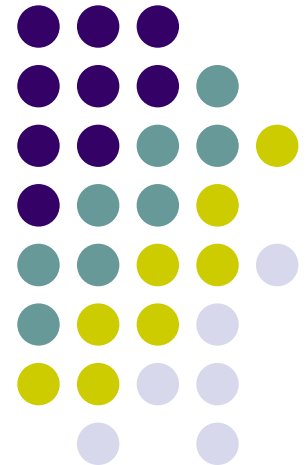


Records Management Implications of Implementing Social Media Tools: Thoughts From the Archivists' Legal Counsel

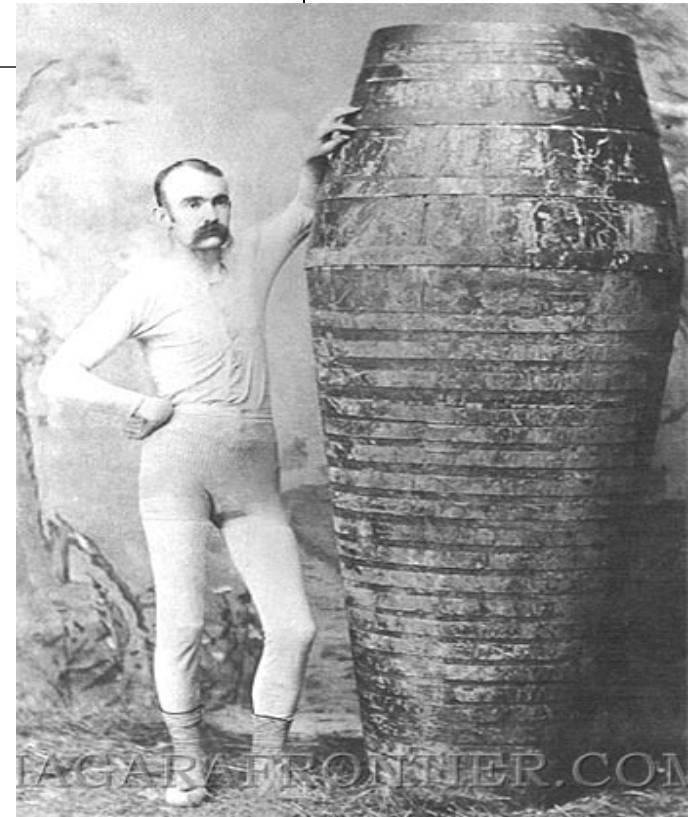
RACO 2009
Ronald Reagan Building, Washington, D.C.
March 5, 2009

Jason R. Baron
Director of Litigation
Office of General Counsel
National Archives and Records Administration

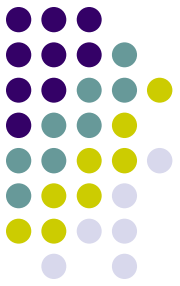


....The ever increasing volume of ESI is a problem

In a world of limited tools and resources.....



E-Discovery: The New Reality



Life in the fishbowl

FOIA

Federal Records Act

Privacy Act

E-Government Act of 2002

Clinger-Cohen Act (formerly IT Mgmt Reform Act)

Government Paperwork Elimination Act

OMB Circular A-130

Etc. Etc.



