction of paper records, whether in storage or active, many of them also require proper security around electronic records. For example, 201 CMR 17.00 requires entities (regardless of location) that "store, receive, maintain, process or otherwise have access to" personal information of Massachusetts residents to:

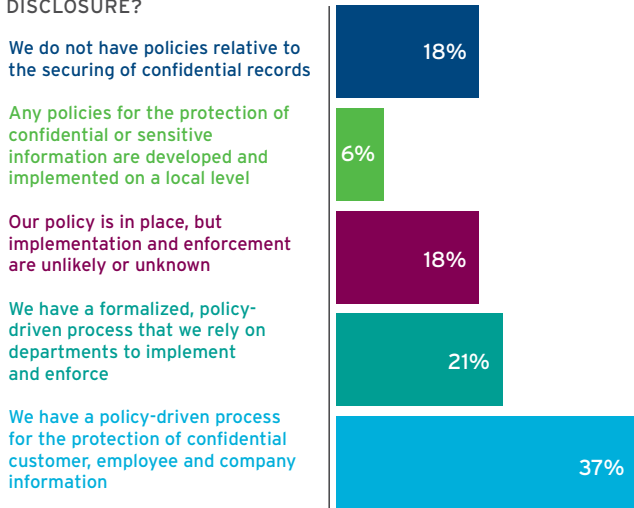
- Establish a comprehensive information security program with up-to-date firewall protection and identify and assess reasonably foreseeable internal and external risks to all systems that hold personal information of Massachusetts residents
- Ensure that the safeguards of any information security program be "consistent with" similar safeguards imposed by any applicable state or federal law
- Encrypt all wirelessly transmitted data and documents containing personal information sent over the Internet or saved on laptops or flash drives
- Take "reasonable steps" to select and retain third-party vendors that have the capacity to maintain appropriate security measures for personal information and contractually require such vendors to maintain such safeguards

Standard destruction policies should be set at the corporate level – rather than departmental level – and should be reviewed by the proper legal and compliance professionals. And, the implementation of the policies should be treated as a consistent and routine process, because organizations will need to demonstrate consistent practices if their record-keeping methods are called into question during legal matters.

PRIVACY AND DISPOSAL POLICIES ARE INCONSISTENTLY DEFINED AND APPLIED

An organization's privacy policies and practices should address all types of sensitive or corporate confidential data. Employee and customer information both fit into this category and should be protected with the utmost diligence.

WHAT POLICIES DO YOU HAVE IN PLACE TO PROTECT PRIVATE INFORMATION CONTAINED WITHIN SENSITIVE OR CONFIDENTIAL RECORDS FROM UNAUTHORIZED ACCESS OR INADVERTENT DISCLOSURE?



Twenty-four percent of respondents state that they do not have a policy for securing all sensitive information, while 37% describe a consistently applied program that includes employee acknowledgement.

A mean score of 4.0 shows that organizations have heard the wakeup call and are taking strong measures to avoid inadvertent and unauthorized disclosure of sensitive information.

With the heightened focus on protection of sensitive and confidential information, disposal processes should set the standard for employees to follow. Ninety-five percent of respondents report that they employ some form of shredding to dispose of confidential information.

DOES YOUR ORGANIZATION HAVE A POLICY OR PROGRAM THAT COVERS THE SECURE DESTRUCTION OF ALL CONFIDENTIAL AND/OR SENSITIVE CUSTOMER, EMPLOYEE AND COMPANY HARDCOPY RECORDS?

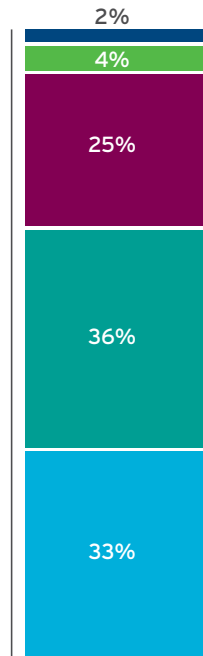
We do not have a policy or program for the secure destruction of confidential and/or sensitive customer, employee and company information

A policy for the secure destruction of confidential and/or sensitive customer, employee and company information is being considered

We have a policy for the secure destruction of confidential and/or sensitive customer, employee and company information that has been rolled out to some business units, but no formal program

