

RECORDS MANAGEMENT COMPLIANCE MONITORING

1. REASON FOR ISSUE: This Veterans Health Administration (VHA) directive establishes procedures required to monitor, validate, and report compliance with Federal records management laws and regulations, specifically the Federal Records Act and National Archives and Records Administration (NARA) regulations, Title 36 Code of Federal Regulations (CFR) Chapter XII Subchapter B – “Records Management”, and Department of Veterans Affairs (VA) and VHA records management policies. Compliance monitoring of the records management program and practices is required by NARA.

2. SUMMARY OF CONTENTS: This new directive provides procedures for ensuring compliance with all records management laws, regulations, and VA/VHA policies, which govern management of Federal Records. This policy extends the scope of the Privacy Compliance Assurance (PCA) Office to include the monitoring of VA Health Care Facilities as defined in this directive and applicable Business Associates as defined by the Health Insurance Portability Accountability Act (HIPAA) Privacy Rule for compliance with the Federal Records Act, NARA, and VA and VHA policies regarding records management; the administration of Facility Self-Assessments (FSA) requirements outlined in this policy; and the development of records management monitoring policies, guidance, and responsibilities.

3. RELATED ISSUES: VA Directive 6300, VA Directive 6301, VA Directive 6311, VA Directive 6371, VA Handbook 6300.1, VA Handbook 6300.2, VA Handbook 6300.8, VA Handbook 6500.1, VA Handbook 6500.6, VA Handbook 6500.8, VHA Handbook 1605.03, VHA Handbook 1605.05.

4. RESPONSIBLE OFFICE: The VHA Office of Informatics and Information Governance (OIIG)(10P2), Health Information Governance (HIG)(10P2C), Health Information Management (HIM) Program Office, VHA Records Officer and Office of Information Access and Privacy (IAP), VHA Privacy Compliance Assurance Officer (10P2C1) are responsible for the contents of this directive. Questions may be referred to the VHA Privacy Compliance Assurance Officer at 202-360-1475 or the VHA Records Officer at (202) 461-5509.

5. RESCISSIONS: None

6. RECERTIFICATION: This VHA directive is scheduled for recertification on or before the last working day of August 2022. This VHA directive will continue to serve as national VHA policy until it is recertified or rescinded.

Poonam Alaigh, M.D.
Acting Under Secretary for Health

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VHA DIRECTIVE 6300.01

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RECORDS MANAGEMENT COMPLIANCE MONITORING

1. PURPOSE

This Veterans Health Administration (VHA) directive establishes the monitoring activities required for evaluating compliance with Federal records management laws, regulations and policies, including the Federal Records Act, NARA Regulations, VA Directive 6300, Records and Information Management and VHA Directive 6300, Records Management. This directive also designates the VHA Privacy Compliance Assurance (PCA) Office, within VHA Information Access and Privacy (IAP), as the authoritative office responsible for defining and implementing these monitoring activities, and it defines the roles of the VHA Records Management Office and PCA as related to compliance monitoring activities in the VHA Records Management Program as well as the authorities and responsibilities for achieving a robust records management compliance monitoring program across all VHA operations. **AUTHORITY:** 38 U.S.C. 303, 501, 5701, 7301(b); 44 U.S.C. 2901-2911, 3101-3107, 3301-3314

2. BACKGROUND

a. As a component of the Department of Veterans Affairs, VHA must comply with all applicable Federal records management statutes and regulations. The statutes and sets of regulations most commonly encountered are listed in the references section of this policy document and are the basis for the records management policies issued by VHA.

b. VA Health Care Facilities, as defined in paragraph 3, must comply with this policy in conjunction with the statutes, regulations and policies listed in paragraph 10, References, in order to ensure that VHA records are created, maintained, stored, and dispositioned in accordance with these requirements as outlined in VHA Records Control Schedule (RCS) 10-1 and the NARA General Records Schedules (GRS).

c. The VHA Office of Informatics and Information Governance (OIIG), Health Information Governance (HIG), Health Information Management (HIM), VHA Records Officer manages the Records Management program and is the subject matter expert for Records Management policy for VHA. The VHA Privacy Compliance Assurance (PCA) Officer is authorized to establish and administer compliance monitoring functions and processes to evaluate and report VHA's overall compliance with all applicable Federal records management laws, regulations, and policies. This includes development of PCA operations, tools and activities specific to records management compliance monitoring as well as facility self-assessment processes, monitoring guidance and policy and tools used by VA Health Care Facilities.

3. DEFINITIONS

a. **Adverse circumstances and incidents of Federal Records.** Adverse circumstances and incidents of Federal Records involve the accidental or intentional destruction or loss of Federal records, damage to due to water and/or mold, fire, or

other disasters, theft or actions that result in compromise or loss of the records and when records are put in situations where security of the records is a risk.

b. **Audit.** For the purposes of this directive, Audit is a process by which a compliance performance value is assigned to a program using an objective, pre-established set of questions, evaluations and observations. This is accomplished by conducting periodic reviews of operations of VA Health Care Facilities to audit those facilities' compliance with applicable Federal laws and regulations and VA and VHA records management policies. Audits may be conducted onsite, virtually or by other means identified by PCA.

c. **Audit Coordinator.** The Privacy Compliance Assurance (PCA) staff member assigned to be the primary point-of-contact (POC) for a particular audit. The audit coordinator completes all logistical arrangements with the facility and the PCA audit team, coordinates the activities of the PCA audit team, and provides the facility with the findings of the PCA audit upon completion of the audit process.

d. **Business Associate.** A Business Associate is an entity, including an individual, company, or organization, that performs or assists in the performance of a function or activity on behalf of VHA that involves the creation, receipt, maintenance or transmission of Protected Health Information (PHI), or that provides to or for VHA certain services as specified in the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule that involve the disclosure of PHI by VHA. The use of this term in this directive has the same meaning as a Business Associate as defined in the HIPAA Privacy Rule, 45 CFR 160.103.

e. **Chief, Health Information Management.** The Chief of Health Information Management is the individual responsible for the functions and management of the Health Information Management Department in a VA Health Care Facility or Health Care System.

f. **Compliance.** For purposes of this directive, "compliance" is the full adherence to all statutes, regulations, and VA and VHA policies related to records management.

g. **Compliance Monitoring (or Monitoring).** For purposes of this directive, compliance monitoring is an evaluative oversight process whereby the "monitored" program is audited for overall adherence with regulatory and policy requirements with an outcome that is most likely to ensure that employee actions and facility processes are consistent with these applicable laws and policies. As used in this directive, compliance monitoring (or monitoring) is the process by which an evaluator (either PCA Audit Teams or Facility Records Manager or designee) evaluates program performance to include reviews of facility policies, procedures, practices, and workforce performance to ensure that relevant Federal laws, regulations and policies are being followed. This monitoring process must be documented and the documentation maintained and made available for review by PCA and other Federal agencies, upon request. Incident-specific records management investigation and complaint response do not constitute compliance monitoring.

- h. **Compliance Monitoring Tool (CMT)**. The Compliance Monitoring Tool is an objective-methodology monitoring tool developed by PCA to evaluate targeted programs of VA Health Care Facilities. The CMT is used to objectively evaluate major components of programs and assign a performance score to each component of a program based on an established 10-point performance scale.
- i. **Detailed Report**. The Detailed Report is a report generated by the VA Health Care Facility from the electronic Post-Audit Tool (ePAT) that include the results for each audited criteria and the responses documented by the PCA Audit Team during an audit.
- j. **Disposition**. Disposition means an interim or final placement of records or recorded information and the actions taken to maintain them in a proper place following their appraisal. This includes the actions of (1) retaining; (2) transferring to a records center for temporary storage; (3) transferring to an archival agency; (4) donation to an eligible repository; and (5) image reproduction or destruction.
- k. **Documentation**. The printed or electronic material, which contains instructions, comments, processes, policies and procedures, monitoring logs, and other information substantiating that certain processes have been implemented or specific activities or actions have taken place in order to manage and monitor a program. Monitoring documentation, whether in printed or electronic format, must be created, maintained and available for review by PCA or other designated members of the VHA workforce or outside agencies as appropriate upon request and shall be maintained in accordance with VHA Records Control Schedule (RCS) 10-1.
- l. **Document Review List**. The document review list is a listing of all documents to be provided to the PCA Audit Team prior to and/or at the time of a PCA audit for its review to determine documented compliance. This list is provided by the PCA Audit Team to the Facility Records Manager or other facility personnel as necessary in order for the facility to have all required documentation ready for the PCA Audit Team's review.
- m. **Electronic Compliance Monitoring Database (eCMD)**. Electronic Compliance Monitoring Database is an electronic database and reporting tool used to collect and analyze information gathered during various audits conducted and monitored by PCA. This includes data from PCA audits, Follow-up Visits, Remediation Assistance Visits, Post-Audit Review Activities, Facility Self-Assessments (FSAs), and other data deemed necessary to analyze program compliance.
- o. **Electronic Compliance Monitoring Tool (eCMT)**. A web-based CMT (see definition of CMT above) used to capture information during PCA audits. The eCMT is used to enter data directly into the eCMD during PCA audits. This is the commonly used term used to describe the electronic version of the CMT defined above.
- p. **Electronic Post-Audit Tool (ePAT)**. The Electronic Post-Audit Tool is a web-based tool used to communicate and demonstrate remediation actions during the 60-calendar day Post-Audit Review subsequent to a PCA audit.