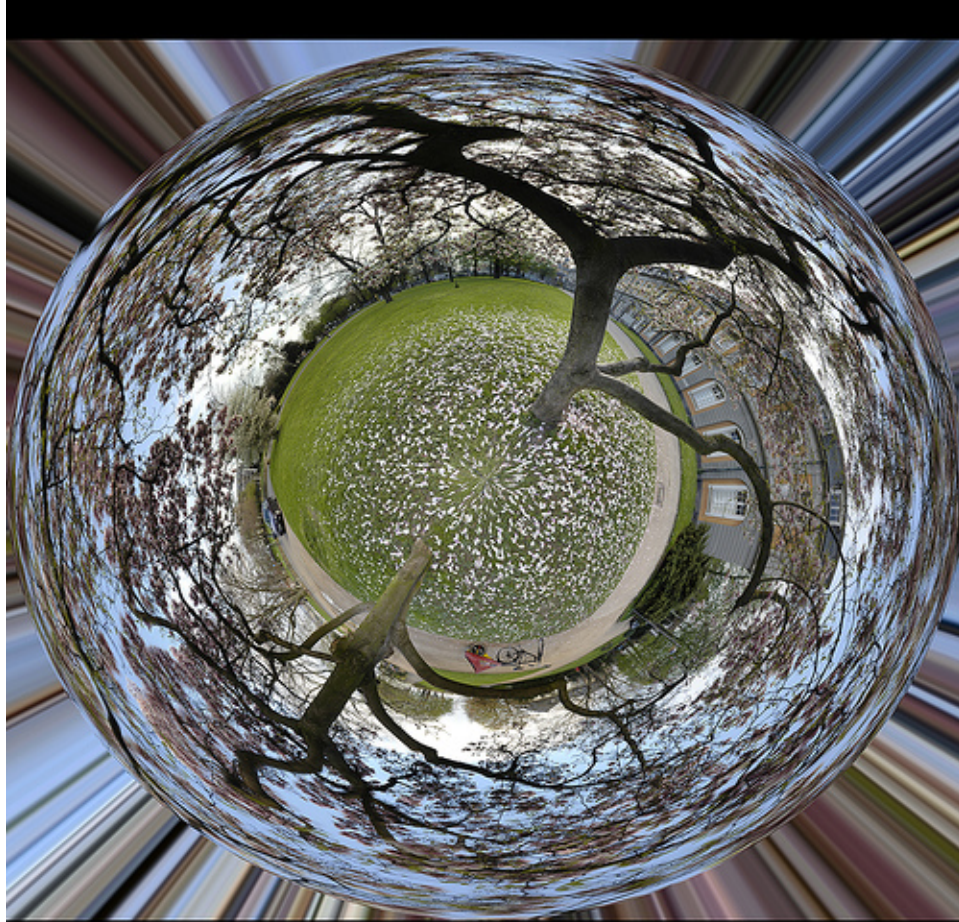
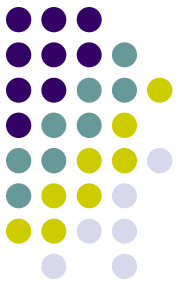
A New Era of Government

President Obama's Memorandum dated
1/21/09 on Transparency and Open
Government

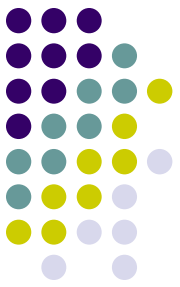
http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/



