Disclaimer

Legal Information Is Not Legal Advice

Contoural provides information regarding business, compliance and litigation trends and issues for educational and planning purposes. However, legal information is not the same as legal advice — the application of law to an individual or organization's specific circumstances. Contoural and its consultants do not provide legal advice. Clients should consult with competent legal counsel for professional assurance that our information, and any interpretation of it, is appropriate to each client's particular situation.

Confidentiality

The information contained in this Presentation constitutes trade secrets and/or information that is commercial or financial and confidential to Contoural. It is furnished in confidence, with the understanding that it will not, without the prior written permission of Contoural, be used or disclosed for other than evaluation purposes.

Today's Faculty

Tom Mighell, Esq., COO, Contoural

With over 25 years of experience in compliance, litigation, privacy and information governance, Tom regularly works with corporations to develop information governance programs and is a Certified EU Privacy Professional. Tom served as Chair of ABA TECHSHOW 2008 and 2018, and as 2011-2012 Chair of the ABA's Law Practice Division.

Mark Diamond President & CEO, Contoural

As founder and CEO of Contoural, Inc. Mark Diamond is one of the industry thought leaders in proactive records management, privacy, litigation readiness, compliance and governance strategies. As a trusted advisor he and his company work with more than 30% of the Fortune 500, plus many mid-sized firms, federal agencies, as well as non-profits. Contoural is also helping the Association for Corporate Counsel launch a law firm security assessment program.

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ACC Records Management University Syllabus

Available On-Demand – Class 1: Introduction to Modern Records Management: Creating a Records Policy and Schedule

- Key concepts of a modern records program
- Creating a compliant and easier-to-execute records retention schedule
- How privacy, data governance and other initiatives fit into a records program

Class 2: Records Program Execution

- **Determining the right level of program maturity for your company**
- **Getting a records program started or restarted**
- **How to avoid from getting stuck, or restarting a stalled initiative**
- **Designing a records program so it drives effective privacy, eDiscovery, and employee productivity**

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ACC Records Management University Syllabus, cont.

Class 3: Automating Records Management – To be available On Demand

- The Five Second Rule – Creating combined records management, privacy, data classification and access control processes that employees can follow quickly
- How to automate records management
- How to delete email, files and other information quickly and defensibly

Class 4: Records Management Training, Employee Behavior Change Management and Organizational Development – To be available On Demand -To be available On Demand

- How messaging, communications plans, training and audit can be combined into an effective employee behavior change management strategy
- Creating records management messages that resonate, even for employees that don't care about records management
- Creating and staffing a records management organization

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A Records Retention Policy and Schedule is not the "Last Mile" - it's the First
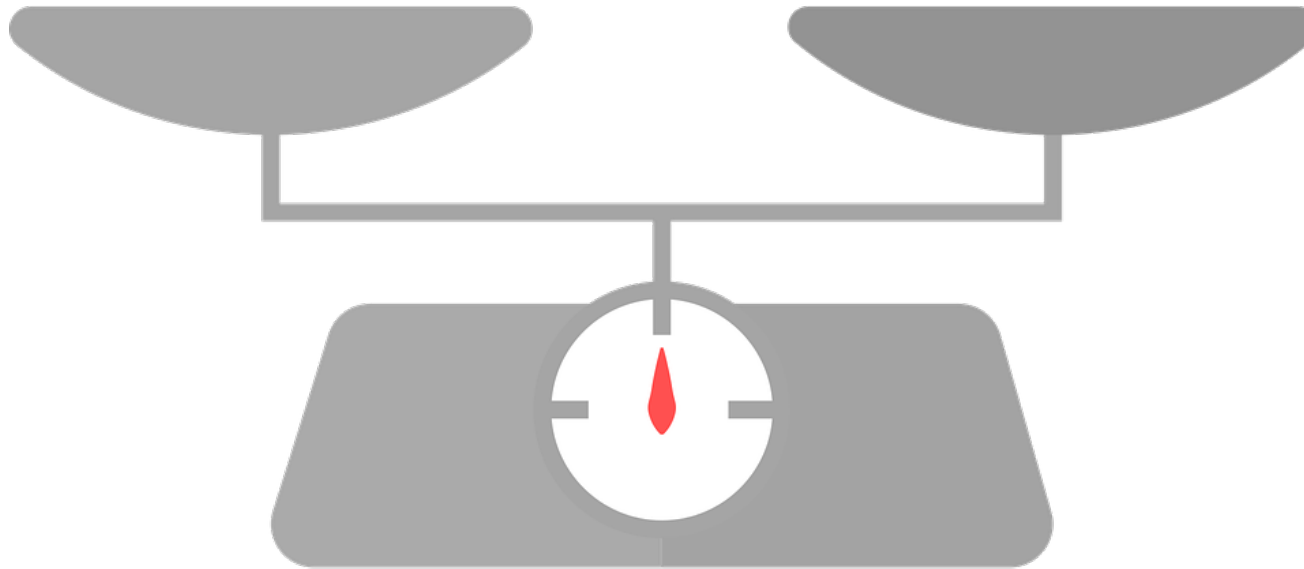
How Much Effort Should You Put Into Your Records Program?
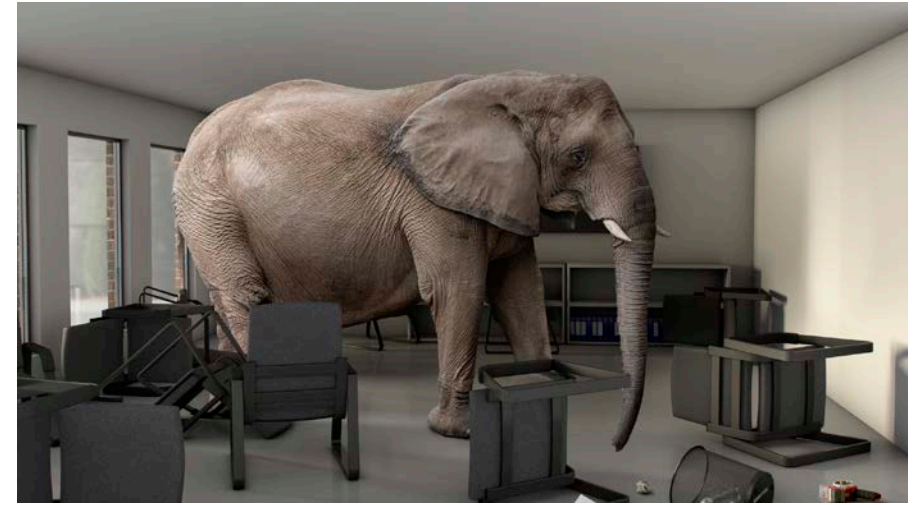
Traditional Records Program Maturity Drivers

