

FDA STAFF MANUAL GUIDES, VOLUME III - GENERAL ADMINISTRATION

INFORMATION RESOURCES MANAGEMENT

RECORDS MANAGEMENT

RECORDS MANAGEMENT GUIDANCE FOR DEPARTING EMPLOYEES

Effective Date: 09/23/2008

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1. PURPOSE

This Guide sets forth the policy and responsibilities governing the removal or disposition of Federal records that are created, received or maintained during employment with the Food and Drug Administration (FDA) when Agency personnel, contractor personnel, interns, and other non-FDA employees conducting business on behalf of FDA under agreements, leave the agency.

2. BACKGROUND

FDA employees, including contractor personnel, interns and other

non-FDA employees conducting business on behalf of FDA create and maintain Federal records as part of their official responsibilities. In addition to Federal records, Government employees may create and accumulate other documentary materials including personal records and non-record materials while in the work place.

The National Archives and Records Administration (NARA) has issued guidelines for Federal agencies regarding the management of records and other documentary materials. This guide explains how those guidelines apply to the FDA environment and employees.

3. AUTHORITIES

This Guide is derived from the Federal Records Act of 1950 and the

Records Disposal Act of 1943 (44 U.S. Code, Chapter 31 and 33). It is aligned with the regulations issued by NARA in 36 CFR, Chapter XII. Penalties for the unlawful removal or destruction of Federal records are described in Title 18 U.S.C. 641 and 2071.

4. DEFINITIONS

A. Federal Records. Federal Records are documentary materials, regardless of physical form or characteristics, made or received by an agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government, or because of the informational value of the data contained in them. (44 U.S.C. 33012).

Also included are the records maintained in a home office or on the employee's personal computing devices such as a Blackberry, hard drive, CD-ROM, or on other media.

B. Documentary Materials. According to 36 CFR 1222.12b(1), "documentary materials" is a collective term for records, non-record materials, and personal papers that refers to all media containing recorded information, regardless of the nature of the media or the method(s) or circumstance(s) of recording.

C. Non-record Materials. Non-record materials are those Government-owned documentary materials that do not meet the statutory definition of "records". Non-record materials expressly excluded from the statutory definition of records are: library and museum materials made or acquired and preserved solely for reference or exhibition purposes; extra copies of documents kept only for convenience of reference; and stocks of publications and processed documents.

D. Personal Papers. Personal papers are documentary materials belonging to an individual that are not used to conduct Agency business. This includes professional materials created by the official before entering Government service, files relating to previously held positions and reference files; private materials brought into the office that were not created or received in the course of transacting Government business, such as family and personal correspondence, drafts of articles and books, and community service records; and work related personal papers that are

not used in the transaction of Government business or as documentary reference for legal issues such as diaries, notes, or personal appointment schedules.

E. Working Files. Working files and similar materials that include preliminary drafts, rough notes, worksheets, and other similar materials, fall within the scope of “documentary materials”, regardless of whether such materials qualify as Federal records.

F. Records Control Schedules. A document providing mandatory instructions for what to do with records (and non-record materials) no longer needed for current Government business, with provision of authority for the final disposition of recurring or nonrecurring records. Includes agency records schedules for Agency specific program records and the General Records Schedules (GRS) for common administrative records.

5. POLICY

This Guide applies to all FDA employees (regardless of type of appointment), contractor personnel, interns, and other non-government employees conducting business on behalf of FDA under an agreement when they leave the agency. Departing employees will follow the following guidelines:

1. Departing employees **must not** destroy or remove Federal records, as defined in this guide, from the Agency.

For the records eligible for disposition in accordance with the authorized Records Control Schedules, contact the Assistant Records Liaison Officer (ARLO) in each Center/Office for proper disposition procedures.

2. Generally, departing employees may take with them personal papers. Personal papers must be clearly designated as such and kept separate from the agency’s official records.

There may be situations in which personal and official files have been intermingled. Those files need to be reviewed and the removal of personal materials approved to ensure that records management requirements are properly followed.

In cases where information about personal matters and FDA business appears in the same document, the document should be copied at the time of receipt and a copy with the personal information deleted should be filed in an official filing system.

3. When dealing with electronic records that are Federal records and reside in the word processing system, e-mail system, or on other electronic media, departing employees should file records copies in an official filing system or turn them over to the supervisor. Network personal drives and email boxes should be empty.
4. **Departing employees may not take Record or Non-record copies of Federal records unless specifically authorized by the FDA Center or Office Director.**

Before leaving the Agency, departing employees must obtain clearance on Form FDA 2277, "Employee Exit Clearance Record," from the Center/Office Assistant Records Liaison Officer (ARLOs) by returning any records checked out from the Document Room and from the supervisor by turning over official records.

6. RESPONSIBILITIES

- A. **FDA Chief Information Officer (CIO).** Approves, disseminates and implements Agency-wide policies for departing employees concerning records management responsibilities, including electronic records.
- B. **Agency Records Officer.** Develops guidance on records management issues for departing personnel, working with Assistant Records Liaison Officers and evaluates compliance with Federal and HHS/FDA laws and guidelines.
- C. **Assistant Records Liaison Officers (ARLOs).** Working with the Document Room, ensure departing employees return any records that were borrowed from the Document Room by checking the appropriate column for clearance assigned to Records on the "Employee Exit Clearance Record", FDA Form 2277. Provide necessary records management training to departing employees if needed.
- D. **Supervisors/Managers.** Ensure that a departing employee turns over official agency records, including records maintained in a home office or on the employee's personal computing devices such as Blackberry, hard drive, CD-Rom, or on other media, by checking an appropriate column for clearance assigned to Records and by signing the completed form on the "Employee Exit Clearance Record", FDA Form 2277. Return the completed form to the Employ Resource and Information Center. A completed form with proper clearance is maintained as part the departing employee's personnel folder.

7. TECHNICAL ASSISTANCE

Departing personnel should contact the Assistant Records Liaison Officer (ARLO) in each Center/Office for questions. Any violation of the statutory and regulatory limitations placed on the removal of documentary materials by FDA employees separating from the Agency, should be forwarded to the Division of Ethics, Office of Management Programs and the Assistant Records Liaison Officer in each Center/Office.

8. EFFECTIVE DATE

This guide is effective upon approval on September 23, 2008. It supersedes the SMG titled, "Disposition of Records and Personal Papers by Separating Individuals," issued on August 29, 1989.

9. Document History -- SMG 3291.3, Records Management Guidance for Departing Employees

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