

File No. 19105

Item No. 4

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Information Technology Committee

Date: December 17, 2019

- Petition/Complaint Page: ___
- Memorandum - Deputy City Attorney Page: ___
- Petitioner/Complainant Supporting Documents Page: ___
- Respondent's Response Page: ___
- Public Correspondence Page: 91
- Order of Determination Page: ___
- Minutes Page: ___
- Administrator's Report Page: ___
- No Attachments

OTHER

- A Guide to CPDA page 4
- _____
- _____
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Completed by: C. Leger Date 12/12/19

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

**Sunshine Ordinance Task Force
Complaint Summary**

File No. 19105

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File No. 19105: Hearing - Review of metadata and what portion can be disclosed as public records, possible security risks, and other related issue.

Administrative Summary if applicable:

The People's Business

A GUIDE TO THE CALIFORNIA PUBLIC RECORDS ACT

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Contents

Chapter 1 – Introduction and Overview	5
ORIGINS OF THE PUBLIC RECORDS ACT	5
FUNDAMENTAL RIGHT OF ACCESS TO GOVERNMENT INFORMATION	5
EXEMPTIONS FROM DISCLOSURE — PROTECTING THE PUBLIC’S FUNDAMENTAL RIGHT OF PRIVACY AND NEED FOR EFFICIENT AND EFFECTIVE GOVERNMENT	6
Achieving Balance.....	7
INCORPORATION OF THE PRA INTO THE CALIFORNIA CONSTITUTION	8
Proposition 59.....	8
Proposition 42.....	8
EXPANDED ACCESS TO LOCAL GOVERNMENT INFORMATION	9
EQUAL ACCESS TO GOVERNMENT RECORDS	9
ENFORCED ACCESS TO PUBLIC RECORDS	10
THE PRA AT THE CRUX OF DEMOCRATIC GOVERNMENT IN CALIFORNIA	10
Chapter 2 – The Basics	11
WHAT ARE PUBLIC RECORDS?	11
Writings	11
Information Relating to the Conduct of Public Business	12
Prepared, Owned, Used, or Retained	12
Regardless of Physical Form or Characteristics.....	13
Metadata	14
Agency-Developed Software.....	14
Computer Mapping (GIS) Systems.....	14
SPECIFICALLY IDENTIFIED RECORDS	15
WHAT AGENCIES ARE COVERED?	15
WHO CAN REQUEST RECORDS?	16

Chapter 3 – Responding to a Public Records Request	17
LOCAL AGENCY’S DUTY TO RESPOND TO PUBLIC RECORD REQUESTS	17
TYPES OF REQUESTS — RIGHT TO INSPECT OR COPY PUBLIC RECORDS	17
Right to Inspect Public Records.....	18
Right to Copy Public Records.....	18
FORM OF THE REQUEST	19
CONTENT OF THE REQUEST	20
TIMING OF THE RESPONSE	20
Inspection of Public Records.....	20
Copies of Public Records.....	21
Extending the Response Times for Copies of Public Records.....	21
TIMING OF DISCLOSURE	22
ASSISTING THE REQUESTER	22
LOCATING RECORDS	23
TYPES OF RESPONSES	24
REDACTING RECORDS	24
NO DUTY TO CREATE A RECORD OR A PRIVILEGE LOG	25
FEES	25
WAIVER	26

Chapter 4 – Specific Document Types, Categories and Exemptions from Disclosure..... 27

OVERVIEW OF EXEMPTIONS	27
TYPES OF RECORDS AND SPECIFIC EXEMPTIONS	28
Architectural and Official Building Plans.....	28
Attorney-Client Communications and Attorney Work Product.....	29
Attorney-Client Privilege.....	29
Attorney Work Product.....	30
Common Interest Doctrine.....	30
Attorney Bills and Retainer Agreements.....	30
CEQA Proceedings.....	31
Code Enforcement Records.....	32
Deliberative Process Privilege.....	32
Drafts.....	33

Elections	34
Voter Registration Information	34
Initiative, Recall, and Referendum Petitions	34
Identity of Informants.....	35
Information Technology Systems Security Records	35
Law Enforcement Records.....	35
Overview.....	35
Exempt Records.....	36
Information that Must be Disclosed.....	36
Disclosure to Victims, Authorized Representatives, Insurance Carriers.....	36
Information Regarding Arrestees.....	37
Complaints or Requests for Assistance.....	38
Requests for Journalistic or Scholarly Purposes.....	38
Coroner Photographs or Video	38
Mental Health Detention Information.....	39
Elder Abuse Records	39
Juvenile Records	39
Child Abuse Reports.....	40
Library Patron Use Records.....	40
Library Circulation Records	40
Licensee Financial Information	40
Medical Records	40
Health Data and Advisory Council Consolidation Act.....	41
Physician/Patient Privilege	41
Confidentiality of Medical Information Act.....	42
Health Insurance Portability and Accountability Act.....	42
Workers' Compensation Benefits.....	42
Official Information Privilege.....	43
Pending Litigation or Claims	44
Personal Contact Information.....	45
Posting Personal Contact Information of Elected/Appointed Officials on the Internet	46
Personnel Records.....	46
Peace Officer Personnel Records.....	47
Employment Contracts, Employee Salaries, & Pension Benefits	49
Contractor Payroll Records.....	49
Test Questions and Other Examination Data	50
Public Contracting Documents.....	50
Real Estate Appraisals and Engineering Evaluations.....	51
Recipients of Public Services.....	52
Taxpayer Information	52

Trade Secrets and Other Proprietary Information	52
Utility Customer Information.....	54
PUBLIC INTEREST EXEMPTION	54

Chapter 5 – Judicial Review and Remedies..... 57

OVERVIEW	57
-----------------------	-----------

THE TRIAL COURT PROCESS	57
--------------------------------------	-----------

Jurisdiction and Venue	57
Procedural Considerations	58
Timing.....	58
Discovery	58
Burden of Proof.....	58
In Camera Review	59
Decision and Order	59

REVERSE PRA LITIGATION.....	59
------------------------------------	-----------

APPELLATE REVIEW.....	60
------------------------------	-----------

Petition for Review	60
Timing.....	60
Requesting a Stay.....	60
Scope and Standard of Review	60
Appeal of Other Decisions under the PRA.....	61

ATTORNEYS’ FEES AND COSTS	61
--	-----------

Eligibility to Recover Attorneys’ Fees	61
--	----

Chapter 6 – Records Management..... 63

PUBLIC MEETING RECORDS	63
-------------------------------------	-----------

MAINTAINING ELECTRONIC RECORDS	64
---	-----------

Metadata	65
Computer Software.....	65
Computer Mapping (GIS) Systems.....	65
Public Contracting Records	66

ELECTRONIC DISCOVERY	66
-----------------------------------	-----------

RECORD RETENTION AND DESTRUCTION LAWS.....	66
---	-----------

Records Covered by the Records Retention Laws.....	67
--	----

Frequently Requested Information and Records..... 68



Chapter 1

Introduction and Overview

Origins of the Public Records Act

The California Public Records Act (the PRA) was enacted in 1968 to: (1) safeguard the accountability of government to the public; (2) promote maximum disclosure of the conduct of governmental operations; and (3) explicitly acknowledge the principle that secrecy is antithetical to a democratic system of "government of the people, by the people and for the people."¹ The PRA was enacted against a background of legislative impatience with secrecy in government and was modeled on the federal Freedom of Information Act (FOIA) enacted a year earlier.² When the PRA was enacted, the Legislature had been attempting to formulate a workable means of minimizing secrecy in government. The resulting legislation replaced a confusing mass of statutes and court decisions relating to disclosure of government records.³ The PRA was the culmination of a 15-year effort by the Legislature to create a comprehensive general public records law.

Fundamental Right of Access to Government Information

The PRA is an indispensable component of California's commitment to open government. The PRA expressly provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."⁴ The purpose is to give the public access to information that enables them to monitor the functioning of their government.⁵ The concept that access to information is a fundamental right is not new to United States jurisprudence. Two hundred years ago James Madison observed "[k]nowledge will forever govern ignorance and a people who mean to be their own governors, must arm themselves with the power knowledge gives. A popular government without popular information or the means of acquiring it is but a prologue to a farce or tragedy or perhaps both."⁶

1 Gov. Code, § 6250 *et seq.*; Stats 1968, Ch. 1473; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651–652; 52 Ops. Cal. Atty. Gen. 136, 143; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal. App. 3d 762, 771–772.

2 *San Gabriel Tribune v. Superior Court*, *supra*, 143 Cal. App. 3d at p. 772; 5 U.S.C. § 552 *et seq.*, 81 Stat. 54; *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 447; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651. The basic purpose of the FOIA is to expose agency action to the light of public scrutiny. *U.S. Dept. of Justice v. Reporters Com. for Freedom of Press* (1989) 489 US 749, 774.

3 *San Gabriel Tribune v. Superior Court*, *supra*, 143 Cal. App. 3d at p. 772; *American Civil Liberties Union Federation v. Deukmejian*, *supra*, 32 Cal.3d at p. 447.

4 Gov. Code, § 6250.

5 *CBS, Inc. v. Block*, *supra*, 42 Cal.3d at p. 651; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1350.

6 *San Gabriel Tribune v. Superior Court*, *supra*, 143 Cal. App. 3d at p. 772, citing Shaffer *et al.*, *A Look at the California Records Act and Its Exemptions* (1974) 4 Golden Gate L. Rev. 203, 212.

The PRA provides for two different rights of access. One is a right to inspect public records: "Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided."⁷ The other is a right to prompt availability of copies of public records:

Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.⁸

Agency records policies and practices must satisfy both types of public records access that the PRA guarantees.

Exemptions from Disclosure — Protecting the Public's Fundamental Right of Privacy and Need for Efficient and Effective Government

The PRA's fundamental precept is that governmental records shall be disclosed to the public, upon request, unless there is a legal basis not to do so.⁹ The right of access to public records under the PRA is not unlimited; it does not extend to records that are exempt from disclosure. Express legal authority is required to justify denial of access to public records.

