



## **Moku O Keawe Region**

### **DOCUMENT RETENTION AND DESTRUCTION POLICY**

The Board of Directors of Moku O Keawe (MOK) (hereafter, the "Corporation") has approved this Document Retention and Destruction Policy to ensure that the records of the Corporation are managed in a manner consistent with the need to maintain appropriate records of the Corporation and purge unnecessary, outdated documents. The Corporation has developed the following provisions to establish clear guidelines to implement this principle and fulfill the purposes of the policy.

#### **ARTICLE I**

##### **PURPOSES**

The purposes of this policy are as follows:

1. To establish procedures for the retention, maintenance, and destruction of records, consistent with federal, Hawaii State, and local laws.
2. To ensure that records are not altered, destroyed, mutilated, or concealed for use in an official proceeding or otherwise to obstruct, influence or impede any such proceeding.
3. To ensure that the Corporation and those responsible for its records maintain the highest standards of conduct in discharging their corporate duties.

This policy is intended to supplement but not replace federal, State, and local laws governing retention of records, applicable to nonprofit corporations.

#### **ARTICLE II**

##### **POLICY IMPLEMENTATION**

Each individual of the Corporation is responsible for retaining the official files for those document categories identified in the Document Retention and Destruction Schedule (Article III, below) in the individual's area of responsibility. Each such individual is responsible for ensuring that such files are retained in accordance with this policy and records are disposed of when no longer required.

Each responsible individual, at the individual's discretion, may establish longer records retention periods than recommended for special circumstances in the individual's operation

The Document Retention and Destruction Schedule is subject to the following qualifications:

- Records not listed: If a particular record is not listed, do not destroy the record until an appropriate retention schedule is created.
- Differing retention periods: Where records having one retention period cannot be separated from records having a longer retention period, both records should be retained for the longer period.
- Correspondence: Correspondence should be retained until the record that it supports is destroyed.
- Supporting documents: Documents should be retained as necessary to provide a record of significant events and the conclusion reached in a particular issue.
- Unneeded documents: Document files, both hard and electronic copy, should be reviewed periodically to ensure that only required documents are retained and unneeded superseded drafts are destroyed.
- Official proceeding exception: If the Corporation is the subject of an authorized investigation, an audit, or is involved in a legal action of any sort, do not destroy the records related to the audit, investigation or legal action.

Questions concerning the appropriate disposition of records not Listed in the Schedule or any question about application of the policy in specific circumstances should be directed to the President.

All records that are relevant or related to or are involved in any currently pending official proceeding or suspected official proceeding should promptly be brought to the attention of the President.

**ARTICLE III**

**DOCUMENT RETENTION AND DESTRUCTION SCHEDULE**

Note: Other retention requirements may apply to the Corporation based on its programs and operations that have additional or longer retention requirements than those listed below and these should be inserted and followed (e.g., requirements of a grantor, insurance company, accountant, creditor, or State agency may have longer retention periods).

<b>Corporate Records:</b>		
<b>Document Categories</b>	<b>Longest Minimum Statutory Retention Period or  *Recommended Minimum Retention Period</b>	<b>Source</b>
The articles of incorporation (or restated articles) and all amendments.	Permanent.	IRS Compliance Guide for 501(c)(3) Public Charities (Publication 4221-PC (Rev. 7-2014)) ("IRS Compliance Guide"); Hawaii Nonprofit Corporations Act.
The bylaws (or restated bylaws) and all amendments.	Permanent	IRS Compliance Guide; Hawaii Not for Profit Corporations Act.
Employer identification number (EIN).	*Permanent.	Recommended period.
Minutes of the meetings of the Board of Directors; records of all actions taken by the directors without a meeting (i.e., actions taken by unanimous written consent of the directors).	Permanent.	Hawaii Nonprofit Corporations Act; IRS Compliance Guide.
Records of all actions taken by committees of the board (i.e., committees whose members consist solely of directors and may be authorized to take board actions).	Permanent.	Hawaii Nonprofit Corporations Act.
A list of the names and business or home addresses of the Corporation's current directors and officers.	Permanent.	Hawaii Nonprofit Corporations Act.

