

U.S. Office of Government Ethics Records Management Policy

(Updated February 2018)

I. PURPOSE

This directive establishes the policy, principles, and specific program requirements for the life cycle management (creation, maintenance and use, and disposition) of the U.S. Office of Government Ethics (OGE) records in accordance with applicable federal laws, regulations, statutes, directives, and OGE policies. This directive applies to all OGE personnel and contractors working for or on behalf of OGE who create, receive, collect, process, use, and store agency records. This directive supersedes *OGE Records Management Policy*, dated 1/14/1998.

II. AUTHORITIES

This directive complies with 44 U.S.C. Chapters 21, 29, 31, 33, 35; Subchapter B, Records Management, 36 Code of Federal Regulations (CFR); Freedom of Information Act, 5 U.S.C. § 552, as amended; Privacy Act, 5 U.S.C. § 552a, as amended; the *Managing Government Records* Directive (M-12-18) dated August 24, 2012; Office of Management and Budget (OMB) records management issuances and guidance; and all applicable National Archives and Records Administration (NARA) mandated guidance.

III. OBJECTIVES

This directive is intended to:

- A. Establish effective management controls over the creation, maintenance and use, and disposition of records in any medium, including but not limited to: paper; electronic such as electronic messages (*e.g., email, facsimile, Instant Messaging (IM), text messages, voicemail messages*), social media, spreadsheets, websites, and word processing documents; and information systems throughout their life cycle.
- B. Establish records management standards, procedures, and responsibilities for managing OGE records and information in a consistent manner to ensure OGE records are created and preserved to adequately document the functions, policies, decisions, procedures, and essential transactions of the agency.
- C. Ensure OGE records are available for use as long as needed to conduct agency business and properly disposed of or retired in accordance with NARA-approved records disposition schedules.

IV. DEFINITIONS

Adequate and Proper Documentation. A complete and accurate record documenting the organization, function, policies, decisions, procedures, and essential transactions of an agency. The standard of adequate and proper documentation includes creating and maintaining records that

provide the information necessary to protect the legal and financial rights of the government and of persons directly affected by an agency's activities.

Disposition. The actions taken regarding federal records when they are no longer needed for current agency business.

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

Electronic messages. Electronic messages such as electronic mail, facsimile, Instant Messaging (IM), text messaging, voicemails, and electronic messaging systems that are used for purposes of communicating between individuals.

Electronic Communication System. An electronic messaging system (e.g., email, voicemail) that allows individuals to send communications in real-time or for later viewing.

Electronic recordkeeping system/repository. An electronic system in which records are collected, organized, and categorized to facilitate their preservation, retrieval, use, and disposition.

Essential (vital) records. Agency records that are needed to meet operational responsibilities in emergency or natural disaster conditions to protect the legal and financial rights of the government and those affected by government activities.

Information Systems. Systems that contain and provide access to computerized federal records and other information.

Instant Messaging (IM). An electronic messaging client application that allows users concurrently connected to the system to exchange text messages in real time.

Metadata. Data describing the structure, data elements, interrelationships, and other characteristics of electronic records.

Non-record. U.S. Government-owned documentary materials excluded from the legal definition of records or not meeting the requirements of that definition.

Personal papers. Documents belonging to an individual that are not used to conduct agency business. The information is related solely to an individual's own affairs or used exclusively for that individual's convenience.

Record. 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 or because of the informational value of data in them. (44 U.S.C. 3301).

Records disposition schedule. A document that describes agency records, establishes a period for their retention by the agency, and provides mandatory instructions for what to do with them when they are no longer needed for current agency business.

Records management. The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the federal government and effective and economical management of agency operations.

Record series. Documents or file units arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, or have some other relationship arising out of their creation, receipt, or use.

Text Message. A short message that is sent electronically to a device (e.g., Blackberry).

Transfer. The act or process of moving records from one location to another such as from the agency to NARA for permanent preservation.

Voicemail. An electronic telephone message recording system that enables callers to leave voice messages on the receiving user's telephone extension. OGE's voicemail system is not approved for the long-term storage of federal records.

V. GENERAL POLICIES

- A. All OGE personnel must identify and manage federal records, in any medium, containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency that protects the legal and financial rights of the government and persons directly affected by agency or staff activities.
- B. Records must be preserved in accordance with applicable NARA-approved records disposition schedules, statutory and regulatory requirements, and made accessible to OGE senior officials, staff, and the public, as appropriate.
- C. Official agency business must be conducted on authorized OGE information and communication systems as explained in section VI. Recordkeeping Requirements, item D. The use of non-OGE information or communication systems for official agency business is prohibited.
- D. Email records (temporary and permanent) must be retained in an electronic recordkeeping system that supports records management and litigation requirements, including the capability to identify, retrieve, and retain records for as long as they are needed for business use.
- E. Instant messaging (IM) (e.g., *Adobe Connect messaging, Facebook messaging*) and text messaging on OGE-issued Blackberry communication devices is prohibited.
- F. Records and non-record materials are the property of the federal government, not the property of individual employees, and may not be removed from OGE without prior authorization.
- G. Electronic information systems should incorporate records management functions in the design, development, and enhancement phase to properly manage records. When an electronic information system is no longer needed for business use, all records maintained in the system

must be migrated into a new system or disposed of in accordance with NARA-approved disposition schedules prior to decommissioning the system.

- H. Employees and contractors departing from the agency or transferring to another OGE division/branch must identify and transfer any records in their custody to their division/branch records liaison prior to their departure or transfer. *(See Appendix A, Departing or Transferring OGE Senior Officials, Employees, and Contractors' Records Management Responsibilities)*
- I. Annual records management training will be provided by the OGE Records Officer to inform OGE senior officials, employees, and contractors of their records management responsibilities. New employees will receive records management training within 90 days of appointment. Refresher records management training and other records management training will be provided as needed.
- J. Assessments of the records management program and practices will be conducted at least every two years.
- K. OGE will develop and implement an essential (vital) records program for the purpose of identifying, protecting, and managing records essential to OGE operations in the event of an emergency or natural disaster.

