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Policy on the Destruction of Obsolete Electronic Media

Purpose: This policy permits agencies to dispose of obsolete electronic media (e.g., floppy disks, magnetic data tapes, etc.)¹ when the contents are either *unidentified* and *inaccessible*, or else *duplicative*.

Policy: All digitally-stored data and information made or received pursuant to law or ordinance, or in connection with the transaction of official City business are municipal records,² and may only be disposed of pursuant to the procedures set forth in Section 1133 of the New York City Charter.

Electronic media containing information that is *inaccessible*³ and *unidentified*, or *duplicative*, do **not** constitute municipal records and may therefore be disposed of without following the disposal procedures set forth in Section 1133.

Definitions: As used in this policy, the terms “*inaccessible*”, “*unidentified*”, and “*duplicative*” are defined as follows.

Inaccessible — Data stored on electronic media is considered *inaccessible* when the agency no longer maintains equipment capable of accessing and reading the stored data and has not been instructed to upload the data to a viable platform. Data is also considered *inaccessible* when the physical condition of the electronic media has deteriorated to a point that its contents might only be accessed and recovered using forensic techniques beyond the agency’s routine technical ability.

- For example, where an agency has a box of 3.5” floppy disks, but no longer deploys any computers with a compatible drive, the contents of those disks are considered inaccessible.
- Similarly, the data on a malfunctioning hard drive is considered inaccessible if the agency’s IT staff advises that recovery might only be possible through an outside vendor at an excessive cost.

Unidentified — Data stored on electronic media may be considered *unidentified* when the media holding it is not adequately labeled, no record has been kept of what (if anything) was stored on the media, and the media is not stored in a context indicative of its contents.

- For example, the contents of an unlabeled tape cartridge stored in a box of miscellaneous other media is considered unidentified.



¹ This policy does **not** apply to microfilm or microfiche.

² See New York City Charter Chapter 72, § 3011(2) (“Records’ means any documents, . . . sound recordings, machine readable materials or any other materials, regardless of physical form or characteristics. . . .”)

³ The information may be inaccessible either because the technology is obsolete, or because the media has physically deteriorated.



- However, an unlabeled floppy disk stored within a labeled box, folder, or file is assumed to hold data relevant to the subject of that box, folder, or file, and should be preserved along with the other contents of that box, folder, or file.

Duplicative — Data stored on electronic media is considered **duplicative** when it is known that the same information was also preserved in another format.

- For example, where media is known to contain backups or snapshots of data systems that are still online (or which were migrated into systems that are still online), then the data stored on that media is merely a copy, and need not be preserved as a municipal record.
- Similarly, where an agency had a policy of printing all of its municipal records for storage in hardcopy (paper) format, it may dispose of obsolete electronic media containing information that was or would have been preserved in paper format.⁴



Exceptions: When obsolete electronic media is known to contain the only extant-copy of municipal records that have never been the subject of an approved disposal application, then the obsolete electronic media must be preserved pending an approved application for disposal.

This policy does **not** apply to information stored on microfilm or microfiche. The agency should contact DORIS for guidance on preserving or converting records stored on photographic media.

Process & Procedure: Agencies may dispose of obsolete electronic media that meet the criteria of this policy without further approval from DORIS or the Law Department.

Obsolete electronic media should be destroyed or disposed of pursuant to appropriate information security protocols and procedures, even when any data on that media is unidentified or inaccessible to the agency. This can generally be accomplished by ensuring the physical destruction (*e.g.*, shredding) of the electronic media.

When identified but inaccessible data comprises municipal records with a long retention period, agencies should consult with legal counsel and their information technology staff to explore ways of migrating that data to an accessible format.

⁴ The obsolete electronic media can be disposed of even if the stored-copy of the municipal records it contains were previously disposed of pursuant to a disposal application under Section 1133, as that application would also cover the copy contained on the obsolete electronic media.