Annual reports filed with the State Department of Commerce and Consumer Affairs (including prior year's reports).	(a). *Permanent.  (b). Compare: State law requires that a copy of the current report be kept.	(a). Recommended period.  (b). Hawaii Nonprofit Corporations Act.
Trade name/trademark & other intellectual property registration.	*Permanent.	Recommended period.

<b>Solicitation Records:</b>		
<b>Document Categories</b>	<b>Longest Minimum Statutory Retention Period or  *Recommended Minimum Retention Period</b>	<b>Source</b>
Records related to requests directly or indirectly for money, credit, property, financial assistance, or things of value on the plea or representation that they will be used for charitable purpose or to benefit the Corporation.  Financial records related to solicitation should be kept as indicated in the retention schedule for accounting records below.	(a). *Permanent.  (b). Compare: 3 yrs. (fiscal records should be kept in accordance with the accounting records, below)	(a). Recommended period.  (b). Hawaii Law: Solicitation of Funds From the Public.

<b>Members and Membership Records:</b>		
<b>Document Categories</b>	<b>Longest Minimum Statutory Retention Period or  *Recommended Minimum Retention Period</b>	<b>Source</b>
An alphabetical list of the names and addresses of the members by class (as applicable) and indicating the number of votes each member is entitled to cast.	(a). *Permanent.  (b). Compare: State law requires that a list of current members be kept with this detail.	(a). Recommended period to have a record of member record dates.  (b). Hawaii Nonprofit Corporations Act.
Resolutions of the Board relating to member characteristics, qualifications, rights, limitations, and obligations.	Permanent.	Hawaii Nonprofit Corporations Act.
Member meeting minutes.	Permanent.	Hawaii Nonprofit Corporations Act.
Records of actions approved by the members without a meeting.	Permanent.	Hawaii Nonprofit Corporations Act.
Financial statements furnished to members upon demand (under Hawaii Revised Statutes 4140-306).	3 yrs.	Hawaii Nonprofit Corporations Act.
Documents relating to the expulsion or suspension of a member or termination or suspension of a membership or memberships (including related notices to a member and proceedings held).	(a). *6 yrs. after the effective date.  (b). Compare: 1 yr. after the effective date.	(a). Hawaii limitations period for contract actions (e.g., action on governing or other instruments).  (b). Hawaii Nonprofit Corporations Act limitations period for actions based on expulsion/suspension.

**Accounting Records:**

<b>Document Categories</b>	<b>Longest Minimum Statutory Retention Period or  *Recommended Minimum Retention Period</b>	<b>Source</b>
IRS exemption application (Form 1023) and supporting documents.	Permanent.	IRS Compliance Guide.
IRS exemption ruling letter.	Permanent.	IRS Compliance Guide.
GET license.	Permanent.	Hawaii General Excise Tax Law.
State application for exemption from GET and supporting documents.	*Permanent.	Recommended period to support license and certification of exemption under Hawaii General Excise Tax Law.
State certification of exemption from GET.	Permanent.	Hawaii General Excise Tax Law.
Accounts payable ledgers and schedules.	*7 yrs.	Hawaii accounting professionals ("CPA") and National Council of Nonprofit Organizations (2004) ("NCNO").
Annual information return (Form 990 Series).	(a). *Permanent.  (b). Compare: 3 yrs. after the later of the due date of the return, or the date the return is filed.	(a). Recommended period.  (b). IRS Information For Organizations Exempt Under Section 501(c)(3); IRS Publication 557.
Audit reports.	*Permanent.	Recommended period.
Bank reconciliations.	*7 yrs.	CPA.
Bank statements.	*7 yrs.	CPA.
Checks and other backup documents.	*Permanent (organizational documentation or through participating bank).	Recommended period.
Depreciation schedules.	*Permanent.	CPA; NCNO.
Duplicate deposit slips.	*7 yrs.	CPA.
Expense Analyses and expense distribution schedules.	*7 yrs.	CPA; NCNO.
Yearend financial statements.	*Permanent.	CPA; NCNO.
Inventories of products, materials, and supplies.	*7 yrs.	CPA; NCNO.

Invoices.	(a). *7 yrs.  (b). Compare: 3 yrs. (for records of gross proceeds of sale and gross income, and other records of account and invoices).	(a). CPA; NCNO.  (b). Hawaii General Excise Tax Law; Hawaii Income Tax Law.
Tax returns and worksheets.	*Permanent.	CPA; NCNO.
Timesheets.	*7 yrs.	CPA; NCNO.
Withholding tax statements.	*7 yrs.	CPA; NCNO.
Employment tax records.	4 yrs after the date the tax becomes due or is paid, whichever is later.	IRS Compliance Guide.

