

U.S. DEPARTMENT OF AGRICULTURE
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SUBJECT: Records Management	DATE: August 16, 2016
	OPI: Office of the Chief Information Officer – Information Resources Management

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1. PURPOSE

This regulation sets out and summarizes the policies, responsibilities for the creation, maintenance, use, and disposition of all records and other documentary materials throughout the United States Department of Agriculture (USDA) in compliance with the [Federal Records Act](#) (FRA) as codified at 44 United States Code (U.S.C.) Chapters 29, 31, and 33; [Subchapter B, Records Management](#), 36 Code of Federal Regulations (CFR); and all applicable National Archives and Records Administration (NARA) mandated guidance. It also sets out role and responsibilities of personnel in various USDA positions with respect to records.

2. SCOPE

This directive applies to all USDA agencies, staff offices, employees, and contractors working for or on behalf of USDA and all USDA records, regardless of medium, which are created, collected, processed, used, stored, and/or destroyed by USDA agencies. Each USDA agency and staff office is obligated to meet the minimum requirements of this policy. Agencies are required to integrate records management into the overall information resources management program, in accordance with 36 CFR Subchapter B, *Records Management*, and Office of Management and Budget (OMB) [Circular A-130 \(Revised\)](#), *Management of Federal Information Resources*.

3. SPECIAL INSTRUCTIONS/CANCELLATIONS

This directive supersedes Departmental Regulation (DR) 3080-001, dated May 23, 2013, in its entirety, is effective immediately and will remain in effect until superseded or overtaken by a subsequent DR or government-wide guidance.

4. POLICY

It is USDA policy to preserve all official records, in accordance with applicable statutory and regulatory requirements, and to promote access to information by staff and the public, as appropriate. Each agency and staff office within USDA is required to establish and maintain a records management program meeting the following minimum requirements:

- a. Accurately and completely create and preserve records, in any medium (including social media), containing documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency or staff office that protects the legal and financial rights of the Government and persons directly affected by agency or staff activities as required by the FRA;
- b. Establish records management standards and procedures for maintaining USDA records and information in a manner facilitating ease of use, access and disposition, and consistent with the regulations and guidelines implemented by NARA, the OMB, and the General Services Administration (GSA);
- c. Establish effective management controls over the creation, maintenance and use, and disposition of Federal records in any medium, including but not limited to: paper, e-mail, instant messaging (IM), text messages, telephone messages, voice mail messages, presentations, Web sites, social media, word processing documents, spreadsheets, and information systems, throughout their life cycle;
- d. Ensure records in any medium, are accessible to departmental officials and to the public as appropriate;

- e. Ensure the laws, regulations, and policies that apply to records and information used and maintained by USDA also apply to USDA records and information maintained and used on USDA's behalf by USDA contractors. All records created by USDA contractors shall remain the property of USDA, and cannot be used except as explicitly authorized in writing by USDA (see Appendix A and B);
- f. Establish procedures to ensure Federal records that are created by use of personal or non-official electronic messaging accounts for official USDA business are preserved for FRA purposes and placed in a record keeping system (see Appendix C);
- g. Establish procedures to ensure Federal records created by use of text messaging, IM or other transient messaging technologies are preserved for FRA purposes and placed in a record keeping system (see Appendix C); and
- h. Establish and maintain a vital records program to ensure continuity of essential USDA activities during and following a national emergency or local natural or technological disaster (see also [DR 3085-001](#), *Vital Records Management Program*).

5. ROLES AND RESPONSIBILITIES

- a. USDA Secretary shall:
 - (1) Make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Department by establishing a records management program to ensure compliance with applicable Federal laws and guidelines;
 - (2) Designate a Senior Agency Official (SAO), at the Assistant Secretary level or its equivalent, who has direct responsibility for ensuring USDA efficiently and appropriately complies with all applicable records management statutes, regulations, NARA policies, and requirements of the OMB/NARA [M-12-18](#), *Managing Government Records Directive*. The Secretary has designated the Assistant Secretary for Administration as the SAO for records management.
- b. Under Secretaries, Agency, and Staff Office Heads shall:
 - (1) Provide adequate staff resources to support records management processes within their respective organizations;
 - (2) Participate in developing new or revised programs, processes, systems, and procedures to ensure adequate record keeping processes are established and implemented within their respective organizations;
 - (3) Provide records management briefings for all managers and records management training to all staff within their organizations;

