Department of Veterans Affairs
Washington, DC 20420

VA DIRECTIVE 6371
Transmittal Sheet
October 29, 2010

DESTRUCTION OF TEMPORARY PAPER RECORDS

1. REASON FOR ISSUE: To issue policy requirements for the Department of Veterans Affairs (VA) on the destruction of temporary paper records to ensure that the personally-identifiable information (PII) of all individuals, including Veterans, dependents, and employees, and other VA sensitive information that is contained in temporary paper records is protected.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This directive details procedures implemented to increase the security and protection of PII contained in temporary paper records.

3. RESPONSIBLE OFFICE: The Office of Information and Technology (005), Office of Information Protection and Risk Management (005R), Office of Privacy and Records Management (005R1) is responsible for the material contained in this directive.

4. RELATED HANDBOOK: None

5. RESCISSION: VA Directive 6371, dated 05/02/2008

Certified By: **BY DIRECTION OF THE SECRETARY OF VETERANS AFFAIRS**

CERTIFIED BY:

/s/
Roger W. Baker
Assistant Secretary for
Information and Technology

BY DIRECTION OF THE SECRETARY OF VETERANS AFFAIRS:

/s/
Roger W. Baker
Assistant Secretary for
Information and Technology

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DESTRUCTION OF TEMPORARY PAPER RECORDS

1. PURPOSE AND SCOPE

a. Paper records are often the most uncontrolled type of media. Sensitive information, particularly personally-identifiable information (PII), tossed into open-top recycling bins and trash containers exposes VA to a significant vulnerability to “dumpster divers”, and overcurious employees, risking accidental disclosures. This directive establishes Department of Veterans Affairs’ (VA) policy to ensure that PII of all individuals, including veterans, dependents, and employees, and other sensitive information that is contained in temporary paper records is properly disposed of. This policy does not apply to records that are subject to permanent retention under the applicable records disposition schedule pursuant to the Federal Records Act, disclosure under the Freedom of Information Act, or preservation in accordance with one or more litigation holds. This policy is applicable Department-wide to all employees, trainees, volunteers, other appointees, contractors and associates.

b. The protection of PII and other VA sensitive information through the awareness of proper privacy, security, and records management practices is the responsibility of every member of the VA workforce.

2. POLICY

All VA sensitive information that is contained in paper records under the jurisdiction of VA will be handled by the most secure, economical, and effective means in accordance with legal requirements. PII is the most common form of sensitive information handled at VA and therefore requires the use of extraordinary procedures for its protection. PII that is not properly disposed of can result in actual or potential identity theft and cause personal hardship to the subject individuals. It is imperative that the appropriate means of destruction be used for all VA temporary paper records. VA’s preference is for a method of destruction that permits paper records to be recycled, while still meeting the requirements for final destruction. Procedures for the destruction of these records are detailed in Appendix A to this document.

3. RESPONSIBILITIES

All Under Secretaries, Assistant Secretaries, and Other Key Officials are responsible for the following:

a. Ensuring that this policy is communicated to all employees in their organizations;

b. Evaluating the security and privacy awareness activities of their organizations as related to the destruction of paper records in order to set clear expectations for compliance with security and privacy requirements sufficient to protect and properly dispose of temporary paper records;

c. Allocating adequate resources to accomplish such compliance;

d. Developing mechanisms for communicating, on an ongoing basis, each workforce member's role and responsibilities specific to destruction of temporary records and how to follow the policies and practices that will enhance VA's security and privacy culture; and

e. Establishing guidance in support of this directive.

4. REFERENCES.

a. Federal Records Act, 44 U.S.C. Chapter 31.

b. Freedom of Information Act, 5 U.S.C. §552.

c. NSA/CSS 02-01-Z, Evaluated Products List for High Security Crosscut Paper Shredders.

d. NSA/CSS 02-02-M, Evaluated Products List for High Security Disintegrators.

e. OMB Circular No A-130.

f. VA Directive 6300, Records and Information Management.

g. VA Directive 6500, Information Security Program.

h. VA Directive 6502, Enterprise Privacy Program.

i. VA Handbook 6300.1, Records Management Procedures.

j. VA Handbook 6500, Information Security Program.

k. 36 C.F.R. Chapter XII.

l. 36 C.F.R. 1220.14 Subpart A, General Provisions, General Definitions.

m. 36 C.F.R. 1228.58 Destruction of Temporary Records.

n. 41 C.F.R. Part 101 - 45, Sale, Abandonment, or Destruction of Personal Property.

o. 44 U.S.C Chapter 33.

