

**DRAFT**

**National Archives and Records Administration  
Proposal for  
A Redesign of Federal Records Management**

**July, 2002**

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A Redesign of Federal Records Management**

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**National Archives and Records Administration  
Proposal for A Redesign of Federal Records Management  
Executive Summary  
July 24, 2002**

## **INTRODUCTION**

The Strategic Plan of the National Archives and Records Administration (NARA) states that NARA will ensure ready access to essential evidence that documents the rights of American citizens, the actions of Federal officials, and the national experience. In support of the NARA Strategic Plan, this document lays out a strategy for a redesigned records management program at NARA. The strategy calls for NARA to partner with stakeholders to ensure that:

- Federal agencies can economically and effectively create and manage records necessary to meet business needs,
- records are kept long enough to protect rights, assure accountability, and document the national experience, and
- records are destroyed when they are no longer needed and it is practical to do so.

The principle underlying the strategy is to create mutually supporting relationships with agencies, or “virtuous circles,” whereby NARA’s records management program adds value to the agency business processes, records are managed effectively for as long as they are needed, and records of continuing value are preserved and made available for future generations.

## **CHALLENGE**

NARA's records management program was developed in the 20<sup>th</sup> century in a paper environment. This program has not kept up with a Federal Government that creates and uses most of its records electronically. Nor have we the resources with our current way of doing business to cope with the growing volumes of electronic and paper records that are accumulating in a variety of formats. Our program is out of alignment with the needs of customer agencies, relying on tools that have not kept up with the changing world and lacking the resources to be effective using our current business methods. Today's Federal records environment requires different management strategies and techniques.

## **SUMMARY OF PROPOSED STRATEGIES AND TACTICS**

Our proposed redesign of NARA's record management program meets the challenges posed by the problems and achieves the goals outlined above. The strategies and tactics are fully explained in Part II and encompass the following areas:

## **Focusing Resources. NARA would:**

- focus on program areas/work processes that are the core functions of the Government, as NARA is doing as part of its eGov E-Records Management Initiative.
- focus on records essential to ensuring government accountability, the protection of rights and the documentation of the national experience,
- establish priorities for committing NARA resources based on the quantity and concentration of records relating to rights and accountability, records of continuing value, and the perceived risk to records in a program area.

## **Advocacy. NARA would:**

- expand it's advocacy role within the Government.

## **Guidance and Training. NARA would:**

- incorporate the concepts in the ISO records management standard 15489 to the extent possible under Federal law. Specifically, incorporate into our theoretical framework the idea of trustworthy records that have the qualities of authenticity, reliability, integrity, and usability over time sufficient to meet the needs of stakeholders;
- develop guidance and training for agencies based on business needs for trustworthy records;
- emphasize risk as a criterion for agencies to use in determining their business needs for records management controls;
- develop an approach to records management that says there is no single level of records management rigor that applies across the government. Rather, different circumstances call for varying degrees of management depending on risk; and
- provide agencies with guidance to manage agency business information, and not focus on the distinction between records and nonrecords.

## **Assistance to Agencies. NARA would:**

- provide free assistance to agencies based on established priorities, and
- establish a training, certification, and monitoring program for contractor staff who offer technical assistance in records management.

## **Oversight. NARA would:**

- conduct inspections/evaluations of records management practices within and among Federal agencies to make recommendations for improvement and focus them according to established priorities listed under resources,
- report to OMB and Congress on our inspection/evaluation program as required by statute, and
- conduct records management studies on techniques designed to save time and effort in records management.

## **Scheduling and Appraisal. NARA would:**

- change our scheduling and appraisal process so that, except for records of continuing value, agencies can schedule records at any level of aggregation that meets their business needs,
- develop appraisal criteria,
- eliminate the statutory mandatory destruction requirement,
- establish government-wide retention standards for disposable records, including some programmatic records, and
- provide agencies with as many generic tools as possible to minimize routine scheduling work.

## **Record Center/Archival Activities. NARA would:**

- test the viability and costs of three complementary approaches to encourage the preservation of electronic records:
- to the extent viable from a business perspective, the Federal Record Center (FRC) system would accept and service electronic records,
- provide free storage (but not free reference services) of preaccessioned electronic records of continuing value, and
- provide free preservation work on pre-accessioned electronic records of continuing value that are in our physical custody,
- accept a much broader range of formats/data types for transfer,
- offer to do pre-accessioning description work on electronic records of continuing value prior to their being in our physical or legal custody (perhaps on a priority basis relating to perceived risk),

## **CONCLUSION**

If the changes described throughout this proposal are carried out, it is likely that NARA will be able to build mutually supportive relationships with Federal agencies. Many of the changes should be prototyped to evaluate their effectiveness and then gradually extended across the government. The scheduling, appraisal, and accessioning processes will have to be redesigned and automated tools developed. NARA will also need to revise its regulations, support its staff in their efforts to successfully make these changes and assist agencies in adopting and adapting to them. The entire changeover will take several years to occur. Individual components can be put into operation quickly, but implementation must be coordinated within the framework of the principles set out in this document and the vision, mission, and goals of the NARA strategic plan. The key is to start now.

## Proposal for A Redesign of Federal Records Management Part I Records Management Background and Challenge

### BACKGROUND

This proposal is the product of considerable research and analysis. With contractor support, NARA collected information on the current recordkeeping environment in the Federal Government. The contractor, SRA, International, collected information on the “views and perceptions” of agency officials and staff concerning records and records management through interviews, focus group meetings, and a web survey. NARA staff examined agency work processes and the records the processes produced to determine how records are actually being managed. SRA combined and analyzed their work with that of the NARA staff to produce the “Report on Current Recordkeeping Practices within the Federal Government” (December 10, 2001).<sup>1</sup> NARA also examined the records management programs in several other national and state governments, as well as in a few private corporations. NARA had already done a “GAPS” project to compare some records disposition schedules and the archival holdings of the National Archives to determine if records were in fact being regularly transferred to NARA, and if not, why not.<sup>2</sup> The General Accounting Office (GAO) independently surveyed four Federal agencies about their electronic records management.<sup>3</sup>

NARA used all of this research to develop a series of proposals designed to improve its records management program. These proposals were reviewed internally and the proposal presented here was selected for further review and comment.

### NARA VISION

The Strategic Plan of the National Archives and Records Administration (NARA) states that NARA will ensure ready access to essential evidence that documents:

- the rights of American citizens,
- the actions of Federal officials, and
- the national experience

### PROPOSAL GOALS

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<sup>1</sup> The “Report on Current Recordkeeping Practices within the Federal Government” is available on the NARA web site at [http://www.archives.gov/records\\_management/pdf/report\\_on\\_recordkeeping\\_practices.pdf](http://www.archives.gov/records_management/pdf/report_on_recordkeeping_practices.pdf).

<sup>2</sup> The GAPS study was an internal NARA pilot project to determine the extent to which records scheduled for transfer to NARA from three agencies were in fact coming to NARA.

<sup>3</sup> GAO independently reviewed the electronic systems in four agencies to determine if the systems had been inventoried and scheduled. GAO mentions their review on page 17 in its report to Congress on “Information Management; Challenges in Managing and Preserving Electronic Records,” available at <http://www.gao.gov/new.items/d02586.pdf>.

In support of the NARA Strategic Plan, this document lays out a strategy for a redesigned records management program at NARA. The strategy calls for NARA to partner with stake-holders to ensure that:

- Federal agencies can economically and effectively create and manage records necessary to meet business needs
- records are kept long enough to protect rights, assure accountability, and document the national experience, and
- records are destroyed when they are no longer needed and it is practical to do so.

The principle underlying the strategy is to create mutually supporting relationships with agencies, or “virtuous circles,” whereby NARA’s records management program adds value to the agency business processes, records are managed effectively for as long as they are needed, and records of continuing value are preserved and made available for future generations.

## **ORIGINS OF NARA RECORDS MANAGEMENT PROGRAM**

The records management program that the National Archives and Records Service (NARS<sup>4</sup>) and the National Archives and Records Administration (NARA) administered during much of the twentieth century was far from perfect. Yet, in a number of ways it fit rather well with the business needs of agencies and the records context of the time. People created and used paper records. These records were managed using central files because records were expensive to create and difficult to reproduce, so they needed careful management. Records were also organized into detailed file arrangements with detailed file plans to facilitate retrieval in a manual environment. There were also records management personnel with expertise in the tools for managing and retrieving information from records and a relatively large number of file clerks (though often not enough) to manage the filing systems. And agency offices filled up with records. That is where NARA came in.

NARA provided general records management guidance to agencies on a variety of subjects (e.g. files, correspondence, and mail management, etc.) NARA staff also provided for free (and for a period of time for a fee) hands-on records management support in a variety of areas relating to the active management of records. This was done in the form of consulting, training, and providing specific guidance.

NARA also had processes that helped agencies clear out their offices. These processes included the use of detailed agency-prepared retention schedules that matched (more or less) the file plans, the Federal Record Center (FRC) system for free storage and retrieval of agency inactive continuing value and temporary records, and free archival storage with relatively painless requirements for transferring continuing value records to us. Detailed records schedules supported government

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<sup>4</sup> NARS (National Archives and Records Service) was the prior name of what since 1985 has been known as NARA (National Archives and Records Administration. Hereinafter, this paper will use "NARA" to refer to refer to the agency.

economy by giving agencies legal authority to destroy records that they no longer needed. The free storage offered by the FRC system provided economies of scale that saved money for the government as a whole, as well as the individual agencies that used it. Once records of continuing value were transferred to NARA legal custody, agencies could refer researchers to NARA, instead of having to field the reference requests themselves.

The overall effect was that these various NARA' processes supported agency business needs and work processes. In return, NARA's close involvement with agencies helped establish records management controls necessary to protect rights, document the actions of government, and ensure the preservation of records of continuing value. In short, mutually supporting relationships created a kind of virtuous circle (see Figure 1).

## **CHANGING ENVIRONMENT**

The world has changed in several ways. As noted above, the records management environment of the post WW II period was not perfect, but there was a basic synergy among records creation techniques, agency management approaches, and NARA services. During the last quarter of the 20<sup>th</sup> century changes in all three areas undermined the relationships and damaged the virtuous circles that had been established.

### **Changes in Records Creation and Management**

While agencies continue to generate paper, most records are created digitally and remain digital for at least a portion of their lives. Software manufacturers specialize in providing expanded tools for creation and modification of electronic documents, but tools to manage these records lag behind. As a result, agencies are trying to manage most records in paper filing systems, despite the fact that some of the new electronic formats cannot be rendered well (and in some cases cannot be rendered at all) in a paper environment.