- (4) Annually review the organization's record keeping practices in order to validate their accuracy and to ensure implementation;
- (5) Ensure Information Technology (IT) managers coordinate with appropriate records management professionals to address records management requirements as identified in this directive;
- (6) Ensure the records staff is fully involved in all projects concerning the creation, maintenance, use, and disposition of all USDA records;
- (7) Ensure organizations generating statements of work for USDA contracts involving creation or maintenance of Federal records include in the contracts appropriate records management requirements to comply with this directive and its authorities (see Appendix A and B); and
- (8) Ensure all records and other types of required documentary materials are not unlawfully removed from USDA by current or departing officials, employees, or contractors (see [DR 3099-001](#), *Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees*).

c. USDA SAO shall:

- (1) Ensure the Department efficiently and appropriately complies with all applicable records management statutes, regulations, NARA policies, and requirements of the OMB/NARA M-12-18;
- (2) Designate records officers (RO) within each USDA agency and staff office to develop and maintain a comprehensive records management program consistent with all established Departmental records management guidelines, and notify the departmental records officer of the assignment;
- (3) Ensure agency and staff office officials receive guidance on their programmatic and individual records management responsibilities and requirements; and
- (4) Submit the USDA's annual records management report to the U.S. Government's Chief Records Officer.

d. USDA Chief Information Officer (CIO) shall:

- (1) Review proposed Department reporting and record keeping requirements, including those contained in rules and regulations, to ensure they impose the minimum burden upon the public and have practical utility for the Department (see *Government Paperwork Elimination Act* ([GPEA](#)) and [DR 3410-001](#), *Information Collection Activities-Collection of Information from the Public*);

- (2) Administer the Departmental Records Management Program in compliance with NARA and other oversight agencies;
 - (3) Address records management provisions in Capital Planning and Investment Control (CPIC) proposals and Enterprise Architecture (EA) plans:
 - (a) In compliance with *Records Management* and OMB A-130 Circular, ensure records management and records archival functions are addressed in the requirements development phase for the design, development, and implementation of new or significantly revised information systems; and
 - (b) Integrate planning for electronic records management systems into plans for resource allocation and use, including budgeting, acquisition, and use of IT. (see NARA, [Criteria for Managing Email Records in Compliance with the Managing Government Records Directive M-12-18](#)).
- e. Departmental Records Officer (DRO) shall:
- (1) Develop Departmentwide policies, standards, and procedures for records management and provide oversight in their implementation;
 - (2) Establish and maintain a list of USDA employees who are designated as agency or staff office RO;
 - (3) Serve as the USDA representative to NARA, other Federal agencies, and external organizations on matters pertaining to the USDA's records management program. Collaborate with NARA and other regulatory agencies such as OMB and GSA in applying standards, procedures, and techniques to improve the management of records and promote the maintenance of those records of continuing value;
 - (4) Develop and implement management systems and procedures to ensure officials, employees, contractors, volunteers, and interns do not remove Federal records from Department custody without appropriate authorization (see [DR 3099-001](#), *Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees*);
 - (5) Establish procedures for the participation of agency and staff office ROs in developing new or revised agency and staff office programs, processes, systems, and procedures to ensure adequate record keeping requirements are established and implemented;
 - (6) Conduct reviews of agency and staff office ROs to evaluate program effectiveness and ensure conformance with Governmentwide and Departmentwide records management standards;