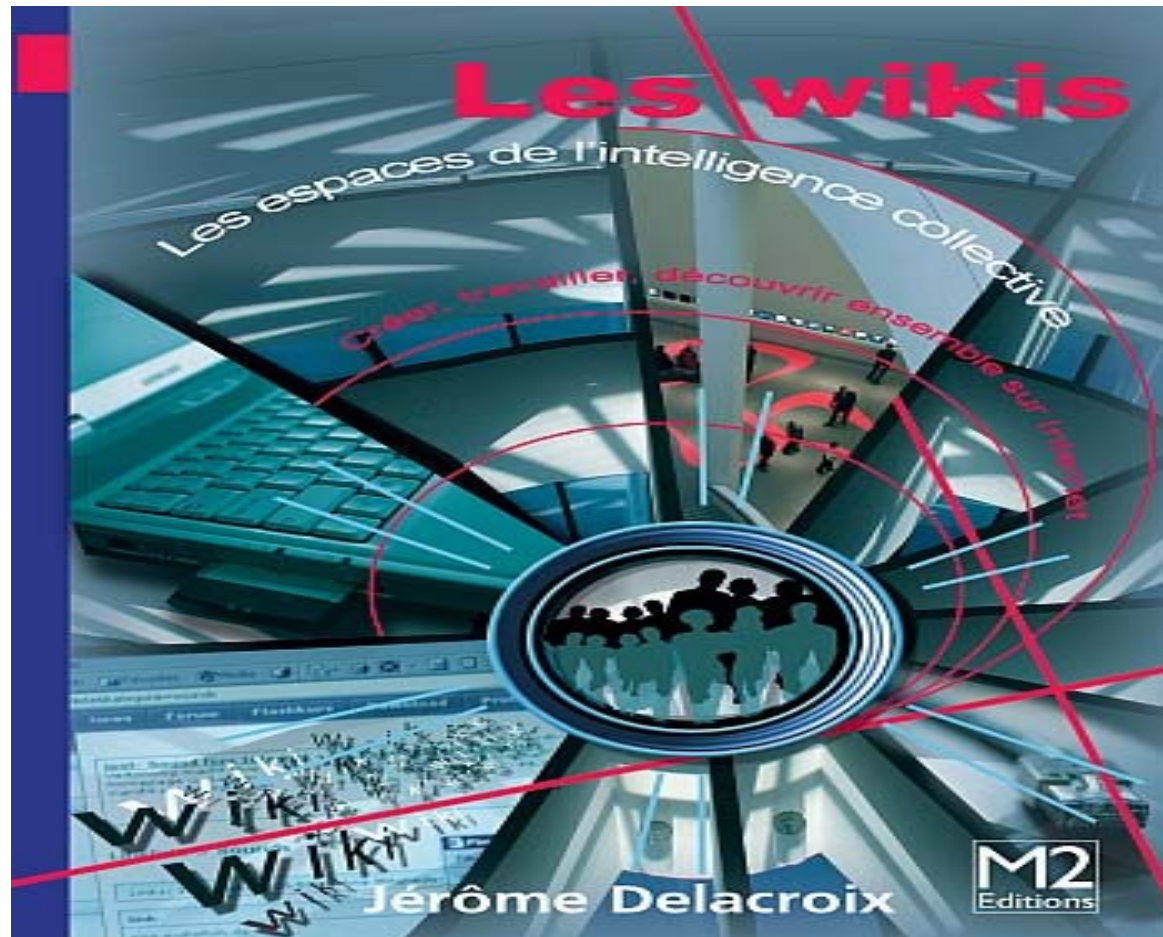
Web 2.0 Technologies as Weapons of Mass Collaboration



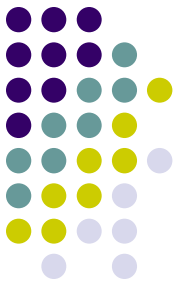
Text messaging, 2009-style



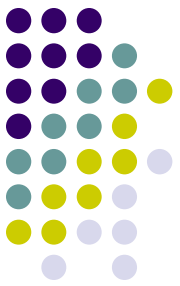
Wikis



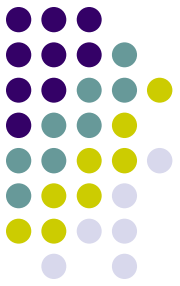
Social Software on the Web



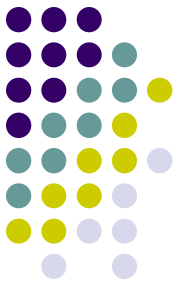
Blogs



Microblogs (e.g., twitter)



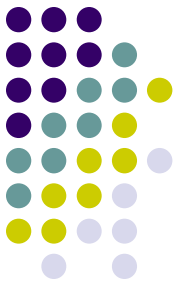
Virtual worlds



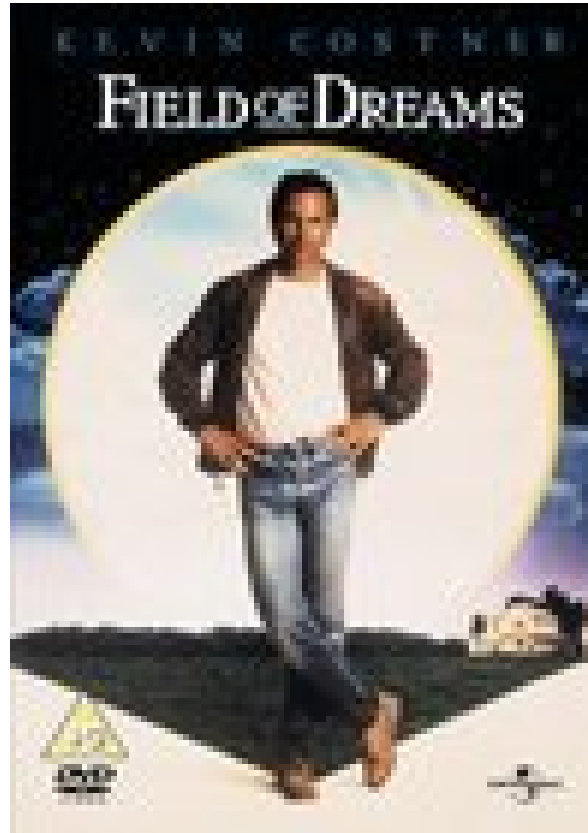
- The Library of Congress' virtual Declaration of Independence display as officially announced and which has opened as an Info Island in Second Life. The exhibit includes dioramas, streamed audio, text in the form of larger-than-life documents, information kiosks and even period furniture.