► PRACTICE TIP:

There is no general exemption authorizing non-disclosure of government records on the basis the disclosure could be inconvenient or even potentially embarrassing to a local agency or its officials. Disclosure of such records is one of the primary purposes of the PRA.

The PRA itself currently contains approximately 76 exemptions from disclosure.¹⁰ Despite the Legislature's goal of accumulating all of the exemptions from disclosure in one place, there are numerous laws outside the PRA that create exemptions from disclosure. The PRA now lists other laws that exempt particular types of government records from disclosure.¹¹

The exemptions from disclosure contained in the PRA and other laws reflect two recurring interests. Many exemptions are intended to protect privacy rights.¹² Many other exemptions are based on the recognition that, in addition to the need for the public to know what its government is doing, there is a need for the government to perform its assigned functions in a reasonably efficient and effective manner, and to operate on a reasonably level playing field in dealing with private interests.¹³

7 Gov. Code, § 6253, subd. (a).

8 Gov. Code, § 6253, subd. (b).

9 Gov. Code, § 6253, subd. (b).

10 Gov. Code, §§ 6253.2 – 6268.

11 Gov. Code, §§ 6275 *et seq.*

12 See, e.g., "Personnel Records," p. 46.

13 See, e.g., "Attorney Client Communications and Attorney Work Product," p. 29.

Achieving Balance

The Legislature in enacting the PRA struck a balance among competing, yet fundamental interests: government transparency, privacy rights, and government effectiveness. The legislative findings declare access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the state and the Legislature is "mindful of the right of individuals to privacy."¹⁴ "In the spirit of this declaration, judicial decisions interpreting the [PRA] seek to balance the public right to access to information, the government's need, or lack of need, to preserve confidentiality, and the individual's right to privacy."¹⁵

Of the approximately 76 current exemptions from disclosure contained in the PRA, 38 or half, appear intended primarily to protect privacy interests.¹⁶ Another 35 appear intended primarily to support effective governmental operation in the public's interest.¹⁷ A few exemptions appear to focus equally on protecting privacy rights and effective government. Those include: an exemption for law enforcement records; an exemption that incorporates into the PRA exemptions from disclosure in other state and federal laws, including privileges contained in the Evidence Code; and the "public interest" or "catch-all" exemption, where, based on the particular facts, the public interest in not disclosing the record clearly outweighs the public interest in disclosure.¹⁸ Additionally, the deliberative process privilege reflects both the public interests in privacy and government effectiveness by affording a measure of privacy to decision-makers that is intended to aid in the efficiency and effectiveness of government decision-making.¹⁹

The balance that the PRA strikes among the often-competing interests of government transparency and accountability, privacy rights, and government effectiveness intentionally favors transparency and accountability. The PRA is intended to reserve "islands of privacy upon the broad seas of enforced disclosure."²⁰ For the past four decades, courts have balanced those competing interests in deciding whether to order disclosure of records.²¹ The courts have consistently construed exemptions from disclosure narrowly and agencies' disclosure obligations broadly.²² Ambiguities in the PRA must be interpreted in a way that maximizes the public's access to information unless the Legislature has expressly provided otherwise.²³

The PRA requires local agencies, as keepers of the public's records, to balance the public interests in transparency, privacy, and effective government in response to records requests. Certain provisions in the PRA help maintain the balancing scheme established under the PRA and the cases interpreting it by prohibiting state and local agencies from delegating their balancing role and making arrangements with other entities that could limit access to public records. For example, state and local agencies may not allow another party to control the disclosure of information otherwise subject to disclosure under the PRA.²⁴ Also, state and local agencies may not provide public records subject to disclosure under the PRA to a private entity in a way that prevents a state or local agency from providing the records directly pursuant to the PRA.²⁵

14 Gov. Code, § 6250; Cal Const., art I, § 3(b)(3).

15 *American Civil Liberties Union Foundation v. Deukmejian*, supra, 32 Cal.3d at p. 447.

16 The following exemptions contained in the PRA appear primarily intended to protect privacy interests: Gov. Code, §§ 6253.2; 6253.5; 6253.6; 6254, subds. (c), (i), (j), (n), (o), (r), (u)(1), (u)(2), (u)(3), (x), (z), (ac), (ad), (ad)(1), (ad)(4), (ad)(5) & (ad)(6); 6254.1, subds. (a), (b) & (c); 6254.2; 6254.3; 6254.4; 6254.10; 6254.11; 6254.13; 6254.15; 6254.16; 6254.17; 6254.18; 6254.20; 6254.21; 6254.29; 6267; 6268.

17 The following exemptions contained in the PRA appear primarily intended to support effective government: Gov. Code, §§ 6254, subds. (a), (b), (c)(1), (c)(2), (c)(3), (c)(4), (e), (g), (h), (l), (m), (p), (q), (s), (t), (v)(1), (v)(1)(A), (v)(1)(B), (w); (y), (aa), (ab), (ad)(2) & (ad)(3); 6254.6; 6254.7; 6254.9; 6254.14; 6254.19; 6254.22; 6254.23; 6254.25; 6254.26; 6254.27; 6254.28.

18 Gov. Code, §§ 6254, subds. (f) & (k); Gov. Code, § 6255.

19 Gov. Code § 6255; *Times Mirror Co. v. Superior Court*, supra, 53 Cal.3d at pp. 1339–1344.

20 *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645, 653.

21 *Times Mirror Co. v. Superior Court*, supra, 53 Cal.3d at p. 1344; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136, 1144.

22 *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 476; *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579, 1585; *San Gabriel Tribune v. Superior Court*, supra, 143 Cal.App.3d at pp. 772–773.

23 *Sierra Club v. Superior Court of Orange County* (2013) 57 Cal.4th 157, 175–176.

24 Gov. Code, § 6253.3.

25 Gov. Code, § 6270, subd. (a).

► PRACTICE TIP:

Even though contracts or settlement agreements between agencies and private parties may require that the parties give each other notice of requests for the contract or settlement agreement, such agreements cannot purport to permit private parties to dictate whether the agreement is a public record subject to disclosure.

Incorporation of the PRA into the California Constitution

Proposition 59

In November 2004, the voters approved Proposition 59, which amended the California Constitution to include the public's right to access public records: "The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."²⁶ As amended, the California Constitution provides each statute, court rule, and other authority "shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access."²⁷ The Proposition 59 amendments expressly retained and did not supersede or modify other existing constitutional, statutory, or regulatory provisions, including the rights of privacy, due process and equal protection, as well as any constitutional, statutory, or common-law exception to the right of access to public records in effect on the amendments' effective date. That includes any statute protecting the confidentiality of law enforcement and prosecution records.²⁸

The courts and the California Attorney General have determined that the constitutional provisions added by Proposition 59 maintain the established principles that disclosure obligations under the PRA must be construed broadly, and exemptions construed narrowly.²⁹ By approving Proposition 59, the voters have incorporated into the California Constitution the PRA policy prioritizing government transparency and accountability, as well as the PRA's careful balancing of the public's right of access to government information with protections for the public interests in privacy and effective government. No case has yet held Proposition 59 substantively altered the balance struck in the PRA between government transparency, privacy protection, and government effectiveness.

Proposition 42

In June 2014, the voters approved Proposition 42, which amended the California Constitution "to ensure public access to the meetings of public bodies and the writings of public officials and agencies."³⁰ As amended, the Constitution requires local agencies to comply with the PRA, the Ralph M. Brown Act (The Brown Act), any subsequent amendments to either act, any successor act, and any amendments to any successor act that contain findings that the legislation furthers the purposes of public access to public body meetings and public official and agency writings.³¹ As amended, the Constitution also no longer requires the state to reimburse local governments for the cost of complying with legislative mandates in the PRA, the Brown Act,

26 Cal. Const., art I, § 3, subd. (b)(1).

27 Cal. Const., art I, § 3, subd. (b)(2).

28 Cal. Const. art. I, §§ 3, subds. (b)(3), (b)(4) & (b)(5).

29 *Sierra Club v. Superior Court of Orange County*, *supra*, 57 Cal.4th at pp. 175–176; *Sutter's Place, v. Superior Court* (2008) 161 Cal.App.4th 1370, 1378–1381; *Los Angeles Unified Sch. Dist. v. Superior Court* (2007) 151 Cal.App.4th 759, 765; *P.O.S.T. v. Superior Court* (2007) 42 Cal.4th 278, 305; *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, 750; 89 Ops.Cal.Atty.Gen. 204, 211 (2006); 88 Ops.Cal.Atty.Gen. 16, 23 (2005); 87 Ops.Cal.Atty.Gen. 181, 189 (2004).

30 Cal. Const., art. I, § 3, subd. (b)(7).

31 Cal. Const., art. I, § 3, subd. (b)(7).

and successor statutes and amendments.³² Following the enactment of Proposition 42, the Legislature has enacted new local mandates related to public records, including requirements for agency data designated as “open data” that is kept on the Internet and requirements to create and maintain “enterprise system catalogs.”³³

Expanded Access to Local Government Information

The policy of government records transparency mandated by the PRA is a floor, not a ceiling. Most exemptions from disclosure that apply to the PRA are permissive, not mandatory.³⁴ Local agencies may choose to disclose public records even though they are exempt, although they cannot be required to do so.³⁵ The PRA provides that “except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.”³⁶ A number of local agencies have gone beyond the minimum mandates of the PRA by adopting their own “sunshine ordinances” to afford greater public access to public records. Such “sunshine ordinances,” however, do not purport to authorize a locality to enact an ordinance addressing records access that conflicts with the locality’s governing charter.³⁷

Local agency disclosure of exempt records can promote the government transparency and accountability purposes of the PRA. However, local agencies are also subject to mandatory duties to safeguard some particularly sensitive records.³⁸ Unauthorized disclosure of such records can subject local agencies and their officials to civil and in some cases criminal liability.