Another development made possible by the electronic environment is that the widespread use of email is resulting in more records are being created, replacing phone conversations and face to face meetings that would not have been included in files in the past. Added to this development has been the more traditional growth made possible by photocopy machines and other devices that quickly and cheaply duplicate all types of paper-based information. Whereas at one point central files would have been crucial as the “authoritative” source for documents, each individual can have his or her own reference copies of documents, undermining control of records by records management. The result is increased agency staff confusion on what needs to be included “in the file” or as “part of the record.”

An additional change is that electronic records allow for easier dissemination, revision, reanalysis and “repurposing” of information products making them valuable to agencies as tools for secondary use, or knowledge management, rather than recordkeeping purposes. The electronic environment also changes the dynamics of paper storage, by offering an “invisible” alternative way to store information

that does not require much office space. Paper becomes expendable as the “official” medium of record since an easy-to-use replacement is available.

Another major change involves who actually does records management. Central files have largely disappeared, and with them the cadre of file clerks who managed them. Agency records management programs have also been downsized. Management of records increasingly falls on program staff whose main focus is carrying out the mission of the agency, not managing records. Agency staff now typically create and use their records electronically, and often try to maintain their "official" recordkeeping system in paper. Program documentation is now often divided between paper and electronic environments.

Finally, the advent of electronic records brought another party into the mix of records creation and management – the information technology (IT) staff, turning the two-way (program staff and records management staff) records relationship into what is often dual two-way relationships: program/records management staff and program/IT staff. The IT staff manage the systems that contain electronic records and do so according to their own practices, which are sometimes different if not at odds with records management practices.

## **NARA Services**

NARA no longer provides free and fee records management services. In addition, Federal agencies must pay for records center services. That means that from the agency perspective there is a cost attached to getting the paper files out of offices and into the FRCs. Moreover, the FRCs do not have an electronic records storage program for agencies. Transferring archival electronic records for accessioning by NARA can also be a problem. Agencies often cannot meet NARA's format requirements and, therefore, these records are not transferred to NARA.

Scheduling and appraisal practices have also become problematic. The proliferation of records and of formats, and the break down of central filing systems, makes it a daunting task to develop detailed inventories and schedules in traditional ways and at the traditional series level. In addition, detailed, series based filing systems are not always necessary in an automated retrieval environment. Yet the current regime (with the exception of some emerging test cases) is still largely based at the series level. Agencies are also called upon to do what to them seems like "busy work" to meet NARA scheduling requirements. An example is the statutory requirement that agencies submit a request and justification supported by evidence when they wish to retain records longer than is called for in a general or agency specific schedule. Current processes also call for agencies and NARA to commit far too much effort in inventorying and scheduling many routine records. One of the results is that many records that are significant from the standpoint of rights, accountability, or continuing value are not being scheduled, and consequently are at risk of not being retained for as long as they are needed.

## **Impact on the System**

The virtuous circles described above seem to be breaking down, with the greatest impact seen in electronic records (see Figure 2.) The NARA contractor “Report on Current Recordkeeping Practices within the Federal Government,” the GAO four agency pilot study, and the NARA Office

of Records Services GAPS study all indicate that a vast majority of retention schedules are out of date, inaccurate, or nonexistent. A large majority of electronic records series of continuing value are not coming into archival custody. Things may be somewhat better for paper records (especially where stakeholders outside the agency have a direct interest), but even there the incentives for agencies to schedule records and transfer continuing value records appear to have diminished significantly. The more agencies shift to conducting their business electronically the worse this situation is likely to become.

Stated another way, the net effect of the changes that have been occurring over the last couple of decades and especially since the mid 1990's is that NARA currently supplies less support to agencies than formerly and that agencies are less likely than formerly to schedule their records (especially their electronic records) and are less likely to transfer their records of continuing value (especially their electronic records) to NARA. Apparently, many electronic records are being kept as backup tapes in tape libraries until systems are replaced or shut down. At that point, if not sooner, records of continuing value are likely to be lost. Ominously, the more agencies shift to an electronic environment, the greater the problems outlined here are likely to become, the less value NARA is likely to provide agencies, and the more likely records will be at risk. A worst case scenario is provided in Figure 3. That is why we need to make major changes.

## **Proposal for A Redesign of Federal Records Management Part II Breaking Down the Barriers: A Strategic Direction**

The proposal is for NARA to change its records program to provide needed support (or add value in contemporary management jargon) to agencies at a number of points in the life cycle of records. In so doing, would better support agency business processes and establish a more mutually supporting relationship with agencies. In addition to supporting agency business needs, the mutually supporting relationship would support NARA's goals of ensuring trustworthy records and ensuring preservation and access to records of continuing value. In this way we would be establishing strong virtuous circles in the Federal records environment.

Making these changes requires agreement on both a strategic direction for NARA's records management program and a set of tactics to implement that direction. Part II consists of two segments: a proposal for a solution, and an assessment of how implementation of that solution would affect some of NARA's programs.

### **PROPOSED SOLUTION**

The proposal includes four parts: an overview placing the solution in its statutory framework, assumptions about the current situation, a "roadmap" of strategies to guide us in redesigning our records management program, and an assessment of the impact of these strategies on NARA programs. See Figure 4 for diagram of how the proposal might work in the electronic environment.

#### **Overview**

At a high level, the management of government records has two components – the records themselves and the tools necessary to manage them in an economical and effective manner. The creation and management of records is first and foremost the responsibility of the heads of agencies. They are required to:

- Make and preserve records (44 U.S.C. 3101)  
The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.
- Establish a program to control creation (44 U.S.C. 3102)  
The head of each Federal agency shall establish and maintain an active program that shall provide for effective controls over record creation in the conduct of current business.

- Establish a program for maintenance and use (44 U.S.C. 3102)  
The head of each Federal agency shall establish and maintain an active program that shall provide for effective controls over the maintenance and use of records in the conduct of current business.

NARA's basic role (core mission) in the front end of the life cycle is to

“provide guidance and assistance to Federal agencies to ensure adequate and proper documentation of the policies and transactions of the Federal Government and ensuring proper records disposition.” (44 U.S.C. 2904)

The focus for NARA should be to assist agencies in identifying *what* documentation needs to be maintained and ensuring that it is maintained for the appropriate length of time. This is a part of records management but not all of it. Much of records management theory and practice relates to *how* agencies should economically and effectively manage the records that they create – the tools and techniques used to manage records. NARA should focus its resources primarily on the *what* aspects of records management and find ways to empower agencies to determine for themselves *how* best to manage their records within general parameters provided by NARA.

NARA's role in this area should balance assistance to agencies in the creation and disposal of records and oversight to ensure that agencies are meeting the basic requirements. NARA's current techniques for both are wide of the mark and need to be rethought. In assisting agencies and providing oversight, NARA should recognize that one approach (one size fits all) will not work and we will need to consciously tailor our relationship to individual agencies and different kinds of records environments. NARA needs to think in terms of its core mission (both archival and records management) and prioritize agencies and business areas within agencies for attention (both assistance and oversight). NARA should focus on the management of records (the goal) rather than records management programs (a tool, albeit a good one, for achieving the goal).

## Assumptions

- The description of recordkeeping in the Federal government presented in Part I of this paper adequately describes the current situation.
- NARA will not be authorized the number of staff necessary to remedy these problems using our current techniques. Therefore major changes are necessary.
- Our current approach to records management leaves a tremendous amount of work undone, some of which may be more important to managing Federal records than what we currently do.
- Records are being created primarily electronically and that fact needs to be the starting point for our approach to records management.
- Presenting records management as a stand-alone discipline is less effective than incorporating it into the fabric of business practices and systems operation. Invisible records management or records management by another name should be our goal.
- NARA will not seek to change its current statutory responsibilities.

- Internal and external stakeholders will have to see sufficient benefit(s) in our proposal to support it. Both will be asked to comment on this proposal.

## Strategies

The following are the basic strategies NARA should follow in reorienting its records management program:

1. NARA would focus its limited resources according to a defined set of priorities. More specifically NARA would:
  - focus on program areas/work processes that are the core functions of government rather than focusing on agency office units. This approach complements the emerging view at the Office of Management and Budget (OMB) of a government composed of a set of business lines. This focus will usually be within a single agency but could include cross-agency functions/work processes when appropriate. The approach would bring NARA resources to bear on the mission critical functions of agencies.
  - focus its attention on those records that are essential to the government as a whole for accountability, protection of rights, and documentation of the national experience (see Figure 5).<sup>5</sup> This formulation of the problem focuses on a smaller body of records within the larger corpus of record material - those records necessary for the “adequate and proper documentation” of government activities. This approach will help NARA make choices about where it wants to invest resources.
  - NARA would establish priorities for committing NARA resources based on these three criteria: the quantity and concentration of records relating to rights and accountability; the quantity and concentration of records of continuing value; and the perceived risk to records in a program area. Risk would be assessed on the basis of type(s) and level of risk to the records, the ability of the creating agency to manage those risks, and the need for our assistance. (See Appendix A for a proposed tactical approach for setting priorities.)
2. NARA would have a graduated approach to dealing with agencies. The approach would have three components:

***Level 1*** active and intensive intervention to assist specific agencies or programs in hands-on ways. The extent and type of intervention would vary according to circumstances;

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<sup>5</sup> For the purposes of this paper, the term “records of continuing value” is used interchangeably with “records documenting the national experience” and “archival records”.

- Level 2* general level of service to all agencies includes providing government-wide guidance and tools for managing records<sup>6</sup>, schedule approval, and training; and
- Level 3* oversight to ensure compliance with records management requirements.

NARA would evaluate how it should be involved in specific program areas based on the priorities outlined in bullet 3 above. Management of records is an agency responsibility and our role should be to empower and support agency programs wherever possible and to directly intervene only in priority situations. Situations where valuable records are at risk, are candidates for NARA's active intervention (Level 1) and oversight (Level 3). On the other hand, many program areas would receive assistance primarily via guidance and general assistance (Level 2) and oversight (Level 3) to ensure continued success. NARA would continue to meet its legal responsibilities with respect to the many records that are not essential to the documentation of major work processes.

