

Schedule 37-140

DEPARTMENT OF ROADS

LEGAL DIVISION

January 1, 2016

Nebraska Records Management Division
3242 Salt Creek Circle
Lincoln, NE 68504
(402) 471-2559

**REQUEST FOR APPROVAL
OF RECORDS RETENTION
AND DISPOSITION SCHEDULE**

SCHEDULE
37-140
AGENCY, BOARD OR COMMISSION DEPARTMENT OF ROADS
DIVISION, BUREAU OR OTHER UNIT LEGAL DIVISION
Supersedes 37 Edition of September 15, 2000; items 37-140-1 through 37-140-6

**TO: STATE RECORDS ADMINISTRATOR
STATE OF NEBRASKA**


PART I – AGENCY STATEMENT:

In accordance with Section 84-1212.01, R.R.S. 1943, approval of the attached records retention and disposition schedule by the State Records Administrator is hereby requested. Retention periods and dispositions have been recommended by this agency after a careful evaluation of all factors listed in Section 84-1212.01, R.R.S. 1943.

SIGNATURE	
TITLE	Director
DATE	12-29-15

PART II – APPROVAL OF STATE ARCHIVES:

The attached schedule has been analyzed, all archival and historical material has been properly identified, no disposition except by transfer to the State Archives has been recommended for such material, and this schedule is approved as submitted.

SIGNATURE		DATE	1/5/2016
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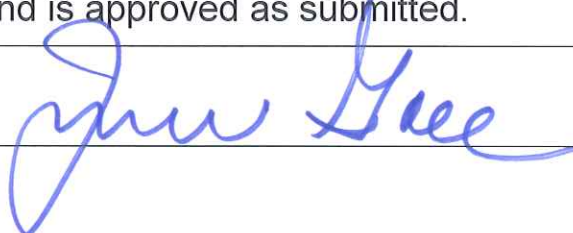
PART III – APPROVAL OF AUDITOR OF PUBLIC ACCOUNTS:

The attached schedule has been reviewed, all audit material has been properly identified, and this schedule is approved as submitted.

SIGNATURE		DATE	1/5/16
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PART IV – APPROVAL OF STATE RECORDS ADMINISTRATOR:

The attached schedule has been reviewed in accordance with Section 84-1212.01, R.R.S. 1943, and is approved as submitted.

SIGNATURE		DATE	1/7/16
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INSTRUCTIONS FOR USING THIS SCHEDULE

Records retention and disposition schedules are designed to serve as your records management guideline for storing and disposing of agency records, **regardless of the media on which they reside**, including paper, microfilm, diskettes, optical disks, CDs, DVDs, servers, computer hard drives, etc. This schedule was written specifically for records unique to your office and the State Agencies General Records Schedule #124 contains those records common to most state government agencies. This retention schedule, which is approved by the State Records Administrator, provides your only ongoing authority to dispose of records. Listed below are some basic procedures to follow when applying your schedule.

DISPOSING OF RECORDS

1. Check your schedules to see what the retention period is. Note: Your agency's unique schedule will take precedence over State Agencies General Records Schedule #124 for any items which have differences in retention requirements.
2. Dispose of records that have met their retention periods. Unless there is pending or on going, legal action, records request, or audit.
3. For records requiring a review of, or transfer to the **NE State Historical Society (State Archives)**, your agency is required to contact the State Archives to negotiate the transfer. Additionally, **once the records are accessioned into their collection, they become the property of the State Archives** (Neb. Rev. Stat. §82-105). The State Archives may remove selected records in accordance with standard archival practices to ensure efficient access, organization and enduring historical value (Neb. Rev. Stat. §82-107). Please contact their office by calling (402) 471-4783.
4. Complete a Records Disposition Report for the records you dispose. The Records Disposition Report form is located on the Secretary of State Records Management website. https://appengine.egov.com/apps/ne/sos_records_disposition_report. This report establishes that the destruction was performed in your normal course of business.