q. **Facility Self-Assessment (FSA)**. The Facility Self-Assessment is a self-monitoring process consisting of established questions designed to evaluate all pertinent aspects of the facility records management program. The FSA is divided into sections, with each section being completed by each VA Health Care Facility Records Manager, or designee, during a specified quarter of the fiscal year (FY) and submitted to PCA. The FSA provides VA Health Care Facilities and PCA with a secondary method of monitoring compliance with Federal regulatory requirements and VA/VHA policies on an annual basis. The FSA also provides PCA with monitoring data during the periods of time between onsite and virtual PCA audits completed on PCA's fixed audit cycle (see paragraph 6, PCA Audits of VA Health Care Facility). The FSA is created and administered by PCA.

r. **Federal Record**. Federal 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 U.S. 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. (Title 44 United States Code (U.S.C.) 3301)

s. **General Records Schedules**. General Records Schedules (GRS) provide mandatory disposal authorization for temporary administrative records that are common to several or all agencies of the Federal Government. They are issued by the Archivist of the United States under the authority of 44 U.S.C 3303a(d) and 36 CFR 1227.10.

t. **Litigation Hold**. A litigation hold is an instruction from the Office of General Counsel to preserve all records, including any that are scheduled for routine destruction, which may be needed as evidence in litigation, investigation, audit, merger, or other special circumstance.

u. **PCA Audit Team**. A PCA Audit Team is a specific group of PCA staff assigned to a given audit to administer the audit, gather data, and report findings. A PCA Audit Team may consist of 2 to 6 individuals depending on the size and complexity of the facility or program being audited.

v. **PCA Communication Plan**. A comprehensive communications strategy outlining permissible and required communications between PCA and VA Health Care Facilities, VISNs, Program Offices and VHA leadership. The Deputy Under Secretary for Health approved this plan in April 2013.

w. **Post-Audit Review**: Post-Audit Review is a formal, time-limited process by which PCA coordinates and facilitates a facility's efforts to remediate high-risk compliance deficiencies in one or more of an audited facility's Privacy, FOIA and/or Records Management programs.

x. **Post-Audit Summary Review Report.** A Post-Audit Summary Review Report is an executive-level report that provides a graphical summary of the facility's compliance status at the conclusion of the Post-Audit Review process. It reflects any adjustments in the Program score, including component scores, and changes in the program sustainability scores.

y. **Records Control Schedule (RCS).** A Records Control Schedule is an official authority that provides mandatory instructions for the disposition of Federal records (including the transfer of permanent records and disposal of temporary records) when they are no longer needed by VA. Each schedule is submitted by VA and approved by NARA before it may be relied upon for retention and disposition of VHA records.

z. **Records Liaison (RL).** A Records Liaison is the program, service, or service line representative who works in conjunction with the Records Manager to ensure proper management of all records that are created and maintained by the program, service, or service line.

aa. **Records Management.** Records management includes all managerial activities associated with records creation, maintenance and use, and disposition of records in order to achieve adequate and proper documentation of the policies and transactions of the Federal government and effective and economical management of agency operations.

bb. **Review Coordinator (RC).** The Review Coordinator is a PCA staff member assigned to provide strategic guidance and consultative services to a facility's Privacy and FOIA Officer and/or Records Manager in order to coordinate and facilitate remediation of high-risk program compliance deficiencies.

cc. **VA Health Care Facility.** For the purpose of this directive, the term "VA Health Care Facility" means any office or facility under the jurisdiction of VHA, including, but not limited to: VHA Program Offices, Veterans Integrated Service Network (VISN) offices, VA medical centers, VA Health Care Systems, Community-based Outpatient Clinics (CBOCs), Readjustment Counseling Centers (Vet Centers), and Research Centers of Excellence (CoE). ***NOTE: The use of the term "facility" in this directive is synonymous with this definition.***

dd. **VA Health Care Facility Records Manager (Facility Records Manager).** The VA Health Care Facility Records Manager is the person who has designated responsibility for managing and coordinating a records management program for a respective VA Health Care Facility. The head of the VA Health Care Facility must appoint this position in writing. An Alternate should also be appointed who will perform the records management duties in the absence of the Records Manager.

ee. **VHA Privacy Compliance Assurance Officer (PCAO).** The VHA PCA Officer is the individual with direct authority and responsibility for ensuring the efficient and appropriate management of the VHA Privacy Compliance Assurance Office and

compliance monitoring programs for Privacy, Freedom of Information Act (FOIA), and Records Management.

ff. **VHA Records Officer.** The VHA Records Officer responsible for the VHA Records Management Office, is the direct manager of that office and is the individual with direct responsibility for ensuring the efficient and appropriate management of the VHA records program and compliance with all applicable records management statutes, regulations, NARA policy, and the requirements of related handbooks and directives.

gg. **VHA Workforce.** The VHA workforce includes all employees, contractors, students, without compensation (WOC), volunteers, and any other appointed workforce members regardless of their work location.

4. POLICY

It is VHA policy that the scope of the Privacy Compliance Assurance (PCA) Office responsibilities is expanded to include the administration and oversight of the records management monitoring of VA Health Care Facilities and applicable Business Associates, as defined in this directive, for compliance with the Federal Records Act, NARA, and VA and VHA policies regarding records management; the administration of Facility Self-Assessments (FSA) requirements outlined in this policy; and the development of records management monitoring policies, guidance, and responsibilities.

5. RESPONSIBILITIES

a. **VHA Records Officer.** With respect to this directive, the VHA Records Officer is responsible for:

(1) Collaborating with PCA on the criteria for how VA Health Care Facilities will be monitored, what level of monitoring will be conducted, the content of compliance monitoring surveys and other operational decisions which impact the auditing and monitoring functions outlined in this policy.

(2) Collaborating with PCA to remediate high-risk non-compliance within VA Health Care Facilities, as determined by the VHA PCA Officer, VHA Records Officer, or VHA Senior Leadership.

(3) Assisting PCA in conducting an annual review of all compliance-monitoring criteria, and advising PCA of any necessary updates that impact PCA's audit processes.

b. **VHA Privacy Compliance Assurance Officer.** The VHA Privacy Compliance Assurance Officer (PCAO) is responsible for:

(1) Collaborating with the VHA Records Officer /Records Management Office in PCA's development of audit criteria for the evaluation of the Records Management program.

(2) Gathering, maintaining, and analyzing information about VA Health Care Facilities' compliance with applicable Federal records management laws and regulations, and VA and VHA policies.

(3) Providing PCA audit finding reports to VHA leadership (VHA Network Office (10N) and Deputy Under Secretary for Health for Policy and Services) for a given cycle year, and annual Records Management FSAs submitted by each VA Health Care Facilities (in quarterly increments).

(4) Conducting periodic audits of operations of VA Health Care Facilities to evaluate compliance with applicable Federal records management laws and regulations, and VA and VHA records management policies. See paragraph 6.

(5) Conducting periodic audits of operations of VHA's National Business Associates as deemed necessary by the PCAO, to evaluate compliance with the terms of the Business Associate Agreement related to records management, and to assist VHA Health Information Access (HIA) with the audit selection process of national Business Associates related to records management.

