

NARA Records Management Language for Contracts (July 10, 2019)

<https://www.archives.gov/records-mgmt/policy/records-mgmt-language>

RECORDS MANAGEMENT OBLIGATIONS

A. Applicability

This clause applies to all Contractors whose employees create, work with, or otherwise handle Federal records, as defined in Section B, regardless of the medium in which the record exists.

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.

The term Federal record:

1. includes VHA records.
2. does not include personal materials.
3. applies to records created, received, or maintained by Contractors pursuant to their VHA contract.
4. may include deliverables and documentation associated with deliverables.

C. Requirements:

1. In accordance with 36 CFR 1222.32, all data created for Government use and delivered to, or falling under the legal control of, 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. 552), 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.
2. 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.
3. 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 Fort Meade VAMC guidance

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for protecting sensitive, proprietary information, classified, and controlled unclassified information.

4. The Contractor shall not create or maintain any records containing any non-public Fort Meade VAMC information that are not specifically tied to or authorized by the contract.
5. 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.