

DAA-GRS-2016-00XX

Legal Records
(GRS 6.3)

This file contains three documents. The draft schedule describes the records proposed for inclusion in this new GRS. The appraisal memorandum provides additional background explanation and includes the appraiser’s justification for the retention decisions proposed in the schedule. The crosswalk matches authorities in the draft schedule with current GRS authorities.

This schedule has not yet been entered into the Electronic Records Archives, pending finalization through agency and stakeholder review.

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National Archives and Records Administration
Office of the Chief Records Officer
GRS Team
October 3, 2016

GRS 6.3 Legal Records

GENERAL RECORDS SCHEDULE 6.3: Legal Records

This schedule concerns the routine aspects of an agency’s legal office(s) providing legal support for mission or program activities. While agency general counsel records are included in this schedule, other agency units may provide legal support. Consequently, this schedule is not limited solely to general counsel offices.

Agencies must schedule records that this GRS does not include. This GRS does not include many legal records because they either typically are permanent or are not temporary in every case. See the Legal Records Scheduling Guidelines for additional information on how agencies might schedule records this GRS does not include.

Item	Records Description	Disposition Instruction	Disposition Authority
010	<p>Matter tracking or case management systems data. System data used to assign, monitor, and manage work flows of legal matters and/or cases in a legal office or unit.</p> <p>Exclusion: Item applies only to data, not documents maintained in system.</p>	<p>Temporary. Destroy when no longer needed.</p>	DAA-GRS-2016-00XX-0001
020	<p>Internal operational reporting records. Records provided to internal agency entities on routine legal program operation activities, such as litigation reports or statistical reports on legal functions, such as number and type of litigation, matters handled, attorney workload, program reporting to senior management and so on.</p> <p>Exclusion 1: Reports on agency mission legal activities may contain permanent records and so require an agency-specific schedule.</p> <p>Exclusion 2: Item applies only to internal reporting. For external administrative or routine reports due to oversight entities, see GRS 5.7, item 010.</p>	<p>Temporary. Destroy 3 years after submission; longer retention is authorized if required for business use.</p>	DAA-GRS-2016-00XX-0002

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Item	Records Description		Disposition Instruction	Disposition Authority
030	Administrative Claims	<p>Claims <i>against</i> the United States. Records related to claims for monies against the United States that have been completed or closed administratively by 1) being disallowed in full; or 2) allowed in full or in part; or 3) and final payment of the full amount awarded.</p> <p>Supersedes: GRS 6, item 10a (N1-GRS-87-13, item 1a, and N1-GRS-87-13, item 1c in part)</p> <p>Legal Citation: 28 U.S.C. 2401</p>	<p>Temporary. Destroy 6 years after claim has been completed, closed, withdrawn, or disallowed, or when court order has been lifted, whichever is later.</p>	DAA-GRS-2016-00XX-0003
031		<p>Claims <i>by</i> the United States subject to the Federal Claims Collection Standards. Records relating to claims for money or property that was administratively determined to be due and owed to the United States and that are subject to the Federal Claims Collection Standards.</p> <p>Includes:</p> <ul style="list-style-type: none"> ● claims that were paid in full or by means of a compromise agreement, ● claims where collection action has been terminated, ● claims that the agency administratively determines were not owed to the United States after collection activity was initiated. ● approved or denied waivers of claims by the United States against a person arising out of an erroneous payment of pay, travel or relocation expenses to a civilian federal employee, a member or former member of the uniformed services or the National Guard. 	<p>Temporary. Destroy 7 years after claim is completed, withdrawn, waived, closed, or found not owed, or when court order is lifted, whichever is later.</p>	DAA-GRS-2016-00XX-0004

