



Web and Social Media Archiving:  
**A Guide for  
Government Agencies**

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## 01

## INTRODUCTION

DIGITAL COMMUNICATIONS HAVE GREATLY HELPED AGENCIES CONNECT WITH CITIZENS AND APPLY “OPEN GOVERNMENT” PRINCIPLES... BUT THEY HAVE ALSO CAUSED A MASSIVE INCREASE IN ELECTRONIC PUBLIC RECORDS.

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Now more than ever, the business of government is online. Council meetings are broadcast on YouTube, local news is delivered via RSS feeds, utility bills are paid through city websites, transportation schedules are published to online calendars, opinion polls are taken in forums, codes and laws can be viewed in online databases, the police blotter appears on Twitter, the President of the United States has a Facebook page ... and that's just for starters. Every day, government agencies at every level and across the globe are communicating through web and social media technologies.

Government websites and social media content -- just like any traditional public records -- are subject to e-discovery

proceedings, lawsuits, Open Records/FOIA requests, audits, or investigations. Agencies are starting to understand the responsibilities inherent in their online activities. They're starting to ask questions about the best ways to preserve digital records.

*“How do agencies handle social media and FOIA? What constitutes a public record? How are agencies storing information and have information ready if they need to release it?”*

*Pat Fiorenza, Research Analyst, GovLoop<sup>[1]</sup>*

GOVERNMENT WEBSITES  
& SOCIAL MEDIA

[1] <http://www.govloop.com/forum/topics/how-do-agencies-handle-foia-requests-with-social-media>

This document was prepared to help answer those questions and advise agencies in the State of Alaska about the best ways to identify, preserve and re-produce valuable web content when needed.

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The following pages will help agencies:

- Understand why web and social media archiving are crucial to **open government**
- Address the recordkeeping challenges associated with agency use of **social media**
- Recognize the legal requirements for **online public records**
- Avoid **common mistakes** in preserving online records
- Understand the process and value of **web archiving**
- Identify the components of an ideal **archiving solution**

We hope this document serves to inform and empower your agency to communicate on the web and through social media with confidence.

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## 02

# OPEN GOVERNMENT AND RECORDS RETENTION

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“OPEN GOVERNMENT” AND “OPEN DATA” HAVE BECOME BUZZWORDS OVER THE PAST FEW YEARS, BUT THEY BRING REAL-LIFE CHALLENGES TO THE AGENCIES THAT SEEK TO IMPLEMENT THEM.

Beginning with President Obama’s call for open government in 2009, hundreds of agencies have been using web and social media tools to achieve the goals of “transparent, participatory, collaborative” government.

.....  
*“Agencies should proactively use modern technology to disseminate useful information.”*  
 .....

*President’s Open Government Directive, 2009*[2]

The gist was that agencies should not sit around waiting for FOIA requests -- they should be publishing government information online while keeping their web presence interactive, accessible and current. This included the publishing of datasets for the private sector to view and use, but also expanded to include the publishing of “the everyday business of government” -- from social services to sanitation and beyond.

The benefits of using web technologies to connect with citizens are manifold -- they make the sharing of information faster and less expensive, allow for greater interaction and collaboration with the public, and

enhance a government’s image in the eyes of the people who use web and mobile tools for all their daily activities. Even small agencies are growing their online presence, as an affordable way to “do more with less.” Open data is filtering down to every level and size of government.

President Obama recently issued a directive for “Building a 21st Century Digital Government,”[3] which called for the use of online and mobile tools to make government services simpler to access and use. This is the next step in open government -- and will further add to the amount and complexity of agency-published web content.

**But what about SAVING all this open data, and re-producing online content when requested?** Digital government records must be maintained if agencies are to remain truly open to the public. As your agency updates its web pages, are the older versions lost? As conversations slide past on Twitter, is there a record of what has been said? How quickly can your agency respond to a FOIA request if the records are buried in a confusing online database?