VI. RECORDKEEPING REQUIREMENTS

- A. Agency records must be captured, maintained, and managed in an authorized recordkeeping system to facilitate ease of use, access, and disposition consistent with applicable regulations, statutes, and NARA guidance and mandates. Storage of federal records in personal drives is prohibited.
- B. Permanent records including emails will be managed electronically to the fullest extent possible for eventual transfer and accessioning by NARA.
- C. Electronic mail (email) records must be identified, captured, and managed in an authorized electronic recordkeeping system. *(See Electronic Mail Communications Policy and Procedures)*
- D. Electronic messaging from commercial and personal email accounts is prohibited unless the OGE communication system *(e.g., OGE email system)* is not available and a business need requires the use of a commercial or personal email account. In that case, the user must:
 - 1) *(Recommended method)* Send a copy of the email to their OGE email account in the original creation or transmission of the record, or
 - 2) Forward a complete copy of the email to the OGE email account at the time of creation or not later than 20 days after the original creation or transmission of the record.
- E. Websites, social media postings, blog posts, tweets, videos, and other social media communications in which the content constitutes a federal record must be properly identified, captured, and managed in accordance with NARA-approved records disposition schedules.
- F. Non-records including personal papers must be filed separately from records. Non-records and personal papers must be disposed of when no longer needed.

- G. All agency records, including records in electronic information systems, must be covered under a NARA-approved records disposition schedule.
- H. Oral communications such as telephone conversations, voicemails, and discussions from an informal meeting that meet the definition of a federal record should be adequately documented in a memorandum or captured in an authorized electronic recordkeeping system (*e.g., ERCME, OGE electronic records room, Financial Disclosure Tracking System (FDTS), Agency Information Management System (AIMS), Shared drive*). The record should include but is not limited to: date of communication, name(s) and organizational title of the participants, a summary of discussion, decisions reached or actions taken, and any other relevant information.
- I. Records must be properly protected at all times to prevent unauthorized access or disclosure of information.
- J. All agency records must be destroyed in accordance with NARA-approved records disposition schedules.
- K. Essential (vital) records needed by OGE to conduct business under emergency or natural disaster operating conditions must be identified and properly protected in accordance with NARA requirements. A duplicate copy of official records designated as essential (vital) records will be stored off-site or in a system where they will be readily accessible in the event of an emergency or natural disaster.

VII. RESPONSIBILITIES

- A. *OGE Director*, as the head of the agency, is required to establish and maintain an active, continuing program for the economical and efficient management of OGE records. The Director is also responsible for designating a Senior Agency Official for Records Management (SAORM) to oversee the agency's records management program.
- B. *Senior Agency Official for Records Management (SAORM)* is responsible for ensuring OGE efficiently and appropriately complies with all applicable records management statutes, regulations, requirements, and NARA policies. The SAORM's overall responsibilities include:
 - 1) Providing strategic direction for the agency's records management program.
 - 2) Ensuring the creation and preservation of records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency.
 - 3) Overseeing the issuance of internal agency policies establishing program objectives, responsibilities, and authorities for the creation, maintenance, and disposition of agency records.
 - 4) Ensuring the ability to access, retrieve, and manage records throughout their life cycle regardless of format or medium.

- 5) Ensuring the agency protects records against unauthorized removal or loss and ensures all agency staff are informed of their records management responsibilities as defined in NARA regulations and guidance.
- 6) Ensuring compliance with NARA requirements for electronic records to include managing all permanent records to the fullest extent possible for eventual transfer and accessioning by NARA; and managing all email records electronically and retaining them in an appropriate electronic system that supports records management and litigation requirements, including the capability to identify, retrieve, and retain the records for as long as they are needed for business use.
- 7) Designating an Agency Records Officer to lead and manage the agency-wide records management program.
- 8) Submitting records management reports to NARA.
- 9) Supporting records management inspections and other oversight activities.
- 10) Participating in meetings and working groups dedicated to improving records management across the federal government.

C. *Records Officer (RO)* is primarily responsible for leading and managing the agency-wide records management program. The Records Officer's overall responsibilities include:

- 1) Developing OGE policies, standards, and procedures pertaining to records management in accordance with the needs of OGE and all applicable laws, regulations, and requirements.
- 2) Ensuring that adequate recordkeeping requirements are established and implemented for new or revised programs, processes, systems, and procedures.
- 3) Participating in the development and upgrade of automated information systems to ensure the incorporation of proper recordkeeping functionalities.
- 4) Serving as the central point of contact with NARA, the Office of Management and Budget (OMB), General Services Administration (GSA), and other federal agencies relating to records management matters.
- 5) Providing annual mandatory records management training for OGE senior officials, employees, and contractors to inform them of their records management responsibilities.
- 6) Providing records management training for new OGE employees to inform them of their records management responsibilities.
- 7) Providing leadership, guidance, and training to OGE's records liaisons to ensure uniformity in records management activities throughout OGE.
- 8) Developing and implementing records management procedures to ensure that OGE senior officials, employees, and contractors do not destroy or remove federal records from OGE's custody without appropriate authorization.

- 9) Ensuring all records of departing or transferring OGE senior officials, employees, and contractors have been properly captured, transferred/reassigned, or destroyed in accordance with NARA-approved records disposition schedules prior to their departure from OGE or transfer to another OGE division/branch.
 - 10) Conducting regular assessments of records management practices within OGE's divisions and branches to ensure conformance with recordkeeping requirements and providing recommendations for corrective action to resolve records management issues.
 - 11) Overseeing the development and periodic update of record series and electronic system inventories.
 - 12) Developing records schedules for agency records and electronic information systems with assistance from records liaisons. The Records Officer will also facilitate the review and approval of the proposed agency records schedules by NARA and other records management oversight agencies.
 - 13) Overseeing and approving requests for the transfer, retirement, or destruction of inactive records submitted by Records Liaisons.
 - 14) Advising the SAORM on records management issues and developing agency-wide records management policies, procedures, guidance, and training materials.
 - 15) Overseeing records inventories and developing file plans for OGE divisions and branches.
 - 16) Reviewing invoices for the storage of federal records and notifying the Contracting Official of any discrepancies.
 - 17) Conducting records management exit briefings for OGE senior officials, employees, and contractors.
 - 18) Reporting any unlawful or accidental removal, defacing, alteration, or destruction of agency records to NARA.
 - 19) Developing an essential (vital) records program for the purpose of protecting records essential to OGE operations in the event of an emergency or natural disaster.
- D.** *Chief Information Officer (CIO)* is responsible for facilitating collaboration between records management and information technology to efficiently manage electronic records. The CIO's overall responsibilities include:
- 1) Notifying the Records Officer of technology changes that could affect access, retention, or disposition of system records.
 - 2) Applying the necessary access restrictions to agency systems to safeguard records from unauthorized access or disclosure.
 - 3) Ensuring records management functions are addressed in the design, development, and implementation of new or revised information systems.
- E.** *Branch Chiefs and Division Heads* are responsible for ensuring their OGE division/branch implements records management procedures within their division/branch in compliance with this

directive and OGE records management policies and procedures. Branch Chiefs' and Division Heads' overall responsibilities include:

- 1) Designating a Records Liaison and File Custodian within their area of responsibility (e.g., branch or division) to work in conjunction with the Records Officer for the purpose of implementing OGE's records management program.
- 2) Providing support, time, and resources for their Records Liaison and File Custodian to successfully carry out their records management duties.
- 3) Ensuring branch or division staff creates and maintains records to provide adequate and proper documentation of OGE business.
- 4) Notifying the Records Officer of organizational or programmatic changes that will result in the establishment of new types of records, the transfer or disposal of records, or a change in the retention time of the records is required.
- 5) Ensuring departing or transferring employees do not unlawfully remove federal records from the agency.

F. *Records Liaisons (RLs)* are primarily responsible for assisting in the administration of the OGE records management program within their OGE division/branch. Records Liaisons' responsibilities include:

- 1) Implementing OGE records management policies and procedures within their OGE division/branch and ensuring employees within their division/branch comply with OGE recordkeeping policies, procedures, and disposition instructions.
- 2) Serving as the initial point of contact within their specific division/branch for routine records management matters.
- 3) Assisting the Records Officer in conducting records inventories, records management assessments, transferring records to NARA, and developing file plans and retention schedules for records created, received, and maintained within their division/branch.
- 4) Assisting the Records Officer with records management-related activities relating to their OGE division/branch.
- 5) Reporting deficiencies in their OGE division/branch's recordkeeping practices to the Records Officer.
- 6) Evaluating their OGE division/branch's records management program on a regular basis and notifying the Records Officer of unscheduled records, records requiring a schedule change, or implementation or retirement of any electronic information systems.
- 7) Reviewing requests for destruction of temporary records within their OGE division/branch to ensure temporary records are destroyed in accordance with NARA-approved records disposition schedules unless they are subject to a litigation hold or other pending action.
- 8) Notifying the Records Officer of permanent records eligible for transfer to NARA.

- 9) Ensuring all records of departing or transferring employees within their OGE division/branch have been properly captured, transferred/reassigned, or destroyed in accordance with NARA-approved records disposition schedules prior to their departure from OGE or transfer to another OGE division/branch.
 - 10) Attending records management meetings and training sessions conducted by the Records Officer.
- G.** *File Custodians (FCs)* are primarily responsible for maintaining their specific OGE division/branch's official records in official recordkeeping systems. File Custodians' responsibilities include:
- 1) Ensuring that the official records for their OGE division/branch are captured, maintained, and managed in an authorized recordkeeping repository in accordance with OGE's records management policies and procedures.
 - 2) Notifying their branch or division Record Liaison when records are eligible for transfer, retirement, or disposal; or when there is a need to revise disposition instructions.
 - 3) Assisting their division/branch Records Liaison, as needed, with records management activities.
 - 4) Reporting deficiencies in their OGE division/branch's recordkeeping practices to the Records Officer.
 - 5) Assisting their Records Liaison by ensuring all records of departing or transferring employees within their OGE division/branch have been properly captured, transferred/reassigned, or destroyed prior to their departure from the agency or transfer to another OGE division/branch.
 - 6) Attending records management meetings and training sessions conducted by the Records Officer.
- H.** *Legal, External Affairs & Performance Branch Chief* is responsible for providing legal advice, when necessary, on records management policies and laws and notifying the Records Officer when a litigation hold should be applied to records and when such litigation hold is lifted.
- I.** *Freedom of Information Act Officer* is responsible for providing guidance, when necessary, on records subject to an active FOIA matter.
- J.** *Contracting Official* is responsible for ensuring records management language is incorporated in contracts requiring contractors to create, send, or receive federal records. (*See Appendix B, Records Management Language for Contracts*)
- K.** *OGE Employees and Contractors* are responsible for creating, maintaining, protecting, and disposing of records directly relating to their work. OGE employees' and contractors' responsibilities include:
- 1) Creating and managing records, regardless of physical format, necessary to document the agency's official activities, actions, and decisions.

- 2) Complying with OGE records management policies, procedures, and filing instructions.
- 3) Cooperating with the Records Officer and/or their branch's or division's Records Liaison in requests for information and the management of records.
- 4) Ensuring records are properly filed, safeguarded, and maintained in authorized recordkeeping repositories.
- 5) Obtaining approval to destroy temporary long term records (*requiring retention for 180-days or longer*) in accordance with NARA-approved records disposition schedules and never removing records from OGE without prior authorization.
- 6) Identifying and properly managing federal records, including email records, in accordance with this directive and applicable OGE policies and procedures.
- 7) Separating personal papers from federal records.
- 8) Safeguarding records from unauthorized access or disclosure.
- 9) Destroying records in accordance with NARA-approved records disposition schedules.
- 10) Ensuring all records in their possession have been properly captured, filed, or transferred to their Records Liaison prior to their departure from the agency or transfer to another OGE division/branch.
- 11) Attending records management trainings and participating in any other records management related activities such as records management clean-up days, etc.

VIII. UNLAWFUL OR ACCIDENTIAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

- A. Records may not be removed from the legal custody of OGE and must be destroyed in accordance with NARA-approved records disposition schedules.
- B. Willful and unlawful concealment, removal, mutilation, obliteration, falsification, or destruction of federal records is against the law and may lead to a fine, three years imprisonment, or both, and forfeiture of the employee's position and disqualification from holding any office under the United States.
- C. All employees and contractors are required to report any apparent instances of unauthorized disposition to their supervisor, Records Liaison, and the Records Officer.
- D. Any incidents involving unlawful or accidental removal, defacing, alteration, or destruction of records will be reported to NARA.

APPENDIX A

Departing or Transferring OGE Senior Officials, Employees, and Contractors' Records Management Responsibilities

1. REQUIREMENTS FOR DEPARTING PERSONNEL

- A. Prior to departing from the agency or transferring to another division/branch within the agency, you must:
- 1) Ensure all federal records and non-records in your possession are identified;
 - 2) File all federal records in an authorized recordkeeping repository and ensure records are properly secured;
 - 3) Work with your supervisor and division/branch Records Liaison to transfer or reassign records to another employee;
 - 4) Identify any non-records you would like to take with you; and
 - 5) Complete the *Departing OGE Employee, Contractor, and Volunteer Checklist*.
- B. All records must be destroyed in accordance with NARA-approved records disposition schedules unless records are subject to a litigation hold or other pending action. Non-records and personal papers should be destroyed prior to departing from the agency.