A policy and program for the secure destruction of confidential and/or sensitive customer, employee and company information are in place, but consistent compliance with the policy across locations is unknown

A policy-driven uniform process for the secure destruction of all office documents at all locations along with a consistently applied program including employee acknowledgment and ongoing measurement of program effectiveness is in place

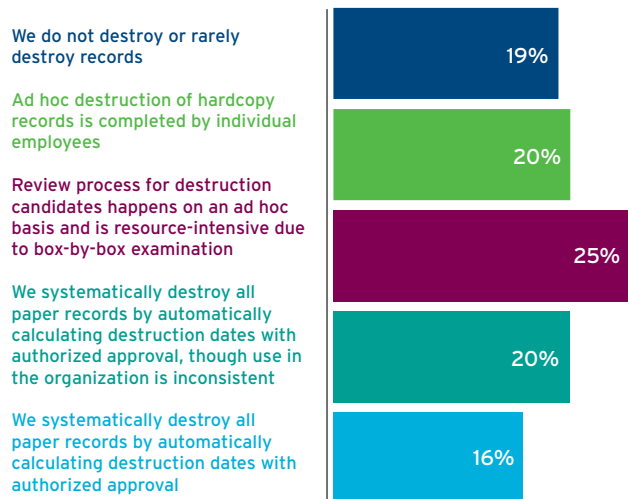


While the use of shredding is widespread, organizations are clearly split in their disposal policies for sensitive information in the office environment (i.e., not stored/archived information). As indicated in the chart above, 69% of respondents have policies for the destruction of active records. However, at the same time, 39% profess to ad hoc, if any, destruction of archived records (see chart on following page). And, 36% report they are performing at "Formalized" (4) or "Optimal" (5) levels by regularly shredding archived records per calculated destruction dates.

LEGISLATION LOOKOUT

There are more privacy laws governing records management than ever before in the United States and global jurisdictions. For more information on FACTA Red Flag Rules, Massachusetts 201 CMR 17.00, Nevada Senate Bill 227 and others, please visit www.ironmountain.com/privacyinfo.

HOW DOES YOUR ORGANIZATION FACILITATE DESTRUCTION OF ARCHIVED HARDCOPY RECORDS IN ACCORDANCE WITH THE RECORDS RETENTION SCHEDULE?



The even distribution of respondents across the Health Scale continuum for this question shows how widely disposal process maturity varies for archived records. Destroying paper records at the discretion of individual employees or business units can put the organization at risk for premature and/or improper removal of records. Conversely, because an established pattern of systematic retention and disposition is one of the hallmarks of a mature records management program, it goes a long way in demonstrating an enterprise's commitment to its compliance efforts. As such, consistent practices that work in accordance with the retention schedule facilitate regulatory compliance and reduce operational risk.

Organizations with weak destruction practices are exposed to greater risks because they do not have the proper precautions built in to halt the disposal of relevant records pending notification of litigation, audit or investigation. Equally important, these organizations run the risk of loss of personal information, which would require them to make public notification of their breach. Such an incident could result in brand damage and loss of customer confidence, particularly given media interest in covering these events.

PRIVACY AND DISPOSAL: ACHIEVING BEST PRACTICE LEVEL COMPLIANCE

Organizations should take steps to develop a policy, supported by a program, that provides enterprise-wide implementation, education, ongoing assessment and accountability for the confidentiality of its information as it is destroyed. This helps to ensure that records are disposed of in a consistent, secure manner in accordance with policies. Failure to document and formalize policies or to communicate via an official program often leads to

ad hoc behaviors and exposes the organization to undue risk and cost.

Improper handling of confidential information can lead to inadvertent data leakage. Confidential information often exists in a range of media types, such as:

- PCs, laptops and hard drives
- CDs, tapes and disks
- Videotapes
- Microfilm
- Photographs
- Blueprints

To help, it is important that proper security and authorization access levels are in place across the organization. When it comes to the destruction and disposal of records, the term "systematic" means a company should have:

- An accurate classification of records that link to retention policies
- Documented policies to identify and approve records for destruction
- A method for accurately "holding" any records impacted by legal intervention (lawsuits, subpoenas, etc.)
- Secure processes for destroying active and archived inactive records
- A documented chain of custody for all of the above, including destruction certification

A number of regulations have been enacted to address the responsibility of businesses to better police their procedures for safeguarding and destroying personal information. On the federal level, there is the FACTA Disposal Rule, which impacts all United States businesses, regardless of size or industry, that possess confidential consumer, employee or internal data and holds them responsible for assessing the effectiveness of security procedures in relation to information disposal. FACTA Red Flag Rules require financial institutions and creditors to identify, prevent and effectively respond to activities associated with identity theft. And, as noted earlier, many states now have laws on the books that call for the protection of private information.

