

Modernizing Records Management

Implications for state and local governments



Introduction

Today's world operates in a hybrid fashion, with work happening in offices, at home and everywhere in between. Employees use a variety of communications tools and applications to enable this hybrid collaboration. However, use of these applications creates records management and transparency challenges, especially for government departments with limited budgets.

Agencies must capture and maintain records to meet recordkeeping obligations. They must also be able to produce them in a timely and accessible manner for public records requests or face costly litigation. As digital communications data volume and variety increase, it only gets more complicated for government departments already dealing with tighter budgets and fewer staff.

The applications aren't the only problem. Agencies also face challenges around the hardware employees use. Whether agency-owned or personal devices, state and local governments need policies and procedures to manage and maintain communications data. Agencies are still figuring out the dual-use phenomenon of employees with one device for both personal and professional use, complicating how they identify a government-related record for recordkeeping.

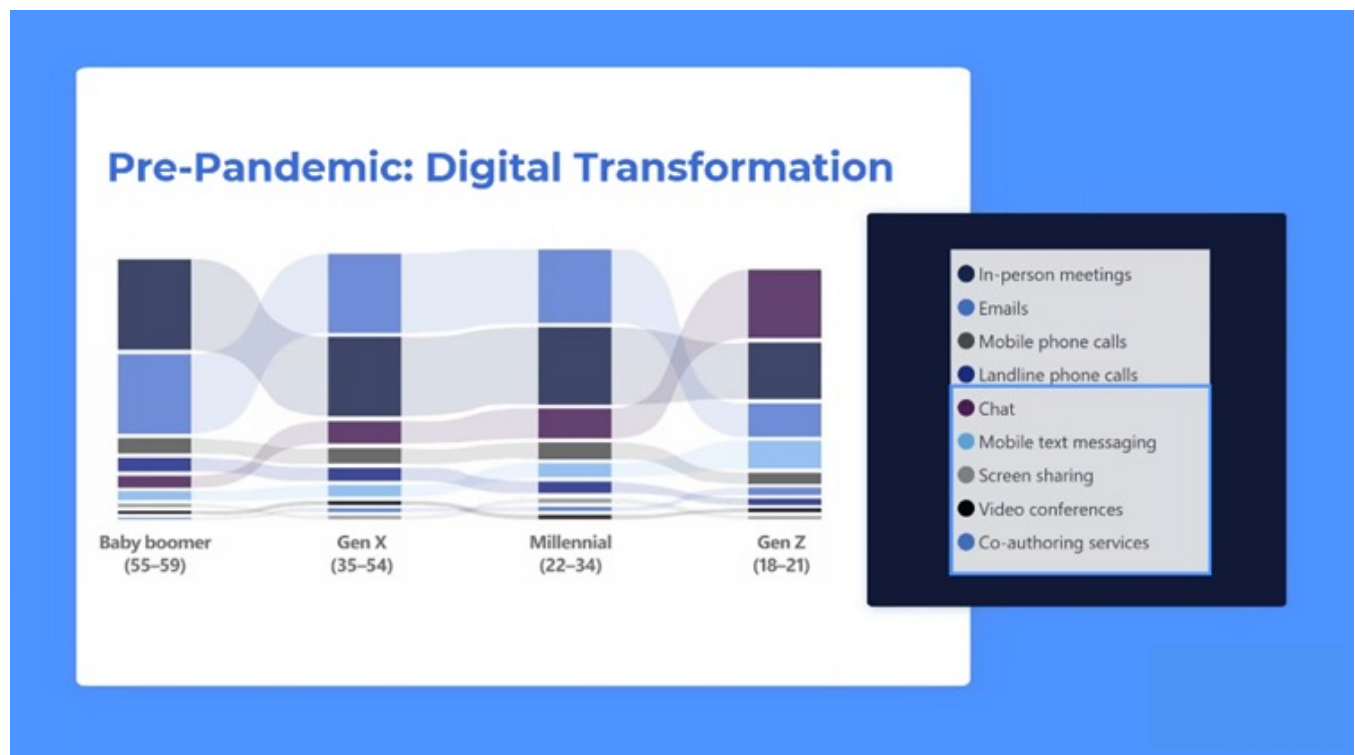


The state of communication in government agencies

While generational preferences for collaboration applications and other communications technology exist, these tools are often viewed as effective and efficient across various age groups. Moreover, there are several overlaps between different age groups about which applications they deem business appropriate.

The usage patterns, however, are different across different demographics. Without getting into every detail shown here, it's easy to see patterns emerge from the board. While there are similarities, there are many differences, which must be accounted for when managing government records.

How employees view certain technologies and how accustomed they are to using them will affect an agency's data volume, storage, use, transfers and retention rules.



The hybrid workforce model and increased use of Smartphones

Hybrid and remote work has led to an increase in the use of technology such as smartphones and collaboration tools like Zoom and Microsoft Teams, which produce diverse types of communications data. Legacy recordkeeping systems are inadequate for the rapidly growing volume of data and personal device use. Agencies must sift through this high volume and variety of data to distinguish between business and personal communication.

