

Preparing for eDiscovery

By

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Session Agenda

- Learning Objectives
- Discovery's Demands on RIM Programs
- Areas of Risk
- Designing a Strategic Approach
- Processes and Getting Started
- Summary

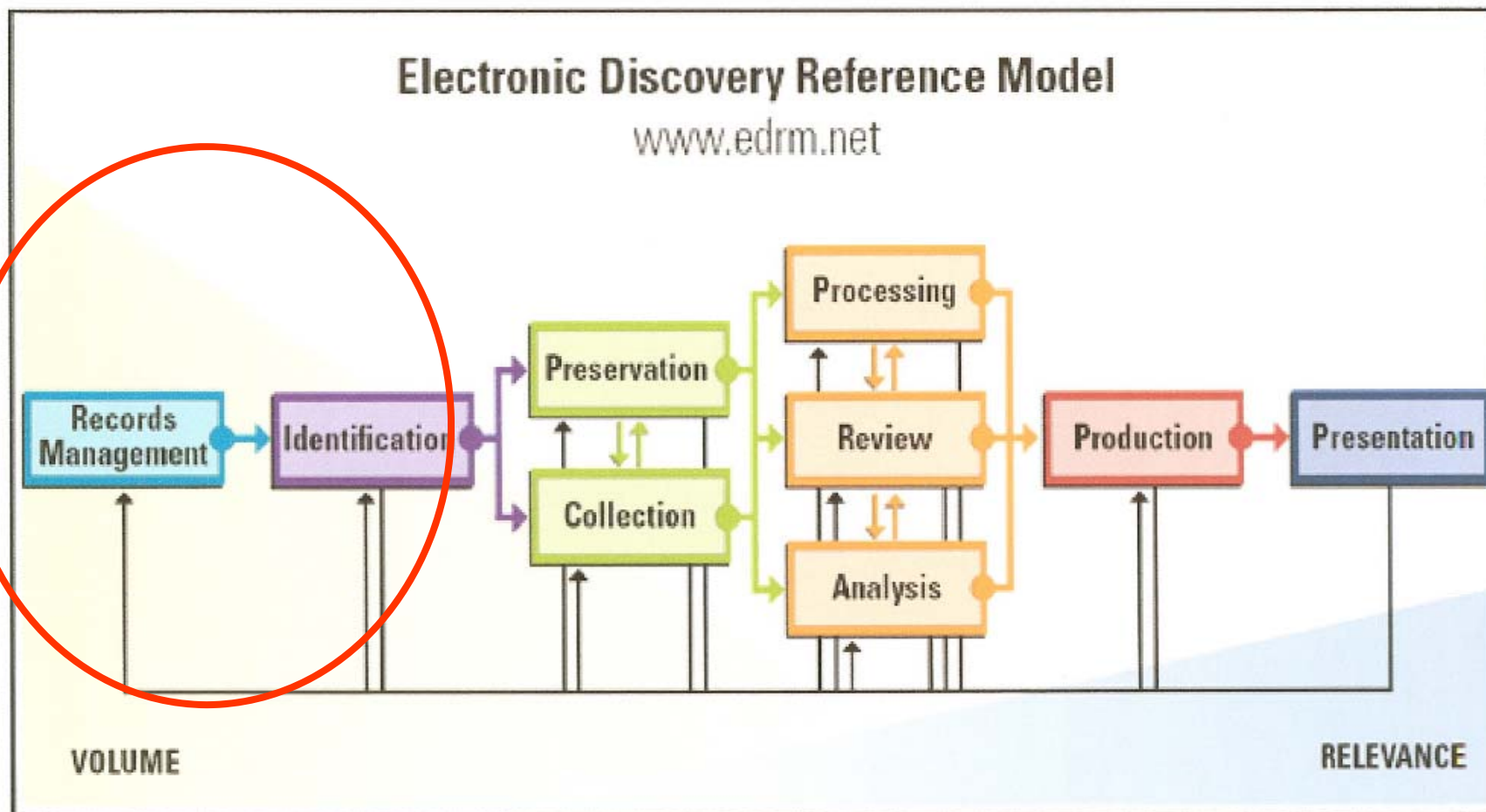


Learning Objectives

- Understanding the demand that eDiscovery places on a company
- Identifying RIM Program areas that can mitigate the risks associated with eDiscovery
- Explaining how to establish RIM Programs that demonstrate reasonableness

