

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION		Number: 3099-001
SUBJECT: Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees	DATE: July 2, 2012	
	OPI: Office of the Chief Information Officer	

1. PURPOSE

The purpose of this regulation establishes the policy for ensuring that all material created, received or maintained during an employee's employment or appointee's tenure with the Federal Government that meets the criteria for a Federal record remains in Federal custody when an employee or appointee departs the Agency. It also reiterates the special consideration given to Presidential Records Retention requirements (44 U.S.C. 22).

2. AUTHORITY

This regulation is published in accordance with the authority vested in the Secretary of Agriculture under 44 U.S.C. 2104 and 3101; and 44 U.S.C. 35; and the delegations of authority to the Chief Information Officer (7 CFR 2.89).

3. REFERENCE

- a. DR 3080-001 Records Management
- b. DR 3085-001 Vital Records Management Program
- c. DR 3090-001 Litigation Retention Policy for Documentary Materials including Electronically Stored Information
- d. 36 CFR Chapter 12, Subchapter B (*Records Management*)
- e. 36 CFR Chapter 12, § 1222.24 (Removal of Records)
- f. 36 CFR Chapter 12, § 1222.18 (Removal of Nonrecord Materials)
- g. 44 U.S.C. Chapter 21, (National Archives and Records Administration)

- h. 44 U.S.C. Chapter 29, (Records Management by the Archivist of the United States and the Administrator of General Services)
- i. 44 U.S.C. Chapter 31, (Records Management by Federal Agencies)
- j. 44 U.S.C. Chapter 33, (Disposal of Records)
- k. 44 U.S.C. § 3106 (Unlawful Removal, Destruction of Records)
- l. 44 U.S.C. 35 (Coordination of Federal Information)
- m. 44 U.S.C. 22 (Presidential Records)
- n. 18 U.S.C. § 641 (Public Money, Property or Records)
- o. 18 U.S.C. § 793 (Gathering, Transmitting or Losing Defense Information) and § 798 (Disclosure of Classified Information)
- p. 18 U.S.C. § 2071 (Concealment, Removal, or Mutilation of Records)
- q. Privacy Act of 1974, 5 U.S.C. § 552a
- r. Title 7 CFR 2.37 (Delegations of Authority from the Secretary to the Chief Information Officer)

4. SPECIAL INSTRUCTIONS/CANCELLATIONS

This Departmental Regulation supersedes DR 3099-001 *Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees* dated March 2, 2009.

5. SCOPE

This regulation applies to all departing employees, contractors, volunteers and political appointees, in all agencies and staff offices of USDA regardless of the type or duration of appointment.

NOTE: The scope includes employees who are reassigned to new official duty locations within USDA, those who are transferred to other Federal agencies, and those who leave Federal service.

Agency officials shall apply this policy to employees, contractor personnel, volunteers, and political appointees by incorporating references in contracts or memorandums of agreement.

6. DEFINITIONS

- a. Access Opportunity to review documents on government premises or at another agreed-upon location.

- b. Agency Records Officer or Staff Office Records Officer The person assigned responsibility by the agency head for overseeing an agency-wide records management program.
- c. Classified Information Information that requires protection against unauthorized disclosure in the interest of national security and that is within the scope of Executive Order 12958, as amended.
- d. Departing Employee One who leaves or is preparing to leave the employment of USDA.
- e. Departmental Records Officer Person responsible for the leadership, coordination, and oversight of the USDA-wide records management program.
- f. Documentary Materials A collection term that refers to recorded information, regardless of the medium or the method or circumstances of recording. (36 CFR § 1220.18)
- g. Employee For the purpose of this directive, an individual occupying a position as an employee of the USDA. The term employee also includes private industry officials (also known as contract personnel) unless specifically stated otherwise.
- h. Federal Records All books, papers, maps, photographs, machine-readable materials, or other documentary materials, regardless of physical form or characteristics, that are made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business, and that are 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 data in them. (44 U.S.C. § 3301.) Electronic communications such as electronic mail messages are included in this definition.
- i. General Records Schedule A National Archives and Records Administration (NARA) issued schedule governing the disposition of specified records common to several or all agencies.
- j. Field Office Records Liaison or Custodian A person responsible for overseeing a records management program in a headquarters or field office in cooperation with the agency records management officer.
- k. Former Employee An individual who has left the employment of USDA.
- l. Nonrecord Materials Nonrecord materials are those Federally owned informational materials that do not meet the statutory definition of records (44 U.S.C. 3301) 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. (36 CFR § 1220.18).
- m. Personal Papers Personal papers are documentary materials of a private or nonpublic character that do not relate to, or have an effect upon, the conduct of agency business. If information about private matters and agency business appears in the same document, the document shall be copied at the time of receipt, with the personal information deleted, and treated as a Federal record.