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Item	Records Description	Disposition Instruction	Disposition Authority
	<p>Supersedes:</p> <ul style="list-style-type: none"> ● GRS 6, item 10b1 (N1-GRS-87-13, items 1b1) ● GRS 6, item 10b2a (N1-GRS-87-13, item 1b2a) ● GRS 6, item 10b2b (N1-GRS-87-13, item 1b2b) ● GRS 6, item 10b3 (N1-GRS-87-13, item 1b3) ● GRS 6, item 10c (N1-GRS-87-13, items 1c in part) ● GRS 6, item 11a (N1-GRS-88-1, item 1a) ● GRS 6, item 11b (N1-GRS-88-1, item 1b) <p>Legal Citation:</p> <ul style="list-style-type: none"> ● 31 CFR 900-904 ● 28 U.S.C. 2415(a) ● 31 U.S.C. 3716(c) ● 31 U.S.C. 3716(e) 		

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Date: September 14, 2016
Appraiser: Addie M. Compton
Agency: General Records Schedule (GRS)
Subject: DAA-GRS-2016-XXXX

DRAFT

INTRODUCTION

Schedule Overview

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Additional Background Information

This schedule covers records related to agency legal support function. In particular, the schedule revises two current GRS items, namely GRS 6, items 10 and 11, and adds two new items.

Agency legal offices have a great deal in common in terms of work processes. For example, agency general counsel offices handle litigation, offer legal advice, track legal matters and their resolution, and manage their programs. In addition, other offices within an agency may perform similar legal activities as well – these offices are included in this schedule.

However, these legal support activities vary greatly in their permanent worth and how intertwined they are in an agency mission. For example, sometimes litigation is purely routine and operational in scope. In other instances, it involves an agency's mission and is inappropriate for the GRS. The appropriate retention also varies across the federal government. As a result, there are several categories of legal records that cannot be easily and definitively assigned and defined across the federal government as temporary records. These categories include litigation, and legal advice and opinions. As a result, they are absent from this schedule.

The Treasury Department, the Department of Justice, and GAO have received earlier versions of the schedule. NARA received comments on the earlier version from the Treasury Department.

Overall Recommendation

I recommend approval of the attached schedule.

Item 0001 (GRS 6.3, item 010): Matter tracking or case management systems data.

Legal offices or units use these systems to manage their work flow of legal matters. Legal matters is a broad term that includes legal advice or opinions, interpreting statutes, responding to

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inquiries, and litigation activities. The item does not apply to documents reflecting these and similar activities but rather the data used to manage the workflows that creates the documents.

Proposed Disposition: Temporary.

Appropriateness of Proposed Disposition: Appropriate.

Appraisal Justification:

* Has little to no research value. This data is a product of routine program operations.

Adequacy of Proposed Retention Period: Adequate from the standpoint of legal rights and accountability. These records' purpose is to organize the process of responding to the variety of questions and concerns that flow into, and out of, an agency legal office. Once that purposes has been fulfilled, there is no need to retain the data, nor is a set time frame necessary. The retention allows for agencies to apply business need to determine a time for how long to keep these records and when to destroy them.

Media Neutrality: Approved.

Item 0002 (GRS 6.3, item 020): Internal operational reporting records.

Proposed Disposition: Temporary.

Appropriateness of Proposed Disposition: Appropriate.

Appraisal Justification:

* Has little to no research value. These records report the routine, everyday activities of a legal program to agency upper management.

Adequacy of Proposed Retention Period: Adequate from the standpoint of legal rights and accountability. These records are an aspect of operational program management. Routine program management records are generally retained for 3 years as a records management best practice.

Media Neutrality: Approved.

Item 0003 (GRS 6.3, item 030): Administrative Claims: Claims *against* the United States.

These records comprise monetary claims brought against the Federal government. Congress passed the Federal Tort Claims Act in 1946 and similar legislation in the years following to waive sovereign immunity in certain conditions and allow people to sue the Federal government.

Proposed Disposition: Temporary.

Appropriateness of Proposed Disposition: Appropriate.

Appraisal Justification:

* Previously approved as temporary.

