

Beazley Document Retention Best Practices

Proper document retention is a critical part of a comprehensive risk management program. With a well thought out document retention plan, your design firm may be able to head off a professional liability claim and mount a more effective legal defense.

Without one, you may be more vulnerable to claims and potentially serious court sanctions.

Retention Tips

While specific document retention needs and circumstances vary by firm, these tips can help ensure you have a solid document retention policy:

- ✓ **Write it down:** Create a written document retention policy encompassing both electronic and hard copy data. Include what documents you store, where, and how long they must be kept to comply with statutes and court rulings. Consider segregating business and personal e-mail, and applying different retention standards to each.
- ✓ **Start at the top:** Ensure executive-level accountability in enforcing and communicating your policy.
- ✓ **Get IT involved:** Your IT team should be involved in policy creation and aware of timetables for destroying electronic data. Alert them immediately when a legal document request or litigation is imminent and to assist with document retrieval.
- ✓ **It takes a village:** Mandate that employees manage their own electronic data and are aware of what they must keep and discard regularly. Educate all computer users on the pitfalls of electronic communications (e.g., there should be no expectation of privacy.)
- ✓ **Enforce housekeeping measures:** Require staff to purge all unnecessary records and correspondence (hard copy or electronic) in accordance with company policy.
- ✓ **Know when to stop:** Immediately suspend your regular destruction policies when litigation or a legal document request is pending or imminent.
- ✓ **Review your plan:** Audit your retention policy and compliance regularly -- at least annually.

Rules of the Electronic Road

With so much business done by email -- often "on the fly" via a handheld -- some general rules of email have become critical to risk management. Remember:

- ✓ All electronic communication (including correspondence and personal diaries) is subject to disclosure to the other parties in the event of litigation.
- ✓ Even draft emails or those deleted and never sent may be stored electronically and subject to review at a later date.
- ✓ Every communication has two potential audiences: your intended recipient, and the judge or jury who one day may review it. Guide content accordingly.

Before hitting "send," reread your email. Would you be okay seeing it on the front page of a newspaper or as evidence for a jury?

The 5 Rules of Project-related Emails

1. Be concise, consistent and factual
2. Include appropriate background so meaning cannot be misconstrued
3. Preserve a hard copy in the project work file
4. Don't speculate or render opinions as facts
5. Don't express feelings or editorialize about people or projects

Beazley Can Help

Beazley has been writing A&E professional liability for almost 25 years, and understands the need to provide insureds with proactive risk management solutions. For more information on how to mitigate risks, contact your Beazley underwriter, or visit our risk management website for a library of A&E resources:

www.beazley.com/A&E.

Beazley's underwriters in the United States focus on writing a range of specialist insurance products. In the admitted market, coverage is provided by Beazley Insurance Company, Inc., an A.M. Best A rated carrier licensed in all 50 states. In the surplus lines market, coverage is provided by the Beazley syndicates at Lloyd's. Beazley is a market leader in many of its chosen lines, which include professional indemnity, property, marine, reinsurance, accident and life, and political risks and contingency business. Retention Tips Source: Based on tips from LexisNexis Applied Discovery.

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