The Future: Public Records in the Clouds?

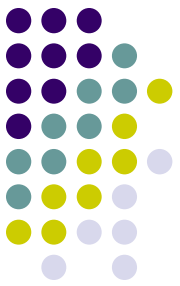


If you build it, the lawyers will come...



Email is still
the 800 lb.
gorilla of
ediscovery





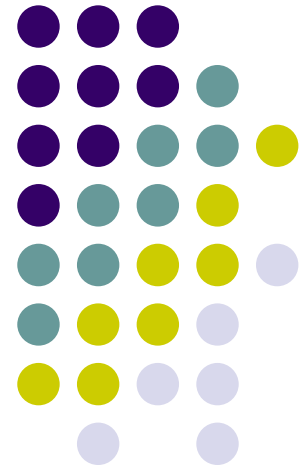
The Litigation Minefield

- **U.S. litigation increasingly demands the preservation of and access to all relevant documents, including email, e-records, and in the future Web 2.0 social media**
- **Courts impose sanctions on parties for failing to preserve evidence under the “spoliation” doctrine**

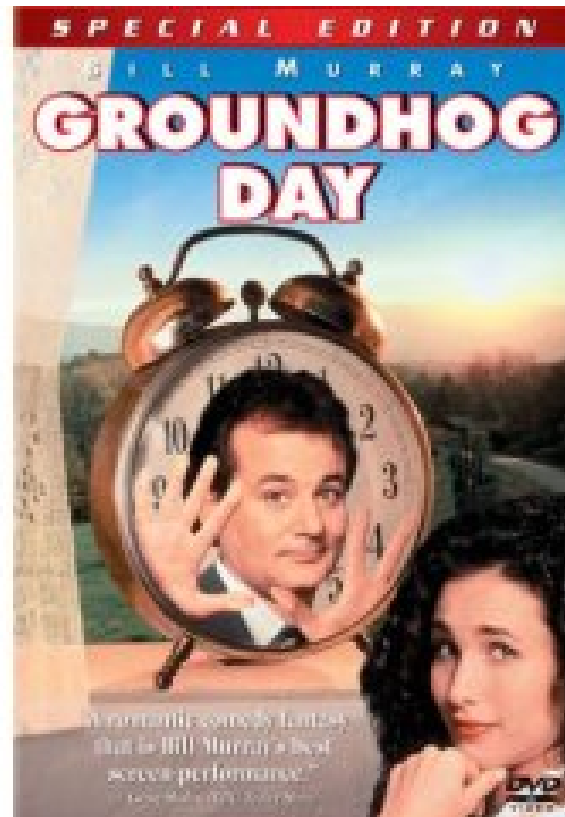
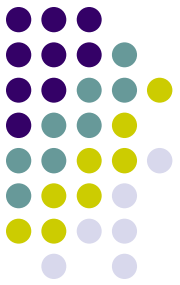


E-Recordkeeping in Government: Five Paths

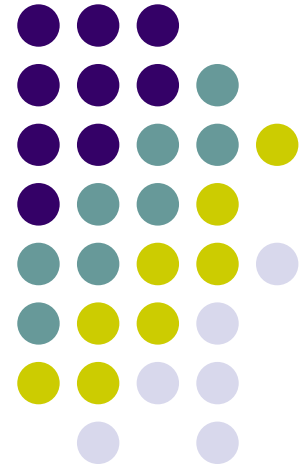
1. Print to hardcopy
2. Backup tapes
3. Preserve in online ad hoc folders
4. DoD 5015.2 recordkeeping
5. Email (and e-record) archiving



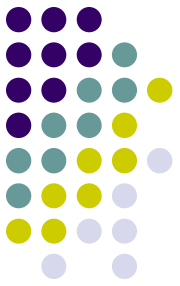
The Paperless Office is Just Around the Corner....



