



Monterey County

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Board Report

Legistar File Number: RES 16-084

December 13, 2016

Introduced: 11/28/2016

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Resolution

Adopt Resolution to:

- a. Approve a variance from the Countywide Records Management Policy adopted July 1, 2014, regarding real property records related to lending activities by the Economic Development Department (EDD);
- b. Approve a variance from the Countywide Records Management Policy adopted July 1, 2014, regarding agreements and documents entered into as a result of outside grant funding;
- c. Approve the Records Retention Schedule for the EDD for the storage and/or destruction of County records as set forth by federal and state laws, county codes and policies (4/5ths vote required); and
- d. Authorize the Director of EDD or designee to destroy or cause the destruction of County records in accordance with the approved EDD Records Retention Schedule (4/5ths vote required).

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution to:

- a. Approve a variance from the Countywide Records Management Policy adopted July 1, 2014, regarding real property records related to lending activities by the Economic Development Department (EDD);
- b. Approve a variance from the Countywide Records Management Policy adopted July 1, 2014, regarding agreements and documents entered into as a result of outside grant funding;
- c. Approve the Records Retention Schedule for the EDD for the storage and/or destruction of County records as set forth by federal and state laws, county codes and policies (4/5ths vote required); and
- d. Authorize the Director of EDD or designee to destroy or cause the destruction of County records in accordance with the approved EDD Records Retention Schedule (4/5ths vote required).

SUMMARY:

The Board of Supervisors adopted a Countywide Records Retention Management Policy on July 1, 2014. If approved by the Board, the Records Retention Schedule for the Economic Development Department will authorize storage and preservation of records and the prompt destruction of records once the designated retention period expires.

DISCUSSION:

The Economic Development Department (EDD) produces a wide variety of records related to the County's economic development and housing programs. EDD is also responsible for the files generated by the former Redevelopment Agency of the County of Monterey. The timely scanning,

shredding and recycling of these materials will reduce storage costs and improve the efficient management of EDD records.

The EDD has created a Records Retention Schedule to address the retention and destruction of department specific files. Other general departmental records will be retained in accordance with the Countywide Cross Departmental Records Retention Schedule or other approved Departmental Records Retention Schedules, such as the one for the Auditor-Controller which covers financial records.

The proposed EDD Records Retention Schedule seeks two variances from the Countywide Records Retention Schedule. The first variance covers real property documents. Per the Countywide Records Retention Schedule, real property documents including deeds of trust, promissory notes, and restrictive covenants are to be permanently retained. The proposed variance would allow EDD to dispose of these documents when the underlying loan is satisfied and real property was not acquired for the benefit of the County; thus, after the loan is satisfied the County retains no further interest in property. This is the case, for example, with loans made to individual homeowners for home down payment assistance or rehabilitation projects, for loans made to non-profit housing developers which agree to specific affordability limits, and for small business loans used for business purposes.

The second variance will allow the EDD to use different retention periods to conform to grant agency requirements when those requirements are different from the adopted Countywide Records Retention Schedule. For example, the Countywide Records Retention Schedule requires general contracts and agreements to be retained for a period of five years after the term of the agreement. The federal regulations governing agreements entered into as a result of the Community Development Block Grant agreements with government and non-profit entities only require the agreements be retained for three years following the expenditure report for the year the agreement was funded. This variance will allow EDD to assign retention periods that are consistent with requirements imposed by the various state and federal grant agencies that fund EDD's business and housing loan programs.

The EDD manages two housing and business lending programs that generate real property documents in the normal course of business. EDD retains original copies of these documents in a locked, fireproof cabinet during the term of the loan. Once a borrower has repaid the loan and/or occupied their home for a prescribed term, the original copies of these documents are typically surrendered to the borrower or escrow officer when the property is sold and restrictive covenants executed by the new property owner are recorded.

The proposed EDD Records Retention Schedule was developed by comparing the Countywide Records Retention Schedule with requirements imposed by the various state and federal agency that provide funding for the Department's housing loan and small business loan programs. Deeds of trust and restrictive covenants are recorded with the County Clerk-Recorder during the escrow closing process. Thus, the public will continue to be able to access deeds of trust and restrictive covenants through the County Clerk-Recorder's Office after the EDD disposes of its copies in accordance with federal regulations.


OTHER AGENCY INVOLVEMENT:

As required by the County's Records Management Policy, the proposed Economic Development Records Retention Policy has been circulated to the Auditor-Controller, County Archives Manager, County Counsel, Records Retention Center Manager, and the Risk Manager for review and approval prior to submission to the Board of Supervisors. As demonstrated on the attached Economic Development Department Records Retention Schedule Approvals, these Departments have reviewed and approved the proposed records retention schedule and draft resolution as to form.

FINANCING:

There is no impact on the FY2016/17 Approved Budget. Future impacts may be realized in the form of increased fees associated with the storage of records by Retention Center prior to disposal but not currently paid by EDD. These additional costs may be offset by savings associated with the systematic removal of old records as they reach the end of the required retention period.

Prepared by: 
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Approved by: 
David L. Spaur, CEcD, EDDP, Economic Development Director, Ext. 5387

Attachments:

EDD Records Retention Policy

EDD Records Retention Policy Resolution

(Attachments are on file with the Clerk of the Board)