(6) Conducting audits of one-third of the VA Health Care Facilities per fiscal year based on the established PCA audit cycle and in a sampling of Business Associates based on CMT or eCMT audit criteria and underlying risk model and records management applicability. The frequency of the cycle may be changed at the discretion of the PCA Officer based on business need.

(7) Conducting, as resources permit, out-of-cycle onsite and/or virtual audits of VA Health Care Facilities in response to information that suggests a facility is noncompliant with regulatory requirements, or may have committed a significant violation of VA and VHA records management policy, or is putting VHA and its stakeholders at risk.

(8) Administering annual FSAs, in quarterly increments, to VA Health Care Facilities to determine levels of compliance with applicable Federal records management laws, regulations, and VA and VHA records management policies. At the discretion of the PCAO, more frequent FSAs may be administered.

(9) Evaluating whether VA Health Care Facility Records Managers monitor their records management programs in accordance with this directive and other applicable VA and VHA directives and handbooks.

(10) Ensuring that audits conducted by PCA are coordinated with the VA Health Care Facility leadership, Records Manager, Alternate Records Manager, or Point-of-Contact (POC) appointed by the VA Health Care Facility.

(11) Ensuring that audits of Business Associates conducted by PCA are coordinated with the Business Associate's designated point-of-contact.

(12) Coordinating with the VHA Records Officer on an annual basis to develop and implement objective criteria to evaluate VA Health Care Facility records management

programs. This includes reviewing and updating all records management compliance-monitoring tools and processes and all associated data gathering tools to ensure monitoring processes are current with regulatory and policy changes.

(13) Reviewing, maintaining, and updating the PCA intranet Web site or other electronic means of information dissemination on a periodic basis to ensure that appropriate records management compliance-monitoring tools, guidance and reports are available to applicable VHA leadership and workforce. These tools, guidance and reports can be found at <http://vaww.vhaco.va.gov/privacy/PCA.htm>. **NOTE:** *This is an internal VA Web site that is not available to the public.*

(14) Providing a Post-Audit Review after a PCA Audit to coordinate and facilitate the facility remediation process for a specified number of days (generally 60 calendar days) in order to provide guidance and consultation to the facility on remediating any deficiencies cited in the audit Detailed Report.

(15) Creating and maintaining compliance monitoring tools that objectively document the most accurate findings possible. This may be accomplished through the ongoing development and maintenance of existing tools or new innovations as determined by PCA.

c. **Chief Program Officers.** Chief Program Officers, including those designated as Executive Directors, are responsible for:

(1) All records management activities within their program office. As requested by the PCA Officer, they must conduct a records management FSA of their respective programs and also may be subject to a PCA audit.

(2) Ensuring compliance within their respective program office with all Federal laws and regulations, VA regulations and policies, and VHA policies relating to records management.

(3) Ensuring that the designated Records Managers and/or Records Liaisons for their respective programs are included in discussions regarding strategic initiatives, to ensure that the program office addresses any significant records management concerns which may be raised by such initiatives.

(4) Ensuring that the Records Management programs for their respective programs are appropriately supported with resources, management support, and operational integration.

(5) Ensuring completion of all remediation activities required by PCA within the timeframes specified by that office, unless otherwise approved by the PCA Officer.

(6) Ensuring that any requested program office staff or physical areas of the office are available to the PCA for audit within 30 calendar days of the requested audit date, unless a later date is negotiated with the PCA Officer.

(7) Cooperating with PCA in monitoring compliance.

d. **Veterans Integrated Service Network Directors.** Veterans Integrated Service Network Directors (VISN) are responsible for:

(1) All records management activities within their VISN office, including conducting records management FSAs and/or being audited by PCA as requested by the PCA Officer.

(2) Ensuring compliance within the VISN with all Federal laws, regulations and VA/VHA policies relating to records management.

(3) Appointing individuals to serve as the VISN Records Manager and Alternate VISN Records Manager; delegating authority to administer the VISN Records Management Program.

(4) Ensuring that the Records Management Programs in their VISN are appropriately supported with resources, management support, and operational integration and that the requirements in this directive are met.

(5) Ensuring that the VISN Records Manager or Alternate VISN Records Manager is included in discussions regarding strategic initiatives, to ensure that VISN leadership can address any records management concerns raised by such strategic initiatives.

(6) Ensuring that the VISN Records Manager or Point of Contact for PCA consolidates all records management data requests and provides responses in a timely manner to the VHA Records Management Office and/or PCA when requested.

(7) Ensuring any requested VISN staff or area of the VISN are available to PCA for audit within 30 calendar days of the requested audit date , unless a later date is negotiated with the VHA Privacy Compliance Assurance Officer.

(8) Ensuring completion of all remediation activities for deficiencies found during PCA Audits within a reasonable time frame specified by that office, unless otherwise approved by the PCA Officer.

e. **VA Health Care Facility Directors.** VA Health Care Facility Directors are responsible for:

(1) All records management activities within their facility. The Director must appoint a Records Manager in writing and, in addition to other records management duties, delegate authority for this position to conduct ongoing monitoring activities in accordance with this directive. An Alternate Records Manager must also be appointed in writing to perform the records management duties in the absence of the Facility Records Manager.

(2) Ensuring that the PCA Office has access to all areas of the facility and facility staff in order to conduct an audit within 30 calendar days of the requested audit date, unless a later date is negotiated with the PCA Officer.

(3) Promoting a facility culture that meets the requirements of all applicable Federal records management statutes and regulations, as well as VA and VHA policies.

(4) Implementing business processes, providing adequate staff, and taking other actions needed to create and maintain a records management program that complies with all Federal laws regulations and VA and VHA policies.

(5) Ensuring that the Facility Records Manager is included in discussions regarding strategic initiatives, to ensure the facility addresses any records management concerns such initiatives may raise.

(6) Providing the Facility Records Manager appropriate support to develop their role and the awareness of their role among the facility workforce.

(7) Ensuring that strategic planning activities and records disposal processes are subject to records management compliance monitoring.

(8) Upon request, certifying annual records management training completion to the VHA Records Management Office and/or PCA for all personnel. **NOTE:** *This certification must be based on reports generated by the Facility Records Manager and Education Coordinator or Education Office.*

(9) Reporting promptly to the VHA Records Management Office and PCA any records management issue or activity constituting non-compliance that has the potential for VISN-level or national impact.

(10) Cooperating fully with the VHA Records Management Office in conducting a complete and adequate investigation and resolution of records management complaints or allegations.

(11) Ensuring that the Facility Records Manager is an active participant in the facility environment of care rounds, that appropriate records management questions are asked during rounds, and that all deficiencies found are addressed in a satisfactory manner according to facility policy.

(12) Cooperating fully with PCA during the 60-calendar-day Post-Audit Review period to timely and fully remediate deficiencies in the facility records management program identified by PCA.

(13) Ensuring completion of all remediation activities required by PCA within the timeframes specified by that office, unless otherwise approved by the PCA Officer.

(14) Cooperating with PCA in all matters concerning compliance monitoring.

(15) Complying with all other requirements of paragraph 4.e. of VHA Directive 6300, Records Management.

f. **VA Health Care Facility Records Managers.** The VA Health Care Facility Records Managers are responsible for:

(1) Managing the facility Records Management Program in accordance with all applicable Federal laws and regulations and VA and VHA records management policies and monitor the program in accordance with NARA regulations (Title 36 Code of Federal Regulations (CFR) Chapter XII Subchapter B – “Records Management”) and this directive.

(2) Maintaining and periodically updating the facility master file plan and inventory, which includes records of all media types (paper, electronic, etc.) and monitors to see that they are perpetually kept up-to-date.

(3) Monitoring facility operations to identify unscheduled records and submitting all appropriate paperwork to the VHA Records Officer to ensure schedules are requested for these records in order to be included in VHA RCS 10-1.

(4) Monitoring all identified unscheduled records to ensure they are not dispositioned until a schedule is obtained; and monitoring that the records are dispositioned in accordance with that schedule once in force.

(5) Identifying facility permanent records and monitoring these records to ensure they are sent to NARA for appropriate storage as identified in VHA RCS 10-1 or GRS.

(6) Ensuring that all vital/essential records (those which support the facility’s mission-critical functions per VA Handbook 6300.2) are identified and monitored to determine that they are up-to-date and accessible if needed in an emergency or catastrophic event.

(7) Conducting ongoing monitoring to determine that all employees receive and complete records management training as directed by the VHA Records Management Office and that a record of training is maintained.