- (7) Conduct periodic evaluations of records management programs within USDA, as part of the records management and oversight program;
 - (8) Review and approve costs for the storage of Federal records including the invoices for records stored in the Federal Records Centers (FRC); and
 - (9) Establish a Departmentwide vital records program in compliance with NARA requirements (see DR 3085-001).
- f. Agency and Staff Office ROs shall:
- (1) Assist the DRO in administering the records management program to ensure uniformity throughout the Department;
 - (2) Provide the DRO with information and documentation requested for review of the agency or staff office records management program. If requested, serve on the review team conducting an evaluation of the records management program of another agency or staff office;
 - (3) Ensure their agency and staff office officials and employees receive guidance on their records management responsibilities and established record keeping requirements, by providing mandatory records management training appropriate for their records responsibilities;
 - (4) Develop and maintain current records disposition schedules for all agency or staff office records. Review schedules, when notified of program changes resulting in:
 - (a) Establishing new types of records;
 - (b) An increase or decrease in the retention time of the records; or
 - (c) New or revised electronic systems.
 - (5) Ensure permanent records are preserved and transferred to NARA and temporary records are transferred into off-site storage or destroyed promptly, according to NARA-approved records disposition schedules, unless subject to litigation hold or other preservation requirements;
 - (6) Conduct records management exit briefings, or establish protocols and procedures to ensure records management personnel conduct exit briefings, for employees and Presidential Appointees (see DR 3099-001);
 - (7) Report any unlawful or accidental removal, defacing, alteration, or destruction of Department records to the DRO and to NARA;

- (8) Coordinate with appropriate contracting officials to ensure necessary requirements are identified in contracts and deliverables, including:
 - (a) Identify Federal records as contract deliverables or records for final turnover and other records specified as appropriate to the contract scope;
 - (b) Distinguishing between Federal records and contractor-owned records;
 - (c) Managing Federal records, in accordance with this directive and all other relevant laws, regulations, and USDA directives; and
 - (d) Delivering records at appropriate intervals, in accordance with the contract, or at the termination of the contract (see Appendix A and B).
- (9) Ensure the identification, maintenance, and protection of their agency's and staff office's vital records meet NARA requirements (see DR 3085-001).
- g. Program Managers shall:
 - (1) Assign an official Records Management Liaison (RML) for each section within their operations. This custodian is responsible for records management compliance within that section. For each program or office at least one records custodian is required to provide day-to-day administration of an organization's records management program and, as appropriate, to act as liaison with the agency or staff office RO. Provide names and contact information, and updates as changes occur, to the agency or staff office RO;
 - (2) Create those records needed to ensure adequate and proper documentation of their area of responsibility. Establish and implement procedures to ensure records are maintained in such a manner that information and documents are readily retrievable, in accordance with the established agency and staff office file plan;
 - (3) Ensure that when secondary or staff functional e-mail accounts for individuals, groups, or systems are created for business reasons, the records created are appropriately managed;
 - (4) Implement procedures to ensure records are protected from theft, loss, and unauthorized access;
 - (5) Transfer or destroy inactive records, according to the appropriate records disposition schedule;
 - (6) Notify the agency or staff office RO of organizational or program changes that will result in establishment of new types of records, the transfer or termination of records no longer required, or an increase or decrease in the retention time of the

records; and

- (7) Ensure proper training of all personnel who create and use records, so as to ensure compliance with this directive and references.

h. Agency and Staff Office RMLs shall:

- (1) Implement records management procedures within their organizations, including developing file or records plans, conducting records inventories, identifying appropriate records disposition schedules, destroying records as scheduled (absent litigation hold or other similar hold), or transferring records to NARA;
- (2) Evaluate their organization's records management program on a regular basis and ensure unscheduled records are brought to the attention of the agency or staff office RO, who assists in conducting a records appraisal, as appropriate;
- (3) Ensure personnel in their program are trained in their responsibilities to create, maintain, store, and dispose of Federal records, in accordance with NARA regulations and guidance and USDA records disposition schedules and/or file plans; and
- (4) Ensure records stored within their program area/offices are stored in accordance with NARA requirements for a Federal storage facility.

i. Agency CIOs shall:

- (1) Ensure the appropriate agency or staff office RO is included in the initial planning for new systems and plans for migration or updates from existing systems;
- (2) Provide guidance on the security of records in electronic media over the life of the record. Records must be valid, authentic, and reliable in order to meet legal requirements in a court of law;
- (3) Collaborate with the agency or staff office RO in the development of systems and protocols for the creation and use of electronic records according to OMB/NARA M-12-18, Federal regulations and Departmental policy, and that record keeping functionality is developed for all information systems managing electronic records. This includes coordinating with the agency or staff office RO to ensure compliance with record keeping requirements, determine retention periods, and implement authorized disposition instructions for system data and documentation. Coordinate with the agency or staff office RO when developing business cases as part of the CPIC process to ensure electronic records management requirements of OMB/NARA M-12-18 are met and incorporated into system design and development (see NARA, *Criteria for Managing Email Records in Compliance with the Managing Government Records Directive m-12-18*); and

