



Internal Audit

Records Management and Public Information Requests

August 2012

Bernalillo County Internal Audit Records Management and Public Information Requests

Executive Summary

SUMMARY OF PROCEDURES

REDW performed an internal audit of the Bernalillo County Records Management and Public Information Requests processes. Our internal audit focused on assessing the adequacy and reasonableness of the internal controls surrounding records management and public information requests.

We performed a variety of procedures, including:

- Reading various New Mexico State Statutes (NMSA), applicable portions of the New Mexico Administrative Codes (NMAC), and National Association of Government Archives and Records Administrators (NAGARA).
- Obtaining an understanding of the County records management procedures through reading the informal policies and discussions with various departments personnel;
- Obtaining an understanding of the County's public information requests processes through reading applicable policies and procedures and through interviewing various Public Information Department personnel;
- Reading the County's electronic record retention policies and procedures to determine compliance with (NMSA 1978) 14-1-8 and NMAC 1.13.4;
- Testing a sample of record dispositions to determine if they were processed in accordance with applicable regulations;
- Testing a sample of stored records to determine if they were at the locations specified in the system and if the records were accurately cataloged and indexed; and,
- Testing a sample of completed, open and denied public information requests to determine if the requests adhered to the time frame and guidelines of the New Mexico Inspection of Public Records Act.

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

In many areas during the course of the audit we found controls were functioning properly and procedures were being followed. Specifically, we found that the Treasurer's Office process for managing and disposing records were functioning properly and incorporated many of the best practices prescribed by NAGARA.

High and medium risk observations are presented below:

- **Email Record Retention**—The County did not have an email record retention policy and email accounts of former key employees were permanently deleted after 180 days. Additionally, the State Records Center and Archives was not notified at least 60 days prior to deletion as required by statute. As a result, some email records that should be considered public record were not maintained in accordance state requirements.
- **Records Management Policies**—The County did not have formal records management policies and as a result records across the County were not always managed consistently and effectively.
- **Records in Storage**—The monthly inventory index used for tracking records in storage did not have consistent formal descriptions of the records, dates of the records, assigned retention schedules, or dates available for disposition. As a result we were unable to determine the appropriate retention schedules or assess the key monitoring dates and formal classifications of the records. Additionally, there were costly microfilmed records being stored that were non-essential records or past the retention period.

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The lower risk observations are included in the attached detailed report.

Further detail of our purpose, objectives, scope, procedures, observations, and recommendations is included in the internal audit report. In that report, management describes the corrective action taken for each observation.

REDW LLC

Albuquerque, New Mexico
November 15, 2012

Bernalillo County Internal Audit Records Management and Public Information Requests

Table of Contents

	<u>Page</u>
INTRODUCTION	1
PURPOSE AND OBJECTIVES	1
SCOPE AND PROCEDURES PERFORMED	1
OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSES	5

Bernalillo County Internal Audit Records Management and Public Information Requests

Report

INTRODUCTION

We performed the internal audit services described below solely to assist Bernalillo County in evaluating the internal controls surrounding Records Management and Public Information Requests. We assessed if records were retained and disposed in accordance with policies and procedures and applicable state regulations. Our services were conducted in accordance with the Consulting Standards issued by the American Institute of Certified Public Accountants, Generally Accepted Government Auditing Standards, and the terms of our contract agreement for internal audit services. Since our procedures were applied to samples of transactions and processes, it is possible that significant issues related to the areas tested may not have been identified.

Although we have included management's responses in our report, we do not take responsibility for the sufficiency of these responses or the effective implementation of any corrective action.

PURPOSE AND OBJECTIVES

Our internal audit focused on the assessment and testing of internal controls surrounding records management and public information requests including retention and disposition. We assessed the County's records management and public information requests policies and procedures to determine if adequate safeguards were in place to ensure records management and public information requests were processed in accordance with state requirements.