► PRACTICE TIP:

Local agencies that expand on the minimum transparency prescribed in the PRA, which is something that the PRA encourages, should ensure that they do not violate their duty to safeguard certain records, or undermine the public’s interest in effective government.

Equal Access to Government Records

The PRA affords the same right of access to government information to all types of requesters. Every person has a right to inspect any public record, except as otherwise provided in the PRA, including citizens of other states and countries, elected officials, and members of the press.³⁹ With few exceptions, whenever a local agency discloses an exempt public record to any member of the public, unless the disclosure was inadvertent, all exemptions that apply to that particular record are waived and it becomes

32 Cal. Const., art. XIII B, § 6, subd. (a)(4). Proposition 42 was a legislatively-referred constitutional amendment in response to public opposition to AB-1464 and SB-1006 approved June, 2012. The 2012 legislation suspended certain PRA and Brown Act provisions and was intended to eliminate the state’s obligation to reimburse local governments for the cost of complying with PRA and Brown Act mandates through the 2015 fiscal year. There is no record of local agencies ceasing to comply with the suspended provisions.

33 Gov. Code, §§ 6253.10, 6270.5.

34 *Black Panther Party v. Kehoe*, *supra*, 42 Cal.App.3d at p. 656.

35 See Gov. Code, § 6254.5 and “Waiver,” p. 26, regarding the effect of disclosing exempt records.

36 Gov. Code, § 6253, subd. (e).

37 *St. Croix v. Superior Court* (2014) 228 Cal.App.4th 434, 446. (“Because the charter incorporates the [attorney-client] privilege, an ordinance (whether enacted by the City’s board of supervisors or by the voters) cannot eliminate it, either by designating as not confidential a class of material that otherwise would be protected by the privilege, or by waiving the privilege as to that category of documents; only a charter amendment can achieve that result.”).

38 *E.g.*, individually-identifiable medical information protected under state and federal law (Civ. Code §§ 56.10(a), 56.05(g); 42 U.S.C. § 1320d-1-d-3); child abuse and neglect records (Pen. Code, § 11167.5); elder abuse and neglect records (Welf. & Inst. Code, § 15633); mental health detention records (Welf. & Inst. Code, §§ 5150, 5328).

39 Gov. Code, §§ 6253, subd. (a); 6252, subd. (c); *Connell v. Superior Court* (1997) 56 Cal.App.4th 601, 610-612; Gov. Code § 6252.5; See “Who Can Request Records,” p. 16.

subject to disclosure to any and all requesters.⁴⁰ Accordingly, the PRA ensures equal access to government information by preventing local agencies from releasing exempt records to some requesters but not to others.

Enforced Access to Public Records

To enforce local agencies' compliance with the PRA's open government mandate, the PRA provides for the mandatory award of court costs and attorneys' fees to plaintiffs who successfully seek a court ruling ordering disclosure of withheld public records.⁴¹ The attorney's fees policy enforcing records transparency is liberally applied.⁴²

The PRA at the Crux of Democratic Government in California

Ongoing, important developments in PRA-related constitutional, statutory, and decisional law continue to reflect the central role government's handling of information plays in balancing tensions inherent in democratic society: considerations of privacy and government transparency, accountability, and effectiveness. Controversial records law issues in California have included government's use of social media and new law enforcement technologies, and treatment of related records; management and retention of public officials' emails; open data standards for government information; disclosure of attorney bills; and new legal means for preserving or opposing access to government information.⁴³ Regarding all those issues and others, the PRA has been, and continues to be an indispensable and dynamic arena for simultaneously preserving information transparency, privacy, and effective government, which the California Constitutional and statutory frameworks are intended to guarantee, and on which California citizens continue to insist.

40 Gov. Code, § 6254.5. Section 6254.5 does not apply to inadvertent disclosure of exempt documents. *Ardon v. City of Los Angeles* (2016) 62 Cal.4th 1176, 1182–1183; *Newark Unified School Dist. v. Superior Court* (2015) 245 Cal.App.4th 887, 894. See “Waiver,” p. 26.

41 Gov. Code, § 6259, subd. (d); see “Attorney Fees and Costs,” p. 61.

42 See “Attorneys Fees and Costs,” p. 61.

43 *American Civil Liberties Union Foundation of Southern California v. Superior Court* (review granted July 29, 2015, S227106; superseded opinion at 236 Cal. App.4th 673); *Regents of the Univ. of Cal. v. Superior Court* (2013) 222 Cal.App.4th 383, 399; *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608; Gov. Code, §§ 6253.10, 6270.5; *Marken v. Santa Monica-Malibu Unified Sch. Dist.* (2012) 202 Cal.App.4th 1250, 1265; *County of Los Angeles Board of Supervisors v. Superior Court* (review granted July 8, 2015, S226645; superseded opinion at 235 Cal.App.4th 1154).



Chapter 2

The Basics

The PRA “embodies a strong policy in favor of disclosure of public records.”⁴⁴ As with any interpretation or construction of legislation, the courts will “first look at the words themselves, giving them their usual and ordinary meaning.”⁴⁵ Definitions found in the PRA establish the statute’s structure and scope, and guide local agencies, the public, and the courts in achieving the legislative goal of disclosing local agency records while preserving equally legitimate concerns of privacy and government effectiveness.⁴⁶ It is these definitions that form the “basics” of the PRA.

What are Public Records?

The PRA defines “public records” as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”⁴⁷ The term “public records” encompasses more than simply those documents that public officials are required by law to keep as official records. Courts have held that a public record is one that is “necessary or convenient to the discharge of [an] official duty[,]” such as a status memorandum provided to the city manager on a pending project.⁴⁸

Writings

A writing is defined as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.”⁴⁹

⁴⁴ *Lorig v. Medical Board of Cal.* (2000) 78 Cal.App.4th 462, 467; see Chapter 1, “Fundamental Right of Access to Government Information,” *supra*, p. 5.

⁴⁵ *People v. Lawrence* (2000) 24 Cal.4th 219, 230.

⁴⁶ See Chapter 1, “Exemptions from Disclosure — Protecting the Public’s Fundamental Rights of Privacy and Need for Efficient and Effective Government,” *supra*, p. 6.

⁴⁷ Gov. Code, § 6252, subd. (e).

⁴⁸ *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 340; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774.

⁴⁹ Gov. Code, § 6252, subd. (g).

The statute unambiguously states that “[p]ublic records” include “any writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.”⁵⁰ Unless the writing is related “to the conduct of the public’s business” and is “prepared, owned, used or retained by” a local agency, it is not a public record subject to disclosure under the PRA.⁵¹

Information Relating to the Conduct of Public Business

Public records include “any writing containing information relating to the conduct of the public’s business.”⁵² However, “[c]ommunications that are primarily personal containing no more than incidental mentions of agency business generally will not constitute public records.”⁵³ Therefore, courts have observed that although a writing is in the possession of the local agency, it is not automatically a public record if it does not also relate to the conduct of the public’s business.⁵⁴ For example, records containing primarily personal information, such as an employee’s personal address list or grocery list, are considered outside the scope of the PRA.

Prepared, Owned, Used, or Retained

Writings containing information “related to the conduct of the public’s business” must also be “prepared, owned, used or retained by any state or local agency” to be public records subject to the PRA.⁵⁵ What is meant by “prepared, owned, used or retained” has been the subject of several court decisions.

Writings need not always be in the physical custody of, or accessible to, a local agency to be considered public records subject to the PRA. The obligation to search for, collect, and disclose the material requested can apply to records in the possession of a local agency’s consultants, which are deemed “owned” by the public agency and in its “constructive possession” when the terms of an agreement between the city and the consultant provide for such ownership.⁵⁶ Where a local agency has no contractual right to control the subconsultants or their files, the records are not considered to be within their “constructive possession.”⁵⁷

Likewise, documents that otherwise meet the definition of public records (including emails and text messages) are considered “retained” by the local agency even when they are actually “retained” on an employee or official’s personal device or account.⁵⁸

The California Supreme Court has provided some guidance on how a local agency can discover and manage public records located on their employees’ non-governmental devices or accounts. The Court did not endorse or mandate any particular search method, and reaffirmed that the PRA does not prescribe any specific method for searching, and that the scope of a local agency’s search for public records need only be “calculated to locate responsive documents.” When a local agency receives a request for records that may be held in an employee’s personal account, the local agency’s first step should be to communicate the request not only to the custodian of records but also to any employee or official who may have such information in personal devices or accounts. The Court states that a local agency may then “reasonably rely” on the employees to search their own personal files, accounts, and devices for responsive materials.⁵⁹

50 Gov. Code, § 6252(e); *Regents of the University of California v. Superior Court* (2013) 222 Cal.App.4th 383, 399; *Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 340; *San Gabriel Tribune v. Superior Court*, *supra*, 143 Cal.App.3d at p. 774.

51 *Regents of the University of California v. Superior Court*, *supra*, 222 Cal.App.4th at p. 399.

52 Gov. Code, § 6252, subd. (e).

53 *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 618-619.

54 Gov. Code, § 6252, subd. (e); *Regents of the University of California v. Superior Court*, *supra*, 222 Cal.App.4th at pp. 403-405; *Braun v. City of Taft*, *supra*, 154 Cal.App.3d at p. 340; *San Gabriel Tribune v. Superior Court*, *supra*, 143 Cal.App.3d at p. 774.

55 Gov. Code § 6252, subd. (e).

56 *Consolidated Irrigation District v. Superior Court* (2013) 205 Cal.App.4th 697, 710; *City of San Jose v. Superior Court*, *supra*, 2 Cal.5th at p. 623.

57 *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1428; *City of San Jose v. Superior Court*, *supra*, 2 Cal.5th at p. 623.

58 *City of San Jose v. Superior Court*, *supra*, 2 Cal.5th at p. 629; *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1428.

59 *City of San Jose v. Superior Court*, *supra*, 2 Cal.5th at p. 628.

