

CLERKS AND CORPORATE OFFICERS FORUM 2008

THE LGMA RECORDS MANUAL UPDATE

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HISTORY

- 1988: First Edition Municipal Officers' Association of BC
- 1994: Second Edition LGMA
- 2006: Third Edition LGMA
 - Completely revised
 - Current to July 1, 2006

2006 THIRD EDITION

- Completely Revised
 - LGMA Records Management Manual Advisory Committee
 - Available purchase from www.LGMA.CA website
- Emphasis:
 - Recorded Information Management (RIM) standards
 - Electronic records best practices
 - Legal retention requirements

STRUCTURE: VOLUME 1

- Introduction to RIM
- Program Design and Operation
- Electronic Records Considerations
- Summary
- Appendices
 - Model RIM Bylaw (A)
 - Forms and Samples (B)
 - Document Naming Conventions (C)
 - Glossary (D)
 - References and Links (E)

STRUCTURE: VOLUME 2 APPENDICES

- Records Classification and Retention Schedule (F)
- Legal Citation Listing (G)

RIM UPDATE: CORE COMPETENCIES

- Staffing information
 - Professional competencies
 - New job descriptions
- Security information
 - ISO 27000 series
 - ISO 27002 2005 Information Security

RIM UPDATE: CORE COMPETENCIES

- 2007 ARMA Core Competencies for the RIM Profession (www.arma.org):

knowledge, skills, characteristics, or traits that contribute to outstanding performance in the RIM profession that can be observed, measured, and rated

- Competencies focus on “the how” of an employee accomplishes required tasks

COMPETENCIES

- ARMA International
 - Research
 - Comparisons
 - Basis of work – Canada ALARM, SLA
 - Published October 2007

CORE COMPETENCIES

- 4 Competency Levels
 - Reflect amount of knowledge/experience a person has relevant to a specific topic or skill-set
 - Level 1 to 4 progression from entry level practitioner to executive professional
- 6 Domains
 - Competencies that are the major responsibilities/duties that make up the RIM profession

CORE COMPETENCIES: LEVELS

- Level 1 – entry level, acquiring knowledge and skills
- Level 2 – prior RIM knowledge and skills, understands more than the basic techniques
- Level 3 – seasoned practitioner who has worked at the enterprise level
- Level 4 – executive level

CORE COMPETENCIES: DOMAINS

1. Business Functions
2. RIM Practices
3. Risk Management
4. Communications and Marketing
5. Information Technology
6. Leadership

DOMAINS: BUSINESS FUNCTIONS

- “knowledge and skill necessary to administer, implement or maintain non-RI specific functions”
- Examples:
 - **Supervision**
 - **Budgeting**
 - **Provision of customer service**
 - **Identifying and mapping work processes**
 - **Input to management**
 - **Strategic planning**

DOMAINS: RIM PRACTICES

- “the knowledge and skills required to systematically manage records and information from creation and receipt through processing, distribution, organization, storage and retrieval and ultimate disposition”
- Examples:
 - All technical aspects of records and information management, e.g.:
 - Active records management
 - Records retention scheduling
 - Systems analysis and evaluation

DOMAINS: RISK MANAGEMENT

- “Knowledge and skills necessary to proactively mitigate and manage the protection for damage to or loss of records and information”
 - Risk analysis
 - Risk assessment
 - Business continuity
 - Disaster preparedness and recovery

DOMAINS: COMMUNICATIONS AND MARKETING

- “knowledge and skills to effectively exchange thoughts, messages or information, by speech, writing, or behavior, and to effectively champion the benefits of RIM”

DOMAINS: INFORMATION TECHNOLOGY

- “knowledge and skills necessary to develop, maintain and use information processing systems, software applications and supporting hardware and networks for the processing and distribution of data”
- Examples:
 - **RIM software application selection, reprographics and imaging technology, establishing requirements for IT management of repositories, identification of emerging technologies**

DOMAINS: LEADERSHIP

- “knowledge and skills to motivate groups of people to achieve RIM program goals within context of organizational goals”
- Influence using: guiding, motivating and mentoring
- Interpersonal skills: empathy and sensitivity

HOW TO USE THESE?

- Personal evaluation – current target of ARMA
- RIM education – training and educational institutions
- RIM position descriptions published 2008
- Standard Occupational Codes (US and Canada)
- Your own personnel management requirements

INFORMATION SECURITY

- SIO 27000 series
- ISO 27002
 - 2005 published as ISO/IEC 17799 2005
 - 2007 renamed to ISO/IEC 27002 2005
 - Cancels and replaces ISO/IEC 17799 2000
- Code of practice for information security management
- Rewritten, reorganized and updated to address new and emerging information security issues
- Intended for use with ISO 27001 – code of practice and management systems

ISO 27002 INCLUDES:

- 13 sections
 - Structure
 - Risk assessment and treatment
 - Security policy
 - Organization of information security
 - Asset management
 - Human resources security
 - Physical security
 - Communications and operations management

ISO 27002 INCLUDES:

- Access control
- Information systems acquisition, development, maintenance
- Information security incident management
- Business continuity
- Compliance

LEGAL ISSUES FOR BC UPDATE

- Since July 1, 2006, British Columbia Legislative Assembly:
 - Passed over 35 new statutes
 - Amended over 300 existing statutes
 - Amended over 1,000 regulations

Source: Legislative Assembly of British Columbia and British Columbia Gazette Part 2

LGMA MANUAL, LEGAL ISSUES and LOCAL GOVERNMENT

- New BC legislation need Manual updating of:
 - Primaries and secondary subjects in the Records Classification Schedule (Appendix F) and
 - Legal retention requirements in the Retention and Legal Citation Listing (Appendix G)