(8) Ensuring that staff members are aware of their roles and responsibilities for records management and monitor the workforce to determine that they are following records management requirements. This includes all workforce members who create, store and/or disposition Federal records.

(9) Providing training to department/service Records Liaisons on how to implement a compliant records management program for their department/service, to include but not limited to, completing and maintaining a department/service records inventory and file plan, and appropriate records maintenance, storage and disposition and monitor that the Records Liaisons are fully completing their responsibilities in this role. The VA Health Care Facility Records Manager is responsible for referring any identification of deficiencies to the VA Health Care Facility Director.

(10) As needed but at least annually, reviewing and updating the facility records management policy and all existing local policies and procedures that have a records management component, to ensure consistency and compliance with legislative and policy changes in VHA records management directives and handbooks in accordance with established expiration/renewal time frames.

(11) Conducting ongoing monitoring activities to ensure that the facility is maintaining Federal records according to VHA RCS 10-1 and the GRS and documenting findings and remediation actions.

(12) Conducting a formalized and documented records management review of all facility activities, throughout the calendar year including but not limited to:

(a) Monitoring quarterly, or more often, the facility's records management program in general to ensure compliance with all requirements (it is recommended that this monitoring be conducted on an ongoing basis to ensure continuous readiness).

(b) Annually, or more frequently monitoring the facility's compliance with VHA Handbook 1605.05, Business Associate Agreements, for records management requirements.

(c) Annually, or more frequently reviewing and updating as necessary the facility's master file plan and master records inventory.

(d) Annually, or more frequently monitoring, all records storage areas (onsite and offsite) for compliance with Federal records storage requirements and after any changes to storage location(s) (see 36 CFR 1234, Subpart B).

(e) Monitoring the maintenance and disposition of facility Federal records for compliance with VHA RCS 10-1 and the GRS.

(f) Monitoring all applicable contracts and other agreements related to the creation, maintenance, storage, and disposition of Federal records to ensure that all required contract clauses for Records Management are placed into these contracts/agreements.

(g) Regularly monitoring contractors and other vendors who create, store, maintain, or dispose of Federal records, in conjunction with the assigned Contracting Officer or their representative, to ensure compliance with the records management requirements included in the contract or other acquisition documents.

(13) Maintaining documentation of all required record management compliance-monitoring and remediation activities according to the RCS 10-1 and the GRS.

(14) Completing and submitting the VHA Records Management FSA within required time frames specified by PCA.

(15) Ensuring the use of the tools provided by PCA to assess the facility's compliance with Federal records management laws and regulations, and VA and VHA records management policies as required by PCA.

(16) Responding to and fully investigating facility-specific allegations or complaints of activities that violate Federal laws and regulations or VA/VHA policies regarding records management; documenting and maintaining documentation of the investigation and resolution in accordance with NARA regulations; and cooperating fully with the VHA Records Management Office and PCA to ensure necessary full remediation.

(17) Ensuring that facility leadership is aware of allegations that records management requirements have been violated.

(18) Ensuring completion of all remediation activities required by PCA within 60 calendar days after receiving the PCA audit report, unless otherwise approved by the PCA Officer.

(19) Training individuals conducting physical assessments on their behalf within offsite clinics or other remote locations when the Records Manager is not able to conduct the physical assessment.

(20) Complying with all other requirements of paragraph 4.f. of VHA Directive 6300, Records Management.

g. **Records Liaisons.** The Records Liaisons are responsible for:

(1) Monitoring creation, storage, and disposition of records within assigned areas.

(2) Evaluating and maintaining an inventory and file plan of records within assigned areas on an on-going basis to ensure they are always current and up-to-date and submitting them to the Facility Records Manager or PCA upon request.

(3) Monitoring processes for storage and disposition for assigned areas to ensure records are maintained in accordance with NARA-approved record schedules, ensuring that they are inventoried and labeled for proper shipment and storage.

(4) Monitoring onsite record storage areas within assigned areas to ensure that records are stored according to NARA onsite storage requirements (including but not limited to: segregation of Federal records from non-records materials, environmental requirements such as humidity and climate control, pest control, restricted access and fire suppression).

(5) Complying with all other requirements of paragraph 4.h. of VHA Directive 6300, Records Management.

h. **All VHA Workforce.** All VHA Workforce are responsible for:

(1) Creating, maintaining, protecting, and disposing of facility records in accordance with the facility records management program;

(2) Cooperating with the Facility Records Manager and Records Liaisons to ensure that:

(a) Supervisors and their staff know the name and location of the facility's Records Manager and their local Records Liaisons;

(b) All records are listed in the department, service or section file plan and inventory;

(c) Eligible records are transferred to NARA-approved records storage centers when requested; and

(d) Facility records are appropriately destroyed when eligible and only as authorized.

(3) Reporting destruction of records that occurs prior to the schedule specified in VHA RCS 10-1 or the GRS to their immediate supervisor and their department Records Liaison.

(4) Ensuring that proper authorization is obtained before removing records from the facility.

(5) Completing the VA Talent Management System (TMS) course, "Privacy and Information Security Awareness and Rules of Behavior" annually and other required training as directed.

(6) Complying with all other requirements of paragraph 4.i. of VHA Directive 6300, Records Management.

6. PCA AUDITS OF VA HEALTH CARE FACILITY

Onsite and virtual records management audits are conducted by PCA and are coordinated with the VA Health Care Facility leadership and/or Records Manager(s) or records management POC. PCA may conduct audits in conjunction with, or on behalf of, other VA or VHA programs or other agencies. These audits are administered on a fixed three-year cycle with each VA Health Care Facility being assigned to a specific cycle-year. The frequency of the cycle may be changed at the discretion of the PCA Officer based on business needs. **NOTE:** *The process discussed in this paragraph will also be followed for applicable VHA Business Associates audits.*

a. When PCA has identified a VA Health Care Facility to be audited, VHA leadership will be notified of the audit via the method outlined in the PCA Communications Plan.

b. Once VHA Leadership has been notified, the facility Director is contacted. The Director must make the facility and personnel available for the audit in accordance with this directive.

c. PCA will provide the VA Health Care Facility with general information about the audit process prior to the onsite and/or virtual records management audit to assist the facility in its preparation for the audit. The Facility Records Manager may conduct a pre-assessment of the facility using the PCA audit tools, in order to identify and mitigate any deficiencies prior to the onsite and/or virtual facility audit. Information on how to prepare for an audit is available on the PCA intranet Web site (VHA Privacy Compliance Assurance page at (<http://vaww.vhaco.va.gov/privacy/PCA-visits.htm>)).

d. The PCA Audit Team conducting the onsite and virtual records management audit shall:

(1) **Provide an Entrance Briefing.** The PCA Audit Team provides an entrance briefing to the VA Health Care Facility leadership, including but not limited to the facility Director or program office Director and their associates, Chief of Staff, Records Manager, and/or other officers of the facility and other personnel, as deemed appropriate by the facility.

(2) **Workforce Interviews.** The PCA Audit Team interviews key VA Health Care Facility personnel, including, but not limited to, the Records Manager, Alternate Records Manager, Records Liaisons, Privacy Officer, Compliance and Business Integrity Officer, Health Information Management (HIM), VA Police, selected Contracting Officer Representatives and other personnel identified by the PCA Audit Team as well as a random sampling of general workforce members. These interviews consist of questions directly related to the facility's practices and activities that create, manage, and sustain the records management program; subjects include but are not limited to:

(a) Records manager assignment, duties, knowledge and skills related to records management.

(b) Employee knowledge about their records management duties related to creation, maintenance, storage, and disposition of Federal Records.

(c) Inventories and file plans.

(d) Creation, maintenance, storage, and disposition of Federal records in all media.

(e) Business Associates and contracting.

(f) Creation, maintenance, storage, and disposition of vital, temporary, permanent records, non-record material and litigation holds.

(3) **Review of Documentation (Policies and Procedures, Monitoring Data, etc.).** The PCA Audit Team reviews the facility's policies and procedures for records management, including all policies and procedures, SOPs, memoranda, and other official documentation that codify the facility's compliance with records management requirements. All policies, procedures, and monitoring documentation must be in writing and in force. PCA will not recognize undocumented customs or practices as policies and procedures or monitoring activities for purposes of the compliance

assessment. All documents must be provided as outlined in the Document Review List provided by the PCA Audit Team to the audited facilities in preparation for the audit.