The Court's guidance, which includes a caveat that they "do not hold that any particular search method is required or necessarily adequate[.]" includes examples of policies and practices in other state and federal courts and agencies, including:⁶⁰

- Reliance on employees to conduct their own searches and record segregation, so long as the employees have been properly trained on what are public records;
- Where an employee asserts to the local agency that he or she does not have any responsive records on his or her personal device(s) or account(s), he or she may be required by a court (as part of a later court action concerning a records request) to submit an affidavit providing the factual basis for determining whether the record is a public or personal record (e.g., personal notes of meetings and telephone calls protected by deliberative process privilege, versus meeting agendas circulated throughout entire department.)⁶¹
- Adoption of policies that will reduce the likelihood of public records being held in an employee's private account, including a requirement that employees only use government accounts, or that they copy or forward all email or text messages to the local agency's official recordkeeping system.⁶²

Documents that a local agency previously possessed, but does not actually or constructively possess at the time of the request may not be public records subject to disclosure.⁶³

Regardless of Physical Form or Characteristics

A public record is subject to disclosure under the PRA "regardless of its physical form or characteristics."⁶⁴ The PRA is not limited by the traditional notion of a "writing." As originally defined in 1968, the legislature did not specifically recognize advancing technology as we consider it today. Amendments beginning in 1970 have added references to "photographs," "magnetic or punch cards," "discs," and "drums,"⁶⁵ with the latest amendments in 2002 providing the current definition of "writing."⁶⁶ Records subject to the PRA include records in any media, including electronic media, in which government agencies may possess records. This is underscored by the definition of "writings" treated as public records under the PRA, which includes "transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored."⁶⁷ The legislative intent to incorporate future changes in the character of writings has long been recognized by the courts, which have held that the "definition [of writing] is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed."⁶⁸

⁶⁰ *Id.* at pp. 627-629.

⁶¹ See *Grand Cent. Partnership, Inc. v. Cuomo* (2d. Cir. 1999) 166 F.3d 473, 481 for expanded discussion on the use of affidavit in FOIA litigation.

⁶² See 44 U.S.C. Sec. 2911(a).

⁶³ See *Am. Small Bus. League v. United States SBA* (2010) 623 F.3d 1052, (analyzed under FOIA). See "Practice Tip," p. 30 which discusses treatment of FOIA precedence.

⁶⁴ Gov. Code, § 6252, subd. (e).

⁶⁵ Gov. Code, § 6252, subd. (e); Stats. 1970, c. 575, p. 1151, § 2.

⁶⁶ Gov. Code, § 6252, subd. (g); Stats. 2002, c. 1073

⁶⁷ Gov. Code, § 6252, subd. (g).

⁶⁸ *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 340, citing "Assembly Committee on Statewide Information Policy California Public Records Act of 1968. 1 Appendix to Journal of Assembly 7, Reg. Sess. (1970)."

Metadata

Electronic records may include “metadata,” or data about data contained in a record that is not visible in the text. For example, metadata may describe how, when, or by whom particular data was collected, and contain information about document authors, other documents, or commentary or notes. No provision of the PRA expressly addresses metadata, and there are no reported court opinions in California considering whether or the extent to which metadata is subject to disclosure. Evolving law in other jurisdictions has held that local agency metadata is a public record subject to disclosure unless an exemption applies.⁶⁹ There are no reported California court opinions providing guidance on whether agencies have a duty to disclose metadata when an electronic record contains exempt information that cannot be reasonably segregated without compromising the record’s integrity.

► PRACTICE TIP:

Agencies that receive requests for metadata or requests for records that include metadata should treat the requests the same way they treat all other requests for electronic information and disclose non-exempt metadata.

Agency-Developed Software

The PRA permits government agencies to develop and commercialize computer software and benefit from copyright protections so that such software is not a “public record” under the PRA. This includes computer mapping systems, computer programs, and computer graphics systems.⁷⁰ As a result, public agencies are not required to provide copies of agency-developed software pursuant to the PRA. The PRA authorizes state and local agencies to sell, lease, or license agency-developed software for commercial or noncommercial use.⁷¹ The exception for agency-developed software does not affect the public record status of information merely because it is stored electronically.⁷²

Computer Mapping (GIS) Systems

While computer mapping systems developed by local agencies are not public records subject to disclosure, such systems generally include geographic information system (GIS) data. Many local agencies use GIS programs and databases for a broad range of purposes, including the creation and editing of maps depicting property and facilities of importance to the agency and the public. As with metadata, the PRA does not expressly address GIS information disclosure. However, the California Supreme Court has held that while GIS software is exempt under the PRA, the data in a GIS file format is a public record, and data in a GIS database must be produced.⁷³

⁶⁹ *Lake v. City of Phoenix*, (2009) 218 P.3d 1004, 1008; *O’Neill v. City of Shoreline* (2010) 240 P.3d 1149, 1154; *Irwin v. Onondaga County* (2010) 895 N.Y.S.2d 262, 268.

⁷⁰ Gov. Code, § 6254.9, subds. (a), (b).

⁷¹ Gov. Code, § 6254.9, subd. (a).

⁷² Gov. Code, § 6254.9, subd. (d).

⁷³ *Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 170. See also *County of Santa Clara v. Superior Court* (2009) 170 Cal.App.4th 1301.

Specifically Identified Records

The PRA also expressly makes particular types of records subject to the PRA, or subject to disclosure, or both. For example, the PRA provides that the following are public records:

- Contracts of state and local agencies that require a private entity to review, audit, or report on any aspect of the agency, to the extent the contract is otherwise subject to disclosure under the PRA;⁷⁴
- Specified pollution information that state or local agencies require applicants to submit, pollution monitoring data from stationary sources, and records of notices and orders to building owners of housing or building law violations;⁷⁵
- Employment contracts between state and local agencies and any public official or employee;⁷⁶ and
- Itemized statements of the total expenditures and disbursements of judicial agencies provided for under the State Constitution.⁷⁷

What Agencies are Covered?

The PRA applies to state and local agencies. A state agency is defined as “every state office, officer, department, division, bureau, board and commission or other state body or agency.”⁷⁸ A local agency includes a county, city (whether general law or chartered), city and county, school district, municipal corporation, special district, community college district, or political subdivision.⁷⁹ This encompasses any committees, boards, commissions, or departments of those entities as well. Private entities that are delegated legal authority to carry out public functions, and private entities (1) that receive funding from a local agency, and (2) whose governing board includes a member of the local agency’s legislative body who is appointed by that legislative body and who is a full voting member of the private entity’s governing board, are also subject to the PRA.⁸⁰ Nonprofit entities that are legislative bodies under the Brown Act may be subject to the PRA.⁸¹

The PRA does not apply to the Legislature or the judicial branch.⁸² The Legislative Open Records Act covers the Legislature.⁸³ Most court records are disclosable as the courts have historically recognized the public’s right of access to public records maintained by the courts under the common law and the First Amendment of the United States Constitution.⁸⁴

74 Gov. Code, § 6253.31.

75 Gov. Code, § 6254.7. But see *Masonite Corp. v. County of Mendocino Air Quality Management District* (1996) 42 Cal.App.4th 436, 450–453 (regarding trade secret information that may be exempt from disclosure).

76 Gov. Code, § 6254.8. But see *Versaci v. Superior Court* (2005) 127 Cal.App.4th 805, 817 (holding that reference in a public employee’s contract to future personal performance goals, to be set and thereafter reviewed as a part of, and in conjunction with, a public employee’s performance evaluation does not incorporate such documents into the employee’s performance for the purposes of the Act).

77 Gov. Code, § 6261.

78 Gov. Code § 6252, subd. (f). Excluded from the definition of state agency are those agencies provided for in article IV (except section 20(k)) and article VI of the Cal. Constitution.

79 Gov. Code, § 6252, subd. (a).

80 Gov. Code, § 6252, subd. (a), 85 Ops. Cal. Atty. Gen 55 (2002).

81 See Open & Public V, Chapter 2.

82 Gov. Code, § 6252, subds. (a) & (b); *Michael J. Mack v. State Bar of Cal.* (2001) 92 Cal.App.4th 957, 962–963.

83 Gov. Code, § 1070

84 *Overstock.com v. Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 483–486; *Pantos v. City and County of San Francisco* (1984) 151 Cal.App.3d 258, 263; *Champion v. Superior Court* (1988) 201 Cal.App.3d 777, 288; *Craemer v. Superior Court* (1968) 265 Cal.App.2d 216, 220.

Who Can Request Records?

All "persons" have the right to inspect and copy non-exempt public records. A "person" need not be a resident of California or a citizen of the United States to make use of the PRA.⁸⁵ "Persons" include corporations, partnerships, limited liability companies, firms, or associations.⁸⁶ Often, requesters include persons who have filed claims or lawsuits against the government, or who are investigating the possibility of doing so, or who just want to know what their government officials are up to. With certain exceptions, neither the media nor a person who is the subject of a public record has any greater right of access to public records than any other person.⁸⁷

Local agencies and their officials are entitled to access public records on the same basis as any other person.⁸⁸ Further, local agency officials might be authorized to access public records of their own agency that are otherwise exempt if such access is permitted by law as part of their official duties.⁸⁹ Under such circumstances, however, the local agency shall not discriminate between or among local agency officials as to which writing or portion thereof is to be made available or when it is made available.⁹⁰

85 *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762.

86 Gov. Code, § 6252, subd. (c); *Connell v. Superior Court* (1997) 56 Cal.App.4th 601.

87 Gov. Code, § 6252.5; *Los Angeles Unified School Dist. v. Superior Court* (2007) 151 Cal.App.4th 759; *Dixon v. Superior Court* (2009) 170 Cal.App.4th 1271, 1279.

88 Gov. Code, § 6252.5.

89 *Marylander v. Superior Court* (2002) 81 Cal.App.4th 1119; *Los Angeles Police Dept. v. Superior Court* (1977) 65 Cal.App.3d 661; *Dixon v. Superior Court* (2009) 170 Cal.App.4th 1271. See "Information That Must Be Disclosed," p. 22; "Requests for Journalistic or Scholarly Purposes," p. 38.

