§ 2909. Retention of records

The Archivist may empower a Federal agency to retain records for a longer period than that specified in disposal schedules, and may withdraw disposal authorizations covering records listed in disposal schedules. The Archivist shall promulgate regulations in accordance with section 2104(a) of this title to implement this section.


HISTORICAL AND REVISION NOTES


AMENDMENTS


§ 2910. Preservation of Freedmen’s Bureau records

The Archivist shall preserve the records of the Bureau of Refugees, Freedmen, and Abandoned Lands, commonly referred to as the “Freedmen’s Bureau”, by using—

(1) microfilm technology for preservation of the documents comprising these records so that they can be maintained for future generations; and

(2) the results of the pilot project with the University of Florida to create future partnerships with Howard University and other institutions for the purposes of indexing these records and making them more easily accessible to the public, including historians, genealogists, and students, and for any other purposes determined by the Archivist.

(Added Pub. L. 106–444, § 2(a), Nov. 6, 2000, 114 Stat. 1929.)

CHAPTER 31—RECORDS MANAGEMENT BY FEDERAL AGENCIES

Sec. 3101. Records management by agency heads; general duties

3102. Establishment of program of management.

3103. Transfer of records to records centers.

3104. Certifications and determinations on transferred records.

3105. Safeguards.

3106. Unlawful removal, destruction of records.

3107. Authority of Comptroller General.

AMENDMENTS


§ 3101. Records management by agency heads; general duties

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.


HISTORICAL AND REVISION NOTES


MANAGING GOVERNMENT RECORDS

Memorandum of President of the United States, Nov. 28, 2011, 76 F.R. 75423, provided:

Memorandum for the Heads of Executive Departments and Agencies

SECTION 1. Purpose. This memorandum begins an executive branch-wide effort to reform records management policies and practices. Improving records management will improve performance and promote openness and accountability by better documenting agency actions and decisions. Records transferred to the National Archives and Records Administration (NARA) provide the prism through which future generations will understand and learn from our actions and decisions. Modernized records management will also help executive departments and agencies (agencies) minimize costs and operate more efficiently. Improved records management thus builds on Executive Order 13589 of November 9, 2011 (Promoting Efficient Spending), which directed agencies to reduce spending and focus on mission-critical functions.

When records are well-managed, agencies can use them to assess the impact of programs, to reduce redundant efforts, to save money, and to share knowledge within and across their organizations. In these ways, proper records management is the backbone of open Government.

Decades of technological advances have transformed agency operations, creating challenges and opportunities for agency records management. Greater reliance on electronic communication and systems has radically increased the volume and diversity of information that
agencies must manage. With proper planning, technol-
ogy can make these records less burdensome to
manage and easier to use and share. But if records
management policies and practices are not updated for
a digital age, the surge in information could overwhelm
agency systems, leading to higher costs and lost
records.

We must address these challenges while using the op-
portunity to develop a 21st-century framework for the
management of Government records. This framework
will provide a foundation for open Government, lever-
age information to improve agency performance, and
reduce unnecessary costs and burdens.

SIRC. 2. Agency Commitments to Records Management Re-
form. (a) The head of each agency shall:
(i) ensure that the successful implementation of
records management requirements in law, regulation,
and this memorandum is a priority for senior agency
management;
(ii) ensure that proper resources are allocated to the
effective implementation of such requirements; and
(iii) within 30 days of the date of this memorandum,
designate in writing to the Archivist of the United
States (Archivist), a senior agency official to supervise
the review required by subsection (b) of this section, in
coordination with the agency’s Records Officer, Chief
Information Officer, and General Counsel.