Compliance
Geography

Cost
Effort

Hidden Records Program Drivers

Effectiveness – Will our program really work?

Consensus – Can we get other groups on board?

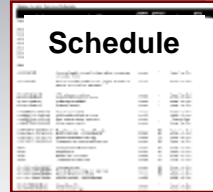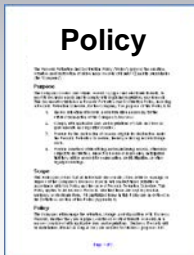*Ownership – If we initiate a program, will we end up owning it forever?*

Priority – Do we really need to do this now?

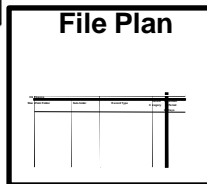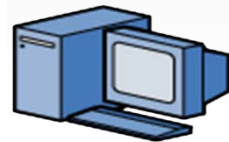*Consequences – If we don't do this now, will anything bad happen?*

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How Do Courts and Regulators Judge Compliance?

What Did You Say You Were Going To Do?

- Assessments
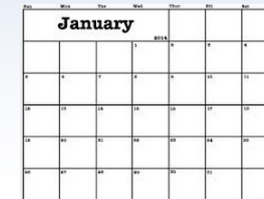- Policies
- Schedules

Policy

Schedule

How Did You Do It?

- Tools
- Processes
- File Plans

File Plan
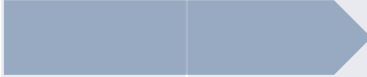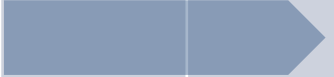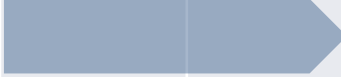
How Did You Check You Did It?

- Training
- Surveillance
- Metrics Tracking
- Reporting
- Audit
- Updates

January

Cadillac or Bicycle: Are You Targeting the Right Maturity?

	Current vs. Recommended Capability					Risk	Cost Savings
	No Capability	Limited Capability	Basic Level	Full Capability	Fully Optimized		
Records Compliance				●		Moderate	Large
Litigation Readiness					●	High	Medium
Operational and IT Efficiency				●		Minimal	Large
Employee Productivity			●			Minimal	Medium

Current Capability

● *Recommended Capability*

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Other Factors Impacting Records Management Maturity

Regulatory Changes

- Recordkeeping legal and regulatory requirements updated frequently
- Organizations create and receive new types of records
- Gaps can emerge between these requirements and the schedule
- Regulatory sweeps often highlight these gaps, which can lead to fines

Litigation Profile

- Paper and electronic information continue to accumulate
- During litigation, opponents push companies into larger discovery, greatly increasing costs
- Opponents often target out-of-date records schedules, pointing out that the schedules are incomplete and not being executed
- Failure to be able to show that they have a consistent policy that is being applied force companies into "providing a negative" during discovery, forced to search through everything to prove relevant information is not there

Privacy

- New and emerging state privacy regulations require companies to be able to dispose of employee and other personal information upon request
- Deletion can be suspended in the information is a record
- Out-of-date schedules hamper deletion processes, and raise the costs of complying with privacy rules

Employee Productivity/WFH

- Many organizations are asking fewer employees to do more with less resources
- Work from home hampering collaboration and productivity
- Over-retention causes information clutter – employees save everything and can't find anything
- Out-of-date schedules don't recognize business value, hence high-value information is not classified or made easily accessible
- Employee productivity suffers

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Impact of a Mature Program on Employees