[2] <http://www.whitehouse.gov/sites/default/files/microsites/ogi-directive.txt>

[3] <http://www.whitehouse.gov/the-press-office/2012/05/23/presidential-memorandum-building-21st-century-digital-government>

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*“The Government cannot be open and accountable if it does not preserve -- and cannot find -- its records.”*

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*David S. Ferriero, Archivist of the United States*

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Accessibility is a central tenet of open government. Citizens should be able to access any content that was published by their agency -- even if it was published online, months or years ago. Of course this applies to datasets, court records, service information and so forth, but the trend of online communication between citizens and their governments has increased the expectation that even conversations will be saved -- comments on blogs, discussions in forums and tweets on Twitter.

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*“[There’s a] public expectation that all web content is both permanently valuable and accessible.”*

.....

*NARA, Guidance on Managing Records in Web 2.0/  
Social Media Platforms<sup>[4]</sup>*

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In the end, open government is inextricably tied to responsible records retention. Agencies must implement systems to ensure that their web content is preserved securely, and that they can locate specific files or pages when needed.

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[4] <http://www.archives.gov/records-mgmt/bulletins/2011/2011-02.html>

## 03

# SOCIAL MEDIA CHALLENGES

AGENCIES MUST RECOGNIZE THE REGULATORY RISK INVOLVED WITH SOCIAL MEDIA IN THE ABSENCE OF PROPER RECORDS MANAGEMENT POLICIES.

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As governments have realized the value of real-time communication with citizens, many have become active on some type of social network, often without establishing policies for managing the information that is published by the agency. A recent report released by IBM's Center for the Business of Government concludes that, in general, governments have shown a "lack of standards for records management" within social media.<sup>[5]</sup>

According to the report, 22 out of 24 major agencies are utilizing social media tools. The most popular are RSS feeds, microblogs, social networking sites (like Twitter and Facebook), blogs and video sharing. These platforms hold vast potential for connecting citizens with their governments, but agencies must

recognize the regulatory risk involved with social media in the absence of proper records management policies.

.....  
*"New media brings with it new challenges -- especially for records managers struggling to apply existing records management laws and regulations . . . in a social media world."*  
 .....

*Patricia C. Franks, Associate Professor, School of Library and Information Science, San Jose State University, CA*

[5] <http://www.businessofgovernment.org>

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Recent guidance prepared by the National Archives and Records Administration (NARA)<sup>[6]</sup> identified several reasons why social media is so troublesome for records managers:

- Public expectations that all web content is both permanently valuable and accessible
- Content located in multiple places
- Recordkeeping in a collaborative environment
- Ownership and control of data that resides with a third party
- Interactive content management
- Identification of record series
- Implementation of records disposition schedules, including the ability to transfer / delete records
- Capture of frequently updated records
- Handling of records containing personally identifiable information

All of these issues serve to remind us that as web technologies have advanced, new strategies and tools for preserving online content will be necessary.

The guidance from NARA included several recommendations for dealing with records created through social media. Agencies are advised to communicate with employees and the public to declare how social media records will be handled, include records management guidelines in their social media policies, evaluate their social media use to determine which aspects constitute a public record, and apply appropriate retention and disposition schedules to all electronic records.

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*“The ongoing, collaborative, and interactive nature of social media requires careful exercise of agencies’ statutory responsibilities regarding records management.”*

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NARA, *Guidance on Managing Records in Web 2.0/ Social Media Platforms*<sup>[7]</sup>

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It is clear that social media will continue to grow as a means of communication for government agencies -- and equally clear that the preservation of social media records is a responsibility that agencies must not ignore.

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[6] <http://www.archives.gov/records-mgmt/bulletins/2011/2011-02.html>

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[7] <http://www.archives.gov/records-mgmt/bulletins/2011/2011-02.html>

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# LEGAL REQUIREMENTS FOR PUBLIC RECORDS

GOVERNMENTS SHOULD TAKE STEPS TO MAKE SURE THEIR INFORMATION IS ACCESSIBLE AND THAT IMPORTANT DATA CAN BE LOCATED QUICKLY.

