



Tennessee Valley Authority
Research and Development Records

Records Management Inspection Report

National Archives and Records Administration
March 19, 2019

**TENNESSEE VALLEY AUTHORITY
RESEARCH AND DEVELOPMENT RECORDS**

INSPECTION REPORT

INTRODUCTION

The National Archives and Records Administration (NARA) is responsible for assessing the proper management of records in all media within Federal agencies to protect rights, assure government accountability, and preserve and make available records of enduring value. In this capacity, and based on authority granted by 44 United States Code (U.S.C.) 2904(c)(7) and 2906, NARA inspects the records management programs of agencies to ensure compliance with Federal statutes and regulations and to investigate specific issues or concerns. NARA then works with agencies, if necessary, to make improvements to their programs based on inspection findings and recommendations.

In FY 2018, NARA began a series of narrowly focused records management (RM) inspections investigating the management of research and development (R&D) or scientific records to identify unique and common challenges, risks, and trends that might be of interest to records management programs in other Federal agencies that create and maintain R&D records. The long-term business need for the R&D records and data poses unique challenges for preservation, access, and eventual transfer of permanent records to the National Archives. These inspections examine whether agencies comply with statutory mandates related to the management of R&D records in an electronic format, the ability to digitize or convert analog records, and on the ability of agencies to transfer permanent R&D records to the National Archives. The overall intent was to determine if agencies have essential policies, procedures and processes for the creation, maintenance, and transfer of R&D records to the National Archives.

In August 2018, NARA inspected the Tennessee Valley Authority (TVA) as part of the R&D series of inspections because the agency has transitioned from a robust internal R&D program to the outsourcing of much of its R&D activities through the utilization of cooperative ventures with private entities or other Federal agencies using pooled resources. The intent of the inspection was to gauge the impact of this transition on recordkeeping for R&D records at TVA. Further details on the inspection methodology are provided in Appendix A.

OVERVIEW OF THE RECORDS MANAGEMENT OF R&D RECORDS AT TVA

The Records Management Program at TVA is located within the Enterprise Content Management (ECM) section of the Financial Services Information Technology (IT) group. The ECM Manager is also the Agency Records Officer (ARO) who provides oversight and guidance of the records management program and serves as project manager for the implementation of a new OpenText ECM recordkeeping system at the agency. The agency's Senior Agency Official for Records Management (SAORM), who would normally support the RM Program at the Chief Information Officer (CIO) level, is currently vacant.

The ARO utilizes a network of 11 Content Management Analysts (CMA) and a program manager to support the records management activities of the agency and complete the transition to a new ECM system from an older electronic document management system (EDMS). The CMAs oversee the management of records in association with the program manager and a network of Records Liaisons (RL) or Content Owners (CO) located in TVA business units. The RLs/COs are appointed by their units and oversee the daily management of records, including R&D and scientific records, created and maintained by TVA staff and contractors. R&D records encompass energy and environmental research conducted by TVA. The volume of R&D records created and maintained by TVA has decreased significantly over the past 30 years as the agency moved to partnerships and agreements with outside entities to do much of the R&D work traditionally done inside the agency.

This collaborative research model has changed the way TVA maintains its R&D records. The inspection team found that the RM program at TVA has not kept pace with these changes. In general, NARA found that the program lacks key elements such as records control mechanisms, training, policies, and directives that impact the creation and maintenance of R&D records as well as records throughout the agency. In keeping with the scope of this inspection, and its focus on R&D records, the findings and recommendations that follow address these elements as they impact R&D. However, application of these recommendations should be made to records management practices across the agency in order to effect agency-wide improvements.

FINDINGS AND RECOMMENDATIONS

Finding 1: The TVA RM program does not have intellectual control of agency R&D records in electronic format.

The TVA RM program is not fully aware of what R&D records are being created and maintained by the agency. In 2010, TVA received approval for a new agency records schedule that covers all

of its functional business elements. However, records management controls based on this schedule such as records inventories and file plans have not been completed across the enterprise. The agency's procedural document, Standard Programs and Processes (SPP) 31.001, *Records Management*, designates the ECM Manager/ARO as being responsible for ensuring file plans are maintained, while RLs and COs assigned by offices and business units are responsible for supporting the ARO by maintaining and updating their file plans. RM program staff stated that offices and business units began creating file plans two years ago in order to help populate the new ECM system; however, these updates were not completed in all business units. For example, TVA was unable to provide the NARA inspection team with a file plan from the Distributed Energy Resources Unit (DER) where R&D work is being conducted. In subsequent meetings with that unit, it was noted that DER did not have a records inventory and that records were being maintained on home drives and shared drives, not in the agency's recordkeeping system. The creation of records inventories and file plans would help the unit gain intellectual and physical control of their records as well as assist with the migration of legacy records into the new ECM system.