2. NARA would limit its direct involvement to helping agencies identify the best ways to manage their records to situations that rank high on the intervention criteria (see 3. above) or to situations where NARA involvement is likely to result in significant benefit to the government as a whole (e.g. development of models or best practices).
3. There is no one level to which all records must be managed. Agencies would determine the most appropriate techniques for managing records based on their business needs for the records, legal requirements (e.g. the Federal Records Act, the Freedom of Information Act and the Privacy Act), risks, and resources.
4. Agencies have the responsibility for managing their records. They would be allowed to determine how to do that effectively and efficiently, and they may choose to do that through a traditional records management program or in some other way. NARA has a responsibility to assist agencies in the management of their records, but normally that assistance would be general assistance (Level 2), rather than Government-wide requirements, and oversight (Level 3). NARA would use oversight and evaluations to assess results (how well records are managed) not means (whether agencies have a complete records management program).
5. NARA's approach to records management would be based on the ISO Records Management Standard 15489, and its focus on trustworthy records (authenticity, reliability, integrity, usability). In developing policy and guidance, NARA would articulate its requirements in terms of agencies documenting their business processes and using risk assessment to determine appropriate records management approaches.
6. NARA would adopt the records continuum model which requires that "archives" be identified early in their "life cycle" and then managed as archives as long as needed. This approach in

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<sup>6</sup> The guidance and tools that are being developed as part of NARA's E-Records Management Initiative are an example of the implementation of this approach.

the U.S. context would involve NARA in records relating to rights, government accountability, and records of continuing value from the beginning and focus NARA on monitoring how they are managed.

7. NARA would partner with others to develop/adapt/adopt products that support good records management. We will be much more effective in partnerships than working alone, even if the products are not “perfect” from a Federal perspective. Potential partners/sources should include standards organizations, other governments, and the private sector.

## **The Impact of This Approach on Current Records Management Activities**

This section assesses how the proposed approach would affect NARA’s records management program. It highlights several relevant NARA statutory responsibilities. A more complete presentation of NARA's statutory responsibilities can be found in Appendix B.

- **Guidance and Training.** NARA would:
  - incorporate the concepts in the ISO records management standard 15489 to the extent possible under Federal law into NARA guidance. Specifically, NARA would incorporate into our theoretical framework the idea of trustworthy records, records that have the qualities of authenticity, reliability, integrity, and usability over time sufficient to meet the needs of all stakeholders;
  - develop guidance for agencies based on business needs for trustworthy records. NARA’s “Records Management Guidance for Agencies Implementing Electronic Signature Technologies” and other forthcoming guidance take this approach.
  - emphasize risk as the main criterion for agencies to determine their business needs for records management controls;
  - develop an approach to records management that says there is no single level of records management rigor that applies across the government. Rather, different circumstances call for varying degrees of management depending on risk.
  - provide agencies with guidance to manage agency business information, and not focus on the distinction between records and nonrecords (see Appendix C).
  - restructure its regulations to focus on results that we expect (and would evaluate on), moving much of what is in the current CFR to guidance. NARA’s recently revised regulations on vital records (1236) are an example of how this might be done. Regulations would then be supported by guidance, operating procedures, frequently asked questions, and examples of approved practices that would provide agencies with tools to use in implementing the regulations.

- review its training activities systematically and revamp them to complement the approach to guidance outlined above. As part of this review NARA should examine new possible mechanisms for delivery, and whether specific training components should be no-cost, fee-based with NARA instructors, or contracted out.

- **Advocacy.**

NARA has a statutory responsibility to "Direct the continuing attention of Federal Agencies and Congress on the need for adequate policies governing records management." (44 U.S.C Chapter § 2904(5)). This is what government agency personnel surveyed by SRA meant by NARA leadership (which they felt was lacking).<sup>7</sup> Our involvement in OMB's E-Government Initiatives<sup>8</sup> and CIO Council sponsored committees are examples of how we can become more active in this area. Another example of advocacy is to continue and expand the visits of the Archivist of the United States to the heads of Federal agencies. Other approaches to expanding the NARA advocacy role should also be explored.

- **Oversight.**

- **Inspections/Evaluations:** NARA would expand this aspect of our records management program. We would focus on evaluating how essential records are being managed, not on the components of the records management program. There would be two possible uses for evaluations: agency specific in the case of high risk situations or the review of a specific function within one or more agencies. A model would be the study NARA did of records of top agency officials several years ago. The questions would be: are sufficient records being created; are they being maintained for an appropriate period of time; and is disposition being appropriately applied.
- **Conduct inspections/evaluations of Federal records management practices:** NARA would focus on cross-government issues that would result in government wide recommendations, additional guidance, or models for action. Gaps was one such project, and the Electronic Records management Initiative (one of the E-Government Initiatives is another. Others might look systematically at broad categories of important records (e.g., regulations) to determine the extent to which they are scheduled, how they could be scheduled more efficiently, and the degree to which the schedules are being implemented.<sup>9</sup> This cross-government tactic complements the agency specific interventions discussed below.

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<sup>7</sup> The Federal agencies desire for leadership from NARA was one of the findings from the SRA data collection on records management views and perceptions of Federal officials and staff cited on page 7 of the "Report on Current Recordkeeping Practices within the Federal Government."

<sup>8</sup> Information on the E-Government Initiatives can be found at <http://egov.gov/>.

<sup>9</sup> Here is an example of how this might work using regulation development. NARA staff would compile a list of agencies and/or programs doing regulation development or a subset thereof – e.g., regulations relating to the environment. Agencies would be visited and records reviewed. NARA staff would then identify records not covered by schedules and use the comparative information from other agencies on similar regulations to assist in simplifying the scheduling

- **Inspect the records and records management practices and practices of Federal agencies to make recommendations for improvement:** Under the proposed approach, this program would focus on assisting agencies by intervening when essential records were deemed to be at risk. It would look at priority programs and records and evaluate whether they were being appropriately maintained, and if not, would provide assistance to the creating agency in resolving the problems. This complements the cross-agency program.
- Reporting to OMB and Congress annually and at other times, as deemed necessary; a) on activities relating to these responsibilities; b) results of inspections and studies; and c) the costs of the failure of agencies to implementing NARA recommendations. Under the proposed approach, NARA would do more of this than in the past, especially relating to interventions to address at risk records, inspections, and studies of recordkeeping.
- **Conducting records management studies on techniques designed to save time and effort in records management.** Under the proposed approach we would refocus this to emphasize saving time and effort through better recordkeeping and/or incorporating recordkeeping requirements into information systems. These studies (probably part of evaluation and oversight) would identify places where NARA could effectively act by developing and/or adapting products to assist in the creation and management of authentic and reliable records.

- **Appraisal and Scheduling**

This aspect of the program is covered in detail in Part III. The thrust would be to focus on priority programs and records and facilitate the disposal of the rest. The approaches discussed will help NARA and Federal agencies become more effective in identifying and scheduling records needed to document rights, Government accountability, and the national experience. They will also make it easier for the public to understand and respond to public notices relating to records disposition.

- **Assistance to Agencies**

- Targeted Assistance (TA), extensive, no-cost assistance to Federal agencies to achieve specific, agreed upon goals, would be provided free to agencies based on the priorities listed above. NARA staff might draft records schedules for agencies and arrange for the transfer of records of continuing value. In some cases TA would include work in active records management, particularly if the work would have wide applicability in the government.

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process. NARA staff would then review the finding to determine whether the archival record was sufficiently complete, duplication existed, etc., and whether it would be possible to provide agencies with additional guidance on the scheduling and management of these records – e.g., agencies could assume that all records documenting environmental regulations are archival. The information gathered could also support archival description.

NARA would need to establish safeguards to ensure that there is a clear separation of roles and responsibilities between our assistance to agencies and our inspection function.

- NARA would also establish a training and certification program for contractor staff who offer technical assistance in records management as a way to allow NARA to monitor the quality of their work and a way to let agencies know where to turn for help with records that do not meet the priorities above. This activity plus the monitoring of the results of contractor work would help agencies develop the capabilities to manage their records effectively.

## **The Impact of this Approach on Current Accessioning, Preservation, and Description Activities**

NARA must also make changes in later phases of the records life cycle to break down barriers and facilitate the establishment of virtuous circles in the Federal records environment.

NARA will need to divert some of the resources saved by focusing on priority areas and the revised approach to scheduling records to schedule implementation and the transfer of records of continuing value into archival custody. This is an area where automated tools may be of significant value to track our monitoring efforts. Automated transfers of electronic records would be another area where technology would be useful. These efforts will be

In addition, NARA would test several other tactics. For electronic records, these would include doing some pre-accessioning preservation and description work while the records are in the legal custody of the creating agency. The revised scheduling approach will enable us to get better descriptions of records of continuing value prior to accessioning. In the case of electronic records we would begin taking in a much wider range of formats than is currently the case. (NARA is already addressing the issues involved in expanding acceptable transfer formats as part of its eGov E-Records Management Initiative.) NARA would encourage early physical transfers. In such cases, we would take on the preservation responsibilities for the agencies prior to legal accessioning, as we have done with the paper Official Military Personnel Files in at the Military Personnel Records Center in St. Louis. We would not take on the reference load unless the agency used electronic records center services for a fee. However, the preservation work would be free. Overall, this would result in more accurate descriptions, earlier transfers, better preservation, while avoiding the loss of records that is likely to occur with lengthy agency retention.

The steps that NARA takes in the areas of automated tools and pre-accessioning preservation and description work will be coordinated closely with NARA's planned Electronic Records Archives (ERA).

## **Conclusion**

If the changes described throughout this proposal are carried out it is likely that NARA will be able to build mutually supportive relationships with agencies and develop the kind of virtuous circles

depicted in Figure 4. Many of the changes should be prototyped to evaluate their effectiveness and then gradually extended across the government. The scheduling, appraisal, and accessioning processes will also have to be redesigned and automated tools developed. NARA will need to revise its regulations and support its staff in their efforts to make the changes and assist agencies in adopting and adapting to them. The entire changeover will likely take several years to occur. The components can be implemented quickly but their implementation must be coordinated within the framework of the principles set out in this document and with the vision, mission, and goals of the NARA strategic plan. And the key is to start now.

## **Proposal for A Redesign of Federal Records Management Part III New Approaches to Scheduling and Appraising Records**

NARA and agency staff find the current approach to scheduling and appraisal to be labor intensive, time consuming, and cumbersome. More importantly, the current approach is not working. Developing up to date schedules across the Government is impossible with existing resources using our current methods. We must adopt new approaches. Following the review of the results of our information collection efforts detailed in Part II, project staff interviewed representatives of a number of public and private records management programs. Using insights from these interviews and information about the current records environment in the Federal government, we developed a series of proposals to change how we currently do our work.

