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CITY AND COUNTY OF SAN FRANCISCO

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EXECUTIVE DIRECTOR

Date: February 22, 2017

To: Members of the Ethics Commission

From: Jessica Blome, Deputy Director, Enforcement & Legal Affairs

Subject: **AGENDA ITEM 5**
San Francisco Ethics Commission Records Management Policy Memorandum

Summary: This memorandum provides a policy update to Commissioners regarding Staff's ongoing effort to update the Commission's Records Management Policy.

Action Requested: Possible action to provide comments or feedback regarding the draft Records Management Policy, which is attached as Attachment 1.

The Ethics Commission's Records Management Policy establishes the policies to be followed to ensure appropriate transparency about the transaction of public business at the Ethics Commission.

Departmental policies are required by San Francisco Record Retention and Destruction Ordinance (RRDO), which is set forth in Chapter 8 of the Administrative Code. The RRDO requires city departments to retain records, as defined in Chapter 8, that have been made or received by the department "in connection with the transaction of public business" or that may have been retained by the department as evidence of the department's activities. The RRDO also authorizes city departments to classify and destroy public records according to an internal "schedule for the systematic retention and destruction" of records. RRDO § 8.3. Current records and storage records may be destroyed according to each department's record retention policy. *Id.*; § 8.4. Permanent records and essential records may not. *Id.*; § 8.4, 8.9.

The Commission's existing policy was last updated in 2003. Staff has been reviewing and drafting an updated departmental policy to reflect changing views about new methods of record creation, including electronic communications such as e-mails and electronic calendars, and new technologies that can be employed to preserve records, such as scanning paper documents to digital imaging formats.

Staff provides the draft policy to the Commission today to give members with an opportunity to comment and provide policy feedback.

Section 8.3 of the Records Retention and Destruction Ordinance requires approval of each department's management policy by the City Attorney's Office, Controller, and Retirement Board. The City Attorney is currently reviewing the management policy for formal approval and is aware that the attached draft policy is also being provided to the Commission for any feedback it may wish to provide during its February meeting.

We look forward to receiving any comments or questions at your upcoming meeting.

Attachment

Item 5, Attachment 1

San Francisco
Ethics Commission



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RECORDS MANAGEMENT POLICY

The Ethics Commission's Records Management Policy is adopted pursuant to Chapter 8 of the San Francisco Administrative Code, which requires each department head to maintain records and create a public records retention and destruction schedule. This policy supersedes all previous record retention policies issued by the Commission.

This policy covers all records, regardless of physical form or characteristics, which have been made or received by the Ethics Commission in connection with the transaction of public business.

PART I: POLICY AND PROCEDURES

A. RETENTION POLICY

The Ethics Commission will retain public records for the period of their immediate or current use, unless longer retention is required for historical reference, contractual or legal requirements, or for other purposes as set forth below. The Public Records Act defines a "public record" very broadly. The definition has three elements:

1. Any writing, regardless of physical form or characteristics.
2. Containing information relating to the conduct of the public's business.
3. Prepared, owned, used, or retained by a state or local agency.

Cal. Govt. Code § 6252(e). The first element defines a "record." The second and third elements define what makes the record "public." The Sunshine Ordinance adopts this definition of "public record." Admin. Code § 67.20(b).

The Ethics Commission's records shall be classified and preserved as follows:

Category 1: Permanent Retention. Records that are permanent or essential shall be retained and preserved indefinitely.

- A. Permanent records.** Permanent records are records required by law to be permanently retained and which are ineligible for destruction unless they are microfilmed or placed on an optical imaging system, and special measures are followed. S.F. Admin. Code Section 8.4. For the purposes of this Records Management Policy, "optical imaging system" includes any portable digital storage format that fairly and accurately depicts the original record and maintains the integrity of the original record. Once these measures are followed, the original paper records may be destroyed. Duplicate copies of permanent records may be destroyed whenever they are no longer necessary for the efficient operation of the Commission. Examples

of permanent records are campaign statements of certain local officeholders, which must be maintained indefinitely. Gov't Code Section 81009(b).

- B. Essential records.** Essential records are records necessary for the continuity of the Commission and the protection of the rights and interests of individuals. S.F. Admin. Code Section 8.9. Examples of essential records include advice letters and opinions, policy memoranda, and interpretive materials such as manuals produced by the Ethics Commission.

