

# Provincial Archives of Saskatchewan Imaged Source Records Disposal Guidelines

## Application and Scope of the Guidelines:

These guidelines are intended to assist Government Institutions with record conversion projects where original hardcopy records have been converted to digital versions. This applies to source documents that have been considered **official** records prior to format conversion and which have been relied on in the conduct of government business. Please note that imaged/microfilmed records designated as the institution's official records remain subject to the *Saskatchewan Records Disposal System*.

**SOURCE RECORD:** Refers to the original form of a record in cases where the format of the official record has been changed (i.e. scanning a paper document to create an electronic version which will then be designated the official record). A source record may be disposed of once it has been converted to its new format and the accuracy of the new record has been verified. Source records may be disposed of without the permission of the Provincial Archivist; however, for legal purposes the process of converting formats, verifying the accuracy of the newly converted record and disposing of the source record must be documented. This process must be defined by an institution's internal source records policy.

Laws of evidence permit electronic and microfilm images which have been copied from original paper records to stand in place of these records in legal proceedings. However, those wishing to present imaged records as evidence in legal proceedings must be able to prove the following:<sup>1</sup>

### 1) The authenticity of the record.

To prove the authenticity or genuineness of a record the institution must show that the record is what it purports to be; that it actually originated from the person, organization or other legal entity claiming to be its author or authorizing authority.

### 2) The integrity of the record.

To prove the integrity of a record, the institution must show that the record is reliable and trustworthy; that it is an exact reproduction of the original record and has not been altered or tampered with. Electronic records provisions of most evidence acts state that where the **best evidence rule** (the rule of evidence concerning copies, duplicates and other substitutes for an original record) applies to an electronic record, it is satisfied by proof of the integrity of the system that recorded and/or stored the record. Therefore, it is necessary to demonstrate that the system operates properly and that measures are in place to prevent accidental or deliberate alteration to documents recorded by and/or stored in it.

There are a number of ways to maintain the authenticity and integrity of imaged records (access restrictions, read-only procedures, etc.). However, the most

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<sup>1</sup> The same requirements apply to all other electronic records entered as evidence in legal proceedings.

reliable way to ensure records are properly managed and retained for the required length of time is through the use of an Electronic Document and Records Management System (EDRMS).

**3) That the record is created in the usual and ordinary course of business.**

The best way to prove this is to have written policies and procedures, authorized by senior management, which establish the imaging program, determine which records are included in the program and define how the program will operate. The existence of policies and procedures are important because if the program has not been authorized and given formal support, the government institution risks records not being accorded evidentiary value.

The institution's source records policy and procedures must also address the disposal of the source records which have been imaged. This is because "the admissibility and credibility of image-produced copies cannot be equal to that of the source records without proper authority to dispose of source records."<sup>2</sup> If disposal is not addressed in policy and procedures a court may find that, although imaging records is part of an institution's usual and ordinary course of business, disposing of source records is not. This finding may prevent the imaged records admissibility into evidence, or reduce their credibility when admissible. Failure to articulate policy and procedure for disposal of source records may also give the appearance that these records have been disposed of in bad faith.

**The imaged record designated as an institution's official record is subject to the retention requirements set out in an applicable retention schedule (ARMS, ORS or a corporate-wide retention schedule).** This means that this record must be accessible, legible and maintained in a manner that assures its authenticity and integrity for the period of time determined by the schedule. In order to meet these requirements, institutions should establish and implement internal policies concerning retention of long-term records electronically (migration strategies, etc.).

**Please note that apart from the laws of evidence, other laws, regulations, business requirements, etc. may necessitate the retention of original paper source records. Government Institutions should consult their solicitor before undertaking an imaging program.**

The following is an example of source records disposal guidelines intended to address an institution's need to prove the authenticity and integrity of imaged records, as well as establish that they have been produced in the usual course of business. It will be necessary for institutions to develop further procedures in order to establish technical standards, quality control procedures, etc. specific to their own computer systems. For guidance when developing these procedures, please refer to the Canadian General Standards Board's *Microfilm and Electronic Images as Documentary Evidence*

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<sup>2</sup> CAN/CGSB-72.11-93, p. i.

(CAN/CGSB-72.11-93) and *Electronic Records as Documentary Evidence* (CAN/CGSB-72.34-2005).

### **Establishment of Imaging Program**

- The program will be authorized by the Government Institution's Deputy Minister/President/CEO or other senior official.
- The institution will specify which records are to be imaged. When possible, this should be done with reference to the applicable approved retention schedule and item number used to manage the classification and retention of the official copies of the records.
- If no approved retention schedule addressing the classification and retention of the records being imaged exists, they must be retained indefinitely until a schedule determining an appropriate retention period has been developed by the Government Institution and approved by the Public Records Committee.
- An individual or position responsible for the management of the program, as well as one responsible for approving the disposal of the source records, must be appointed by the DM/President/CEO or other senior official.

### **Program Conduct**

- To demonstrate integrity, the whole of the source record, with all detail and any imperfections, should be captured without alteration. If source records require alteration or enhancement to improve legibility, the enhancement of the records must be authorized by the program manager and any records that are enhanced must be identified as such.
- The institution must establish benchmarks to determine when records should be enhanced, as well as when images ought to be re-scanned/re-filmed.
- The institution must maintain a log identifying the technician responsible for imaging/microfilming the source records, as well as the date of the imaging/microfilming.
- After imaging/microfilming the technician will review the imaged/microfilmed records to ensure that all source records have been captured and that the quality of the images meets established benchmarks. The technician will prepare and sign an inspection report certifying that the records have been inspected, images are properly captured and there is no reason to believe that any source records have been omitted.
- Random audits of the imaged/microfilmed records will be conducted by an individual other than the technician(s) responsible for the imaging/microfilming of the records.
- The institution should maintain an index of the imaged/microfilmed records to facilitate storage and retrieval. The index will be kept for the same retention period as the information to which it relates.
- Records converted to electronic format, particularly those with long retention periods, may eventually need to be migrated to a new electronic image management (EIM) system in accordance with the institutions approved migration strategy. In order to demonstrate the integrity of the records being moved, a record of the testing and validation of the new system and of the

migration itself, should be kept. As well, all audits, metadata and indexing associated with the previous system(s) must be preserved.

- The institution will develop backup and system recovery procedures for its EIM system, which should be tested for reliability to demonstrate that the records' integrity is not compromised after recovery.
- The institution will develop and implement security procedures for its EIM system, including notification of, and protection against, unauthorized access.

### **Disposal of Source Records**

- The institution will prepare an inventory of the source records which are to be disposed of, including the business unit to which they belong, title/description of records, inclusive dates, location, box numbers and identification of business unit responsible for the official records.
- The individual assigned the responsibility for approving disposal of source records will review the inventory, verify that the source records have been imaged/microfilmed and ensure that the records are not subject to FOI access requests or litigation. Once this is done, the individual will authorize the destruction of the source records in writing.
- The records will be destroyed in a manner that ensures they cannot be reconstructed. Any containing confidential, sensitive or restricted information (e.g. personal health information, etc.) should be destroyed in a secure environment with limited access.
- If records are destroyed by the institution, their destruction must be witnessed and signed off by two staff members.
- If records are destroyed off-site, confirmation of the destruction must be received in writing.
- All documentation related to the destruction of source records must be retained by the institution under ARMS2014, item 1525 Records Management - Disposition for executive government or the appropriate classification number from a corporate-wide retention schedule for crown corporations.