Discovery's Demand on RIM Programs

EDRM Model



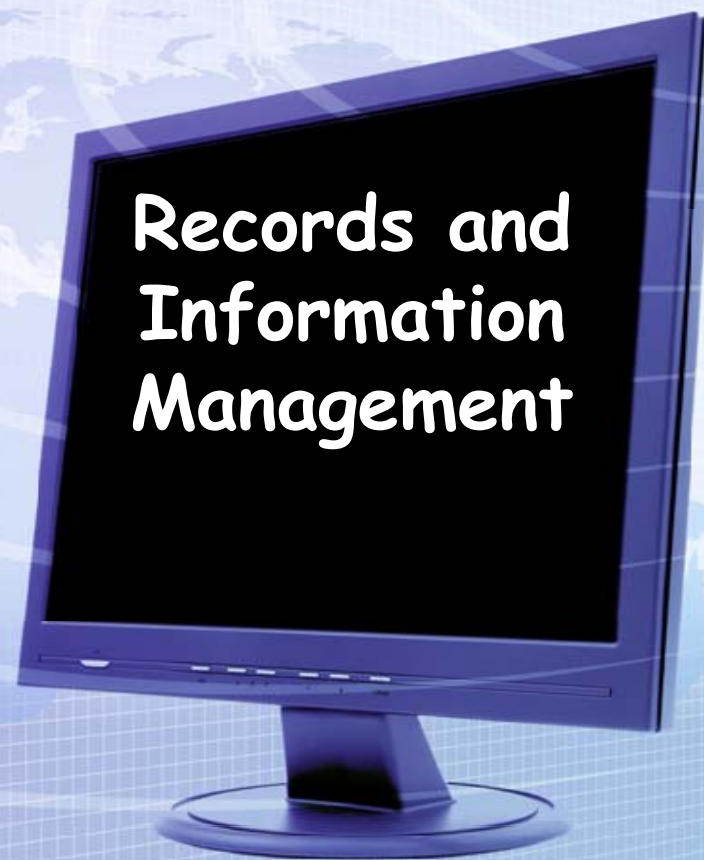


RIM Issues That Come Up in Discovery

- Governance – *do you have a policy, retention schedule, & procedures*
- Content and Process – *what did you say*
- Findability and Accessibility – *do you have a classification scheme*
- Normal Business Process - *repeatable*
- Training – *how do employees know*

What RIM Must Answer

- Does the company have a Retention Schedules?
- Do you have procedures for archiving, decommissioning systems?
- Are Legal Holds issued that suspend normal retention requirements?
- Is data from departing employees preserved?
- What training is offered to keep employees informed?





Other Discovery Demands

- Locating the source of documents
- Identifying email threads as well as all the recipients
- Protecting personally identifiable information

*. . .RIM Programs must be able to
address the demands!*

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A Company's efficient and effective ability to respond to discovery is directly impacted by the strength of the RIM Program.

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Areas of Risk

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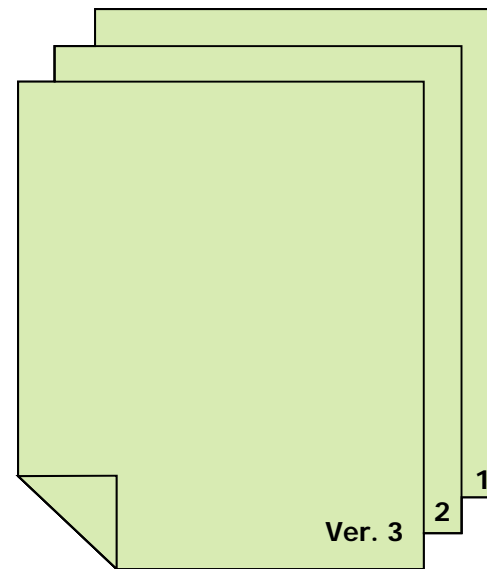
**Increase in repository
redundancy**

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Areas of Risk (cont'd)

**Multiple versions of
same document**

**Increase in repository
redundancy**



Areas of Risk (cont'd)