Content Management System

Email Archive

Cloud
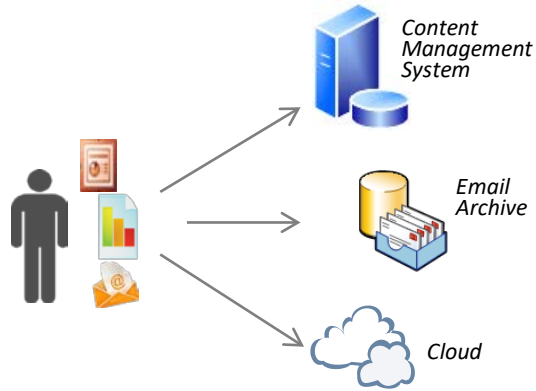
For any given user, each document lives in only one of four or five places and only in those places

Storing and classifying records and documents takes less than 5 seconds

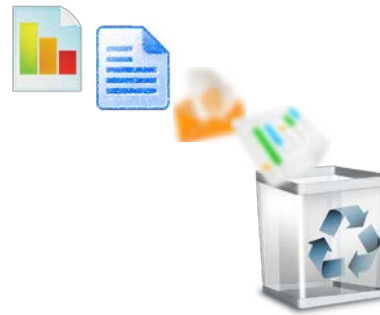| Record Retention Policy	Privacy and Security Policy		Access Policy
Reference	Highly Confidential	Frequent Discovery	Enterprise Reference
Time-based	Confidential PII, IP, PFI, PCI	Medium Discovery	Division Share
Event-based		Low Discovery	Group Share
Working Documents	Internal	Seldom Discovery	Personal Working Doc
Transitory	Public		

Retention, access, security, privacy and other rules are programmed into the repositories and rules are automatically applied

Repositories make it easier for users to search, version, collaborate and share information, increasing productivity

After each document's retention period is reached, the system automatically deletes it… older, expired, unneeded documents fade away

Legal holds, public record searches, discovery done with little or no user involvement

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How to Get Started or Restarted

- Educate yourself on needs and benefits of an Information Governance committee

- Create alliances with other stakeholders

- Form steering committee

- Assess current capabilities, risks and opportunities

- Develop a roadmap

- Inform and garner senior management support

Getting Started…

What projects should I include?

Which projects should go first?

Is this just a legal project?

How do I get approval for the plan?

How much will the projects cost?

Will I need additional resources or FTEs?

Help! Everyone has a different opinion

Do we need to buy technology?

How long will it take?

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Typical Records Management/Information Governance Program Elements

Types of Policies

- Record Retention Policy
- Record Retention Schedule
- Legal Hold Policy
- Privacy Policy
- Data Security Classification
- Email Usage Guidelines

Training and Change Management

- Senior stakeholder program engagement
- Employee training
- Behavior monitoring/enforcement
- Program audits
- Coordinator training
- On-going communications

## Sample Technology Tools

- Enterprise Content Management
- M365
- Document Management System
- Records Management system
- eDiscovery
- Data Classification Tools

Processes

- Record retention
- Email classification
- Defensible disposition
- Discovery response plan
- Legal hold and release
- Sensitive data classification
- Legacy document management

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Data Retention Policy vs. Records Retention Policy and Schedule

New Data Retention Policy
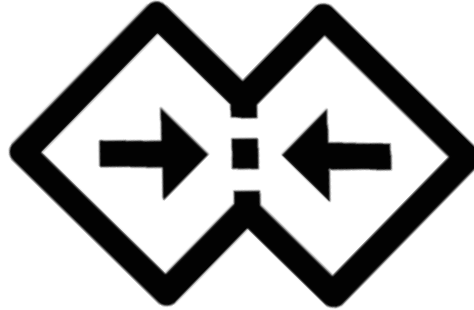
Record Retention Policy and Schedule

- *Legal and Regulatory Retention Requirements*
- *Business Value*
- *Add disposition requirements*
- *Add personal information*
- *Add legitimate business purpose process*

You do not need a new document – Irrespective of the title of the document/s, they provide the same information: the length of time you must keep records.

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Key Components of Maturity
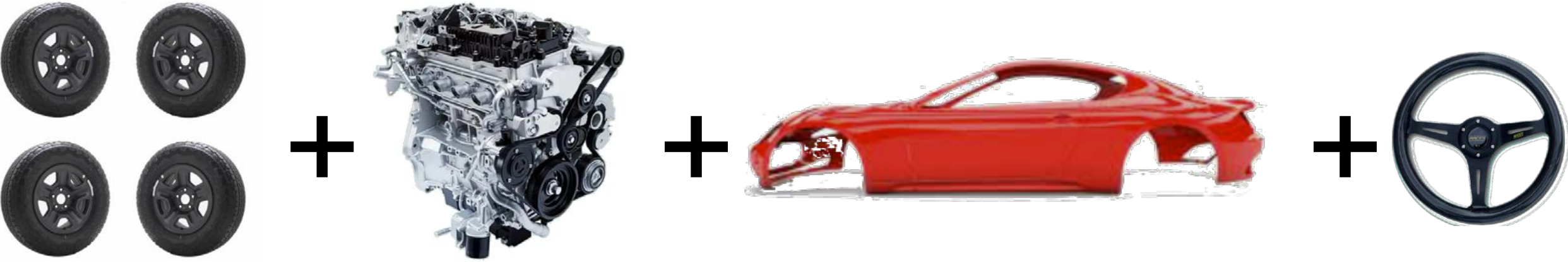
Rightsizing Your Approach

