

RECORDED INFORMATION MANAGEMENT MANUAL

Government Records Service	RIM Number: RIM 504
Province of British Columbia	Approval Date: 2015/04/22
Policy: RECORDS TRANSFER OUTSIDE OF GOVERNMENT	
AUTHORITY	
From <i>Core Policy and Procedures Manual, 12.3.3 Part III (c)</i> :	
<ol style="list-style-type: none">1. Government records must be disposed of securely in accordance with approved records retention and disposition schedules and asset management processes.2. Ministries must establish internal records disposition procedures.3. Government records scheduled for archival retention must be maintained in a manner that preserves their integrity and authenticity up to and throughout transfer to the government archives.4. Government records scheduled for destruction must be destroyed in a method appropriate for the recording media and that maintains the security of the information and privacy of individuals.	
Security Classification: PUBLIC	

1. SCOPE

This policy establishes the responsibilities, requirements and conditions for appropriate, secure transfer of government records to an organization not covered by the *Document Disposal Act*.

1.1 Authority

- [Document Disposal Act \(DDA\)](#) (RSBC 1996, c. 99)
- [Core Policy and Procedures Manual \(CPPM\), c.6](#)
- [CPPM, c.12](#)

1.2 Applicability

Ministries, agencies, boards, commissions, and Crown corporations covered by the *Document Disposal Act* (hereafter “DDA agencies”).

2. POLICY

This policy establishes the requirements for transfer of **government records** from DDA agencies to organizations not covered by the *Document Disposal Act*, i.e., agencies within government not covered by the *Act* as well as non-government agencies (hereafter “non-DDA agencies”).

Included are requirements for transfers of legal custody (also known as **alienation**), as well as requirements for transfers of physical custody only (e.g., when government records are transferred for use by a non-DDA agency, but government retains legal custody of the records).

Transfer of records from DDA agencies to non-DDA agencies must be authorized, managed, and documented appropriately (i.e., in accordance with this policy, related specifications and guides, and internal ministry/agency procedures), and with due regard for any existing access, confidentiality, and security provisions that apply to the records.

2.1 Reasons for Transferring Records to a Non-DDA Agency

The following situations may require a ministry or DDA agency to transfer **legal custody** and/or **physical custody** of records to a non-DDA agency:

- 2.1.1. Responsibility for a function/program has transferred:** When functions/programs and the records that document them are transferred to a non-DDA agency.
- 2.1.2. Alternative disposition is approved:** When records are no longer needed by government and the applicable records schedule authorizes transfer of ownership to a non-DDA agency (a **final disposition** alternative to **destruction** or transfer to the government **archives**).¹

2.2. Principles for Transferring Records to a Non-DDA Agency

When records are transferred from a DDA agency to a non-DDA agency, the following principles apply:

Principle I Transfers of legal custody must be authorized by a schedule or legislation. Legal custody can only be transferred via an approved **records schedule**, or via legislation that explicitly removes the records of an agency from coverage by the *DDA*.

Principle II Ownership of government records remains with a DDA agency. Unless there is a transfer of legal custody, employees and agencies cannot remove records from government custody, or dispose of them without government authorization.

Any records removed from the custody and control of the BC Government without a legal transfer must be returned as soon as this fact is known.

Principle III Transfer must be secure and accountable. Transfers of legal and/or physical custody of government records to non-DDA agencies, whether permanent or

¹ In records schedules, a final disposition that transfers records to a non-DDA agency is termed “other disposition” (OD), and details are provided in an explanatory note.

temporary, must take place in a secure and confidential manner, and must be documented. See sections 2.3 and 2.4.

Principle IV The receiving body becomes responsible for records services. When legal custody of records is transferred to a non-DDA agency, most of the records management responsibilities previously supported by Government Records Service (GRS) are transferred to the receiving agency. Some services remain available (e.g., offsite storage facilities, access to online guides), while others may be arranged (e.g., training).