SCOPE AND PROCEDURES PERFORMED

In order to gain an understanding of the processes and operations surrounding Records Management and Public Information Requests, we interviewed the following personnel:

- Steven Gregg, IT Records Manager- Information Technology Department
- Jeff P. Lovato, Accounting Director- Accounting Department

- Cindy E. Torres, Accounting Officer- Accounting Department
- Fidel A. Bernal, Chief Deputy Treasurer- Treasurer’s Office
- Jerry Larranaga, Treasury Financial Officer- Treasurer’s Office
- Arthur Kavanaugh, Compliance Officer- Treasurer’s Office
- Tim Lopez, Lieutenant- Sheriff’s Office
- J. Claire McCarthy, Lieutenant- Sheriff’s Office
- Joe Crelier, Director of Risk Management- Risk Management Department
- Michael Garcia, Deputy County Clerk- Clerk’s Office
- Denine Morelos-Vaughn, Imaging and Record Coordinator-Clerk’s Office
- Roman Montoya, Deputy County Clerk- Clerk’s Office
- Rebecca Martinez, Bureau of Elections Administrator- Clerk’s Office
- Chris Neubauer, Elections Systems Coordinator- Clerk’s Office
- Stacy L. Lewis – Operations Coordinator- Communications Department
- Larry Ortega, Corrections Analyst- Metropolitan Detention Center
- Olivia Mora, Admin Officer II- Metropolitan Detention Center
- Steven Miller, Director of Infrastructure Planning and Geological Resources Department- Public Works Division
- Mary Murnane, Director of Fleet and Facilities- Public Works Division
- Daniel Montoya, Accounting Tech Senior- Housing Department
- Tia Bland, Public Information Director- Public Information Department
- Larry Gallegos, Public Information Specialist- Public Information Department

In order to understand the Records Management and Public Information Requests policies and procedures we read:

- Applicable portions of the New Mexico State Statutes Annotated (NMSA) including:
 - (NMSA 1978) 14-1 “Preservation, Restoration, and Destruction of Records”;
 - (NMSA 1978) 14-1-8 “Obsolete County records; notice of proposed destruction; preservation desired by state records administrator; delivery of documents”;
 - (NMSA 1978) 14-2 “Inspection of Public Records Act”; and,
 - (NMSA 1978) 14-3 “Public Records Act”.
- Relevant sections of the New Mexico Administrative Code (NMAC) including:
 - 1.13 “Public Records”; and,
 - 1.15 “Local Government Records Retention and Disposition Schedules”.

- National Association of Government Archives and Records Administrators (NAGARA) Technical Bulletins and best practice guides for records management.

We performed the following test work:

- *Electronic Record Retention:* We gained an understanding of the County's electronic record retention policies and procedures and compared the policies and procedures to the New Mexico Administrative Code and State Statutes regarding electronic record retention requirements.
- *Records Management:* We obtained a listing of all records maintained in the central storage warehouse as of July 21, 2012. We selected a statistical sample (based on 90% Confidence Level (CL) and 10% Tolerable Deviation (TD)), which resulted in a sample size of 22 items. For each item in the sample we tested:
 - The record physically existed in the location indexed;
 - The Introduction to Inventory Form and a County Index to Records Proposed for Destruction form were complete and on file;
 - The label placed on the box at the storage warehouse was accurate; and,
 - The NMAC retention schedule assigned to the records were appropriate and reasonable given the nature of the record.
- *Record Disposition:* We obtained a listing of records disposed of between January 1, 2012 and July 31, 2012, and selected a statistical sample (based on 90% CL and 10% TD), which resulted in a sample size of 21 items. For each item in the sample we tested:
 - The Request for Disposition form was approved by the State Records Center Administrator at least 60 days before date of the proposed destruction; and,
 - A Certificate of Disposal was obtained from the shredding vendor certifying that the records were appropriately destroyed within State Records Center and Archives (SRCA) guidelines.
- *Completed Public Information Requests:* We obtained a listing of all completed public information request between August 9, 2011 and August 22, 2012, and selected a statistical sample (based on 90% CL and 10% TD), which resulted in a sample size of 22 items. For each item in the sample we tested:
 - The requester was notified within three business days after receipt; and,
 - The request was resolved or notification was sent within 15 business days after receipt.
- *Public Information Requests:* We obtained a listing of all open public information requests between August 9, 2011 and August 22, 2012, and selected a statistical sample of 9 requests (based on 90% CL and 10% TD). We tested the notification informing the requester that more time was needed was sent within 15 business days.
- *Denied Public Information Requests:* We obtained a listing of all denied public information requests processed between August 9, 2011 and August 22, 2012, and selected a statistical sample (based on 90% CL and 10% TD), which resulted in a sample size of 18 items. For each item in the sample we tested:
 - The County notified the requestor of the denial within 15 business days after receipt; and,