Recommendation 1: TVA must complete records inventories and file plans for all records in agency offices and business units. (TVA SPP 31.001, 36 CFR 1220.34(i) and 36 CFR 1225.12(b))

Finding 2: Ownership of records and data created as part of contracts and agreements with agency partners is unclear.

As stated above, the majority of R&D work at TVA is conducted in collaboration with agency contractors and partners. RM, General Counsel (GC), and DER staff gave a general summary of TVA's research collaboration with external entities using their relationship with the Electric Power Research Institute (EPRI) as an example. It was evident from discussions during the inspection that RM and CG staff were unclear about TVA ownership of R&D records and data within this relationship.

According to EPRI's publication, *Doing Business with the Electric Power Research Institute (EPRI): A Practical Handbook on EPRI Business Policies and Processes*, any data and information developed under a research contract is owned by EPRI and any exceptions to the contract must be specified by the contracting entity.¹ The language used by EPRI is supported by 15 U.S.C. 3710a, which defines a cooperative research and development agreement (CRADA) as an agreement between a government agency and a private company or university to work

¹ <https://epristorage.blob.core.windows.net/documents/handbook.pdf>.

together on research and development and gives the private entities intellectual control over the results of the work.

Nevertheless, 36 CFR 1222.32 requires Federal agencies to safeguard records created, processed, or in the possession of a contractor or a non-Federal entity. Additionally, agencies must specify in their contract agreements government ownership and the delivery to the government of all records necessary for the adequate and proper documentation of contractor-operated agency activities and programs. TVA includes language on providing “clear legal obligations” regarding records management requirements in contracts in its RM Handbook, but this document is still in draft status.

Recommendation 2.1: TVA must approve and implement policies and procedures to integrate records management obligations into R&D procurement processes in order to protect the rights of the Federal government. (36 CFR 1222.32)

Recommendation 2.2: TVA must review existing R&D contracts and agreements (including those with EPRI) and provide to NARA written assurances from the appropriate senior agency official that the rights of the Federal government concerning ownership of records and data are adequately safeguarded by the agency. (36 CFR 1222.32)

Finding 3: There is a need for role-based records management training for R&D staff and mandatory annual records management training throughout TVA.

TVA employees involved in R&D projects have unique challenges in the creation, oversight, and management of records. As with all staff at TVA, R&D staff need to be aware of their RM responsibilities. This familiarity with RM was not evident in interviews with DER staff. TVA currently provides all new employees with the “Introduction to Records Management” training, which the TVA employees who create and maintain R&D and scientific records receive when they are hired by the agency. However, the training slides provided to NARA by the TVA RM program do not cover many of the minimum content areas required by NARA Bulletin 2017-01, *Agency Records Management Training Requirements*. In addition, TVA SPP 31.001 indicates that RM training is available on TVA’s intranet site, but it does not require annual records management refresher training in the agency in accordance with section 3(B) of NARA Bulletin 2017-01. Mandatory annual records management training for not only R&D staff, but all TVA employees, would ensure their familiarity with requirements for the proper maintenance and disposition of Federal records.

NARA Bulletin 2017-01 recommends role-based training specific to the needs of certain groups of agency employees. TVA has created RM training specific to senior leaders and records liaisons; however, TVA employees engaged in R&D work need a better understanding of their unique responsibilities for managing R&D records. RM and R&D program staff indicated the frequent presence of controlled unclassified and business proprietary information in R&D records. This combined with the involvement of R&D staff in contracts with outside agency partners indicates the need for more specialized records management training for current and future employees.

Recommendation 3.1: TVA must update agency RM training and require all employees to take the training annually in accordance with NARA Bulletin 2017-01.

Recommendation 3.2: The TVA ARO should continue to create and implement role-based RM training to ensure that TVA staff have an understanding of their responsibilities in the management of agency records. (NARA Bulletin 2017-01)

Finding 4: The TVA RM Handbook is in draft form making it difficult for R&D staff to fully implement a records disposition program.