(4) Conduct a VA Health Care Facility Physical Assessment. The PCA Audit Team performs a physical assessment of the VHA health care facility and any locations used by the facility for records management as part of its onsite and virtual audits of the facility's compliance with records management laws, regulations, policies, and procedures. An after-hours audit may also be conducted at PCA's discretion. During the physical assessment, the PCA Audit Team will note all instances of non-compliance with records management requirements. Facility staff accompanying the PCA Audit Team is responsible for documenting any specific findings during the physical assessment, and for implementing appropriate corrective actions. In the instance of a virtual audit, other documentation such as photographs or attestations will be required to substantiate compliance that would otherwise be observed by the PCA Audit Team onsite.

(a) The physical assessment includes visual observation of a reasonable cross-section of the grounds, buildings, operations, and services, including offsite Clinics, storage areas, and other offsite locations used in the operation of the facility.

(b) Facility personnel will not interfere with or influence the physical assessment or the outcomes of the physical assessment. As a general practice, the PCA Audit Team will be escorted by facility personnel when conducting onsite audits. However, the PCA Audit Team shall be allowed to walk through areas of the facility separate from the facility escort, upon request to ensure that the culture observed is representative of day-to-day operations free from the influence of the escort's presence. During virtual audits, facilities shall provide documented evidence of the physical environment that reflects the true compliance status of the program and facility staff should take extra care to properly depict the most accurate status of the physical environment with photographs, attestations or other documentation of the environment as requested by PCA.

(c) The PCA Audit Team may, at its discretion, interview any workforce member to inquire about their knowledge of records management responsibilities or practices. PCA will utilize a standardized methodology of interviewing in order to ensure consistency and efficiency.

(d) The PCA Audit Team will take necessary measures to minimize an audit's impact on normal operations and patient care where possible and may abbreviate the physical assessment where operations are complex or workforce is significantly busy.

(5) Provide an Exit Briefing. Upon completion of the PCA Audit, the PCA Audit Team shall provide an exit briefing to the VA Health Care Facility leadership including, but not limited to the facility Director or program office Director and their associates, Chief of Staff, Records Manager, and other personnel as deemed appropriate by the facility. During this briefing, the PCA Audit Team will present an Executive Summary, which outlines the facility's overall program performance in the form of compliance scores for each program component evaluated and the elements that make up that

component (a score for the overall component of Records Management and the elements that make up the program such as policy, inventory and file plan, program monitoring, etc.). The compliance scoring methodology will be determined by the Privacy Compliance Assurance Officer in collaboration with VHA Leadership and may change it at their discretion. The exit briefing will include any findings that significantly impacted the overall performance scores. In addition, the PCA Audit Team may highlight the facility's strong areas or practices. PCA will inform the facility leadership that the facility points-of-contact (Records Manager or others) will be contacted by the Post-Audit Review Coordinator assigned to their audit. The Post-Audit Review Coordinator will grant them access to the PCA Electronic Post-Audit Tool (ePAT) and the facility will be able to generate a Detailed Report of the audit. This report will include all questions and observations covered during the PCA audit, and the responses documented by the PCA Audit Team. Once access to the ePAT is provided the 60-Calendar Day Post-Audit Review process will begin (see section 6 below).

(6) Conduct 60-Calendar-Day Post-Audit Review Process. The PCA Post-Audit Review Coordinator will continue to review and provide feedback and/or consultation regarding a facility's remediation actions for 60-calendar days after the facility POCs receives access to the ePAT.

(a) Performance scores from the PCA audit will remain unchanged until the next assessment cycle, with exceptions under two limited scenarios:

(b) The facility showed the audit team clear evidence of completed training, monitoring, or other required activities, but it had no formalized SOP or policy to ensure those activities would be sustainable over time. The score will be updated in this scenario if, prior to the end of the Post-Audit Review period, the facility submits a documented and implemented policy or SOP for conducting these activities, to the PCA Review Coordinator via the ePAT.

(c) The facility possessed documented evidence of compliance at the time of the audit, but the facility was unable to present that evidence to the PCA Audit Team at the time of the audit for an unanticipated and unavoidable reason. The PCA Officer or designee will determine whether the reason for not providing evidence of compliance warrants this consideration. The score will be updated in this situation if, prior to the end of the Post-Audit Review period, the facility submits the required documentation to the Review Coordinator via the ePAT.

(d) The PCA Post-Audit Review Coordinator will send the facility instructions for the Post-Audit Review process, including substantive requirements and timeframes for completion. These instructions will also include access to and use of the ePAT, which must be used for all Post-Audit Review interactions unless otherwise permitted by the PCA Review Coordinator.

(e) The Facility Records Manager must respond timely to all findings and provide PCA with evidence of remediation of the findings within the 60-calendar day Post-Audit Review period when practicable.

(f) If the facility is unable to complete all remediation actions during the Post-Audit Review period, it must continue remediation of all findings that remain below full compliance on the Summary Post-Audit Review Report, regardless of whether the finding will be re-scored. The Facility Records Manager must develop and maintain a detailed written plan for how outstanding remediation actions will be taken and must provide it to PCA upon request.

(g) PCA will report the facility baseline score from the PCA audit, as well as the Adjusted Post-Audit Review Score if any upward adjustments are made as described in this directive, to VHA leadership as outlined in the PCA Communications Plan.

NOTE: *This same process outlined above will be followed for VHA Business Associates assessments as applicable.*

7. FACILITY RECORDS MANAGER MONITORING DUTIES

The Facility Records Manager shall monitor the facility Records Management program to determine if it is compliant with all Federal records management requirements. The Records Manager shall maintain documentation of all required monitoring and remediation activities. The Records Manager must consult VHA RCS 10-1 and the GRS to determine the appropriate retention and disposition requirements and keep all monitoring documentation in accordance with these requirements.

a. **General Program Monitoring.** The Facility Records Manager shall develop a documented compliance monitoring process to ensure the records management program is evaluated per PCA tools and guidance. Monitoring activities should include all key components of a records management program and the effectiveness of these components towards an overall compliant records management program. In addition to the monitoring requirements listed below in this section, the Records Manager shall monitor the general structure of the program to determine if they have been granted delegation to serve in their official capacity and whether the workforce is aware of the records management program; they shall monitor to determine if an alternate records manager is assigned, delegated, and properly trained to serve as records manager as needed; they shall monitor to determine if Records Liaisons are assigned for all departments/services, or areas of the facility, are trained sufficiently and are functioning in their liaison role; and they shall monitor the program effectiveness within the facility workforce and monitor to determine if all workforce members are properly trained. Records Managers may also monitor by other means in addition to those provided by PCA tools and guidance as necessary to fully assess the compliance of the records management program.

b. **Facility-Wide Records Inventory and File Plan.**

(1) The Facility Records Manager shall develop a documented process to ensure a facility-wide, master records inventory and file plan are developed, maintained, and updated at least annually and that the inventory and file plans include vital records, records in all media type (paper, electronic, or any other), and location of all storage

areas (including records stored onsite, offsite, Record Center & Vault (RC&V) and Federal Records Centers (FRC) or commercial offsite). Separate inventory and file plan documents may be maintained or a combined inventory/file plan document may be used at the facility's discretion.

(2) The Facility Records Manager shall monitor the facility-wide master records inventory and file plan to ensure that they include all required elements (record series, record location/electronic file-path, description of the record, inclusive dates of information in the series, and type of media (paper, electronic, audiovisual, etc.)). This monitoring consists of regular quarterly spot-checks of departments/services. All departments/services shall be monitored at least once annually to determine if (a) the inventory is complete and updated, and (b) if the Federal records are actually located where the file plan indicates they should be located.

(3) The facility Records Manager shall monitor the facility's creation of new record types to ensure that unscheduled records are identified and that a schedule is promptly requested to the VHA Records Management Office. They shall monitor any unscheduled records to ensure that these records are maintained in accordance with NARA requirements until a schedule is submitted and approved by NARA and included in VHA RCS 10-1. They shall monitor the inventory and file plan to determine if unscheduled records are identified and whether the status of these records is adjusted once a schedule is obtained. They shall monitor to determine if unscheduled records are properly dispositioned according to the disposition schedule once it is obtained and that these records are removed from the inventory upon being dispositioned in accordance with the new schedule.

c. Records Storage, Maintenance, and Disposition.

