

Records Retention and Destruction Policy

Purpose

San Francisco Public Works (“Public Works” or the “department”) recognizes that it is a good business practice to manage records and information in a consistent, systematic and reliable manner so that they can be retained for those periods required by law and for business purposes and retrieved as necessary for legal, regulatory or operational reasons. The records retention and destruction policy provides guidance and governs the creation, classification, storage and destruction of all records at Public Works, regardless of format (electronic or paper) while enabling Public Works to comply with applicable contractual, regulatory and legal recordkeeping requirements.

The objectives of this policy are to: define defensible records and information management guidelines for Public Works that include the appropriate creation, classification, retention, and disposition of records and non-records; outline essential records management responsibilities for Public Works employees; provide for the disposition of records eligible for destruction under the records retention schedule (“schedule”); and outline exceptions to general records management practices.

Unless otherwise noted, **Appendix A – Definitions** contains a glossary for various terms found in this policy.

Policy

Public Works will manage the retention, storage and disposition of its records, whether they are in paper, electronic, media or other formats, in accordance with all applicable laws, regulations, contracts, accounting, tax, audit, legal or other requirements and/or business practices. All Public Works personnel must retain records in accordance with the schedule.

The policy applies to Public Works and includes employees, temporary employees, contractors, consultants and anyone else who has access to, creates, has use of, or manages department records for a reason affecting or relating to the department’s business (collectively, “personnel”).

This policy applies to all records regardless of storage media or format (electronic or paper).

Public Works personnel who create and manage records must retain them for the retention period specified in the schedule. Unless there is a legal requirement or business purpose to maintain them longer than the specified retention period (for example, a litigation hold), records should be destroyed promptly after the expiration of the applicable retention period.

Discussion

Public Works is committed to complying with applicable recordkeeping requirements, whether captured in law, regulation or industry best practice. Like any other department asset, information generated in the course of normal business operations should be used exclusively in serving the interests of Public Works and its business.

This policy provides for the management of records in the possession, custody or control of Public Works and its personnel, regardless of physical location or storage format (electronic, including email or paper). This includes records maintained in individual work spaces, offices, common areas, at any office, satellite office or field location, the Yard, as well as within the control of third-party vendors or at any offsite storage location.

A good system of records retention is important in order to facilitate retrieval of documents. Chapter 67 of the San Francisco Administrative Code, also known as the San Francisco Sunshine Ordinance of 1999, requires departments to provide public information and public records, upon request, in a timely manner. Public Works Procedure 02-01-03 describes how to comply with providing documents pursuant to Sunshine Ordinance requests.

Procedure

1. Information generated during the course of Public Works' business falls into one of two categories – records and non-records.
 - Records reflect the actions, decisions and obligations of Public Works. Their legal, regulatory, business and/or historical significance make records subject to formal recordkeeping requirements. See Appendix A for the official definition of records.
 - By contrast, there are no retention requirements for non-records. Non-records should be destroyed once superseded or related work-specific tasks are complete. Non-records include items such as convenience copies, working papers, drafts and other transitory Information.
2. If an email constitutes a record under this policy, it must be retained outside of email, either in hard copy or stored in an appropriate department electronic records repository.
3. Historical records are those that are no longer of use to the department but which, because of their age or research value, may be of historical interest of significance. Historical records may not be destroyed except in accordance with the procedures set forth in Administrative Code Section 8.7.
4. **Records relating to emergencies/disasters and cost recovery**

Records relating to federal awards, including public assistance following an emergency or disaster, are governed by 2 C.F.R. § 200.333. This regulation requires San Francisco Public Works to retain any and all records relating to a federal award for three (3) years after the state has closed the claim by the City (i.e., the date of the final Financial Status Report (“FSR”) (FEMA Form 112-0-1), unless certain exceptions apply (see 2 C.F.R. § 200.333). In the event that any litigation, claim or audit involving the records is still active when the three-year period expires, then the records must be retained until all issues are closed and final action is taken. Final closeout (receipt of FSR) is when all project worksheets associated with a disaster/emergency are closed.

Records relating to state awards are governed by 19 CCR § 2980(e), which also requires San Francisco Public Works to retain all financial and program records related to cost or expenditures eligible for state financial assistance for three (3) years from the starting date of the retention period. San Francisco Public Works will be notified of this retention period starting date by the state.

Note: State and federal regulations change from time to time, the Controller's Office will issue specific rules for file retention on any given disaster, should there be a change.