36 CFR 1220.34(c) and (f) and 36 CFR 1222.26(e) require agencies to establish program requirements, strategies, directives, policies, procedures and guidance for the creation, maintenance, and disposition of records. TVA SPP 31.000, *Record and Document Management Program*, and SPP 31.001, *Records Management*, document high level roles and responsibilities in the TVA RM program and assign to the program the responsibility for administrative controls and implementation of records management standards for TVA organizations to use in the creation, usage, maintenance, preservation, appraisal, storage, and disposition of TVA records. SPP 31.001 indicates that subsequent implementing procedures will contain execution responsibilities. The TVA ARO provided a draft RM Handbook that would help fulfill these requirements, but stated that it had been in draft form for quite some time, and did not know when it would be finalized. Without an approved Handbook, staff creating and maintaining R&D and scientific records do not have agency-specific guidance on the creation, maintenance, and disposition of R&D records to ensure the adequate and proper documentation of agency R&D projects and collaborative work.

Recommendation 4: TVA must finalize, approve, and disseminate the RM Handbook (or equivalent guidance) to ensure the adequate and proper management of agency R&D records. (CFR 1220.34(f) and 36 CFR 1222.26(e))

Finding 5: The DER has not designated a RL/CO for the R&D business unit.

DER staff stated that the unit does not currently have a RL/CO and has not had one for some time. 36 CFR 1220.34 requires agencies to assign RM responsibilities in each program (mission) area to ensure incorporation of recordkeeping requirements and records maintenance, storage, and disposition practices into agency programs, processes, systems, and procedures.

TVA SPP 31.001 includes, as part of each business unit's responsibility, the designation of a RL or CO. TVA RM program staff reiterated that all business units across TVA are supposed to have RLs or COs who work in concert with the CMAs; however, the appointment of RLs or COs in the business units is not mandatory and RM staff have no authority to enforce their designation in the units. Also, there is no official procedure to notify the RM program of the departure and replacement of RLs or COs in the business units. Requiring the designation of a RL or CO in the DER unit, as well as in units across the agency, will assist the ARO in providing RM assistance to staff in the business units and help to ensure agency compliance with Federal records management statutes and regulations. In addition, increased senior management attention is needed to ensure implementation of TVA SPP 31.001 for the designation of RLs and COs and other records management requirements in the agency.

Recommendation 5.1: The DER must appoint a RL or CO to work with TVA RM staff on improving records management for R&D records. (36 CFR 1220.34(d))

Recommendation 5.2 TVA must require the assignment of RLs or COs across the agency to ensure incorporation of recordkeeping requirements into all agency programs, processes, systems, and procedures. (36 CFR 1220.34(d))

Finding 6: There is no control or safeguarding of the records of departing TVA employees including those responsible for R&D contracts and those associated with R&D projects.

TVA RM program staff stated they were not notified when employees departed the agency, nor were they involved in exit interviews. Federal regulations require that agencies include procedures to ensure that departing officials and employees (including staff engaged in R&D projects) do not remove Federal records from agency custody. The accidental or unlawful removal of Federal records could lead to penalties including fines, imprisonment, or both. NARA reviews of both TVA SPP 31.000 and SPP 31.001 noted the failure to mention exit briefings for staff departing the agency. An exit checklist that was provided to NARA by TVA did not include RM involvement either. TVA's draft RM Handbook includes provisions for exit interviews with unit RLs or COs, but does not make this process mandatory for all departing

agency personnel and contractors. In addition, the Handbook does not clearly specify the role of the RM program in the employee exit process.

By not including RM staff in the exit clearance process, TVA is putting departing R&D staff (as well as any other staff departing the agency) at risk of violating Federal regulations regarding the accidental or unlawful removal of Federal records from agency custody.

Recommendation 6: TVA must incorporate RM staff in exit procedures to ensure that Federal records are not being unlawfully or accidentally removed from agency custody. (36 CFR 1222.24(a)(6) and 36 CFR 1230.12)

CONCLUSION

The creation of R&D records and data at TVA is now managed almost totally in collaboration with outside agency contractors and partners. A very limited number of R&D projects are undertaken exclusively by TVA staff resulting in fewer R&D records being created and maintained inside the agency. The TVA RM program has not addressed this changing business model and has not developed or approved policies and procedures to safeguard Federal records in accordance with 36 CFR 1222.36. This failure has caused confusion about the ownership of R&D data and records created in association with agency contractors and partners. Additionally, the TVA RM program lacks fundamental program elements that impact not only the creation and maintenance of R&D records, but basic recordkeeping throughout the agency. One of the most important elements missing is the appointment of a SAORM to raise the profile of the program and ensure that needed records management policies and guidance are in place in the agency. Since this inspection was purposefully narrowed to R&D, there is not a specific finding regarding the lack of an SAORM. However, the appointment of a SAORM will help the TVA RM program address the findings of this report. Implementation of the recommendations of this report will improve management of R&D records as well as records which, if implemented, would improve records management for R&D and throughout the agency.