Build Quick Wins into the Project Plan

- Projects that address immediate cost savings
- Projects that fix identified high-risk behavior
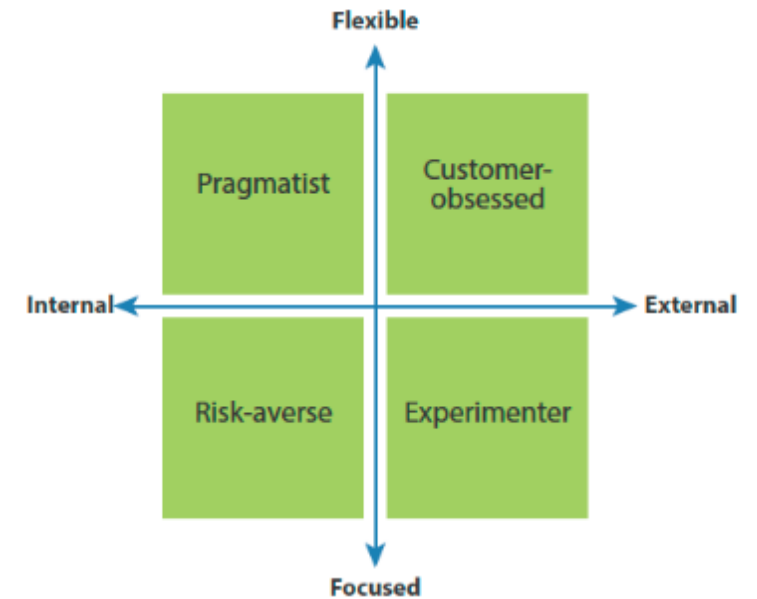- Low resource effort

Approach Needs to fit Corporate Culture

- What is right pace?
- Tolerance for risk?

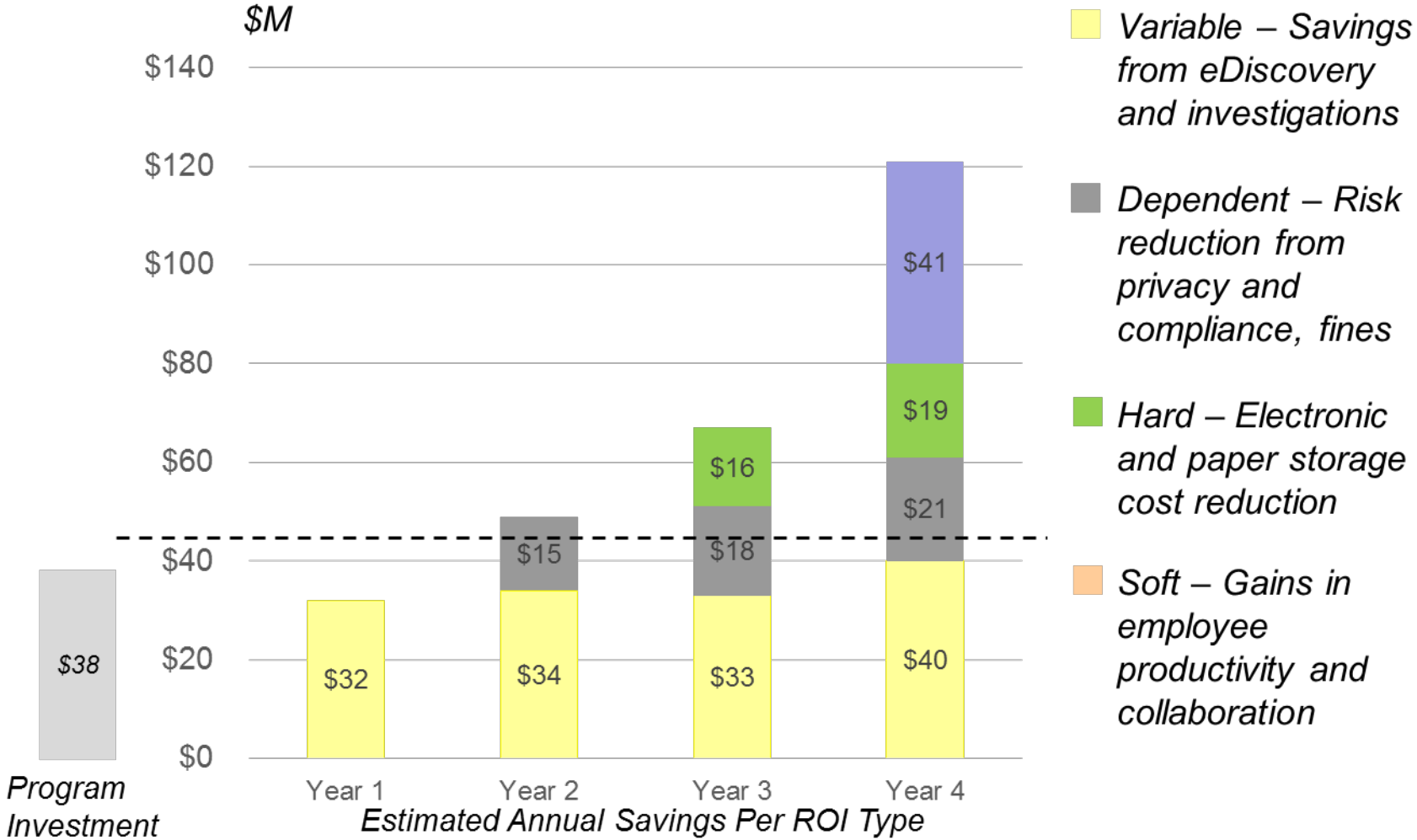**Align your project plan to company strategy and goals**