2. REMOVAL OF RECORDS

Personal papers and personal notes that were not used to conduct agency business may be removed from the agency without prior approval.

- A. Departing or transferring OGE senior officials, employees, and contractors may not remove from OGE any record or non-record materials:
- 1) Containing national security information or other information of a confidential nature.
 - 2) Relating to any pending or contemplated civil, criminal, or administrative proceeding or other program activity when the information, if released, would impair or prejudice the outcome of the proceeding or government policy determinations, decisions, or other actions.
- B. Departing or transferring OGE senior officials, employees, and contractors may request approval to remove non-records as long as their removal does not:
- 1) Hinder the efficient, continued functioning of OGE or of successor employees;
 - 2) Diminish the information needed for the official business of OGE; or
 - 3) Violate national security, privacy rights, or other interests protected by law.

(Note: Contractors must obtain the Contracting Officer's approval to remove records.)

Examples include, but are not limited to:

- Library materials
- Stocks of publications, blank forms, vendor catalogues
- Extra copies of records unless removal is prohibited as stated above.

APPENDIX B

Records Management Language for Contracts

Federal contracts requiring contractors to create, send, or receive records on behalf of the agency should incorporate records management language to provide clear legal obligations describing how contract employees must handle federal records. The below listed contract language identifies the minimum requirements for contract employees who handle federal records; however, this language does not replace specific records management requirements included within federal information system contracts.

Records Management Obligations

A. *Applicability*

This clause applies to all Contractors whose employees create, send, or receive federal records, regardless of medium, on behalf of the agency.

B. *Definitions*

“Federal record” as defined in 44 U.S.C. § 3301, 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. Federal records include but are not limited to agency records, deliverables, documentation associated with deliverables, and any other records created, received, or maintained by contractors pursuant to the terms of the contract. Personal materials are excluded from the definition of a record.

C. *Requirements*

1. Contractor shall comply with all applicable records management laws, regulations, and statutes, including but not limited to 44 U.S.C. Chapters 21, 29, 31, 33; National Archives and Records Administration (NARA) regulations such as 36 CFR Chapter XII Subchapter B; and policies relating to safeguarding records covered by the Privacy Act of 1974 (5 U.S.C. 552a), as amended. These policies include the preservation of all records, regardless of form or characteristics, mode of transmission, or state of completion.
2. Contractor shall treat all deliverables under the contract as the property of the U.S. Government for which the agency shall have unlimited rights to use, dispose of, or disclose of such data contained in them as it determines to be in the public interest. All data created for government use and delivered to, or falling under the legal control, the government are federal records subject to the provisions of 44 U.S.C. Chapters 21, 29, 31, and 33, the Freedom of Information Act (FOIA), 5 U.S.C. 522, as amended and the Privacy Act of 1974 (5 U.S.C. 552a), as amended and must be managed and scheduled for disposition only as permitted by statute or regulation.
3. Contractor shall maintain all records created for government use or created in the course of performing the contract and/or delivered to, or under the legal control of the government and must be managed in accordance with federal law. Electronic records and associated metadata

must be accompanied by sufficient technical documentation to permit understanding and use of the records and data.

4. Contractors are not authorized to destroy records without prior written consent of the Contracting Officer. The agency and its contractors are responsible for preventing the alienation or unauthorized destruction of records including all forms of mutilation. Records may not be removed from the legal custody of the agency or destroyed except for in accordance with the provisions of the agency records schedules and with the written concurrence of the Contracting Officer. Willful and unlawful destruction, damage or alienation of federal records is subject to the fines and penalties imposed by 18 U.S.C. 2701. The contractor must report to the agency any unlawful or accidental removal, defacing, alteration, or destruction of records. The agency will report the willful and unlawful destruction, damage, or alienation of federal records to NARA.
5. The contractor shall immediately notify the appropriate Contracting Officer upon discovery of any inadvertent or unauthorized disclosures of information, data, documentary materials, records or equipment. Disclosure of non-public information is limited to authorized personnel with a need-to-know as described in the contract. The contractor shall ensure that the appropriate personnel, administrative, technical, and physical safeguards are established to ensure the security and confidentiality of this information, data, documentary material, records and/or equipment is properly protected. The contractor shall not remove material from government facilities or systems, or facilities or systems operated or maintained on the government's behalf, without the express written permission of the Contracting Officer. When information, data, documentary material, records and/or equipment is no longer required, it shall be returned to the agency's control or the Contractor must hold it until otherwise directed. Items returned to the government shall be hand-carried, mailed, emailed, or securely electronically transmitted to the Contracting Officer or address prescribed in the contract. Destruction of records is EXPRESSLY PROHIBITED unless in accordance with Paragraph (4).
6. The contractor is required to obtain the Contracting Officer'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, contracts. The Contractor (and any sub-contractor) is required to abide by government and agency guidance for protecting sensitive, proprietary information, classified, and controlled unclassified information.
7. The contractor shall only use government IT equipment for purposes specifically tied to or authorized by the contract and in accordance with agency policy.
8. The contractor shall not create or maintain any records containing any non-public agency information that are not specifically tied to or authorized by the contract.
9. The contractor shall not retain, use, sell, or disseminate copies of any deliverable that contains information covered by the Privacy Act of 1974 or that which is generally protected from public disclosure by an exemption to the Freedom of Information Act.
10. The agency owns the rights to all data and records produced as part of this contract. All deliverables under the contract are the property of the U.S. Government for the agency shall have unlimited rights to use, dispose of, or disclose such data contained therein as it determines to be

in the public interest. Any contractor rights in the data or deliverables must be identified as required by FAR 52.227-11 through FAR 52.227-20.

11. All contractor employees assigned to this contract who create, work with, or otherwise handle records are required to take agency-provided records management training. The contractor is responsible for confirming training has been completed according to agency policies, including initial training and any annual or refresher training.

D. *Flowdown of requirement to subcontractors*

1. The contractor shall incorporate the substance of this clause, its terms and requirements including this paragraph, in all subcontracts under this contract, and require written subcontractor acknowledgment of same.
2. Violation by a subcontractor of any provision set forth in this clause will be attributed to the contractor.