### **RETENTION STANDARDS**

One approach would be to establish retention standards (one organization adopted approximately 60 retention standards to cover all of their business areas and geographic locations). The standards would be based on program or business area rather than series based as traditionally understood. If offices in individual agencies wanted to refine those general standards to series specific schedule items, they could, as long as they retained records for the specified retention. If the offices wanted shorter retentions, they would have to submit their proposed schedule for approval by NARA. If they wanted to keep records longer to meet their business needs, they could. We would establish these government-wide retention standards for disposable records (including programmatic records) that would set minimum retentions for broad categories of records in a number of cross agency business lines (such as patient care and environmental protection). These business lines could be mapped to those being developed Government wide as part of the Office of Management and Budget (OMB) Electronic Government initiatives.

### **SCHEDULING RECORDS NOT COVERED BY RETENTION STANDARDS**

Agencies would be encouraged to develop records schedules for disposable records at as high a level of aggregation as would meet their business needs. The schedules could cut across units of organizations (functional approach). The difference from the current approach would be that the unit to be scheduled would not necessarily be the records series, but all records (in all media) relating to a work process, group of work processes, or broad program area that warranted the same minimum retention. Instead of a series description that enumerates the types of records found in a series, the description would be in effect the types of records series that supported the function or organization. If an agency wanted to schedule their records by office they could, but the emphasis would be on the whole processes performed.

The role of the agency records officer (or other person preparing the schedule) and the NARA appraiser would be to ensure that records were being kept sufficiently long to protect rights and provide for accountability, and to identify records of continuing value. Agencies would have flexibility in how to accomplish this, and once NARA had approved a retention for the records,

agencies would have the authority to retain records longer to meet specific circumstances without requesting specific approval from NARA. Three basic scenarios might commonly be used:

1. If a function involved protection of rights (issuance of permits for example), the agency could choose to schedule all records relating to the permit process for a sufficient period of time (double the length of time of the permit for example, or the life of the permit plus time for appeals or legal action) that met legal, fiscal, programmatic, etc., needs. This would provide for complete coverage and ensure that sufficient records were retained, but would likely result in “oversaving” and additional storage and management costs.
2. An agency could submit a two-item schedule, one item covering the records needed for the extended period and one for the remainder of the records. NARA staff would then assess whether the records proposed for the full retention were sufficient documentation for accountability, etc.
3. Finally an agency could develop even more granular schedules if that was necessary to meet its business needs. Even in this case, however, agencies would always have the opportunity to submit to NARA a higher level schedule and then use those more macro authorities as they wished in their internal disposition guidance as long as they kept the records for the minimum amount of time required by the approved schedule.

## **Advantages**

Applying broader disposition authorities to Federal records is one method NARA would use to:

- Decrease the scheduling workload for both agencies and NARA staff.
- Allow agency and NARA staff to focus on the most important records.
- Decrease the impact of reorganizations of programs and records on schedule updating.

## **Safeguards**

Safeguards would be built into this approach so as to not undermine NARA’s responsibility to ensure that records are not authorized for destruction before rights and accountability requirements were met. As a rule of thumb, NARA should allow agencies to describe their records and establish retentions at as high a level as can meet their needs. Before approving schedules, NARA will need to have agencies demonstrate that they have consulted their General Counsel and stakeholders on rights and accountability records. Depending on where they are on the risk dimension we may need to follow up directly with stakeholder groups to be sure they get an opportunity to comment. In all cases we will continue to ensure that the public has an opportunity to comment on proposed retentions and dispositions.

## **Records of continuing value**

In the case of records of continuing value, NARA will need to consult with agency staff (and others outside the agency in some cases) to identify records of continuing value. The starting point would be to analyze the work being done and the records likely to be generated that would have continuing value. Depending on the records and the capabilities of the creating agency, we may find it more efficient for NARA staff to write the descriptions for these records. This will help us later because the descriptions are likely to closely match the records when they come. In this way, some of the work

of description archivists will already be done. For electronic records, NARA would include metadata elements specified as part of the Electronic Records Archives (ERA) program. This would permit validation later when electronic records are accessioned. ERA is also exploring the possibility of using automated tools to extract this information from electronic records. The upshot of all this is that schedule items for permanent records will be described at a lower level of aggregation and in greater detail. To achieve maximum success with this approach, NARA will need to develop appraisal criteria.

## **TOOLS TO MAKE SCHEDULING EASIER**

In addition to a records management policy that sets out these approaches to scheduling and appraising records, a retention standard (if that proves feasible) and flexible levels of aggregation in scheduling records, NARA will need to:

- Develop government wide schedules that cover permanent records across the government or across a business line in the government.
- Expand the GRS to include facilitative program records.
- Keep GRS 20 items 13 and 14 but continue to add these items in at a high level to agency specific schedules.
- Develop GRS items or guidance for a few categories of email that permit truly transitory material to be kept in the live system (i.e. no printing out and no filing electronically), retention to be the period the system uses to cycle off messages; records that tie directly to documenting the work process to be filed in the system used to file other documentation of that process and to be retained for as long as that documentation is kept; records that are permanently valuable to be stripped out and transferred to the Archives of the United States. Agencies would have the authority to keep the records in the first two categories longer if they needed the information.
- Develop appraisal criteria to streamline appraisal work and increase consistency in appraisal decisions.
- Eliminate the statutory mandatory destruction requirement to eliminate unnecessary work (see Appendix D). This will provide agencies with the ability to retain records longer than the retention stated in the schedule without having to notify NARA and receive approval. The exceptions would be records for which retention periods are set by specific statute.

## **Proposal for A Redesign of Federal Records Management Appendix A A Tactical Approach for Setting Priorities**

### **PURPOSE**

This appendix lays out an approach for identifying priorities among agency programs and provides NARA with a means to identify situations that would merit intervention by NARA. The section identifies the criteria to be used and describes five scenarios for their use.

### **ESTABLISHING PRIORITIES BY APPLYING CRITERIA**

The proposed involvement strategy is based on setting priorities for committing NARA resources to implement the strategy laid out in Part II. The priorities would be established using three criteria. These would be:

1. The extent (quantity and concentration) of records affecting rights and government accountability.
2. The extent (quantity and concentration) of records of continuing value.
3. The extent to which records in the above two categories are perceived to be at risk of loss or damage, due to lack of proper management or some other reason. Perception of risk would be based on factors including allegations of unauthorized destruction and/or mismanagement, degree to which records are scheduled, relative strength of the records management program and/or agency attention to records, and assessment by NARA staff.

Using various indicators discussed below, NARA would assign high, middle, or low values for each of the three criteria. A high rating for risk would mean a high degree of perceived risk, and so on. The priorities would be established initially at a general level involving broad program areas. We might think of these criteria as three vertical bars marked high, middle, and low, as illustrated in Figure 6 (all examples in this appendix refer to Figure 6). Specific tactics would be based on priorities and the overall records context.

### **SCENARIOS/STRATEGIES FOR NARA INVOLVEMENT**

#### Programs that are high on all three criteria (Example 1):

These would require immediate NARA involvement. That might include a letter and visit by the Archivist to the agency head with an offer of targeted assistance. We would also send them a copy of a government-wide policy document on requirements for trustworthy records that we would prepare as part of our overall regulatory/guidance framework. If the agency accepted the offer, NARA would work closely with the agency to assist them in a variety of ways to help them achieve the goal of trustworthy records that document rights, accountability and the national experience. If rebuffed we might choose to do an inspection/evaluation of a particularly critical work process or group of related work processes. If again rebuffed or if the agency did not follow through on our evaluation

conclusions, we might place them on a list of “at risk programs” in a report to OMB, Congress, and the Department of Justice. In extreme cases we might threaten to withdraw disposal authority in an at risk program area.

Programs that rate low on all three criteria (Example 2):

These might get no more attention from NARA than sending them a copy of the government wide policy document on trustworthy records and meeting with agency staff to identify records of continuing value. NARA might even develop the descriptions for those permanent records or use contractor support for this purpose. Or we might develop a set of generic descriptions and permanent authorities that could be handed to them and to other agencies. This approach would also be used in rare cases such as Example 6.

Programs with mixed ratings:

Programs that receive a high rating on rights/accountability and permanent records but that appear to manage their records well (low rating for risk, Example 3) might be largely left alone other than to reward them for their good work. This reward could include commendations in reports to Congressional oversight committees or to the General Accounting Office and the Office of Management and Budget. We could also cite them as a best practice, give them the kinds of awards that we now give, except that the awards would focus on the results achieved rather than the programs. We might also monitor the continued transfer of records of continuing value to NARA. In such cases we might also delegate to the agency the drafting of permanent authority descriptions, with some NARA advice. The same approach would be used for cases like Examples 7 and 8.

Programs receiving high ratings for both rights/accountability records and risk, but a low one on records of continuing value (Example 4) may be relatively rare, in part because of agency business needs to manage rights/accountability records, but also because agencies that generate many rights and/or accountability records often generate considerable permanent documentation. But we will find some of these programs. We might treat them similarly to those that are high on all three criteria.

Programs with a low rating on rights/accountability records but high ratings on records of continuing value and risk (Example 5) are likely to be rare, because agencies tend to gain notoriety for mismanaging their rights/accountability records. However, if we find them we might treat them in the same way that we treat those with high ratings on all three criteria. However we would focus our efforts on their records of continuing value. We might offer to work with them to identify permanent records and then would closely monitor their transfer. Depending on availability of resources, we might offer them targeted assistance to improve the management of their permanent records. We might also draft the permanent authorities. In addition, we would also send them a copy of the government-wide policy document on trustworthy records

This approach of using the three criteria to create contextual models would allow us to establish priorities and develop specific scenarios or strategies for NARA involvement. Clearly, there will be

exceptions, but using this approach would help us to justify why we are investing significant resources in one program and not in another.

**Tools that we would use to assess values for the three dimensions:**

We will not have the resources to do an in depth study on the ground in every agency. Instead, we would seek to use a suite of tools to assess the values for the three criteria. These assessments would be at a program and process level, and the tools would vary to some extent by agency and program.

A list of tools for assessing the value level of records of continuing value might include:

- Information on agency websites
- Publications by the agency and others (e.g., historians)
- Inventory of mission critical systems (and follow-on inventories if OMB mandates them. Some agencies are apparently updating their Y2K inventories on their own.)
- Input from NARA staff including agency experts and research archivists
- Agency RMOs
- Public constituency input
- Other sources identified on an agency by agency basis

For rights and accountability we might use the same tools as those for records of continuing value (above) and risk (below), as well as such tools as:

- Agency electronic FOIA reading room
- Agency's CFR chapter.