5. DEFINITIONS

a. **Certification of Destruction**: Written documentation by a records destruction or recycling contractor or vendor that attests to the completion of the destruction process after the destruction of VA records has taken place. This certification is not considered a valid certification of destruction if submitted prior to the actual destruction of the records.

b. **Final Destruction:** The process through which temporary paper records are pulped, macerated, or shredded to a degree that definitively ensures that they are not readable or reconstructable to any degree. If this final destruction is performed away from a VA facility it must be performed, where practicable, by a National Association for Information Destruction (NAID) certified, bonded and insured recycler or paper mill and any intermediary processes must protect the records until final destruction is completed.

c. **Interim Destruction:** Interim destruction of temporary paper records refers to macerating, chopping, pulverizing, or shredding of these records to a degree that does not definitively ensure that they are not readable or reconstructable to any degree, but does ensure that they are not readable or reconstructable without extraordinary effort. This destruction of temporary records is a preliminary step that will allow for secure transport of records until such time as their final destruction.

d. **Permanent Records:** As defined in 36 C.F.R. 1220.14, permanent records are those records that have been determined by the National Archives and Records Administration (NARA) to have sufficient value to warrant preservation in the National Archives of the United States. As such, permanent records may not be destroyed. Examples of permanent records are original hardcopy documents for research and development projects.

e. **Personally-Identifiable Information (PII):** PII is any information about an individual including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and information which can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, biometric records, including any other personal information which is linked or linkable to an individual.

f. **Readable:** Printed data is readable when strategies can be used to assist with decoding (the translation of letters and/or symbols into sounds or visual representations of speech) data and arriving at comprehension through the use of morpheme, semantics, syntax, and contextual clues to integrate the information they have read into their existing framework of knowledge in order to arrive at a meaning.

g. **Reconstructable:** Printed data is reconstructable when methods can be employed to reassemble the various portions of material in such a fashion that data can be decoded and meaning can be derived from the data found on the media.

h. **Records:** As defined in 44 U.S.C. 3301, records are all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them.

i. **Temporary Records:** As defined in 36 C.F.R. 1220.14, temporary records are those records that have been determined by the Archivist of the United States to have insufficient

value to warrant preservation by NARA. Temporary paper records are eligible for destruction by burning, pulping, or shredding. Examples of temporary records would be copies of hardcopy documents for research and development projects.

j. **VA Sensitive Information:** VA sensitive information is all Department data, on any storage media or in any form or format, which requires protection due to the risk of harm that could result from inadvertent or deliberate disclosure, alteration, or destruction of the information. The term includes information whose improper use or disclosure could adversely affect the ability of an agency to accomplish its mission; proprietary information; records about individuals requiring protection under various confidentiality provisions such as the Privacy Act and the HIPAA Privacy Rule; and information that can be withheld under the Freedom of Information Act. Examples of VA sensitive information include the following: individually-identifiable medical, benefits, and personnel information; financial; budgetary; identifiable research; quality assurance; confidential commercial; critical infrastructure; investigation and law enforcement information; information that is confidential and privileged in litigation such as that which is protected by the deliberative process privilege, attorney work-product privilege, or the attorney client privilege; and other information which, if released, could result in violation of law or harm or unfairness to any individual or group, or could adversely affect the national interest or the conduct of federal programs.

IMPLEMENTATION PROCEDURES

In order to meet the goal of ensuring the disposition of VA sensitive information in the most secure, economical, and effective means, in accordance with legal requirements the following procedures shall be implemented Department-wide:

1. Federal agencies are required to follow regulations issued by the Archivist of the United States governing the methods of destroying records, (36 C.F.R. 1228.58, Destruction of Temporary Records). Only the methods described in this regulation shall be used.

2. Under 36 C.F.R. 1228.58, paper records to be disposed of that do not contain sensitive information must be sold as wastepaper. However, if the records require special protection because they are national security classified or deemed confidential by statute such as the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), regulation, or VA policy, the wastepaper contractor must be required to wet pulp, macerate, chop, shred, or otherwise definitively destroy the information contained in the records so that it is not readable or reconstructable. The destruction of the information must be witnessed either by a Federal employee or, if authorized by the organization that created the records, by a contractor employee. This witnessing may be completed by the wastepaper contractor as long as a documented certification of destruction is provided to VA that certifies complete destruction of the records.

