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## Practice 2D: Records Policy

- The land trust has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored and disposed. (See 9G.)
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This practice recognizes the importance of a records policy in protecting a land trust's assets from future legal challenges and in meeting reporting requirements. A records policy should address both organizational records, such as board minutes, and transaction records, such as deeds and baseline documentation reports. A policy helps identify the organization's key documents, what documents are needed in what format, how and when to store documents, how long to keep documents, and when to destroy documents, and it establishes business records practices for the organization. A related practice, 9G, guides recordkeeping for transactions. A complete land trust records policy will address document creation, retention and destruction.

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### Value of a Records Policy

Land trusts need to maintain appropriate records about their operations. For example, financial records, contracts, land transaction project files, board minutes, employment files, and fundraising obligations should be maintained and archived according to guidelines established by the organization. Particularly in the event of litigation, land trust records—and the land trust's ability to document their authenticity—could be paramount.

In addition to the value for potential litigation, a records management system and policy have other benefits. Developing a records policy helps assure that key documents are handled properly and not misplaced. It also serves as a vehicle for coordination among individuals. This is particularly important in offices where multiple staff, volunteers and/or board members use the land trust's documents.

Developing and maintaining a records management system can also help overcome idiosyncratic filing methods and establish a routine for making back-up copies (digital or paper). As the board and staff change, a records policy helps provide consistency and serves as a guide for newcomers to the organization.

To succeed over the long-term, a land trust needs to construct a records management system, adopt a records policy and ensure that staff, volunteers and board members are all committed to maintaining the system.

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### Records Policies and the Sarbanes-Oxley Act

One of the provisions of the 2002 [Sarbanes-Oxley Act](#) addresses the destruction of litigation-related documents. The law makes it a crime to alter, cover up, falsify, or destroy any document to prevent its use in a federal official proceeding. The Act turns intentional document destruction into a process that should be monitored, justified and carefully administered. While, strictly speaking, the requirements and prohibitions contained in Sarbanes-Oxley do not impact nonprofit entities in the same manner that they impact for-profit entities, land trusts would be wise to follow some of the Act's requirements for publicly traded corporations.

Common sense dictates that land trusts regularly need to shred or otherwise dispose of unnecessary and outdated documents and files. [The Sarbanes-Oxley Act and Implications for Nonprofit Organizations](#), published jointly by BoardSource and Independent Sector, recommends that all nonprofit organizations have a written, mandatory document retention and periodic destruction policy. The policy should also include guidelines for handling electronic files and voicemail. (Electronic documents and voicemail messages may have the same status as paper files in litigation-related cases.) If an official investigation is underway or even suspected, a land trust should stop any document destruction and contact an attorney for specific advice.

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## Elements of a Records Policy

A land trust should create a records policy that contains at least the following elements.

- **Document creation.** The policy should explain what information is collected, when and how many copies are made. It should also include what documents must have what signatures.
- **Document retention and storage.** How is information stored? For its most important documents, the land trust will need off-site storage in addition to having office copies of documents and computer files. The policy should address such items as daily records storage; long-term records storage; who is the custodian of records; and how records will be protected from loss, fire and other hazards, and access by unauthorized persons.
- **Document destruction.** The question of how long records are maintained will vary with the type of document. For example, the IRS has regulations concerning how long tax-related information must be kept, and some grants or contracts require that records be kept for various periods of time. Easement-related documents should be kept for as long as the easement exists. The policy should address specifically what documents should be kept for what length of time (including email and voicemail communications), and when and how they will be destroyed.

A records policy may be created by a board committee, staff or with the guidance of outside legal counsel. In most circumstances, it is preferable for the board to adopt the records policy. For land trusts with multiple professional staff, the executive director can

develop and promulgate the policy statement as an interoffice memorandum. The land trust should also check with a litigation attorney to determine if the proposed policy would meet state legal requirements and evidentiary practices.

(See also the related practice 9G on recordkeeping for land transactions.)

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### Links to Other LTA Resources

- [“Records Policy and Management: A Key Aspect of Protecting Land ‘in Perpetuity’”, \*Exchange\*, Fall 2000 \(Vol. 19 No. 4\)](#)

### Links to Other Helpful Resources and Publications

- [Record Keeping Essentials for Conservation – Jane Prohaska, Minnesota Land Trust, 2005 \(workshop outline\)](#)
- [The Sarbanes-Oxley Act of 2002.](#)
- [The Sarbanes-Oxley Act and Implications for Nonprofit Organizations, published jointly by BoardSource and Independent Sector in 2003.](#)

### Sample Land Trust Records Policies

- [Colorado Open Lands Archiving Documents Introduction to the Data Management System Policies and Procedures: Computer Filing System](#)
- [Teton Regional Land Trust – Policy Document: Records Policy](#)
- [Vermont Land Trust – Stewardship Program Records Philosophy](#)

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◦ This example can be used as a starting point to create a policy or other document for your own land trust, but should be altered as necessary to reflect your organization’s unique circumstances using guidance found in the *Land Trust Standards and Practices Guidebook* text and corresponding Standards and Practices Curriculum. This material is designed to provide accurate, authoritative information in regard to the subject matter covered. It is provided with the understanding that the Land Trust Alliance is not engaged in rendering legal, accounting, or other professional counsel. If legal advice or other expert assistance is required, the services of competent professionals should be sought.