Category 2: Current Records. Current records are records which for convenience, ready reference, or other reasons are retained in the office space and equipment of the Commission. Current records shall be retained as follows:

- A. Definite Retention Period Specified by Law.** Where federal, state, or local law prescribes a definite period of years for retaining certain records, the Commission will retain the records for the period specified by law. Examples of records required to be maintained for a specific period are statements of economic interest, which must be maintained for seven years, Gov't Code Section 81009(e); and certain campaign statements which must be maintained for four years. Gov't Code Section 81009(f).
- B. No Definite Retention Period Specified by Law.** Where no specific retention period is specified by law, the retention period for records that the department is required to retain shall be specified in the attached Record Retention and Destruction Schedule. Such records may be placed in storage and retained offsite at any time during the applicable retention period. Examples of current records include discrimination and harassment complaints and personnel files.

Category 3: Definite Retention Period Specified by the Office of the Controller. The Office of the Controller has promulgated record retention guidelines for specific types of documents. Examples of records required to be maintained for a period of five years are invoices and purchase orders.

Category 4: Two-Year Retention Before Destruction. Original records (not duplicate copies) reflecting significant or recurring issues (such as research files) and correspondence, including electronic communication, involving the transaction of public business should be retained for a minimum of two years.

Category 5: No Retention. Original and duplicate documents and other materials that are not essential to the functioning or continuity of the Commission and that have no legal significance may be destroyed. Examples include documents and papers generated purely for the convenience of the person generating them and draft documents which have been superseded by subsequent versions or rendered moot by Commission action. Specific examples include telephone message slips, correspondence, notepads, electronic communication of a purely personal nature that does not contain information required to be retained under this Policy, and chronological files.

With limited exceptions, no specific retention requirements are assigned to documents in this category. Instead, it is up to the originator or recipient to determine when the document's business utility has ended.

B. RECORDS NOT ADDRESSED BY THE ATTACHED SCHEDULE

Records and other documents or materials that are not expressly addressed by the attached schedule may be destroyed at any time provided that they have been retained for the periods prescribed for substantially similar records.

C. ELECTRONIC COMMUNICATION

Regardless of the format in which the communication is made, including electronic mail, facsimile, internet posting, postal mail, or any other written format, if the substance of the communication would otherwise qualify as a public record under this schedule, the record must be retained. Consistent with the California Public Records Act, Cal. Govt. Code § 6252(3), and Sunshine Ordinance section 67.20(b), communication of a purely personal nature does not qualify as a public record and need not be retained. Electronic mail systems should not be used as the repository for public records. Electronic mail that qualifies as a public record should be removed from an employee's electronic mail system and placed in a paper or electronic file where it is properly labeled and easily accessible for future public records searches.

D. STORAGE OF RECORDS

Records may be stored in the Commission's office space or equipment if the records are in active use or are maintained in the office for convenience or ready reference. Examples of active files appropriately maintained in the Commission's office space or equipment include active chronological files, research and reference files, legislative drafting files, pending complaint files, administrative files and personnel files. Inactive records, for which use or reference has diminished sufficiently to permit removal from the Commission's office space or equipment, may be sent to the City's off-site storage facility or maintained in the Commission's storage facility.

E. HISTORICAL RECORDS

Historical records are records which are no longer of use to the Commission but which because of their age or research value may be of historical interest. Historical records may be offered to the San Francisco Public Library or a historical society for preservation. Historical records may not be destroyed except in accordance with the procedures set forth in Administrative Code Section 8.7.

F. PENDING CLAIMS AND LITIGATION

The retention periods set forth in the attached record retention schedule shall not apply to materials that are otherwise eligible for destruction, but which may be relevant to a pending claim or litigation against the City. Once a department becomes aware of the existence of a claim against the department, the department should retain all documents and other materials related to the claim until the claim or subsequent litigation has been resolved. Where a department has reason to believe that one or more other departments also have records relating to the claim or litigation, those departments should also be notified of the need to retain such records.