- (4) Notify the agency or staff office RO of technology changes that could affect access, retention, or disposition (archiving or disposing) of system records.
- j. Enterprise Architects shall ensure records management is considered in the business process analysis. Records management shall be a required layer of the architecture of each new segment development.
- k. Capital Planning and IT Governance Division shall incorporate records management and archival functions into the design, development, and implementation of information systems.
- l. Office of the General Counsel (OGC) shall notify the Department and agency or staff office ROs when a moratorium on records disposition is needed for litigation hold or other legal matters, the scope of the request, and when such moratoria are lifted (see DR 3099-001).
- m. Office of Communications, social media, USDA internal and external Web site sponsors shall:
 - (1) Identify the record material contained therein, and ensure the proper archiving of that material in accordance with approved record disposition schedules; and
 - (2) Identify the record material contained within Agency social media postings and ensure the proper archiving of that material in accordance with approved record disposition schedules. Most social media sites generally have/contain two types of record material:
 - (a) Content records including entries, comments, blog posts, links, videos, and other social media communications; and
 - (b) Site management and operations records including design, policy and procedures, and other Web management records.

The above list is not all inclusive; if unsure, contact your agency or staff office RO to determine if additional records disposition schedules need to be developed.

- n. Contracting Officials shall:
 - (1) Ensure clarity of records scope, applicable clauses, and contractor requirements language are incorporated into contracts;
 - (2) Ensure contractor compliance with the records management requirements during contract performance;

- (3) Notify Department and agency or staff office RO of all contracting staff arrival/departure as well as the start/end date of contracting project; and
 - (4) Ensure appropriate records are managed and delivered properly by contractors (see Appendix A and B).
- o. Employees and Contractors shall:
- (1) Create and maintain adequate and proper documentation of the Department's functions, policies, decisions, and essential transactions;
 - (2) Understand what constitutes a Federal record and apply USDA and NARA regulations and guidance to all Federal records with which they come in contact;
 - (3) Maintain record and non-record documentary material, according to prescribed Department policy and procedures;
 - (4) Clearly designate as personal those papers of a private or non-official nature pertaining solely to their personal affairs; and file such records separately from the records of the office;
 - (5) Safeguard records until they are authorized for disposition. The unauthorized removal, concealment, falsification, mutilation, and/or disposition of official records is prohibited by law and is subject to penalty [18 U.S.C. §2071](#) (*Concealment, Removal, or Mutilation Generally*). Report any apparent instances of unauthorized disposition to his/her supervisor and the agency, or staff office RO;
 - (6) Destroy records only in accordance with approved records disposition schedules, and never remove records or non-related materials from the Department without obtaining prior authorization;
 - (7) Identify and maintain records in accordance with the agency's and staff offices' continuity of operations program;
 - (8) Understand and comply with the obligations of the FRA and USDA policy, including but not limited to use of personal and non-official electronic messaging accounts (see Appendix C);
 - (9) Understand and comply with the USDA's Capstone Approach to managing Federal e-mail records electronically, including managing e-mails outside of Capstone when required by business needs (see Appendix C); and
 - (10) Complete mandatory records management training.

6. RECORDS MANAGEMENT PROGRAM REQUIREMENTS

The following requirements must be met to ensure the adequacy of the USDA records management program:

- a. The SAO will designate the agency and staff office RO to implement the records management program.
- b. Establish record keeping requirements as prescribed by laws, regulations, directives, and processes, and reflect adequate and proper documentation of the Department's organizations, missions, functions, policies, and decisions.
- c. Maintain up-to-date inventories, file plans, or electronic information systems that provide for the identification, location, and retrieval of all categories of records created and received in the course of official business.
- d. Request approval of disposition authorities from NARA for all unscheduled records. Apply records disposition schedules in accordance with applicable Federal regulations found in *Records Management*.
- e. Maintain and dispose of records in accordance with NARA approved records disposition schedules.
- f. Preserve records beyond their approved retention periods when they have been placed under a destruction moratorium for purposes of audits, litigation hold, *Freedom of Information Act* ([FOIA](#)) requests, and similar obligations (see DR 3090-001).
- g. Provide annual mandatory records management training for all Federal personnel and contractors, as appropriate for their responsibilities. Such training will include records management training for all new employees (within 90 days of appointment) and an annual refresher course.
- h. Ensure departing Federal employees identify and transfer any records in their custody to an appropriate custodian, or the person assuming responsibility for the work (see DR 3099-001).
- i. Maintain electronic records in accordance with *Records Management*, by building electronic record keeping functionality into the native electronic information system, or by capturing the electronic information system's records in an electronic records management application (RMA). The use of any RMA that meets the functional requirement of Department of Defense ([DoD](#)) 5015.2-STD, *Electronic Records Management Software Application Design Criteria Standard*, satisfies this requirement.
- j. Identify and address records management requirements during the planning, development, or redesign of electronic information systems with an emphasis on:

- (1) Business processes that support the records management life cycle and the identification, description, and preservation of record content; and
 - (2) Design and develop practices that incorporate records management requirements, to ensure new systems and system redesigns address applicable legal requirements for managing electronic records.
- k. Protect electronic records against technological obsolescence, in accordance with *Records Management* by:
- (1) Planning and budgeting for migration to a new system before the current system is retired, and ensuring the migration strategy addresses inactive electronic records stored off-line;
 - (2) Retaining functionality and integrity of electronic records during upgrades of hardware and software to retain a usable format, ensure compatibility with current hardware and software, and preserve links between records and corresponding metadata; and
 - (3) Decommissioning and migration of systems shall not be completed until records disposition has been completed.
- l. Manage e-mail records along with their metadata (including name of the sender and all addresses, date the message was sent and/or time of receipt) and attachments by means of an electronic information system (see Appendix C).
- m. Back up all electronic systems containing electronic records regularly in accordance with business needs and manage backups in accordance with USDA records disposition schedules.
- n. Capture and manage records created or received via social media platforms, including Web sites and portals. Capture and preserve such records in accordance with NARA-approved records disposition schedules and USDA approved guidance. Manage Web content and operating records by ensuring records are captured, retained for appropriate retention periods, and disposed of in accordance with NARA-approved disposition schedules and record keeping guidance.
- o. Include in contracts explicit requirement(s) for delivery of all pertinent documentation of contractor program execution (see Appendix A and B).
- p. Conduct internal evaluations of records management practices and programs, including assessing the economy of the operation annually or at least every three years. Prepare and submit evaluation reports to DRO within 60 days of completing the evaluation.
- q. Identify and manage vital records in accordance with DR 3085-001.

7. POLICY EXCEPTIONS OR WAIVERS

All USDA agencies and staff offices are required to conform to this policy. Therefore, exceptions to this policy shall not be granted.

8. INQUIRIES

The point of contact for this policy is the Associate Chief Information Officer (ACIO) Information Resource Management (IRM), Office of the Chief Information Officer (OCIO).

-END-

APPENDIX A

CONTRACTOR REQUIREMENTS

This list of Contractor Requirements (CR) establishes the requirements for USDA contractors who create, use, maintain, receive, disseminate, or dispose of USDA records in connection with the performance of USDA-funded tasks or activities. Regardless of the performer of the work, the contractor is responsible for complying with the CR list. The contractor is responsible for the requirements of the document flowing down to sub-contractors at any tier, to the extent necessary to ensure contractor compliance with the requirements.

1. Implement a records management training or awareness program that will provide appropriate training to contractor employees so as to ensure the management of USDA records in accordance with applicable legal requirements, including, *Records Management*.
2. Manage all data created, received, and maintained for the Government by contractors in accordance with 44 U.S.C. Chapters 21, 29, 31 and 33; the FOIA; the *Privacy Act of 1974*; and; *Records Management*.
3. Establish record keeping requirements that reflect adequate and proper documentation of the contractor's work on behalf of USDA.
4. Maintain up-to-date inventories, file plans, or systems that provide for the identification, location, and retrieval of all categories of records created and received in the course of official business.
5. Work through the appropriate agency or staff office RO or agency or staff office RML, to request disposition authority for all unscheduled records and to transfer records to storage facilities.
6. Preserve records beyond their approved retention periods when they have been placed under a destruction moratorium for purposes of audits, litigation hold, FOIA appeals, and similar obligations. A destruction moratorium shall be lifted only by the OGC.
7. Store inactive records in facilities that meet the requirements of applicable Federal regulations found in, *Records Management*, and ensure all provisions are met when storing inactive records in agency, staff office, contractor, and records storage facilities.
8. Work with the appropriate contracting official and/or records professional to ensure Federal records are identified for turnover and/or delivery at the completion or termination of the contract.
9. When deliverables or turnover includes electronic records, provide sufficient technical documentation to ensure access to the records throughout their life cycle.