(b) Within 120 days of the date of this memorandum,
each agency head shall submit a report to the Archivist
and the Director of the Office of Management and
Budget (OMB) that:
(i) describes the agency’s current plans for improving
or maintaining its records management program, par-
pecially with respect to managing electronic records,
including email and social media, deploying cloud-
based services or storage solutions, and meeting other
records challenges;
(ii) identifies any provisions, or omissions, in rel-
levant statutes, regulations, or official NARA guidance
that currently pose an obstacle to the agency’s adop-
tion of sound, cost-effective records management poli-
cies and practices; and
(iii) identifies policies or programs that, if included
in the Records Management Directive required by sec-
tion 3 of this memorandum or adopted or implemented
by NARA, would assist the agency’s efforts to improve
records management.

The reports submitted pursuant to this subsection
should supplement, and therefore need not duplicate,
information provided by agencies to NARA pursuant to
other reporting obligations.

SIRC. 3. Records Management Directive. (a) Within 120
days of the deadline for reports submitted pursuant to
section (b) of this memorandum, the Director of OMB
and the Archivist, in coordination with the Associate
Attorney General, shall issue a Records Management
Directive that directs agency heads to take specific
steps to reform and improve records management poli-
cies and practices within their agency. The directive
shall focus on:
(i) creating a Government-wide records management
framework that is more efficient and cost-effective;
(ii) promoting records management policies and prac-
tices that enhance the capability of agencies to fulfill
their statutory missions;
(iii) maintaining accountability through documenta-
tion of agency actions;
(iv) increasing open Government and appropriate
public access to Government records;
(v) supporting agency compliance with applicable
legal requirements related to the preservation of infor-
mation relevant to litigation; and
(vi) transitioning from paper-based records manage-
ment to electronic records management where feasible.

(b) In the course of developing the directive, the Archi-
vist, in coordination with the Director of OMB and
the Associate Attorney General, shall review relevant
statutes, regulations, and official NARA guidance to
identify opportunities for reforms that would facilitate
improved Government-wide records management prac-
tices, particularly with respect to electronic records.
The Archivist, in coordination with the Director of
OMB and the Associate Attorney General, shall present
to the President the results of this review, no later
than the date of the directive’s issuance, to facilitate
potential updates to the laws, regulations, and policies
governing the management of Federal records.

c) In developing the directive, the Director of OMB
and the Archivist, in coordination with the Associate
Attorney General, shall consult with other affected
agencies, interagency groups, and public stakeholders.

SIRC. 4. General Provisions. (a) This memorandum shall
be implemented consistent with applicable law and sub-
ject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed
to impair or otherwise affect:
(i) authority granted by law to a department or agen-
cy, or the head thereof; or
(ii) functions of the Director of OMB relating to budg-
tary, administrative, or legislative proposals.

(c) This memorandum is not intended to, and does
not, create any right or benefit, substantive or proce-
dural, enforceable at law or in equity by any party
against the United States, its departments, agencies, or
entities, its officers, employees, or agents, or any other
person.

Barack Obama.

§ 3102. Establishment of program of management

The head of each Federal agency shall estab-
lish and maintain an active, continuing program
for the economical and efficient management of
the records of the agency. The program, among
other things, shall provide for:

(1) effective controls over the creation and
over the maintenance and use of records in the
conduct of current business;

(2) cooperation with the Administrator of
General Services and the Archivist in applying
standards, procedures, and techniques de-
signed to improve the management of records,
and facilitate the segregation and disposal of
records of temporary value; and

(3) compliance with sections 2101–2117,
2501–2507, 2901–2909, and 3101–3107, of this title
and the regulations issued under them.

Stat. 2290.)

HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §396(b) (June 30, 1949,
ch. 288, title V, §506(b), as added Sept. 5, 1950, ch. 849,
§6(d), 64 Stat. 585).

AMENDMENTS

1984—Pars. (2), (3). Pub. L. 98–497 inserted “and the
Archivist” after “Administrator of General Services” in
par. (2), and substituted “sections 2101–2117” for
“sections 2101–2115” and struck out “2901” before
“2901” in par. (3).