- n. Removal Permanent removal from the custody of USDA. This does not include the withdrawal of material for official business by authorized employees.
- o. Senior Official Senior officials include the Secretary of Agriculture, Deputy Secretary, Under Secretaries, Deputy Under Secretaries, Assistant Secretaries, Deputy Assistant Secretaries, Associate Assistant Secretaries, heads of agency components and staff offices and their deputies and assistants, principal regional officials, anyone acting in any of the above positions and political appointees.

7. POLICY

This regulation applies to all Federal employees, regardless of type of appointment. In addition, high-level officials and appointees may be required to account for records that could be classified as documentary and/or Presidential records. It is the policy that within 90 days of employment, all employees including senior officials or political appointees, must be briefed regarding the types of records they will be required to protect and the different methods for meeting the Federal guidelines. Prior to leaving employment with USDA, or reporting to a new USDA duty location, all departing employees must follow the clearance procedures in accordance with the provisions of this directive.

a. Certification

A certification (see Form AD-3001, Documentary Materials Removal/Nonremoval Certification and Non-Disclosure Agreement) must be made by the departing employee, contractor, volunteer or political appointee that all Federal records, regardless of media (including social media), have been identified and transferred to the records management liaison or custodian, Contracting Officer's Technical Representative (COTR), or have been reassigned to another employee. The departing employee and the appropriate Agency Records Officer, Staff Office Records Officer or Field Office Records Liaison and Program Manager must sign the certification.

b. Maintaining Documentary Materials

The following guidance helps to ensure that only appropriate documentary materials may be removed.

- (1) Separation of Personal Papers. Personal papers (as defined in section 6.m) shall be clearly designated as such and shall at all times be maintained separately from the agency's records.
- (2) Partial Federal/Personal Record. If information about personal matters and USDA business appears in the same document, the document shall be copied with the personal information deleted, and the remaining material treated as a Federal record or nonrecord material, as appropriate. (See section 6.m).
- (3) Use of Labeling. Documentary material labeled "personal," "confidential," "private," or similarly designated, used in the transaction of public business and which meet the definition of a record, are Federal records or nonrecord materials subject to the provisions of pertinent laws and regulations. The use of a label such as "personal" is not sufficient to determine the record status of documentary materials.

c. Removing Documentary Materials

- (1) The following types of documentary materials may NEVER be removed:
 - (a) Any Federal record;
 - (b) The only copy of any documentary materials involved in the conduct of the affairs of USDA or any other components of the Federal Government, whether or not judged to be records (including any copy that is unique, for example, because it contains the signature or initials of the writer, reviewers, and/or concurring parties);
 - (c) Any documentary materials (whether or not judged to be records) the removal of which will create such a gap in the files as to impair the completeness of essential documentation. Indexes, or other finding aids, necessary for the use of the official files may not be removed;
 - (d) The only copy of indexes or other finding aids (whether or not judged to be records) that are necessary to the use of office files;
 - (e) Portions of documentary materials (whether or not judged to be records) that constitute classified information;
 - (f) Portions of documentary materials (whether or not judged to be records) that constitute information subject to the Privacy Act of 1974, 5 U.S.C. § 552a;
 - (g) Portions of other documentary materials (whether or not judged to be records) that constitute information the disclosure of which is prohibited by law, such as grand jury, tax, and trade secret information.
- (2) All other types of nonpublic Federally-owned documentary materials, including privileged materials, may be removed only with specific approval from the appropriate Agency Records Officer.
- (3) Departing or former employees and political appointees of USDA may request the following:
 - (a) Removal of or access to documentary materials that are reasonably related to the requester's official responsibilities while an employee.
 - (b) Maintenance of assembled documentary materials for a specific period of time, not to exceed one year following departure from USDA's employment, during which he or she may request removal or access pursuant to paragraph 6.c.(1).
- (4) All records, originals and copies, are under the control of USDA, regardless of how and by whom they were created or obtained. Removal of documentary material must be approved in accordance with the preceding provisions to ensure that USDA's ability to claim privileges in litigation, to claim Freedom of Information Act (FOIA) exemptions, and to protect sensitive and classified information.

