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# Policies and Procedures

# No. 57

SUBJECT:

**Board Approval:** 7/19/07

RECORDS RETENTION

PURPOSE:

To establish a procedure for the retention of all MTS records from creation through processing, distribution, maintenance, and retrieval to their ultimate disposition.

BACKGROUND:

California Government Code section 60200 et seq. authorizes the legislative body of a district to destroy or dispose of certain types of records, papers, or documents that are more than two years old. In 2004, California State Assembly Bill 474 extended this power to include any category of records upon adoption of a resolution or a records retention schedule. The term "district" is defined as a tax or assessment district. Although not mandatory, General Counsel believes that a document retention policy will reduce agency risk and storage costs.

Section 60201 controls the destruction of records of "districts" and "special districts" by providing the procedures by which a legislative body may dispose of records and limiting what records may be destroyed by the provided procedures. According the section 60201, The legislative body of a district may destroy or dispose of any record that is not expressly required by law to be filed and preserved through either of the following procedures:

- (1) Adopting a resolution finding that destruction or disposition of this category of records will not adversely affect any interest of the district or of the public; or
- (2) Maintaining a list, by category, of the types of records destroyed or disposed of that reasonably identifies the information contained in the records in each category.

The legislative body may, by resolution, adopt and comply with a record retention schedule that is consistent with guidelines provided by the California Secretary of State, pursuant to Government Code section 12236, that classifies all of the district's records by category and that establishes a standard protocol for destruction or disposition of records.

In compliance with Government Code section 12236, the Secretary of State has consolidated, in addition to legal requirements, information regarding auditing, taxation, contractual obligations, possible litigation, and public records requirements to provide local governments with a single source for archival and records management guidance. This



policy complies with the guidelines provided by the Secretary of State pursuant to section 12236.

This policy applies to MTS, San Diego Transit Corporation (SDTC), and San Diego Trolley, Inc. (SDTI) (collectively the "Agencies").

POLICY:

57.1 Records Retention

57.1.1 MTS shall maintain and preserve records according to the provisions of this policy in one or more centralized recordkeeping offices as designated by the Chief Executive Officer.

57.1.2 Record is to be understood, but not limited to, the following:

- a. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses made at or near the time by, or from information transmitted by a person with knowledge if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation;
- b. All maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by an agency, regardless of physical form or characteristics, as defined by California Government Code section 14741;
- c. Files, electronic logs, hard drives, and other repositories;
- d. "Controlled" documents requiring a history of all changes, such as policies and procedures; and
- e. Any other document requiring preservation or retention as specified by MTS policies and procedures.

57.1.3 Generally all documents shall be retained in their original form for two years unless a shorter duration is specifically authorized by state or federal regulation. Only specifically designated e-mails will be retained for the specified duration since they are not centrally maintained.

57.1.4 Changes/Additions:

- a. Changes and additions may be attached only to an original record with a log detailing who made it and authorized it, the reason, and the date of the change or addition.
  - b. Changes or additions must be authorized by the Chief Executive Officer.
  - c. Deletions in an original record are prohibited.
- 57.1.5 Duplications of original records are authorized. The Chief Executive Officer may authorize the destruction of any duplicate records, including duplicates less than two years old if no longer needed.
- 57.1.6 Except where a longer retention period is required, after five years, MTS, with the Chief Executive Officer's approval, may destroy any original document without retaining a record or copy of the document.

57.2 Method of Retention

- 57.2.1 Records will be maintained at one or more on or off-site recordkeeping offices with proper security measures as to ensure that they are restricted from unauthorized access.
- 57.2.2 Records maintained in an off-site recordkeeping location must be made available within 72 hours following notice from MTS.
- 57.2.3 The inspection, removal, or duplication of a record must be properly documented by a log indicating the person retrieving the record, the purpose for its retrieval, and the time and date of securing and returning the record.
- 57.2.4 Records may be kept in electronic format instead of hard-copy form if the following conditions are met:
- a. The media on which the electronic form is kept does not permit additions, changes, or deletions of the information or image in or on the original record.
  - b. The media selected for storing records in electronic form is considered permanent and reliable.
  - c. The media selected for storing records in electronic form does not prevent records from being easily accessible.
  - d. The copy must be kept in a safe and separate place for security purposes or network backup must be provided.

### 57.3 Disposition Dates

57.3.1 Records must be maintained in accordance with MTS Records Retention Schedule until their retention period expires after which records should be disposed of promptly and appropriately. The periods shown in the Retention Schedule are minimum time periods and do not start until the document/project is complete. Records can be maintained in excess of the retention period in the schedule if still needed for reference.

- a. The disposition date of a record will be determined by the nature of the record;
- b. Disposition dates of records specifically indicated by other MTS policies and procedures will control if longer than the time specified by these policies; and
- c. Reasonable dates may include dates past the statute of limitations or the close of pending legal action.

57.3.2 An appropriate retention schedule shall be attached to this policy addressing types of records and the required periods of retention. The schedule shall be reviewed and updated periodically.

57.3.3 The schedule may be modified from time to time by the General Counsel.

### 57.4 Destruction Policy

57.4.1 Twice a year, a list of the records eligible for destruction will be provided to the General Counsel. Upon request by MTS staff with approval of the General Counsel, any record of interest may be spared from destruction.

57.4.2 Twice a year, all eligible records will be destroyed in the manner applicable to the medium of the record unless suspension of destruction is necessary.

57.4.3 Records will be disposed by shredding of paper records and destruction in the best means possible for any records in other mediums.

### 57.5 Suspension of Records Destruction

57.5.1 In some cases, records that have reached their destruction date must be preserved for an extended period of time.

57.5.2 "Some cases" include, but are not limited to, the following:

- a. Imminent or current litigation;
- b. Receipt of subpoena(s);
- c. Government inquires, audits, or investigations; and

- d. Any such event that would warrant the suspension of records destruction.

