



Montana Department
of Transportation

MANAGEMENT MEMO

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Subject: Records Management

To: All offices

From: Jim Lynch, Director

POLICY

This policy governs the retention and disposition of information across all activities of the Montana Department of Transportation (MDT). This policy is applicable to all MDT personnel, and to all contractual third parties, as defined below, who interact with MDT information in any way. This policy is applicable to information in all formats and media, wherever located.

The objectives of this policy are as follows:

- To improve strategic management of MDT's information in order to:
 - * Protect the integrity and availability of business critical information;
 - * Facilitate access to necessary information by MDT personnel, by employees of other state or Federal government organizations, and by the citizens of Montana;
 - * Take advantage of information to enhance decision-making;
 - * Reduce operating and storage costs;
 - * Improve efficiency and productivity; and
 - * Preserve MDT historical documents in conjunction with the Montana Historical Society.
- To facilitate MDT's compliance with retention obligations arising out of existing or reasonably anticipated inspection, investigation, or litigation, which may be broader and more extensive than statutory and regulatory obligations.

A due diligence review was performed to validate that this policy incorporates existing Information Governance and Records Management related policies (i.e., policies that include records management implications) when possible.

The Montana Secretary of State's Records and Information Management Division is actively engaged in the management of records at the state level, has published retention schedules for use throughout state government, and has provided guidance to state agencies concerning the management of their records. This policy implements the guidance from the Secretary of State for MDT Divisions, Bureaus, and offices.

This policy is to be construed in conjunction with other MDT policies dealing with legal holds, information security, and the appropriate use of technology and electronic communications. In the event of a conflict with regards to Records Management activities, this policy shall supersede any existing MDT policies.

DEFINITIONS

Business Unit: Business line or functional area components of the MDT organizational structure. Generally, these are Divisions, Bureaus, and Offices within MDT.

MDT Information: content created, received, or maintained by MDT or any MDT employee or any third party, in pursuance of legal obligations or during the transaction of MDT business or during hours of employment and/or using MDT resources. MDT information comprises:

- Transitory Information
- Records, which comprise:
 - * Retention Required Records
 - * Discretionary Retention Records
- Reference Information

Legal Hold: The combination of processes and systems which assist in the identification of responsive MDT information and data, as well as the safeguarding of the responsive information and data from alteration or disposal, in response to evidentiary requirements related to existing or reasonably anticipated inspection, investigation, or litigation.

Business-Useful Non-Record Information: those records that have business value and are retained for convenience, reference, or research. These records are listed in the retention schedule; however they do not have specified retention periods.

MDT Record Retention Schedule: the MDT document which describes MDT's record types and the retention period for each type; the schedule will set forth, at a minimum:

- record types
- the retention period for each record type
- the event or activity that causes the retention period to begin (the "retention trigger")
- the MDT Business Unit which is the record type owner
- specified conditions of storage, if any, applicable to the record type
- the vital record status of the record type
- any required disposition point in the lifecycle of the record type

MDT Record Retention Schedule - Annotated: the MDT document maintained by the MDT Records Manager, which includes all of the information stated above for the MDT Record Retention Schedule and includes the legal or business-need basis for the retention period.

Record: any paper, correspondence, form, book, photograph, microfilm, magnetic tape, computer storage media, map, drawing, or other document, including copies of the record required by law to be kept as part of the official record, regardless of physical form or characteristics, that:

- has been made or received by MDT to document the transaction of official business
- is a written acts or record of the acts of the Department
- is designated for retention in the MDT Record Retention Schedule

Records are also all other documents required by law to be filed with or kept by the Department.

The following are not records: documents that are for reference purposes only, preliminary drafts, messages and routing slips, preprinted forms, and superseded publications.

[This definition is based upon the provisions of MCA 2-6-202 and should never be interpreted as conflicting with that statutory provision.]

Reference Materials: Information made or acquired or preserved solely for reference or exhibition purposes.

Retention Required Record: a record belonging to a record type described in the MDT Records Retention Schedule and having a specified period of time for retention based upon the provisions of laws, judicial decisions, standards of practice, or specified business need.

Responsible Representative of the MDT Chief Counsel: an appointee of the MDT Chief Counsel who is the primary point of contact concerning each legal hold affecting MDT information.

Transitory Information: information of temporary usefulness that is required only for a limited period of time for the completion of an action by an MDT personnel or a third party, and is not essential to the fulfillment of legal obligations or to document MDT's functions.

Third Party: absent specific written agreement to the contrary, third parties referred to in this policy are business entities or individuals with a contractual relationship with MDT that have access to MDT information in order to conduct business activities with MDT or to provide services to MDT.

REQUIREMENTS

All MDT information will be retained and disposed of in accordance with this policy, the MDT Records Retention Schedule, and implementing procedures, which will incorporate applicable legal, regulatory and business requirements of Federal law, Montana statutes and requirements set forth by the Secretary of State and the State Records Committee. This section sets forth requirements concerning retention and disposition of MDT information and records, and for the administration of the MDT records program. These provisions will be implemented by guidance issued by the MDT Chief Counsel and MDT Records Manager.