- (5) Personal diaries, which are really private records of public activities, are private property and may be removed. When matters dealt with in work aids such as office diaries, logs, memoranda of conferences and telephone calls are covered elsewhere by adequate records, such work aids may be removed provided they do not contain information otherwise prohibited from removal. This applies to personal papers created and/or maintained on paper as well as in electronic format.
- (6) Extra reference copies may be removed under certain circumstances. Prior to removal, it must be determined that no legal or policy reason exists that would prevent removal and that the record copy, or other necessary copies, are available in USDA. If the copy is of a document originating with another agency, the requirements of the originating agency must be determined.
- (7) Records will not be disposed of or removed while they are the subject of a pending request, appeal, subpoena, litigation or lawsuit under the FOIA or the Privacy Act, as provided for in General Records Schedule 14. (See DR 3090-001)

8. RESPONSIBILITIES

a. Secretary of Agriculture

As the head of USDA, the Secretary of Agriculture is vested with the authority to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. (44 U.S.C. 3101.)

b. USDA's Chief Information Officer (CIO)

The Secretary of Agriculture has delegated to the CIO oversight responsibility for the USDA-wide records disposition program (7 CFR 2.89(a)(10); 2.89(a)(11)(x)). Within the Office of the Chief Information Officer (OCIO), the Associate CIO for Technology Planning, Architecture, and E-Government (TPA&E) is responsible for developing and managing USDA's records management program. The Associate CIO carries out this responsibility in partnership with USDA's business and technology communities. This responsibility includes the following:

- (1) Review proposed USDA reporting and record keeping requirements, including those contained in rules and regulations, to ensure that they impose the minimum burden upon the public and have practical utility for USDA;
- (2) Assist the Office of Management and Budget in the performance of its functions assigned under the:
 - (a) Data Quality Act (Pub. L. No. 106-554 § 515) and under the Paperwork Reduction Act (44 U.S.C. 3501-3520), including review of USDA information activities,
 - (b) E-Government Act of 2002, Pub. L. No. 107-347, 44 U.S.C. Chapter 36;
- (3) Administer the Departmental Records Management Program.

c. Departmental Records Officer

The Departmental Records Officer, who is designated by the Associate CIO for TPA&E , is responsible for the leadership, coordination, and oversight of the USDA-wide records management program for the Office of the Secretary:

- (1) Serves as the USDA's representative with the National Archives and Records Administration, other Federal agencies, and external organizations on matters pertaining to records management.
- (2) Provides leadership and guidance to the Records Officers of USDA's mission areas, agencies, and staff offices to ensure reasonable uniformity in records management activities throughout USDA.
- (3) Develops USDA-wide policies, standards, and procedures for records management.
 - (a) Develops and implements management systems and procedures to ensure that departing employees, contractors, volunteers and political appointees do not remove Federal records from USDA custody without appropriate authorization.
 - (b) Establishes procedures for the participation of mission area, agency records officers, and staff office records officers in developing new or revised agency programs, processes, systems, and procedures to ensure that adequate record keeping requirements are established and implemented.

d. The Agency Records Officer, Staff Office Records Officer or Field Office Records Liaison shall:

- (1) Ensure that nonrecord material being removed by a departing employee or official is examined by the Agency Records Officer, Staff Office Records Officer, or Field Office Records Liaison for the purpose of providing the appropriate protection for information that is restricted from release under the Privacy Act or other statutes, regulations or executive orders;
- (2) Obtain and maintain signed form: "Documentary Materials Removal/Non-Removal Certification and Non-Disclosure Agreement" (Form #AD-3001);
- (3) Ensure that the signed agreement and related documentation are retained in a centralized file by the Agency Records Officer, Staff Office Records Officer, or Field Office Agency Records Liaison; and
- (4) Receive the detailed inventory list of records and nonrecords to ensure that no departing official, employee, contractor or volunteer removes records or nonrecord materials relating to any pending or contemplated civil, criminal, or administrative proceeding, FOIA or Privacy Act request or appeal, or subpoena without clearance of the Office of General Counsel (OGC) or relating to another program activity without clearance of the responsible program official.

e. Agency Heads and Staff Office Heads shall:

- (1) Implement policies and procedures ensuring that current and departing officials, employees, contractors or volunteers do not remove documentary materials from the custody of USDA

without authorization;

- (2) Ensure that the departing employee turns over official agency records, including social media and records maintained in a home office or on employee personal computing devices such as Blackberry, hard drive, CD-ROM, flash drive or other media (including social media).
- (3) Ensure that each official, employees, contractors or volunteers is made aware of such policies and procedures, and that each departing individual is provided a copy of the guidance in Appendixes A and B.

f. Freedom of Information Act (FOIA) Official shall:

Ensure that nonrecord material being removed by a departing employee or official is examined to ensure agency business and records subject to a Freedom of Information Act request are retained.

g. Privacy Act Official shall:

Ensure that nonrecord material being removed by a departing employee or official is examined to ensure they do not include any privacy information.

h. Program Managers shall:

- (1) Ensure that departing employees, contractors and volunteers departure dates are identified as soon as possible and these individuals are made aware of their records responsibilities;
- (2) Ensure that nonrecord material that is the subject of a request for removal or access by a departing individual is examined by the agency head (or his or her designee) for the purpose of providing the appropriate protection for information that is privileged or restricted from release under the Privacy Act or other statutes, regulations or executive orders;
- (3) Decide upon requests made for removal of, or access to, documentary materials other than a request that is covered under section 7.c.;
- (4) Ensure the departing or former employee's request is for copies of or access to only documentary materials that are reasonably related to the requester's official responsibilities while an employee;
- (5) Ensure the request by a former employee for copies of or access to documentary materials pursuant to this manual is received no more than one year after the employee leaves the USDA's employment. Any requests for documentary materials after such date may be submitted in accordance with the FOIA;
- (6) Obtain the signed copy of the "Documentary Materials Removal/Non-Removal Certification and Non-Disclosure Agreement (Form #AD-3001)" from all departing employees, contractors or volunteers. Ensure that the signed agreement and related documentation (including requests or authorizations for removal or access) are retained by the agency;

- (7) Approve every request submitted in writing and in sufficient detail to identify which documents may be removed or accessed, under what conditions or restrictions, and for which documents removal or access is denied. Each decision will be provided to the requester;
- (8) Authorize removal of, or access to, documentary materials issued under section 8.b.(3) subject to concurrence with the Office of General Counsel (OGC);
- (9) Ensure the departing employee, contractor or volunteer only removes personal papers (defined in section 6.m) that have been properly segregated in accordance with section 7.b.1. Any question as to whether materials constitute personal papers or are publicly available should be referred to the Agency Records Officer and the OGC.

g. Senior Officials:

Although Federal records may not be removed, departing senior officials are allowed to create a *limited* number of duplicate copies of unclassified documents for personal use when warranted by the level of the position, significance of the work or research. Such copies are considered nonrecord material and must be reviewed and approved by the Agency Records Officer, Staff Office Records Officer, or Field Office Records Liaison before they may be removed. An accounting must be made of all nonrecord and personal papers that are removed. Classified and Privacy Act documents may not be duplicated or removed from Federal custody.

Prior to departure, senior officials and political appointees shall identify Federal records of which they have custody.

