
Coates' Canons Blog: Before You Start Recycling Your Bid Files, Read This!

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Your local government has just awarded a contract. Now what are you supposed to do with all of the bids, bid tabulations, paperwork, and email generated by the bidding process? Can you throw any of it away? Do you have to keep any of it, and, if so, for how long?

All documents, papers, photographs, and electronic records (including email) that you have *made* or *received* while transacting public business are considered public records. G.S. 132-1. In other words, everything in your bid file or project file is a public record—even any emails you've received from vendors, contractors, or designers.

OK, so if all of these documents and emails are public records, do you have to keep them forever? Luckily, no. However, local governments may only destroy public records with the consent of the Department of Cultural Resources. G.S. 121-5(b), G.S. 132-3(a). In fact, destroying a public record without the consent of the Department of Cultural Resources is a Class 3 misdemeanor. G.S. 121-5(b), G.S. 132-3(a). If you're starting to sweat because you didn't asked the Department of Cultural Resources for permission before you cleaned out your file cabinet last year, don't worry. Chances are you haven't committed a Class 3 misdemeanor, because the Department gives its consent through "retention and disposition schedules." There are retention and disposition schedules for counties, municipalities, schools, ABC boards, election boards, departments of social services, health departments, registers of deeds, sheriff's offices, public hospitals, public transportation systems and authorities, mental health authorities, water and sewer authorities and sanitary districts, and regional councils of governments (COGs). You can find these retention and disposition schedules here.

In order to rely on and use the schedule applicable to your local government (instead of seeking permission from the Department of Cultural Resources every time you want to destroy a public record, or risk committing a Class 3 misdemeanor), your governing board must first approve the schedule.

So, getting back to our original questions, when can you destroy public records relating to bids? The schedules that apply to the different types of local governments are generally similar to each other, and most of the schedules (including the schedules applicable to counties and municipalities) provide that "records concerning quotes to supply products and services," including "advertisements, requests for proposals, tabulations, bid bonds, awards letters, records of bids and related records concerning accepted and rejected bids" must be kept for 3 years after the purchase (for purchases) or 6 years after completion or termination of the project (for construction or repair contracts). Records regarding bids that were not awarded or opened may be destroyed after one year (presumably from the date of receipt or the bid opening date, although the schedules are not clear). Note one important exception: for formal bids, proof of publication of the bid advertisement in the newspaper must be kept permanently if the proof of publication is the only evidence that the bid was advertised. The schedule applicable to schools provides that documents related to bids and contracts must be kept for 3 years.

Of course there are some public records that are of limited value, such as fax cover sheets, routing slips, and *personal* email (even if sent to or through a public email address). The Department of Cultural Resources authorizes the "expeditious disposal" of these types of records (which the Department describes as "records possessing only brief administrative, fiscal, legal, research, or reference value"), and allows for the destruction or disposal of these records when their reference value ends. You can read more about the Department's Guidelines for Public Records with Short-Term Value here.

Note that if you're involved in a bid protest or other litigation involving a bid, you'll need to keep all of the documents and electronic records related to that bid until the litigation is resolved and your attorney says it's OK to destroy the records.

If you have records that are not addressed by the schedule applicable to your local government, call the Records



Management Analyst assigned to your county for advice. You can find out which analyst is assigned to your county on this page. The Department also offers imaging services (scanning in paper records so they are available electronically) and workshops for local governments. For more information, check out the Department's Local Government Records page .

Links

- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_121/GS_121-5.html
- www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-3.html
- www.records.ncdcr.gov/local/default.htm
- www.records.ncdcr.gov/guidelines.htm#short
- www.records.ncdcr.gov/counties.htm
- www.records.ncdcr.gov/local.htm