57.6 Records Exempt from Destruction or Disposition

- 57.6.1 Notwithstanding any other provisions in MTS policies and procedures or any relevant provision of law, MTS may not destroy or dispose of any of the following records:
  - a. Records that relate to the formation of MTS;
  - b. Adopted ordinances;
  - c. Minutes of any meeting of the legislative body of MTS;
  - d. Records that relate to any pending claim or litigation;
  - e. Records that are the subject of any request pursuant to California Public Records Act (Chapter 3.5, commencing with Section 6250, of Division VII of Title I);
  - f. Records that relate to any pending construction that MTS has not accepted or to which a stop notice claim legally may be presented;
  - g. Records that relate to any debt of MTS;
  - h. Records that relate to the title of real property in which MTS has an interest or any liens thereon;
  - i. Records that relate to any uncompleted contract to which the district is a party; and/or
  - j. Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.

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Attachment: Records Retention Timetable

Original Policy adopted on 7/19/07.

MTS Policy No. 57

**RECORDS RETENTION TIMETABLE**

In accordance with Board Policy No. 57, MTS records are to be kept for the duration proscribed in the following timetable.

| <b>RECORD TYPE</b>   | <b>RECORD DESCRIPTION</b>  | <b>DURATION OF RETENTION</b>   |
|--|--|--|
| <b>ADMINISTRATION</b>  | Board & EC Agenda Items  | Indefinitely   |
|  | Board & EC Audio Tapes   | 2 years  |
|  | SD&AE Railway Co. agenda items   | Indefinitely   |
|  | SD&AE Railway Co. minutes  | Indefinitely   |
|  | SD&AE Railway Co. audio tapes  | 2 years  |
|  | Conflict of Interest Form 700  | 10 years   |
|  | MTS Resolutions  | Indefinitely   |
|  | MTS Policies and Procedures  | Indefinitely   |
|  | <b>CONTRACTS</b>   | Original Contracts   |
| With any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property |  | 10 years after completion of the project   |
| Public Works Project – Contractor  |  | 10 years   |
| Public Works Project – Subcontractor   |  | 10 years   |
| <b>FINANCE</b>   | Actuarial Reports  | Permanent  |
|  | Audit Reports  | 5 years; originals may be destroyed after this if complies with Cal. Gov. Code 26909 |
|  | Capital Stocks and Bonds Records   | Permanent  |
|  | Capital Stocks and Bonds Records (ledgers, transfer registers, etc.) – retain with related paperwork   | Permanent  |
|  | Depreciation Schedules   | Permanent  |
|  | General Ledgers  | Permanent  |
|  | Investments (After Disposal)   | 7 years  |
|  | Original Accounting Reports  | 5 years  |
|  | Property Appraisals by Outside Appraisers  | Permanent  |
|  | Tax Returns  | Permanent  |
|  | Yearend Financial Statements   | Permanent  |
| <b>HUMAN RESOURCES</b>   | Age Work Certification Records (Minors)  | 3 years after termination  |
|  | Applications (nonhires)  | 3 years  |
|  | Collective Bargaining Agreements   | 3 years  |
|  | Contractor or Subcontractor Records Containing Name, Address, Social Security Number, Work Classification, Straight Time, Overtime, and Actual Per Diem Wages Paid to Each Journeyman, Apprentice, Worker, or Employee on Public Works Project | 3 years  |

| <b>RECORD TYPE</b>                 | <b>RECORD DESCRIPTION</b>                                    | <b>DURATION OF RETENTION</b>  |
|------------------------------------|--|---|
|                                    | Employee Medical Records and Analyses                        | 7 years after termination   |
|                                    | Employee Personnel Records After Termination                 | 7 years   |
|                                    | Employee W-4 (Withholding Exemption Certification)           | Keep as long as in effect + 4 years                                   |
|                                    | Payroll Records  | 4 years   |
|                                    | Personnel File Records                                       | 6 years after termination   |
|                                    | Retirement, Pension, and Insurance Plans                     | 3 years   |
|                                    | Workers' Compensation Accident Reports                       | 7 years or settlement + 4 years                                       |
|                                    | Workers' Compensation Injury Claims                          | 11 years  |
|                                    | Workers' Compensation Relevant Correspondence                | 7 years or settlement plus 4 years                                    |
| <b>LEGAL</b>                       | Records Pertaining to Enforcement Investigations and Actions | 5 years from date matter closed                                       |
|                                    | Records Pertaining to Litigation                             | 5 years from date matter closed                                       |
| <b>MAINTENANCE</b>                 | Bus Inspection, Maintenance, Lubrication, Repair Records     | 5 years   |
| <b>PROPERTY</b>                    | Original Property Records                                    | Indefinitely or until property transferred or no longer owned         |
| <b>RECORDINGS</b>                  | Evidence in Claim  | Until pending litigation resolved                                     |
|                                    | Routine Video Monitoring                                     | As long as video storage capability allows, but no longer than 1 year |
|                                    | Telephone and Radio Communications                           | 210 days  |
| <b>RISK</b>                        | Accident Reports and Claims for Settled Cases                | 7 years or settlement + 4 years                                       |
|                                    | Accident Reports and Injury Claims                           | 10 years  |
| <b>TAX &amp; ASSESSING RECORDS</b> | Assessing Records  | 6 years, destroyed with CEO's approval                                |
|                                    | Delinquency Abstract   | Indefinite  |
|                                    | Secured Delinquencies  | May be destroyed after transferred to delinquency abstract            |
|                                    | Tax Rolls  | 12 years; destroyed with CEO's approval                               |