(1) “the creation and over the maintenance” for “the
creation, maintenance,” and in par. (3) reference to sec-
tions “2901–2909” for “2901, 2903–2909” of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–497 effective Apr. 1, 1985,
see section 301 of Pub. L. 98–497, set out as a note under
section 2102 of this title.
§ 3103. Transfer of records to records centers

When the head of a Federal agency determines that such action may affect substantial economies or increased operating efficiency, he shall provide for the transfer of records to a records center maintained and operated by the Archivist, or, when approved by the Archivist, to a center maintained and operated by the head of the Federal agency.


Prior Provisions


Amendments


Effective Date of 1984 Amendment


§ 3104. Certifications and determinations on transferred records

An official of the Government who is authorized to certify to facts on the basis of records in his custody, may certify to facts on the basis of records that have been transferred by him or his predecessors to the Archivist, and may authorize the Archivist to certify to facts and to make administrative determinations on the basis of records transferred to the Archivist, notwithstanding any other law.


Historical and Revision Notes


Amendments


Effective Date of 1984 Amendment


§ 3105. Safeguards

The head of each Federal agency shall establish safeguards against the removal or loss of records he determines to be necessary and required by regulations of the Archivist. Safeguards shall include making it known to officials and employees of the agency—

(1) that records in the custody of the agency are not to be alienated or destroyed except in accordance with sections 3301–3314 of this title, and

(2) the penalties provided by law for the unlawful removal or destruction of records.


Historical and Revision Notes

Based on 44 U.S. Code, 1964 ed., § 396(e) (June 30, 1949, ch. 288, title V, § 506(e), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

Amendments


Effective Date of 1984 Amendment


§ 3106. Unlawful removal, destruction of records

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, or destruction of records in the custody of the agency of which he is the head that shall come to his attention, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records he knows or has reason to believe have been unlawfully removed from his agency, or from another Federal agency whose records have been transferred to his legal custody. In any case in which the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.


Historical and Revision Notes

Based on 44 U.S. Code, 1964 ed., § 396(f) (June 30, 1949, ch. 288, title V, § 506(f), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583)

Amendments

1984—Pub. L. 98–497, § 107(b)(21), substituted “Archivist” for “Administrator of General Services” and “Archivist” for “Administrator”.

Pub. L. 98–497, § 203(b), inserted at end “In any case in which the head of the agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.”

Effective Date of 1984 Amendment


§ 3107. Authority of Comptroller General

Chapters 21, 25, 27, 29, and 31 of this title do not limit the authority of the Comptroller General of the United States with respect to prescribing accounting systems, forms, and procedures, or lessen the responsibility of collecting

1 See References in Text note below.
and disbursing officers for rendition of their accounts for settlement by the Government Accountability Office.


**HISTORICAL AND REVISION NOTES**

Based on 44 U.S. Code, 1964 ed., § 396(g) (June 30, 1949, ch. 288, title V, § 506(g), as added Sept. 5, 1950, ch. 849, § 6(d), 64 Stat. 583).

**REFERENCES IN TEXT**


**AMENDMENTS**


**CHAPTER 33—DISPOSAL OF RECORDS**

Sec. 3301. Definition of records.

3302. Regulations covering lists of records for disposal, procedure for disposal, and standards for reproduction.

3303. Lists and schedules of records to be submitted to Archivist by head of each Government agency. 1

3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records.

3304 to 3307. Repealed.]

3308. Disposal of similar records where prior disposal was authorized.

3309. Preservation of claims of Government until settled in Government Accountability Office; disposal authorized upon written approval of Comptroller General.

3310. Disposal of records constituting menace to health, life, or property.

3311. Destruction of records outside continental United States in time of war or when hostile action seems imminent; written report to Archivist.

3312. Photographs or microphotographs of records considered as originals; certified reproductions admissible in evidence.

3313. Moneys from sale of records payable into the Treasury.

3314. Procedures for disposal of records exclusive.

3315. Definitions.

3316. Establishment of Commission.

3317. Duties of Commission.

3318. Membership.

3319. Director and staff; experts and consultants.


3321. Support services.


3323. Termination.

3324. Authorization of appropriations.

**AMENDMENTS**


1Does not conform to section catchline.