**Deteriorating
media**

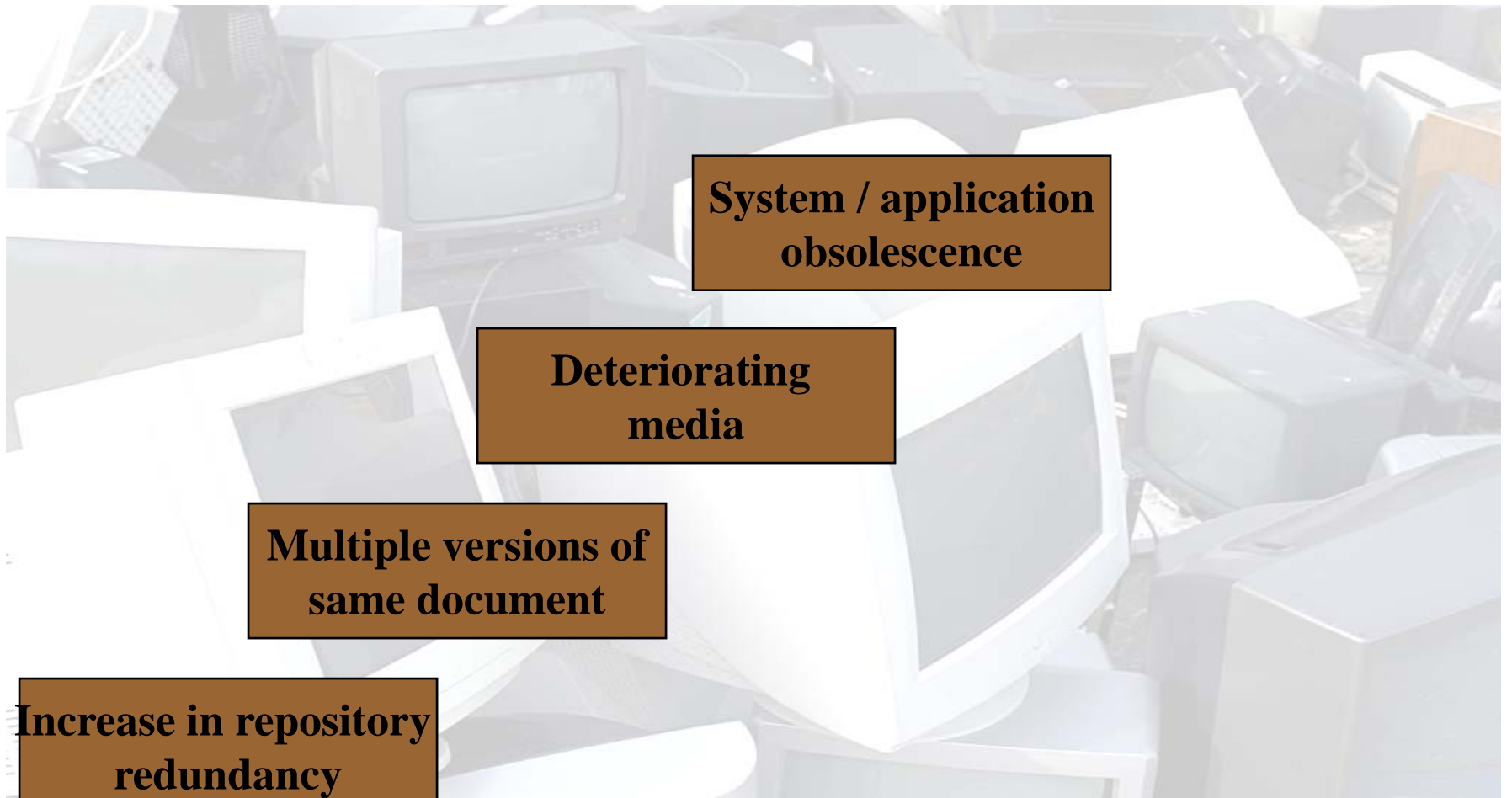


**Multiple versions of
same document**

**Increase in repository
redundancy**

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Areas of Risk (cont'd)



**System / application
obsolescence**

**Deteriorating
media**

**Multiple versions of
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**Increase in repository
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Areas of Risk (cont'd)

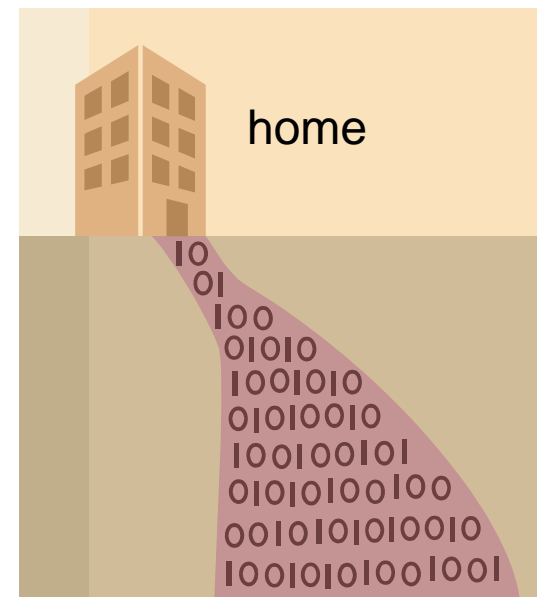
**Increase in
Orphaned data**

**System / application
obsolescence**

**Deteriorating
media**

**Multiple versions of
same document**

**Increase in repository
redundancy**



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Consequences are Clear

- 1. Increase in complexity**
- 2. Increase in costs**
- 3. Increase in time**



How Does RIM Help?

