

Emerald Corporate Center Economic Development Corporation of Sullivan County

Records Management and Retention Policy

ARTICLE I. INTRODUCTION

Section 1. The Emerald Corporate Center Economic Development Corporation ("Corporation") requires its directors, officers, employees, volunteers, agents and other personnel to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. The purpose of this Records Management and Retention Policy ("Policy") is to ensure that all Records (as defined in Section 3 of this Article) necessary for business and compliance reasons will be retained for a period of time that will reasonably assure their availability when needed, but for no period of time longer than reasonably necessary. This Policy is intended to supplement but not replace any state and federal laws governing the destruction of documents and records applicable to nonprofit and charitable organizations.

Section 2. It is the policy of the Corporation to retain and manage all Records in accordance with uniform guidelines, practices, and procedures. All Corporation directors, officers, employees, volunteers, agents and other personnel (all such persons are referred to in this Policy as "Corporation personnel") shall manage, protect, and maintain all Records in accordance with the Records retention schedule ("Retention Schedule," attached as Schedule 1) and this Policy.

Section 3. "Records" means all documents, files, or records created by any Corporation personnel while acting within the course and scope of his or her duties pertaining to Corporation business or operations, including but not limited to: computer records, electronic mail ("e-mail"), voice mail messages, handwritings, photographs, photocopies, or facsimile, regardless of the manner in which the record has been stored. Specific categories and types of Records are contained in the Retention Schedule.

Section 4. All Records required to be retained to document Corporation's legal compliance, or otherwise required by law, rule or regulation to be retained, shall be retained for the periods required by law as described in the Retention Schedule. All Records required to be retained due to pending or threatened litigation or investigation shall be retained for so long as the litigation or investigation is active, plus any additional tail period as may be provided for in this Policy and the Retention Schedule.

ARTICLE II. SCOPE

Section 1. All Records pertaining to Corporation business maintained or created by any Corporation personnel, including any Records retained off Corporation property, are subject to the requirements of this Policy. The format of Records to be retained may vary, e.g., hard copy original, photocopy, facsimile, microfilm, microfiche, computer file, e-mail, computerized image. Regardless of the format selected, Records must be safeguarded and easily accessible.

In addition to paper Records, this Policy applies to all electronic Records, including Records created or maintained by Corporation personnel remotely, such as on home personal computers or laptops.

Section 2. To the extent possible, the Record retention guidelines contained in this Policy should apply to all applicable Records created, maintained, stored, or otherwise in the possession of Corporation's third party vendors.

ARTICLE III. LEGAL HOLD

Section 1. Retention procedures will be suspended when a Record or group of Records are placed on legal hold ("Legal Hold"). A Legal Hold requires preservation of appropriate Records under special circumstances, such as litigation, government investigations or consent decrees. In the event that Corporation's Board of Directors or management learns of any claim that could reasonably give rise to litigation or government investigation, Corporation shall consult with legal counsel as to the need for a Legal Hold. In such case, Corporation in consultation with legal counsel will determine and identify what Records are required to be placed under a Legal Hold.

Section 2. Individual Corporation personnel will be notified if a Legal Hold is placed on Records for which the individual is responsible. The individual is then required to locate, index and protect the necessary Records. Any Record that is relevant to a Legal Hold must be retained and preserved. If the individual is unsure whether a Record is relevant to a Legal Hold, the individual should protect that Record until he or she receives clarification from his or her supervisor following Corporation's consultation with its legal counsel. FAILURE TO COMPLY WITH A LEGAL HOLD MAY RESULT IN SIGNIFICANT RISK, EXPOSURE OR LIABILITY TO CORPORATION.

Section 3. A Legal Hold remains effective until it is released in writing by Corporation after consultation with legal counsel. Following the final resolution of the relevant litigation, government investigation or consent decree, Corporation will consult with legal counsel as to the release of the Legal Hold. After the individual receives written notice, the individual may return all Records relevant to the Legal Hold to their normal retention procedures.

ARTICLE IV. ADMINISTRATION

Section 1. This Policy is to be administered by the Executive Director/President. Questions regarding this Policy should be directed to the Executive Director/President of the Corporation.

Section 2. Guidelines for retention of Records are provided for in the Retention Schedule. Any changes to the Retention Schedule must be approved by the Records Management Committee.

Section 3. All Records shall be created, maintained and stored in a manner that complies with Corporation's Records storage, accessibility and retrieval procedures.

Section 4. Records kept on-site should be destroyed in accordance with the Retention Schedule. Records that are sent off-site shall be labeled with a destruction date.