APPENDIX A

INSPECTION PROCESS

OBJECTIVE AND SCOPE

The objective of this inspection was to determine if R&D records created and maintained at TVA are in compliance with the Federal Records Act; 36 CFR Chapter XII, Subchapter B; and TVA policy and procedures.

METHODOLOGY

NARA carried out this inspection by conducting site visits at TVA in Knoxville and Chattanooga, Tennessee. More specifically, the inspection team:

- Reviewed records management policies, directives, and other documentation provided by TVA;
- Interviewed RM representatives and research and development program staff at TVA;
- Guided the course of the inspection using a detailed checklist of questions based on Federal statutes, Federal regulations, and NARA guidance; and
- Reviewed TVA responses to current and past annual Records Management Self-Assessments (RMSA) and current and past annual reports of TVA's SAORM.

OFFICES VISITED/INTERVIEWED

NARA interviewed the following staff at TVA, August 14-15, 2018:

- Office of General Counsel Staff
- Records Officer and Records Management Staff
- Research and Development Project Managers
- ECM Staff
- Project Management Staff

APPENDIX B
RELEVANT INSPECTION DOCUMENTATION

TVA Standard Program and Process (SPP) 31.000, “Record and Document Management Program,” September 1, 2017.

TVA SPP 31.001, “Records Management,” September 1, 2017.

TVA SPP 25.3, “Litigation Hold,” November 30, 2010.

DRAFT - TVA Work Instruction (WI) Document Services 31, “Records Management Handbook,” not dated.

LMS 00066863, “Introduction to Records Management,” not dated.

LMS 00074833, “Becoming a World Class TVA Records Liaison,” not dated.

LMS 00060014, “Content Management – A Briefing for Leaders,” not dated.

Screenshots of relevant sections of TVA Exit Checklist, September 7, 2018.

TVA “ECM Roadmap,” June 2018.

TVA slides, “Records Management Program, Research & Development Records,” August 14-15, 2018.

APPENDIX C

AUTHORITIES AND FOLLOW-UP ACTIONS

AUTHORITIES

- 44 U.S.C. Chapter 29
- 36 CFR Chapter XII, Subchapter B
- 36 CFR 1239, Program Assistance and Inspections

OTHER GUIDANCE

- Office of Management and Budget (OMB)/NARA *Managing Government Records Directive* (M-12-18)
- OMB/NARA *Guidance on Managing Email* (M-14-16)
- Other NARA Bulletins currently in effect

FOLLOW-UP ACTIONS

- ACTION PLAN

TVA will submit to NARA within 60 days after the date of transmittal of this report to the head of the agency a Plan of Corrective Action (PoCA) that specifies how the agency will address each recommendation, including a timeline for completion and proposed progress reporting dates.

- NARA REVIEW

NARA will analyze the adequacy of TVA's action plan, provide comments to TVA on the plan within 60 calendar days of receipt, and assist TVA in implementing recommendations.

- PROGRESS REPORTS

TVA will submit to NARA semi-annual progress reports on the implementation of the action plan until all actions are completed. NARA will inform TVA when progress reports are no longer needed.

- FUTURE INSPECTION

NARA may conduct a broader inspection of the TVA RM program when the plan of corrective action items for this inspection have been completed.

APPENDIX D
ACRONYMS AND ABBREVIATIONS

ARO	Agency Records Officer
CEO	Chief Executive Officer
CFR	Code of Federal Regulations
CIO	Chief Information Officer
CMA	Content Management Analysts
CO	Content Owner
CRADA	Cooperative Research and Development Agreement
DER	Distributed Energy Resources
ECM	Enterprise Content Management
EDMS	Electronic Document Management System
EPRI	Electric Power Research Institute
IT	Information Technology
NARA	National Archives and Records Administration
NEETRAC	National Electric Energy Testing Research and Applications Center
NRECA	National Rural Electric Cooperative Association
OMB	Office of Management and Budget
PoCA	Plan of Corrective Action
R&D	Research and Development
RL	Records Liaison
RM	Records Management
RMSA	Records Management Self-Assessment
RO	Records Officer
SAORM	Senior Agency Official for Records Management
SPP	Standard Programs and Processes
TVA	Tennessee Valley Authority
U.S.C.	United States Code
WI	Work Instruction



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