- The communication sent to the requester included an explanation of the denial, described the record requested, and included the person responsible for the denial.
- *Departments that maintain their own Records:* We obtained a listing of all County departments and selected a judgmental sample of 12 departments to determine if the processes appeared reasonable and if there were adequate safeguards in place to ensure records were appropriately maintained. For each department selected we gained an understanding of:
 - The types of records, both paper and electronic, maintained by the department;
 - The processes in place to ensure adequate tracking and identification of records maintained;
 - The storage areas or methods used for maintaining inactive records;
 - The retention schedules referenced for determining when records are eligible for disposition;
 - The process for the disposition of records; and,
 - If the department appeared to have adequately designed internal controls surrounding records management, we tested to determine the operating effectiveness of the controls. The only department that appeared to have properly designed controls was the Treasurer’s Office.
- *Treasurer’s Office Records Disposition:* We obtained a listing of all records destroyed between FY 2008 and FY 2012 and selected a statistical sample (based on 90% CL and 10% TD), which resulted in a sample size of 18 items. For each item in the sample we tested:
 - The Request for Disposition form was approved by the State Records Center Administrator at least 60 Days before date of the proposed destruction; and,
 - A Certificate of Disposal was obtained from the shredding vendor or if records were delivered to the State Records Center for destruction, the State Records Management Disposal Director signed the Request for Disposition Form attesting to the receipt and destruction of the records.
- *Treasurer’s Office Records Management:* We obtained a listing of all records maintained by the Treasurer’s Office and selected a statistical sample (based on 90% CL and 10% TD), which resulted in a sample size of 22 items. For each item in the sample we tested:
 - The record physically existed in the location indexed;
 - Tested to determine the clerical accuracy of the label placed on the box at the storage area; and,
 - Tested to determine if the NMAC retention schedule assigned to the records were appropriate and reasonable given the nature of the record.

OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

We identified the following weaknesses relating to the Bernalillo County Records Management processes:

1) Email Record Retention

Electronic messages (email) classified as public records are regulated by the New Mexico Commission of Public Records - State Records Center and Archives (SRCA) and also the requirements of the Public Records Act and the Inspection of Public Records Act (IPRA). These requirements stipulate that notice shall be given to the SRCA at least 60 days before the date of proposed destruction. The County did not have an email record retention policy and was not consistently maintaining these records. Within the past year there have been several upper level employees who are no longer with the County who would be classified as Executive Management. For one of five Executive level employees tested, the email account was permanently deleted. Email accounts had not been filtered or scanned to determine what electronic messages or correspondences were considered public record. Additionally, the SRCA was not notified prior to the deletion of these email accounts. As a result, electronic messages that are considered public records were not maintained and disposed in accordance with state requirements.

Risk level - High

Recommendation

To ensure compliance with state requirements, the County should create and implement email retention policies and procedures. These should clearly define the roles and responsibilities of Employees, Management, Legal Counsel, IT personnel, and Records Managers. All employees should also receive training on email retention and IPRA compliance.