LGMA MANUAL, LEGAL ISSUES and LOCAL GOVERNMENT

- Updates include:
 - New workers/young workers under the *Workers Compensation Act*
 - 2640 HEALTH AND SAFETY
 - legal requirement to retain specific records but no retention period provided
 - Access requests under the *Freedom of Information and Protection of Privacy Act*
 - 0580 INFORMATION AND PRIVACY
 - legal requirement to create records but no retention period provided
 - Elections under the *Local Government Act*
 - 4200 ELECTIONS
 - legal requirement to provide public access to records

EXAMPLE: ELECTIONS and the LOCAL GOVERNMENT ACT

- OLD law re: NOMINATION DOCUMENTS

designated local government officer must ensure that the nomination documents are kept until after general voting day for the next general local election (s. 73(8) under the *Local Government Act*, R.S.B.C. 1996, c. 323)

EXAMPLE: ELECTIONS and the LOCAL GOVERNMENT ACT

- NEW law re: NOMINATION DOCUMENTS

Retention requirement in section 73(8)
repealed by section 7 of the *Local Government Statutes Amendment Act, 2008*, S.B.C. 2008, c. 5 (Bill 7)(in force March 5, 2008 (day after First Reading of Bill 7) by s. 97, item 2 of Bill 7)

EXAMPLE: ELECTIONS and the LOCAL GOVERNMENT ACT

- *Local Government Statutes Amendment Act, 2008*, S.B.C. 2008, c. 5 (Bill 7)(in force March 5, 2008 (day after First Reading of Bill 7) by s. 97, item 2 of Bill 7) includes:
 - Permits bylaw to allow public access to election records to be provided via the Internet and other electronic means
 - Replaces a requirement for signed statements with a restriction on use of the information
 - Provides that the public not entitled to copies of materials available for public access

LEGAL TRENDS: “GOING ELECTRONIC”

- Potential adoption of best practices, like 2008 Sedona Canada Principles for Electronic Discovery (www.thesedonaconference.org)
- New draft BC Supreme Court Rules potentially adopting proportionality discovery rules similar to Sedona Canada Principles for Electronic Discovery and Rules expected in force 2010 (www.bcjusticereviewforum.ca/civilrules/)

SEDONA CANADA PRINCIPLES

The Sedona Canada Principles Addressing Electronic Discovery

—At A Glance

1. Electronically stored information is discoverable.
2. In any proceeding, the parties should ensure that steps taken in the discovery process are proportionate, taking into account (i) the nature and scope of the litigation, including the importance and complexity of the issues, interest and amounts at stake; (ii) the relevance of the available electronically stored information; (iii) its importance to the court's adjudication in a given case; and (iv) the costs, burden and delay that may be imposed on the parties to deal with electronically stored information.
3. As soon as litigation is reasonably anticipated, parties must consider their obligation to take reasonable and good faith steps to preserve potentially relevant electronically stored information.
4. Counsel and parties should meet and confer as soon as practicable, and on an ongoing basis, regarding the identification, preservation, collection, review and production of electronically stored information.
5. The parties should be prepared to produce relevant electronically stored information that is reasonably accessible in terms of cost and burden.
6. A party should not be required, absent agreement or a court order based on demonstrated need and relevance, to search for or collect deleted or residual electronically stored information.
7. A party may satisfy its obligation to preserve, collect, review and produce electronically stored information in good faith by using electronic tools and processes such as data sampling, searching or by using selection criteria to collect potentially relevant electronically stored information.
8. Parties should agree as early as possible in the litigation process on the format in which electronically stored information will be produced. Parties should also agree on the format, content and organization of information to be exchanged in any required list of documents as part of the discovery process.
9. During the discovery process parties should agree to or, if necessary, seek judicial direction on measures to protect privileges, privacy, trade secrets and other confidential information relating to the production of electronic documents and data.
10. During the discovery process, parties should anticipate and respect the rules of the forum in which the litigation takes place, while appreciating the impact any decisions may have in related actions in other forums.
11. Sanctions should be considered by the court where a party will be materially prejudiced by another party's failure to meet any obligation to preserve, collect, review or produce electronically stored information. The party in default may avoid sanctions if it demonstrates the failure was not intentional or reckless.
12. The reasonable costs of preserving, collecting and reviewing electronically stored information will generally be borne by the party producing it. In limited circumstances, it may be appropriate for the parties to arrive at a different allocation of costs on an interim basis, by either agreement or court order.

SEDONA CANADA: KEY RIM IMPLICATIONS

- E-discovery should apply to all relevant electronically stored information and should be proportionate as to costs and accessibility of production of this information (Principles 1,2,5)

SEDONA CANADA KEY: RIM IMPLICATIONS

- The reasonable costs of discovery should be borne by the party producing the e-documents. Parties should agree on preservation, access and production, using agreed upon electronic tools and formats but also protecting privileges and confidential information. Parties should respect the rules of the forum in which the litigation takes place (Principles 3,6,7,8,9,10,12)

SEDONA CANADA: RIM

- Sanctions should be considered by the court where a party will be materially prejudiced by another party's failure to meet any obligation to preserve, collect, review or produce electronically stored information. The party in default may avoid sanctions if it demonstrates the failure was not intentional or reckless (Principle 11)

"Compliance with a reasonable records management policy, or justifiable inadvertent destruction or non-production of relevant documents should not, in the ordinary course, constitute sanctionable conduct." (Comment 11.e on Principle 11)

SUMMARY: RIM

- Evolving
- Complex
- Requires Continuous Attention

CONCLUSION

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Thank You