

## CHAPTER 9. SPECIAL RECORDS DISPOSITION CONCERNS

### Section 1. Records Created by Contractors

- 9-1. PURPOSE. With cuts in employment ceiling and increased emphasis on contracting out, Federal agencies are using contractors more and more to carry out their functions. This Section covers HUD's responsibilities concerning records created under contract.
- 9-2. LEGAL TITLE TO RECORDS. All data delivered to or under HUD's full legal control are Federal records subject to scheduling and the other requirements in this Handbook. The National Archives and Records Administration (NARA) will accept properly scheduled records directly from the contractor for:
- a. Storage in a Federal Records Center. See Chapter 6.
  - b. Transfer to the National Archives for permanent retention. See Chapter 7, Section 2.
- 9-3. CONTRACT REQUIREMENTS FOR DATA. HUD program and contracting officials must ensure that HUD contracts include these requirements:
- a. All contracts:
    - (1) In addition to the final product, specify delivery to HUD of all background data created that may have reuse value to HUD or other Federal agencies. Examples:
      - (a) Background data to statistical analyses, such as raw data and analytical reports.
      - (b) Background data needed to verify facts and statements or to justify conclusions in reports that represent HUD's official position or that are required by law.
      - (c) Background data to research contracts that have reuse value.
    - (2) Include deferred ordering and delivery of data clauses when HUD cannot identify in advance all data to be delivered to HUD. These clauses allow HUD to order more background data needed after reviewing the final product.
      - (a) Example: "In addition to the data specified elsewhere in this contract to be delivered, the Contracting Officer may, at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract."

- (b) Alternative: The contractor can be required to prepare a data inventory for HUD use in identifying data for deferred ordering and delivery to meet later needs.
  - (3) Rights-in-data clauses when needed to ensure the Government's right to reuse data developed under contract. These clauses state the rights and obligations of the Government as well as the contractor for using, duplicating and disclosing data produced or specifically used in contract performance. In general, the Government will have unlimited rights to all data first produced under contracts for special works and all data delivered, except for copyrighted data.
- b. Contracts to carry out HUD programs: Specify delivery to HUD of all data needed for adequate and proper documentation of the programs.
  - (1) "Adequate and proper documentation" means a record of how a Federal agency carries out its functions that is as complete as needed to:
    - (a) Give current and future officials enough information to properly make decisions and take action.
    - (b) Allow Congress, oversight agencies and others to properly review Government operations.
    - (c) Protect the financial, legal and other rights of the Government as well as those affected by Government actions.
  - (2) Adequate and proper documentation may include case files, directives such as handbooks, and written procedures developed by the contractor.
- c. Contracts for audiovisual materials: Specify delivery to HUD of all production elements needed to reproduce the audiovisuals. Includes:
  - (1) A negative and magnetic sound track, internegative picture and sound track as well as projection print(s) for motion pictures.
  - (2) Still photographic negatives as well as prints.
  - (3) A sound or video master as well as a viewing copy.
- d. Contracts for architectural drawings: Specify delivery to HUD of the original drawings to provide the most accurate documentation.
- e. Contracts involving delivery of computer files to HUD: Also specify delivery of enough technical documentation of the files so HUD can use the data.

9-4. DRMO ADVICE AND ASSISTANCE.

- a. HUD program and contracting officials should consult with the Departmental Records Management Officer (DRMO) to ensure that contracts will meet all HUD needs for background data, especially when new programs or functions are involved.
- b. HUD program officials should contact the DRMO for advice and assistance on scheduling records created under contract. NARA may select some of these records for permanent retention during the scheduling process. See Chapter 3.

Section 2. Disposition of Terminated Program or Office Records

9-5. SCOPE. This Section covers the disposition of records when all functions of a program or office are terminated.

IF the functions of a terminated office are transferred to...	THEN follow the procedures in...
Another Federal agency	Chapter 7, Section 3
Another HUD office	Chapter 7, Section 4

9-6. POLICY. When a HUD program or office is terminated, the Secretary must ensure the orderly disposition of the records, regardless of physical form. Records include photographs, maps, microfilm, motion pictures, sound recordings, and computer tapes. The HUD program or office staff affected should contact the DRMO as early as possible before the effective date of the termination. The DRMO will provide advice and assistance on the disposition of the records.

9-7. DISPOSITION PROCEDURES. With the DRMO's advice and assistance, the responsible HUD program or office staff should:

- a. Identify personal papers and separate them from HUD records. Employees should remove their personal papers from HUD offices. See Chapter 8.
- b. Return to stock those copies of issuances, forms and publications which are still current and of use to other HUD offices. Destroy obsolete copies.
- c. Handle nonrecord reference material, such as books and publications, as follows:
  - (1) Check to see if other HUD offices want the material.

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(2) If not selected by other HUD offices: Contact the HUD Headquarters or Field libraries to see if they want the

material.

- (3) If not selected by HUD libraries: Contact the HUD Headquarters Library to offer the material to the Library of Congress Exchange and Gift Division. The HUD Headquarters Library coordinates all offers to the Library of Congress.
  - (4) If not selected by the Library of Congress: You may offer the material to another Federal agency or to another library open to the public in your area. (Source: 41 CFR Parts 101-43 and 101-44) Such material is Government property and cannot be removed by HUD employees.
- d. Destroy all other nonrecord material (e.g., information copies of outgoing correspondence).
  - e. Turn in all computer software and diskettes. Computer software and diskettes are Government property and cannot be removed.
  - f. Destroy all records eligible for immediate destruction under the HUD records disposition schedules in Handbook 2225.6 or the General Records Schedules in Handbook 2228.2.
  - g. Retire all eligible records to a Federal Records Center. See Chapter 6. Be sure to note on the SF 135 any restrictions on access or release (e.g., Privacy Act). The SF 135 should be submitted to the Center at least 20 days before a planned shipment, if possible.
  - h. Transfer to the National Archives any permanent records stored in HUD office space. See Chapter 7, Section 2.
  - i. Prepare disposal lists or offers on SF 115's to cover any unscheduled records, including automated files. See Chapter 3. Because of Federal Register publication requirements, allow at least 90 days for approval of an SF 115.

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