Effective data management is crucial for government agencies handling sensitive information, and the surge in electronic communication has created new challenges for responding to open records requests. Agencies must consider modern tools like Microsoft Teams for persistent and interactive conversations to best integrate with their records management and meet recordkeeping obligations.

BYOD or agency-owned?

Many government agencies have embraced work-from-home (WFH) and remote work policies, and this sometimes means having bring-your-own-device (BYOD) policies or providing agency-owned devices.

While BYOD can empower employee collaboration and productivity without the costs of providing agency-owned devices, it does create complexities and security challenges. On the other hand, agency-owned devices enable stronger recordkeeping and data security practices but are expensive to maintain.

And there needs to be a serious discussion about separating government-related messages from personal messages. The line between work and personal can sometimes get blurry:

- What happens if an employee sends a work email to their personal email as a backup for an upcoming presentation or webinar?
- What happens if an employee opens a work email on a personal device?
- What if personal messages are sent or viewed on a work device by mistake?

The line may not be technological. Rather, determining the difference between business and personal records could be an administrative or legal matter.

If a government agency wants to streamline its public records request process with either a BYOD policy or agency-owned devices, every scenario needs to be considered.

Records management practices need to catch up

Modern communication and collaboration channels are pushing agencies to update their legacy electronic management systems. The shift to hybrid work has only accelerated the need for these changes.

Agencies must understand that there is a big data problem with the volume and variety of information being created. The adequacy of tools' ability to deal with that volume is a fundamental driver for the Adoption of new technology.



Did you know?

Due to the shift to hybrid work, 68% of Texas Workforce Commission employees are working remotely at least two days per week.

It's the law to modernize

Modernizing is a “when” not “if” scenario. Many state laws were created decades ago (and for some, even more than a century ago) before electronic and digital records existed.

But the legislation does catch up. It happened with phone calls. It happened with faxes and emails. And it's happening now with virtual town halls, social media posts, direct messages, text messages and mobile apps.

For example, Florida's public records law was passed in 1909. Florida then passed the Sunshine Act in 1967 to provide the public access to official meetings. In 1992, the act was adopted into the state constitution, requiring all government bodies to follow public records laws.

The Florida Supreme Court later ruled that public records include all materials used to perpetuate, communicate, or formalize knowledge related to official business. Florida documents and records now include papers, photos, letters, maps, computer records, emails, text messages, data processing software, and sound recordings.

The Rise Of Cloud-First Legislation

With the increased variety and volume of communications data, agencies are required to store increasingly large-sized files, such as virtual town halls, body camera footage and social videos. It's vital that agencies keep these files — which could be a terabyte in size and contain highly sensitive information — safe.

Cloud-based solutions offer efficient, cost-effective, on-demand access to resources. They provide agility, allowing agencies to quickly spin up services and pay only for what they need. Cloud-first legislation directs state departments to shift toward cloud-based solutions.

An example is Florida's statute 282.206, which requires the state's agencies to prioritize cloud computing solutions in their technology-sourcing strategy whenever possible. This is due to the outdated government systems and the need for streamlined, efficient on-demand services that citizens expect. Cloud services have become a must-have for Florida's agencies to deliver public services effectively.

As agencies shift from on-premise to the cloud, they need to address the constant flow of communications data and legal, privacy, and compliance issues. Cloud-based discovery applications are being sought to address these issues, and cloud services enable the long-term preservation of digital documents.



States are committing to modernizing records management

California:

The California Department of General Services 2022-2023 strategic goals — which each office and division within the department must follow — have emphasized:

- 1. Reducing the potential for privacy breaches, litigation and reputational risk**
- 2. Identifying compliance gaps**
- 3. Serving as a model for statewide compliance**



Texas:

One of Texas' top priorities is a statewide commitment to modernizing technical resources and digital capabilities amid unprecedented population growth — predicted to top 50 million.

The Texas Department of Information Resources' top strategic objectives focus is on enhanced data security and privacy with strong controls based on risk and legal requirements. As modernization and digitalization trends continue, the agency expects demand for secure data management to increase.



Florida:

In 2020, Florida created the Florida Digital Service to improve government transparency, service delivery and data management, focusing on data interoperability, digital transformation, and citizen experience. It aims to improve accessibility, data sharing and analytics, and create a better digital service experience for the people of Florida.



Considerations when modernizing records management

Technology plays a significant role in state and local agency records management. Given the volume and variety of information, technology is the key to an agency's ability to fulfill records requests. However, all technology use requires policies and processes to control government-related data.

How will data volumes and variety impact open records?

Open records management is one of the challenges government agencies face in managing electronic communications. Meeting records requests require the right technologies and processes.

For example, law enforcement agencies must be able to produce body cam and dashcam footage in a reasonable amount of time and in their original formats. Agencies need to be aware of their responsibilities with that footage. It requires having the right policies and technology to manage these records and requests effectively.

