

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice AS-2301**

**For:** FSA Employees and Contractors

**Disposal of Farm Service Agency (FSA) Records with the Exception of Farm Loan Records**

**Approved by:** Deputy Administrator for Management



**1 Overview**

**A Background**

In December 1999, FSA was informed that all FSA program and administrative official records and non-record documentary material (referred to collectively as “records”) were subject to a general records freeze and regardless of whether or not the records were beyond their normal retention period, FSA was prohibited from destroying any records.

On March 9, 2016, Notice AS-2293, Lifting the General Records Freeze and Disposal of Farm Service Agency (FSA) Records was issued, which indicated the freeze had been rescinded. FSA returned to recordkeeping practices for retention and disposal of records in accordance with established records disposition schedules and active litigation holds.

The agency incurs a financial cost for each record stored at a federal records center (FRC). Additionally, there is a cost of \$5.50 per cubic feet to destroy the records kept at the FRC. The cost to process an SF-135, Records Transmittal and Receipt, is \$45 per box. The cost to shelve a box is \$3.75 per box and to store a box is .23 cents per box per month.

**B Purpose**

This notice informs national, state and county offices that effective immediately:

- offices are authorized to continue the destruction of their records,
- state and county offices are responsible for shredding of documents stored in their facility,
- Management Services Division (MSD) will cover the cost for the destruction of the records stored at a FRC, and
- offices must no longer send records that are past their disposition date to a federal records center.

Disposal Date	Distribution
March 1, 2017	FSA employees and contractors; State Offices relay to County Offices

## 1 Overview (Continued)

### C Contact

For questions regarding this notice contact Keith Holden, FSA Records Officer by:

- e-mail to **keith.holden@wdc.usda.gov**, or
- telephone at 202-772-9137.

## 2 Definitions

### A Records

A federal record is an information resource, in any format, that is:

- created in the course of business,
- received for action, or
- needed to document agency activities.

**Note:** In general the term ‘**records**’ includes all recorded information, regardless of form or characteristics, made or received by a federal agency 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 United States Government or because of the informational value of data in them; and does not include library and museum material made or acquired and preserved solely for reference or exhibition purposes; or duplicate copies of records preserved only for convenience. For purposes of paragraph the term “recorded information” includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form. [44 U.S.C. 3301]

### B Active Records

Active records (electronic and paper) are those official records used to conduct current agency business. Active records are maintained onsite.

## **2 Definitions (Continued)**

### **C Inactive Records**

Inactive records (electronic and paper) are those official records that are no longer needed to conduct agency business. Inactive records are eligible to be retired to onsite storage, retired to offsite storage, destruction (consistent with the established records disposition schedule), or transfer to an FRC.

### **D Non-records**

Non-record documentary material (electronic and paper) is federal government-owned documentary material that does not meet the legal or statutory definition of an official record or that are excluded from the coverage (defined as “non-record materials” by the National Archives and Records Administration (NARA) regulations). Documentary material excluded from the definition of a record includes the following: 1) extra copies of documents that are retained only for convenience of reference, 2) library and museum materials intended solely for reference or exhibition purposes, and 3) stocks of publications and of processed documents. A non-record is documentary material that requires no official action on the part of USDA and upon which no official action is taken on the part of USDA. A non-record is a duplicate copy/duplicate print out of an official record or an exact copy of official record where upon which no additional operational or administrative notation (electronic or handwritten) action has been recorded.

### **E Personal Papers**

Personal papers (electronic and paper) are non-records. NARA regulations define documentary materials not owned by the federal government as 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 USDA business.

### **F Permanent Records**

Permanent records are records determined by NARA that have sufficient historical or other value to warrant continued preservation by the federal government beyond the time they are needed for administrative, legal, or fiscal purposes. Permanent records will eventually be transferred (accessioned), legally and physically to NARA; for headquarters: (<http://www.archives.gov/dc-metro/college-park>) and for state offices (<http://www.archives.gov/locations>), your records may be sent to the nearest location to you.