(1) The Facility Records Manager shall develop a documented monitoring process to ensure all facility Federal records are stored, maintained, and dispositioned according to NARA guidelines, VHA RCS 10-1, and the GRS. This monitoring shall include active and inactive records stored within facility control and records stored in commercial records storage facilities. For the purposes of this directive, active records are those records that are still required by the facility for conducting its operations and are likely to be referenced frequently. Inactive records are those records that are no longer needed for daily operations, but are not yet ready for destruction or other disposition.

(2) The facility Records Manager shall create and implement a documented monitoring process for how Federal records are handled for inactive storage. This process shall review how all onsite or offsite inactive records storage locations are maintained, regardless of whether they are VA-managed or commercial storage facilities, and how Federal records are processed and shipped to these storage locations.

d. Active Records Storage Monitoring

(1) The facility Records Manager shall conduct quarterly monitoring activities of facility's active Federal records to ensure:

(2) Records are stored in the locations indicated on the master file plan and inventory;

(3) Access is limited to authorized personnel only to include records in all media types (paper, electronic, audiovisual, etc.);

(4) Records are segregated from non-records, non-record material (e.g., office supplies, Christmas decorations) and personal records;

(5) Records are filed in a manner that ensures accessibility by personnel with a business need for the records for daily operations.

(6) Records are labeled with clearly defined cut-off dates and disposition authority in a manner that allows for their management and disposition; and

(7) Records are properly dispositioned according to RCS 10-1 and the GRS.

NOTE: *This monitoring may be achieved by coordinating with other facility personnel such as Clinic Managers or Coordinators, Information Security Officers, or other individuals who can monitor remote locations on behalf of the Records Manager. If other personnel are relied upon to monitor remote locations for the Records Manager, they should be properly trained to evaluate records storage, maintenance and disposition and should be independent of the facility being monitored and their assessment should not create a conflict of interest.*

e. Inactive Records Storage Monitoring.

The facility Records Manager shall conduct quarterly monitoring activities of the facility's inactive records storage area(s) to ensure that:

(1) Access to the storage area(s) is limited to authorized personnel only;

(2) The area is free from pests (mice, roaches, birds, insects, etc.);

(3) The area is climate-controlled and free of mold, mildew and dampness;

(4) Floor-to-ceiling walls separate the records storage area from other areas of the facility;

(5) The area has adequate fire suppression systems installed and operational;

(6) The area is suitable for long-term storage of Federal records without possibility of damage (e.g., no overhead sewer or steam pipes, above the 100 year flood plain, protected from the elements, etc.);

(7) Records can be easily accessed or retrieved when needed;

(8) Records are stored in appropriate records storage boxes and are labeled with the proper documentation indicating disposition authority and date;

(9) Storage boxes are maintained off the floor and in a manner that protects the records from being crushed or damaged; (e.g., palletized, racked or stored in an organized manner)

(10) Records are properly disposition according to RCS 10-1 or the GRS

f. **Commercial Off-Site Records Storage Facility Monitoring.**

(1) The facility Records Manager shall monitor the facility's use of commercial records storage vendors to ensure that all commercial records storage locations used to house facility Federal records are compliant with NARA's records storage facility standards (36 CFR 1234). This monitoring shall consist of reviewing facility processes for selection of commercial records storage vendors to determine if the locations have been approved by NARA for use by at least one other Federal agency that has certified to NARA that the storage facility complies with the standards. The monitoring shall include:

(2) Collaborating with the Facility Privacy Officer to ensure that a Business Associate Agreement is in place, and that the records storage facility has been approved by NARA, prior to shipping records to a commercial records storage vendor;

(3) Reviewing to see that the your VHA facility obtained a copy of the completed records storage facility inspection checklist and a report from a fire protection engineer (both available from the VHA Business Associate Agreement Portal or from the commercial storage vendor);

(4) Reviewing to ensure that your VHA facility provides NARA with a copy of the inspection checklist and fire engineer report by emailing them to the NARA records storage facility standards compliance manager. Please see <https://vaww.vha.esp.va.gov/sites/PCAAuditPortal/Commercail%20Storage%20Approval%20Contacts/default.aspx> for additional instructions on contacting the NARA records storage facility standards compliance manager. **NOTE:** *This is an internal VA Web site that is not available to the public.*

(5) Reviewing to ensure that the VHA facility received an approval letter from NARA prior to storing Federal records at a commercial records storage facility; and

(6) Verifying that the VHA facility maintains the NARA approval letter for each commercial storage location used by the facility, and that the letter is kept in accordance with Records Control Schedule RCS 10-1.

NOTE: *If it is determined that a prior government agency, regardless of whether it was VA or another agency, has obtained a completed NARA Federal records storage facility inspection checklist and a fire engineer report from a commercial storage vendor and has gained NARA approval using that checklist and fire inspection report, these documents may be re-submitted to NARA for new approvals. It is not necessary to have the vendor complete a new checklist or provide a new report from a fire engineer unless there has been a significant change in the vendor's storage facilities. If a commercial storage vendor is being assessed for compliance for the first time, the facility Records Manager should contact the VHA Records Officer and the VHA Privacy Compliance Assurance Officer for assistance in getting NARA approval.*

g. **Monitoring Litigation-Hold Records Storage.** The Facility Records Manager shall implement a documented process to monitor that any litigation hold records, wherever stored, are retained until the hold is lifted and that all records inventories/file plans reflect the current litigation holds. Litigation holds may be found at (<http://vaww.ogc.vaco.portal.va.gov/litigation/default.aspx>.) **NOTE:** *This is an internal VA Web site that is not available to the public.*

h. **Vital/Essential Records.**

(1) The Facility Records Manager shall develop a documented monitoring process to ensure that all vital/essential records are identified and listed on the respective inventory, and file plans are in place and are maintained. The Facility Records Manager shall monitor in conjunction with the required monitoring for file plan and inventory, to ensure that vital/essential records are adequately protected, current, and accessible at all times.

(2) The Facility Records Manager shall consult with the official responsible for emergency coordination to:

(a) Review agency statutory and regulatory responsibilities and existing emergency plans for insights into the functions and records that may be included in the vital records inventory; and

(b) Review documentation created for the contingency planning and risk assessment phase of emergency preparedness.

(3) The Facility Records Manager shall implement a documented process to monitor the maintenance and storage of Vital Records to ensure that they will be available in the event of a natural disaster or catastrophic event and that the records are maintained or stored in a location that would not be susceptible to the same natural disaster or catastrophic event as the facility for which they are maintained.

(4) The Facility Records Manager shall implement a documented process to keep a documented accounting of facility vital/essential records including:

(a) The name of the office responsible for the records series or electronic information system containing vital information

(b) The title of each records series or information system containing vital information

(c) Identification of each series or system that contains emergency-operating vital records or vital records relating to rights

(d) The medium on which the records are recorded

(e) The physical location for offsite storage of copies of the records series or system

(f) The frequency with which the records are to be cycled (updated)

(5) The Facility Records Manager shall implement a documented process, which ensures that all personnel responsible for vital records have received adequate training for their vital records duties.

(6) The Facility Records Manager shall implement a documented process for conducting an annual review of the facility Vital Records program to ensure that Vital Records are being maintained and are accessible and evaluates that new Vital Records have not been created that should be included into the Vital Records program.

i. **Electronic Records.** The Facility Records Manager shall implement a documented monitoring process that includes:

(1) Ensuring electronic records are included in the facility inventory and applicable program office/service line file plan and are stored in accordance with 36 CFR 1234 and 1236.

(2) Collaborating with Office of Information Technology (OI&T) personnel to review electronic record locations to ensure they meet all maintenance, storage, and access requirements the same as other record media.

(3) Verifying that electronic vital records are maintained in accordance with all requirements specific to these records.

(4) Monitoring electronic records in conjunction with the required monitoring for file plan and inventory, to ensure they are maintained in a sustainable format to ensure the records are accessible for their life cycle.