**Transformation Strategy =
E-discovery strategy
Moving from paper recordkeeping →
to true E-government**

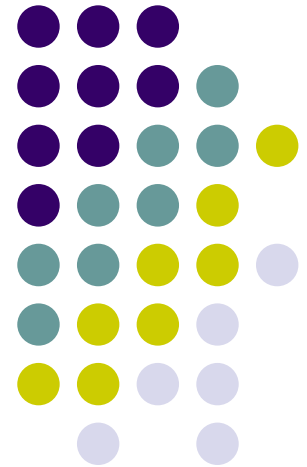


The Tree = The Organization's Knowledge
And Every User's Email Account as a Separate Twig



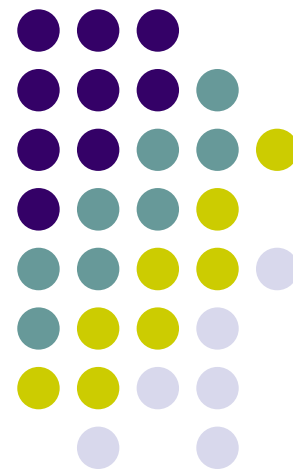
Making Transformative Changes: Step 1

Improving baseline knowledge management of agency information assets, starting with inventorying and/or data mapping all agency ESI repositories, applications and platforms in anticipation of ediscovery



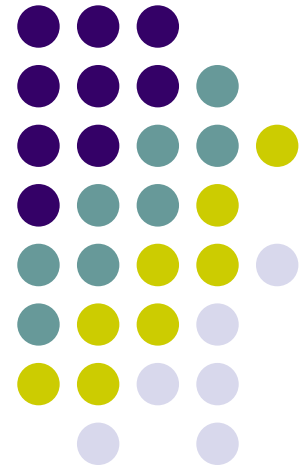
Making Transformative Changes: Step 2

*Updating legacy records
schedules and ensuring that
unscheduled electronic records,
including Web 2.0 applications,
are properly scheduled*



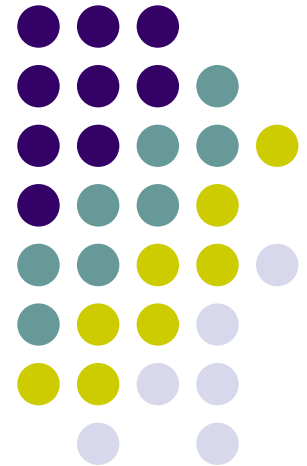
Making Transformative Changes: Step 3

Building in records management services (RMS) into software applications and/or adopting electronic recordkeeping, electronic content management and electronic archiving



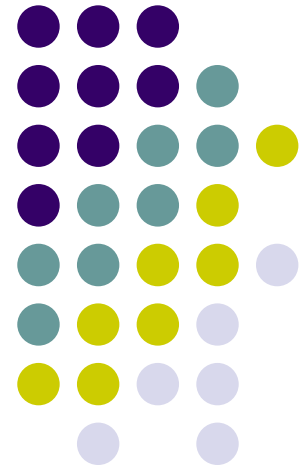
Making Transformative Changes: Step 4

Embracing preventive measures in the form of ad hoc, interdisciplinary teams (from legal, RM, IT and senior execs) meeting periodically to discuss present and future ediscovery risk



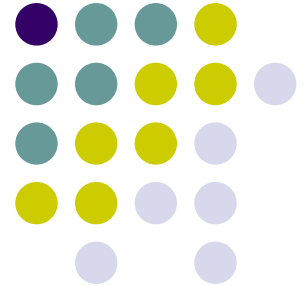
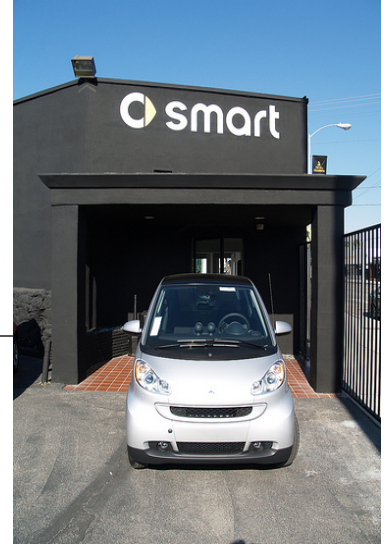
Making Transformative Changes: Step 5