GRS 6, item 10a (N1-GRS-87-13, item 1a, N1-GRS-87-13, item 1c in part)

Adequacy of Proposed Retention Period: Adequate from the standpoint of legal rights and accountability. This item and item 0004 below consolidates the various dispositions of GRS 6, items 10 and 11 into two items. The prior retention was 6 years and 3 months, based on the statute of limitation of 6 years to bring an action against the United States. The current best practice for handling records with a statute of limitation or similar restriction is to peg disposition to the exact limitation. The previous disposition separated records affected by a court order or litigation into a distinct item (GRS 6, item 10c, N1-GRS-87-13, item 1c). Please note that the disposition instructions now include when a court order is lifted (and if 6 years have passed), and if a claim was withdrawn.

Media Neutrality: Approved.

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Item 0004 (GRS 6.3, item 031): Administrative Claims: Claims by the United States subject to the Federal Claims Collection Standards.

These records are comprised of claims brought by the United States. In addition, this item incorporates waivers of claims by the United States, previously scheduled as GRS 6, items 11a and 11b. These records are consolidated into Administrative Claims: Claims *by* the United States to streamline retention of similar files.

Proposed Disposition: Temporary.

Appropriateness of Proposed Disposition: Appropriate.

Appraisal Justification:

* Previously approved as temporary.

GRS 6, item 10b1 (N1-GRS-87-13, item 1b1)

GRS 6, item 10b2a (N1-GRS-87-13, item 1b2a)

GRS 6, item 10b2b (N1-GRS-87-13, item 1b2b)

GRS 6, item 10b3 (N1-GRS-87-13, item 1b3)

GRS 6, item 10c (N1-GRS-87-13, item 1c in part)

GRS 6, item 11a (N1-GRS-88-1, item 1a)

GRS 6, item 11b (N1-GRS-88-1, item 1b)

Adequacy of Proposed Retention Period: Adequate from the standpoint of legal rights and accountability. The statute of limitations changed for these records from 10 years to essentially the death of the debtor. The current dispositions included a plethora of various points in which actions could take place. So the retention structure was simplified in two ways. First, the records retention 'clock' now begins when an individual claim is completed, withdrawn, waived, closed, or found not owed, or when court order is lifted, whichever is later. The prior schedule was also confusing when a record shifted from active to closed status. (These records can be active for quite some time.) The consolidation of the various retentions creates a more useable single item by making clearer when that shift occurs. Second, given that the new effective statute of limitation for the United States to bring a claim against a debtor was death of that debtor, relying on the statute of limitations to trigger retention disposition was impractical. The revised retention period of 7 years was chosen as an adequate timeframe as it was unnecessary to keep these records 10 years, the prior statute of limitation, once they closed. Seven years was chosen to keep retention of these records to a manageable timeframe and to differentiate it from item 0003 above. Item 0003 and 0004 could not be consolidated into a single Administrative Claims item because of their different statutes of limitation.

Media Neutrality: Approved.

ADDIE MAY COMPTON

Appraiser

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New GRS				Old GRS			
GRS No.	Item No.	Retention	ERA Number/ Disposition Authority	GRS No.	Item No.	Retention	Disposition Authority
6.3	010	When no longer needed	DAA-GRS-2016-00XX-0001	New item			
6.3	020	3 years	DAA-GRS-2016-00XX-0002	New item			
6.3	030	6 years	DAA-GRS-2016-00XX-0003	6	10a	6 years, 3 months	N1-GRS-87-13, item 1a
				6	10c	When court order is lifted, litigation concluded, or when 6 years, 3 months old, whichever is later	N1-GRS-87-13, item 1c in part
6.3	031	7 years	DAA-GRS-2016-00XX-0004	6	10b1	6 years, 3 months	N1-GRS-87-13, item 1b1
				6	10b2a	10 years, 3 months	N1-GRS-87-13, item 1b2a
				6	10b2b	3 months	N1-GRS-87-13, item 1b2b
				6	10b3	6 years, 3 months	N1-GRS-87-13, item 1b3
				6	10c	When court order is lifted, litigation concluded, or when 6 years, 3 months old, whichever is later	N1-GRS-87-13, item 1c in part
				6	11a	6 years, 3 months	N1-GRS-88-1, item 1a
				6	11b	Destroy with related claims	N1-GRS-88-1, item 1b