APPENDIX B

RECORDS MANAGEMENT LANGUAGE FOR CONTRACTS

The following standard items relate to records generated in executing the contract and must be included in a typical electronic information system procurement contract. The list below identifies the minimum requirements:

1. Citations to pertained laws, codes and regulations such as 44 U.S.C. chapters 21, 29, 31 and 33; FOIA (5 U.S.C. 552); *Privacy Act of 1974* (95 U.S.C. 552a); 36 CFR Part 1222 and Part 1228.
2. Contractor shall treat all deliverables under the contract as the property of the U.S. Government for which the Government Agency shall have unlimited rights to use, dispose of, or disclose such data contained therein as it determines to be in the public interest.
3. Contractor shall not create or maintain any records that are not specifically tied to or authorized by the contracting using Government IT equipment and/or Government records.
4. Contractor shall not retain, use, sell, or disseminate copies of any deliverables that contains information covered by the *Privacy Act of 1974* or that which is generally protected by the FOIA.
5. The Government Agency owns the rights to all data/records produced as part of this contract.
6. The Government Agency owns the rights to all electronic information (electronic data, electronic information systems, electronic databases, etc.) and all supporting documentation created as part of this contract. Contractor must deliver sufficient technical documentation with all data deliverables to permit the agency to use the data.
7. Contractor agrees to comply with Federal and Agency records management policies, including those policies associated with the safeguarding of records covered by the *Privacy Act of 1974*. These policies include the preservation of all records created or received regardless of format (paper, electronic, etc.) or mode of transmission (e-mail, fax, IM, text messaging, etc.) or state of completion (draft, final, etc.).
8. No disposition of documents will be allowed without the prior written consent of the Contracting Officer (CO). The Agency and its contractors are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Willful and unlawful destruction, damage or alienation of Federal records is subject to the fines and penalties imposed by *Concealment, Removal, or Mutilation Generally*. Records may not be removed from the legal custody of the Agency or destroyed without regard to the provisions of the agency records disposition schedules.

9. Contractor is required to obtain the CO's approval prior to engaging in any contractual relationship (sub-contractor) in support of this contract requiring the disclosure of information, documentary material and/or records generated under, or relating to, this contract. The Contractor (sub-contractor) is required to abide by Government and Agency guidance for protecting sensitive and proprietary information.

APPENDIX C

ELECTRONIC MESSAGING

1. USE OF PERSONAL OR NON-OFFICIAL ELECTRONIC MESSAGING ACCOUNTS FOR OFFICIAL USDA BUSINESS

Official Agency business should first and foremost be done on official USDA information systems. USDA employees have long been discouraged from conducting official business using non-official or private electronic messaging accounts under USDA Departmental Regulations. On November 26, 2014, the Presidential and FRA Amendments of 2014 was signed into law. This law created new disclosure requirements for officers or employees who use non-official electronic messaging accounts to conduct official business.

Specifically, Federal government employees may not create or send a record using non-official accounts unless the employee *either*:

- a. copies his or her official electronic messaging account in the original creation or transmission or
- b. forwards a complete copy of the record to his or her official electronic messaging account not later than 20 days after the original creation or transmission.

Electronic messages in this context include both e-mail and other electronic messaging systems used for communicating between individuals, such as text messaging IM programs.

The law expressly provides that, under some circumstances, intentional violation of this requirement shall be a basis for a disciplinary action against the officer or employee, up to and including removal. *Disclosure requirements for official business conducted using non-official electronic messaging accounts*, [44 U.S.C. §2911](#).