Each January, the Executive Director will review a list of all Records that have reached the destruction date, and will confirm that the Records can be destroyed, to ensure the Corporation's continued ability to produce Records for known investigations or litigation.

If Corporation uses an outside vendor for storage and/or destruction of Records, after approval for destruction, the Records storage vendor shall shred or otherwise destroy the noted Records and provide a certificate of destruction in accordance with this Policy.

Destruction of electronic Records shall utilize a method to ensure the electronic Records are completely destroyed and not retrievable from any storage media.

Section 5. The Records Management Committee shall meet annually to review and, if necessary, update this Policy to comport with changed business practices and systems and new or amended laws or regulations. Any changes to this Policy must be approved in writing by the Corporation's Board of Directors [OR Records Management Committee OR Executive Director]. Changes will be distributed to relevant Corporation personnel.

Section 6. Failure to comply with this Policy may result in disciplinary action, up to and including termination of employment, volunteer, or board member status.

Approved and adopted this 12 day of December 2012



RECORDS MANAGEMENT AND RETENTION POLICY

SCHEDULE 1: RETENTION SCHEDULE

ARTICLE I. INTRODUCTION

In accordance with Corporation's Records Management and Retention Policy ("Policy"), this Schedule 1 ("Retention Schedule") sets forth retention periods applicable to Records held by Corporation's current and future offices and locations. To the extent that a Record is included in more than one category, the longer retention period shall apply. Records which are (i) not identified in the Retention Schedule, (ii) no longer needed for Corporation business or operations and (iii) not subject to a Legal Hold, should be promptly destroyed.

ARTICLE II. DEFINITIONS

Section 1. **Active / Inactive Records.** Records may be classified as either "Active" or "Inactive" Records.

- (a) "Active Records" are Records that are regularly referenced or required for current uses. A Record is considered Active if it meets at least one of the following criteria:
- 1) There is a regulatory or statutory requirement to keep a Record;
 - 2) It would be advantageous to Corporation to be able to access a Record quickly;
 - 3) A Record will be needed for reference at a specific time in the future; or
 - 4) The custodian of the Record makes the determination that a Record may be retained as an Active Record.
- (b) "Inactive Records" are those Records that are no longer needed for current business. Inactive Records are those Records that need not be readily available but still must be retained for legal, fiscal, operational or historical purposes. Inactive Records may be archived at a remote location(s).

Section 2. **"C + x":** Refers to a retention period, in which "C" refers to the year of the Record's creation or acquisition, and "x" refers to the number of additional years the Record is to be kept after its creation or receipt. For example, a retention period indicated as C + 3 years means that a Record is to be kept for three years after the year of creation or acquisition.

Section 3. **"A + x":** Refers to a retention period, in which "A" refers to the year the Record's Active period expires (or when the Record becomes Inactive), and "x" refers to the number of additional years the Record is to be kept after the expiration of its Active period. For example, a retention period indicated as A + 3 years means that a Record is to be kept for three years after the year the Active period expires (i.e., three years after the Record becomes Inactive).

ARTICLE III. EXCEPTIONS

Section 1. Legal Hold. All Records required to be retained due to pending or threatened litigation or investigation shall be retained for so long as the litigation or investigation is active. (See Article V of the Policy, "Legal Hold").

Section 2. Contractual Requirements. To the extent that contractual records retention requirements exceed the retention periods in this Retention Schedule or specify the retention of Records not listed in the Retention Schedule, the contractual requirements will control. No originals of Records related to open contracts and subject to contractual retention requirements may be destroyed without the approval of Corporation's [insert title of the individual responsible for overall administration of the Policy], who will consult with other Corporation management personnel, as necessary.