For the risk dimension, we would use such tools as:

- NARA agency experts
- Agency RMO's
- Public constituency input
- GAO reports
- Published Inspector General Reports to Congress
- Press accounts of records problems
- Congressional oversight hearings

**What do we do with requests for assistance from programs that are not a high priority?**

Requests for assistance may be of several kinds, and could be handled differently depending on what type of assistance was requested. At least three approaches (and perhaps more) would need to be developed:

1. We might provide direct records management assistance if it were likely to result in benefits across the Government. The level of benefits and the availability of NARA resources would figure in making our decision.
2. We would certainly honor requests to review retention schedules for disposition approval. To deal with such requests, we use the approach outlined in Part III.
3. If the request was for other types of assistance that did not have broad cross government implications, e.g., assistance in development of schedules, assistance with development of inventories, or other activities that would require extensive hand-on work by NARA staff, NARA would work with the agencies to identify other resources to do the work, perhaps with NARA assistance in oversight and monitoring of the work. NARA could establish a training and certification program for contractor staff who offer technical assistance in records management as a way to allow NARA to monitor the quality of their work and a way to let agencies know where to turn for help with records that do not meet the priorities. We will also need to continue to develop government wide guidance that is couched from the business need, risk management, asset management approach. The goal would be that many agencies with good programs could use that guidance and implement it without much additional involvement from NARA staff.

**Proposal for A Redesign of Federal Records Management**  
**Appendix B**  
**Statutory "Shalls and Shall Nots"**  
**from the Perspective of the Records Life Continuum**

The following is a compendium of legal requirements found in the *Basic Laws and Authorities of the National Archives and Records Administration, 2000 Edition*. It is organized around the life continuum of records. The purpose of this document is to help clarify the limits set by the law for changing existing records management policies and practices.

**I. GENERAL**

**§ 2104. Administrative provisions**

- (a) The Archivist shall prescribe regulations as deemed necessary and the head of each agency shall issue orders and directives as deemed necessary to carry out such regulations.
- (b) Delegation of functions shall not relieve the Archivist of responsibility.
- (g) The Archivist shall advise and consult with interested Federal agencies.
- (h) If authorized by the Archivist, officers and employees of the Administration having investigatory functions are empowered, to administer oaths.

**§ 2106. Reports to Congress**

The Archivist shall submit to the Congress, in January of each year and at such other times as the Archivist finds appropriate, a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund. Such report shall describe—

- (1) program administration and expenditures of funds, both appropriated and nonappropriated, by the Administration, the Commission, and the Trust Fund Board;
- (2) research projects and publications undertaken by Commission grantees, and by Trust Fund grantees, including detailed information concerning the receipt and use of all appropriated and nonappropriated funds;
- (3) by account, the moneys, securities, and other personal property received and held by the National Archives Trust Fund Board, and of its operations, including a listing of the purposes for which funds are transferred to the National Archives and Records Administration for expenditure to other Federal agencies; and
- (4) the matters specified in section 2904(c)(8) of this title.

**§ 2115. Reports; correction of violations**

- (b) When either the Archivist or the Administrator of General Services (Administrator) finds that a provision of any such chapter {21,25,29,31 and 33} has been or is being violated, the Archivist or the Administrator shall-

- (1) inform in writing the head of the agency concerned of the violation and make recommendations for its correction; and
- (2) unless satisfactory corrective measures are inaugurated within a reasonable time, submit a written report of the matter to the President and the Congress.

**§ 2904. General responsibilities for records management**

(b) The Administrator shall provide guidance and assistance to Federal agencies to ensure economical and effective records management.

(c) Under subsection (a) or (b), respectively, the Archivist and the Administrator shall each have the responsibility--

- (1) to promulgate standards, procedures, and guidelines and the conduct of records management studies;
- (2) to conduct research with respect to the improvement of records management practices and programs;
- (3) to collect and disseminate information on training programs, technological developments, and other activities relating to records management;
- (4) to establish such interagency committees and boards as may be necessary to provide an exchange of information among Federal agencies with respect to records management;
- (5) to direct the continuing attention of Federal agencies and the Congress on the need for adequate policies governing records management;
- (6) to conduct records management studies and, in his discretion, designate the heads of executive agencies to conduct records management studies with respect to establishing systems and techniques designed to save time and effort in records management;
- (7) to conduct inspections or surveys of the records and the records management programs and practices within and between Federal agencies;
- (8) to report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget in January of each year and at such other times as the Archivist or the Administrator deems desirable--
  - (A) on the results of activities conducted pursuant to paragraphs (1) through (7) of this section,
  - (B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (6) and (7) of this section, and
  - (C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations.
  - (D) In addition, the Administrator, in carrying out subsection (b), shall have the responsibility to promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for records management.

**§ 3102. Establishment of program of management**

The head of each Federal agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. The program, among other things, shall provide for -

- (2) cooperation with the Administrator and the Archivist in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value; and
- (3) compliance with sections 2101-2117, 2501-2507, 2901-2909, and 3101-3107, of this title and the regulations issued under them.

## **§ 3504. Authority and functions of Director of the Office of Management and Budget (Director)**

(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall--

(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B) provide direction and oversee--

- (i) the review and approval of the collection of information and the reduction of the information collection burden;
- (iv) records management activities;
- (vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(b) With respect to general information resources management policy, the Director shall--

(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2) foster greater sharing, dissemination, and access to public information, including through--

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability

(c) With respect to the collection of information and the control of paperwork, the Director shall--

(1) review and approve proposed agency collections of information;

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to--

- (1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and
- (2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

(f) With respect to records management, the Director shall--

- (1) provide advice and assistance to the Archivist and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;
- (2) review compliance by agencies with--
  - (A) the requirements of chapters 29, 31, and 33 of this title; and
  - (B) regulations promulgated by the Archivist and the Administrator of General Services; and
- (3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

## II. RECORDS CREATION

### § 2904. General responsibilities for records management

(a) The Archivist shall provide guidance and assistance to Federal agencies to ensure adequate and proper documentation of the policies and transactions of the Federal Government and ensuring proper records disposition.

### § 3101. Records management by agency heads; general duties

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

### § 3102. Establishment of program of management

The head of each Federal agency shall establish and maintain an active program that shall provide for effective controls over record creation in the conduct of current business.

## III. RECORDS MAINTENANCE & USE

### § 2906. Inspection of agency records

(a)(1), The Administrator and the Archivist may inspect the records or the records management practices and programs of any Federal agency solely for the purpose of rendering recommendations for the improvement of records management practices and programs. Officers and employees of such agencies shall cooperate fully in such inspections, subject to the provisions of paragraphs (2) and (3).

(2) Records restricted by law or for reasons of national security or the public interest, shall be inspected, in accordance with regulations promulgated by the Administrator and the Archivist, subject to the approval of the head of the agency concerned or of the President. The regulations promulgated by the Administrator and the Archivist under this paragraph shall, to the extent practicable, be identical.

(3) If the Administrator or the Archivist inspects a record which is contained in a system of records which is subject to section 552a of title 5, such record shall be--

(A) maintained by the Administrator, the Archivist, or such designee as a record contained in a system of records; or

(B) deemed to be a record contained in a system of records for purposes of subsections (b), (c), and (i) of section 552a of title 5.

(b) In conducting the inspection of agency records provided for in subsection (a) of this section, the Administrator and the Archivist shall, in addition to complying with the provisions of law cited in subsection (a)(3), comply with all other Federal laws and be subject to the sanctions provided therein.

## **§ 3102. Establishment of program of management**

The head of each Federal agency shall establish and maintain an active program that shall provide for effective controls over the maintenance and use of records in the conduct of current business.

## **IV. DISPOSITION**

### **§ 2116. Legal status of reproductions; official seal; fees for copies and reproductions**

When records that are required by statute to be retained indefinitely have been reproduced by photographic, microphotographic, or other processes, in accordance with standards established by the Archivist, the indefinite retention by the photographic, microphotographic, or other reproductions constitutes compliance with the statutory requirement for the indefinite retention of the original records. The reproductions, as well as reproductions made under regulations to carry out chapter 21, 29, 31, and 33 of this title, shall have the same legal status as the originals.

### **§ 2904. General responsibilities for records management**

(a) The Archivist shall provide guidance and assistance to Federal agencies to ensure proper records disposition.

### **§ 2905. Establishment of standards for selective retention of records; security measures**

(a) The Archivist shall establish standards for the selective retention of records of continuing value, and assist Federal agencies in applying the standards to records in their custody. The Archivist shall notify the head of a Federal agency of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency that shall come to his attention, and assist the head of the agency in initiating action through the Attorney General for the recovery of records unlawfully removed and for other redress provided by law. When the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

(b) The Archivist shall assist the Administrator for the Office of Information and Regulatory Affairs in conducting studies and developing standards relating to record retention requirements imposed on the public and on State and local governments by Federal agencies.

## **§ 2909. Retention of records**

The Archivist may empower a Federal agency, upon the submission of evidence of need, to retain records for a longer period than that specified in disposal schedules; and, in accordance with regulations promulgated by him, may withdraw disposal authorizations covering records listed in disposal schedules.

## **§ 3103. Transfer of records to records centers**

When the head of a Federal agency determines that such action may affect substantial economies or increased operating efficiency, he shall provide for the transfer of records to a records center maintained and operated by the Archivist, or, when approved by the Archivist, to a center maintained and operated by the head of the Federal agency.

## **§ 3302. Regulations covering lists of records for disposal, procedure for disposal, and standards for reproduction**

The Archivist shall promulgate regulations, not inconsistent with this chapter, establishing--

- (1) procedures for the compiling and submitting to him of lists and schedules of records proposed for disposal,
- (2) procedures for the disposal of records authorized for disposal, and
- (3) standards for the reproduction of records by photographic or microphotographic processes with a view to the disposal of the original records.

## **§ 3303. Lists and schedules of records to be submitted to the Archivist by head of each Government agency**

The head of each agency shall submit to the Archivist, under regulations promulgated as provided by section 3302 of this title--

- (1) lists of any records in the custody of the agency that have been photographed or microphotographed under the regulations and that, as a consequence, do not appear to have sufficient value to warrant their further preservation;

- (2) lists of other records in the custody of the agency not needed by it in the transaction of its current business and that do not appear to have sufficient administrative, legal, research, or other value to warrant their further preservation;
- (3) schedules proposing the disposal after the lapse of specified periods of time of records of a specified form or character that either have accumulated in the custody of the agency or may accumulate after the submission of the schedules and apparently will not after the lapse of the period specified have sufficient administrative, legal, research, or other value to warrant their further preservation.