These FRA requirements are designed to ensure that any use of a non-official information system does not affect the preservation of Federal records for FRA purposes, or the ability to identify and process those records if requested under the FOIA, *Privacy Act of 1974*, or for other official business (e.g., litigation hold, congressional oversight requests, etc.).

In accordance with existing Departmental policies, USDA employees are again discouraged from conducting official business using non-official or private electronic messaging accounts. Under the unusual circumstances where a USDA employee does use a non-official account to conduct official business, he or she must comply with the copying or forwarding requirements outlined above.

2. USDA’S “CAPSTONE” APPROACH

This policy implements OMB M-12-18, Part I, Goal 1.2, and [NARA Bulletin 2013-02](#), *Guidance on a New Approach to Managing E-mail Records*. Bulletin 2013-02 provides agencies with a new records management approach, known as “Capstone” for managing Federal e-mail records electronically.

Under the Capstone approach, USDA manages e-mail records based on the role of the e-mail account user and/or office rather than on the content of each e-mail. E-mail records are captured and managed according to user role using the following retention approach:

- a. E-mail Records of Designated Capstone Officials: E-mail records from the e-mail accounts of officials whose role within the agency predominantly creates permanent records: USDA will retain permanent e-mail records according to the approved Capstone records schedule and then accession them into the National Archives of the United States. For USDA, this applies to the e-mail records of designated USDA Capstone Officials. The USDA OGC and USDA’s agency and staff office RO maintain the official list of capstone officials’ e-mail accounts.
- b. E-mail Records Captured from E-mail Accounts Not Designated as Capstone Officials: E-mail records of all other USDA e-mail account users will be retained according to the Capstone records schedule and destroyed within the electronic record keeping system, unless subject to litigation hold or other preservation requirements.
- c. E-mail records retained with related records: When business needs require e-mail records to be retained with other record (such as part of a case file) in another record keeping system, you should manage these records outside of the electronic record keeping system and retain them according to the appropriate USDA Agency Records Disposition Schedule series instructions. Capstone does not replace existing business practices that require e-mail messages and other related records to be retained together in established record keeping systems. USDA agencies should evaluate Capstone in terms of their existing business processes.

USDA will manage all e-mail records in an appropriate electronic system that supports records management and litigation hold requirements (which may include preservation-in-place models), including the capability to identify, retrieve, and retain the records for as long as they are needed.

NOTE: Currently, Capstone applies only to USDA e-mail records, as defined above. All other records, either paper or electronic, are governed by USDA Agency Records Disposition Schedules.

APPENDIX D

DEFINITIONS

Adequate and Proper Documentation. Record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency, and that is 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.

Appraisal. Process by which NARA determines the value and the final disposition of Federal records, designating them either temporary or permanent.

Archive. A collection of non-current Federal records that has been removed permanently from an agency and transported physically (in an acceptable) format to NARA. At that point, NARA assumes legal responsibility for the preservation of the records because of their continuing or enduring value.

Documentary Materials. A collective term for records and non-record materials that refers to all media on which information is recorded, regardless of the nature of the medium or the method or circumstances of recording.

File Plan. A classification scheme describing different types of files maintained in an office, how they are identified, where they should be stored, how they should be indexed for retrieval, and a reference to the approved disposition for each file. (See NARA, *Best Practices in Electronic Records Management, Appendix A. (Definitions)*)

Legal and Financial Rights Records. Vital records essential to protect the legal and financial rights of the Government and of the individuals directly affected by its activities. Examples include accounts receivable records, social security records, payroll records, retirement records, and insurance records. These records were formerly defined as "rights-and-interests" records.

Life Cycle of Records. The management concept that records pass through three stages: creation, maintenance and use, and disposition.

Litigation Hold. The obligation of agencies, managers, and individual employees to ensure the preservation of documentary materials that might be or might become relevant to pending or threatened litigation. If the documentary material was created in electronic format, it must be preserved in that original native format. (See DR 3090-001)

Metadata. Preserved contextual information describing the history, tracking, and/or management of an electronic record.

Non-record Material. Those Federally owned informational materials that do not meet the statutory definition of records or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.

Permanent Records. Any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States, even while it remains in the agency custody.

Personal Papers (Files). Documentary materials belonging to an individual that are not used to conduct agency business. Personal papers (files) are excluded from the definition of Federal records and are not owned by the Government.