5. Records ownership

- a. All records created or received in the course or conduct of Public Works business by any individual subject to the policy are the exclusive property of the Public Works, and they are not the property of the record's author, creator or custodian. No employee has any personal or property right to any Public Works record(s), including those records that they drafted or helped create.
- b. Certain records, including human resources and claims records, are owned by, and are the responsibility of, entities outside of the department. To the extent department personnel maintain human resources information for their convenience and reference, these documents should be considered non-records and should be disposed of either a) when they are no longer needed, b) for human resources records, when the employee terminates his or her employment with the department, or c) for claims records, when the claim is resolved.

6. Record retention

- a. The records retention schedule ("schedule") groups Public Works records into record categories and includes a retention period – how long the records should be retained. Because the schedule cannot explicitly list every record created by the department, it does not represent an exhaustive list. Rather, Public Works personnel should use common sense, experience and good judgment in identifying the most appropriate record category and applicable retention period when making retention decisions. Personnel who have questions with respect to identifying the most appropriate record type category, or where multiple record types may apply to the same document, should check with his or her manager for clarification.
- b. Retention periods are assigned to record categories based on legal, regulatory and business requirements. Retention periods are either time-based (e.g., 7 years), or event-based, which begins after a triggering event has occurred (e.g., expiration of contract + 5 years). The schedule will indicate the total retention period, as well as the period the record is active (stored where it can be easily accessed) and inactive (kept in offsite storage or other repository when frequent access is no longer required).
- c. Non-records have no formal retention requirements. Earlier drafts of documents and duplicates of records should only be retained so long as an immediate business need

exists. Except in cases of litigation hold, non-records should be promptly destroyed after they are no longer needed.

7. Special instructions for destruction of certain records

- a. **Records relating to financial matters.** Departments may destroy documents consistent with the retention requirements of the schedule. The department must obtain approval from the Controller's Office to destroy documents pertaining to financial matters that do not fall within the schedule. The Controller's Office must approve all records pertaining to financial matters proposed for destruction before the department destroys them (Admin. Code Section 8.3).
- b. **Records relating to payroll.** Departments may destroy documents consistent with the retention requirement of the schedule, unless the Retirement Board requests the documents be sent to them. The department must obtain approval from the Retirement Board to destroy documents pertaining to payroll checks, time cards and related documents that do not fall within the schedule. The Retirement Board must approve all records pertaining to payroll checks, time cards and related documents proposed for destruction before the department destroys them (Admin. Code Section 8.3).
- c. **Records containing legal significance.** Departments may destroy documents consistent with the retention requirements of the schedule. The department must obtain approval from the City Attorney's Office to destroy documents that contain legal significance that do not fall within the schedule. The City Attorney's Office must approve all records containing legal significance proposed for destruction before the department destroys them (Admin. Code Section 8.3).

8. Litigation hold

- a. In the event of certain types of legal matters, Public Works must preserve – and prevent destruction of – all records relevant to that matter.
- b. If Public Works becomes involved in pending, threatened or reasonably foreseeable litigation, regulatory investigation or other legal matter, the City Attorney's Office will issue a litigation hold notice to notify the appropriate Public Works personnel outlining the general nature of the matter and the relevant records and non-records that should be preserved until the matter is resolved.
- c. When Public Works personnel become aware of a reasonable probability that Public Works may become involved in litigation or a regulatory investigation, they must immediately advise the City Attorney's Office, and must preserve any relevant records and non-records. All Public Works personnel who receive a litigation hold notice shall acknowledge it as required by the City Attorney's Office.
- d. A litigation hold suspends the normal retention period of all relevant records and non-records regardless of format – including hard copy and electronic documents. Public

Works personnel are required to preserve relevant records subject to a litigation hold even if the records are no longer needed for business purposes or are eligible for destruction under the schedule and shall preserve them until the City Attorney's Office issues a written notice lifting the litigation hold.

- e. The City Attorney's Office will notify appropriate Public Works personnel when a litigation hold is lifted and no longer applicable. At that time, any records and non-records preserved under the litigation hold will once again be subject to the terms of this policy as otherwise provided and shall be managed according to the schedule.
- f. Failure to obey a litigation hold may result in sanctions or penalties being imposed against Public Works and the violating personnel. Violations include, but are not limited to, destroying, altering, modifying, spoliating, or otherwise making inaccessible relevant records and non-records that are subject to a litigation hold. Violations will be investigated and may result in disciplinary action up to and including termination of employment with the department.

