

Implications of Cloud Outsourcing and Computing on Records and Information Management (RIM)



**SAMANTHA LOFTON
FIRMWIDE RIM MANAGER,
GREENEBAUM DOLL & MCDONALD PLLC**

**MIMI DIONNE,
MLIS, CA, CDIA+, CRM, PMP**

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Cloud Computing: Retention, Privacy and Contractual Considerations



• Presentation Goals

- Practical approaches and examples for dealing with the management and storage of Records and Information in “the Cloud”.
- A discussion of the implications of Cloud Outsourcing and Computing on Records and Information Management (RIM) considering retention, privacy and contractual elements.

Cloud Computing

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- **Cloud Computing – Defined:**
 - A style of computing in which dynamically scalable, elastic, and often virtualized resources are provided as a service over the Internet. Neither large expense of capital nor human resources are required to administrate. Users need not have knowledge of, expertise in, or control over the technology infrastructure in the “cloud” that supports them.
- **Author Nicholas Carr draws an analogy between cloud computing and the transition that manufacturers made from generating their own power to relying on utilities in the early 20th century.***

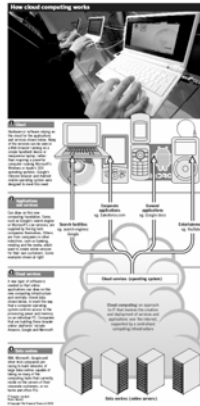
Cloud Computing Defined Continued

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- **Cloud computing incorporates combinations of the following:**
 - Infrastructure as a service (IaaS)
 - Platform as a service (PaaS)
 - Software as a service (SaaS)
 - Identity as a service (IaaS)
 - Technologies that rely on the Internet to satisfy the computing needs of users.
 - ✦ “Cloud” is used as a metaphor for the Internet, based on how the Internet is depicted in computer network diagrams and an abstraction for the complex infrastructure it conceals
 - ✦ Cloud Deployment Models: public, private, hybrid and community clouds

Cloud Computing

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Three New Aspects in Cloud Computing (Hardware)

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- The illusion of infinite computing resources available on demand
- The elimination of an up-front commitment by Cloud users
- The ability to pay for use of computing resources on a short-term basis as needed*

*Above the Clouds: A Berkeley View of Cloud Computing, February 10, 2009

Why Berkeley is Excited

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- **5—7% decrease in costs of:**
 - Electricity
 - Network bandwidth
 - Operations
 - Software
 - Hardware
- **The above means your organization can provide services below the cost of a medium-sized datacenter and still make a profit.**

Presentation Goals Continued:

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- **Benefits and associated risks with Cloud, or third party, outsourcing and computing**
 - Cost Benefit analysis
 - × Why organizations prefer cloud computing
- **Cloud data hosting governance requirements**
- **Contractual issues associated with Cloud outsourcing**
- **Organization records and information management policy compliance in the Cloud**
- **Cloud vendor policy reviews**
- **Privacy and Security policy reviews**

Cloud Computing

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- **In the Cloud**
 - **US Navy experiment with Amazon Web Services**
 - ✦ Use of Commercial Infrastructure – as – service
 - IaaS as a viable means of supporting a specified subset of US Navy Mission requirements for Global Connectivity, server and application access.
 - **US Army Pilot Program with Software as Service SaaS**
 - ✦ SaaS as a means to manage its environmental impact by tracking emissions and regulatory compliance. The goal is to enable the Army to assess emission trends more rapidly.
 - **Canada's Government Cloud Strategy**
 - The need for the evolution of Platforms and Applications

In the Cloud Continued

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- **Legal Industry Cloud Service Offerings**
 - Practice Management, Contract Management, Calendaring, Conflict Checking
- **Health Care / Health Information Cloud Services**
 - Microsoft Health Vault
 - Google Health
- **Cloud Computing Vendors**
 - Google, Amazon, IBM, Microsoft, Salesforce, Various Specialized Vendors: IDC Canada profiles 10 Canadian Cloud solutions to watch: Toronto's Asigra Inc.; Toronto's BoardSuite Corp.; Richmond Hill's CiRBA Inc.; Toronto's Enomaly Inc.; Toronto's FreshBooks; Toronto's Nulogy Corp.; Toronto's PollStream Inc.; Toronto's Rypple; Burnaby's Teradici Corp.; Markham's ThinDesk Inc.
- Blackberry and other portable devices as Cloud Workhorses.
- Net book and Web 2.0 tools

