

**Department of Finance –  
Legal Division**



**Functional Analysis  
&  
Records Disposition Authority**

**Presented to the  
State Records Commission  
April 22, 2015**

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# Functional and Organizational Analysis of the Department of Finance – Legal Division

## Sources of Information

- Representatives of the Department of Finance – Legal Division
- Code of Alabama 1975 § 41-4-200 *et seq.*

## Agency History

The Department of Finance was established in 1939 as a statutory department to manage and control all matters pertaining to fiscal affairs, except those duties assigned to other agencies. The Legal Division is one of 13 divisions of the Department of Finance.

## Agency Organization

The Chief Counsel for the Legal Division is appointed by the Director of Finance, with the approval of the Attorney General. The division employs one or more assistant attorneys general, one deputy attorney general, administrative assistants and/or paralegals, and clerks and administrative personnel for the board of adjustment. Most are merit system employees.

## Agency Function and Subfunctions

The mandated function of the Legal Division of the Alabama Department of Finance is to confer with and advise the Director of Finance and any and all subordinate officers and employees of the Department of Finance on all legal matters pertaining to the department; to furnish either verbal or written opinions, when requested by the Director of Finance, on legal questions affecting the department; and to appear for the state in all litigation affecting the department when authorized by the Director of Finance and the Attorney General. In addition, the division shall represent the Board of Adjustment in all legal matters, attend all the board's hearings, perform clerical and administrative duties for the board, and advise its members on any legal questions arising from claims filed against the state before the board.

In the performance of its mandated functions, the agency may engage in the following subfunctions:

- **Advising and Representing.** The Legal Division advises the Director of Finance with regard to legal issues that affect the department or any of its divisions. The division assists the director in the drafting of legislative bills, and reviews and advises with regard to pending legislative bills that may have some impact on the department. The Legal Division represents the Department of Finance, its divisions, and its officers and employees in their official capacities, in all matters in which the department has an interest in both federal and state courts. The division also represents the state Board of

Adjustment in all legal matters and responds to claims filed against the department before the Equal Employment Opportunity Commission (EEOC).

- **Validating and Approving.** The Legal Division validates and approves contracts, leases and other documents that require the signature of the Director of Finance. The Legal Division administers public meetings conducted by the Industrial Access Road and Bridge Authority, a public corporation of which the Director of Finance is a member. It also conducts fact-finding hearings on petitions filed by electric cooperatives for approval of incurring bonded or other indebtedness.
- **Administering Internal Operations.** A significant portion of the agency's work includes general administrative, financial, and personnel activities performed to support the programmatic areas.

**Managing the Agency:** Activities include internal office management activities common to most government agencies such as corresponding and communicating; scheduling; meeting; documenting policy and procedures; reporting; drafting or tracking legislation; managing records; and managing information systems and technology.

**Managing Finances:** Activities include budgeting (preparing, reviewing and submitting a budget package; documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the division's budget; authorizing travel; contracting with companies or individuals; and bidding for products and services.

**Managing Human Resources:** Activities involved in managing human resources may include the following: working through the department's personnel division to recruit and hire eligible individuals to fill vacant positions within the division, supervising employees (evaluating performance, disciplining, granting and monitoring leave), and providing training and continuing education.

**Managing Properties, Facilities and Resources:** Activities involved may include the following: accounting for non-consumable property and reporting property information to the appropriate authority; providing for insurance for property; and assigning, inspecting and maintaining division property, including vehicles.

# **Analysis of Record Keeping System and Records Appraisal of the Department of Finance – Legal Division**

## **Agency Record Keeping System**

The Legal Division of the Department of Finance operates a hybrid system composed of paper and electronic records. As for electronic records, the division maintains documents of Word (.doc & .docx files) and .PDF files on a backed-up Information Services Division server. The Legal Division also implements a case tracking system called ProLaw.

## **Records Appraisal**

The following is a discussion of the two major categories of records created and/or maintained by the Department of Finance – Legal Division: Temporary Records and Permanent Records.

**I. Temporary Records.** Temporary records should be held for what is considered to be their active life and disposed of once all fiscal, legal and administrative requirements have been met.

- **Petitions filed by Electric Cooperatives.** Pursuant to law, electric cooperatives petition the Director of Finance for approval of entering into bonded or other indebtedness. The petitions and supporting documentation are temporary records.

**II. Permanent Records.** The Government Records Division recommends the following records as permanent.

## **Advising and Representing**

- **Written Opinions and Memoranda Directed to the Director of Finance or Division Directors.** Correspondence intended to interpret statutes, case law and administrative regulations so that the Director of Finance and division directors can perform their official duties in compliance therewith should be maintained permanently for future reference.