Document Control

Version Number	Created By	Edited By	Effective Date	Description of changes
1.0	Renolder Cotton		February 15, 2018	OGE Records Management Policy Issuance

This policy is effective upon its publication in the OGE Administrative Manual.



David J. Apol
Acting Director

February 15, 2018
Date

U.S. Office of Government Ethics



NEW OGE EMPLOYEE RECORDS MANAGEMENT TRAINING

August 2, 2021

Records Management For New Employees

Greetings! As a new Office of Government Ethics (OGE) employee, we would like to give you a brief overview of your responsibilities for properly creating, managing, and disposing of Federal records, including those in electronic or digital format.

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What Is Records Management?

Records management refers to a set of activities required for systematically controlling the **creation, distribution, use, maintenance and disposition of recorded information** maintained as **evidence** of business activities and transactions.



Every OGE employee handling record(s) has an obligation to manage agency records in accordance with OGE policies and procedures.

➤ **44 U.S.C. Chapter 31, Records Management by Federal Agencies**

Why Do I Need Records Management Training?

- To **meet compliance** requirements of from OMB/NARA Presidential Directive and the Federal Records Act.
- Improves **communication and awareness** of basic requirements for maintaining electronic and physical records with the program staff.
- Ensures users fully understand the definition of a **“Record”** and a **“Vital Record”** vs. a **“Non-record”**.
- Informs users of the **Records Management Lifecycle** requirements for records retention and disposition scheduling.
- Identifies **Roles and Responsibilities** for users to perform basic RIM functions – Creation, Maintenance, Access, Use and Disposition of Records.



Roles and Responsibilities

Who Is Responsible for Records Management?

- * **OGE Director** – Establishing an agency-wide records management program and designating a Senior Agency Official for Records Management (SAORM).
- * **Senior Agency Official for Records Management** – Implementing the OGE Records Management Program and designating a Records Officer.
- * **Records Officer** – Conducting the day-to-day operations of the OGE Records Management Program.
- * **Chief Information Officer** – Facilitating collaboration between records management and information technology to efficiently manage electronic records.
- * **Division Directors and Branch Chiefs** – Ensuring their OGE division/branch complies with the OGE Records Management Program and designating a Records Liaison and File Custodian.
- * **LEAP Branch Chief** – Providing legal advice, when necessary, on records management policies and laws. Notifying the Records Officer and Records Liaisons when a legal hold on records disposition is needed to support litigation or other legal matters and when the legal hold is lifted.
- * **Freedom of Information Act Officer** – Providing guidance, when necessary, on records subject to an active FOIA matter.
- * **Privacy Officer** – Providing guidance, when necessary, on records subject to an active Privacy Act matter.
- * **Records Liaisons** – Serving as the primary point of contact on records management activities and assisting with the implementation of the OGE Records Management program within their OGE division/branch.
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What Are My Records Management Responsibilities?

- * Recognize all federal and contract employees have records management responsibilities.
 - * Every OGE employee is responsible for managing Agency records. If you create a document using a word processing application, enter information into a database, file a document in a folder, you are a records custodian, and are responsible for ensuring the safety, easy accessibility, and proper disposition of the records in your custody.
- * Work with your Division Program Records liaison and the OGE Records Officer
 - * Adhere to record inventories and file plans for your program area, follow the OGE Records Schedules for categorizing records and coordinate disposition of Federal records past their retention periods and complete the OGE annual mandatory Records Management training.
- * Understand that OGE records created during Federal government business are government property.
 - * Personal records which are not segregated and are “co-mingled” with Federal records are also considered government property. **It is against the law to remove or dispose of Federal records without approval. Unauthorized removal or disposal of Federal records may result in a \$2,000 fine, 3 years imprisonment, or both. (18 U.S.C. 2071).**
- * Complete records management out-processing exit briefing with the OGE Records Officer before you leave.

Understanding Federal Records

Definition of a Federal Records

As defined in 44 U.S.C. 3301, the term includes:

“all *books, papers, maps, photographs, machine-readable materials or other documentary materials*, regardless of physical form or characteristics, made or received by OGE under Federal law or in connection with the **transaction of public business** and preserved or appropriate for preservation by EIA as evidence of its **organization, functions, policies, decisions, procedures, operations or other activities of the Government** or because of the **informational value** of the data in them.”

Simply put, Federal records are any information used to conduct agency business



How Do You Identify a Federal Records

- * Documents created or received on government time, using government equipment, and in connection with the transaction of government business are Federal records.
- * Generally, a document is categorized as a Federal record if one of the following conditions applies:
 - * It is created during business
 - * It is received for action
 - * It is needed to document activities
 - * The office was made responsible for maintaining it

Is it mandated by statute or regulation?



Was it created during business?