Consolidate records management tools and processes

Managing disparate data and new requirements is a resource-sinking endeavor. Government organizations should have a single control point or standard platform to manage risk obligations. This is particularly crucial as records are now scattered across various communication tools, which are constantly changing.

From a FOIA and cellphone usage standpoint, it's crucial to do due diligence when selecting a platform with a long-term plan in mind. As government agencies undergo digital transformation, the amount of data being generated is increasing, which makes it crucial to have the proper storage and security in place.

A centralized records management platform is an effective and efficient solution that can handle various communication tools and applications to ensure agencies are prepared to meet recordkeeping obligations without managing multiple systems.

Did you know?

In June 2022, the San Francisco appeals court ruled that the California Public Utilities Commission must comply with state law requiring all agencies to promptly release information to the public.

Streamline public record request processes

Every state has laws defining retention rules and the amount of time an agency has to respond to a records request. While response time varies from state to state, agencies risk litigation and alienating their constituents the longer it takes them to respond to requests or produce requested records.

A single, cloud-based records management system can simplify public records requests since every message and file is in the same repository. Cloud solutions have reliable uptime, and many make it easier for agencies to create a self-serve public records portal. Enabling citizens to retrieve records themselves frees up agency resources that would otherwise be spent tracking down records



The Request Process

After Streamlining



The need for more cybersecurity

Cybersecurity and data privacy are top priorities for state and local governments, with risks increasing as government digitization efforts continue. States are taking a whole-of-state approach to cybersecurity, emphasizing communication and utilizing zero-trust models.

Resilient architecture and proper security measures are crucial in ensuring a strong cybersecurity posture, including modern communications and data management solutions. It's essential to address data privacy and security concerns, as incidents affecting both must be tackled as one.

Privacy breaches, litigation and reputational risks

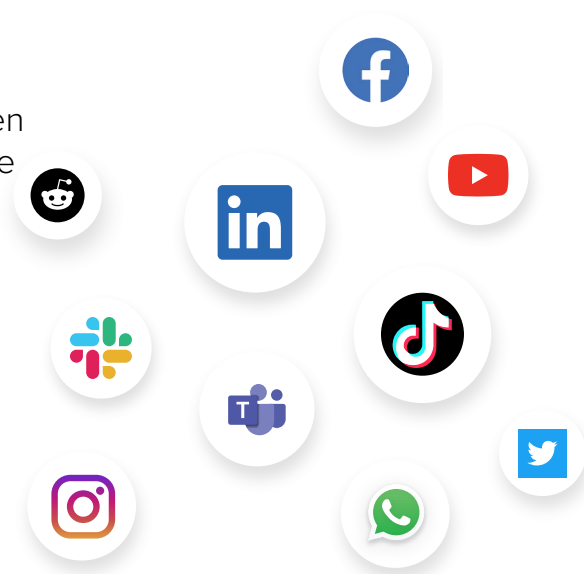
An increasing number of states are passing laws to hold organizations (including state agencies) accountable for failing to maintain an individual's privacy or personal data. As a result, state and local governments must make a concerted effort to protect against privacy breaches.

Social media use goes viral

Numerous public officials across the state have a strong presence on LinkedIn and other social media accounts. Even TikTok has become a well-used channel by officials because it's a valuable platform to reach a younger audience and provide basic information.

California alone has more than 150 state departments and agencies with official social media accounts. U.C. Berkeley has one of the largest state LinkedIn accounts, with nearly one million followers.

These platforms are widely used by government officials to disseminate information about government activities, but there needs to be a clear policy and approach to managing data in this context. Otherwise, agencies risk losing visibility and record of critical business decisions.



Mobile device use needs infrastructure support

Enabling the use of mobile devices for work isn't simply saying "yes" to BYODs or providing agency-owned devices. Government employees need to understand the difference between public records and private messages.

But it's unreasonable and impractical to expect or require each employee or elected official to archive government-related messages on their devices manually.

Mobile device management and containerization can help automatically segregate work and personal use. Other challenges include storing and retaining data, often addressed through cloud and hybrid storage methods. Above all, policy training and awareness should be a top priority to help agencies navigate these challenges effectively.

Did you know?

The City of Tallahassee implemented a robust policy that includes retaining all communications through city-issued phones and tailoring policies for electronic communications. Other Florida agencies and municipalities are following suit to implement similar electronic management solutions to ensure recordkeeping obligations and reduce reputational risks.

Plan for future change

We know that global events, evolving trends, legislation and technologies are always causing disruptions. Government organizations must plan for change with a nimble infrastructure that can scale and respond proactively.

When creating policies and procedures, it's important to consider how to handle and review these technologies and plan for future changes. Assigning a custodian and providing employee training is crucial to avoiding compliance gaps. Policies and training go hand in hand, so it's essential to ensure employees understand their obligations regarding recordkeeping, including phone records.

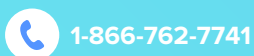


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