## **Validating and Approving**

- **Minutes of Official Meetings of the Alabama Industrial Access Road and Bridge Authority.** The minutes of this authority's official meetings, detailing its approval or disapproval of proposed projects and other business, are permanent records.
- **Written Orders Issued to Electric Cooperatives.** After review of a petition for approval of an electric cooperative entering into additional bonded or other indebtedness, and conducting a public hearing thereon, an order signed by the Director of Finance granting or denying the petition is issued. This order should be preserved as a permanent record.

## **Administering Internal Operations**

- **Inventory Lists.** The Code of Alabama 1975 § 36-16-8[1] requires that “...All [state agency] property managers shall keep at all times in their files a copy of all inventories submitted by the Property Inventory Control Division, and the copies shall be subject to examination by any and all state auditors or employees of the Department of Examiners of Public Accounts.” These files need to be maintained in the agency’s office.

## **Permanent Records List**

### **Department of Finance – Legal Division**

#### **Advising and Representing**

1. Written Opinions and Memoranda Directed to the Director of Finance or Division Directors

#### **Validating and Approving**

1. Minutes of Official Meetings of the Alabama Industrial Access Road and Bridge Authority
2. Written Orders Issued to Electric Cooperatives

#### **Administering Internal Operations**

1. Inventory Lists\*

\*indicates records that ADAH anticipates will remain in the care and custody of the creating agency.

ADAH staff members are available to work with agency staff in determining the best location and storage conditions for the long-term care and maintenance of permanent records.

# **Department of Finance – Legal Division Records Disposition Authority**

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975 § 41-13-5 and § 41-13-20 through 21. It was compiled by the Government Records Division, Alabama Department of Archives and History (ADAH), which serves as the commission's staff, in cooperation with representatives of the Department of Finance – Legal Division. The RDA lists records created and maintained by the Department of Finance – Legal Division in carrying out its mandated functions and activities. It establishes retention periods and disposition instructions for those records and provides the legal authority for the division to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from “mutilation, loss, or destruction,” so that they may be transferred to an official's successor in office and made available to members of the public. Records must also be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975 § 36-12-2, § 36-12-4, and § 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the ADAH Government Records Division at (334) 242-4452.

## **Explanation of Records Requirements**

- This RDA supersedes any previous records disposition schedules governing the retention of Department of Finance – Legal Division records. Copies of superseded schedules are no longer valid and may not be used for records disposition.
- The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.
- Some temporary records listed under the Administering Internal Operations subfunction of this RDA represent duplicate copies of records listed for long-term or permanent retention in the RDAs of other agencies.
- Certain records and records-related materials need not be retained as records under the disposition requirements in this RDA. Such materials include: (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document government activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes that may include, but are not limited to: telephone call-back messages; drafts of ordinary documents not needed for their evidential value; copies of



material sent for information purposes but not needed by the receiving office for future business; and internal communications about social activities; and (5) honorary materials, plaques, awards, presentations, certificates, and gifts received or maintained by the agency staff.. They may be disposed of without documentation of destruction.

## **Records Disposition Requirements**

This section of the RDA is arranged by subfunctions of the Department of Finance – Legal Division and lists the groups of records created and/or maintained by the agency as a result of activities and transactions performed in carrying out these subfunctions. The agency may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular quarterly meetings.

### **Advising and Representing**

#### **WRITTEN OPINIONS AND MEMORANDA DIRECTED TO THE DIRECTOR OF FINANCE OR DIVISION DIRECTORS**

Disposition: PERMANENT RECORD.

#### **General Civil and Administrative Law Legal Case Files**

Disposition: Temporary Record. Retain 7 years after the case is closed.

#### **Equal Employment Opportunity Commission (EEOC) Files**

Disposition: Temporary Record. Retain 3 years after the case is closed.

#### **Research and Working Files**

Disposition: Temporary Record. Retain 3 years.

### **Validating and Approving**

#### **MINUTES OF MEETINGS OF THE ALABAMA INDUSTRIAL ACCESS ROAD AND BRIDGE AUTHORITY**

Disposition: PERMANENT RECORD.

#### **Project Files of the Alabama Industrial Access Road and Bridge Authority**

Disposition: Temporary Record. Retain 3 years.

#### **WRITTEN ORDERS ISSUED TO ELECTRIC COOPERATIVES**

Disposition: PERMANENT RECORD.

