

ADOPTED EDEN Standard No. 3

WINGSPAN SURVEY

EDEN members participating in data collection are prepared to identify all potential sources of relevant electronically stored information within the custody or control of each key custodian.

Please submit comments, suggestions, and inquiries to: standards@edenhub.com.

COMMENTARY

As electronic data extraction professionals in support of litigation, EDEN members are often tasked with collecting data from key custodians involved in a particular case.

In some instances, the scope of such collection work is well defined and the data to be collected is unambiguously established by the parties in advance of collection efforts – for example, the court-ordered imaging of a specific hard drive and nothing else.

Other times, the range of potential data sources may be less clear. For example, in situations in which a custodian is instructed to permit collection of her company “workstations” – the custodian may simply be unaware that “workstations” may include external drives used for overflow storage, or a personal laptop used intermittently for work-related tasks. Attorneys for the parties may be unaware of the need to instruct such custodians otherwise.

The failure to pre-identify data sources may also be less innocent and involve a purposeful failure to disclose data sources in good faith. This can include both outright deceit and “don’t ask, don’t tell” situations in which litigants rely on ignorance, lack of experience, or lack of curiosity to hide relevant electronic data from opponents.

Regardless of the particular situation, experienced extraction professionals engaged in data collection should be prepared to assist their clients in identifying all potential sources of relevant electronically stored information.

Compliance with this Standard does not mean that EDEN members are always obligated to identify and report on potential sources of data observed in the course of data collection work. What the Standard concerns is EDEN members’ structured ability to do so. Client instruction and terms of court orders should always be respected and take precedence over generic procedures.

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PROCESS SUPPORTING STANDARD

Whether engaged to collect data from opposing parties or from their own clients, EDEN members often act as the eyes and ears of their clients on the ground. As such, EDEN members performing data collection must be prepared to critically observe the surrounding environment and properly document their observations.

With respect to the identification of potential sources of electronically stored information that, for any reason, have not been previously identified as subject to collection efforts, form-based record-keeping is essential.

A properly created and consistently revised form can serve as a guide to EDEN members in the field, serving as a checklist reminder of all the potential data sources available. As human memory is inherently unreliable, using a form to record live observations is critical to the reliability of later reporting or testimony.

A model Wingspan Survey supporting Proposed EDEN Standard No. 3, with instructions for its use, is available to EDEN members for review and comment in the member portal at: <http://edenhub.com/resourcesMem.html>.

Copies of this form should be completed by the individual performing data collection work and should be provided to clients on request and preserved in internal files for future reference.



EDEN members are a diverse group, and although EDEN makes every effort to develop model forms that are useful in a broad range of contexts, members are reminded that the EDEN forms are examples intended for a broad audience that should be tailored as necessary to individual needs and practices.

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