- Projects need to complement and enhance established corporate priorities
- Reconcile policies and conflicting priorities between Privacy, IT, Legal and business
- Drive consensus

Cultural Biases

Source: Forrester Research

Case Study: Return on Investment for 50K Person Insurance Carrier

Legend:
- Variable – Savings from eDiscovery and investigations
- Dependent – Risk reduction from privacy and compliance, fines
- Hard – Electronic and paper storage cost reduction
- Soft – Gains in employee productivity and collaboration

$M

Program Investment: $38

Year 1: $32
Year 2: $34, $15
Year 3: $33, $18, $16
Year 4: $40, $21, $19, $41

Estimated Annual Savings Per ROI Type

Getting Executive Buy-In for the Plan

Communicate:

Gather facts : Assessment

"Everyone is entitled to their own opinion, but not their own facts." Patrick Moynihan

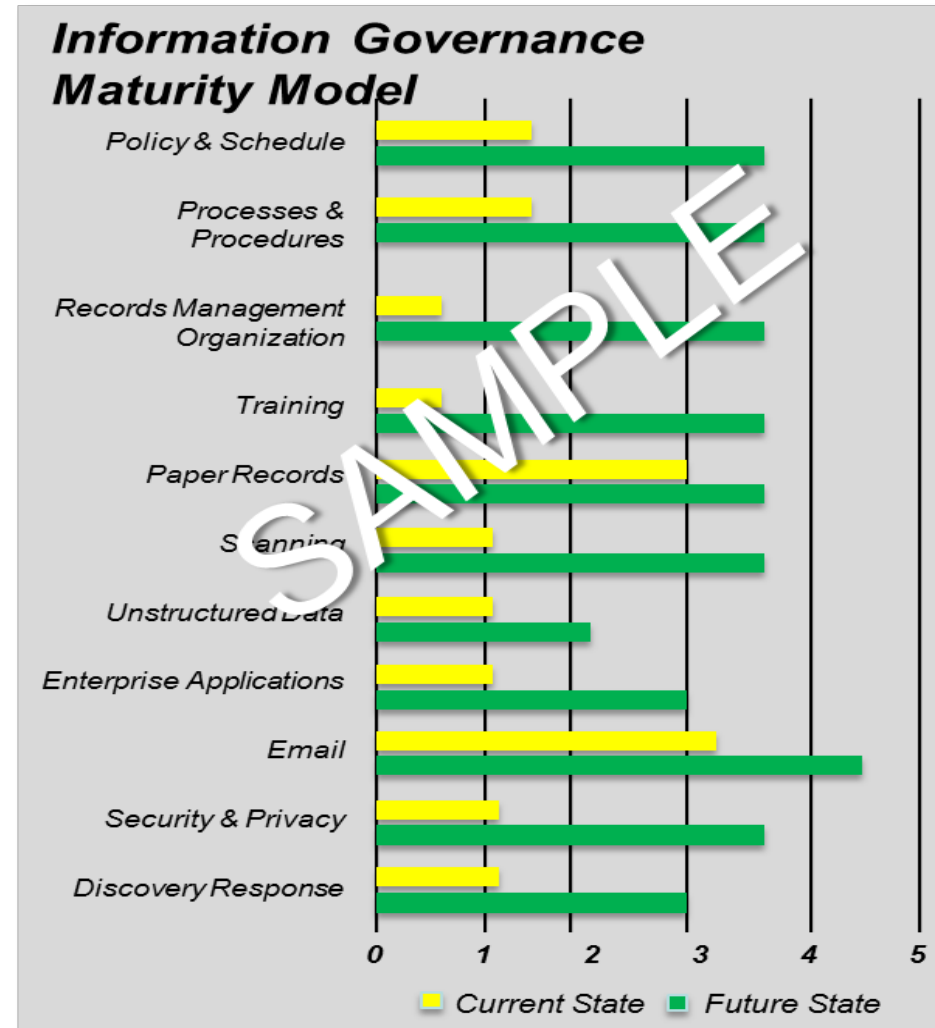Define the program benefits:
- Risk Reduction
- Compliance
- Cost Reduction
- Improved Productivity
- Increased data value

Provide benchmarks for Best Practice and industry segment

Information Governance Maturity Model

Current State / Future State

Benchmark Example: Industry Comparison

How do you compare to your Peers?

Company 9	<$10B	<25K
Company 8	<$10B	25K-50K
Company 7	$10B-$25B	<25K
Company 6	$10B-$25B	50K-100K
Company 5	$25B-$50B	50K-100K
Company 3	>$50B+	100K-150K
Company 4	$25B-$50B	100K-150K
Company 10	<$10B	<25K
XYZ Company	>$50B+	>150K
Company 12	<$10B	<25K
Company 11	<$10B	<25K
Company 1	>$50B+	>150K

