

# ENGAGEMENT AND CLIENT RECORDS RETENTION POLICY

## Purpose

The purpose of this Engagement and Client Records Retention Policy ("Policy") is to provide procedures for the closing, retention and disposition of client engagement records and files. Records management requires considerable coordination and organization focused on appropriate record-keeping, confidentiality, and compliance with federal, state and local statutes, rules, court orders, client directives and BRG guidelines. BRG has an obligation both to itself and its clients to see that records are received, managed, tracked and retained in an appropriate manner. Unnecessary retention of documents can increase storage costs to both BRG and its clients, and potentially violate agreements between the parties and/or protective orders entered by a court. Retention of superseded documents and multiple copies of documents can increase the potential for misinterpretation and error.

This Policy aligns the firm's dual goals of retaining records that materially support professional reports or advice while maintaining a satisfactory level of client service against the considerable expense of storing and retrieving documents. It is important that all employees understand and comply with, and that Case Managers and Experts establish protocols for complying with, this Policy.

## Documents Subject to the Policy

The categories of materials subject to the Policy are the following:

(1) "Engagement Records" are all records that are relevant to and materially support the Expert's professional opinions, advice, or work product, including work papers, reports, or documents transmitted by the firm, and records or documents received by the firm that are material to the execution of our client engagements. Engagement Records also include electronic files in the possession of the firm's personnel that are relevant to their professional opinions, advice, or work product. Engagement Records do not include administrative records, such as billing records.

(2) "Client Records" are documents and electronic files in the firm's possession which ordinarily are kept and maintained by the client. In most cases, these materials belong to the client.<sup>1</sup> Publicly available information (e.g., SEC reports, published articles) are not included in Client Records.

## Ongoing Engagements

A matter will remain open and active so long as the firm continues to provide ongoing services to the client regarding that client matter. During the course of an ongoing engagement, Engagement Records and Client Records should be retained as necessary and as directed by the client or engagement counsel.

*Litigation Matters.* Special care should be taken in litigation matters where documents may be discoverable and must be preserved. At the beginning of the engagement, the Case Manager or Expert should discuss with the client or engagement counsel the protocol for retention of documents. Agreements may be reached among lawyers in the case

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<sup>1</sup> In some cases, BRG will utilize previously developed models or systems in connection with a specific engagement. These models and systems continue to be the property of BRG and may be used on other engagements. The specific embodiment of a model or system used on a client engagement will be the client's property. If you have any questions regarding ownership of such material, please contact the Legal Department for guidance.

regarding expert discovery and these agreements may determine the scope of BRG's document retention obligations. There may also be protective orders, confidentiality agreements, or other formal legal requirements of the venue where the case is pending regarding document retention that will control the retention of documents during the course of an engagement. If a subpoena or document request, formal or informal, has been issued in a case directed at a testifying Expert or BRG, all documents, hard copy and electronic, should be preserved regardless of any provision to the contrary in this Policy and until directed otherwise by the Legal Department.

## **Completed Engagements**

Unless special circumstances are present or unless otherwise directed by the Legal Department, Engagement Records and Client Records should not be retained at the end of a completed engagement.

### **Engagements are considered completed and the matter should be closed:**

- (a) When there is no more work to be done on the matter;
- (b) Where there is no possibility for additional work on the matter (e.g. all appeals in a litigation matter have been exhausted);
- (c) When all outstanding fees have been paid; and
- (d) There appears to be no dispute with the client regarding the work performed.

It is the Case Manager and Expert's obligation to inform the designated BRG personnel in the IT Department, Accounting Department, and Legal Department when an engagement is completed and a matter should be closed. In addition, on a regular basis, a report of potentially completed matters will be prepared and the applicable Case Manager or Expert will be notified that such potentially inactive matters will be closed (and the records for such matters will be disposed of in accordance with this Policy) unless a reason is provided as to why the matter should not be closed. If the Case Manager or Expert does not respond to the notification within the time period specified in the notice, the matter will be automatically closed without further notice.

## **Notice to Client**

Upon completion of an engagement, (a) all original Client Records (or copies of Client Records that the Case Manager or Expert believes the client may prefer to have in its own files) and any other records that are required to be returned to the client pursuant to the engagement letter, confidentiality agreement, or other contract shall be returned to the client and (b) the client shall be informed in writing that all other Client Records and Engagement Records will be automatically disposed of pursuant to this Policy, unless the client informs BRG within the time period specified in the notice that the client wishes the records to be returned or retained by BRG at the client's expense. This will allow the client to ensure that records are not disposed of in a manner inconsistent with the client's own document retention policy (if any), but the costs of returning or retaining such records will not be borne by BRG.

## **Records Retention Period**

Unless a signed authorization is obtained from the client indicating that any additional Client Records or Engagement Records should be returned to the client or retained, all such records should be disposed of in the method described below once the matter has been closed and notification has been sent to the client. Although not encouraged, at the discretion of the Expert, copies of an Expert's report, work papers, or other relevant Engagement Records may be retained to maintain an "institutional knowledge" of a client's business or industry, except as otherwise directed by the client or the Legal Department.

### ***Special Circumstances***

A longer retention period may be implemented in special circumstances to the extent required by any applicable law, regulation, or contractual requirement. For example, Engagement Records should be retained at the close of a matter: (a) when requested by the client in writing (retention costs may be allocated to the client), (b) where there is the potential for litigation in which documents in the closed matter may be relevant, (c) where a protective order or agreement between the parties requires such retention, (d) where a subpoena or other document production request has been received by BRG, (e) in the unlikely event that a dispute relating to services performed by BRG is possible, or (f) an Expert elects to retain his/her report or work papers and such retention is not objected to by the client.

To the extent a law, regulation, or agreement requires retention of records in a completed engagement, the Case Manager or Expert should comply with the terms of such order or agreement and advise the designated BRG personnel in the IT Department and Legal Department that files in connection with that engagement are subject to special treatment under the Policy. It is expected that instances of required retention beyond the records retention period will be infrequent and unusual.

Closed files shall be stored in facilities that are physically secure so as to maintain client confidentiality and protected against damage or loss. Periodic follow up on such matters should be performed by the Case Manager or Expert to monitor when the records being retained pursuant to special circumstances can be discarded or returned to the client, and the Case Manager or Expert shall notify BRG personnel in the IT Department and Legal Department of any updates.

### ***Method of Disposal of Records***

At the completion of an engagement, unless otherwise provided for in this Policy, all Engagement Records and Client Records are to be discarded with final authorization by the responsible Case Manager or Expert, but without further Case Manager or Expert review of the files. BRG's ability to maintain the confidentiality of its clients' proprietary business information is of the highest priority. Accordingly, Engagement Records and Client Records that are not required to be retained should be disposed of in a manner that assures the confidentiality of the information contained therein. A record of destruction and disposal shall be maintained indefinitely and should include the file name and destruction date.