90 Gov. Code, § 6252.7. See also Gov. Code, § 54957.2.

Responding to a Public Records Request

Local Agency's Duty to Respond to Public Record Requests

The fundamental purpose of the PRA is to provide access to information about the conduct of the people's business.⁹¹ This right of access to public information imposes a duty on local agencies to respond to PRA requests and does not "permit an agency to delay or obstruct the inspection or copying of public records."⁹² Even if the request does not reasonably describe an identifiable record, the requested record does not exist, or the record is exempt from disclosure, the agency must respond.⁹³

Types of Requests — Right to Inspect or Copy Public Records

There are two ways to gain access under the PRA to a public record: (1) inspecting the record at the local agency's offices or on the local agency's website; or (2) obtaining a copy from the local agency.⁹⁴ The local agency may not dictate to the requester which option must be used, that is the requester's decision. Moreover, a requester does not have to choose between inspection and copying but instead can choose both options. For example, a requester may first inspect a set of records, and then, based on that review, decide which records should be copied.

► PRACTICE TIP:

If the public records request does not make clear whether the requester wants to inspect or obtain a copy of the record or records being sought, the local agency should seek clarification from the requester without delaying the process of searching for, collecting, and redacting or "whiting out" exempt information in the records.

91 Gov. Code, § 6250.

92 Gov. Code, § 6253, subd. (d).

93 Gov. Code, § 6253

94 Gov. Code, § 6253, subds. (a), (b), & (f).

► PRACTICE TIP:

To protect the integrity of the local agency files and preserve the orderly function of the offices, agencies may establish reasonable policies for the inspection and copying of public records.

Right to Inspect Public Records

Public records are open to inspection at all times during the office hours of the local agency and every person has a right to inspect any public record. This right to inspect includes any reasonably segregable portion of a public record after deletion of the portions that are exempted by law.⁹⁵ This does not mean that a requester has a right to demand to see a record and immediately gain access to it. The right to inspect is constrained by an implied rule of reason to protect records against theft, mutilation, or accidental damage; prevent interference with the orderly functioning of the office; and generally avoid chaos in record archives.⁹⁶ Moreover, the agency's time to respond to an inspection request is governed by the deadlines set forth below, which give the agency a reasonable opportunity to search for, collect, and, if necessary, redact exempt information prior to the records being disclosed in an inspection.⁹⁷

In addition, in lieu of providing inspection access at the local agency's office, a local agency may post the requested public record on its website and direct a member of the public to the website. If a member of the public requests a copy of the record because of the inability to access or reproduce the record from the website, the local agency must provide a copy.⁹⁸

► PRACTICE TIP:

Local agencies may want limit the number of record inspectors present at one time at a records inspection. The local agency may also want to prohibit the use of cell phones to photograph records where the inspection is of architectural or engineer plans with copyright protection.

Right to Copy Public Records

Except with respect to public records exempt from disclosure by express provisions of law, a local agency, upon receipt of a request for a copy of records that reasonably describes an identifiable record or records, must make the records promptly available to any person upon payment of the appropriate fees.⁹⁹ If a copy of a record has been requested, the local agency generally must provide an exact copy except where it is "impracticable" to do so.¹⁰⁰ The term "impracticable" does not necessarily mean that compliance with the public records request would be inconvenient or time-consuming to the local agency. Rather, it means that the agency must provide the best or most complete copy of the requested record that is reasonably possible.¹⁰¹ As with the right to inspect public records, the same rule of reasonableness applies to the right to obtain copies of those records. Thus, the local agency may impose reasonable restrictions on general requests for copies of voluminous classes of documents.¹⁰²

95 Gov. Code, § 6253, subd. (a).

96 *Bruce v. Gregory* (1967) 65 Cal.2d 666, 676; *Rosenthal v. Hansen* (1973) 34 Cal.App.3d 754, 761; 64 Ops.Cal.Atty.Gen. 317 (1981).

97 See "Timing of Response" p. 20.

98 Gov. Code, §§ 5253, subds. (b), (f).

99 See "Fees," p. 25.

100 Gov. Code, § 6253, subd. (b).

101 *Rosenthal v. Hansen* (1973) 34 Cal.App.3d 754, 759.

102 *Id.*, at p. 761; 64 Ops.Cal.Atty.Gen. 317 (1981).

The PRA does not provide for a standing or continuing request for documents that may be generated in the future.¹⁰³ However, the Brown Act provides that a person may make a request to receive a mailed copy of the agenda, or all documents constituting the agenda packet for any meeting of the legislative body. This request shall be valid for the calendar year in which it is filed.¹⁰⁴ A person may also make a request to receive local agency notices, such as public work contractor plan room documents,¹⁰⁵ and development impact fee,¹⁰⁶ public hearing,¹⁰⁷ or California Environmental Quality Act notices.¹⁰⁸ The local agency may impose a reasonable fee for these requests.

► **PRACTICE TIP:**

Agencies may consider the use of outside copy services for oversize records or a voluminous record request, provided that the requester consents to it and pays the appropriate fees in advance. Alternatively, local agencies may consider allowing the requester to use his or her own copy service.

Form of the Request

A public records request may be made in writing or orally, in person or by phone.¹⁰⁹ Further, a written request may be made in paper or electronic form and may be mailed, emailed, faxed, or personally delivered. A local agency may ask, but cannot require, that the requester put an oral request in writing. In general, a written request is preferable to an oral request because it provides a record of when the request was made and what was requested, and helps the agency respond in a more timely and thorough manner.

► **PRACTICE TIP:**

Though not legally required, a local agency may find it convenient to use a written form for public records requests, particularly for those instances when a requester “drops in” to an office and asks for one or more records. The local agency cannot require the requester to use a particular form, but having the form and even having agency staff assist with filling out the form may help agencies better identify the information sought, follow up with the requester using the contact information provided, and provide more effective assistance to the requester in compliance with the PRA.

103 Gov. Code, §§ 6252, subds. (e) & (g); 6253, subds. (a) & (b).

104 Gov. Code, § 54954.1; see also Gov. Code § 65092 (standing request for notice of public hearing), Cal. Code Regs., tit. 14, §§ 15072, 15082 and 15087 (standing requests for notice related to environmental documents).

105 Pub. Contract Code, § 20103.7.

106 Gov. Code, § 66016.

107 Gov. Code, § 65092.

108 Pub. Resources Code, § 21092.2

109 *Los Angeles Times v. Alameda Corridor Transportation Authority* (2001) 88 Cal.App.4th 1381, 1392.

Content of the Request

A public records request must reasonably describe an identifiable record or records.¹¹⁰ It must be focused, specific,¹¹¹ and reasonably clear, so that the local agency can decipher what record or records are being sought.¹¹² A request that is so open-ended that it amounts to asking for all of a department's files is not reasonable. If a request is not clear or is overly broad, the local agency has a duty to assist the requester in reformulating the request to make it clearer or less broad.¹¹³

A request does not need to precisely identify the record or records being sought. For example, a requester may not know the exact date of a record or its title or author, but if the request is descriptive enough for the local agency to understand which records fall within its scope, the request is reasonable. Requests may identify writings somewhat generally by their content.¹¹⁴

No magic words need be used to trigger the local agency's obligation to respond to a request for records. The content of the request must simply indicate that a public record is being sought. Occasionally a requester may incorrectly refer to the federal Freedom of Information Act (FOIA) as the legal basis for the request. This does not excuse the agency from responding if the request seeks public records. A public records request need not state its purpose or the use to which the record will be put by the requester.¹¹⁵ A requester does not have to justify or explain the reason for exercising his or her fundamental right of access.¹¹⁶

► PRACTICE TIP:

A public records request is different than a question or series of questions posed to local agency officials or employees. The PRA creates no duty to answer written or oral questions submitted by members of the public. But if an existing and readily available record contains information that would directly answer a question, it is advisable to either answer the question or provide the record in response to the question.

A PRA request applies only to records existing at the time of the request.¹¹⁷ It does not require a local agency to produce records that may be created in the future. Further, a local agency is not required to provide requested information in a format that the local agency does not use.

Timing of the Response

Inspection of Public Records

Although the law precisely defines the time for responding to a public records request for copies of records, it is less precise in defining the deadline for disclosing records. Because the PRA does not state how soon a requester seeking to inspect records must be provided access to them, it is generally assumed that the standard of promptness set forth for copies of records¹¹⁸ applies to inspection. This assumption is bolstered by the provision in the PRA that states, "[n]othing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records,"¹¹⁹ which again signals the importance of promptly disclosing records to the requester.

110 Gov. Code, § 6253, subd. (b).

111 *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 481.

112 *Cal. First Amend. Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 165.

113 See "Assisting the Requester," p. 22.

114 *Cal. First Amend. Coalition v. Superior Court, supra*, 67 Cal.App.4th at p. 166.

115 See Gov. Code, § 6257.5.

116 Gov. Code, § 6250; Cal. Const., art I, § 3.

117 Gov. Code § 6254, subd. (c).

118 Gov. Code, § 6253, subd. (b) ["...each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available..."]; 88 Ops. Cal. Atty. Gen. 153 (2005); 89 Ops. Cal. Atty. Gen. 39 (2006).

119 Gov. Code, § 6253, subd. (d).

Neither the 10-day response period for responding to a request for a copy of records nor the additional 14-day extension may be used to delay or obstruct the inspection of public records.¹²⁰ For example, requests for commonly disclosed records that are held in a manner that allows for prompt disclosure should not be withheld because of the statutory response period.

Copies of Public Records

Time is critical in responding to a request for copies of public records. A local agency must respond promptly, but no later than 10 calendar days from receipt of the request, to notify the requester whether records will be disclosed.¹²¹ If the request is received after business hours or on a weekend or holiday, the next business day may be considered the date of receipt. The 10-day response period starts with the first calendar day after the date of receipt.¹²² If the tenth day falls on a weekend or holiday, the next business day is considered the deadline for responding to the request.¹²³

► PRACTICE TIP:

To ensure compliance with the 10-day deadline, it is wise for local agencies to develop a system for identifying and tracking public records requests. For example, a local agency with large departments may find it useful to have a public records request coordinator within each department. It is also very helpful to develop and implement a policy for handling public records requests in order to ensure the agency's compliance with the law.