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- **Benefits and Associated Risks**
 - **Cost Benefit Analysis**
 - ✦ Avoidance of capital expenditures
 - Hardware/ software
 - Billing Methods: Utility Method, Flat Monthly Fee Method
 - Efficiency of Company's Data Center as Compared to the Cloud
 - **Information Technology**
 - ✦ Data Security in Cloud Environments
 - Encryption of Data Stored in the Cloud
 - Encryption of Transmitted Data
 - 256-bit encryption – used by banks
 - 128-bit encryption
 - User Authentication

THIS IS AN ADVERTISEMENT

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- **Cloud Based Application Services**
 - Access and Use
 - ✦ Dependency on the cloud computing provider for data access
 - Integration of application services with existing infrastructure
 - ✦ How does this affect locally stored data?
 - ✦ How does this affect local application services?
- **Data Hosting Governance Requirements**
 - Active Records in the Cloud
 - Inactive Records in the Cloud
 - ✦ Storage of Information
 - Possession and Storage of Data
 - Access to Data

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- **Litigation Holds & E-Discovery in the Cloud**
 - **Implementing and Administering the Litigation Hold**
 - ✦ Notice to Cloud Vendors
 - ✦ Identifying, preserving and producing relevant information in the Cloud
 - ✦ Notification to Clients
 - ✦ Document requests to Cloud Vendor
 - Require Cloud Vendor to provide notice of request for records made directly to them
 - The Federal Government's Authority to Compel:
 - USA Patriot Act
 - Electronic Communications Privacy Act
 - Subpoenas
 - Discovery Requests

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- **Cloud Compliance Issues**
 - **Risk Mitigation**
 - ✦ Privileged user access
 - ✦ Regulatory compliance
 - ✦ Data location
 - ✦ Data Segregation
 - ✦ Recovery
 - **Organization RIM Policies**
 - **Privacy Policies**
 - ✦ Vendor Data Privacy Review and Audit

Compliance Issues Continued

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- **Retention and Disposition**
 - Administering policies in the Cloud
 - ✦ Methods
 - ✦ Resources
 - ✦ RIM Lifecycle
 - ✦ Retention Schedule Compliance
 - ARMA International (The Association for Information Management Professionals): Generally Accepted Records Principals (GARP)
- **Generally Accepted Records Principals**
 - ✦ Principle of Accountability
 - ✦ Principle of Integrity
 - ✦ Principle of Protection
 - ✦ Principle of Compliance
 - ✦ Principle of Availability
 - ✦ Principle of Retention
 - ✦ Principle of Disposition
 - ✦ Principle of Transparency

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- **Contractual Issues**
 - Provisions to Protect Data
 - ✦ Recognition of RIM policies
 - ✦ Assessment and negotiation of contract terms
 - ✦ Vendor Acquisitions
 - Data availability
 - Compromised or Unavailable Data
 - ✦ Vendor Liquidation – Discontinuance of Business
 - Long-term viability
 - Vendor financial stability
 - Number of subscribers

Contractual Issues Continued

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- **Service Agreement**
 - **Control:**
 - Can you be assured access to data?
 - Average configuration download, network downtime vs. system downtime
 - Can you export data in your organization's preferred format?
 - Will your vendor comply with your RIM Policy?
 - **Data integrity/access audits**
 - **Statistical analysis**
 - **Incident management**
 - **Players**
 - **Rights-managed security protocols**
 - **Examples:**
 - File Access Restrictions
 - Storage protocols for active, inactive and legacy data

Privacy and Disclosure Issues in the Cloud

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- **Disclosure Restrictions:**
 - **HIPPA – United States**
 - × **Restrictions Regarding Disclosing Health Care to non affiliated third parties unless specific contractual arrangements have been put in place.**
 - Providence Health Services corrective action plan
 - **HITECH – United States**
 - × **Health Information Technology for Economic an Clinical Health (HITECH) ACT – Expands Health Insurance Portability and Accountability Act of 1996 (HIPPA)**
 - Disclosures of protected health information made by HIPPA covered entities and their business associates

