

CHAPTER 2: RECORDS AND INFORMATION MANAGEMENT PROGRAM

The objectives and responsibilities of the Records and Information Management (RIM) Program, which fall under the Office of Administration, Office of Digital Enterprise, Electronic Records Management Division, are to comply with the program's legal responsibilities and delegated authorities. This handbook establishes the basis for an active, continuing program for the effective, economical, and efficient management of records and information within HUD, as required by Federal statutes and regulations. The Branch will disseminate this handbook throughout the Department, including publishing it to HUD's Intranet and Internet.

2.1 Scope

The Office of Digital Enterprise, Electronic Records Management Division has delegated authority under the Deputy Secretary of HUD to oversee the development of a RIM program. An effective records management program is a system that tracks the lifecycle of each record, which means determining and documenting each record's creation, function, length of usefulness, maintenance, and legal authority for eventual disposition or permanent retention.

The specific goals of the program are to:

- A. Move inactive records out of high-cost space in offices to lower-cost storage space in Federal records centers (FRC);
- B. Ensure that records of permanent value are identified, earmarked, and properly kept for later transfer to NARA;
- C. Destroy records of temporary value when their retention periods expire;
- D. Assist senior management with informed policy and program determinations;
- E. Assure the fullest possible historical documentation of official legal, administrative, fiscal, and program actions;
- F. Make public records readily accessible to the public, ensuring Government accountability;
- G. Protect the privacy and confidentiality of appropriate records;
- H. Make records research and records management more organized and efficient; and
- I. Protect essential records from being lost, damaged, or destroyed by negligence or natural disaster.

2.2 Legislative and Regulatory References

- A. **18 U.S.C. 2071** establishes criminal penalties for the unlawful concealment, removal, or destruction of Federal records.

- B. 18 U.S.C. 793, 794 and 798** forbid unlawful disclosure of certain information pertaining to national security.
- C. 36 CFR § 1222.14** defines non-record materials as U.S. Government-owned documentary materials that do not meet the conditions of records status (See §1222.12(b)), or that are specifically excluded from the statutory definition of records (See 44 U.S.C. 3301). An agency's records management program also needs to include managing non-record materials.
- D. 36 CFR § 1222.16** requires agencies to develop recordkeeping requirements to distinguish records from non-record materials.
- E. 36 CFR § 1222.26** mandates that each agency's programs develop general recordkeeping requirements. To ensure the adequate and proper documentation of agency programs, each program must develop recordkeeping requirements that identify:
 - (1) The record series and systems that must be created and maintained to document program policies, procedures, functions, activities, and transactions;
 - (2) the office responsible for maintaining the record copies of those series and systems, and the applicable system administrator responsible for ensuring authenticity, protection, and ready retrieval of electronic records;
 - (3) related records series and systems;
 - (4) the relationship between paper and electronic files in the same series; and
 - (5) policies, procedures, and strategies for ensuring that records are retained long enough to meet programmatic, administrative, fiscal, legal, and historical needs as authorized in a NARA-approved disposition schedule.
- F. 36 CFR § 1222.34** specifies how agencies must maintain records. Agencies must implement a records maintenance program so that complete records are filed or otherwise identified and preserved, records can be readily found when needed, and permanent and temporary records are physically segregated from each other or, for electronic records, segregable.
- G. 36 CFR § 1236** specifies the requirements of an "Appropriate Electronic Recordkeeping System" and details how agencies must maintain electronic records.
- H. Office of Management and Budget (OMB) Managing Government Records Directive (M-19-21)**, Federal agencies shall electronically manage all temporary and permanent records by December 31, 2022.
- I. The Federal Records Act (44 U.S.C. chapters 29, 31, and 33)** requires agencies to 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. It requires agencies to establish and maintain a program for the efficient management of the agency's records. Records management programs must, among other requirements, propose record disposition schedules for approval by the Archivist of the United States.
- J. Federal Records Act Amendments of 2014 – Sec 10** prohibits an officer or employee of an executive agency from creating or sending a record using a non-official electronic messaging account unless such officer or employee: (1) copies an official electronic

messaging account of the officer or employee in the original creation or transmission of the record, or (2) forwards a complete copy of the record to an official electronic messaging account of the officer or employee not later than 20 days after the original creation or transmission of the record. The Act provides for disciplinary action against an agency officer or employee for an intentional violation of such prohibition.

- K. The Clinger-Cohen Act (CCA)**, formerly the Information Technology Management Reform Act of 1996 (ITMRA), is a Federal law designed to improve the way the Federal Government acquires, uses, and disposes of information technology (IT). It supplements Government information resources management policies by establishing a comprehensive approach for executive agencies to improve the acquisition and management of their information resources by focusing information resource planning to support their strategic missions; implementing a capital planning and investment control process that links to budget formulation and execution; and re-thinking and re-structuring the way they do their work before investing in information systems.
- L. Office of Management and Budget (OMB) Circular A-130** implements the Paperwork Reduction Act (PRA) and provides guidance for the integration of records management with other information resources management (IRM) disciplines. It reaffirms that records include information in any form; and, that agency heads must ensure that records management programs provide adequate and proper documentation of agency activities, ensure the ability to access records regardless of form or medium, establish and obtain approval of retention schedules for Federal records from the Archivist, and provide training and guidance to agency officials, employees, and contractors regarding their records management responsibilities.
- M. Executive Order (E.O.) 13526, Classified National Security Information**, prescribes a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism. Protecting information critical to our Nation's security and demonstrating our commitment to open Government through accurate and accountable application of classification standards and routine, secure, and effective declassification are equally important priorities.
- N. The Freedom of Information Act (FOIA), 5 U.S.C. 552**, provides that any person has a right to access Federal agency records, other than those falling into any of the nine exempt categories of information protected from disclosure under the Act. The Electronic FOIA Amendments of 1996 (Pub. L. No. 104-231) requires agencies to provide electronic copies of records if they are readily reproducible electronically. The Department's Freedom of Information Act Manual 1327.1 provides additional guidance regarding the FOIA.
- O. The Privacy Act of 1974, 5 U.S.C. 552a**, attempts to balance the Government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy stemming from an agency's collection, use, maintenance, and disclosure of personal information. Please refer to the Privacy Act Handbook 1325.01, REV-01, for guidance.
- P. The Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. § 3541**, et seq., requires each Federal agency to develop, document, and

implement an agency-wide program to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source.

2.3 HUD's Policies

HUD's records management policies:

- A. Provide for efficient, economical, and effective controls for disposing of all HUD records. HUD's basic premise is that most records need not and cannot be kept permanently or even for long periods;
- B. Develop HUD records disposition schedules on a program or functional basis, instead of by organization. Any organizational schedules must be changed to program or functional schedules. Promptly apply approved records disposition schedules and disposal lists to HUD records. Schedules and lists are approved by NARA;
- C. Encourage the inclusion of critical elements pertaining to records disposition management in individual performance appraisal plans, where appropriate; and
- D. Consider the retention periods of source documents and related textual records when establishing retention periods for automated files.