- (1) Records regardless of media (including social media) shall be inventoried and those on file servers, hard drives, and in electronic mail systems shall be copied and removed or reassigned.
 - (a) Inactive records shall be transferred to a records management custodian and active records shall be reassigned to another employee.
 - (b) All file searches for which the employee has been tasked must be completed or reassigned, such as FOIA, Congressional or litigation-related document requests.

h. Employees, Contractors and Volunteers:

All employees are responsible for the Federal records in their custody. This responsibility applies to employees separating from as well as transferring to another USDA agency. Prior to departure, employees, contractors, and volunteers shall identify Federal records for which they have custody and are responsible for any applicable procedures described herein:

- (1) Records, regardless of media (including social media) shall be inventoried and those on file servers, hard drives, and in electronic mail systems shall be copied and removed or reassigned.
 - (a) Inactive records shall be transferred to a records management custodian and active records shall be reassigned to another employee.
 - (b) Depending on the status of the contract, the departing contractor employee's records shall be reassigned to another contractor or Federal employee or incorporated into USDA's official files.

- (c) All file searches for which the employee, contractor, or volunteer has been tasked must be completed or reassigned, such as FOIA, Congressional or litigation-related document requests.
- (2) Maintain record and nonrecord documentary material according to prescribed USDA policy and procedures.
- (3) Safeguard records until they are authorized for disposition. The unauthorized removal, concealment, falsification, mutilation, or disposition of official records is prohibited by law and is subject to penalty (18 U.S.C. 2071).
- (4) Clearly designate as personal those papers of a private or nonofficial nature pertaining solely to personal affairs. Those papers shall be filed separately from the records of the office.
- (5) Report any apparent instances of unauthorized disposition to his/her supervisor and the mission area, agency, or staff office records officer.
- (6) Request permission to remove copies of materials prior to leaving USDA. The request must be submitted in writing to the head of the component in which the requester is or was employed. The request must describe the documentary materials with sufficient detail to permit their retrieval. Departing employees should assemble the requested material and attach them to the request, or if the materials are voluminous a detailed inventory list should be attached explaining how the requested material may be readily assembled.
- (7) Meet with their Federal supervisor or Contracting Officer's Technical Representative (COTR) and the Agency Records Officer, Staff Office Records Officer, or Field Office Records Officer prior to departing USDA. (See Appendix B.)

9. STATUTORY PENALTIES AND REQUIREMENTS

- a. The disposal of Federal records in agency custody is governed by specific provisions of Chapter 33 of Title 44, United States Code (Disposal of Records).
- b. Criminal penalties are provided in 18 U.S.C. § 641 (Public Money, Property or Records) and §2071 (Concealment, Removal, or Mutilation of Records) for the unlawful removal or destruction of Federal records.
- c. Criminal penalties are provided in 18 U.S.C. § 793 (Gathering, Transmitting or Losing Defense Information) and § 798 (Disclosure of Classified Information) for the unlawful disclosure, loss, or destruction of certain information pertaining to national defense or national security.
- d. Other criminal and civil penalties may apply for unlawful disclosure of statutorily confidential information. The Secretary is required by 44 U.S.C. § 3106 (Unlawful Removal, Destruction of Records) to notify the Archivist of the United States of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of Federal records in the custody of the Department.

**UNITED STATES DEPARTMENT OF AGRICULTURE
DOCUMENTARY MATERIALS REMOVAL/NON-REMOVAL CERTIFICATION
AND NON-DISCLOSURE AGREEMENT**

In accordance with Directive 3099-001, Records Management Policy for Departing Employees, Contractors, Volunteer and Political Appointees *[insert link to DR 3099-001]*

EMPLOYEE NAME:		OFFICE:	
PHONE		PLANNED DEPARTURE DATE:	

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

1. Documentary Materials that May be Removed: Personal Papers

Examples of personal papers include papers accumulated by an official before joining Government service that are not used subsequently in the transaction of Government business; materials relating solely to an individual's private affairs, such as outside business pursuits, professional affiliations, or private political associations that do not relate to agency business; diaries, journals, personal correspondence, or other personal notes that are not prepared, used for, circulated or communicated in the course of transacting Government business (36 C.F.R., Section 1222.36(a), (b), and (c)).