NON-SCHEDULED RECORDS

Contact a Records Management Specialist in Records Management to see whether the records will fit under an item already on the schedule. If they do not, they must be retained until they are added to the next revision of your schedule.

SCHEDULE UPDATE

It is the responsibility of each agency to periodically update their schedule. A Records Management Specialist in Records Management can assist you with the schedule update, which may involve adding new records series and making revisions to existing items. Keeping your schedule current will ensure you have the ongoing authority to discard records when their useful life has ended.

QUESTIONS

If you have any questions about these procedures, please contact your agency Records Officer or the Records Management Specialist in Records Management. They will help you with any questions the schedule may present, including: transferring records to the State Records Center or microfilming records, scanning records, etc.

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3242 Salt Creek Circle
Lincoln, NE 68504
402-471-2559**

**SCHEDULE 37-140
DEPARTMENT OF ROADS
LEGAL DIVISION
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General Guidance:

- Retention requirements are for all records, regardless of the media on which they reside, unless otherwise noted.
- Records identified herein do not appear on Schedule #27 - Attorney General, except where noted.
- In the event of litigation hold, records are retained until the hold is lifted, and must not be destroyed.
- ECM (Electronic content management system) and Microfilm serve as NDOR's Durable Medium.

Supersedes 37 Edition of September 15, 2000, items 37-140-1 through 37-140-6

ITEM NUMBER	RECORD TITLE	DESCRIPTION/EXAMPLES	RETENTION	REFERENCE/COMMENTS
37-140-1	ADVICE NOTES/FILES	<p>Essential notes, correspondence, and documents pertaining to matters of discussion or dispute (including email) collected in the course of providing legal counsel and advice to NDOR on a day to day basis, and which do not fit into any other category on this schedule.</p> <p>For example: LB summaries, informal legal opinions, advice pertaining to ROW boundaries, encroachments, nonconforming signs, contractor disputes, environmental issues, statutory and regulatory interpretations, and the like.</p> <p>DEFINITIONS: <u>Property Records:</u> Any document providing conclusory interpretation/determination of title or interest in property.</p>	<p>ESSENTIAL RECORDS: 5 years after resolution of issue</p> <p>PROPERTY RECORDS: Permanent. Retain in ECM. Dispose of paper after image/data verification</p>	<p>NDOR schedule differs from AGO Schedule and 27-31 and 27-34; specifically NDOR property records are kept longer</p>
37-140-2	AGREEMENTS WITH, AND INTERPRETATIONS FROM OTHER AGENCIES, ENTITIES, REGULATORY BODIES	<p>Essential notes and correspondence pertaining to NDOR's agreements with and interpretations from other agencies, entities, or regulatory bodies providing NDOR with exemptions, exceptions and/or interpretations of governing rules, statutes, regulations, policies, etc.; for example, Memorandums of Understandings (MOU's), Memorandums of Agreement (MOA's) and other formal/informal interpretation agreements.</p>	<p>ESSENTIAL RECORDS: Superseded until obsolete. Retain in ECM ALL</p> <p>OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after date of agreement/interpretation</p>	