#### **Petitions and Supporting Documentation Filed by Electric Cooperatives for Approval of Bonded or Other Indebtedness**

Disposition: Temporary Records. Retain 3 years after final dispensation.

## **Administering Internal Operations: Managing the Agency**

### **Routine Correspondence and Memoranda**

Disposition: Temporary Record. Retain 3 years.

### **Administrative Reference Files**

Disposition: Temporary Record. Retain for useful life.

### **Records Documenting Implementation of Approved RDA**

Disposition: Temporary Record. Retain 3 years.

### **Copy of RDA**

Disposition: Temporary Record. Retain 3 years.

### **System Documentation**

Disposition: Temporary Record. Retain documentation of former system 3 years after the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

## **Administering Internal Operations: Managing Finances**

### **Records documenting budget requests, status of funds, and operation plans**

Disposition: Temporary Record. Retain 1 year after audit.

### **Records documenting requisitioning, purchasing and invoicing of goods and services, and authorizing payments**

Disposition: Temporary Record. Retain 1 year after audit.

### **Records of accounting transactions such as journals, registers, and ledgers; records of funds deposited inside/outside the state treasury**

Disposition: Temporary Record. Retain 1 year after audit.

### **Contractual records established for the purpose of services or property**

Disposition: Temporary Record. Retain 6 years after expiration of the contract.

### **Agency Audit Reports**

Disposition: Temporary Record. Retain 3 years.

### **Records documenting the bid process, including requests for proposals and unsuccessful responses**

Disposition: Temporary Record. Retain 7 years after the year in which the bids were opened.

## **Administering Internal Operations: Managing Human Resources**

### **Records documenting employee hours worked, leave earned and leave taken**

Disposition: Temporary Record. Retain 1 year after audit.

**Records documenting an employee's work history**

Disposition: Retain 6 years after separation of an employee from the agency.

**Administering Internal Operations: Managing Properties, Facilities, and Resources**

**INVENTORY LISTS**

Disposition: PERMANENT RECORD. Retain in office (Code of Alabama 1975 § 36-16-8[1]).

**Letters of Transmittal**

Disposition: Temporary Record. Retain 1 year after audit.

**Agency Copies of Transfer of State Property**

Disposition: Temporary Record. Retain 1 year after audit.

**Receipts of Responsibility for Property**

Disposition: Temporary Record. Retain until return of item to property manager.

**Records documenting the use, maintenance, ownership, insurance, and disposition of equipment owned by the agency**

Disposition: Temporary Record. Retain 3 years after the equipment is removed from the property inventory.

# **Requirement and Recommendations for Implementing the Records Disposition Authority (RDA)**

## **Requirements**

Under the Code of Alabama 1975 § 41-13-21, “no state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission.” This Records Disposition Authority constitutes authorization by the State Records Commission for the disposition of the records of the Division of Purchasing (hereafter referred to as the division) as stipulated in this document.

One condition of this authorization is that the division submit an annual Records Disposition Authority Implementation Report on the division records management activities, including documentation of records destruction, to the State Records Commission in July of each year.

## **Recommendations**

In addition, the division should make every effort to establish and maintain a quality record-keeping program through the following activities:

- The division should designate a records liaison, who is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the division, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, and ensuring the regular implementation of the division’s approved RDA.
- Permanent records in the agency’s custody should be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.
- Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis – for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA’s provisions, no record should be destroyed that is necessary to comply with requirements of the state Sunset Act, audit requirements, or any legal notice or subpoena.
- The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, I is committed to funding any system upgrades and migration strategies necessary to ensure the records’ permanent preservation and accessibility.

- Electronic mail contains permanent, temporary, or transitory record information. Although e-mail records can be printed out, filed, and retained according to the RDA's requirements, the division should preferably employ an electronic records management system capable of sorting e-mail into folders and archiving messages having long-term value.
- The staff of the State Records Commission or the Examiners of Public Accounts may examine the condition of the permanent records in the custody of the agency and inspect records destruction documentation. Government Records Division archivists are available to instruct the agency staff in RDA implementation and otherwise assist the agency in implementing its records management program.

The State Records Commission adopted this Records Disposition Authority on April 22, 2015.

\_\_\_\_\_  
Steve Murray, Chairman  
State Records Commission

\_\_\_\_\_  
Date

By signing below the agency acknowledges receipt of the retention periods and requirements established by the records disposition authority.

\_\_\_\_\_  
Richard H. Cater, Chief Counsel  
Department of Finance

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bill Newton, Acting Director  
Department of Finance

\_\_\_\_\_  
Date