## **§ 3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records**

(a) The Archivist shall examine the lists and schedules submitted under section 3303. If the Archivist determines that any of the records listed in a list or schedule do not, or will not after the lapse of the period specified, have sufficient administrative, legal, research, or other value to warrant their continued preservation, he may, after publication of notice in the Federal Register--

- (1) notify the agency to that effect; and
- (2) empower the agency to dispose of those records

(b) Authorizations granted under lists and schedules submitted to the Archivist under section 3303 of this title, and schedules promulgated by the Archivist under subsection (d) of this section, shall be mandatory, subject to section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Archivist under section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to section 2909 of this title.

(d) The Archivist shall promulgate schedules (GRS) authorizing the disposal of records of a specified form or character common to several or all agencies if such records will not have sufficient administrative, legal, research, or other value to warrant their further preservation. A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.

(e) The Archivist may approve and effect the disposal of records that are in his legal custody, provided that records that had been in the custody of another existing agency may not be disposed of without the written consent of the head of the agency.

(f) The Archivist shall make an annual report to the Congress concerning the disposal of records under this chapter, including general descriptions of the types of records disposed of and such other information as he considers appropriate to keep the Congress fully informed.

## **§ 3105. Safeguards**

The head of each Federal agency shall establish safeguards against the removal or loss of records he determines to be necessary and required by regulations of the Archivist. Safeguards shall include making it known to officials and employees of the agency--

- (1) that records in the custody of the agency are not to be alienated or destroyed except in accordance with sections 3301-3314 of this title, and
- (2) the penalties provided by law for the unlawful removal or destruction of records.

**§ 3106. Unlawful removal, destruction of records**

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency of which he is the head that shall come to his attention and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records he knows or has reason to believe have been unlawfully removed from his agency, or from another Federal agency whose records have been transferred to his legal custody.

**§ 3309. Preservation of claims of Government until settled in General Accounting Office; disposal authorized upon written approval of Comptroller General**

Records pertaining to claims and demands by or against the Government or to accounts in which the Government is concerned, may not be disposed of by the head of an agency until the claims, demands, and accounts have been settled and adjusted in the General Accounting Office, except upon the written approval of the Comptroller General.

**§ 3310. Disposal of records constituting menace to health, life, or property**

When the Archivist and the head of an agency jointly determine that records in the custody of an agency are a continuing menace to human health or life or to property, the Archivist shall eliminate the menace immediately by any method he considers necessary. When records in the custody of the Archivist are disposed of under this section, the Archivist shall report their disposal to the agency.

**§ 3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Archivist**

During a state of war between the United States and another nation, or when hostile action by a foreign power appears imminent, the head of an agency may authorize the destruction of records in his legal custody situated in a military or naval establishment, ship, or other depository outside the territorial limits of continental United States—

- (1) the retention of which would be prejudicial to the interests of the United States or
- (2) which occupy space urgently needed for military purposes and are, in his opinion, without sufficient administrative, legal, research, or other value to warrant their continued preservation.

Within six months after their disposal, the official who directed the disposal shall submit a written report to the Archivist in which he shall describe the character of the records and state when and where he disposed of them.

**§ 3312. Photographs or microphotographs of records considered as originals; certified reproductions admissible in evidence**

Photographs or microphotographs of records made in compliance with regulations under section 3302 of this title shall have the same effect as the originals and shall be treated as originals for the purpose of their admissibility in evidence. Certified or authenticated reproductions of the photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

## **§ 3313. Moneys from sale of records payable into the Treasury**

Money derived by agencies of the Government from the sale of records disposed of under this chapter shall be paid into the Treasury of the United States unless otherwise required by law.

## **V. CUSTODY**

### **§ 2107. Acceptance of records for historical preservation**

When it appears to the Archivist to be in the public interest, he may--

- (1) accept for deposit with the National Archives records of a Federal agency, the Congress, the Architect of the Capitol, or the Supreme Court determined by the Archivist to have sufficient historical or other value to warrant their continued preservation;
- (2) direct and effect the transfer to the National Archives records of a Federal agency that have been in existence for more than thirty years and determined by the Archivist to have sufficient historical or other value to warrant their continued preservation, unless the head of the agency which has custody of them certifies in writing to the Archivist that they must be retained in his custody for use in the conduct of the regular current business of the agency;
- (3) direct and effect, with the approval of the head of the originating agency, or if the existence of the agency has been terminated, then with the approval of his successor in function, if any, the transfer of records deposited or approved for deposit with the National Archives to public or educational institutions or associations; title to the records to remain vested in the United States unless otherwise authorized by Congress; and
- (4) transfer materials from private sources authorized to be received by the Archivist by section 2111 of this title.

### **§ 2108. Responsibility for custody, use, and withdrawal of records**

(a) The Archivist shall be responsible for the custody, use, and withdrawal of records transferred to him.

When the head of a Federal agency states access restrictions on records being considered for transfer, the Archivist shall, if he concurs, impose such restrictions on the records and may not relax or remove the restrictions without the written concurrence of the head of the agency.

In the event that a Federal agency is terminated and there is no successor in function, the Archivist is authorized to relax, remove, or impose restrictions on such agency's records. Statutory and other

restrictions referred to in this subsection shall remain in force until the records have been in existence for thirty years unless the Archivist by order, having consulted with the head of the transferring Federal agency or his successor in function, determines such restrictions shall remain in force for a longer period.

(b) With regard to the census and survey records of the Bureau of the Census, any release pursuant to this section shall be made by the Archivist pursuant to the specifications and agreements made between the Director of the Bureau of the Census and the Archivist.

## **§ 2109. Preservation, arrangement, duplication, exhibition of records.**

The Archivist shall provide for the preservation, arrangement, repair and rehabilitation, duplication and reproduction (including microcopy publications), description, and exhibition of records or other documentary material transferred to him as may be needful or appropriate, including the preparation and publication of inventories, indexes, catalogs, and other finding aids or guides to facilitate their use.

## **§ 2110. Servicing records.**

The Archivist shall provide and maintain facilities he considers necessary or desirable for servicing records in his custody that are not exempt from examination by statutory or other restrictions.

## **§ 2118. Records of Congress.**

The Secretary of the Senate and the Clerk of the House of Representatives, acting jointly, shall obtain at the close of each Congress all the noncurrent records of the Congress and of each congressional committee and transfer them to the National Archives for preservation, subject to the orders of the Senate or the House of Representatives, respectively.

## **§ 2903. Custody and control of property**

The Archivist shall have immediate custody and control of the National Archives Building and its contents, and may design, construct, purchase, lease, maintain, operate, protect, and improve buildings used by him for the storage of records of Federal agencies in the District of Columbia and elsewhere.

## **§ 2908. Regulations**

Subject to applicable law, the Archivist shall promulgate regulations governing the transfer of records from the custody of one executive agency to that of another.

## Proposal for a Redesign of Federal Records Management Appendix C Issue Paper: Record versus Non-record

**Date:** June 21, 2002

**Background:** 44 U.S.C. 3301 defines Federal records as including all books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included.

The exceptions are the clearest part of this definition. Apart from the exceptions, the two major operational phrases in the above definition are: “made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business,” and “preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.” “Preserved is generally taken to mean “filed” or “maintained.” Taken together these phrases make the definition vague, perhaps intentionally so, so as to provide some degree of discretion to the Government. In practice, however, it can be confusing for agency personnel to draw the line in making record/non-record decisions.

Further complicating things is the Freedom of Information Act (5 U.S.C. § 552):

- (f) For purposes of this section, the term—
  - (2) “record” and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements to this section when maintained by an agency in any format, including an electronic format.

In practice, the Supreme Court has articulated a two-part test for determining what constitutes “agency records” under the FOIA: “Agency records” are records that are (1) either created or obtained by an agency, and (2) under agency control at the time of the FOIA request.” (Supreme Court information taken from Freedom of Information Act Guide & Privacy Act Overview, May 2000 Edition, p.27.)

Given the discrepancies in the laws, there is plenty to confuse for Government personnel who are just trying to do their job. The SRA report, “Report on Current Recordkeeping Practices within the Federal Government,” December 10, 2001, indicates that there is a great deal of confusion and that

people just want help in managing the information that they make and receive as part of conducting Government business.

**Assumptions:** It would be most helpful to agencies if NARA provided guidance in managing the information agencies need to conduct their business.

**Proposal:** Leave the Statute “as is” but provide guidance to agencies to support their efforts in managing agency business information. In other words, in practice focus on the difference between information made and received in the conduct of business and personal information. Give them guidance on the former and advice on how to keep personal information separate from agency files.

**Discussion:** This proposal is easier than trying to change the statute on the one hand, or continually debating the record/nonrecord issue on the other. Debating the issue is an unending exercise with little benefit to anyone. Changing the statute would be very difficult given there are many stakeholders that are likely to have conflicting views on the subject. Given the lack of clarity in the statute it is possible to proceed without expending major agency resources in the legislative effort and potentially being unsuccessful. NARA needs to provide easy and broad disposition authority for routine records that agencies need to get rid of and which are not worth the investment of significant records management resources. Expanded use of general records schedules is one way to help. NARA also needs to streamline the scheduling process.

**Proposal for A Redesign of Federal Records Management**  
**Appendix D**  
**Issue Paper: Elimination of Mandatory Destruction Requirements**

**Date:** June 20, 2002

**Background:** The National Archives and Records Administration (NARA) is in the process of reviewing and redesigning the records scheduling and appraisal process. This document describes a proposal for changing the Statute related to mandatory destruction of records. There are three provisions in the Statute (**§ 2909, Retention of records and two subparts of § 3303a, Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records**) that specifically cover this subject and would need to be changed. The related sections of the Statute are:

**§ 2909. Retention of records**

The Archivist may empower a Federal agency, upon the submission of evidence of need, to retain records for a longer period than that specified in disposal schedules; and, in accordance with regulations promulgated by him, may withdraw disposal authorizations covering records listed in disposal schedules.

**§ 3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records**

(b) Authorizations granted under lists and schedules submitted to the Archivist under Section 3303 of this title, and schedules promulgated by the Archivist under subsection (d) of this section, shall be mandatory, subject to Section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Archivist under Section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to Section 2909 of this title.

(d) The Archivist shall promulgate schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. A Federal agency may request changes in such schedules for its records pursuant to section 2909 of this title.

