



Office of Public Accountability Records Retention Policy

It is the policy of the Office of Public Accountability (OPA) to maintain and retain all public records consistent with the Records Management Act, the Sunshine Reform Act of 1999, and Guam law and regulation. These records are required to be maintained and retained for administrative, legal and fiscal purposes.

This policy is intended to address the OPA's space limitations while maintaining relevant records to comply with Guam law. As practicable, OPA will maintain records electronically on the OPA file server. This policy mainly applies to physical documentation of OPA administrative files such as correspondences, financial reports, etc.

I. Public Record.

The Records Management Act, found in Title 5, Guam Code Annotated, Sections 20601 – 20611, defines **records** to mean:

a "document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of official business." §20602(a).

The Records Management Act establishes policy and procedure for the maintenance, retention and disposition of government records. Although enacted prior to the general use of computers, it should be understood to apply to records stored on computers, other data storage devices and associated systems.¹

The Sunshine Reform Act of 1999, generally referred to as the freedom of information act, found at Title 5, Guam Code Annotated, Sections 10101 – 10113, defines **public record** to mean:

"any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency in any format, including an electronic format." §10102(d).

The Sunshine Reform Act establishes policy and procedure for assuring that the public has access to almost all government records, and that certain records, limited by law, are maintained confidentially and not available to the public.

¹ Regulations adopted pursuant to the Records Management Act acknowledge the use of computers and other "machine readable records" for the storage of public records. 2 GAR, Div 2, §10139.

Records need not have been prepared originally by the public body to qualify as public records. If records prepared outside the agency contain information relating to the conduct of the public's business and are "made or received pursuant to law or in connection with the transaction of official business" or "owned, used or retained" by a government entity, they are government records.

Most, if not all of the information located in computers, other electronic data devices and related systems is part of the public record

II. Confidentiality of Records


It is the OPA's policy that all working papers and hotline records and communications are **strictly confidential**. Pursuant to Title 1 Guam Code Annotated Section 1909.1 Confidentiality of Investigations., the OPA is not required to disclose any working papers and any hotline tips and allegations received are privileged. OPA staff and management who violates this policy and 1 GCA §1909.1 by disclosing such privileged information or communication shall be subject to legal recourse and felony charges of the third degree.

III. Disposal of Records

It is the OPA's policy to retain records for the current Public Auditor's term and the preceding two terms by fiscal year. For example, the current term is calendar year (CY) 2013 – 2016. These current records are retained as well as the preceding two terms by fiscal years, FY 2009 – 2012 and FY 2005 – 2008. Therefore, OPA retains records from FY 2005 (or October 1, 2004) to current.

Prior to disposal, the Public Auditor or her designee are duly authorized to direct OPA staff to remove or destroy of OPA records including those located on OPA computers, other electronic data devices and associated systems.

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