<b>Agreements:</b>		
<b>Document Categories</b>	<b>*Recommended Minimum Retention Period</b>	<b>Source</b>
Contracts, agreements, and memorandums of understanding.	*Duration of contract plus 6 yrs.	Hawaii limitations period for contract actions.

<b>Program Records:</b>		
<b>Document Categories</b>	<b>*Recommended Minimum Retention Period</b>	<b>Source</b>
Records related to specific programs/projects based on contracts with grantors or other funders.	(a). *Permanent.  (b). Compare: Duration of program/project plus 6 yrs. (or longer if required by the grant or enabling statute of the grant).	(a). Recommended period.  (b). Hawaii limitations period for contract actions.

<b>Insurance Policies and Records:</b>		
<b>Document Categories</b>	<b>*Recommended Minimum Retention Period</b>	<b>Source</b>
Insurance policies and records.	*Permanent.	Recommended period for potential claims and coverage based on policy type (e.g., occurrence policy coverage).

<b>Employment Records:</b>		
<b>Document Categories</b>	<b>Longest Minimum Statutory Retention Period or  *Recommended Minimum Retention Period</b>	<b>Source</b>
1. Payroll records; basic employment and earnings records; wage rate tables; leave documents.	1. 6 yrs. from the last date of entry, date taxes are due or paid, calendar year in which the remuneration to which they relate was earned, last effective date, or termination, whichever is later.	1. Age Discrimination in Employment Act of 1967 (ADEA); Fair Labor Standards Act (FLSA); Family Medical Leave Act (FMLA); Federal Insurance Contribution Act (FICA); Federal Unemployment Tax Act (FUTA); Social Security Act; Hawaii Employment Security (SUTA); Hawaii Wage Hour Law; Hawaii Payment of Wages and Other Compensation Law; Hawaii Employment Practices; Hawaii limitation of actions.
2. Compensation agreements.	2. Duration of employment plus 6 yrs.	2. FLSA; Hawaii limitation of actions.
1. Personnel and employment records (including records of involuntarily terminated employees).	1. Duration of employment plus 6 yrs.	1. ADEA, Americans with Disabilities Act (ADA)/CivU Rights Act of 1964 (Title VII); Office of Federal Contract Compliance Programs (OFCCP); Equal Employment Opportunity (EEO); Department of Labor; Vietnam Era Veteran's



<p>2. In the case of a claim of discrimination: personnel records relevant to the charge (e.g., relating to the complainant and others holding similar positions held or sought by complainant; applications/tests completed by complainant and others for same position)</p>	<p>2. The expiration of the statutory period within which to bring a claim or final disposition of the complaint or other action or where civil action brought, upon entry of final order and expiration of filing notices of appeal, whichever is later.</p>	<p>Readjustment Assistance Act of 1974; Rehabilitation Act; Civil Rights Commission; Hawaii Wage Hour Law; Hawaii Payment of Wages and Other Compensation Law; Hawaii limitation of actions.</p> <p>2. ADA/Civil Rights Act of 1964 (Title VII); OFCCP; EEO; Department of Labor; Vietnam Era Veteran's Readjustment Assistance Act of 1974; Rehabilitation Act; Civil Rights Commission.</p>
<p>1. Benefit plan descriptions; plan annual reports; summaries of plan modifications.</p> <p>2. Documents relating to the establishment and administration of the plan.</p> <p>3. For covered employees: records relating to enrollment, service and eligibility, determination of benefits, and payment of benefits to the plan participants.</p>	<p>1(a). *Permanent.</p> <p>1(b). Compare: 6 yrs. after the filing date of the documents (or would have been filed) or termination of the plan, whichever is later.</p> <p>2. *Permanent.</p> <p>3(a). *Permanent.</p> <p>3(b). Compare: 6 yrs. after death of plan participant.</p>	<p>1(a). Recommended period.</p> <p>1(b). ADEA; Employment Retirement Income Security Act (ERISA).</p> <p>2. Recommended period.</p> <p>3(a). Recommended period.</p> <p>3(b). ADEA; ERISA.</p>
<p>1. Records relating to workplace injury/accident/illness other than by exposure to toxic substances or harmful physical agents.</p>	<p>1(a). *Permanent.</p> <p>1(b). Compare: 5 yrs. following the end of the calendar yr. that the record covers.</p>	<p>1(a). Recommended period.</p> <p>1(b). Occupational Safety &amp; Health Act (OSHA); Hawaii Occupational Safety &amp; Health (HIOSH); Hawaii limitation of actions.</p>

