

CHAPTER 5: EMPLOYEE REMOVAL AND USE OF RECORDS

5.1 General

Under 44 USC 3106 and 36 CFR part 1230, "Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records," Federal agencies are required to "notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency." NARA also receives notifications from other sources, such as the news media and private citizens. NARA establishes unauthorized disposition case files to track each allegation and any communications with the agency until the issue is resolved.

The Records Management Oversight and Reporting Program is responsible for handling all unauthorized disposition cases. For more information or to report a case of unauthorized disposition, please contact NARA via email at UnauthorizedDisposition@nara.gov.

All employees shall clearly designate as personal, and maintain separately from the records of the office, those papers of a private or nonofficial nature that pertain to their personal affairs. An employee that receives a document containing information about both private matters and Department business should immediately create a copy of the document with the personal information redacted. HUD officials should file their private information separately from the official records of the office. Private electronic information should be stored in a separate electronic folder that does not contain Federal information. Private paper information should be stored in a separate physical file that does not contain Federal information.

5.2 Policy on Safeguarding Records

HUD records may not be destroyed, except as authorized in approved HUD records disposition schedules, disposal lists, or General Records Schedules. Records may not be altered or unlawfully removed from HUD offices. Computer software programs and diskettes are HUD property and cannot be removed.

5.3 Procedures for Removal of Records

NARA Bulletin 2013-03 reaffirms that agencies and agency employees must manage Federal records appropriately and protect them from unauthorized removal from agency custody.

Heads of Federal agencies must provide guidance on the proper management of Federal records, including the handling of records containing information exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Privacy Act (5 U.S.C. 522a), or other applicable laws.

Managing records effectively ensures that permanently valuable records become part of the National Archives and Records Administration (NARA) while other records and information of temporary value are retained for as long as needed and are then properly disposed.

In addition, the heads of Federal agencies must issue instructions to staff on the identification, management, retention, and disposition of email messages determined to be Federal records (36 CFR 1236.22(a)). Finally, agencies must notify employees that there are criminal penalties for

the unlawful removal or destruction of Federal records (18 U.S.C. 2071 and 36 CFR 1230.12) and the unlawful disclosure of national security information (18 U.S.C. 793, 794, and 798).

Requests for Removal of Records

All records located in a Department facility are under the control of the Department, including all copies, regardless of how and by whom they were created or obtained. All requests for removal of records must be emailed to the Records Officer at records@hud.gov.

A. Departing HUD employees must be cognizant of what material they may and may not remove upon their retirement, transfer, resignation, or removal:

1. Departing Employees May Not Remove:

- a. Any material which would leave a gap in the files, causing incomplete documentation of HUD's policies and actions or of the legal or financial rights of HUD or others;
- b. Any classified material relating to national defense or security and any confidential material given to HUD;
- c. The official copy of any record, regardless of its medium (hard-copy, disk, fiche, film, photography, etc.)
- d. "Restricted Data" records;
- e. Any copy of a document containing the following types of information exempt from public release under the Freedom of Information Act, whether it is the official record copy or extra copy:
 - i. Records containing trade secrets and other commercial or financial information of a "company proprietary" nature.
 - ii. Records containing information which may not be made public without violating statutory prohibitions.
 - iii. Records containing information from personnel, medical, and similar files, which relate to the personal privacy of individuals.
 - iv. Records containing information developed during an investigation for purposes of civil or criminal law enforcement; and
 - v. Personal diaries, logs, handwritten notes, memoranda, or tapes of personal telephone calls or any documents communicating or transmitting official business of the Department and/or assisting in the decision-making process.

2. Departing Employees May Remove:

- a. Papers created before entering Government service (work files, political materials,

and reference files, etc.)

b. Private materials brought into, created, or received in the office that were not created or received while conducting Government business. Included are personal correspondence, materials documenting professional activities, manuscripts for articles and books, and volunteer and community service records.

c. Personal papers that are not used while conducting Government business. Included are diaries, journals, notes, personal calendars, and appointment schedules and are solely for the official's personal use.

d. With departmental approval, non-record copies of documents and stocks of publications and processed documents.

B. Inspection of Papers Before Removal. When retiring, transferring, resigning, or being removed, an employee needs a property pass to remove papers and personal property from HUD offices. The papers must be inspected to ensure that they can be removed.

1. Inspecting Office: Before the pass will be issued, the employee must contact:

2. Headquarters: RMLOs. In emergencies, contact the RMLO in the Management Services Division, Office of Administrative Management Services, Administration.