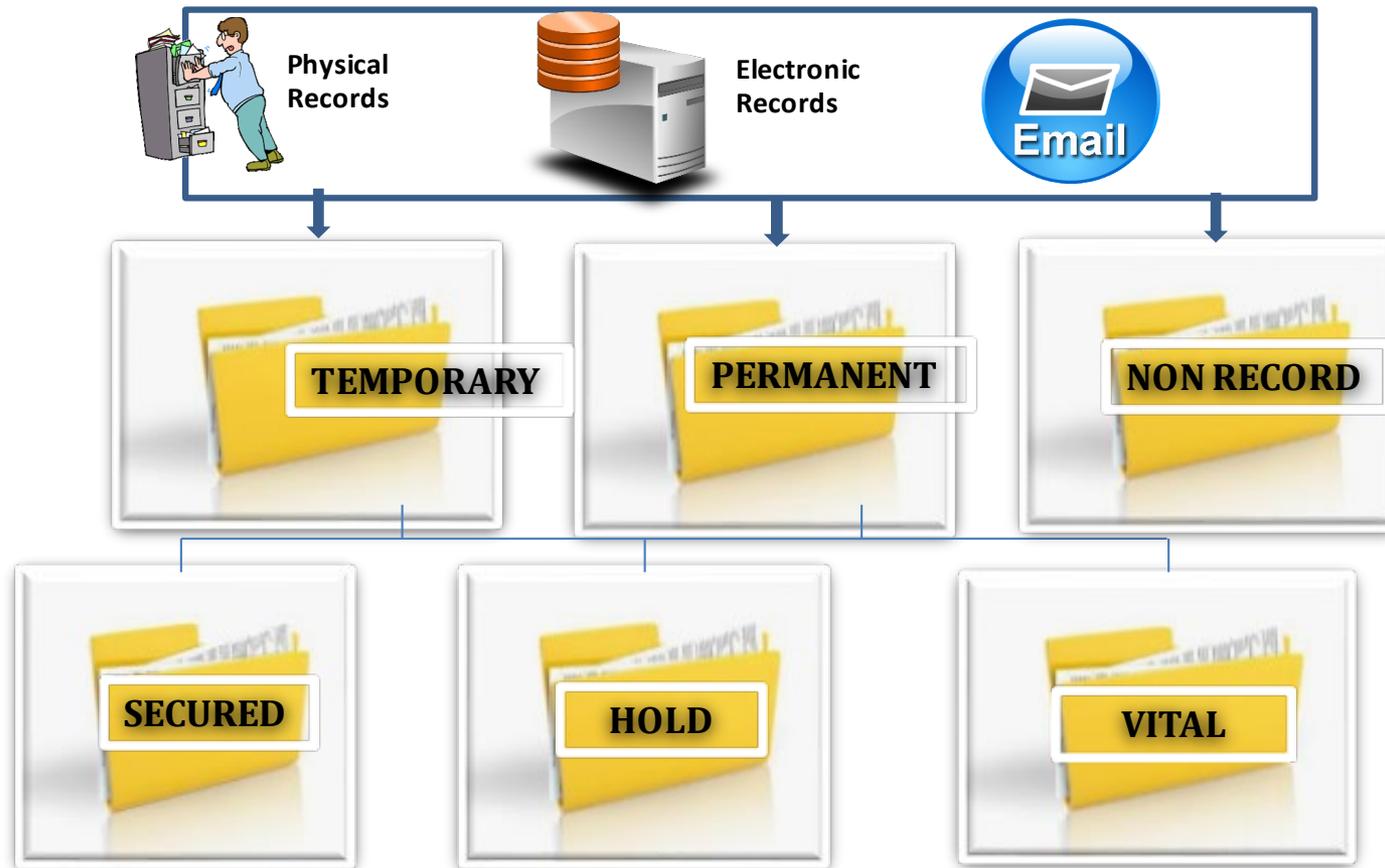
Does it document OGE activities or actions?



Does it support financial obligations or legal claims?



Types of OGE Federal Records



What are Permanent and Temporary Records?



Historical or other value warranting their continued preservation beyond the time needed for administrative, legal or fiscal purposes and is preserved indefinitely



Not preserved indefinitely, temporary records may have a short-term retention period (*less than 180 days*) or a long-term retention period (*longer than 10 years*), timeframe in accordance with a NARA-approved records disposition schedule

- **Advisories** (*e.g., Legal advisory, Program advisory*)
- **Director's Read Files**
- **Director's and Leadership Notes posted on OGE's external website**
- **Ethics Education and Training records**
- **Ethics Program Review Final Reports**
- **OGE Senior Leadership emails and meeting files**
- **Organization Charts**
- **Publications**

- **Requests for information**
- **Emails received for informational purposes** (*e.g., Listservs, Agency-wide emails, etc.*)
- **Input or source records used to update systems**
- **Working files** (*e.g., drafts, copies of records, MS Word documents, research information, etc.*) unless recordkeeping is required
- Budget records**
- DOJ Referrals**
- Ethics Program Review Work Papers**
- Financial Disclosure Reports** (*e.g., OGE Form 278, OGE Form 450*)

Types of OGE Federal Records



Secured Records contain Controlled Unclassified Information (CUI)

- Our CUI program establishes a standardize way for handling unclassified information that requires protection in accordance with law, regulation, and/or Government-wide policies, excluding information that is classified under Executive Order 13526, or the Atomic Energy Act, as amended. The information may be sensitive in nature but is not classified.
- Personally Identifiable Information (PII) records contain information used to distinguish or trace an individual's identity, contact, locate a single person or to identify an individual in context



On-Hold Records are also referred to as “**TIL**” freeze

- Records freezes during discovery phase of litigation by the OGE Office of General Counsel and for congressional inquiries and FOIA requests
- Records that must be retained for audits, investigations and litigation purposes, regardless of the retention period

Types of OGE Federal Records



Essential records, also known as **vital records** or **mission-critical records**, are the **records** necessary for responding to an emergency or disaster; necessary to resume or continue operations

- Vital records are part of OGE's Continuity of Operations Program *and include*:
- Emergency Operating and Mission Essential Records: are needed to meet responsibilities related to OGE continuity of operations.
- Legal and Financial Rights Records: protect the legal and financial rights of the Government and those affected by OGE activities.



Non-records are information that does not meet the definition of a record and should be managed separately from records and **deleted/destroyed** when no longer needed.

- Advertising materials (*e.g., brochures, catalogs, blank forms*)
- Books, periodicals, newspapers, and other library materials
- Stocks of publications (*e.g., Code of Federal Regulations*)
- Email advertisements (*e.g., DC Bar CLE News, Software product offerings*)
- Exact copies of records used for reference purposes

OGE Information Management Systems

Agency Information Management System (AIMS):

System used to capture externally initiated interactions and outreach activities between OGE and its various stakeholders. Also used to capture and summarize oral and written (*e.g., email*) advice provided to Ethics officials, Federal agencies, and the general public.

Director's Read File:

Recordkeeping repository used to manage incoming and outgoing correspondence to/from the OGE Director.

Electronic Records Room:

Recordkeeping repository used to manage OGE records requiring long-term and permanent preservation.

Email Records Capture Management Engine (ERCME):

Recordkeeping repository used to manage email records requiring long-term or permanent preservation for all OGE employees and calendar appointments for OGE Capstone Officials.

Financial Disclosure Tracking System (FDTS):

System used to track and control the status of financial disclosure reports.

Integrity System:

System used to collect, manage, process, and store public financial disclosure reports.