Email Management Maturity
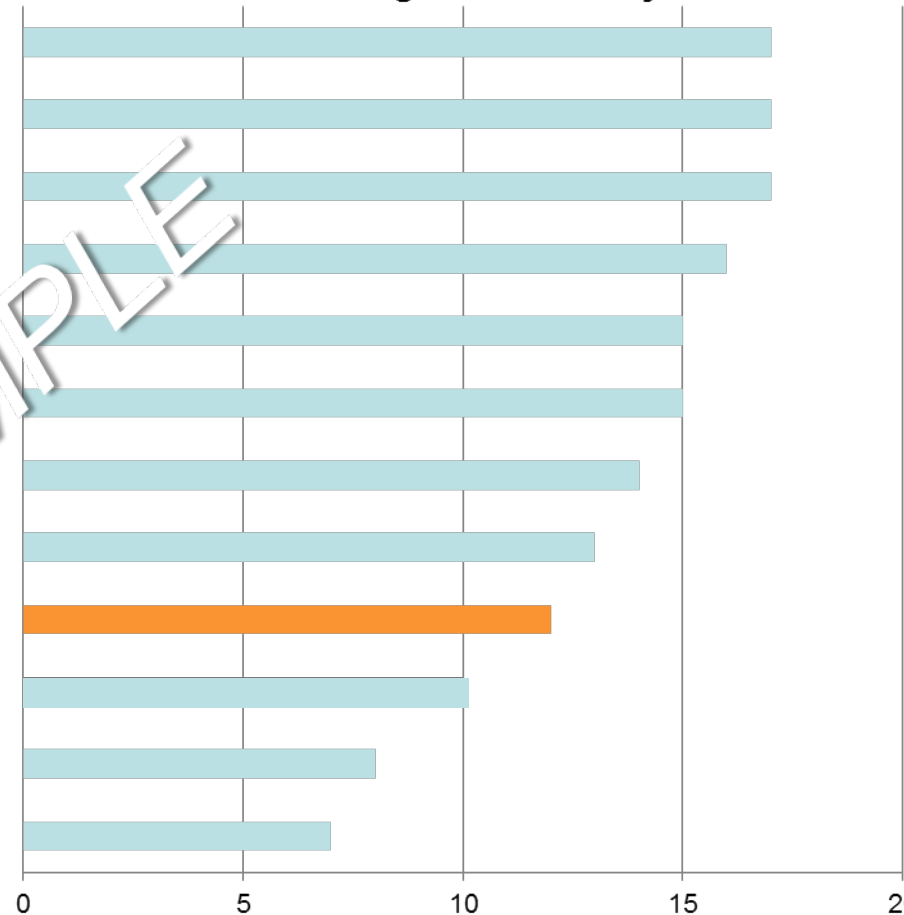
Getting Stuck

1. IT interested in data archiving
2. Archiving put on roadmap
3. IT reaches out to legal for policy
4. Legal says wait
5. What should we save?
6. Committee formed
7. Committee meets
8. Committee meets
9. Committee meets…
10. Committee meets…

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Information Governance Messaging That May Better Resonate

Employee Innovation Program

Faster M&A Integration

Reducing Impact of Employee Turnover

13.3%
12.0%

11.2%
10.3%

10.2%
8.9%

7.4%
9.1%

- Software
- All Technology
- Hardware
- Semiconductors

0.0% 2.0% 4.0% 6.0% 8.0% 10.0% 12.0% 14.0%

■ Sales Employees Only ■ All Employees (Sales and Non-Sales)
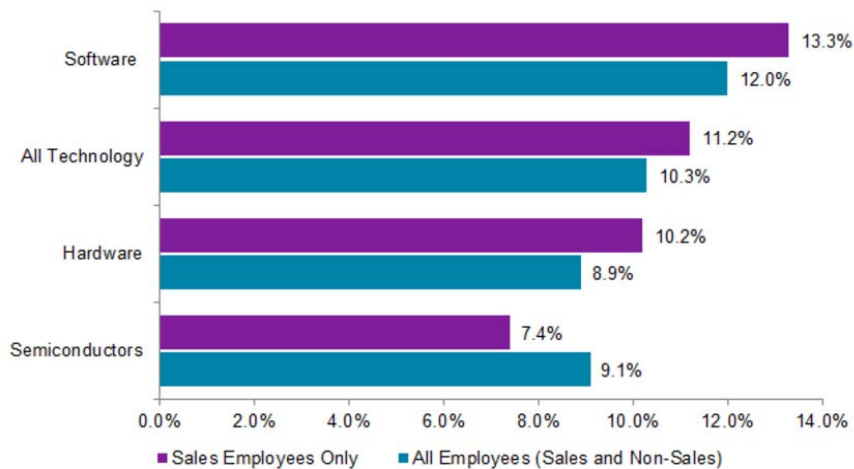
Decreased eDiscovery Costs and Risks

Initial *Improved* *Optimized*

Potential Discovery

7TB 40TB
8TB ?TB

Total Potential Cost: $9.8M + ?

