Background on DHHS Records Retention and Disposition Schedule for Grants

Chapters 121 and 132 of the General Statutes of North Carolina govern the retention and disposition of all records located in and/or maintained by all public offices, whether municipal, county, State government, or state-supported institutions of higher learning.

The N. C. Department of Cultural Resources, Division of Archives and History, Government Records Branch ("Cultural Resources") has the statutory responsibility of working with State agencies, local governments and public authorities in developing a workable schedule for the retention and disposition of public records.

State agencies, local governments and public authorities have in effect a retention and disposition schedule prepared jointly with and published by Cultural Resources that covers a wide array of specific types of programmatic, administrative and budgetary records that are unique to the preparing agency.

Each agency-specific records retention and disposition schedule (1) contains a description of the records maintained with instructions for their retention and disposition, (2) specifies how long records must be kept and (3) states whether records are to be destroyed or transferred. Agency specific records retention and disposition schedules are referred to as "program schedules".

Local Government program schedules can be accessed at the following Internet address: http://www.ah.dcr.state.nc.us/records/local/default.htm. At this web page, follow the on-line instructions.

As program schedules are amended disposition language is included that requires written DHHS Controller authorization prior to the destruction of records that pertain to specific Federal programs. The semi-annual memorandum and the DHHS Records Retention and Disposition Schedule for Grants posted to http://www.ncdhhs.gov/control/index.htm serve as the written authorization that allows purging of such records.

Why are there two different schedules?

(1) The DHHS Records Retention and Disposition Schedule for Grants (a) is based solely on the requirements of 7 CFR 3016.42, 45, 7 CFR 3019.53, 45 CFR 74.53, 45 CFR 92.42 and NCAC 03M .0703 (4), and (b) pertains to all records supporting expenditure of **specific Federal funding sources.** The DHHS Records Retention and Disposition Schedule for Grants is organized by **Federal funding sources, not by program names,** because a single funding source can be used to fund more than one program (e.g., Temporary Assistance to Needy Families funds both the Work First Program and After School Programs for at Risk Students). Retention of records is dependent on the funding sources.

(2) The Cultural Resources program schedules are organized by **record series types** such as program client records, medical records, invoices, etc. Disposition instructions are determined by various Federal and/or State regulations, which may require retention periods that are longer than those listed in the DHHS Records Retention and Disposition Schedule for Grants. Examples include Medicaid provider records that must be maintained for five years after the last date of service, Adoption Files that are to be retained permanently, and Foster Care court orders that must be retained for as long as the case is open plus three years from date of submission of the final revised annual financial report for the year in which the case was closed, provided that no litigation, claim, fiscal and/or program audit or other official action involving the record has been initiated before the expiration of the three year period.

Retention periods are governed by Federal regulations found at 7 CFR 3016.42, 7 CFR 3019.53, 45 CFR 74.53 and 45 CFR 92.42. According to these regulations, most Federal records require a three-year retention period. The start of this three-year period is usually based on the date the final grant expenditure report is submitted, which normally occurs several months after the end of the Federal grant year. It should also be noted that amended final expenditure reports restart the three-year period. Thus, a pre-defined period of time (i.e. as of July 1, ____) cannot be used as a record

disposition date. The expenditure reports are prepared and filed by the State, and are different from any reports that local governments file with the State to obtain funding.

Furthermore, **if any Federal, State or local litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three-year period described above, the records must be retained until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year period, whichever is later**. Note: The Department can only address audits, investigations and legal actions involving the State; therefore, **local government entities are responsible for ensuring that there are no local level actions, investigations or litigation pending before destroying records.**

In addition to the Federal record retention regulations, the implementing regulations for North Carolina General Statue 143C-6-23 found at 09 NCAC 03M .0703 (4) require that contracts include an "(a)greement to maintain all grant records for a period of five years or until all audit exceptions have been resolved, whichever is longer." Depending on whether a revised final financial report is submitted, the five year period could be longer or shorter than the period required by Federal regulations.

The DHHS Controller's Office tracks both the Federal and State retention periods and issues written guidance to divisions, local governments and non-governmental entities regarding which fiscal year and which particular Federal grant records may be purged. This semiannual guidance is in the form of the DHHS Records Retention and Disposition Schedule for Grants and its transmittal memorandum.

The DHHS Records Retention and Disposition Schedule for Grants must be used in conjunction with the Cultural Resources' Program Records Retention and Disposition Schedules.

The key to using the DHHS Records Retention and Disposition Schedule for Grants is to know the funding sources that support the specific records in question. For each record you must identify:

- which programs are covered in the record,
- what are the program records retention schedule disposition instructions,
- how are those programs funded, and
- if federally funded, have the Federal funding sources been cleared for disposition by the DHHS Records Retention and Disposition Schedule for Grants.

Remember, in cases where the DHHS Records Retention and Disposition Schedule for Grants differs from either the agency-specific program schedules published by Cultural Resources, any APA rules, State or Federal statutes or legal requirements in terms of the retention period, you must use the most restrictive (i.e., the longest) retention period.

All State and local government agencies, nongovernmental entities and their subrecipients, including applicable vendors, that administer programs funded by Federal sources passed through the North Carolina Department of Health and Human Services and its divisions and offices are expected to maintain compliance with both the DHHS Records Retention and Disposition Schedule for Grants and any agency-specific programmatic record retention requirements. All contractors with which your agency has financial assistance relationships or purchase of services relationships that are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance.

The County Indirect Cost Plan and supporting documentation and audit trail for developing it must be retained for as long as other County records for a Federal funding source are retained. It is the responsibility of the local agencies to coordinate with the individuals implementing the County Management Schedule to ensure that indirect cost plans and supporting documentation are retained for as long as required. County fiscal offices must ensure that responsible staff understand which records may be purged and which must be retained for the County Indirect Cost Plan.