Shared Network Drives:

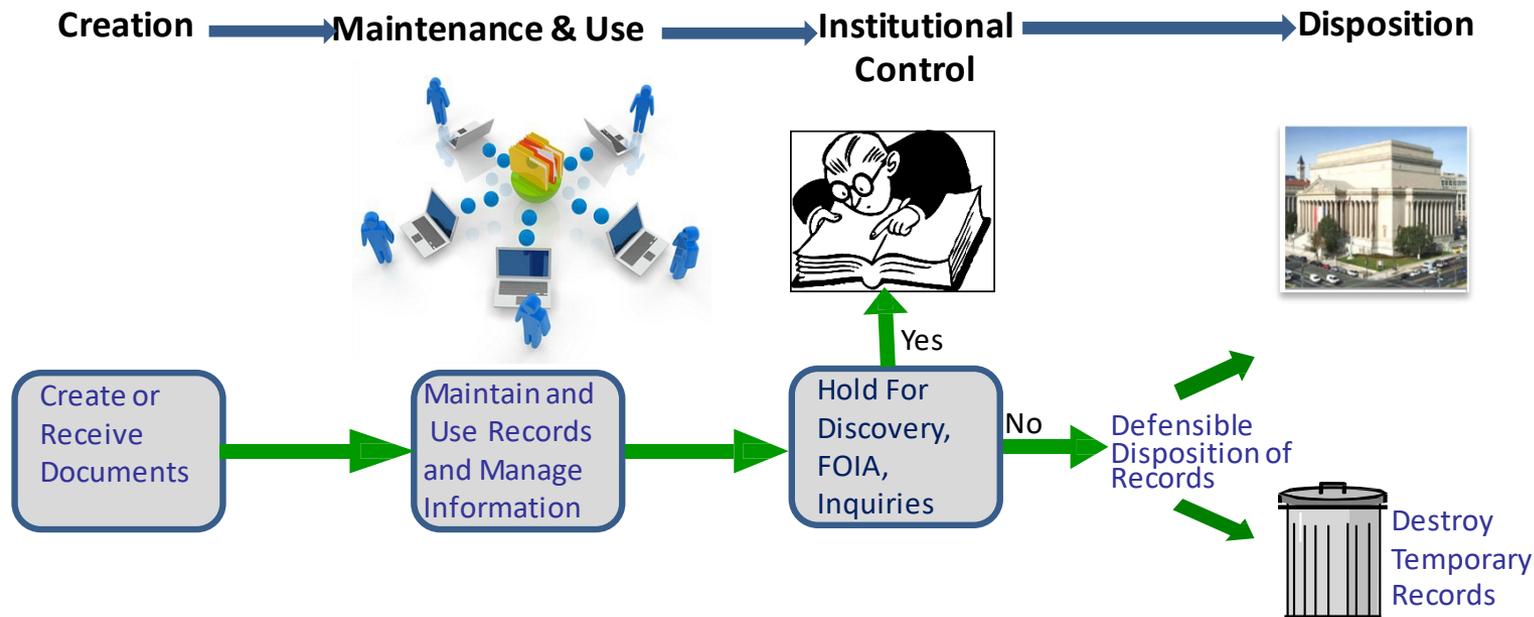
Shared network drives (*e.g., H:/, J:/, N:/, T:/, X:/, etc.*) are available for use by authorized OGE employees to manage short-term temporary records and working files; however, long-term records requiring long-term preservation may also be maintained on shared network drives, when necessary.

G:/ Personal Network Drive:

Federal records should not be maintained in your personal

Lifecycle of Records

Records Management Lifecycle



Most OGE records are temporary and may be destroyed in accordance with NARA-approved records disposition schedules.

Approximately 2-5% of OGE's records require permanent preservation and must be transferred to the National Archives

OGE Retention Schedules

OGE Records Retention Schedules

OGE Program Records Schedules

Establishes legal authority for the disposition of records that are unique to OGE programs approved by NARA.

- * OGE has twenty-five (25) unique schedules and their corresponding retention periods for program records.

General Records Schedule (GRS)

GRS provides mandatory disposal authorization for Temporary “*Administrative*” records (*personnel, finance, procurement*) common to all Federal agencies.

- * GRS 2.8: Employee Ethics Record schedule covers records documenting the activities of executive branch agency ethics program offices.
- * GRS 6.1 is used for categorizing Permanent and Temporary e-mail records under the CAPSTONE Approach.

Unscheduled Records

Unscheduled records are not eligible for destruction until a disposition schedule has been approved by NARA.

- * Most OGE records are temporary and may be destroyed in accordance with NARA-approved records disposition schedules.
- * Approximately 2-5% of OGE’s records require permanent preservation and must be transferred to the National Archives

Electronic Messages

Electronic Messages

Electronic messages are electronic mail, facsimile, Instant Messaging (IM), text messaging, voicemails, and electronic messaging systems that are used for the purposes of communicating between individuals.

OGE employees and contractors are prohibited from using OGE electronic messaging systems for the purposes of chatting, Instant Messaging, and text messaging.

Electronic messages may qualify as a record if they:

- Are used to conduct agency business;
- Document actions taken, decisions made, advice or recommendations to agency officials, Members of Congress, or other external sources;
- Communicate the formulation and execution of high-level OGE policies and programs;
- Document important meetings or oral communications; or
- Are needed to protect the financial, legal, and other rights of the government and of persons directly affected by the government's actions.

Email as Federal Records

Email can be considered a federal record if it provides substantive comments, provides documentation of OGE decisions and commitments, or conveys information on important OGE activities.

- Determine if the content of the email message meets the definition of a record requiring short-term (180 days or less) or long-term (more than 180 days) retention.
- Save email records requiring long-term retention in an authorized OGE recordkeeping repository (*e.g., AIMS, ERCME, etc.*) prior to 180 days after creation or receipt. (*Note: Emails created and received in your Outlook email account will be auto-deleted after 180 days.*)
- Delete non-records and short-term email records as aligned with NARA-approved retention schedules
- You may also delete email records from your Outlook Inbox or Sent box after they have been captured in an authorized recordkeeping repository
- Capstone Officials (*e.g., OGE Director, Chief of Staff, General Counsel, Deputy Director for Compliance Division, Chief Information Officer*) emails require permanent preservation and must be managed in ERCME
- Capstone Officials emails are maintained in ERCME for up to 7 years unless authorized for disposal under a NARA-approved retention schedule with a shorter retention period

Use of Personal Devices and Non-OGE Electronic Messaging Accounts

OGE employees and contractors are prohibited from using personal devices and commercial (non-OGE) electronic messaging accounts (*e.g., google, etc.*).

When conducting agency business unless OGE communication systems (*e.g., Outlook*) are not available for use due to exceptional circumstances such as a natural disaster.