(5) Reviewing the records inventory and file plan submissions by Records Liaisons to ensure that electronic records are identified and recorded regardless of whether they are on network devices and that reasonable safeguards are in place so that these records are accessible and retrievable when needed (e.g., digital images from dental,

vascular lab ultrasounds, cardiology exams, etc.). **NOTE:** *This monitor may require periodic interview with Records Liaisons to determine whether electronic records are maintained outside of networked devices.*

j. **Permanent Records.** Permanent records, as identified by VA RCS 10-1 and GRS or other NARA-approved schedules, require special attention and should be scheduled for transfer to the legal custody of NARA as soon as VHA no longer needs them for current operations and/or according to their disposition authority. The Facility Records Manager shall implement a documented monitoring process to ensure that:

(1) Permanent records are created on a sustainable, archival-quality media (as specified by NARA) and kept properly and in good order (e.g., they should be stored in appropriate containers and not be intermixed with temporary records personal papers or non-record material).

(2) Permanent records are listed on the facility master records inventory and file plan.

(3) Evaluation of the compliance with general requirements for storing records properly (e.g., VHA must store its microform, audiovisual, and electronic records under conditions complying with the requirements of 36 CFR 1236, 1237, and 1234) is conducted. **NOTE:** *Permanent electronic records, for example, require special care and storage. Necessary steps include controlling temperature and humidity, recopying the information periodically to sustainable media, and testing the readability of an annual sample. Specific requirements are set forth in 36 CFR 1234. The Records Manager shall monitor these additional requirements depending on the media of the permanent records in conjunction with the required monitoring for file plan and inventory.*

(4) The transfer of any permanent records to NARA is monitored to make sure that they are transferred according to NARA requirements.

(5) Training materials and other awareness activities for records management are monitored to confirm that the requirements for managing permanent records is covered in order to ensure that the workforce is properly trained on how to maintain, store and release permanent records to NARA.

k. **Litigation Holds.** Program audits, litigation, investigations, or other special circumstances may require the retention of record series or systems beyond their scheduled destruction date. These generally take place in the form of Litigation Holds. The Facility Records Manager shall implement a documented monitoring process that includes:

(1) Monitoring the OGC litigation holds list in order to provide instructions to individuals within the facility who are responsible for the search and preservation of litigation held records. This monitoring shall be conducted at least monthly to ensure all litigation holds are adhered to by the facility personnel maintaining records that are subject to the litigation hold list.

(2) Monitoring litigation holds in conjunction with the required monitoring for file plan and inventory, to ensure that documents covered under a litigation hold are retained until the hold is lifted.

(3) Monitoring to ensure all records held under a litigation hold are dispositioned according to VHA RCS 10-1, GRS or other NARA approved records schedule once the litigation hold is lifted.

I. Health Care Facility Self-Assessment (FSA).

(1) The Facility Records Manager shall conduct a FSA each quarter utilizing the Records Management FSA tool provided by PCA. (See VHA Privacy Compliance Assurance - FSA at <http://vaww.vhaco.va.gov/privacy/PCA-FSA.htm>) **NOTE:** *This is an internal VA Web site that is not available to the public.* The FSA shall focus on specific program components as defined in section two (2) below. VISN and Program Office Records Managers shall only submit an FSA at the request of the PCA Officer. However, VISNs and Program Offices may conduct these assessments as local practice in order to monitor their program's compliance and submit them to PCA each quarter in the same manner as described in this section. All other VA Health Care Facilities shall submit their FSA as described in this section. This assessment shall be completed and submitted to PCA by the last day of each quarter of the fiscal year.

(2) PCA shall report delinquent submissions to the VISN Records Manager or records management point-of-contact or appropriate VHA leadership in order to inform them of facilities that do not complete FSAs timely. PCA may request assistance from VISNs and VHA leadership in getting future submissions completed timely.

(3) In order to encourage ongoing monitoring and to break the overall Records Management program into more manageable increments, the annual FSA will be administered in quarterly submissions to PCA. The key components of the facility's records management programs shall be assessed quarterly, in the following order:

- (a) First quarter of the Fiscal Year:
 - (b) Records Manager;
 - (c) Records Liaison; and
 - (d) Records Management Training.
- (e) Second quarter of the Fiscal Year:
 - (f) Records Management Policy; and
 - (g) Records Management Inventory and File Plan.
- (h) Third quarter of the Fiscal Year:

- (i) Records Storage and Maintenance;
- (j) Records Disposition; and
- (k) Electronic Records.
- (l) Fourth quarter of the Fiscal Year:
- (m) Business Associates Agreements and Contracting; and
- (n) Vital records.

(4) FSA submissions must be completed for each offsite clinic subordinate to the parent VA medical center or health system at least once each fiscal year. Facilities may submit the FSA for each offsite clinic in the quarter of their choosing based on what is convenient for them, but an FSA for all offsite clinics shall be conducted and submitted to PCA sometime during the fiscal year. The offsite FSA covers all of the appropriate program components for the offsite clinic in one FSA and it is not broken into quarterly increments.

m. VA Health Care Facility Physical Assessment.

(1) The Facility Records Manager shall conduct at least a quarterly physical assessment of the facility to monitor compliance with the facility's records management program. The Environmental Rounds may be used to supplement the assessment requirements, but Environmental Rounds alone do not fully meet the monitoring requirements of this directive. These physical assessments may be conducted in conjunction with the quarterly FSA required by this directive or may be conducted independently of that assessment. A more frequent physical assessment is recommended.

(2) A records management physical assessment of a VA Health Care Facility shall include a reasonable cross-section of the grounds, buildings, operations, and services to observe for records management compliance in all areas of the facilities operations.

(3) The physical assessment shall be conducted by Facility Records Manager or designee and shall include:

(a) Asking employees with various job functions about their understanding, training, and actions concerning VHA records management practices and procedures;

(b) Identifying unauthorized record storage areas and bringing them to the attention of facility leadership for appropriate corrective action;

(c) Inspecting record storage areas to ensure they meet Federal requirements as indicated in paragraph 8c above;

(d) Conduct additional evaluations as requested by PCA to determine full compliance with VHA records management requirements; and

(e) Documenting findings and corrective action(s) taken.

(4) The Facility Records Manager or the Offsite Clinic coordinator or other designee (if the Facility Records Manager is unable to perform the physical assessment for any reason) shall conduct a physical assessment of all offsite clinics at least annually. When the physical assessment is performed by someone other than the Facility Records Manager, the individual should be knowledgeable and properly trained by the Records Manager to evaluate the components of the program required in this directive and shall provide, in writing, and in a timely manner, documentation of the findings of the physical assessment to the Facility Records Manager. The individual conducting a physical assessment on the Records Manager's behalf shall not have a conflict-of-interest or have a bias toward the outcome of the physical assessment. **NOTE:** *The physical assessment may be conducted in conjunction with the facility Privacy Officer, Information Security Officer (ISO) or Safety Office or other appropriate personnel. For offsite physical assessments, facility Environment of Care Rounds may be sufficient to conduct this monitoring.*

n. **Contracts, Business Associate Agreements and other Agreements.** The Facility Records Manager shall:

(1) Work in conjunction with the facility Privacy Officer, ISO and contracting personnel or Contracting Officer Representatives (COR), VISN Contracting personnel and others as necessary to:

(a) Support monitoring contracts and other agreements that require vendors to create, use, store, and destroy Federal records in order to ensure compliance with all records management regulations, VHA retention schedules and VA and VHA Records Management policies. **NOTE:** *If the contract is for destruction of temporary paper records, the Records Manager shall also ensure compliance with VA Directive 6371, Destruction of Temporary Paper Records.*

(b) Support monitoring Business Associate Agreements to ensure the facility's compliance with VHA Handbook 1605.05, Business Associate Agreements and VA Handbook 6500.6, Contract Security, at least annually and if needed more frequently, and develop local policies and procedures that comply with these Handbooks.

(2) Consult with the facility Privacy Officer, Contracting, and other applicable personnel on the formation of Business Associate Agreements to ensure that records management language is contained in these agreements where applicable.

(3) Establish a documented monitoring process that defines how the facility will monitor the requirements of this section.

o. **Privacy Threshold Assessment (PTA) and Privacy Impact Assessment (PIA) and System of Records Notice (SORN).** The facility Records Manager shall monitor

the completion of the "Retention of Information" Section of PTAs and PIAs by assisting system owners, ISOs and Privacy Officers when these individuals are completing this section as necessary. PTAs and PIAs should contain accurate information regarding records retention, confirmation of NARA-approved retention schedules and procedures for the disposition of records containing sensitive personal information. The Records Manager shall also monitor the completion of the "Policies and Practices for Retention and Disposal of Records" section of System of Records Notices by assisting Privacy Officers when the Privacy Officer is completing this section as necessary.