1. Legal Holds: MDT information subject to a legal hold will not be destroyed or altered without the consent of the responsible representative of the MDT Legal Counsel.
2. Retention of Transitory Information: MDT information not essential to the fulfillment of legal obligations or to the documentation of MDT's functions will be disposed of as soon as no longer needed, unless subject to a legal hold on disposal.
3. Retention of Reference Materials: Reference materials procured for or created for MDT business purposes may be retained for as long as they meet a business need. They will be disposed of as soon as retention is no longer needed for MDT business purposes.
4. Retention of Discretionary-Retention Records: MDT information not subject to specified retention periods by the MDT Records Retention Schedule and not subject to any legal hold may be disposed of at any time, however, when retention of such information meets a business need, it may be retained for a maximum of 12 months after its creation unless it is a copy or version of a retention-required record which has a retention period of less than 12 months, in which case retention will not exceed that of the retention-required record.
5. Retention-Required Record Preservation and Storage: For all retention-required records, preservation and storage practices shall be documented in supporting procedures and file plans, as deemed appropriate by the MDT Records Manager, to assure authenticity, reliability, integrity, and usability. The retention and storage practices shall provide for efficient information retrieval and assembly to meet appropriately identified business and legal discovery timeframes, and shall include provisions concerning records located in any disaster recovery, backup or third party systems, as well as in archival systems.
6. Records Administration: In accordance with MCA 2-6-213, processes and procedures will be implemented to classify and manage all retention-required records, regardless of format or media type. The following will be included:
 - Coordination of MDT Information Governance and Records Management activities with the Secretary of State and the State Records Committee

- Capture of data concerning each retention-required record, including, at a minimum: storage location, record type, retention period, retention trigger, and specific conditions of storage
 - Capture of appropriate additional data concerning each retention-required record to facilitate search, retrieval, and disposition scheduling
 - View and report capabilities concerning the data associated with record types and retention-required records
 - Capture of appropriate data concerning dispositions of MDT records to facilitate location of records and documentation of disposal of expired records
 - Capture of appropriate data concerning all legal holds applicable to MDT information in a manner that can be related to individual records
 - A demonstrably reliable process to assure that MDT information subject to legal hold is properly accounted for and is not altered, destroyed, or otherwise disposed of
7. Destruction: After determination that no legal hold applies, MDT information in any format which has reached the end of its retention period, as set forth in this policy and in the MDT Records Retention Schedule, will be disposed of.

TRAINING

MDT personnel: Training shall be developed and delivered on a regular basis to all MDT employees concerning this policy and any applicable implementing procedures.

Third parties with access to MDT information: MDT will provide to each third party with access to MDT information the learning objectives for training concerning this policy and its implementing procedures. MDT will also make available to each third party with access to MDT information a training program equivalent to that provided to all new MDT personnel concerning this policy and its implementing procedures. Compliance with this policy and the supporting standards shall be a contractual requirement for all third parties. Compliance will be monitored and enforced.

ROLES AND RESPONSIBILITIES

MDT Personnel: All MDT personnel will:

- be aware of and adhere to this policy, the MDT Retention Schedule, and any implementing procedures
- if they have possession of or responsibility for MDT records, take reasonable steps to protect those records from physical hazards and to control access to the records in a reasonable manner, with due regard for operational conditions and locations

MDT Business Unit Executives: Division and District Administrators responsible for management of MDT Business Units will monitor the business activities under their control and the information and records-related activities of those MDT personnel and third parties under their supervision, and will enforce the provisions of this policy, the MDT Records Retention Schedule, and any implementing procedures.

MDT Personnel with Management or Supervisory Duties: All managers and supervisors will monitor the information and records-related activities of MDT personnel and third parties under their supervision and will enforce the provisions of this policy, the MDT Records Retention Schedule, and any implementing procedures.

MDT Records Management Steering Committee: The Steering Committee will oversee the MDT Records Management Program and ensure that all appropriate interests and organizational needs are recognized and incorporated. The Committee will meet at appropriate intervals to assess the current state of the program and to provide advice and guidance to the MDT Records Manager.

MDT Records Manager: The MDT Records Manager will implement, operate, and maintain the information retention and disposition program within the scope of the provisions of this policy, applicable Federal and state laws, guidance issued by the Secretary of State, the MDT Records Retention Schedule, and implementing procedures.

MDT Record-Type Owners: Record-type owners, as designated in the MDT Record Retention Schedule, will monitor the business-need or legal basis for retention of the record type and will notify both the MDT Records Manager and the MDT Chief Counsel of any information which may indicate the need for revision of the MDT Retention Schedule.

ADMINISTRATIVE PROVISIONS

Approval: Process and documentation requirements are included in the Records Management Procedures Manual.

Policy Maintenance: Reviews of this policy, with the appropriate due diligence performed on all laws and regulations affecting this policy, as determined by the MDT Chief Counsel or designee, will be initiated annually or upon the passage of new legislation or guidance impacting information retention.

The MDT Chief Counsel, or designee, shall approve changes to this policy. Processes and procedures concerning the review and maintenance of this policy will be included in the Records Management Procedures Manual.

Exceptions: Exceptions to the provisions of this policy may be issued by the MDT Chief Counsel, or designee, for a specific period of time. Exceptions will be documented in accordance with the Records Management Procedures Manual.

Compliance Monitoring: Each Business Unit will audit compliance with the provisions of this policy, the Records Retention Schedule, and the Records Management Procedures Manual in accordance with procedures set forth in the Records Management Procedures Manual.