If a commercial (non-OGE) electronic messaging account is used to send or receive Federal records, OGE employees and contractors must:

1. Send a copy of the message to the OGE email account in the original creation or transmission of the record; (*Recommended*) or
2. Forward a complete copy of the record to an OGE electronic messaging account within 20 days after the original creation or transmission of the record



Test Your Knowledge

Exercise 1

OGE employees and contractors records management responsibilities include: (Fill in the blank)

- Creating records necessary to adequately document your actions and decisions when conducting agency business.
- Maintaining files by ensuring records are properly filed, available for use when needed, and protected from unauthorized use or disclosure.
- Properly disposing of records in accordance with NARA-approved Records Disposition Schedules.

Exercise 2

Patrick created a working file on the H:/shared network drive to manage drafts, MS Word documents, research files, and other related materials. He has filed the records in the Electronic Records Room.

What should he do with the working file?

- a) Maintain the working file on the H:/ shared network drive indefinitely.
- b) Delete the working file.

True or False

A records disposition schedule provides mandatory instructions for the disposition of records when they are no longer needed by the agency.

TRUE

Unscheduled records should not be destroyed until a records disposition schedule has been approved by NARA.

TRUE

Email records may be retained indefinitely in your Outlook email (Inbox or Sent) box.

FALSE

You can refer to your OGE division/branch file plan to identify records requiring preservation.

TRUE

Congratulations!
You have successfully
completed the
New OGE Employee Records
Management Training

Frequently Asked Questions (FAQs) About Records Management During the COVID-19 Pandemic



Records Management Related to Teleworking

April, 2020

How should agencies capture and maintain records created while staff are teleworking during the COVID-19 pandemic?

Employees on telework should continue to manage all records in accordance with their agency policies and procedures.

Some teleworking employees may find that they use personal email accounts or other electronic messaging applications, like text messages or messaging apps within social media or video conferencing tools, to communicate for work. Please note the Federal Records Act ([44 U.S.C. 2911](#)) requires federal employees who use non-official electronic messaging accounts to copy their electronic messages to an official account or forward a copy to an official account within 20 days (when the messages are not transitory records with a retention of less than 20 days).

OGE employees have three basic obligations regarding Federal records

- Create records needed to fulfill your responsibilities and record decisions and actions taken.
- Responsibly manage records so that information can be found when needed
- Destroy Agency records in accordance with agency records schedules and Federal regulations

Employees also must consider and follow agency-specific policies for managing records that contain personally-identifiable, controlled unclassified information or other sensitive data.

Do my records management responsibilities change in a telework environment?

No. OGE employee records management responsibilities do not change in the telework environment. Teleworking employees have the same responsibility for managing records generated or received in the course of their work, irrespective of location. OGE employees should continue to ensure substantive records are put in our Electronic Records Room or other applicable information management tools, managing our OGE records created in the course of teleworking.

Does teleworking change the way I use and manage records?

No. Your records and share drive directories organization should demonstrate records are safely stored and efficiently retrieved when necessary. You are also responsible for ensuring all records created or received while teleworking remain in your custody at all times, and that the proper safeguards are in place to protect records.

What regulations must I follow for managing records while teleworking?

Federal Records Management regulations don't change based on teleworking. You must maintain, store, and preserve all Federal records created or received during the course of official business no matter where you work, in accordance with requirements of the Federal Records Act, the Freedom of Information Act, the Privacy Act, the Federal Information Security Management Act, OGE records retention schedules, judicial orders and Congressional direction.

Are records related to agency response to COVID-19 covered by the GRS?

GRS 5.3, Continuity and Emergency Planning Records, only covers records related to Federal agency internal emergency planning to protect people, government facilities, equipment, and records; to safeguard classified or sensitive information; to ensure continuity of agency operations in the face of potential natural and man-made disasters; and to facilitate timely recovery and return to normal agency operations once the emergency or disaster has passed. This would include planning for the COVID-19 pandemic.

In regard to COVID-19 internal emergency planning records, the GRS indicates that plans that are acted upon in the event of a national emergency may be of permanent value. Agencies may request to schedule these records as permanent. (See GRS 5.3, item 010, Note 1). This does not mean that all internal emergency plans related to COVID-19 are permanent, only that NARA will consider schedules from agencies that believe these plans should be permanent.

If employees print at home, are those printouts Federal records?

Agencies should consider the implications of allowing printing at home, including from a records management, FOIA, and information security perspective. If printouts contain unique information, including handwritten notes, they may need to be managed separately from electronic files that lack this information. Agencies should review GRS 5.2 and provide instructions to employees on when these printouts may be transitory or intermediary records or when another records schedule may apply.

What are my records management responsibilities for WebEx or another video conferencing platform?

OGE employee records management responsibilities do not change using WebEx or any other virtual environment collaboration or phone conferencing tool intended to support OGE business meetings and team work. Continue to manage the records created with these tools as you would if the meetings were held with the same technology while in the office. OGE employees should continue to ensure substantive records are put in our Electronic Records Room or other applicable information management tools.

Are WebEx recordings records?

WebEx is not an official repository for OGE records. There are other OGE tools which serve as official OGE recordkeeping archival systems, which are subject to OGE retention policies and other recordkeeping requirements.

How do I manage information from WebEx?

OGE employees should continue to ensure substantive records are put in our Electronic Records Room or other applicable information management tools. WebEx recordings do not automatically delete. Recordings and files initiated or uploaded are stored on your “My WebEx” page and will remain active until deleted. Employees can delete the content at any time.

Is there a records disposition authority for WebEx?

No. Not applicable as WebEx, isn't an OGE system of record. OGE does not store official OGE records on this platform.

OGE Records Management and Teleworking



What are my records management responsibilities in a telework environment?

OGE employees have three basic obligations regarding Federal records

- Create records needed to fulfill your responsibilities and record decisions and actions taken.
- Properly manage records so that information can be found when needed
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Employees also must consider and follow agency-specific policies for managing records that contain personally-identifiable, controlled unclassified information or other sensitive data.

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Does teleworking change the way I use and manage records?

No. Your records and share drive directories organization should demonstrate records are safely stored and efficiently retrieved when necessary. You are also responsible for ensuring all records created or received while teleworking remain in your custody at all times, and that the proper safeguards are in place to protect records.

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Also, in the Federal Records Act (44 U.S.C. 2911) federal employees who use non-official accounts must copy their electronic messages to an official account or forward a copy to an official account within 20 days after original creation or transmission of the record.

What are my records management responsibilities for WebEx?

OGE employee records management responsibilities do not change as we use WebEx or any other collaboration or phone conferencing tool intended to support OGE business meetings and team work. OGE employees should continue to ensure substantive records are put in our Electronic Records Room or other applicable information management tools.

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