

## **Orange County Power Authority Policy No. 007 Records Management and Retention**

### **PURPOSE**

California Government Code §§ 34090 through 34090.8 and the Secretary of State Local Government Records Management Guidelines govern the retention of records of the Orange County Power Authority (Authority) and the disposal of the Authority's obsolete records. The purpose of this Policy is to provide policies regarding the retention of Authority records; provide for the identification, maintenance, safeguarding of Authority records and the disposal of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and ensure compliance with all legal and regulatory requirements.

### **AUTHORIZATION**

The Chief Executive Officer, or designee (CEO), is authorized by the Board of Directors (Board) to interpret and implement this Policy and to designate a Records Coordinator who shall be responsible for the administration of this Policy. The CEO and the Records Coordinator are authorized to do any and all acts necessary to comply with the provisions and intent of this Policy. The CEO and Records Coordinator are responsible for the appropriate retention of records and the destruction of any obsolete records that meet the qualifications governing the retention and disposal of records, as specified below.

### **DEFINITIONS**

1. "Document," "record," or "writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, electronic mail or facsimile transmission, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.
2. "Official Record" means a record that: (a) is required to be maintained for a specific period of time under the attached Record Retention Schedule; (b) is otherwise required by law to be kept permanently or for a specific period of time; or (c) is necessary and convenient to the discharge of an Authority officer or employee's official duties and was made or retained for the purpose of preserving its informational content.
3. "Transitory Record" means a record whose value is comparatively short-lived and may be discarded when it has fulfilled the brief, limited purpose for which it was created. Transitory records include, but may not be limited to, preliminary drafts, notes, or inter- or intra-agency memoranda not kept in the ordinary course of business and the retention of which is not necessary for the discharge of an Authority officer or employee's official duties. Specific examples are: transmittal letters, acknowledgments, drafts, rough notes, preliminary calculations, non-substantive follow-up communications or reminders, and similar electronic communications that, based on their content, are not required to be retained as "Official Records."

## **GENERAL GUIDELINES**

The following general guidelines apply to all Authority records:

1. Except where a record is expressly required to be preserved by law or this Policy, the Authority may destroy any original obsolete record without retaining a copy of the document as long as the retention and destruction of the document complies with this Policy and the attached Record Retention Schedule. (Cal. Gov. Code § 34090.)
2. In addition to the retention periods required under the attached Record Retention Schedule, the Authority shall retain original administrative, legal, fiscal and/or historical records with continued value (*i.e.*, records for long-term transactions and/or special projects) as Official Records until all matters pertaining to such records are completely resolved or the time for appeals has expired.
3. At any time, the Authority may discard Transitory Records that have fulfilled their limited purpose; provided, however, that any Transitory Records subject to the “Exceptions to Disposal of Obsolete Records” section of this Policy may not be discarded and shall be temporarily retained for the necessary period.
4. As further provided in the Authority’s Computer Usage and Email Management Policy, emails relating to Authority business, whether located on an Authority electronic device or account or a personal electronic device or account: (a) are considered “public records” under the California Public Records Act and may be subject to disclosure; and (b) may be required to be retained by the Authority either as Official Records or as Transitory Records subject to the “Exceptions to Disposal of Obsolete Records” section of this Policy.
5. Pursuant to Government Code § 34090, the Authority shall not destroy any of the following records:
  - a. Records affecting the title to real property or liens thereon;
  - b. Court records;
  - c. Records required to be kept by statute;
  - d. Records less than two years old; or
  - e. The minutes, ordinances, or resolutions of the Board of Directors or of another legislative body established by the Authority.
6. In addition, the Authority shall not destroy any of the following records:
  - a. Original, final records relating to the execution or amendment of the Authority’s Joint Powers Agreement;
  - b. Any records that are the subject of any pending request for records under the California Public Records Act, whether the document is exempt from disclosure or

considered a Transitory Record, until the request has been granted or two (2) years after the request has been denied by the Authority.

7. The Records Coordinator may authorize the destruction of hard-copy originals of Official Records upon complying with all of the requirements of Government Code § 34090.5, which ensures that such records are reproduced and maintained in a format that is accurate, legible, and not subject to modification. Such methods may include, but are not limited to, having the records photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced on film, optical disk, or any other medium in compliance with Government Code § 12168.7 for recording of permanent records or nonpermanent records.