ARTICLE IV. RETENTION SCHEDULE

RETENTION SCHEDULE

C = the year of the Record's creation or acquisition

A = the year the Record's Active period expires

FUNCTION	DESCRIPTION	RETENTION PERIOD	REFERENCE
PROGRAM OPERATIONS			
Purchasing/Procurement Contracts	Contracts evidencing or relating to Corporation's purchasing of goods and services, and fulfillment of customer orders	A + 10 years	Business Reasons; Statute of Limitations
Purchasing/Procurement Records Other than Contracts	Records other than contracts evidencing Corporation's purchasing of goods and services (e.g., purchase orders; vendor invoices, delivery receipts, transfer requests, receiving documents)	C + 10 years	Business Reasons; Statute of Limitations
Inventory Management	Records relating to inventory (e.g., inventory counts, back orders, returns, pick investigation forms, freight outbound and inbound)	C + 7 years	26 CFR 301.6501 (IRS) (6 years)
Shipping (non-contracts)	Records (not including contracts) relating to shipping services used by Corporation (e.g., invoices, shipping records, etc., regarding Standard, Roadway, Yellow Freight, Fed Ex, UPS, etc.)	C + 3 years	Business Reasons
ACCOUNTING AND FINANCE			
Bank Records	Records relating to Corporation's ordinary banking activities (e.g., bank statements, bank reconciliations, bank deposits, cancelled checks, check listings / ledgers / registers, petty cash, wire transfers, electronic payment records, etc.)	C + 7 years	26 CFR 301.6501 (IRS) (6 years)
Financial Statements	Periodic Financial Statements (e.g., periodic audited and un-audited financial statements, including balance sheets, income statements and profit and loss statements, general ledgers, audit work papers)	Annual – Permanent Others – C + 7 years	Business Reasons; Statute of Limitations
Financial Planning	Records relating to financial planning and budgeting (e.g., financial forecasts, pro forma financial statements, budgets, business plans, etc.)	A + 3 years	Business Reasons
Accounting	Records relating to Corporation's current accounting functions (e.g., accounts payable invoices; accounts payable and receivable ledgers; general ledgers; charge offs; uncollectible accounts; travel, entertainment and expense reports, chart of accounts, trial balance, cost accounting journals, etc.)	A + 7 years	26 CFR 301.6501 (IRS) (6 years)
Taxes	Records relating to income and other taxes paid by Corporation (e.g., work papers, returns, schedules, IRS forms, correspondence, IRS audit reports, internal audit work papers, depreciation schedules, etc.)	A + 7 years (A = when return filed)	26 CFR 301.6501 (IRS) (6 years);
Loans / Financing	Records relating to Corporation loans (e.g., bank loan documents and records, bond documents, etc.)	A + 10 years (A = Until loan paid in full)	Business Reasons; Statute of Limitations

RETENTION SCHEDULE

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FUNCTION	DESCRIPTION	RETENTION PERIOD	REFERENCE
CORPORATE RECORDS / GENERAL OPERATIONS			
Organizational / Corporate Governance Documents	Records relating to the formation, organization and governance of Corporation (e.g., Articles of Incorporation; Bylaws; Minutes of Board meetings; Minutes and reports of Board Committee meetings; Minutes of Member meetings; Organizational charts of affiliates and management personnel; Annual Member Reports; Resolutions / Records of Action taken by Members without Meeting)	Permanent	Business Reasons; Statute of Limitations
General Corporate Operations	Records relating to general operations of Corporation. (e.g., Qualification to do business; Corporate spending and authority matrices and delegations of authority; Written communications from the Chairman, President, CEO or Corporation to all or a group of members (if any); Contact information for officers and directors; Bi-Annual Statement of Information to Secretary of State; Annual Registration Form RRF-1 filed with Attorney General, Disaster Recovery, Business Continuation and Emergency Plans; Licenses and Certificates – Federal, State, Local)	A + 7 years	Business Reasons; Statute of Limitations
Contracts - General / Miscellaneous	All Agreements and Contracts not otherwise addressed in another category of this Retention Schedule (including letters, emails, etc. that constitute all or part of an agreement or which are important clarifications of an agreement)	A + 10 years	Business Reasons; Statute of Limitations
Corporate Policies	Corporation's written policies (e.g., Records Management and Retention, Acceptable Use of Technology, Email Disaster Recovery / Business Continuation, Emergency, IT Security, and Risk Management Plans)	A + 7 years	Business Reasons; Statute of Limitations
Mergers & Acquisitions (Excluding Agreements)	Records relating to mergers, acquisitions, divestitures (e.g., letters of intent, correspondence, due diligence, etc.)	A + 7 years	Business Reasons; Statute of Limitations
Agreements	Agreements and contracts relating to structure of Corporation (e.g., mergers and acquisitions, divestitures, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Insurance Policies	Insurance policies insuring Corporation / Employees (e.g., Commercial general liability, other liability, professional errors & omissions, property damage / hazard, workers compensation, etc.)	A + 10 years	Business Reasons; Statute of Limitations