Management Response

The IT Records Management Section is working with the Infrastructure Support Section to expand Administrative Instruction No. IT 17, Use of County Electronic Mail, to include record retention policies and procedures. The AI will clearly define the roles and responsibilities of employees, management, legal counsel, IT personnel, and records managers. We expect to have a draft policy for County Legal review by March 31, 2013. This effort is being further driven by the need to convert to MS Exchange Server 2010, which will require that users set up folders in an archive that corresponds to the retention schedules. Appropriate training will be provided to users prior to moving them to the new exchange server environment.

Where the IT Department has been deleting the email accounts of terminated employees after 180 days if approved by County Legal, this practice has been discontinued effective immediately (August 2012) by directive from Legal. Going forward, the email accounts of terminated employees will be archived and disposed of according to the record retention and disposition requirements of the NMAC.

2) *Records Management Policies*

The County did not have formal records management policies and as a result records were not always managed effectively or consistently. During our visits to 12 County departments we observed the following:

- a. Eight departments did not have a centralized inventory index for the critical records on hand.
- b. Two departments did not notify the State Records Center prior to disposing of records as required by (NMSA 1978) 14-1-8 “Obsolete County records; notice of proposed destruction; preservation desired by state records administrator; delivery of documents”.
- c. One department did not have an established Records Liaison Officer with the SRCA as required by 1.13.10.9 NMAC “Records Custody, Access, Storage, and Disposition”.

Risk level -High

Recommendation

To ensure records are properly tracked and maintained the County should develop comprehensive records management policies.

- a. Records Management should assist all County departments in identifying the critical records and in the creation of a centralized inventory index. This index should include at a minimum the formal description of the record, the date of the record, the retention schedule assigned, and the date eligible for destruction. This will help ensure critical records are effectively monitored and tracked.
- b. Records Management should provide training to all departments on the proper procedures for destroying records. This will help ensure compliance with the statutory requirements for the disposal of records.
- c. Records Management should coordinate with departments to ensure a Records Liaison Officer to the SRCA has been established as appropriate. This will help ensure compliance with changes in records management requirements.

In addition, the National Association of Government Archives and Records Administrators (NAGARA) best practices indicate records management policies and procedures should define the roles and responsibilities of County personnel and establish records retention and disposition schedules for all County records. These policies should set forth the processes for storing and destroying records to ensure compliance with state and federal laws. Furthermore, there should be a records storage program to remove inactive records from valuable office areas and secure them in an economical, off-site area. There should also be a plan for training and educating staff on records management policies and procedures.

Management Response

Management agrees with these recommendations, and we have included them in the implementation plan and budget goals for the Records Management Program, as well as in the IT Strategic Plan for FY13-FY14. With very limited staffing and other priorities, we have been making steady progress in all of these areas. In regard to the specific observations above:

- a. Records Management intends to create a county-wide inventory of all physical records on hand, so that vital records can be identified, protected, and managed according to the

retention schedules. To help accomplish this, the County Clerk recently purchased an inventory tracking system, and we have requested budget for July 1, 2013, for consulting, training, and user licenses to implement this system in an initial group of ten departments. Additional departments will be brought online with the inventory tracking system in subsequent periods as staffing and funding become available.

- b. We have developed instructional materials and will schedule classroom training as soon as staffing and other priorities permit. In the interim, the Records Manager has given presentations at directors meetings and regularly communicates with the departmental records liaisons via an email distribution list. We have also published a one-page flyer in the New Employee Orientation Handbook and posted Frequently Asked Questions on the Records Management intranet site. At the same time, Records Management has been training the departments on a one-on-one basis as we work with them on specific projects, and we have notified the departments of state training and encouraged them to attend.