Compliance with this growing body of legislative initiatives demands the design and implementation of new, stricter policies that better manage how consumer information flows from employees to its final, non-recoverable form. Security principles or checkpoints should be applied throughout all phases of the information's life cycle. Many organizations have simplified the process by mandating a "shred all" approach, which takes the guesswork out of information protection by requiring that all paper records, whether destroyed from active state or from archived storage, be shredded before disposal.

DEFINING BEST PRACTICES: AUDIT AND ACCOUNTABILITY

The Best Practice Area of Audit and Accountability refers to enterprise-wide ownership of the records management program, as well as ongoing evaluation of the day-to-day compliance practices.

A proactive approach includes the integration of the program into the formal internal audit process. Audit requirements should be defined, communicated, measured, reported and resolved. This will ease the burden of responding to other external audits or regulatory assessments and allow for remediation actions before things get too far off track.

In today's environment, organizations need to be prepared for a variety of external and internal audits, including records management program and financial (Sarbanes-Oxley Act (SOX) of 2002) and regulatory compliance (SEC). There are best practices associated with promoting ownership at the user, executive and steering committee levels.

Driving consistent behaviors related to records management requires a culture of accountability. This can only be achieved when the records management program has visibility, involvement and support at the highest levels of the organization and there is a system of checks and balances – audit and remediation – in place to ensure that consistency is being driven to all areas of the organization.

AUDIT AND ACCOUNTABILITY IS THE LAST FRONTIER

While 36% of respondents report systematic compliance monitoring of policies and procedures within their organizations, another 36% have compliance monitoring capabilities that are not established as routine practices.

And while 28% of the participants have a formal steering committee for records management oversight, a third of these indicated that their steering committee was established but not functioning. The remaining 72% indicate that records management oversight responsibilities are “not clearly defined” or are limited to participation from records managers alone or with some support from General Counsel.

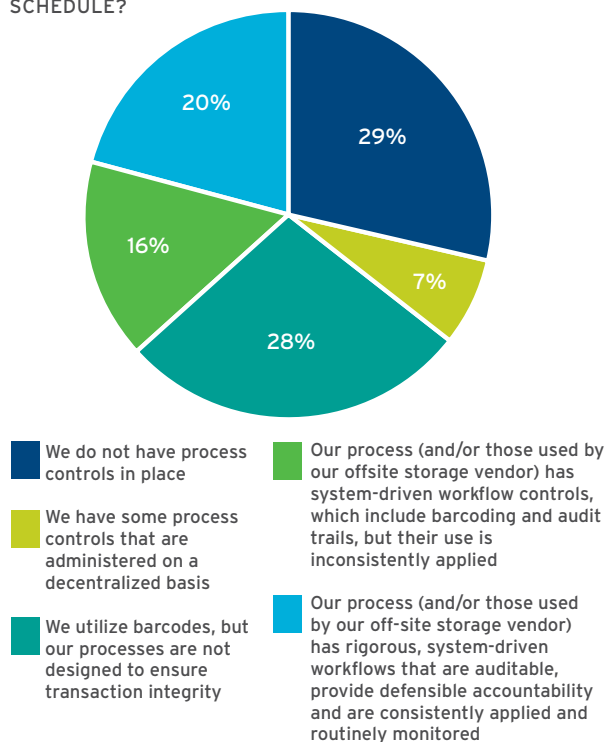
Records ownership at every level of an organization is critical to achieving compliance. And while training and communication help to drive consistent behaviors, audits are an essential component of the records management strategy as they provide the checks and balances regarding the consistency of behaviors – and allow for the mitigation of issues before they become too large.

