

Alienation of Government Records Directive

Technology and Innovation, Data and Content Management Division, Enterprise Content Management Branch

Version: 1.0

Approved by: Alberta Records Management Committee	Owner: Executive Director, Enterprise Content Management	
Approval date: September 16, 2024	Last reviewed: September 2024	Review date: September 2026
Contact: GoA.InformationManagement@gov.ab.ca	Policy Instrument type: Directive	

Directive Statement

This directive applies when Government of Alberta (GoA) records are alienated to a third-party entity due to the GoA transferring accountability and responsibility for programs or services to that entity.

This directive supports the implementation of content management requirements detailed in the [Content Management Policy](#).

Authority

This directive is issued under the authority of the [Government Organization Act](#) and the [Records Management Regulation \(RMR\)](#).

Under the RMR, Technology and Innovation has the authority to establish, maintain, and promote the enterprise policies, standards, and procedures for the creation, handling, control, organization, retention, maintenance, security, preservation, disposition, alienation, and destruction of records in the custody and/or under the control of a GoA department or departments.

Application

This directive applies to all departments defined under section 14 of Schedule 11 of the *Government Organization Act*, and agencies, boards and commissions designated in Schedule 1 of the [Freedom of Information and Protection of Privacy Regulation](#). These constitute the departments that fall under the RMR.

Directive Description

This directive outlines the requirements to be met when a GoA department alienates records.

IMPORTANT:

Alienation *is distinct* from the transfer of records between two GoA departments, where “department” has the meaning given to it in the RMR.

The alienation of government records only occurs when the GoA transfers accountability and responsibility for a program or service to a third-party entity, including the control and custody of related records. It does not occur when a third-party entity is contracted to operate a government program or service, and the related records remain under the control of the GoA.

Definitions

Alienate: To relinquish control of GoA content (inclusive of data, records, and information in all formats) to a third-party entity.

Third-party entity: May include other levels of government (e.g., municipal, federal), private sector (non-governmental institutions or agencies), or [public agencies](#), but does not include any entity that falls under the definition of “department” in the RMR.

Directive Specification

1. The alienation of government records to the third-party entity must be enabled by legislation (statute or delegated legislation—regulation, Order in Council, or ministerial order), or by a contract between the GoA and the third-party entity.
2. The GoA must negotiate an **alienation agreement** (contract) with the third-party entity. This agreement may be part of a contract as referred to in specification 1.
 - 2.1. The alienation agreement must:
 - 2.1.1. identify the records to be alienated, including the type and date range of the records, and whether the records contain personal information;
 - 2.1.2. define any rights retained by the GoA with respect to the records;
 - 2.1.3. be reviewed by
 - legal counsel,
 - Privacy Services for privacy considerations (if the records contain personal information), and
 - the Provincial Archives of Alberta (PAA), who may recommend additional records from the Archives to be alienated; ;
 - 2.1.4. be approved by the information controller (the deputy head or an assignee at the level of executive director or higher); and
 - 2.1.5. require that the third-party entity validate the records received against the records inventory provided by the GoA unless the information controller accepts the risk of not doing so (see specification 5).
 - 2.2. The alienation agreement *may*:
 - 2.2.1. establish the privacy protection measures to which the third-party entity must adhere to protect personal information from unauthorized access, use, disclosure, or destruction; and
 - 2.2.2. address which party will pay which costs (e.g., costs for retrieval from storage, transportation, etc.).
3. Subject to specification 5, all records to be alienated must be covered by one or more approved records retention and disposition schedules (schedule).
 - 3.1. The final disposition of “Transfer” must be assigned to records being alienated.
 - 3.1.1. If *all* the records covered by an existing schedule item on an approved schedule are being alienated, the final disposition of the item must be amended to be “Transfer”.
 - 3.1.2. If the affected records are not covered by an approved schedule, or if schedule items include records that are not being alienated, a separate alienation schedule must be developed for these records.
 - 3.2. The new or amended schedules documenting the alienated records must go through the full schedule development process, including archival appraisal by the PAA and Alberta Records Management Committee approval.
4. Subject to specification 5, the department must create an inventory of the records that will be alienated if one does not already exist.
 - 4.1. The inventory must identify the approved schedule(s) that govern(s) the records.
 - 4.2. In order to establish the chain of custody of the records:
 - 4.2.1. a copy of the inventory must be provided to the third-party entity along with the records; and
 - 4.2.2. the third-party entity must validate the records received against this inventory.

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5. The information controller must formally accept responsibility for any associated risks if any of the records to be alienated are not scheduled or are not inventoried, or if the alienation agreement does not require the third-party entity to validate the records received against an inventory provided by the GoA.
6. Records responsive to litigation holds and/or information access requests made under the [Freedom of Information and Protection of Privacy Act](#) (FOIP) must remain with the GoA until the litigation (including any appeals) has concluded (unless legal counsel advises otherwise), and/or the FOIP request (including any review by the Office of Information and Privacy Commissioner) has been completed.
 - 6.1. The status of the FOIP request or litigation hold must be monitored to ensure the affected records are alienated to the third-party entity once the request is completed or the hold is lifted.
 - 6.1.1. Affected records must be inventoried separately from any records that are to be alienated prior to the lifting of the litigation hold or conclusion of the FOIP process.
7. The alienated records must be delivered to the third-party entity in a secure manner (either physically or electronically).

Compliance

Consequences of non-compliance with this directive could result in: the loss of content; breach of confidentiality; breach of privileged information; significant impact to GoA's proprietary rights; damage to GoA's reputation; exposure of Albertans to harm; and/or incurrence of unnecessary costs (including, but not limited to, inability to respond appropriately to a claim in court).

Depending on the severity of non-compliance:

- either informal or formal requests and/or follow-ups may be made by the Data and Content Management Division, Corporate Internal Audit Services, Cybersecurity Division, Office of the Information Privacy Commissioner, Office of the Auditor General and/or Public Service Commission, and
- legislated disciplinary action (i.e., [Public Service Act](#)) may be taken.

References and Supporting Resources

- [Records Management Regulation](#)
- [Content Management Policy](#)
- [Litigation Response and Information Discovery Directive](#)