### **RECORDS RETENTION SCHEDULE**

The Records Retention Schedule for the Authority is attached to this Policy as Attachment A . This Policy, including the Records Retention Schedule, shall comply with state and federal law, as well as the records retention guidelines provided by the California Secretary of State. The Records Retention Schedule may be updated from time to time by the CEO and/or the Records Coordinator in order to stay current with federal and state laws, as well as any other regulations, regarding the retention of the Authority's records.

### **RECORDS TO BE RETAINED IN ORIGINAL FORMAT**

The records listed above in Section 4 of the "General Guidelines" must be retained in their original format, whether the original record is in hard copy or electronic format.

In addition, the following records are required to be retained in their original hard copy format for at least two (2) years before imaging or scanning them into electronic format for retention:

- Statements of Economic Interest for Elected Officials (copies of FPPC Form 700). (Total retention is four (4) years)
- Statements of Economic Interest for Non-Elected Officials (originals of FPPC Form 700). (Total retention is seven (7) years)

After two (2) years, the Authority may image/scan the above documents and dispose of the hard copy versions. The electronic version becomes the "original," pursuant to state law. (Cal. Gov. Code §§ 34090.5 and 81009(g).)

### **DUPLICATE RECORDS**

The CEO and/or the Records Coordinator are authorized to destroy at any time any **duplicate** record of the Authority, while the original, whether in paper or electronic format, is retained by the Authority for the legally required time period.

### **PROCEDURES FOR DISPOSAL OF OBSOLETE RECORDS**

1. At least once annually, each department is responsible for reviewing all Official Records in its custody. Official Records that have reached the end of their retention period, including electronic records, are to be destroyed by following the procedures described below.
2. The department head completes and signs a "Request for Destruction of Obsolete Records" form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment B. The department head submits the form to the Records Coordinator.
3. The Records Coordinator checks the records listed on the submitted form to confirm that each document: (1) is not required to be permanently retained; (2) has been retained for the legally required period of time; and (3) is not subject to an exception requiring continued retention under this Policy (e.g., public records request, subpoena, litigation hold, etc.). The Records Coordinator also confirms that any applicable reproduction requirements (i.e., scanning/imaging, etc.) for each document are complete.
4. The Records Coordinator submits the form to the General Counsel, who reviews and signs the form and then returns the signed form to the Records Coordinator.
5. After receiving the signed form from the General Counsel, the Records Coordinator oversees the destruction of the obsolete records, indicates the method of destruction on the form, signs the form and retains the original signed form.
  - a. The Records Coordinator will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.
  - b. The Records Coordinator will retain a permanent record, such as a log or copies of certificates of destruction, in whatever format the Records Coordinator determines to be convenient for the purpose, to document the destruction of obsolete records of the Authority.

#### **EXCEPTIONS TO DISPOSAL OF OBSOLETE RECORDS**

Disposal of **any** record, whether it is an Official Record that has met or exceeded its retention periods or a Transitory Record that has fulfilled its limited purpose, must be postponed if the record is responsive to, subject to, or relates in some way to any of the following:

1. A pending Public Records Act request received by the Authority;
2. A subpoena served on the Authority;
3. A Request for Production received by the Authority from an opposing party in litigation;
4. A court order;
5. A litigation hold or request for preservation of evidence received by the Authority;  
or
6. A claim filed against the Authority under the Government Claims Act.

The above exceptions apply to both hard copy and electronic records.

**ATTACHMENT A**

**RECORDS RETENTION SCHEDULE  
FOR ORANGE COUNTY POWER AUTHORITY**

[Attached]

**ATTACHMENT B**  
**REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS**

[Attached]

**ORANGE COUNTY POWER AUTHORITY**

To: Orange County Power Authority Records Coordinator  
Orange County Power Authority General Counsel

From: Department Head

Subject: Request for Destruction of Obsolete Records

I am requesting approval to destroy the obsolete records listed below.

DATE OF RECORD	DESCRIPTION OF RECORD

If additional space is needed, attach a second page to this form.

APPROVED

\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Date

\_\_\_\_\_  
General Counsel

\_\_\_\_\_  
Date

The obsolete records described above were destroyed under my supervision using the following method:     Shredding     Electronic deletion     Other (specify:\_\_\_\_\_)

I certify that such destruction meets the requirements of the Records Retention Policy of Orange County Power Authority and all applicable requirements of State and federal law.

\_\_\_\_\_  
Records Coordinator

\_\_\_\_\_  
Date of Records Destruction