**Proposal:** The proposal is to eliminate the statutory requirement for mandatory destruction as described below.

## **Discussion:**

- Agencies largely ignore this provision unless records are stored at a Federal Records Center (FRC).
- When records are stored at an FRC – NARA informs agency of eligibility of the destruction, but does not destroy the records unless the agency approves the destruction.
- When agencies make a formal request for approval to keep records beyond the authorized retention period, NARA routinely approves the request. The request process therefore simply creates work that adds little value to the agency or NARA.
- This provision of the Federal Records Act is unenforceable. NARA will never have the resources to enforce this statute even if there were good reasons to do so.
- Since the law is not followed and is unenforceable, it tends to undermine respect for the rest of the Federal Records Act.
- Information is now considered an asset, not merely a byproduct of agency work. As such, agencies should be encouraged, not discouraged, to use corporate knowledge for as long as it is valuable.
- This change will eliminate unnecessary work for agencies and NARA.

## **Recommendation for Implementing the Proposal:**

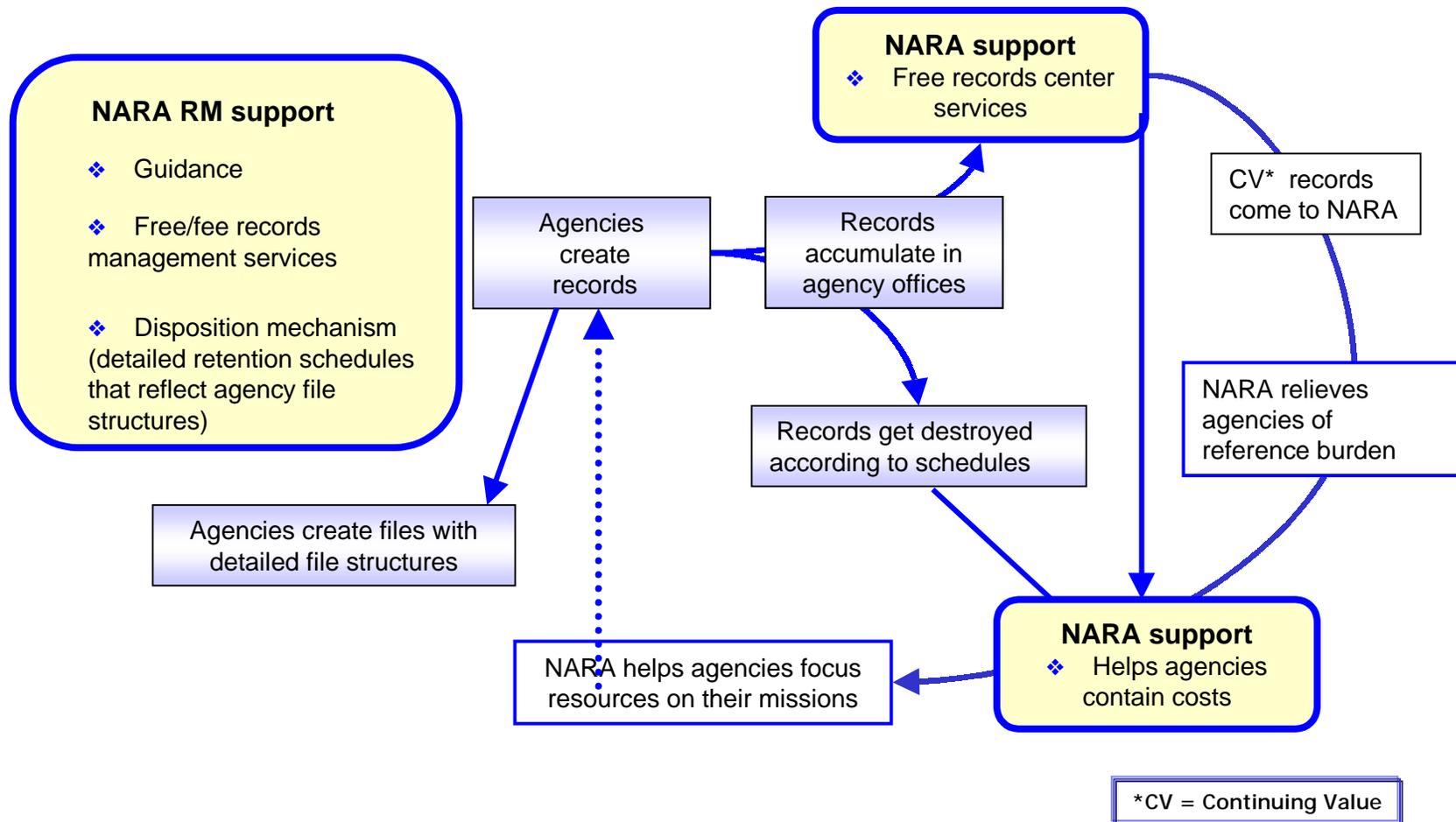
Replace part of Section 2909 with recommended language described below, delete Section 3303a(b) in its entirety, and modify the last sentence in Section 3303a(d) as follows: A Federal agency **may** extend the retention period in such schedules for its records pursuant to section 2909 of this title.

Section 2909 would have the following two parts. Part (a) is new; part (b) remains unchanged.

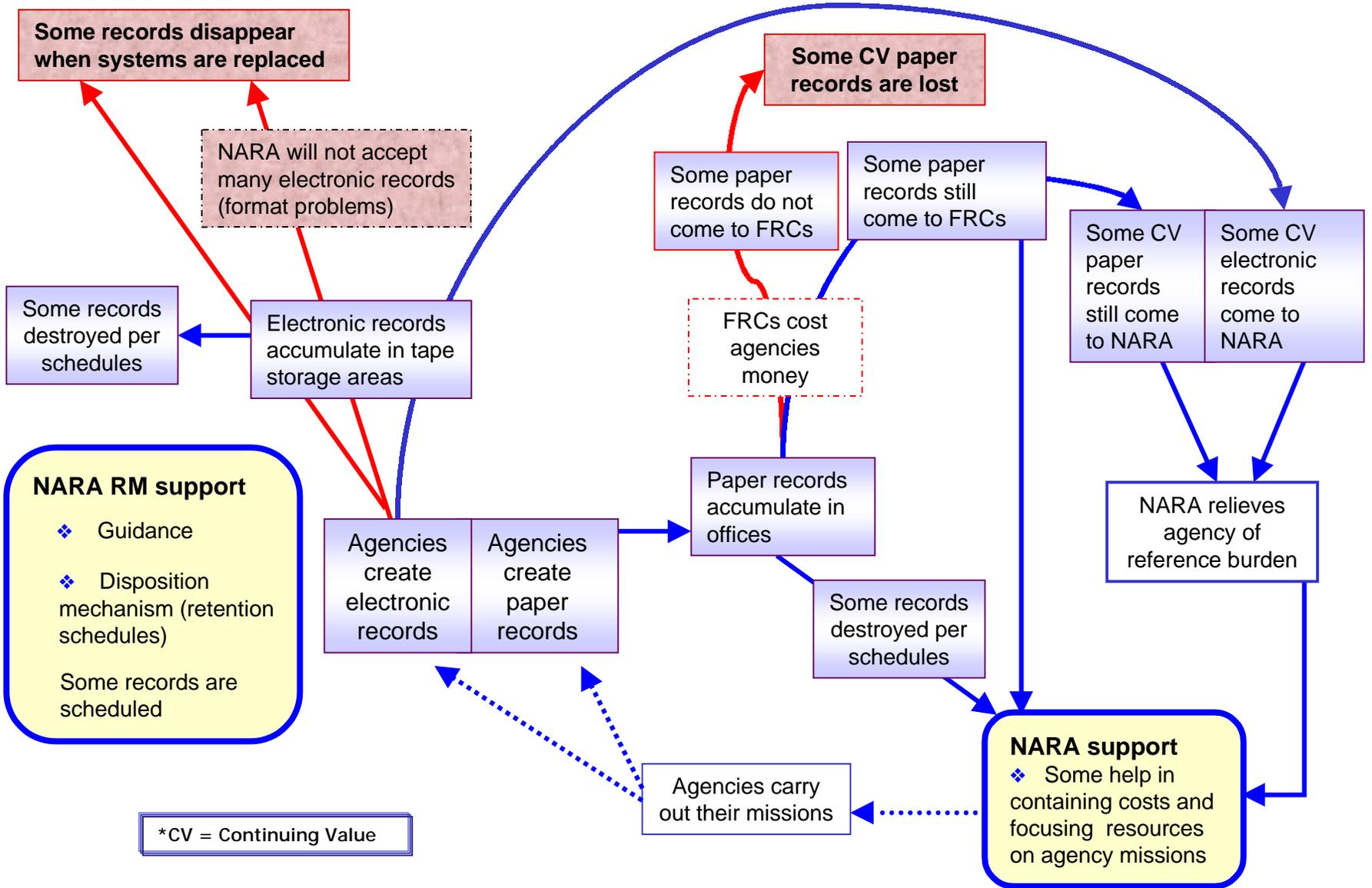
**§ 2909. (a)** The head of a Federal agency may establish agency policy for retaining disposable records for a longer retention period than that specified in the disposal schedule, based on the agency's business needs, unless prohibited by law.

**§ 2909. (b)** The Archivist in accordance with regulations promulgated by him, may withdraw disposal authorizations covering records listed in disposal schedules.