3. The destruction of national security classified information, including the method of destruction, must be approved by the VA Security Officer, Office of the Assistant Secretary for Security and Law Enforcement.

4. Before the method of destruction is decided, the organization must consider the following among other factors:

a. What types if information does the organization require to be destroyed?

b. What is the sensitivity of the data?

c. Will the records be stored a controlled area until final destruction?

d. Should the destruction process be conducted within the organization or outsourced?

e. What is the anticipated volume of records to be destroyed?

f. What is the availability of sanitization equipment and tools?

g. What is the level of training necessary for personnel to properly use the destruction equipment tools?

h. How long will destruction take?

i. What are the costs associated with the various methods of destruction?

j. What are the environmental impacts of the various methods of destruction?

5. The contract for sale of paper records that do not contain VA sensitive or national security classified information must prohibit the resale of all such records for use as records or documents.

6. The interim destruction of records is proper for ensuring their security when transportation is necessary for final destruction. Interim destruction of these records must take place at the VA facility or at a secured vendor location, and this destruction must be to the degree that the information contained on them is not readable and not reconstructable without extraordinary effort. If interim destruction is not carried out by VA employees, it must be carried out by a National Association for Information Destruction (NAID) certified, bonded, and insured contractor who has contracted to provide sufficient reasonable safeguards to protect the records until final destruction has been completed. Methods of interim destruction carried out by a contractor must be witnessed by a Federal employee or, if authorized by the organization that created the records, a contractor employee may act as witness, and the written attestation shall be submitted to the organization that created the records. The contractor employee may be the vendor performing the interim destruction as long as a certification of destruction is provided to VA.

7. Certifications of destruction must be maintained in accordance with applicable VA Records Control Schedules, and should only be accepted from data destruction or recycle vendors after final destruction has actually taken place. VA personnel responsible for the final destruction of temporary records should develop a tracking method for ensuring that a certification of destruction is submitted for every shipment of such records released to a data destruction or recycling vendor.

8. Although lesser destruction measures may be taken prior to the secure transport of paper records, final destruction of the records must ensure that the information on the record is not readable or reconstructable. If final destruction is not carried out by VA employees, the final destruction must be witnessed by a VA employee or, if authorized by the organization that created the records, a contractor employee may serve as witness. As with interim destruction, if final destruction is not carried out by VA employees it must be carried out by a NAID certified, bonded, and insured contractor. If the final destruction is witnessed by a contractor, it must be attested in writing, and the attestation must be submitted to the organization that created the records.

9. Temporary paper records that are collected for destruction must be kept in a manner that will prevent their content from being read by individuals with no official business need or right to access the data contained in these records. The method of collecting and processing these records must also prevent the loss or theft of these records until their final destruction.

10. Contracts for records destruction services must be in writing in accordance with VA and Federal acquisition requirements. Acceptance of a contract for the destruction of temporary paper records must not be only through the use of purchase cards or other informal means. Acceptance must be noted via a fully-actuated and current written contract. Payment for contracted services, however, may be made with a purchase card once a fully actuated and current contract is in place and the contract number is entered onto the purchase card order.

11. All mandatory VA Acquisition Regulation (VAAR) and Federal Acquisition Regulation (FAR) contracting, security, and privacy clauses must appear in all contracts let for the destruction of VA temporary paper records.

12. Contracts governing the final destruction of temporary paper records containing VA sensitive information must contain a clause providing for inspection, upon request, by a VA representative of the contractor's facilities where the records are processed and final destruction takes place.

13. Contracts for destruction of temporary paper records must include specific clauses to ensure that PII and other sensitive temporary records are handled in a secure manner until they undergo final destruction. At a minimum, these contracts shall require documentation that any contractor who will handle the records until final destruction is completed is bonded, insured, NAID certified for paper/printed media destruction, and can provide reasonable physical safeguards for the data throughout the destruction process.

14. No VA temporary paper records containing VA sensitive information that have not been shredded, pulped, chopped, or macerated to the standard of final destruction shall ever be placed with trash, recycling, or other refuse.

15. Collection containers distributed throughout any VA facility must be secured in a manner that prohibits unauthorized individuals from accessing paper records identified for destruction that have been deposited into them. These containers must provide reasonable physical safeguards which may include, among other measures, locks or placement in secure areas.

16. Veterans Health Administration (VHA) programs and facilities must enter into a fully actuated Business Associate Agreement with all records destruction or recycling vendors who complete interim destruction off-site or not under the direct control of VHA personnel.