PART II

RECORD RETENTION AND DESTRUCTION SCHEDULE

TYPE OF RECORD	RETENTION CATEGORY	RETENTION PERIOD	LAW SPECIFYING RETENTION PERIOD
Accident-Injury Reports	2	5 years	29 CFR 1904.6
Meeting Agenda & Supporting Documents	1	Permanent	
Audit Reports, including Public Financing Audit Reports	1	Permanent	
Audit Work Papers, including Public Financing Audit Work Papers	2	4 Years	
Advice Letters (formal and informal)	1	Permanent	
Annual Reports	1	Permanent	
Budget Files	4	2 Years	
Calendar, Department Head (Prop G)	2	2 Years	
Calendar, Deputy Director & Unit Managers	4	2 Years	
Calendar, Employees	5	None	
Complaint Files	1	Permanent	
Complaint Logs	5	None	
Commission Meeting Recordings if recorded by Staff	1	Permanent	
Contracts	3	20 Years + Term of Agreement	Controller's Guidelines
Contract Correspondence	2	2 years or Life of Agreement	
Contract Payment Records	3	20 Years + Term of Agreement	Controller's Guidelines
Correspondence, including electronic mail	4	2 Years	
Campaign Consultant Statements	2	5 Years	S.F. Admin. Code Sec. 16.544(e)
Campaign Statements (original) of mayors, members of board of supervisors, and committees supporting these officeholders	1	Permanent	Gov't Code Sec. 81009(b)
Campaign Statements (original) of candidates not elected to office of mayor or board of supervisors, and committees supporting such candidates	2	8 Years	Gov't Code Sec. 81009(b); S.F. C & GC Code Sec. 1.110

Campaign Statements (original) of all other persons for which the Ethics Commission is the filing officer	2	8 Years	Gov't Code Sec. 81009(c); S.F. C&GC Code Sec. 1.110
Copies of campaign statements, statements of economic interest, or reports filed with the Ethics Commission	2	4 Years	Gov't Code Sec. 81009(f)
Discrimination and Harassment Complaints	2	Lesser of 50 Years or Life of Employee	
Employment Applications/Resumes	4	2 Years	
Equal Opportunity Plan	4	2 Years	
Executive Director Reports	1	Permanent	
Financial Records, Miscellaneous	3	5 Years After Applicable Fiscal Year	Controller's Guidelines
Fine Letters	1	Permanent	
Invoices	3	5 Years After Applicable Fiscal Year	Controller's Guidelines
Lease Files	4	2 Years	
Legislative Drafts	5	None	
Lobbyist Statements	2	5 Years	S.F. Admin. Code Sec. 16.531(d)
Manuals and other Commission Publications	1	Permanent	
Medical Information	2	Lesser of 50 Years or Life of Employee	
Minutes of Commission and Committee Meetings	1	Permanent	
Miscellaneous Employment Related Records	4	2 Years	
MOUs	3	20 Years + Term of Agreement	Controller's Guidelines
OSHA Reports	4	2	
Payables (Invoices)	3	5 Years	Controller's Guidelines
Payroll Records	4	2 Years	Secure permission from SFERS prior to destruction
Personnel Files	2	Lesser of 50 Years or Life of Employee	
Policy Memoranda	1	Permanent	
Press Releases	1	Permanent	
Purchase Orders	3	5 Years	Controller's Guidelines
Regulations	1	Permanent	
Staff Reports produced to comply with City Ordinances	1	Permanent	
Staff Research Files	5	None	

Revolving Funds Records	3	5 Years	Controller's Guidelines
Settlement Agreements	1	Permanent	
Statements of Economic Interest	2	7 Years	Gov't Code Sec. 81009(e)
Staff Rosters	4	2 Years	Secure permission from SFERS prior to destruction
Time Sheets	4	2 Years	Secure permission from SFERS prior to destruction
Travel and Reimbursement Records	3	5 Years	Controller's Guidelines
Work Orders and Payments	3	5 Years	Controller's Guidelines
Workers' Compensation Records	2	5 Years	Title 8, Cal. Code Section 10102

APPROVALS:

Approval by the Ethics Commission:

LeeAnn Pelham
Executive Director,
Ethics Commission

Date Approved

Approval as to Financial Documents:

Ben Rosenfield
Controller

Date Approved

Approval as to Legal Documents:

Andrew Shen
Deputy City Attorney

Date Approved

Approval as to Payroll Documents:

Jay Huish
Director,
Retirement System

Date Approved