► PRACTICE TIP:

Watch for shorter statutory time periods for disclosure of public records. For example, Statements of Economic Interest (FPPC Form 700) and other campaign statements and filings required by the Political Reform Act of 1974 (Govt Code §§ 81000 et seq) are required to be made available to the public as soon as practicable, and in no event later than the second business day following receipt of the request.¹²⁴

Extending the Response Times for Copies of Public Records

A local agency may extend the 10-day response period for copies of public records for up to 14 additional calendar days because of the need:

- To search for and collect the requested records from field facilities or other establishments separate from the office processing the request;
- To search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request;
- To consult with another agency having substantial interest in the request (such as a state agency), or among two or more components of the local agency (such as two city departments) with substantial interest in the request; or
- In the case of electronic records, to compile data, write programming language or a computer program, or to construct a computer report to extract data.¹²⁵

No other reasons justify an extension of time to respond to a request for copies of public records. For example, a local agency

¹²⁰ Gov. Code, § 6253, subd. (d). See also "Extending the Response Times for Copies of Public Records," p. 21.

¹²¹ Gov. Code, § 6253(c).

¹²² Civ. Code, § 10.

¹²³ Civ. Code, § 11.

¹²⁴ Gov. Code, § 81008.

¹²⁵ Gov. Code, § 6253, subds. (c)(1)-(4).

may not extend the time on the basis that it has other pressing business or that the employee most knowledgeable about the records sought is on vacation or is otherwise unavailable.

If a local agency exercises its right to extend the response time beyond the ten-day period, it must do so in writing, stating the reason or reasons for the extension and the anticipated date of the response within the 14-day extension period.¹²⁶ The agency does not need the consent of the requester to extend the time for response.

► **PRACTICE TIP:**

If a local agency is having difficulty responding to a public records request within the 10-day response period and there does not appear to be grounds to extend the response period for an additional 14 days, the agency may obtain an extension by consent of the requester. Often a requester will cooperate with the agency on such matters as the timing of the response, particularly if the requester believes the agency is acting reasonably and conscientiously in processing the request. It is also advisable to document in writing any extension agreed to by the requester.

Timing of Disclosure

The time limit for responding to a public records request is not necessarily the same as the time within which the records must be disclosed to the requester. As a practical matter, records often are disclosed at the same time the local agency responds to the request. But in some cases, that time frame for disclosure is not feasible because of the volume of records encompassed by the request.

► **PRACTICE TIP:**

When faced with a voluminous public records request, a local agency has numerous options — for example, asking the requester to narrow the request, asking the requester to consent to a later deadline for responding to the request, and providing responsive records (whether redacted or not) on a “rolling” basis, rather than in one complete package. It is sometimes possible for the agency and requester to work cooperatively to streamline a public records request, with the result that the requester obtains the records or information the requester truly wants, while the burdens on the agency in complying with the request are reduced. If any of these options are used it is advisable that it is documented in writing.

Assisting the Requester

Local agencies must provide assistance to requesters who are having difficulty making a focused and effective request.¹²⁷ To the extent reasonable under the circumstances, a local agency must:

- Assist the requester in identifying records that are responsive to the request or the purpose of the request, if stated;
- Describe the information technology and physical location in which the record or records exist; and
- Provide suggestions for overcoming any practical basis for denying access to the record or records.¹²⁸

¹²⁶ Gov. Code, § 6253, subd. (c).

¹²⁷ Gov. Code, § 6253.1; *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1417.

¹²⁸ Gov. Code, § 6253.1, subds. (a)(1)-(3).

Alternatively, the local agency may satisfy its duty to assist the requester by giving the requester an index of records.¹²⁹ Ordinarily an inquiry into a requester's purpose in seeking access to a public record is inappropriate,¹³⁰ but such an inquiry may be proper if it will help assist the requester in making a focused request that reasonably describes an identifiable record or records.¹³¹

Locating Records

Local agencies must make a reasonable effort to search for and locate requested records, including by asking probing questions of city staff and consultants.¹³² No bright-line test exists to determine whether an effort is reasonable. That determination will depend on the facts and circumstances surrounding each request. In general, upon the local agency's receipt of a public records request, those persons or offices that would most likely be in possession of responsive records should be consulted in an effort to locate the records. For a local agency to have a duty to locate records they must qualify as public records.¹³³ "Thus, unless the writing is related 'to the conduct of the public's business' and is 'prepared, owned, used or retained by' a public entity, it is not a public record under the PRA, and its disclosure would not be governed by the PRA. No words in the statute suggest that the public entity has an obligation to obtain documents even though it has not prepared, owned, used or retained them."¹³⁴

► PRACTICE TIP:

To ensure compliance with the PRA and in anticipation of court scrutiny of agency diligence in locating responsive records, agencies may want to consider adopting policies similar to those required by state and federal E-discovery statutes to prevent records destruction while a request is pending.

The right to access public records is not without limits. A local agency is not required to perform a "needle in a haystack" search to locate the record or records sought by the requester.¹³⁵ Nor is it compelled to undergo a search that will produce a "huge volume" of material in response to the request.¹³⁶ On the other hand, an agency typically will endure some burden — at times, a significant burden — in its records search. Usually that burden alone will be insufficient to justify noncompliance with the request.¹³⁷ Nevertheless, if the request imposes a substantial enough burden, an agency may decide to withhold the requested records on the basis that the public interest in nondisclosure clearly outweighs the public interest in disclosure.¹³⁸

129 Gov. Code, §6253., subd. 1(d)(3).

130 See Gov. Code, § 6257.5.

131 Gov. Code, § 6253.1, subd. (a).

132 *Community Youth Athletic Center v. City of National City*, *supra*, 220 Cal.App.4th at pp. 1417–1418; *Cal. First Amend. Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166.

133 See "What Are Public Records" p. 11.

134 *Regents of the University of California v. Superior Court* (2013) 222 Cal.App.4th 383, 399.

135 *Cal. First Amend. Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166.

136 *Ibid.*

137 *Ibid.*

138 *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 452–454; *see also* 64 Ops. Cal. Atty. Gen. 317 (1981).

Types of Responses

After conducting a reasonable search for requested records, a local agency has only a limited number of possible responses. If the search yielded no responsive records, the agency must so inform the requester. If the agency has located a responsive record, it must decide whether to: (1) disclose the record; (2) withhold the record; or (3) disclose the record in redacted form.

► PRACTICE TIP:

Care should be taken in deciding whether to disclose, withhold, or redact a record. It is advisable to consult with the local agency's legal counsel before making this decision, particularly when a public records request presents novel or complicated issues or implicates policy concerns or third party rights.

If a written public records request is denied because the local agency does not have the record or has decided to withhold it, or if the requested record is disclosed in redacted form, the agency's response must be in writing and must identify by name and title each person responsible for the decision.¹³⁹

► PRACTICE TIP:

A local agency should always document that it is supplying the record to the requester. The fact and sufficiency of the response may become points of dispute with the requester.

► PRACTICE TIP:

Although not required, any response that denies in whole or in part an oral public records request should be put in writing.

If the record is withheld in its entirety or provided to the requester in redacted form, the local agency must state the legal basis under the PRA for its decision not to comply fully with the request.¹⁴⁰ Statements like "we don't give up those types of records" or "our policy is to keep such records confidential" will not suffice.

Redacting Records

Some records contain information that must be disclosed, along with information that is exempt from disclosure. A local agency has a duty to provide such a record to the requester in redacted form if the nonexempt information is "reasonably segregable" from that which is exempt,¹⁴¹ unless the burden of redacting the record becomes too great.¹⁴² What is reasonably segregable will depend on the circumstances. If exempt information is inextricably intertwined with nonexempt information, the record may be withheld in its entirety.¹⁴³

¹³⁹ Gov. Code, §§ 6253, subd. (d), 6255, subd. (b).

¹⁴⁰ Gov. Code, § 6255, subd. (a).

¹⁴¹ Gov. Code, § 6253, subd. (a); *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 458.

¹⁴² *American Civil Liberties Union Foundation v. Deukmejian, supra*, 32 Cal.3d, at p. 452-454.

¹⁴³ *Ibid.*

No Duty to Create a Record or a Privilege Log

A local agency has no duty to create a record that does not exist at the time of the request.¹⁴⁴ There is also no duty to reconstruct a record that was lawfully discarded prior to receipt of the request. However, an agency may be liable for attorney fees when a court determines the agency was not sufficiently diligent in locating requested records, even when the requested records no longer exist.¹⁴⁵

The PRA does not require that a local agency create a "privilege log" or list that identifies the specific records being withheld.¹⁴⁶ The response only needs to identify the legal grounds for nondisclosure. If the agency creates a privilege log for its own use, however, that document may be considered a public record and may be subject to disclosure in response to a later public records request.

► PRACTICE TIP:

To ensure compliance with the PRA or in anticipation of court scrutiny of the agency's due diligence, the local agency may wish to maintain a separate file for copies of records that have been withheld and those produced (including redacted versions).

Fees

The public records process is in many respects cost-free to the requester. The local agency may only charge a fee for the direct cost of duplicating a record when the requester is seeking a copy,¹⁴⁷ or it may charge a statutory fee, if applicable.¹⁴⁸ A local agency may require payment in advance, before providing the requested copies;¹⁴⁹ however, no payment can be required merely to look at a record where copies are not sought.

Direct cost of duplication is the cost of running the copy machine, and conceivably the expense of the person operating it. "Direct cost" does not include the ancillary tasks necessarily associated with the retrieval, inspection, and handling of the file from which the copy is extracted.¹⁵⁰ For example, if concern for the security of records requires that an agency employee sit with the requester during the inspection, or if a record must be redacted before it can be inspected, the agency may not bill the requester for that expenditure of staff time.