Additional checks and balances come in the form of records authorization privileges. It is imperative that organizations establish very clear guidelines for records access and authorization. Authorization lists should be tightly controlled and updated on a frequent basis, and increased levels of authorization should be assigned according to the risk levels identified by record and by transaction. These processes should then be incorporated into the audit process and reviewed often.

“Before doing anything, it was important to form a steering committee to develop the plan and obtain senior management buy-in. After the implementation of the retention schedule, it was also important to leverage tools that facilitate regular training and enable consistent compliance with policies and procedures throughout the organization.”

– Director, Records Management, large publicly traded Entertainment Company

HOW DOES YOUR ORGANIZATION MONITOR COMPLIANCE WITH RECORDS MANAGEMENT POLICIES AND PROCEDURES, INCLUDING THE RECORDS RETENTION SCHEDULE?



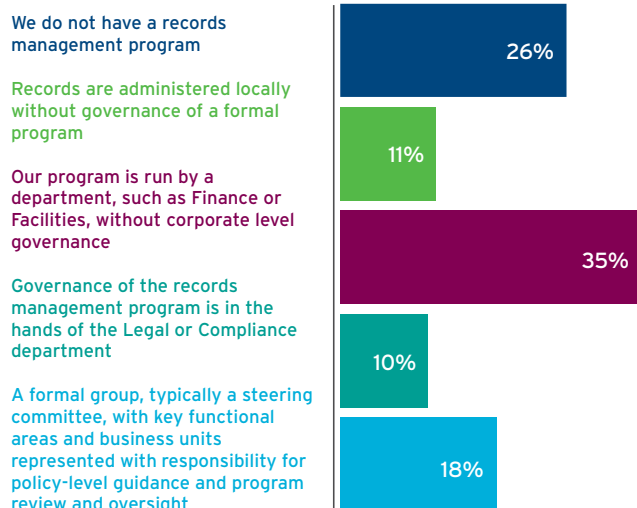
Compliance reporting is still a new undertaking for most companies. The adage of “what is measured is completed” holds true for records management. Governance is key and organizations need to determine which components of their program should be analyzed and use those metrics to monitor continual improvement of the program. They should also exercise greater control over processes, software selection and automated systems for records management. These safeguards are easier when the information resides in fewer records systems or repositories. Therefore, enterprises that manage multiple programs, systems and software will be even more challenged to implement the program consistently and will increase their risk factors and cost of compliance.

Key metrics should be established to measure the performance of a records management program that includes an audit framework featuring:

- Retention schedule compliance
- Destruction regularity
- Litigation hold administration and accuracy
- Business unit participation
- Regulation readiness (SOX, HIPAA, FACTA, etc.)
- Retrieval activity levels
- Employee acknowledgement and acceptance

Once the audit framework is determined, organizations should measure results against goals and include these in the steering committee discussions. Steering committee meetings themselves should be used to discuss continuous improvement and the advancement of the program. By putting more controls in place and managing the plan in a centralized manner, enterprises will naturally improve the integrity and quality of their information and make it easier to monitor their programs for efficiency over the long run.

WHO IS ACCOUNTABLE FOR GOVERNANCE OF THE RECORDS MANAGEMENT PROGRAM?



AUDIT AND ACCOUNTABILITY: ACHIEVING BEST PRACTICE LEVEL COMPLIANCE

A proper records management program must have clear and established ownership – and this ownership should be recognized across the entire organization in order to designate accountability. Organizations need to make a significant commitment to records management. The best way to do this is to establish a steering committee that includes a Compliance Officer and risk-management stakeholders from Legal, IT, Finance and other important departments. This committee will provide the necessary oversight and strategic direction for the program. A Corporate Records Manager should be designated to administer the program and create liaisons between the organizational program and end users. It is also helpful to identify records management coordinators or champions across the organization for program efficiency. It is essential to have defined roles and responsibilities for executive, management and coordinator levels of the program.

As noted earlier, where Records Management reports in the organization hierarchy can impact best practice level compliance. When Records Management reports to Legal/Compliance or Audit/Risk Management, it results in higher scores in the Risk Assessment and signifies greater organizational focus on the records management program.

To provide additional and necessary assurances, every organization should develop and implement a process for periodic audits, which can occur in conjunction with internal financial audits and should be aimed at ensuring consistent compliance with records management policies and procedures.