2. Records that May Not be Removed

- a. Any material regardless of the media (including social media) that meets the definition of a Federal record.
- b. Any information not normally released to the general public, unless prior approval is obtained.

3. Penalties for Unlawful Removal of Records

Criminal penalties are provided for the unlawful removal or destruction of Federal records (18 U.S.C. 641 and 2071) and for the unlawful disclosure of certain information pertaining to national security (18 U.S.C. 793, 794, 798 and 952).

4. The checklist (Appendix B) must be completed by all employees. Senior Officials and Political Appointees refer to Appendix C for additional guidance.

5. Employees, contractors, volunteers, and political appointees must complete the certification below. Employees and political appointees must meet with their immediate supervisor. Contractors must meet with the Contracting Officers Technical Representative (COTR). Volunteers must meet with the unit's Volunteer Coordinator.

Are you removing any nonrecord documents, such as extra copies of agency records, from the Department Of Agriculture?

If yes, go to a. If no, go to b.

- a. ☐ **YES**, I certify that appropriate agencies officials (named below) have reviewed the documents I am removing from the Department of Agriculture and/or associated agencies, and do not include any documents relating to any pending or contemplated civil, criminal, or administrative proceeding or other program information, that if released, would impair or prejudice the outcome of the proceeding or Government policy determinations, decisions, or other actions (Examples: classified documents; record copies; documents, even though judged to be nonrecords, that will create a gap in the files; and indexes and finding aids necessary to use the official files).

I agree to keep confidential all nonpublic materials, and agree to refrain from disclosure of said document contents or existence thereof without prior permission from the appropriate Department of Agriculture Official.

SIGNATURE OF EMPLOYEE OR POLITICAL APPOINTEE

DATE

- b. ☐ **NO**, I certify that I am not removing any documents from the Department of Agriculture or associated agencies.

SIGNATURE OF EMPLOYEE, CONTRACTOR, VOLUNTEER, OR POLITICAL APPOINTEE

DATE

6. Approving Officials

NAME OF IMMEDIATE SUPERVISOR, COTR, OR VOLUNTEER COORDINATOR (PRINT OR TYPE):	OFFICE & PHONE:
_____ SIGNATURE OF IMMEDIATE SUPERVISOR, COTR, OR VOLUNTEER COORDINATOR	_____ DATE
NAME OF AGENCY, STAFF, OR UNIT RECORDS OFFICER/MANAGER (PRINT OR TYPE):	
_____ SIGNATURE OF RECORDS OFFICER/MANAGER	_____ DATE

DOCUMENTARY MATERIALS REMOVAL/NON-REMOVAL CERTIFICATION AND NON-DISCLOSURE AGREEMENT			
	Yes	No	NA
1. Have you reviewed Directive 3099-001 "Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees?"			
2. Have you collected all hard copy records and working papers and returned them to their appropriate locations and/or provided them to your supervisor?			
3. Have you placed all electronic records and working papers in an accessible location and provided the location to your supervisor?			
4. Have you verified that all passwords and other restrictions have been provided to your supervisor or removed from electronic records and working papers?			
5. Have you identified and separated personal files (as defined in DR 3099-001 Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees) for removal from these formats.			
(1) Hard copy?			
(2) Electronc?			
6. Have you reviewed the personal files that you wish to remove to ensure that no classified materials, records, and nonrecord materials are included?			
7. Do you plan to take any hard or electronic nonrecord information from your agency?			
8. Will these files be for personal use?			
9. Are these files to be used in another agency? (as defined in DR 3099-001 Records Management Policy for Departing Employees, Contractors, Volunteers and Political Appointees) for removal from these formats?			
10. Have you listed the materials that you will be removing from your office for approval by the Records Management Officer?			
11. Insert the volume of records you are removing: Cubic feet _____ CD-ROMS _____ DVDs _____ Flash Drive _____ Other _____			
12. Work-related files:			
a. Have you identified the types of work-related files (convenience copies) in which you have an interest?			
b. Have you established procedures for the routine copying of these materials?			
13. Have you ensured that the unclassified materials you seek to remove do not contain security classified information, information covered by the Privacy Act, or information that is otherwise prohibited by law?			
a. No classified materials are included.			
b. No Privacy Act materials are included.			
c. No information otherwise prohibited from release is included.			
14. Have you ensured that the material you seek to remove is not legally privileged, subject to a litigation hold, or under other legal restrictions?			
15. For the nonrecord materials you plan to remove, have the following individuals approved for removal, as appropriate:			
a. Supervisor			
b. Legal Counsel			
c. Records Management Office			
d. Privacy Office			
e. FOIA Office			