9. Access

- a. Records must always be protected from unauthorized access, disclosure, alteration, deterioration and loss.
- b. Records containing personally identifiable information or protected health information must be treated with proper precautions, including redaction if necessary.
- c. When access is permitted, records must be made available in a timely manner to other Public Works personnel, management, regulatory agencies and (when appropriate) authorized third parties in the course of business.
- d. Further, records must be stored in a location (physical or electronic) where they can be easily and securely managed with proper credentials.

10. Responsibilities

- a. All personnel who create, receive, use or manage Public Works records are required to comply with the policy. Failure to comply with the policy may lead to disciplinary action, up to and including termination of employment as well as legal action.
- b. Public Works is responsible for establishing and maintaining organization-wide information governance policies, procedures, standards and guidelines.
- c. City Attorney's Office. The City Attorney's Office is responsible for the following:
 - Review of updates of this policy;

- Review of updates to the schedule, as needed in response to changing legal, regulatory or business requirements;
 - Provide legal advice regarding applicable laws and regulations; and
 - Initiation, management and release of litigation holds.
- d. Information Technology. Expertise found within the Information Technology section is needed to implement policy settings on electronic information, and in helping to automate records disposition where appropriate. Information Technology personnel are also responsible for the following:
- Support enterprise technology solutions necessary for the proper functioning of Public Works' records and information management program;
 - Assist business areas with requirements scoping, selection and purchase of technology solutions that complement the objectives of the records and information management program, if necessary; and
 - Provide advanced notice of proposed technology changes that could potentially impact the creation, classification, retention or destruction of department records.

11. Exceptions, changes and violations

- a. Requests for exceptions or changes to this policy or the schedule should be submitted in accordance with Procedure 02-01-01, *Preparing and Updating Procedures*.
- b. The department head must obtain approval of the schedule from the Controller's Office, the Retirement Board, the mayor or his or her designee, and the City Attorney's Office.
- c. Effective administration of this policy requires the support of all Public Works personnel and others who deal with business-related information and/or information storage systems. Therefore, it is the responsibility of all Public Works personnel and other authorized users to understand and adhere to this policy. Willful or negligent destruction of department records, as well as the destruction of documents (records or non-records) subject to a litigation hold notice, constitute violations of this policy. Personnel, contractors, consultants and others working at Public Works or providing services to the department who violate this policy are subject to immediate discipline, up to and including termination of their employment and/or termination of any applicable contract with Public Works.
- d. Personnel who learn of a violation of this policy should promptly report any such violations to their supervisor. Supervisors and managers should report violations as well as outstanding questions to the department's records manager.

APPENDIX A - DEFINITIONS

Convenience copy – One or more records created for convenient reference that duplicates the original Record, which may or may not be kept in the department of record. Convenience copies are not considered records and are not required to be kept according to the record retention schedule, unless additional information is added to them that changes their classification to a record. Convenience copies should be kept only as long as they are needed for operational business purposes.

Current record – A record that for convenience, ready reference or other reason is retained in office space or on easily accessible electronic systems. Also known as an **on-site or active record**.

Data – Symbols or characters that represent raw facts or figures and form the basis of information.

Draft – The preliminary form of a document before it becomes a record. In most cases, drafts can be disposed of once a new draft is created, or the final version of a record is completed, not including interim final documents.

Information – Data that have been given value through analysis, interpretation or compilation in a meaningful form.

Non-record - Documents, files and other information not required to be retained by the record retention schedule. Non-records include convenience copies, drafts, working papers, and transitory information, and should be destroyed as soon as it is no longer needed for operational business purposes.

Record – Any document or object that contains data and/or information and which relates to business activities or decisions. Records can exist in many forms, including writings, documents, data, software, samples, drawings, graphs, charts, maps, email, photographs, sound recordings, video, images or other data compilations stored in any medium from which information can be obtained. Material retained for personal reference or use is not a record.

Record category – A grouping of records according to their particular function and assigned a common retention period by the record retention schedule.

Retention period – The period of time a record is required to be retained by the record retention schedule, whether for regulatory, legal or business purposes.

Storage record – A record that does not need to be retained in office space or on accessible electronic systems, but which must be preserved in an offsite or other location until expiration of the record's applicable retention period. Also known as an **off-site or inactive record**.

Transitory information – Short-term records that are not covered by any of the other record types. Examples include reference materials and notes, out-of-office replies, routine system

messages and log files, and correspondence and/or email with no ongoing business value. Transitory records should be disposed of promptly.

Working papers – Short-term records created as part of a project or in conjunction with working on a task. These records could include notes, reference materials and other papers associated with the preparation and creation of records. Working papers are not considered as records under the record retention schedule and should only be kept as long as they are needed for operational business purposes.

Records retention and destruction schedule