Records. Records include all recorded information, regardless of physical form or characteristics, made or received by an agency of the United States Government under federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor 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 in them (see *Definition of Records*, [44 U.S.C. §3301](#)).

Records Disposition Schedule. A document, approved by NARA, which provides authority for the final disposition of recurring or non-recurring records. Records shall not be destroyed except as authorized by an approved records schedule. Also called File Plan.

Record Keeping System. Manual or electronic system that captures, organizes, and categorizes records to facilitate their preservation, retrieval, use, and disposition.

Retention Period. The period of time that records are to be kept in accordance with NARA approved records disposition schedules.

Social Media. Digital technologies and platforms that allow publishing, communications, and collaboration among individuals and institutions.

Temporary Records. Records approved by NARA for disposal, either immediately or after a specified retention period. Also called disposable records or non-permanent records.

Unscheduled Records. Records whose final disposition has not been approved by NARA.

Vital Records. Essential agency records that are needed to meet operational responsibilities under national security emergencies or other emergency conditions (emergency operating records), or to protect the legal and financial rights of the Government and those affected by Government activities.

APPENDIX E

ACRONYMS AND ABBREVIATIONS

ACIO	Associate Chief Information Officer
CFR	Code of Federal Regulations
CIO	Chief Information Officer
CO	Contracting Officer
CPIC	Capital Planning and Investment Control
CR	Contractor Requirements
DoD	Department of Defense
DR	Departmental Regulation
DRO	Departmental Records Officer
EA	Enterprise Architecture
FOIA	Freedom of Information Act
FRA	Federal Records Act
FRC	Federal Records Center
GPEA	Government Paperwork Elimination Act
GSA	General Services Administration
IM	Instant Messaging
IRM	Information Resources Management
IT	Information Technology
NARA	National Archives and Records Administration
OCIO	Office of the Chief Information Officer
OGC	Office of the General Counsel
OMB	Office of Management and Budget
RMA	Records Management Application
RML	Records Management Liaison
RO	Records Officer
SAO	Senior Agency Official
U.S.C.	United States Code
USDA	United States Department of Agriculture

APPENDIX F

AUTHORITIES AND REFERENCES

- a. [Concealment, Removal, or Mutilation Generally](#), 18 U.S.C. § 2071
- b. Department of Defense ([DoD](#)) [5015.2](#)-STD, *Electronic Records Management Software Application Design Criteria Standard* (2007)
- c. [Definition of Records](#), 44 U.S.C. § 3301
- d. [Disclosure requirements for official business conducted using non-official electronic messaging accounts](#), 44 U.S.C. § 2911
- e. *Federal Information Policy*, [44 U.S.C. § 3506](#), *Federal Agency Responsibilities*
- f. [Federal Records Act of 1950](#), (FRA), 44 U.S.C. § 3101
- g. [Freedom of Information Act of 1996](#) (FOIA), 5 U.S. Code § 552 (1996)
- h. [Government Paperwork Elimination Act](#) (GEPA), 44 U.S.C. § 3504, *et seq.* (2000)
- i. NARA, [Bulletin 2013-02](#), *Guidance on a New Approach to Managing E-mail Records*, August 29, 2013
- j. NARA, Code of Federal Regulations, [Records Management](#), 36 CFR Chapter XXI, Subchapter B (2015)
- k. NARA, [Criteria for Managing Email Records in Compliance with the Managing Government Records Directive M-12-18](#), April 6, 2016
- l. OMB, [Circular A-123](#), *Management's Responsibility for Internal Control*
- m. OMB, [Circular A-130](#), *Memorandum for Heads of Executive Departments and Agencies: Management of Federal Information Resources*, November 28, 2000, revised
- n. OMB/NARA, [M-12-18](#), *Managing Government Records Directive*, August 24, 2015
- o. [Privacy Act of 1974](#), 5 U.S.C. § 552a
- p. USDA, [DR 3085-001](#), *Vital Records Management Program*, May 23, 2013
- q. USDA, [DR 3090-001](#), *Litigation Retention Policy for Documentary Materials including Electronically Stored Information*, May 28, 2008

- r. USDA, [DR 3099-001](#), *Records Management Policy for Departing Employees, Contractors, Volunteers, and Political Appointees*, July 2, 2012