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The legal requirements for the preservation of government records are evolving as more records become electronic. At the federal level, organizations like the National Archives and Records Administration (NARA) and the Office of Management and Budget (OMB) have provided some guidance documents and regulation regarding the preservation of web records,<sup>[8]</sup> but the technologies are developing faster than the rules. At the heart of all regulations is a common-sense directive: governments should take steps to make sure their information is accessible and that important data can be located quickly when necessary.

There are several federal statutes that relate, at least in part, to the preservation of government records. The retention

requirements within these laws should now be interpreted as applicable to digital content:

- Federal Records Act of 1950
- Freedom of Information Act (FOIA) of 1966
- E-Government Act of 2002

More recently, the House of Representatives passed HR 1387 (Electronic Records Preservation Act) to encourage the implementation of strict records management policies. The legislation called for agencies at the federal level to adopt systems to ensure the capture and preservation of digital records. The resolution was not passed in the Senate, but the Act served as a step in the process of developing regulations for the retention of electronic government records.<sup>[9]</sup>

[8] <http://www.archives.gov/records-mgmt/policy/managing-web-records-index.html>

[9] <http://www.govtrack.us/congress/bills/111/hr1387>

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At the state level, Alaska agencies are governed by the Alaska Public Records Act,<sup>[10]</sup> which is a series of mandates designed to guarantee that citizens have access to public records at all levels... and in all forms. If public records are being published online, Alaska agencies must retain them in accordance with state laws.

Regardless of specific retention regulations, agencies often find themselves facing situations that necessitate the preservation of web records. Some of these situations are outlined below. It's critical for governments to recognize that digital information will continue increase, and lawmakers will begin to define additional requirements that will certainly involve the retention and organization of electronic records.

*“Managing web records properly is essential to effective web site operations, especially the mitigation of the risks an agency faces by using the web to carry out agency business.”*

*NARA, Guidance on Managing Web Records*

Consider how your agency would respond when faced with the following common occurrences. As your online content increases, will your IT team be empowered to provide specific records from particular dates, in their original formats, in a timely and complete manner?

<sup>[10]</sup> <http://www.nfoic.org/alabama-foia-laws>

FOIA REQUESTS

Freedom of Information Act (FOIA) and open records laws vary in scope and detail, but most municipal, state and federal agencies are required to produce government records to anyone that requests them, unless the document falls within an enumerated exception.

With the burgeoning amount of online communication and publication by governments, FOIA and open records regulations have become complicated. The amount of electronic information has multiplied exponentially, and agencies must implement new policies for dealing efficiently with requests for digital records. Amendments to existing open records laws, like the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA)<sup>[11]</sup> specifically declare governments to be responsible for making certain digital content accessible to citizens.

*“Each agency ... shall make available for public inspection ... copies of all records, regardless of form or format ... which have become the subject of requests.”*

*FOIA update, 1996*

Systematic preservation of government records, documents and datasets -- with the ability to search and retrieve if necessary -- is the key to compliance. Agencies that do not ensure the sustainability of their web presence will find themselves reactively scrambling to comply with FOIA requests,

<sup>[11]</sup> [http://en.wikipedia.org/wiki/Freedom\\_of\\_Information\\_Act\\_\(United\\_States\)#The\\_Electronic\\_Freedom\\_of\\_Information\\_Act\\_Amendments\\_of\\_1996](http://en.wikipedia.org/wiki/Freedom_of_Information_Act_(United_States)#The_Electronic_Freedom_of_Information_Act_Amendments_of_1996)

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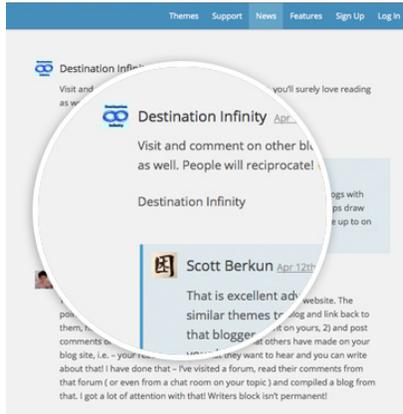
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and wasting both money and manpower in searching for buried records.