For best results, enterprises should treat their records management functions and actions as a program – not just a policy or a set of guidelines. They should also continually evaluate their programs' strengths and weaknesses utilizing internal and external resources, including audits and assessments by third-party organizations.



CONCLUSION

As mandates and regulations impacting information management continue to grow, organizations struggle to keep pace. And when they fall short, the consequences are significant:

- Escalating risk related to loss of critical corporate data, legal fines and restitution and loss of shareholder confidence
- Poor productivity due to longer lead times for document retrieval, ad hoc and, potentially, conflicting document management policies and an inability to efficiently respond to legal requests
- Higher costs due to the time and effort required to maintain multiple, ad hoc systems, redundant efforts and legal fines and restitution

By striving to adopt records management best practices, organizations will be much better positioned to avoid the serious issues highlighted above – and achieve many significant benefits.

That's why striving to attain a compliant records management program is so essential. The data from the 2010 edition of the Iron Mountain Compliance Benchmark Report illustrates that this is understood, with the majority of enterprises (64%) "very committed to the continued improvement of records management." Many are functioning at a relatively high level of records management maturity, particularly in highly regulated industry segments. Organizations clearly recognize the challenges associated with responsible records management and are making plans for continuous improvement.

And, there is no time to waste. A recent survey conducted by AIIM found that 56% of respondents predicted a steady increase in the volume of paper records and 70% saw a rapid increase in electronic records – clear evidence that records management best practices will continue to be an essential factor in the long-term health of all enterprises.

ASSESS YOUR OWN COMPLIANCE RISK TODAY

Perhaps this report has inspired more questions for your organization regarding your records management program competency and performance – especially in light of the compliance considerations we highlight. So, why not take the opportunity to evaluate your program and compare it against Iron Mountain's Best Practices? More importantly, why not leverage the 60 years of expertise and know-how of the market leader in records management to create a plan for improvement?

Visit our Web site at ironmountain.com/risk for more information. Your Iron Mountain representative can help to determine if the Compliance Risk Assessment is right for your organization.

BENEFITS OF RECORDS MANAGEMENT BEST PRACTICES

REDUCED RISK

- Improved control of the legal landscape on an enterprise-wide basis
- Enhanced control of documents throughout the litigation lifecycle – from discovery to trial
- More effective management, preservation and elimination of information at appropriate points in its lifecycle
- Better enforcement of information governance and protection policies
- More consistent processes in the face of growing international expansion
- Improved ability to demonstrate proven practices of good faith through consistent implementation
- Enhanced business continuity and disaster recovery through proper archiving of vital information

INCREASED PRODUCTIVITY

- More efficient processes for discovery of critical information
- Elimination of duplicate systems and redundant processes
- Improved flow of information across the organization
- More efficient access to information, regardless of the urgency of the request

CONTROLLED COSTS

- More predictable costs via automated processes and technology
- Improved employee efficiencies and less time wasted looking for information
- Reduced need for outside counsel to conduct early case assessment
- Lower storage and destruction fees due to better application of information retention rules

CONSEQUENCES OF POOR RECORDS MANAGEMENT PRACTICES

ESCALATED RISK

- Loss of critical corporate data if vital records are prematurely destroyed
- Legal fines and restitution resulting from storing records longer than necessary or not long enough
- SEC fines and loss of shareholder confidence due to the inability to produce required information
- Costly and embarrassing information breaches, as well as lost customers and revenues, arising from the failure to adequately protect records and information from unauthorized access

REDUCED PRODUCTIVITY

- Inability to produce documents required for the normal course of business
- Inconsistent storage methods, which make it difficult to know how to find records
- Added burden of lawsuits or compliance requests, which could plunge the organization into disarray

HIGHER COSTS

- Redundant efforts that waste resources, time and money
- Legal fines and restitution for non-compliance
- Costs associated with the retention of records longer than legally necessary



Extras from ACC

We are providing you with an index of all our InfoPAKs, Leading Practices Profiles, QuickCounsels and Top Tens, by substantive areas. We have also indexed for you those resources that are applicable to Canada and Europe.

Click on the link to index above or visit <http://www.acc.com/annualmeetingextras>.

The resources listed are just the tip of the iceberg! We have many more, including ACC Docket articles, sample forms and policies, and webcasts at <http://www.acc.com/LegalResources>.