ITEM NUMBER	RECORD TITLE	DESCRIPTION/EXAMPLES	RETENTION	REFERENCE/COMMENTS
37-140-3	CONDEMNATION CASES: COUNTY COURT (DIRECT AND INVERSE), AND BOARD OF EDUCATIONAL LANDS AND FUNDS (BELF)	<p>Legal case files pertaining to NDOR acquisition of land for State use at the county court level, OR that involve lands owned by the Board of Educational Lands and Funds.</p> <p>DEFINITIONS: <u>Final Case File:</u> Return of Appraisers, Condemnation Report and essential documents/correspondence pertaining to settlement, title or property interests. <u>Property Records:</u> Any document providing conclusory interpretation/determination of title or interest in property. <u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>FINAL CASE FILE: Transfer to Right of Way (ROW) Division PROPERTY RECORDS: Permanent. Retain in ECM. Dispose of paper after image/data verification INFORMATION CARDS: 10 years after case completio. ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 37-140-5 SECURITY MICROFILM (2001 & PRIOR): Transfer to State Records Center; permanent MICROFILM WORK COPY (2001 & PRIOR): Permanent</p>	
37-140-4	CONDEMNATION CASES: DISTRICT COURT CONDEMNATIONS	<p>Legal case files dealing with NDOR acquisition of land for State use that are appealed to or filed at the District Court level and above.</p> <p>DEFINITIONS: <u>Final Case File:</u> Signed copies of pleadings, stipulations, agreements, orders, briefs and notes/correspondence documenting matters of essential discussion or dispute (including email). <u>Property Records:</u> Any document providing conclusory interpretation/determination of title or interest in property. <u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>FINAL CASE FILE: 10 years after final disposition of case PROPERTY RECORDS: Permanent. Retain in ECM. Dispose of paper after image/data verification. INFORMATION CARDS: 10 years after case completion. ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 37-140-5 SECURITY MICROFILM (2001 & PRIOR): Transfer to State Records Center; permanent MICROFILM WORK COPY (2001 & PRIOR): Permanent</p>	
37-140-5	LEGAL REFERENCE AND RESEARCH	<p>Legal forms, exhibits, articles, briefs, unique discovery/reports (or discovery of a repeating nature, such as expert depositions/discovery responses/reports), compilation binders of topical research, and the like, to be utilized in future cases for legal reference.</p>	<p>BRIEFS: 20 years FORMS/TEMPLATES/COMPILATION BINDERS: Superseded until obsolete UNIQUE DISCOVERY RESPONSES/REPORTS: 10 years after last contact with witness</p>	

ITEM NUMBER	RECORD TITLE	DESCRIPTION/EXAMPLES	RETENTION	REFERENCE/COMMENTS
37-140-6	MISCELLANEOUS LITIGATION FILES	<p>Miscellaneous Legal case files created as a result of litigation in Administrative, State or Federal Courts on behalf of NDOR, and which do not fit into any other category on this schedule. For example: Injunctive, enforcement, regulatory, and quiet title actions; actions pertaining to junkyards, outdoor advertising, and control of access; environmental and natural resource issues; and any other claim seeking declaratory, injunctive, or monetary relief brought by or against NDOR.</p> <p>DEFINITIONS: <u>Final Case File:</u> Signed copies of pleadings, stipulations, agreements, orders, briefs and notes/correspondence documenting matters of essential discussion or dispute (including email). <u>Property Records:</u> Any document providing conclusory interpretation/determination of title or interest in property. <u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>FINAL CASE FILE: 10 years after final disposition of case PROPERTY RECORDS: Permanent. Retain in ECM. Dispose of paper after image/data verification ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 37-140-5 SECURITY MICROFILM (2001 & PRIOR): Transfer to State Records Center; permanent MICROFILM WORK COPY (2001 & PRIOR): Permanent</p>	<p>NDOR schedule differs from AGO Schedule 27-14 and 27-33; specifically, NDOR property records are kept longer.</p>