Privacy and Disclosure Issues Continued



- **Gramm-Leach-Bliley – United States**
 - ✦ Restrictions Regarding Disclosing Financial Data to nonaffiliated third parties unless specific contractual arrangements have been put in place
- **Protection of Data**
 - ✦ Secondary Use – Marketing
 - ✦ Investigative Support – how will the vendor investigate and report any inappropriate or illegal activity
- **Personal Information Protection and Electronic Documents Act (PIPEDA or PIPED Act) – Canada**
 - ✦ Governs how private-sector organizations collect, use and disclose personal information in the course of commercial business.
- **Australian Privacy Act – Australia**
 - ✦ The Privacy Amendment Act 2000 regulates the way many private sector organizations can collect, use, keep secure and disclose personal information. Governs consumers rights to know what information is held, why it held how their private information will be used and who will have access.

Disclosure Restrictions Continued



- **The Attorney-Client Privilege in the Cloud**
 - The Attorney-client privilege extends to protect confidential communications for the purpose of facilitating the rendition of professional legal services.
 - Privilege extends to representatives of the client
 - Privilege can be waived
 - Storage v. Access
- **Global Data Protection Issues**
 - **European Union Data Protection Directive**
 - ✦ EU Regulation regarding the processing of personal data
 - ✦ Satisfaction of complex geopolitical issues
 - ✦ Ability to select availability zones
 - **Organisation for Economic Co-operation and Development**
 - ✦ Recommendations for the protection of personal data
 - Notice: subjects should be given notice when their data is being collected
 - Purpose: data should be used for the stated purpose and not any other purpose
 - Security: data should be kept secure from any potential abuses
 - Disclosure: who's collecting data and why
 - Access: subjects allowed access to their data and the ability to make corrections
 - Accountability: to following the above principles and holding data collectors accountable

Global Data Protection Issues

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- **Generally Accepted Privacy Principles (GAPP)**
 - The American Institute of Certified Public Accountants (AICPA) and the Canadian Institute of Chartered Accountants (CICA) formed a Privacy Task Force and developed (GAPP)
 - www.aicpa.org/privacy
 - ✦ Comparison of International Privacy Concepts with Generally Accepted Privacy Principles
- **GAPP**
 - The Principle of:
 - ✦ Management
 - ✦ Notice
 - ✦ Choice and consent
 - ✦ Use, Retention, and disposal
 - ✦ Access
 - ✦ Disclosure to third parties
 - ✦ Security for privacy
 - ✦ Quality
 - ✦ Monitoring and Enforcement

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- **Vendor Policy Review: Is your Vendor protecting your data in the event of disaster or breach?**
 - Business Continuity
 - ✦ How do you access your data after a disaster at the server site?
 - Disaster Recovery
 - ✦ Redundant Servers in separate locations
 - ✦ Daily Data Back-ups and testing
 - Data Breach Protocol
- **Migrating your old electronic records management system (ERMS) to the Cloud**
 - Hint: A one-to-one migration means Records won't enjoy the full benefits of the Cloud

Final Thoughts

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- Cloud computing can be a viable method for data hosting and storage, and can present a cost-effective method to access application services.
- However, to ensure that our organizations and clients are protected, it is imperative that we carefully consider the impact of the “Cloud” on Retention Obligations, Privacy Concerns and Legal Obligations.

Final Thoughts, Contd.

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- Cloud computing enables Enterprise 2.0 solutions—thus increasing corporate agility
 - Companies that deployed collaboration tools saw improved performance in innovation (68% vs 39% that didn't deploy), sales growth (76% vs 50% that didn't deploy), and profit growth (71% vs 45% that didn't deploy). *
- Decentralization of management

Thank you for your time.



**Mimi Dionne, MLIS,
CRM, CDIA+, CA, PMP**

mimi.dionne@yahoo.com

**Samantha Lofton
sjlt@gdm.com**