Appointing knowledge counsel as the “go to” individual in each headquarters or regional component, to function as a clearinghouse and repository of information on the IT and recordkeeping practices of the agency

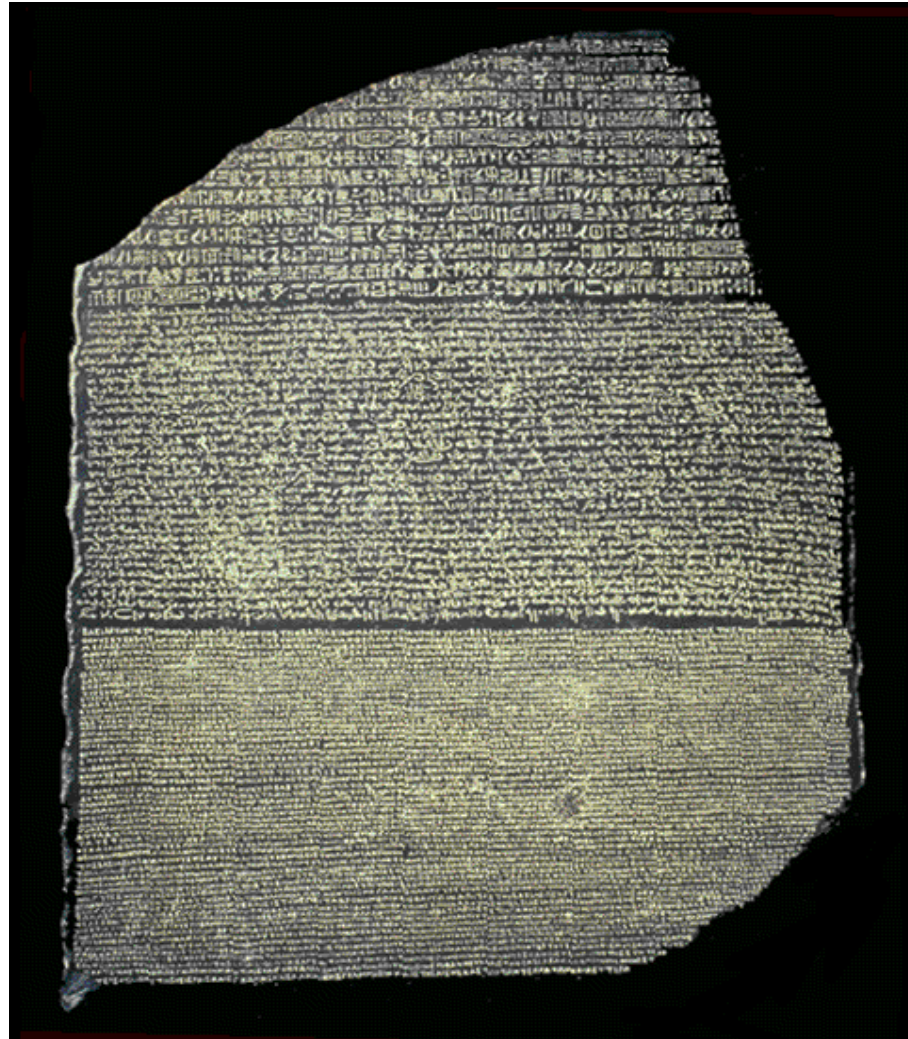


Overarching Smart E-Discovery Strategy

Convincing lawyers to think in new interdisciplinary ways, leveraging the knowledge and expertise that exists in communities outside their usual domain (including in the fields of IT and RM, KM and BI)



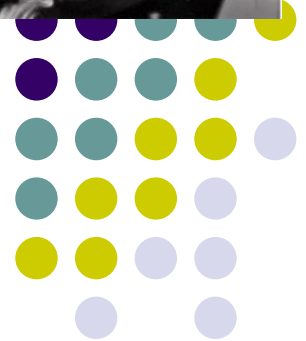
Interdisciplinary Approaches-- Three Languages: Legal, RM, and IT





The leading rule for the lawyer,
as for the man, of every calling, is
diligence.