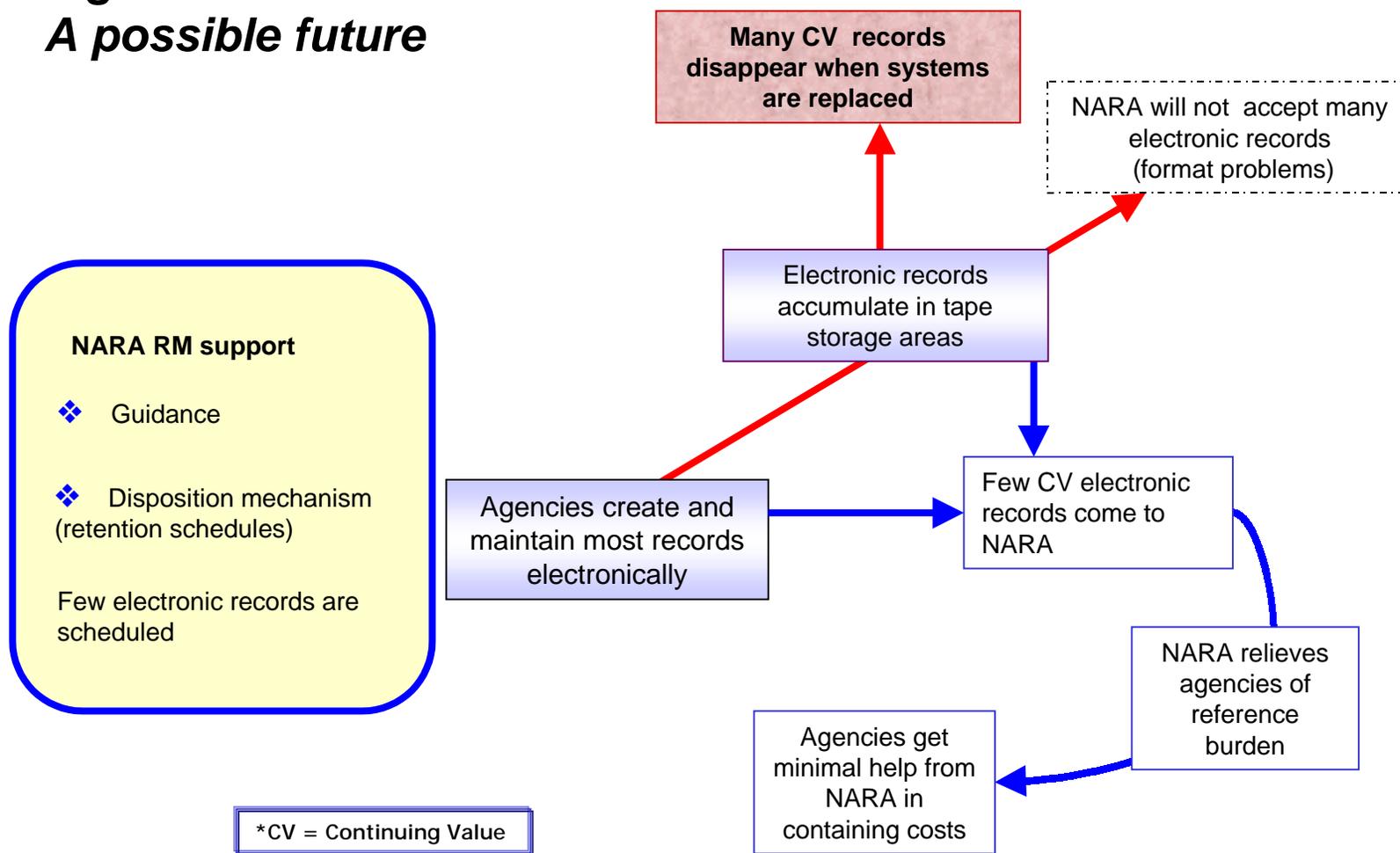
**Figure 1**  
**The old model**



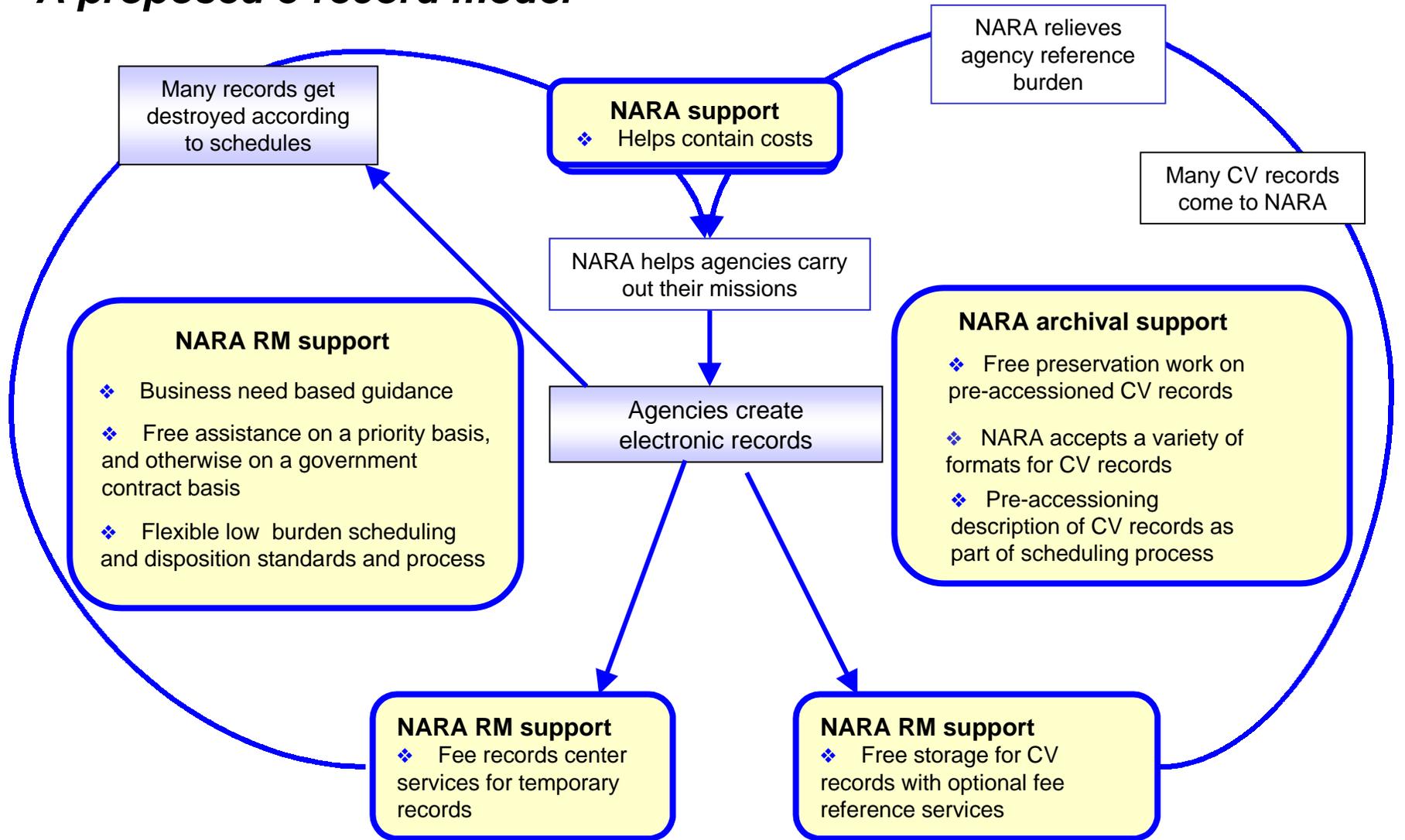
**Figure 2**  
**The current situation**



**Figure 3**  
**A possible future**

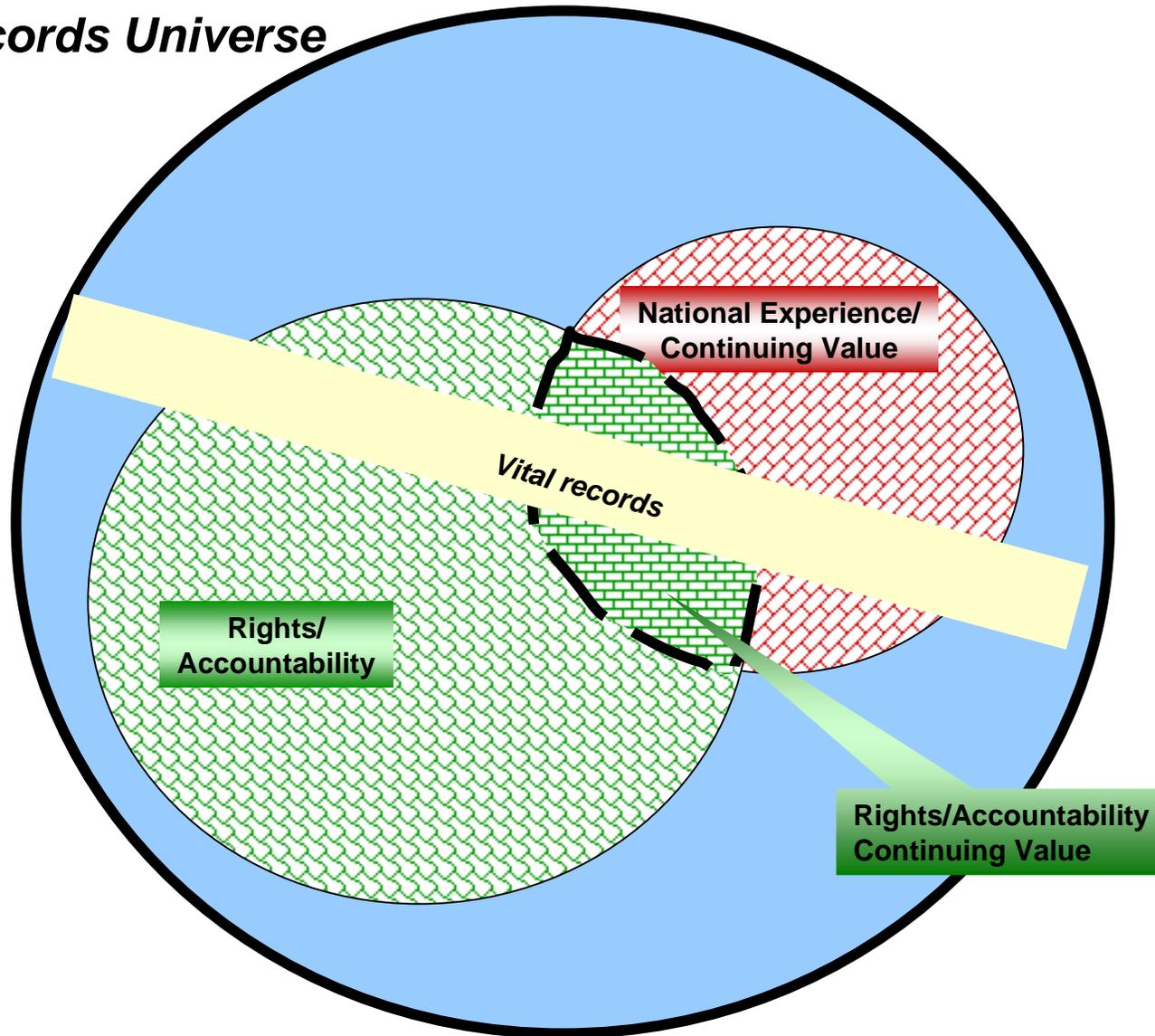


**Figure 4**  
**A proposed e-record model**



\*CV = Continuing Value

**Figure 5**  
**The Records Universe**



# Figure 6 Sample Agency Profiles