With regard to records disposal, on June 18, 2012, the County Manager notified all departments that all purchases of document destruction services must be approved and coordinated by Records Management to ensure compliance with the statutory state notification process. As an enforcement mechanism, we have created a hard stop in the shopping cart workflow to require specific approval by the Records Manager of all requisitions charged to the commodity code for document shredding services; this is now in the testing phase. In addition, Records Management will request its own purchase order for document destruction services by January 31, 2013, and departmental PO's will generally no longer be allowed.

- c. The IT Records Manager is the Records Liaison Officer for all of the County Manager's departments. The elected Clerk and Treasurer have their own RLO's and records management processes. The Sheriff has designated the IT Records Manager to be the RLO for his office. An RLO for the Assessor will be designated at the time records are ready to be destroyed. This arrangement is working well and will be formalized through an administrative instruction. To ensure adequate and regular communication within the county, a total of 52 records management liaisons to the central Records Management Program have been appointed throughout the various departments and elected offices.

3) *Records in Storage*

Records Management utilized a third party vendor for storing microfilmed records and inactive paper records. Through current practice, Records Management also used the third party's monthly inventory index for tracking what records were stored. During our observation of the storage sites and testing of 22 records maintained in storage we found the following:

- a. The monthly inventory index utilized by Records Management did not have consistent formal descriptions of the records, dates of the records, assigned retention schedules, or dates available for destruction. As a result, we were unable to reasonably determine the appropriate retention schedules and assess the key monitoring dates and formal classifications of the records.
- b. None of the records tested had a retention schedule assigned. As a result, there could have been records available for disposition that were still retained resulting in unnecessary storage costs. Annual storage costs are approximately \$43,000.

- c. Four out of six microfilmed records were either non-essential records or records that are past the required retention period. The cost to store each microfilmed record was approximately \$3.82 per record per month. Extrapolated out to the population of 552 microfilmed records there are potentially 369 records that are either a non-essential record or past retention. The County is potentially spending approximately \$17,000 per year in unnecessary storage costs for microfilmed records.
- d. None of the physical records held in storage had a consistent label and some only had a hand written vendor index number. As a result, it was difficult to determine what the nature of the records were, and we could not reasonably determine the retention periods for the records.

Risk level – Moderate

Recommendation

To ensure the records maintained in storage are properly managed we recommend the following:

- a. To help ensure that records can be efficiently tracked and analyzed for disposition, Records Management should request that the monthly record inventory index be modified to include columns for record date, record retention schedule, and date eligible for disposal.
- b. To help Records Management better manage and analyze the records in storage and in an effort to reduce storage costs, a records survey should be performed and the appropriate retention schedule assigned to each record in storage. All records that have met the required retention period should be disposed.
- c. Although progress has been made towards destroying unnecessary microfilmed records, to minimize storage costs, Records Management should perform a survey of microfilmed records. Storage costs for microfilmed records are costly and it is important that all microfilmed non- essential records and records that are past retention be removed and disposed.
- d. Records Management should create a standard labeling procedure for records introduced to storage inventory. The label should contain at a minimum a formal description of the record, date of the record, retention schedule assigned, and the date eligible for destruction.

Management Response

- a. At present there is sufficient information in the inventory reports to allow an experienced records analyst to manage the records. Further data cleanup and standardization will be conducted in conjunction with converting from this legacy system to the new records tracking system.
- b. To date we have destroyed a total of 1,369 boxes out of the warehouse and departments in a controlled and organized manner in compliance with state requirements, representing an annual savings of \$18,400 in avoided storage charges. Many of the remaining records have long-term or permanent retention and are seldom accessed. We conducted a complete physical inventory of the warehouse in November 2012 and intend to repeat this process annually. We also re-negotiated the records storage contract on better terms and conditions, with significant improvements to security, services, and contract rates. Additional records will be purged from the warehouse as staffing and other priorities permit, but the focus will be on purging outdated microfilm from high-cost vault storage.