Potential Discovery

1TB 2TB
2TB

Total Potential Cost: $1.2M

.1TB
.1TB
$51K

$9.8M $1.2M $51K

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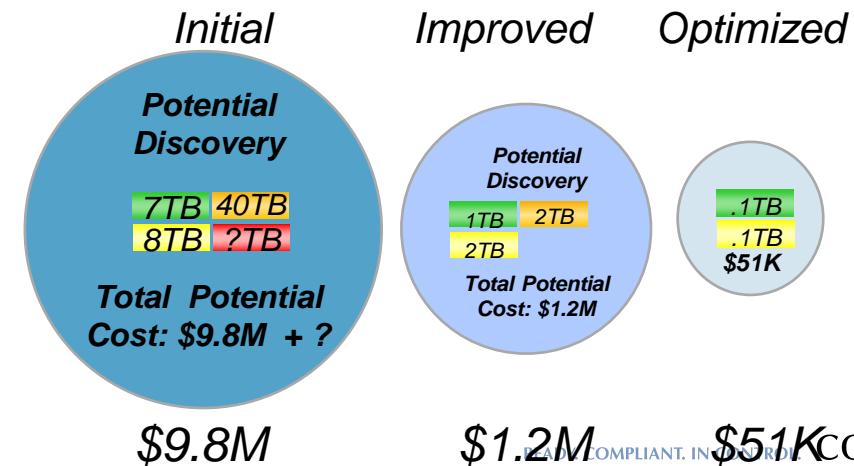
Creating an Information Governance Roadmap

Phase	2022 Q3-Q4	2023 Q1	Q2	Q3	Q4	2024 Q1	Q2	Q3	Q4	2025 Q1-Q4

Phase 1: Cleanup Enterprise Taxonomy and Governance Processes
- File Shares Data Cleanup
- Enterprise Taxonomy
- Exchange Shared Folder Data Cleanup
- Governance Processes

Phase 2: Lab and Pilot Testing
- Identify Lab/Pilot Test Groups
- Configure SharePoint
- Lab Testing
- Pilot Testing

Phase 3: Enterprise Rollout
- Business Unit Data Mapping/Departmental File Plans
- Pilot Evaluation/Enhancements
- Enterprise Rollout SharePoint
- Box Controls
- Legal DMS Controls
- Enterprise Rollout Plan

Phase 4: Legacy Data Migration
- Pilot Legacy Data Migration
- File Share Controls
- Enterprise Legacy Data Migration

Change Management and Training
- Change Management
- SharePoint Solution Training

Legend: Data Remediation | Business Process | Technology

SAMPLE

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Identify the Projects and Timeline Example Prioritize Projects

	Recommendation	Priority	Effort	Resources
1	Policy and Schedule	High	High	High
2	Records Management Organization	High	High	High
3	Processes and Procedures	High	Medium	Medium
4	Behavioral Change Management	High	High	High
5	Electronic Data Placement and Management	High	High	High
6	Data Security & Privacy	High	High	High
7	Standardize Scanning Processes	Medium	High	High
8	Discovery Response Program	Medium	Low	Low
9	Data Map	Medium	Medium	Medium
10	Paper Records Management	Medium	High	Medium
11	Standardize Retention for SORs	Medium	High	High
12	Backup Tape Remediation	Medium	Medium	Medium

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Data Security Classification Standard

- *Update of the organization's data security classification standard for electronic records and information*
- *Creation of a security classification policy and strategy to conform to Information Governance and Data Privacy program objectives*
- *Incorporation of the control of privacy data into information governance program and roadmap*
- *Ensures all new requirements, such as GDPR, are included and meet compliance requirements*
- *Designed to minimize data breaches and misuses of sensitive or critical information*
- *Improve user compliance through streamlined and easy-to-understand categorization*

Update Discovery Response, Litigation Readiness

Reactive eDiscovery

– *Accumulation of unneeded ESI and paper*

– *Inconsistent, broad, non-defensible holds*

– *Expensive and reactive discovery*

– *Out of control*

Fire Fighting

15-20% average cost reduction potential

Proactive Litigation Readiness

– *Ongoing defensible deletion*

– *ESI mapping enables narrow legal holds*

– *Consistent in-house discovery response process*

– *Predictable, defensible and in control*

Fire Proofing

25-40% average cost reduction potential

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Modern Data Placement Strategy: Employee View

- Easy "put it someplace" paradigm
- Few choices of locations

- *Five-second rule*
- *Enables productivity*

Bringing in Outside Validation

- External providers (consultants, auditors, etc.) can be brought in

  to evaluate both program needs and assess gaps.

- Comparisons can be made against like companies

- These external opinions can carry weight
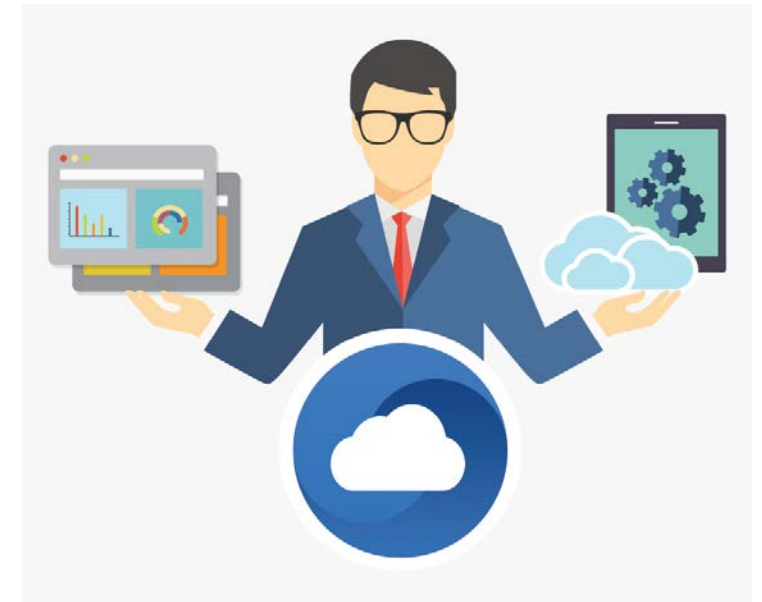
Review Your Risk Tolerance and Target Maturity
ACC Records Program Maturity Model

About Contoural

Largest independent strategic consulting services provider serving more than 30% of the Fortune 500 plus many small and mid-sized companies. Services including records and information management, litigation readiness and control of sensitive information consulting services. Sponsor of the ACC Information Governance Network.