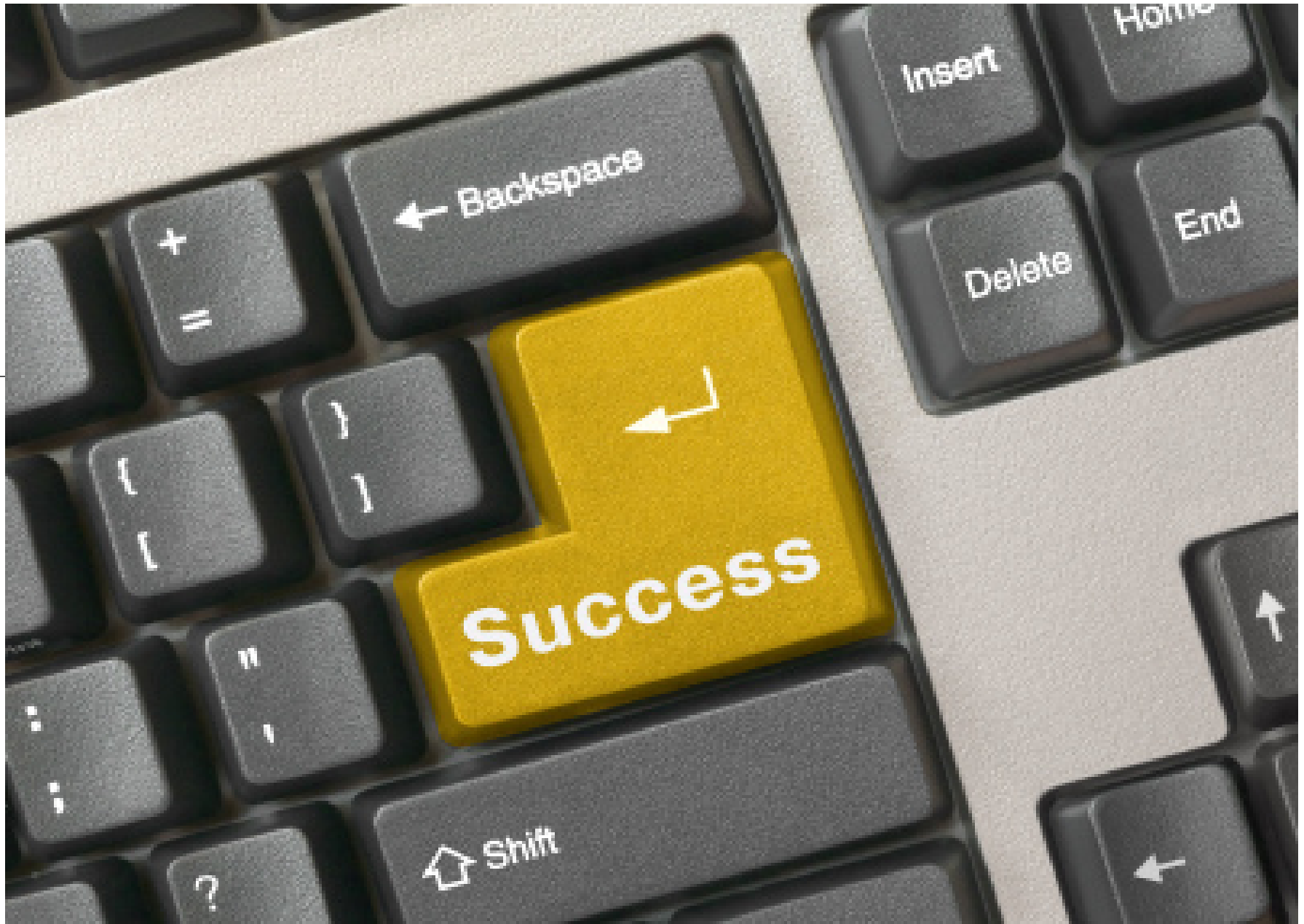
-- Abraham Lincoln

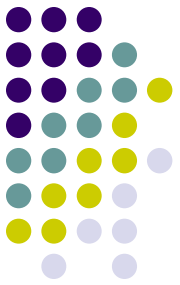




What does the road ahead for your agency look like?







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