2.3 Documenting Transfers of Records to non-DDA Agencies

To enable the receiving agency to protect the integrity of records subject to **permanent removal**, the **transferring agency** must provide appropriate documentation about them, including recordkeeping system information, records management information, information about access restrictions, relevant litigation, **electronic systems**, and intellectual property rights. Follow the provisions of “Documenting Transfers” (section 2.3 of RIM 503 *Records Transfer Within Government*).

To enable GRS to update its records custodianship documentation, also provide documentation of the changes to GRS, in accordance with RIM 503 2.3.2 and RIM 503A *Specifications for Documenting Legal Custodians*.

2.4. Protocol Agreements for Temporary Transfers

When a non-DDA agency is given temporary control of and access to government records, without having legal custody, a protocol agreement is required.

Such an arrangement may become necessary if existing records are needed to enable the agency to carry out a function previously conducted by government, or for purposes of providing research access. The arrangement needs to ensure continuity of the records management controls required for all government records (i.e., records management policy and approved records schedules).

The protocol agreement must include the following provisions:²

- a) identify the records in question,
- b) define the rights retained by the Government of British Columbia, and

² Under CPPM Chapter 6 (Procurement), all contractors handling records that belong to the Province must provide the records or copies of them upon request, as well as being required to provide the Province with access to them, to keep them segregated from other documents to the extent possible, and to keep them confidential except as required under the *Freedom of Information and Protection of Privacy Act* and other legislation. They must also keep the Province advised of their location, and allow for inspections and copying. See [CPPM Chapter 6 Procurement 6.3.2 Pre-Award and Solicitation](#), section d. *Continuing Service Agreements*, available on Ministry of Finance website for governing policy .

RECORDED INFORMATION MANAGEMENT MANUAL

- c) require that the records be managed in accordance with government legislation, regulations, policies, standards, and approved records schedules.

The protocol agreement should, as applicable, also include provisions that require:

- d) restricted access to, or the disposition of, records created after the transfer;
- e) new information created and documentation added to existing files and records are defined as government records (and therefore government property);
- f) government retains intellectual property rights (such as patents and copyright),
- g) records must be returned to government once they are no longer required or if the information is requested by government; and/or
- h) government authorization for final disposition must be provided before any records can be destroyed or transferred to another agency (including the government archives).

3. ROLES AND RESPONSIBILITIES

3.1. Government Records Service (GRS)

GRS is responsible for establishing transfer policy governing records transferred from DDA agencies to non-DDA agencies.

3.2. Ministries and Agencies

Ministries and agencies are responsible for ensuring that records are transferred to a non-DDA agency only in accordance with a legal instrument (i.e., a formally executed written document such as a contract, records schedule, or legislation).

3.3. Organizations not covered by the *Document Disposal Act* (non-DDA agencies)

Non-DDA agencies must care for any government records delegated to their care in accordance with protocol agreements.

RECORDED INFORMATION MANAGEMENT MANUAL

RELATED POLICIES AND SPECIFICATIONS

Policies and specifications that closely relate to this policy include:

- RIM 101 *Government Records*
- RIM 102 *Government Recordkeeping*
- RIM 503 *Records Transfer Within Government*

RELATED GUIDES – see RM Guides and Online Training Modules

n/a

Revision History: First approved: 2015/04/22 Revised: n/a

This supersedes the following policies:

- 02-03 *Authority to Apply Records Schedules* (partially)
- 02-04 *Disposition of Government Records* (partially)
- 5-07-01 *Alienation of Records* (already obsolete)
- *IM/IT Supplement 2007* (policy supplement to CPPM formerly posted by IM/IT Governance Branch of the Office of the Government CIO)
 - 12.3.3 III (a) I. *Identification and Management of Government Records, Physical and Legal Custody of Government Records.*

Index and Glossary Terms – see [RIM Glossary](#) for definitions of terms that appear in bold blue text (for the first usage of each term in the policy, as well as below)

<p>Alienation</p> <p>Archives</p> <p>Contracts (<i>includes protocol agreements</i>)</p> <p>Destruction of records</p> <p>Electronic system</p> <p>Final disposition</p>	<p>Government records</p> <p>Legal custody</p> <p>Permanent removal</p> <p>Physical custody</p> <p>Records schedule</p> <p>Transferring agency</p>
---	--