

For: FSA Employees and Contractors

Transferring Records Subject to a Litigation Hold to FRC

Approved by: Deputy Administrator, Management



1 Overview

A Background

FSA is required to preserve, and shall **not** destroy, erase, or alter any documentary materials, including e-mails and other electronically-stored information relating to any information that is subject to a litigation hold.

Reminder: A hold:

- means temporary suspension of disposition actions related to documentary materials, as well as segregation and preservation of such materials because of legal, audit, or investigative needs
- applies to documentary materials held by the agencies as well as FRC.

B Purpose

This notice informs employees and contractors that OGC has issued new instructions concerning the requirement that placed a freeze on transferring records (documentary materials) that are under a litigation hold to FRC.

C Contact

If there are questions about this notice, contact Keith Holden, FSA Records Officer, by either of the following:

- e-mail at keith.holden@wdc.usda.gov
- telephone at 202-690-1560.

<p>Disposal Date</p> <p>September 1, 2012</p>	<p>Distribution</p> <p>All FSA Employees and Contractors; State Offices relay to County Offices</p>
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2 Guidance

A Update

Effective immediately, OGC has with some noted **exceptions**, agreed to rescind the text, “and placing a freeze on the transfer of records to a Federal Records Center (FRC)” from current litigation holds.

When future litigation holds are issued, OGC will place a freeze on the transferring of records to FRC **only** when specific criteria requiring a records transfer freeze has been met.

B Policy

FSA may transfer records that are subject to a litigation hold to FRC unless the litigation hold prohibits the transfer or specific criteria requiring a records transfer freeze has been met (e.g., records transfer freeze is requested by DOJ, OGC senior leadership, or because the nature of the case requires such a records transfer freeze).

Note: Follow the established process for transferring records to FRC. This is also applicable when the disposition date has expired.

The litigation holds issued for the following **remain** in effect:

- Keepseagle
- Pigford I
- Pigford II
- Garcia
- Love.

However, OGC has lifted the freeze on transferring documentary materials that are relevant to Keepseagle, Pigford I, and Pigford II to FRC.

With the **exception** of documentary materials directly relating to the 81 named plaintiffs in Garcia and 10 named plaintiffs in Love, the freeze on transferring documentary materials that are relevant to Garcia and Love to FRC has also been lifted.

To review the list of Garcia and Love named plaintiffs, access the FSA Records Management web site located at http://fsaintranet.sc.egov.usda.gov/records_mgmt/ on the Intranet. See the “Notices” section and click the link titled “Named Plaintiffs.”