- c. The Records Management Program saved \$46,000 per year by contacting the vendor and modifying the agreement. We expect to save an additional \$10,000 per year by purging outdated microfilm from the contracted vault, and we have already sent one batch of microfilm for destruction. A second batch is ready for destruction, pending a price quote from a vendor for destruction services. We will continue this process on an on-going basis as one of our top priorities.
- d. We have created a standard label and indexing process for all new records introduced into storage since the inception of the Records Management Program in 2009. We have posted the forms and procedures on the county intranet and further distributed them to the departments via email correspondence and in connection with specific projects. In some industry settings, the practice is to have minimal or no box labeling and to rely upon database tracking to identify the records. The county uses a combination of these two approaches.

4) *Inspection of Public Records*

The Inspection of Public Records Act “IPRA” (Chapter 14, Article 2 NMSA 1978) sets forth the requirements for processing, responding, and the inspection of Public Records. IPRA requires that if a request to inspect public records is not granted within three business days a written notification must be sent to the requester notifying them when the records will be made available. Additionally, if records cannot be made available within 15 days, written notification must be sent to the requester informing them that additional time is needed to process the request. During our assessment of public information requests we observed the following:

- a. Nine out of 22 completed requests did not have documentation to support that the requester was notified within three business days after receipt, explaining when the records would be made available for inspection.
- b. Eight out of 31 completed and “open” status public information requests tested were not resolved within 15 days and did not have documentation to support written notification was sent to the requester stating more time was needed to process the request.

Risk level – Low

Recommendation

To help ensure that public records requests are processed in accordance with IPRA, we recommend that the County create standard three day and fifteen day communication letters. The letters should at a minimum include the date the request was received and the anticipated date for completing the request. Additionally, a copy of all letters sent should be retained on file for future reference. Standard correspondence letters will help ensure that the required communications are adequate and processed in a consistent manner.

Management Response

The Public Information Department will create standard three day and fifteen day communication letters. The letters will include the original request, the date the request was received, and the anticipated date for completing the request. Additionally, the local custodians of public records will be required to include letters and email correspondence in the internal electronic tracking system to demonstrate compliance with IPRA timelines. Furthermore, all local custodians of public records will receive written documentation detailing the new procedures.

The report states that there were nine completed requests that did not have documentation to support that the requester was notified within three business days after receipt. Those requests were made to the communications department, which has its own system for responding to records requests; the process did not include sending out three day letters. In the future, the communications department will comply with IPRA guidelines and send out three day letters when required to do so.

5) *Imaging Plan*

State statute allows for any public officer to photograph, microphotograph or reproduce on film public records. However, an imaging plan must be established and the plan must be approved by the State Records Administrator. The County does not have an imaging plan that has been approved by the State Records Administrator and as such all paper records are considered to be the original records and cannot be destroyed without first obtaining approval from the SRCA. During our visits to the 12 departments we observed that there was an abundance of paper records retained and many were held past retention. Additionally, many departments imaged documents creating duplicate and redundant copies of the record.

Risk level - Low

Recommendation

There is currently an abundance of paper documents stored by the County and the ability to dispose of paper documents upon imaging could save storage space and costs. The County should implement an imaging plan and submit it to the State Records Administrator for approval. This will allow for the County to electronically image records that would be considered the original source documents for all intents and purposes. The County may also be able to negotiate with the SRCA regarding the destruction of hardcopy records still under retention.

Management Response

Records Management agrees that the implementation of an imaging plan is best practice. As such, current budget goals for the Records Management Program indicate that the imaging plan is to be completed by December 31, 2012. Accordingly, a three-part draft is in process pursuant to 1.14.2.16 NMAC (plan overview), 1.14.2.15 NMAC (system management), and 1.14.2.14 NMAC (imaging standards). Once the imaging plan has been developed it will be sent to the State Records Administrator for approval.

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This report is intended for the information and use of Bernalillo County management, the audit committee, members of the board of commissioners of Bernalillo County and others within the organization. However, this report is a matter of public record, and once accepted its distribution is not limited.

REDW LLC

Albuquerque, New Mexico
November 15, 2012