- ❑ Eliminates obsolete information
- ❑ Assures information ownership – avoiding abandoned data sets
- ❑ Minimizes duplicates and versions
- ❑ Supports litigation requirements
- ❑ Provides a mechanism preserving information from departing employees
- ❑ Promotes employee awareness



What's the Bottom Line!

Processes and controls that manage records and information throughout its lifecycle, aid in finding the relevant information in the most cost effective manner and assuring timely response.



Designing a Strategic Approach



Being Strategic Means. . .

- Understanding what is asked for in eDiscovery
- Knowing what risks are specific to your organization
- Identifying gaps in your RIM Program
- Prioritizing and planning for improvements
- Scheduling initiatives



Planning and Prioritizing

- Develop a plan to address the gaps
- Establish your priorities based on the risk of exposure
 - Immediate tasks
 - Scheduled tasks
 - Long-term initiatives
- Develop a roadmap
- Obtain champions and senior management buyin

Practical Solutions



Processes and Controls You Can Build

1. Develop a policy that is media independent
2. Develop a records retention schedule that reflects the company's business
3. Develop processes for managing archived records and information
4. Develop a process for decommissioning systems
5. Notify managers of his/her responsibility and develop a process to capture departing employees' data
6. Partner with Legal to notify targeted employees when they need to preserve records and information for litigation



1. RIM Policy

- a) Refer to records and information not media type
- b) RIM Policy vs. Retention Policy
- c) Include contractors and temporary workers
- d) Include aspects of the program
- e) Highlight employee's role








2. Scheduling Retention by Process

What do we mean by retention by process?

- ✓ Group record types by business function
- ✓ Provide a list of document examples that are received or generated
- ✓ Have fewer, broader record categories for ease of use
- ✓ Reflective of the business and relationship of documents within a business group

3. Archiving Records & Information

-  Traditionally with paper we did not need anyone else – now we have to partner with IT
-  RIM develops the process that meets legal requirements – must be documented
-  IT implements the process
-  Monitor the process
-  Process must include the 3 Rs – Restoring, Reusing, Re-removing



4. Decommissioning Systems

- Data
 - ✓ Will data be migrated
 - ✓ Some, All or None
 - ✓ Is data under legal hold
 - ✓ What is the retention period of the data
 - ✓ How old is the data now
 - ✓ Format of archived data
- Software
- Hardware



Decommissioning Systems (cont'd)

- Data
 - Software
 - Hardware
- ✓ Software manuals and documentation included in retention
 - ✓ Age of the software
 - ✓ Availability of support
 - ✓ How was data, if any, archived



Decommissioning Systems (cont'd)

- Data
 - Software
 - Hardware
- ✓ Age of the hardware
 - ✓ Need to keep the system running
 - ✓ Hardware requirements to restore data
 - ✓ Make sure hard drives are adequately cleaned



5. When Employees Leave

When employee's depart:

1. Preserve electronic and paper records and information subject to litigation
2. Redistribute records and information to the remaining staff
3. Contact the legal department with questions regarding the legal holds
4. Apply policies and procedures

When Employees Leave

- Work with Human Resources to get regular notifications
- Develop a template to send to all the departed employees former managers
- Provide managers with information about how to archive paper or electronic records
- Work with IT to ensure key personnel subject to legal holds have their electronic documents archived

If the person who has left was a custodian or key to litigation, don't wait for the former manager to get the data collected, work with IT to automatically have the data isolated and archived.



6. Legal Holds

Definition:

A legal hold is a communication by legal department issued as a result of current or reasonably anticipated litigation, audit, government investigation or other such matter that suspends the normal **disposition** or **processing of records**.

Education & Communication

- Do I need to do both?
- What is the Frequency?



Educational Considerations

- ✓ Frequency: repeating the same material over and over
- ✓ Modality: how to deliver to the broadest possible audience
- ✓ Supplementing: having toolkits and resources available
- ✓ Length: too long may lose audience, too short may not be able to include everything
- ✓ Cost: primary module and revisions



Educational Topics

Type of training that may be offered:

- Archiving electronic records and information
- Complying with a legal hold
- Implementing the records retention schedule
- Indexing files and folders
- Managing information of departed employees



Communication

- Have a plan
- Review it annually
- Communicate on a regular, routine basis
- Keep RIM Program visible



Methods of Communicating

- Posters
- Intranet websites
- Pop up messages
- Direct email messages
- Brochures
- Newsletter articles
- Staff meeting presentations

etc.



In Summary

- There are many processes and controls you can build today to prepare your company for discovery
- Build a plan that address the risks you may face
- Once discovery begins the RIM controls added will help discovery teams