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FUNCTION	DESCRIPTION	RETENTION PERIOD	REFERENCE
HUMAN RESOURCES / PERSONNEL			
Benefit Plans	Records evidencing or relating to employee benefits provided by Corporation (e.g., health insurance plans, disability plans, defined benefit / contribution plans, retirement plans, pension plans; records of committee or fiduciary meetings; benefit statements and information; funding reports; disbursements; investment performance and earning reports; reports filed with Federal and State Agencies; etc.)	A + 7 years	29 USC §§ 1027, 1113, 1451 (ERISA) (6 years); 29 USC § 1059 (ERISA)
Trust, Fiduciary, Provider and Third-Party Administration Agreements	Contracts or Agreement with third party administrators involved in servicing Employee Benefit Plans	A + 10 years	Business Reasons; Statute of Limitations
Travel & Expense Reports	Reports of employee travel and expenses	C + 3 years	Business Reasons; Statute of Limitations
Employment Applications / Pre-Employment	Records relating to employment applications and other pre-employment activities (e.g., general job applications, resumes, employment advertising and solicitations, etc.). See Employee Personnel Files below for employee specific records.	C + 3 years	29 CFR 1627.3 (ADEA) (3 years); 29 CFR 1602.14 (CRA) (3 years);
Payroll Records	Records relating to payroll and compensation to employees (e.g., employee payroll and compensation records including records with employee name, social security number, hours worked, compensation rate, deductions, total pay for pay period, etc.)	C + 4 years	26 CFR 31.6001-1 (IRS) (4 years); 29 CFR 1627.3 (ADEA) (3 years);
Employment Actions Generally (Excluding Personnel File)	Records relating to actions taken by Corporation concerning employment actions generally (not including specific employee records maintained in the personnel file) (e.g., hiring, promotions, demotions, transfers, selection for training, disciplinary actions, layoffs, reductions in force, recalls, or other related employee actions). See Employee Personnel Files below for employee specific records.	C + 7 years	29 CFR 1627.3 (ADEA) (3 years); 29 CFR 1602.14 (CRA) (3 years); Statute of Limitations
Employee Personnel Files EXCLUDING Medical Records	Records maintained in an employee's personnel file (e.g., records relating to hiring, employment and termination, such as resumes, applications and related materials, employment offers, employment contracts, promotion, demotion, change of status, transfer, salary, separation, employment eligibility, I-9 forms, letters of recognition and/or commendation, disciplinary records, etc., excluding medical records)	Duration of employment + 7 years	Business Reasons; Statute of Limitations; 29 CFR 1627.3 (ADEA) (3 years); Personnel Action Records – 1 year from when personnel action taken – 29 CFR 1627.3 (ADEA); 1 year from when personnel action taken or when record made, whichever is later 29 CFR 1602.14 (CRA)

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FUNCTION	DESCRIPTION	RETENTION PERIOD	REFERENCE
Employee Medical Records	Records relating to employee's health condition and medical treatments (e.g., Workers' Compensation, Family and Medical Leave Act, the Americans with Disabilities Act, employment accommodations, leave of absence documents pertaining to an ADA accommodation, employment immunizations, drug screen information, etc.) Medical records to be stored separately in confidential and secure location.	Duration of employment + 30 years. (Except if employment < 1 year – records can be provided to employee)	29 CFR 1910.1020 (OSHA); 29 CFR 825.500; 29 CFR 1630.14(c)(1)
Employee Exposure to Toxic or Hazardous Materials	Records describing exposure to toxic or hazardous materials, including the identity of the substance to which the employees were exposed plus information related to the methods used to determine the actual exposure; the identity of employees exposed; detailed environmental monitoring records and material safety sheets can be destroyed at an earlier period provided that adequate summary records are maintained. Medical records to be stored separately in confidential and secure location.	Duration of employment + 30 years. (Except if employment < 1 year – records can be provided to employee)	29 CFR 1910.1020 (OSHA); 29 CFR 825.500; 29 CFR 1630.14(c)(1)
Employee Injury and Illness Logs	OSHA Logs of Work Related Injuries and Illnesses and other logs, summaries and reports describing recordable cases of injury and illness, including the extent and severity of each case, and total injuries and illnesses. Medical records to be stored separately in confidential and secure location.	5 years following end of calendar year that the forms cover	29 CFR 1904.33 (OSHA); 29 CFR 825.500; 29 CFR 1630.14(c)(1)
Employment and Contractor Agreements	Agreements and contracts with employees, independent contractors, consultants, etc. (e.g., employment, change of control, non-compete, non-disclosure, temporary labor, etc.)	A + 10 years	Business Reasons; Statute of Limitations
HR Related Agreements	Agreements and contracts with third parties providing human relations / employment related products or services. (e.g., recruiting / headhunter agreements, payroll companies, employee leasing, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Employee Pension and Benefit Plans Excluding Agreements	Plans and records relating to employee pension, retirement and benefit plans (e.g., benefit, retirement, ERISA, and pension plans, and records relating to administration thereof)	C + 7 years	29 USC §§ 1027, 1113, 1451 (ERISA) (6 years); 29 USC § 1059 (ERISA)
Employee Pension and Benefit Plans Agreements	Agreements relating to employee pension, retirement and benefit plans (e.g., contracts and agreement with plan administrators, fiduciaries, investment advisors, service providers, etc.)	A + 10 years	Statute of Limitations; 29 USC §§ 1027, 1113, 1451 (ERISA) (6 years); 29 USC § 1059 (ERISA)

