

Topic: Business Document Record Retention
 Question by: Tana Gormely
 Jurisdiction: Montana
 Date: April 19, 2013

| Jurisdiction | Question(s) |
|-----------------------------|--|
| | I would appreciate hearing from states that retain “paper” business documents permanently and those states that destroy the original paper documents following imaging and/or microfilming. There is historical value to a small percentage of these documents and we are trying to decide if the “permanent” retention we have in place now warrants the storage issues we face. I’d like to get a feel for what other states are doing and most importantly how you came to the decision you currently practice. |
| Manitoba | |
| Corporations Canada | |
| Alabama | |
| Alaska | |
| Arizona | |
| Arkansas | |
| California | |
| Colorado | |
| Connecticut | |
| Delaware | Delaware is similar to Utah |
| District of Columbia | In the District of Columbia we stopped retaining the paper records and started destroying them after the scanning several years ago. In the past paper records were scanned and then transmitted to DC or US Archives for storage. It is no longer the case since scanned records are treated by the courts as the same as paper records so there was no reason to store the records anymore. |
| Florida | |
| Georgia | |

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| Hawaii | <p>Hawaii scans all our business registration filings and destroys them after one year. Paper document storage has its limitations and costs, especially in Hawaii. In the past, retrieval of paper documents from archive storage was sometimes difficult due to manpower shortages and distance.</p> |
| Idaho | |
| Illinois | |
| Indiana | <p>Indiana is the same as NC & MT. We have officially run out of space! There are boxes everywhere. We are working with our records retention agency to see if some changes can be made to our retention schedule for business entity.</p> <p>This is especially important to us since we no longer create "corporate packets" since everything is scanned at processing. Now things are bundled by filing date. This makes it impossible to follow the current retention schedule which only provides for destruction of the "corporate packet" after a certain period of time following dissolution/withdrawal.</p> <p>I believe the agency head for our records retention agency is planning on attending IACA. I'm hoping that everyone's forward thinking is contagious!</p> |
| Iowa | |
| Kansas | |
| Kentucky | |
| Louisiana | <p>We are now imaging everything and producing microfilm (or reproducing microfilm as the case may be). There are older sets of corporate records that Archives accessioned that Commercial (Corporations dept.) has been imaging (and then archives microfilms from the images after that). These paper records are currently being sent back for storage. Archives and Records Management have discussed and are likely going to propose that the imaged paper be de-accessioned and destroyed since we have the archival preservation covered with the Microfilm. There may be some paper records that will be kept for their intrinsic value (think 1800’s through early 1900’s). Otherwise, the image and film work to meet the permanent requirement and the business need.</p> <p>I want to stress we have not destroyed any paper as of yet for the older records that were accessioned. However, as you know we have been microfilming records for years and destroying the paper. The conversion of the film to image for charters is almost complete. We are generating new film to ensure the original negatives are available long into the future.</p> |

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| Maine | |
| Maryland | |
| Massachusetts | |
| Michigan | |
| Minnesota | <p>Minnesota has two statutes that guide this area of operations, see the links below:</p> <p>https://www.revisor.mn.gov/statutes/?id=15.17</p> <p>https://www.revisor.mn.gov/statutes/?id=138.17</p> <p>Basically, if there is historical or archival value, we retain the original; our Historical Society may wind up with those records. However, reproductions are allowed for other records, and have the same value in court as the original.</p> <p>Oh, and, incidentally, Minnesota’s laws mandate a return to the filer of the original documents, so we image the document and dispose of it in accordance with that provision and other similar provisions like the two I cited.</p> |
| Mississippi | |
| Missouri | <p>Missouri statutes state all corporate documents are permanent records.</p> <p>We have to keep all correspondence for each business entity. We currently scan the documents into the business filing system and then send the originals to storage.</p> |
| Montana | |
| Nebraska | |
| Nevada | <p>Nevada retains the paper documents until the documents have been indexed and committed to our long-term archiving (right now, it is microfilm.) We have a quarterly shred day when a vendor comes and shreds the documents. The archival versions are kept in perpetuity.</p> |
| New Hampshire | |
| New Jersey | |