Agencies that archive their web and social media content can respond to FOIA requests in a timely and efficient manner. In cases where only part of a document or dataset may be released, agencies that implement robust retention tools can more easily modify their web records for public viewing. They can maintain an authentic archive of the original while releasing the modified version to the requester, thereby complying with open records and retention regulations.

LITIGATION

A few years ago, government agencies were only beginning to understand the importance of online records retention. In June 2007 the U.S. Court of Federal Claims chastised the Justice Department and the Army for failing to properly preserve electronic records, in the case of United Medical Supply Company v. United States<sup>[12]</sup>. United Medical claimed the Army had not adhered to the terms of a procurement contract by ordering supplies from other vendors. When the Army

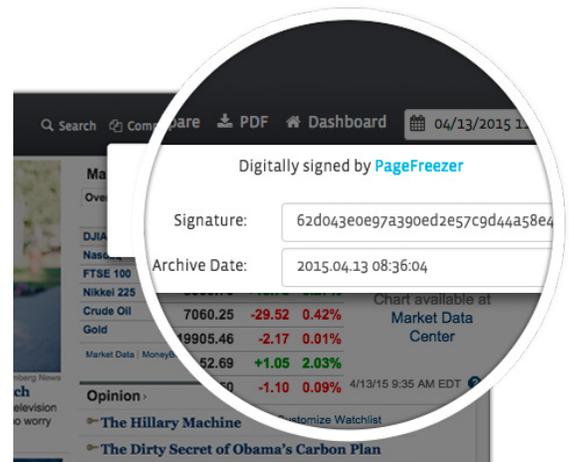
[12] <http://gcn.com/articles/2008/10/26/the-case-for-ediscovery.aspx>

Defense Supply Center’s legal team sought e-mail messages relevant to the case, it was discovered they had been destroyed according to routine. These electronic records were the government’s only line of defense. Their destruction resulted in additional e-discovery costs and a censuring remark from the judge:

*“Aside perhaps from perjury, no act serves to threaten the judicial process more than the spoliation of evidence.”*

*Judge Francis Allegra, United Medical Supply v. United States*

Years later, with digital records on the rise, agencies in the State of Alaska -- along with federal and municipal agencies -- must recognize the importance of records retention in case of litigation. Now that electronic records have expanded to include complex web pages, social media communications and extensive online datasets, the ability to preserve and retrieve is more urgent than



ever.

DIGITAL EVIDENCE IN COURT

If your agency already employs a retention strategy, it’s important to recognize that

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not all electronic records are created equal. Suppose your agency did find itself facing legal action or e-discovery proceedings. How would your web records hold up in court? It is critical for organizations to understand how digital evidence is treated by law. Your website and social media pages are transient by nature. The Federal Rules of Evidence require proof that the data presented is authentic, and has not been manipulated, altered, or misrepresented<sup>[13]</sup>. Without a defensible archive of a webpage, those requirements are very difficult to meet.

For digital records to be accepted in court, you must be able to prove their authenticity and integrity. Data authenticity verifies that the presented web content was indeed from your website and was online at a specified date. Data integrity verifies that the presented web content is an exact representation of the original and has not been changed over time. If you can't prove the verifiability of your digital evidence, it may be thrown out, resulting in higher litigation costs for your agency.

The standards for this burden of proof can be met by utilizing three key components: a certified atomic clock to establish a legally-accepted time, a digital signature to establish data integrity, and a digital timestamp to establish data authenticity. How can Alaska agencies ensure that these components are present for all their online activity? Through comprehensive, systematic archiving of their websites and social media pages.