8. PROGRAM SUSTAINABILITY REQUIREMENTS Basic compliance is only effective when it is sustained over time. In order to ensure that the records management program is not only implemented and fully compliant, but is also sustained over time, the VA Health Care Facility Records Manager shall conduct the following sustainability monitoring activities:

a. **Monitoring Facility Policies and Procedures.**

(1) The Facility Records Manager shall monitor to ensure that a facility-specific Records Management policy is created and maintained. This monitoring shall include:

(a) Evaluating whether the policy covers all required Records Management Program components;

(b) Determining if the policy is in-force and properly executed by facility leadership;

(c) Monitoring to ensure that the policy has been disseminated to the workforce and that the workforce has access to the policy;

(d) Reviewing and updating the Records Management policy upon expiration and ensure that updated policy is adopted and formalized;

(e) Identifying necessary changes due to regulatory and VA and VHA policy changes

(f) Monitoring to ensure the expired policy is retained for at least 6 years, in accordance with 45 CFR 164.530(j).

(2) The Facility Records Manager may, but is not required to, use the policy template provided by the Records Management Office as the basic framework for development of a local Records Management policy. Although use of the template is not mandatory, it is designed to meet all applicable legal and regulatory requirements, as long as the Facility Records Manager includes specific local procedures where indicated and does not delete sections from the template. The records management policy template is located at:

https://vaww.vha.vaco.portal.va.gov/sites/HDI/HIM/vaco_HIM/SitePages/Home.aspx.

NOTE: This is an internal VA Web site that is not available to the public.

(3) The facility may rely on VISN or National-level policies for areas where the local practices are identical to those of VISN or National-level requirements. However, the local policy must reflect this adherence to and reliance on the VISN or National-level policy and provide citations as to where the policy may be found in order for the workforce to be appraised of the policy requirements so they can adhere to them. If practices are not identical, local policy shall address the local policy expectations within the facility Records Management policy.

(4) Monitoring other facility policies – The Records Manager is considered the facility SME for records management for all local-level policies and procedures. The facility shall establish a documented process for how the Records Manager will be consulted on other facility policies containing records management implications (the creation, maintenance, storage and disposition of Federal Records) so that the Records Manager can monitor all facility policies that impact Records Management. Monitoring of other facility policies containing records management implications includes:

(a) Reviewing all local policies with records management implication to ensure they are not in conflict with the approved local facility records management policy and working with the person(s) responsible for these policies to bring them into compliance with Federal records management requirements as soon as possible.

(b) The Records Manager shall ensure that all facility workforce has access to local-level records management policies and procedures, and conduct monitoring activities to ensure that workforce are adhering to the requirements contained in the policy. Activities may include but are not limited to querying workforce on their responsibilities for records management and the proper disposition of Federal records; identifying the Facility Records Manager and service Records Liaison; and evaluating the storage of records in the department/service areas.

(c) In order to ensure that the records management program is sustained over time and is not impacted by staffing changes in the program, the Facility Records Manager shall develop facility-specific standard operating procedures (SOPs) that define how the facility will administer its local records management program. Once these SOPs are established, the Records Manager shall monitor them at least annually to ensure that they reflect the processes used by the facility and shall make amendments as necessary to keep the SOPs current to business practices.

b. Records Management Training, Education and Awareness.

(1) The Facility Records Manager shall monitor at least annually to ensure the development of a local-level records management training policy that outlines the facility procedures for ensuring compliance with the annual training requirement of VHA Directive 6300. This policy may be combined in the facility records management policy or a standalone policy. This monitoring shall include, but is not limited to the following requirements:

(a) A review of the timeframes for completion of annual required training, provisions for managing non-cooperation from workforce, and any other training requirements specific to the facility;

(b) All VHA personnel receive annual training on records management in accordance with VHA Directive 6300 and local facility policy;

(c) Development of a documented process to compile annual training records in order to report the facility records management training completion status to facility leadership and PCA for monitoring purposes upon request.

(d) The VA Talent Management System (TMS) shall be used to track the annual training status for: (1) VA personnel in the Personnel and Accounting Integrated Data (PAID) system and (2) contractors working for VHA. If necessary, the Facility Records Manager shall establish an alternative method to track the annual training status for those members of the workforce not included in TMS. These workforce members may include volunteers, students, and those contractors not included in TMS. **NOTE:** *Typically, the annual training records for employees are also kept as part of the employee's official personnel record.*

(e) The VA Health Care Facility Director shall certify annual training completion to PCA, upon request, to determine compliance with training requirements for all personnel based on the reports generated within TMS or by other means of tracking used by the Facility Records Manager and/or Education Coordinator or Education Office.

(2) The VA Health Care Facility Records Manager shall review the records management program to ensure that they and/or their Alternate or their designee is conducting records management awareness activities, including promoting the Records Manager and Records Liaison roles as subject-matter experts and workforce resources for records management and is providing information on how and to whom records management concerns and issues should be reported and that records management training is an annual requirement for all employees.

(3) The Facility Records Manager shall conduct other activities within the VA Health Care Facility to enhance workforce awareness and understanding of VA/VHA records management policies and other activities that have a positive impact on the overall records management culture and posture of the facility. These activities may include, but are not limited to conducting annual records disposition day activities, posting record management posters and announcements throughout the facility, and providing department-level in-services and/or one-on-one training with personnel or services, as requested.

c. **Adverse Circumstances and Incidents of Federal Records.** Adverse circumstances and incidents of Federal records may occur from time to time and the response to these events is critical to limiting the risks associated with damage to or destruction of Federal records. Facilities may become aware of adverse circumstances

or incidents by way of complaints or reports from employees, Veterans or members of the public, etc. The Facility Records Manager shall implement a documented monitoring process to:

(1) Monitoring local-level records management incident response policies and procedures that are based on guidance from the VHA Records Officer on how the facility will address and process all incidents concerning Federal records.

(2) Monitoring to ensure that an administrative file is maintained on all records management adverse circumstances and incidents and that it contains sufficient documentation to support the findings and resolution of the incident and that the administrative file is dispositioned according to RCS 10-1.

(3) Monitoring on a quarterly basis to ensure the processing of adverse circumstances and incidents concerning Federal records includes, but not limited to:

(a) a review to ensure that adverse circumstances and incidents are managed and investigated to full resolution, including how they are reported and handled when the Records Manager or Alternate are not available

(b) a mechanism to provide facility leadership with timely information concerning adverse circumstances and incidents involving Federal records

(c) a written response to complainants within the specified timeframe outlined in the VA Health Care Facility's records management policy (it is recommended that a reasonable timeframe be defined in the facility policy such as: "30 days from receipt")

(d) A method of coordinating with stakeholders (i.e., Human Resources for sanctions or disciplinary actions, union representatives, department heads, and supervisors, etc.) for the identification and resolution of adverse circumstances and incidents involving Federal records.

(e) Documenting and tracking remediation of adverse circumstances and incidents and identifying best practices to minimize future occurrences involving Federal records.

(4) Coordinating investigations and monitor remediation actions with the VHA Records Management Office when the facility receives a complaint from the VHA Records Management Officer concerning Federal records.

9. REFERENCES

a. Federal Records Act of 1950, 44 U.S.C. 2901 through 2911; 3101 through 3107; 3301 through 3314.

b. NARA Code of Federal Regulations, Title 36 Code of Federal Regulations (CFR) Chapter XII Subchapter B – "Records Management".

c. Title 45 CFR 160.103.

- d. Federal Rules of Civil Procedure (FRCP), Rule 26 Duty to Disclose General Provisions Governing Discovery.
- e. VA Directive 6300, Records and Information Management.
- f. VA Handbook 6300.1, Records Management Procedures. This handbook describes procedures for carrying out VA's records management program
- g. VA Handbook 6300.8, Procedures for Shipment of Records to the VA Records Center & Vault in Neosho, MO.
- h. VA Handbook 6500.1 Electronic Media Sanitization
- i. VA Handbook 6500.6 Contract Security
- j. VA Handbook 6500.8 Information System Contingency Planning
- k. VHA Directive 6300, Records Management, dated July 10, 2012.
- l. VHA Handbook 1605.03, Privacy Compliance Assurance Program and Privacy Compliance Monitoring, dated April 13, 2009, or subsequent policy issue.
- m. VHA Handbook 1605.05, Business Associate Agreements, dated July 22, 2015, or subsequent policy issue.