► PRACTICE TIP:

The direct cost of duplication charged for a PRA request should be supported by a fee study adopted by a local agency resolution.

Although permitted to charge a fee for duplication costs, a local agency may choose to reduce or waive that fee.¹⁵¹ For example, the agency might waive the fee in a particular case because the requester is indigent; or it might generally choose to waive fees below a certain dollar threshold because the administrative costs of collecting the fee would exceed the revenue to be collected.

144 Gov. Code, § 6252, subd. (e); *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1075; See Chapter 6 concerning duties and obligations with respect to electronic records.

145 *Community Youth Athletic Center v. National City* (2013) 220 Cal.App.4th 1385, 1447. See "Attorney Fees and Costs," p. 61.

146 *Haynie v. Superior Court*, *supra*, 26 Cal.4th, at p. 1075.

147 Gov. Code, § 6253, subd. (b).

148 Gov. Code, § 6253, subd. (b); 85 Ops. Cal. Atty. Gen. 225 (2002); see, e.g., Gov. Code, § 81008.

149 Gov. Code, § 6253, subd. (b).

150 *North County Parents Organization v. Dept. of Education* (1994) 23 Cal.App.4th 144, 148.

151 Gov. Code, § 6253, subd. (e); *North County Parents Organization v. Dept. of Education*, *supra*, 23 Cal.App.4th at p. 148.

An agency may also set a customary copying fee for all requests that is lower than the amount of actual duplication costs.

► **PRACTICE TIP:**

If a local agency selectively waives or reduces the duplication fee, it should apply standards for waiver or reduction with consistency to avoid charges of favoritism or discrimination toward particular requesters.

Duplication costs of electronic records are limited to the direct cost of producing the electronic copy. However, requesters may be required to bear additional costs of producing a copy of an electronic record, such as programming and computer services costs, if the request requires the production of electronic records that are otherwise only produced at regularly scheduled intervals, or production of the record would require data compilation, extraction, or programming. Agencies are not required to reconstruct electronic copies of records no longer available to the agency in electronic format.

► **PRACTICE TIP:**

If there is a request for public records pursuant to Government Code section 6253.9 requiring “data compilation, extraction, or programming to produce the record” the local agency should ask the requester to pay the fees in advance, before the “data compilation, extraction, or programming” is actually done.

Waiver

Generally, whenever a local agency discloses an otherwise exempt public record to any member of the public, the disclosure constitutes a waiver of most of the exemptions contained in the PRA for all future requests for the same information. The waiver provision in Government Code section 6254.5 applies to an intentional disclosure of privileged documents, and a local agency’s inadvertent release of attorney-client documents does not waive such privilege.¹⁵² There are, however, a number of statutory exceptions to the waiver provisions, including, among others, disclosures made through discovery or other legal proceedings, and disclosures made to another governmental agency which agrees to treat the disclosed material as confidential.

¹⁵² *Ardon v. City of Los Angeles* (2016) 62 Cal.4th 1176, 1183; *Newark School District v. Superior Court* (2015) 245 Cal.App.4th 887, 897.

Specific Document Types, Categories and Exemptions from Disclosure

Overview of Exemptions

This chapter discusses how to address requests for certain specific types and categories of commonly requested records and many of the most frequently raised exemptions from disclosure that may, or in some cases, must be asserted by local agencies.

Transparent and accessible government is the foundational objective of the PRA. This recently constitutionalized right of access to the writings of local agencies and officials was declared by the Legislature in 1968 to be a “fundamental and necessary right.” While this right of access is not absolute, it must be construed broadly.¹⁵³ The PRA contains approximately 76 express exemptions, many of which are discussed below, including one for records that are otherwise exempt from disclosure by state or federal statutes,¹⁵⁴ and a balancing test, known as the “public interest” or “catchall” provision. This “catchall” provision allows local agencies to justify withholding any record by demonstrating that on the facts of a particular case the public interest in nondisclosure clearly outweighs the public interest in disclosure.¹⁵⁵

When local agencies claim an exemption or prohibition to disclosure of all or a part of a record, they must identify the specific exemption to disclosure in the response.¹⁵⁶ Where a record contains some information that is subject to an exemption and other information that is not, the local agency may redact the information that is exempt (identifying the exemption), but must otherwise still produce the record. Unless a statutory exemption applies, the public is entitled to access or a copy.¹⁵⁷

153 Cal. Const., art I, § 3(b)(2); *Humane Society of U.S. v. Superior Court* (2013) 214 Cal.App.4th 1233, 1254.

154 *State of California ex rel Division of Industrial Safety v. Superior Court* (1974) 43 Cal.App.3d 778, 785; *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1422, fn. 5.

155 Gov. Code, § 6255; *Long Beach Police Officers Assn. v. City of Long Beach* (2014) 59 Cal.4th 59, 66–67; see also “Public Interest Exemption,” p. 54.

156 Gov. Code, § 6255, subd. (a); *Long Beach Police Officers Assn. v. City of Long Beach*, *supra*, 59 Cal.4th at p. 67.

157 *International Federation of Professional & Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 329.

► PRACTICE TIP:

When evaluating a record to determine whether it falls within an exemption in the PRA, do not overlook exemptions and even prohibitions to disclosure that are contained in other state and federal statutes, including, for example, evidentiary privileges, medical privacy laws, police officer personnel record privileges, official information, information technology or infrastructure security systems, etc. Many of these other statutory exemptions or prohibitions are also discussed below.

Types of Records and Specific Exemptions

Architectural and Official Building Plans

The PRA recognizes exemptions to the disclosure of a record "which is exempted or prohibited [from disclosure] pursuant to federal or state law"¹⁵⁸ Under this rule, architectural and official building plans may be exempt from disclosure, because: (1) architectural plans submitted by third parties to local agencies may qualify for federal copyright protections;¹⁵⁹ (2) local agencies may claim a copyright in many of their own records; or (3) state laws address inspection and duplication of building plans by members of the public.

"Architectural work," defined under federal law as the "design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings,"¹⁶⁰ is considered an "original work of authorship," which has automatic federal copyright protection.¹⁶¹ Architectural plans may be inspected, but cannot be copied without the permission of the owner.¹⁶²

► PRACTICE TIP:

Some requesters will cite the "fair use of copyrighted materials" doctrine as giving them the right to copy architectural plans. The fair use rule is a defense to a copyright infringement action only and not a legal entitlement to obtain copyrighted materials.

The official copy of building plans maintained by a local agency's building department may be inspected, but cannot be copied without the local agency first requesting the written permission of the licensed or registered professional who signed the document and the original or current property owner.¹⁶³ A request made by the building department via registered or certified mail for written permission from the professional must give the professional at least 30 days to respond and be accompanied by a statutorily prescribed affidavit signed by the person requesting copies, attesting that the copy of the plans shall only be used for the maintenance, operation, and use of the building, that the drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record, and that a licensed architect who signs and stamps plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent unauthorized changes to or uses of those plans.¹⁶⁴ After receiving this required information, the professional cannot withhold

¹⁵⁸ Gov. Code, § 6254, subd. (k).

¹⁵⁹ 17 U.S.C. § 17.

¹⁶⁰ 17 U.S.C. §§ 101, 102(A)(8).

¹⁶¹ 17 U.S.C. §§ 102(A)(8), 106.

¹⁶² 17 U.S.C. § 107.

¹⁶³ Health & Saf. Code, § 19851.

¹⁶⁴ *Ibid.*

written permission to make copies of the plans.¹⁶⁵ These statutory requirements do not prohibit duplication of reduced copies of plans that have been distributed to local agency decision-making bodies as part of the agenda materials for a public meeting.¹⁶⁶

The California Attorney General has determined that interim grading documents, including geology, compaction, and soils reports, are public records that are not exempt from disclosure.¹⁶⁷

Attorney-Client Communications and Attorney Work Product

The PRA specifically exempts from disclosure “records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, the provisions of the Evidence Code relating to privilege.”¹⁶⁸ The PRA’s exemptions protect attorney-client privileged communications and attorney work product, as well as, more broadly, other work product prepared for use in pending litigation or claims.¹⁶⁹

Attorney-Client Privilege

The attorney-client privilege protects from disclosure the entirety of confidential communications between attorney and client, as well as among the attorneys within a firm or in-house legal department representing such client, including factual and other information not in itself privileged outside of attorney-client communications.¹⁷⁰ The fundamental purpose of the attorney-client privilege is preservation of the confidential relationship between attorney and client. It is not necessary to demonstrate that prejudice would result from disclosure of attorney-client communications to prevent such disclosure.¹⁷¹ When the party claiming the privilege shows the dominant purpose of the relationship between the parties to the communication was one of attorney and client, the communication is protected by the privilege.¹⁷² Unlike the exemption for pending litigation, attorney-client privileged information is still protected from disclosure even after litigation is concluded.¹⁷³ But note, the attorney-client privilege will likely not protect communication between a public employee and his or her personal attorney if that communication occurs using a public entity’s computer system and the public entity has a computer policy that indicates the computers are intended for the public entity’s business and are subject to monitoring by the employer.¹⁷⁴

The attorney plaintiff in a wrongful termination suit and the defendant insurer may reveal privileged third-party attorney-client communications to their own attorneys to the extent necessary for the litigation, but may not publicly disclose such communications.¹⁷⁵

¹⁶⁵ *Ibid.*

¹⁶⁶ Gov. Code, § 54957.5.

¹⁶⁷ 89 Ops.Cal.Atty.Gen. 39 (2006).

¹⁶⁸ Gov. Code, § 6254, subd. (k).

¹⁶⁹ *Fairley v. Superior Court*, *supra*, 66 Cal.App.4th 1414, 1420–1422; see also “Official Information Privilege,” p. 43.

¹⁷⁰ *Costco Wholesale Corporation v. Superior Court* (2009) 47 Cal.4th 725, 733; *Fireman’s Fund Insurance Company v. Superior Court* (2011) 196 Cal.App.4th 1263, 1272–1275; *Clark v. Superior Court* (2011) 196 Cal.App.4th 37, 49–54.