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[13] [http://www.law.cornell.edu/rules/fre/rule\\_901](http://www.law.cornell.edu/rules/fre/rule_901)

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# COMMON MISTAKES IN PRESERVING ONLINE RECORDS

THE WORST MISTAKE AGENCIES MAKE IN ELECTRONIC RECORDS RETENTION IS IGNORING THE ISSUE.

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Some agencies are concerned about the cost, implementation, or effectiveness of archiving solutions. Others have not realized the legal and civic obligations that require the preservation of web records. Whatever their reasons, governments must delay no longer. They must keep records of the content they publish online . . . but not all preservation systems are created equal. Avoid these common mistakes in preserving your web content:

#### PRINTING AND FILING

Some agencies are taking screenshots of their web pages, printing them, and filing them away. This antiquated method of preserving web records is prohibitively expensive and inconvenient, in addition to taking up excessive space and manpower. The resulting records are not an accurate representation of the original content because they are static and non-interactive; they do not fulfill requirements for evidence in legal situations or FOIA requests. If an agency is using social media, printing and filing becomes virtually impossible.

#### SERVER BACK-UP

Some agencies believe their server backup policy is providing them with sufficient protection. However, the web is built on



rapidly evolving technologies, making it increasingly difficult to maintain a comprehensive record of web history using back-up alone. In fact, for historical web pages to be valid, organizations must continually back-up any databases (in addition to the other website components) because the databases influence the site's content, and are constantly changing. In addition, server back-ups are cumbersome (a continual manual process), expensive (because of excessive storage demands), and inefficient (since they cannot be indexed or searched). Above all, most server back-ups simply do not meet the standards for data integrity and authenticity that are required by courts. And they certainly can't address the issue of social media archiving.

#### CMS REVISION CONTROL

What about Content Management Systems (CMS)? Many of these systems have "revision

control” of web page content built into the application, enabling users to view versions of web pages from the past. But this technology isn’t powerful enough to restore the pages in a comprehensive, defensible form. Modern online content is dynamic and complex, often pulling data (such as Flash or AJAX content) from outside the CMS’s database. A web page reproduced through CMS revision history will not be truly admissible unless the reproduced page bears a digital timestamp and signature. Further, social media content is constantly changing and cannot be sufficiently captured by CMS revision control.

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# BENEFITS OF WEB AND SOCIAL MEDIA ARCHIVING

ARCHIVING IS THE EMERGING SOLUTION TO THE PROBLEM OF MAINTAINING PERFECT WEB AND SOCIAL MEDIA RECORDS.

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An enduring web archive is created by capturing a digital snapshot of the web content, independent of specific databases or technologies. That means the web page can always be viewed in its original form and deliver the same user experience, meeting regulatory requirements for authentic copies. Archiving guarantees your agency's ability to exactly reproduce past online content, and to locate specific pages using search technologies for FOIA requests or e-discovery cases.

## SAVING MONEY

When agencies archive their web pages, the information stays "in the cloud" until it's actually needed, reducing printed paperwork and expensive filing systems. Legal and e-discovery cases are made smoother and faster when archives are in place, reducing the cost of legal processes and fees. FOIA requests also become less expensive with web archiving, as the records are easier to locate and produce.

## SAVING TIME

Web archiving allows your data to be captured and stored automatically, eliminating the need for manual retention tasks. Also, employees can unlock archived information faster using search functions, so

time is not wasted when producing records for FOIA or e-discovery.

## PEACE OF MIND

It's better to comply with guidance and recommendations from government regulators and forward-thinking agencies, rather than always wonder if your current retention system is good enough. Once your records are being securely captured and stored on a regular basis, you can reap the benefits of online communication without worrying about compliance.

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# AGENCY CHECKLIST

HOW WILL YOU KNOW WHICH ARCHIVING SOLUTION MEETS YOUR AGENCY'S NEEDS? HERE ARE SEVERAL KEY COMPONENTS TO CONSIDER.