### **G Temporary Records**

Temporary records are records approved by NARA for disposal by either destruction or donation immediately or after a specified time. The majority of federal records are temporary. If temporary records are kept for 30 years, they will eventually be destroyed. Temporary records can be program or administrative in nature and exist in all formats

### 3 E-Mail and E-Mail Systems

#### A E-Mails Maybe Records

E-mails that are **created or received for action** are official records, if they meet the criteria in the statutory definition of records; that is, the e-mail documents the FSA mission or provides evidence of FSA business transactions

#### B Deleting E-Mails

E-mails that are **not** official records may be deleted when no longer needed or according to agency policy

### 4 Guidance for Disposal of Official Records

#### A Coordination with State Records Management Personnel

To ensure compliance with all current and future litigation holds, FSA offices must not destroy any records (includes official record and non-record documentary material) until the disposal activity has been coordinated with the State records management personnel.

#### B Determining the Status of FSA Official Records

Before taking any action to dispose of (destroy) official FSA records, the national state and county offices **must** determine the status of those records. Offices must confirm that the records are:

- in their entirety eligible for destruction (that is, beyond the established retention date),
- not subject to an active litigation hold, and
- because of the continued residual litigation around the Pigford, Keepseagle, Love and Garcia litigations **the litigation hold will remain for Farm Loan Program (FLP) records**. FLP records are not authorized to be destroyed.

#### C Disposition Instructions

Access the Records Transfer Desk Reference Guide on the records management web site at [http://intranet.fsa.usda.gov/fsa/operations/dam/content/msd/government\\_information\\_management/gim\\_rm\\_reference.htm](http://intranet.fsa.usda.gov/fsa/operations/dam/content/msd/government_information_management/gim_rm_reference.htm). The guide contains specific instructions about the retention of file types. Refer to the File Maintenance and Disposition Manual for Records Group 145, Farm Service Agency, RG 161, Commodity Credit Corporation regarding file codes, dispositions, and newly revised records schedules. The retention periods specified are:

- mandatory, and
- not to be exceeded, unless a specific operational or legal requirement makes it necessary to keep the records past the designated retention period.

## 4 Guidance for Disposal of Official Records (Continued)

### C Disposition Instructions (Continued)

Never destroy any records before the specified time period unless the retention period has passed.

If records maintained are **not** covered by the desk reference guide, contact the MSD records staff. The records must be maintained as permanent records until a disposition schedule for them has been approved.

**Note:** National, state and county offices will only send records to an FRC that are within the retention period and they do not have adequate storage space.

If records are past their retention, prepare and send a KC-703, Request for Destruction of Records, to the state records liaison (SRL) for approval. The SRL will certify the destruction of records and return the approved KC-703 to the records custodian (RC) in the county office. A copy of the KC-703 should be maintained within the county office after the actual destruction date.

**Note:** County offices may bundle multiple request when submitting the KC-703.

### D Assistance

MSD records management personnel will provide assistance in determining the status of FSA records through the appropriate RC or SRL.

SRL's and contractors may contact one of the following when there is a need to determine the status of FSA held electronic and/or paper records:

- Keith Holden according to subparagraph 1 C,
- Sue Brazeal (records analyst) by:
  - e-mail to **sue.brazeal@kcc.usda.gov**, or
  - telephone at 816-926-2635
- Debra Lackey (records analyst) by:
  - e-mail to **debra.lackey@kcc.usda.gov**, or
  - telephone at 816-926-8813.

## 4 Guidance for Disposal of Official Records (Continued)

### E Records in the FRC's

MSD is working with the NARA to develop a plan for NARA to dispose of FSA records currently being stored in the FRC's that are:

- beyond the established retention date, and
- not subject to an active litigation hold.

Unless notified otherwise, FSA offices must not recall records currently being stored in an FRC solely for the purpose of disposing of (destroying) the records.

## 5 Purchasing and Using Shredders

### A Definition of Shredding

Shredding is a destruction process that is used to dispose of certain documents to prevent certain documents from being reconstructed.

### B Policy on Using Shredders

All of FSA records are considered to be restricted. Destruction of restricted records must be done by:

- shredding
- pulping.

**For office shredder destruction of records** - Due to the potential for the records to contain protected data (to include PII), for records destruction FSA offices are to use a shredder that has a maximum shred size (refuse/output) that is no larger than 3/32" x 19/32" (2.4 mm x 15 mm) micro-cut particles. The established micro-cut standard meets the NIST Special Publication 800-88 - Guidelines for Media Sanitization requirement that the size of the refuse/output be small enough that there is reasonable assurance, in proportion to the level of data confidentiality, that the protected data cannot be reconstructed.