2. Records relating to an employee exposed to toxic substances or harmful physical agents.	2. *Permanent.	2. OSHA; IDOSH; Hawaii limitation of actions and tolling period.
Affirmative Action Program (AAP) documents.	(a). *Permanent.  (b). Compare: Maintain current document and preserve for immediately preceding <i>AAP</i> year.	(a). Recommended period.  (b). OFCCP; EEO; Department of Labor; Rehabilitation Act.
Employee handbooks and policies.	*Permanent.	Hawaii limitation of actions and tolling period.

**Back-up and Archiving:**

Documents on electronic files should be backed up to an external media as a precautionary measure.

Documents no longer require to be on-line, but for which access may be required should be archived in a removable storage medium (e.g., hard drive). The media used may have a particular life expectancy and so this should be taken into consideration.

The methods to back-up stored information and archive vary and the Corporation should consult a professional in determining the most effective, appropriate method for its operations.

**Records Destruction:**

Electronic files

Documents on electronic file need only be maintained and readable for periods similar to those for the same records stored in paper form. Any document not required to be retained should be deleted.

Exception to destruction: Official proceedings (e.g., legal actions; audits; investigations)

Any time the Corporation is the subject of an official proceeding of any sort, the records related to the proceeding should not be altered, destroyed, mutilated or concealed.

As soon as the Corporation knows of the action, whether it has formally started or not, all records potentially related to that action should be identified. The individual responsible for coordinating the Corporation's activities regarding the action should be made responsible for control as the temporary owner of those records, which should be treated as a separate record series until the proceeding is resolved. Then the temporary owner should verify with the

Corporation that the records could be returned to the normal retention and disposition cycle.

#### Confidential, Sensitive or Personal Records

Records containing confidential, sensitive, or personal information must be handled with care. When potentially sensitive records are destroyed, the Corporation must take reasonable measures to protect against unauthorized access to or use of such information contained in records with or after its disposal. Such reasonable measures include:

- ./ Implementing and monitoring procedures that require burning, pulverizing, recycling, or shredding of papers or destroying or erasing electronic and other non-paper media containing personal information so that it cannot be practicably read or reconstructed; and
- ./ Describing these procedures as an official policy in the Corporation.

Consideration should be given to include the following procedures, among others: records should be transported in covered vehicles or containers; records should be temporarily stored in closed containers; records should not be temporarily stored and awaiting disposition for more than a day or two; records should never be sold in pre-shred form to distant recycling processors.

These reasonable measures may be satisfied by entering into an agreement with another person in the business of record destruction to destroy personal information in a manner consistent with the measures described above. In doing so, the Corporation must exercise due diligence by doing one or more of the following:

- ./ Reviewing an independent audit of the disposal business's operations or its compliance with Hawaii law relating to destruction of personal information records (Title 26, as amended) or its equivalent;
- ./ Obtaining information about the disposal business from several references or other reliable sources and requiring that the disposal business be certified by a recognized trade association or similar third party with a reputation for high standards of quality review; or
- ./ Reviewing and evaluating the disposal business's information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the disposal business.

#### Electronic Mail

Destruction of electronic media can be problematic because simply deleting an electronic file is not sufficient to assure disposition. Consult with an expert if there is a need to destroy electronic/digital files.

Note that the requirement to destroy electronic media also applies when the Corporation upgrades systems or migrates to new storage media. Using the *copy* or *move* function to transfer software or data files to a new hard drive still leaves all the information on the old system unless it

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is thoroughly erased. The Corporation should consult with an expert should this issue arise.

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## **CERTIFICATION**

I hereby certify that I am an authorized officer of the Corporation and that the Moku O Keawe Board of Directors will be adopting this policy in May of 2023 at our next Board of Directors meeting.

Date: 04/08/2023

Official Certification