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## POWERFUL CONTENT CAPTURE METHOD

Make sure your chosen solution can archive complex or hard-to-reach content (like Flash or AJAX). It's best to make sure your agency is covered even in a wide range of circumstances and site / page designs.

## PERFECT REPRESENTATIONS

Once the archives are captured, you need to ensure they can be re-produced and re-played in their original format. This is particularly important within a legal context.

## ELIMINATES DEPENDENCY

The preservation and storage of digital content is best approached using the SaaS (software as a service) model -- everything happens online, independent of specific technologies or databases. If you need to keep your records in-house, look for a service that supports both options.

## POWERFUL SEARCH

Tagging records with metadata is one of the most time-consuming retention tasks. Employing an archiving solution that allows for key-word searches, filtering commands and other organizational aids can eliminate the necessity of tagging archives, or digging through online files in search of a particular record.

## SECURE ARCHIVE STORAGE

Responsible handling of your agency's sensitive data is of vital importance. Make sure your archives will be stored securely in accordance with rigorous auditing standards (SSAE 16, etc.)

Archives should also be stored in more than one location for an added precaution.

## CUSTOM OPTIONS

With archival crawlers browsing your website and social media pages, capturing everything within a defined scope, it's important to limit the amount of data stored. You should be able to define specific URL paths, archive individual pages and otherwise tailor the archives, keeping them relevant to your agency's needs.

## DEFENSIBLE DIGITAL RECORDS

Remember that your archives should be re-playable in their original form (as required for legal use). They should also be marked with a digital timestamp and signature to prove data integrity and authenticity.

## LITIGATION HOLD

Your archiving solution should provide prompt exports of archived content when needed for legal or e-discovery proceedings. Regular data export is also a valuable function, if you require local copies of your records for any reason.

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# BEST PRACTICES FOR ONLINE RECORDS RETENTION

THE UNIQUE CHALLENGES OF PRESERVING WEB RECORDS DO NOT RELEASE AGENCIES FROM THE RESPONSIBILITY OF DOING SO.

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The American Council for Technology and the Industry Advisory Council (ACT-IAC) recently released a study involving ten government agencies, focused on the best practices for balancing social media use with records retention.<sup>[14]</sup>

The study centered on social media, the advice can be applied to agency use of web technologies in general. The central point of all guidance on this issue is that agencies must come to realize the potential record value of everything they publish online, and take the necessary steps to preserve it.

*“All users of these Internet-based capabilities must be aware of the potential record value of their content, including content that may originate outside the agency.”*

*Dept. of Defense, Memorandum For Responsible . . .  
Use of Internet-Based Capabilities<sup>[15]</sup>*

The following best practices will help Alaska agencies get started in preserving their web content:

- Encourage communication between the person/team responsible for online activity (webmasters, etc.) and the person/team responsible for records management.
- Broaden your records retention policies to include the archiving of web content. Likewise, develop social media policies that include appropriate requirements for retention.
- Communicate with citizens about how your online records will be preserved, and make the data available for public viewing if possible.
- Educate employees about the potential record value of their online activities when posting on behalf of the agency. Make use of outside resources and guides to develop your own.

Government use of Internet-based technologies will only increase as citizens continue to conduct more of their business, communications and daily tasks online. By researching best practices and employing smart archiving solutions, Alaska agencies can proceed into the Digital Age with confidence.

[14] <http://tinyurl.com/433fubw>

[15] <http://www.dtic.mil/whs/directives/corres/pdf/DTM-09-026.pdf>



# MORE INFORMATION

WE HOPE THIS DOCUMENT HAS BEEN HELPFUL IN CREATING A DISCUSSION AROUND THE PRESSING ISSUE OF ONLINE RECORDS RETENTION FOR GOVERNMENT AGENCIES.

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For further information about Web and Social Media Archiving, contact:

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