Independent *– Contoural does not sell any products, provide document storage services or offer "reactive," matter-specific discovery services.*

Cross Functional *– Our engagements incorporate a combination of legal, compliance, records management, information technology, security and change management best practices.*

Flexible *– Contoural services can be tailored either for some part of a specific project or an entire enterprise-wide program.*

Experienced *– Contoural has served more than 30% of the Fortune 500, a number of federal agencies, as well as numerous mid-sized companies and public entities. Our consultants average more than 24 years of experience in their respective field.*

Real Impact *– Contoural services provide measurable impact on real-world business needs.*

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Contoural Services: An Innovative Approach

Maturity Assessment and Strategic Roadmap	Records Retention Policy and Schedule	Data Security	Discovery Response Program and Legal Hold	Unstructured Data Placement and Email Management Strategy	Technology Requirements and Vendor Selection	Data Placement Strategy Implementation	Behavior Change Management, Communications and Training	Legacy Data Disposition
Information Governance Assessment	Retention Policy and Schedule Creation/Update	Data Security Classification Standard	In-House Discovery Response Program	Data Placement Strategy	Business, Functional, and Technical Requirements	Implementation Pilot	User Behavior Objectives and Metrics	Paper Records Reduction Strategy and Scanning Optimization
Litigation Readiness Assessment	Policy Gap Analysis	Controls and Safeguards Requirements Identification	Legal Hold Policy and Process Development	Configuration and Implementation Decision Matrix	Vendor Short List	Data Migration Planning, Filing Structures and Migration Workbooks	Communications and Training Plan	Paper Records Inventory, Remediation, and Migration
Strategic Roadmap and Recommendations	U.S. and Int'l Legal Citations	IG Program Integration Strategy	Discovery Workflow Strategy	Data Map Design and Population Strategy	Vendor Selection: RFP Creation, Response Management and Scoring	Repeatable Implementation Playbook	Communications Content and Playbook	Structured Data Management Strategy and Remediation
Cost and ROI Models	Native Microsoft 365 Automation		30(b)(6) witness preparation	Data Map Maintenance	Vendor Demos and Scoring Comparison Summary	Microsoft 365/ECM Configuration and Implementation	IG Training Content	
Program Metrics, Benchmarking and Business Case	Evergreen Updates		Knowledge Transfer	Retention Schedule and Data Map Integration			Pilot Training	
	Retention Policy and Schedule Globalization							

Information Governance Organization (IGO) Development

IGO Framework and Distribution Matrix
IGO Roles and Responsibilities
IGO Program 90-day Task Plan

IGO Stakeholder and Participant Identification
Information Governance Processes and Procedures
Audit Planning and Design

ACC Records Management University
In-house Tales from the Trenches 20-minute On Demand

Alex Williams, Church Mutual Insurance – Getting Started

Patrick Chavez, Edward Jones – Automating Records Management

Megan Hertzler, Genentech – Program Execution

Natausha Cruz Wilson, Qualcomm -- Employee Behavior Change Management

ACC Records Management University Additional Content

In-house Tales from the Trenches – 20-minute On-Demand Recordings

- *Building Shared Records Program Ownership Across Legal, IT and the Business Units*
- *Getting Legal, IT, and Everyone Else to Agree on What Email, Files and Other Information to Save and Not Save*
- *How To Develop Program Support (and Funding) from Senior Management*
- *Key Lessons I Learned in Executing My Records Program*
- *How We Unstuck Our Records Program*
- *How We Learned to Have Records Play Well With Privacy and Other Compliance Programs*

ACC Records Management University Now Available

Available On-Demand – Class 1: Introduction to Modern Records Management: Creating a Records Policy and Schedule

Available On-Demand Class 2: Records Program Execution

Available On-Demand Class 3: Automating Records Management

- The Five Second Rule – Creating combined records management, privacy, data classification and access control processes that employees can follow quickly
- A quick review of technologies to automate programs, including technologies that most companies already own today
- How to delete email, files and other information quickly and defensibly
- Combining policies, processes and technologies to automate records management

Available On-Demand Class 4: Records Management Training and Employee Behavior Change Management

- How messaging, communications plans, training and audit can be combined into an effective employee behavior change management strategy
- Creating records management messages that resonate, even for employees that don't care about records management
- How to handle the 10% of employees who despite training will seemingly never follow records management policies
- How to audit and remediate ineffective or underperforming program components all while staying compliant.

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Additional Content

Contoural complimentary content and additional resources at www.contoural.com or email info@contoural.com

Guide: *Introduction to Modern Records Management*

Guide: *Creating Modern, Compliant and Easier-to-Execute Records Retention Schedules*

Guide: *Executing Your Records Retention Policy and Schedule*

White Paper: *Creating a Data Retention Policy to Meet Privacy Requirements*

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Questions

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Contoural complimentary content and additional resources at www.contoural.com or email info@contoural.com