ITEM NUMBER	RECORD TITLE	DESCRIPTION/EXAMPLES	RETENTION	REFERENCE/COMMENTS
37-140-7	PERSONNEL CASE FILES	<p>Case files involving employment actions brought by or against NDOR, including employee grievances/complaints, EEOC/NEOC filings, and actions by other administrative agencies against NDOR.</p> <p>DEFINITIONS: <u>Non-actionable Case File:</u> Legal Division reference copies pertaining to personnel matters that do not reach the Administrative level (i.e., State Personnel Board/Arbitration, other Administrative tribunal) or court system, including essential documents/correspondence. <u>Actionable Case File:</u> Signed copy of pleadings, stipulations, agreements, orders, briefs and notes/correspondence documenting matters of essential discussion or dispute (including email), pertaining to personnel matters that reach the Administrative level or above (court system). <u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>NON-ACTIONABLE CASE FILE (COPY): Minimum 1 day up to a maximum of 3 years ACTIONABLE CASE FILE: 10 years after final disposition of case FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 37-140-5 ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case</p>	<p>Non-Actionable cases, original agency copy retained by HUMAN RESOURCES, 37-170-24, 37-170-25, 37-170-44</p>
37-140-8	STATE PROPERTY DAMAGE CLAIMS (SPD'S)	<p>Claims made and lawsuits filed against individuals/entities to collect for damage or destruction to NDOR property.</p> <p>DEFINITIONS: <u>Payment Demand Made & Payment Collected File and Payment Demand Made & Determined Uncollectible File:</u> Signed copy of pleadings, stipulations, agreements, orders, briefs and notes/correspondence documenting matters of essential discussion or dispute (including email). <u>Purged File Database:</u> Spreadsheet/database tracking payments received on accounts. <u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>PAYMENT DEMAND MADE & PAYMENT COLLECTED FILE: 5 years after final payment received PAYMENT DEMAND MADE & DETERMINED UNCOLLECTIBLE FILE: 10 years from date of last activity PURGED FILE DATABASE: 10 years from date entered in database FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 37-140-5 ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case</p>	

ITEM NUMBER	RECORD TITLE	DESCRIPTION/EXAMPLES	RETENTION	REFERENCE/COMMENTS
37-140-9	TORT CLAIMS, CONTRACT CLAIMS, AND MISCELLANEOUS CLAIMS FILES	<p><u>Non-Actionable Tort, Contract or Misc. Claim Files:</u> Where no court filing occurs on the Claim; includes copy of the tort, contract or miscellaneous claim and the determination from the State Claims Board, as well as notes/correspondence documenting matters of essential discussion or dispute.</p> <p><u>Actionable Tort, Contract or Misc. Claim File:</u> Where court filing occurs on the Claim; includes copy of pleadings, stipulations, agreements, orders, briefs and notes/correspondence documenting matters of essential discussion or dispute (including email, and the determination of the State Claims Board).</p> <p><u>Property Records:</u> Any document providing conclusory interpretation/determination of title or interest in property.</p> <p><u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>NON-ACTIONABLE CLAIM FILE: 4 years after receipt.</p> <p>*EXCEPTION: MINOR INVOLVED - 20 years after receipt</p> <p>*EXCEPTION: PETROLEUM RELEASE REMEDIAL ACTION ACT - Permanent. Retain in ECM. Dispose of paper after image/data verification.</p> <p>ACTIONABLE CLAIM FILE: 10 years after final disposition.</p> <p>*EXCEPTION: PETROLEUM RELEASE REMEDIAL ACTION ACT - Permanent. Retain in ECM. Dispose of paper after image/data verification.</p> <p>PROPERTY RECORDS: Permanent. Retain in ECM. Dispose of paper after image/data verification.</p> <p>FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 037-140-005.</p> <p>ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case</p> <p>SECURITY MICROFILM (2001 & PRIOR): Transfer to State Records Center; permanent</p> <p>MICROFILM WORK COPY (2001 & PRIOR): Permanent</p>	NDOR schedule differs from AGO Schedule 27-17; Some NDOR records are kept longer.
37-140-10	WORKERS' COMPENSATION CASE FILES	<p>Case files pertaining to NDOR employees who have claimed or received worker's compensation benefits due to injuries received on the job.</p> <p>DEFINITIONS:</p> <p><u>Final Case File:</u> Signed copies of pleadings, stipulations, agreements, orders, briefs and notes/correspondence documenting matters of essential discussion or dispute (including email).</p> <p><u>Future Use Records:</u> Documents/discovery of unique nature to be utilized in future cases for legal reference</p>	<p>FINAL CASE FILE: 15 years after case is closed or last action (whichever is later).</p> <p>FUTURE USE RECORDS: See LEGAL REFERENCE AND RESEARCH, item 37-140-5</p> <p>ALL OTHER WORK COPIES: Minimum 1 day, up to a maximum of 1 year after completion of case</p>	