### C Requesting PII Compliant Shredders

The FSA privacy officer can provide guidance concerning the purchase of PII compliant shredders that meet/exceed the baseline FSA policy of producing a maximum shred size output of no larger than 3/32" x 19/32" (2.4 mm x 15 mm) micro-cut particles.

**Note:** MSD will provide each state office with a shredder that meets PII standards. MSD will be purchasing shredders for state offices from national office funds. At this time, national office funds are not available to purchase shredders for county offices.

## 5 Purchasing and Using Shredders (Continued)

### D Bulk Shredding

#### **For bulk shredding of records (onsite shredding or transport to a shredding facility)**

- Due to the potential for the records to contain protected data (to include PII), for bulk (large scale) records destruction FSA offices are to have the destruction performed by a vendor that is National Association for Information Destruction (NAID) certified. NAID certified commercial vendors can be located by reviewing the following website <http://directory.naidonline.org/>.

The FSA privacy officer can provide guidance concerning the NAID certified vendors that service a given local area.

## 6 Destroying Records Containing Protected Data

### A Paper and Electronic Media

Paper and electronic media containing protected data shall be destroyed (that is disintegrated, incinerated, melted, pulverized, and/or shredded) to the point where there is reasonable assurance in proportion to the data confidentiality that the data cannot be reconstructed. FSA offices may use any method of destroying paper and/or electronic media containing protected data provided that the method selected and the vendor used meets the “reasonable assurance” requirement.

Where available, FSA offices can have the destruction of paper and/or electronic media containing protected data performed by a qualified federal or state government agency that has a proven capability to properly destroy protected data (for example federal or state government agency operating an approved hi-temp burn barrel).

**Note:** The federal or state government agencies do not need to be NAID certified. When a qualified federal or state government agency is used for the destruction of paper and/or electronic media containing protected data, an FSA employee must witness the destruction of the material. The witnessing FSA employee must also create/retain a written/signed Memorandum for Record (MFR) detailing the confirmed destruction of any paper and/or electronic media that contained protected data.

Questions concerning obtaining PII compliant office shredders/PII compliant bulk shredding can be referred to John Underwood by either of the following:

- e-mail to [john.underwood@kcc.usda.gov](mailto:john.underwood@kcc.usda.gov), or
- telephone at 816-926-6992.

## 6 Destroying Records Containing Protected Data (Continued)

### B Electronic /records

Electronic record, as defined in **36 CFR 1220.18**, means any information that is recorded in a form that only a computer can process and that satisfies the definition of a federal record under the Federal Records Act. The term includes both record content and associated metadata that the agency determines is required to meet agency business need

### C Examples of Electronic Records

The following are example of electronic records:

- graphic images created or maintained only in electronic form and never reproduced in hard copy form
- e-mail that contains statements of policy, rational for a decision, sense of direction, or guidance above and beyond that documented in official files

**Note:** E-mails need to be stored in a medium that adequately provides for the security, safety, and to retrieve the record until its disposition date.

- output of electronic information systems that support Agency management functions, such as statistical survey program, procurement programs, and correspondence tracking system, regardless of whether all or a portion of the information is also maintained in hard copy

### D Electronic Records Destruction

Electronic records can be destroyed (deleted) using the same guidance as indicated in paragraph 4.

## 7 Additional Actions

### A FSA Records Officer

The records officer will be responsible for providing a spreadsheet or NA Form 13001, Notice of Eligibility for Disposal, to FSA program areas and each SRL which identifies records being stored at FRC's that are past their retention dates, and notifying NARA of:

- accessions that are authorized for disposal, and
- active litigations holds and the records subject to the active litigation hold



**7 Additional Actions (Continued)**

**B FSA Program Areas and SRL's**

FSA program areas and SRL's are responsible for:

- reviewing the spreadsheet or Notice of Eligibility for Disposal NA Form 13001 and as needed contact MSD records management personnel identified in subparagraph 2 B for assistance to determine the records eligibility for disposal, and
- working with MSD records management personnel to complete all actions and documentation required for FSA to properly dispose of (destroy) FSA held electronic and/or paper records.