Appendix A

PRIVACY ACT GUIDANCE FOR DEPARTING EMPLOYEES

The Privacy Act, 5 U.S.C. § 552a, provides access to individuals to information about them contained in agency files and also prevents release or disclosure of information about individuals to third parties, except under limited circumstances. The Privacy Act applies to records which contain information about an individual and that are contained in a Privacy Act System of Records. A Privacy Act System of Records means any grouping of records, paper or electronic, which are about an individual and are actually retrieved by the agency using the individual's name, identifying number, symbol, or other identifying particular assigned to the individual. Through the course of your official duties, you may have accessed and used Privacy Act records about other individuals. Employees and officials are permitted to access and use Privacy Act records for official purposes, however once the employee or official has separated, access or use is prohibited. A departing employee who keeps copies of Privacy Act records and accesses them after employment is likely violating the Privacy Act and may be subject to criminal or civil penalties. Accordingly, you should not remove any Privacy Act records upon your departure. If you have questions about specific records, please consult with your manager or your agency's Privacy Act official.

Appendix B

PREPARING THE OFFICIAL RECORDS OF EXECUTIVE OFFICIALS

1. **Separate the official's personal papers from the record material.** These include:
 - a. Papers Created Before Entering Government Service.
Examples: previous work files, political materials, and reference files.
 - b. Private Papers Brought Into, Created, or Received in the Office.
Family and personal correspondence and materials documenting professional activities and outside business or political pursuits. Examples include manuscripts and drafts for articles and books and volunteer and community service records.
 - c. Work-Related Personal Papers. Extra copies maintained for convenience of reference are excluded from the definition of records. Personal papers may refer to or comment on the subject matter of agency business, provided they are not used in the conduct of that business.
 - d. Personal Copies of Records and Nonrecord Materials. Officials may duplicate some agency records (usually those that they have originated, reviewed, signed, or otherwise acted upon) so that, with agency approval, they may take these nonrecord copies with them when they leave office.
2. **Eliminate** duplicates, superseded or obsolete directives from other organizations or offices, outdated meeting notices and notes (unless your executive was the sponsor or chair for the meeting).
3. Separate correspondence and briefings given to **the President, Vice President, or Executive Office of the President.** These may fall under the requirements of the *Presidential Records Act of 1978* (44 U.S.C. 2201 et seq.).
4. **Organize the remaining documents by topic area.** Use the categories in the USDA file plan. If records for a subject, project, or program, are not addressed in the file plan, label the file with pertinent information, for example, the executive's name, the project name, starting and ending dates. Arrange the documents within each file in chronological order.
5. **Label the files.** Labels should include the file category (if one is available), the executive's name, topic, and the beginning and ending dates of the documents contained in the files.
6. **Box the files.** Separate and box the files by type: personal papers, records which fall under the requirements of the *Presidential Records Act of 1978* (44 U.S.C. 2201 et seq.); files already covered in the USDA file plan; and all remaining files. Number the boxes in pencil.
7. **Prepare file list and SF 135.** Excluding the official's personal papers, prepare lists of the boxed files: one for the records which fall under the requirements of the *Presidential Records Act of 1978* (44 U.S.C. 2201 et seq.); a second for files already covered in the USDA file plan; and a third list for all remaining files. Show box number (e.g., 1 of 10) and file name.
8. **Contact the Office of the Executive Secretariat (OES).** Forward the SF 135 to OES for review prior to delivering the boxes to the Federal Records Center.