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LEGAL			
Litigation Files	Files relating to litigation involving Corporation (e.g., investigations, pleadings, correspondence, research, invoices, settlement agreements, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Claims (Litigation Not Filed)	Claims, threats, demand letters, etc. where litigation not filed	7 years after last correspondence or contact with claimant	Business Reasons; Statute of Limitations
Agreements	Contracts and agreements retained in the Legal Department	A + 10 years	Business Reasons; Statute of Limitations
Intellectual Property	Records relating to intellectual property of Corporation (e.g., copyright, trademark and patent applications and registrations, and related correspondence: license agreements)	Life of the intellectual property + 7 years	Business Reasons; Statute of Limitations
Government Filings subject to False Claims Act	Records relating to filings with US Government that could result in claims under the False Claims Act (e.g., requests for payment under government contracts or grants, etc.)	A + 10 years	31 USC 3731(b)
FUNDRAISING MATERIALS / DEVELOPMENT DEPARTMENT RECORDS			
Advertising, Marketing and Public Relations Agreements	Contracts and agreement for advertising, marketing and public relations products and services (e.g., agreement with marketing and advertising firms, advertising contracts, directory advertising agreements, zip code coverage agreements, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Advertising, Marketing and Public Relations Materials – Excluding Agreements	Materials (excluding contracts) relating to Corporation's advertising, marketing and public relations activities (e.g., advertisements, marketing collateral, catalogs, brochures, advertising copy, marketing programs, mailing lists, speeches and presentations, product literature, etc.)	A + 7 years	Business Reasons; Statute of Limitations
FACILITIES MANAGEMENT			
Furniture, Fixtures and Equipment (Excluding Contracts)	Records relating to Corporation's furniture, fixtures and equipments (e.g., asset lists, inventory lists, replacement schedules, maintenance and repairs, IT infrastructure and architecture, telephone installation, fixed asset purchases, etc.)	C + 7 years	26 CFR 301.6501 (IRS) (6 years)
Furniture, Fixtures and Equipment – Contracts	Contracts and agreements relating to Corporation's furniture, fixtures and equipments (e.g., purchase, leasing and acquisition contracts; repair and maintenance contracts; warranty contracts; computer hardware and software licenses, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Information Technology	Records relating to Corporation's information technology systems (e.g., software licenses; equipment purchase agreements; support, maintenance and warranty agreements; software inventories and audits; equipment inventories; IT policies, etc.)	A + 7 years	Business Reasons; Statute of Limitations

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FUNCTION	DESCRIPTION	RETENTION PERIOD	REFERENCE
Property Tax Records	Records relating to real estate and personal property taxes paid by Corporation	A + 7 years	Business Reasons; Statute of Limitations
Property Acquisition / Ownership	Records relating to acquisition and ownership of property (e.g., deeds, leases, mortgages, construction, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Agreements	Contracts and agreements relating to operation and management of facilities (e.g., property/facilities management agreements, repair/maintenance contracts, janitorial, landscaping, etc.)	A + 10 years	Business Reasons; Statute of Limitations
Hazardous/Environmental Contamination Removal	Records regarding remediation / removal of environmentally contaminated or hazardous materials	A + 30 years	29 CFR 1910.1020 (OSHA)
Hazardous / Environmental - Other	Logs and other records regarding general compliance with OSHA and other environmental laws	C + 5 years	Statute of Limitations; 3 years under Emergency Planning & Community Right-to-Know Act, Toxic Substances Control Act, Resource Conservation & Recovery Act, but advisable to keep longer due to potential liability concerns; 29 CFR 1904.33 (OSHA)
Certificates of Occupancy/Building Permits	Certificates of Occupancy / Building Permits	A + 7 years	Business Reasons; Statute of Limitations
SALES			
Sales Agreements	Contracts and agreements relating to the sale of Corporation products and services	A + 10 years	Business Reasons; Statute of Limitations
Sales Records	Records documenting sales of Corporation products and services (e.g., invoices, receipts, credit card receipts, SKU details, etc.)	C + 3 years	Business Reasons; Statute of Limitations