3. Regional Offices: Regional RMLO and Regional Support Managers.

4. Field Offices: As assigned.

C. How to Pack Papers and Personal Property: Pack papers you plan to remove in a separate box from other personal property, unless the volume is too small. Do not seal or remove boxes of papers from HUD offices until inspected.

Inspection Procedures:

a. Administrative Officer (AO) provides RMLO and/or Alternate with pending separations and proposed separation date.

b. Within 3-5 working days before the date property removal, RMLO and/or Alternate inspect materials prior to removal from the Department.

c. After inspection, the RMLO seals and tapes containers with adhesive tape.

d. AO signs and issues a property pass for removal of personal papers. A detailed description of the personal papers to be removed, their volume and quantity, and the date the documents are to be removed from the building must be attached to the property pass.

e. RMLO retains a copy of the approved property pass and attachment.

f. Employee provides a copy of the approved property pass to security staff upon exiting the building.

g. Agency Records Officer notifies the Secretary of any actual or threatened removal of official records from HUD.

D. Penalties. Violations of the statutory and regulatory rules governing the removal of documentary material by departing HUD officials are reported to the Office of Security, POH, Agency Records Officer, and referred to the Inspector General. Criminal penalties are provided for the unlawful removal or destruction of Federal records (18 U.S.C. 2071) and for the unlawful disclosure of certain information pertaining to national security (18 U.S.C. 641, 793, 794, 798, and 952).

E. Reporting. The Secretary must notify NARA of any actual or threatened unlawful alteration removal, or destruction of HUD records. NARA will help the Secretary begin action through the Attorney General to recover records unlawfully taken.

F. Former Employee's Use: It is permissible to reveal or use lawfully removed material in books, articles, speeches, or lectures, except:

1. Classified material or confidential data protected by law cannot be revealed or used.
2. Attorneys who leave HUD cannot reveal any Department information not generally known to the public that they obtained as Department attorneys. They are required by the Canons of Ethics to preserve their clients' confidences.
3. Employees separating from HUD will be required to sign a form HUD-58-A, Records Certification on Separation Clearance. This form certifies that the employee has not removed any HUD records.

5.4 Separating Employee Clearance Process

A. Background and Purpose

The Separation Employee Clearance (SEC) Process automates and streamlines the exit process for separating employees. Form HUD-69a is a clearance document that HUD uses for ensuring that the responsibilities and the obligations of the employee who will be leaving the organization have been met before the day of his separation. Proper management of HUD records (hard copy and electronic) improves business efficiency and timely responses to litigation and Freedom of Information Act (FOIA) requests. The Separating Employee Clearance process is documented in HR Connect and integrates records management-related requirements into the HR Connect Separating Employee Clearance maintenance record.

B. Responsibilities

When Leaving Federal Service, you still have recordkeeping responsibilities.

You should:

- Conduct exit interviews with your records management staff.
- Ensure your records and information are available to your successor.
- Not delete or remove government information when leaving office.

C. Program Objective

Separating Employees Clearance (Form HUD-69a)

Before an employee separates from HUD, the SEC specialist sends employee form HUD-69a to certify the protection of Federal records, including the preservation of all documents (record or non-record) subject to litigation hold needs. The employee should sign and forward completed form HUD-69a to the Electronics Records Management Division via reply or using the records@hud.gov

If the employee is not available due to death, adverse action, non-responsive, etc. the manager, to the extent possible, must complete Form and notate in Block 8 of the form that the employee is not available.

Procedures

1. Email system notification from HR Connect when a Separating Employees Clearance record is initiated
2. SEC Specialist goes into HR Connect weekly to review new records in the queue
3. SEC Specialist emails employee form HUD-69a for completion
4. SEC Specialist saves status as Initiated and comments initials and contact number
5. If creation date of the record was after separation effective date status saved as N/A
6. If form is received back it is added to SharePoint library and retained in accordance with the General Records Schedule 2.5
7. SEC Specialist tracks responses on SEC spreadsheet located in SharePoint

D. Retention of Separating Employee Clearance (SEC) Records

- In accordance with GRS 2.5 the Electronic Records Management Division will maintain form HUD-69a for Destroy 1 year after date of separation or transfer, but longer retention is authorized if required for business use.

E. Authority

- [The 36 Code of Federal Regulations \(CFR\) Chapter XII, Subchapter B - 1230, Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records](#)
- [44 U.S.C. § 3301, Definition of Federal Records](#)
- [36 CFR Chapter XII, Subchapter B - 1220.18, General Definitions, for the regulatory definition of "permanent records"](#)
- [36 CFR Chapter XII, Subchapter B - 1231, Transfer of Records from the Custody of One Executive Agency to Another](#)
- [GRS 2.5, Separating Employee Records](#)