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| New Mexico | |
| New York | |
| North Carolina | <p>I am in the same place you are. We only destroy after microfilming dissolved or withdrawn entity documents. We keep everything else and are running out of space quickly. I would love to hear the answers from the other jurisdictions as well.</p> |
| North Dakota | <p>North Dakota destroys paper documents after they are scanned and backed-up. The Secretary of State is responsible for the retention and retrieval of these images for the duration of the retention period, which in some cases is permanent. So, whenever our systems get upgraded, those upgrades include all images on the system.</p> <p>The scanning and retention of images by the Secretary of State was the result of a meeting we had with our state’s Archivist and Attorney General. Because of climate-controlled space constraints, our state’s Archivist was pleased to relinquish responsibility for our records. State Archives had been micro-filming records and destroying the paper. The electronic image is much more cost effective and easier to retrieve.</p> <p>We’ve followed this practice for at least 10 years without any heartburn.</p> |
| Ohio | |
| Oklahoma | |
| Oregon | <p>See additional comments below</p> |
| Pennsylvania | <p>The Pennsylvania Historical Museum Commission (PHMC) Management Directive 210.5, Section 5.d(5) outlines the provisions for the continued retention of permanently valuable records in a human-readable format (paper or microfilm), even though they have been copied onto an electronic imaging system. These terms are defined in section 4. Agencies must retain the original copy of a permanently valuable record or generate a security microform copy to serve as a substitute. We keep the original for 30 days just in case there are any issues with the image and then shred.</p> <p>Here is the link to the management directive: http://www.portal.state.pa.us/portal/server.pt/gateway/PTARGS_0_2_785_711_0_43/http%3B/pubcontent.state.pa.us/publichedcontent/publish/global/files/management_directives/management_administrative_support/210_5.pdf</p> |
| Rhode Island | <p>Rhode Island is the same as Utah; however, we have storage space to retain the paper document for approximately 6 months before sending the records over for permanent retention in the Records Center.</p> |
| South Carolina | |

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| South Dakota | |
| Tennessee | |
| Texas | <p>Section 405.020 of the Texas Government Code provides as follows:</p> <p>(a) The secretary of state shall permanently maintain as a public record any instrument, or the information included in any instrument, that is filed with the secretary of state evidencing the organization of, or otherwise in connection with, any entity formed under the laws of this state.</p> <p>(b) The secretary of state shall maintain the records required under Subsection (a) in any form the secretary of state considers appropriate.</p> <p>We image all filed documents and maintain the images permanently with appropriate back-ups of the image files. The scanned documents are maintained in-house for three months and then sent to Archives for storage for three years.</p> |
| Utah | <p>Utah's business documents retention is classified as "perpetual" and likely will not change....we keep it until Mother Nature does something to change that! We image the documents and hold them for 90 days, then send them to our records center/archives.</p> |
| Vermont | |
| Virginia | |
| Washington | |
| West Virginia | |
| Wisconsin | |
| Wyoming | |

Additional comments:

OREGON:

Back in the 1980s, we moved our permanent record retention to microfilm/fiche. It wasn't long before we looked for a digital replacement. Once our State Archivist agreed that the key was to keep up to date, not keep it "human-readable", it became much easier to sell digital storage.

Now we have an Electronic Records Management System, managed by our Archivist, and hosted as a SaaS service in a remote facility. We love it! More on that system at IACA.

Just as an aside, historians have been lamenting the move to "non-permanent" records-keeping since clay tablets. :-) Now, you have one group claiming all information is too ephemeral and impersonal, while another group is claiming it's too ubiquitous, permanent, and carries way too much metadata and links to associated info. Each medium presents different challenges.

Plato, of course, thought really important things should never be written down in the first place, but passed on orally! See Phaedrus. "Then any man who imagines that he has bequeathed an art to posterity because he put his views in writing, and also anyone who inherits such an "art" in the belief that any subject will be clear or certain because it is couched in writing such men will be utterly simple-minded. "

<http://people.ucalgary.ca/~dabrent/webliteracies/platowri.htm>

Tom

Full text of email:

Good afternoon,

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Thanks in advance for your responses.

Tana Gormely
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Montana Secretary of State
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