¹⁷¹ *Costco Wholesale Corporation v. Superior Court*, *supra*, 47 Cal.4th at p. 747.

¹⁷² *Clark v. Superior Court*, *supra*, 196 Cal.App.4th at p. 51.

¹⁷³ *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 371–373; see “Pending Litigation or Claims,” p. 28.

¹⁷⁴ *Holmes v. Petrovich Development Co. LLC* (2011) 191 Cal.App.4th 1047, 1071–1072.

¹⁷⁵ *Chubb & Son v. Superior Court* (2014) 228 Cal.App.4th 1094, 1106–1109.

Attorney Work Product

Any writing that reflects an attorney's impressions, conclusions, opinions, legal research, or theories is not discoverable under any circumstances and is thus exempt from disclosure under the PRA. There is also a qualified privilege against disclosure of materials (e.g., witness statements, other investigative materials) developed by an attorney in preparing a case for trial as thoroughly as possible with a degree of privacy necessary to uncover and investigate both favorable and unfavorable aspects of a case.¹⁷⁶

Common Interest Doctrine

The common interest doctrine may also protect communications with third parties from disclosure where the communication is protected by the attorney-client privilege or attorney-work-product doctrine, and maintaining the confidentiality of the communication is necessary to accomplish the purpose for which legal advice was sought. The common interest doctrine is not an independent privilege; rather, it is a nonwaiver doctrine that may be used by plaintiffs or defendants alike.¹⁷⁷ For the common interest doctrine to attach, the parties to the shared communication must have a reasonable expectation that the information disclosed will remain confidential. Further, the parties must have a common interest in a matter of joint concern. In other words, they must have a common interest in securing legal advice related to the same matter and the communication must be made to advance their shared interest in securing legal advice on that common matter.¹⁷⁸

Attorney Bills and Retainer Agreements

The courts have established a narrower rule governing disclosure of attorney bills. An attorney's billing entries remain exempt from disclosure under the attorney-client privilege or attorney-work-product doctrine only insofar as they describe an attorney's impressions, conclusions, opinions, legal research, or strategy. Neither the attorney-client privilege nor the attorney work product doctrine categorically shields everything in a billing invoice from disclosure, even if the bills concern pending litigation. The court will look at whether, in pending or active matters, the billing entries are so closely related to the attorney-client communications that they "implicate the heartland" of the privilege.¹⁷⁹ Only substantive attorney communications such as legal conclusions, research, or strategy are protected.¹⁸⁰

Retainer agreements between a local agency and its attorneys may constitute confidential communications that fall within the attorney-client privilege.¹⁸¹ A local agency's governing body may waive the privilege and elect to produce the agreements.¹⁸²

► PRACTICE TIP:

Some agencies simplify redaction of attorney bills and production of non-exempt bill information in response to requests by requiring that non-exempt portions of attorney bills, such as the name of the matter, the invoice amount, and date, be contained in separate documents from privileged bill text.

176 Code Civ. Proc., § 2018.030, subs. (a) & (b); Gov. Code, § 6254, subd. (k).

177 *OXY Resources LLC v. Superior Court* (2004) 115 Cal.App.4th 874, 889.

178 Compare *Citizens for Ceres v. Superior Court* (2012) 217 Cal.App.4th 889, 914–922 (common interest doctrine inapplicable to communications between developer and city prior to approval of application because, pre-project approval, parties lacked a common interest) with *California Oak Foundation v. County of Tehama* (2009) 174 Cal.App.4th 1217, 1222–1223 (sharing of privileged documents with project applicant prepared by county's outside law firm regarding CEQA compliance was within common interest doctrine).

179 *County of Los Angeles v. Superior* (2016) 2 Cal.5th 282, 288.

180 *County of Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57; *Smith v. Laguna Sur Villas Community Assn.* (2000) 79 Cal.App.4th 639; *U.S. v. Amlani* (9th Cir. 1999) 169 F.3d 1189; *Clarke v. American Commerce Nat. Bank* (9th Cir. 1992) 974 F.2d 127.

181 Bus. & Prof. Code, § 6149 (a written fee contract shall be deemed to be a confidential communication within the meaning of section 6068(e) of the Business & Professions Code and section 952 of the Evidence Code); Evid. Code §952 ("Confidential communication between client and lawyer"); Evid. Code §954 (attorney-client privilege).

182 Evid. Code, § 912. See also Gov. Code, § 6254.5 and "Waiver," p. 26.

CEQA Proceedings

Increasingly, potential litigants have been submitting public records requests as a prelude to or during preparation of the administrative record for challenges to the adequacy of an agency's California Environmental Quality Act (CEQA) process or certification of CEQA documents. While there are no specific PRA provisions directly addressing CEQA proceedings, these requests can present multiple challenges as they may seek voluminous amounts of records, such as email communications between staff and consultants, or confidential and privileged documents.

► PRACTICE TIP:

A request to prepare an administrative record for a CEQA challenge does not excuse or justify ignoring or delaying responses to a CEQA-related PRA request. A failure to properly or fully respond to the PRA request can lead to claims of violations of the PRA and a demand for attorneys' fees being included in a CEQA lawsuit. Local agencies should, therefore, exercise the same due diligence when responding to CEQA-related PRA requests as they do with any other type of PRA request. As with any litigation or potential litigation, local agencies should also consider invoking internal litigation holds and evidence preservation practices early on in a contentious CEQA process.

Two particularly challenging issues that arise with CEQA-related PRA requests are whether and to what extent a subcontractor's files are public records subject to disclosure, and whether the deliberative process privilege or public interest exemption apply to the requested documents.

In determining whether a subcontractor's files are public records in the actual or constructive possession of the local agency, the court will look to the consultant's contract to determine the extent to which, if any, the local agency had control over the selection of subcontractors, and how they performed services required by the primary consultant.¹⁸³

► PRACTICE TIP:

Examine your contracts with consultants and clearly articulate who owns their work product, and that of their subcontractors.

Requests for materials that implicate the deliberative process privilege or public interest exemption are commonly made in CEQA-related PRA requests. While it may seem obvious that local agency staff and their consultants desire and in fact need to engage in candid dialogue about a project and the approaches to be taken, when invoking the deliberative process privilege to protect such communications from disclosure the local agency must clearly articulate why the privilege applies by more than a simple statement that it helps the process.¹⁸⁴ Likewise, when invoking the public interest exemption to protect documents from disclosure, local agencies must do more than simply state the conclusion that the public's interest in nondisclosure is clearly outweighed by the public interest in disclosure.¹⁸⁵

► PRACTICE TIP:

When evaluating whether the deliberative process privilege applies to documents covered by a PRA request during a pre-litigation CEQA process, keep in mind the close correlation between the drafts exemption, discussed below, and the deliberative process privilege.

¹⁸³ *Consolidated Irrigation District v. Superior Court* (2012) 205 Cal.App.4th 697, 710–712.

¹⁸⁴ See *Deliberative Process Privilege* p. 32.

¹⁸⁵ *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 307. See also, "Public Interest Exemption," p. 54.

Code Enforcement Records

Local agencies may pursue code enforcement through administrative or criminal proceedings, or a combination of both. Records of code enforcement cases for which criminal sanctions are sought may be subject to the same disclosure rules as police and other law enforcement records, including the rules for investigatory records and files, as long as there is a concrete and definite prospect of criminal enforcement.¹⁸⁶ Records of code enforcement cases being prosecuted administratively do not qualify as law enforcement records.¹⁸⁷ However, some administrative code enforcement information, such as names and contact information of complainants, may be exempt from disclosure under the official information privilege, the identity of informant privilege, or the public interest exemption.¹⁸⁸

Deliberative Process Privilege

The deliberative process privilege is derived from the public interest exemption, which provides that a local agency may withhold a public record if it can demonstrate that "on the facts of a particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record."¹⁸⁹ The deliberative process privilege was intended to address concerns that frank discussion of legal or policy matters might be inhibited if subject to public scrutiny, and to support the concept that access to a broad array of opinions and the freedom to seek all points of view, to exchange ideas, and to discuss policies in confidence are essential to effective governance in a representative democracy. Therefore, California courts invoke the privilege to protect communications to decisionmakers before a decision is made.¹⁹⁰

In evaluating whether the deliberative process privilege applies, the court will still perform the balancing test prescribed by the public interest exemption.¹⁹¹ In doing so, courts focus "less on the nature of the records sought and more on the effect of the records' release."¹⁹² Therefore, the key question in every deliberative process privilege case is "whether the disclosure of materials would expose an agency's decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions."¹⁹³ "Accordingly, the ... courts have uniformly drawn a distinction between predecisional communications, which are privileged [citations]; and communications made after the decision and designed to explain it, which are not."¹⁹⁴ Protecting the predecisional deliberative process gives the decision-maker "the freedom 'to think out loud,' which enables him [or her] to test ideas and debate policy and personalities uninhibited by the danger that his [or her] tentative but rejected thoughts will become subjects of public discussion. Usually the information is sought with respect to past decisions; the need is even stronger if the demand comes while policy is still being developed."¹⁹⁵

Courts acknowledge that even a purely factual document would be exempt from public scrutiny if it is "actually ... related to the process by which policies are formulated" or "inextricably intertwined" with "policy-making processes."¹⁹⁶ For example, the

186 Gov. Code, § 6254, subd. (f); *State of California ex rel. Division of Industrial Safety v. Superior Court* (1974) 43 Cal.App.3d 778, 783–784; *Haynie v Superior Court* (2001) 26 Cal.4th 1061, 1068–1069; see "Law Enforcement Records," p. 35.

187 *State of California ex rel. Division of Industrial Safety v Superior Court, supra*, 43 Cal.App.3d at pp. 783–784. See, e.g., 6254, subd. (a); 5 U.S.C. 1325783788788; *Haynie v. Superior Court* (2001) 26 Cal.4th 1061.

188 *San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008; see "Official Information Privilege," p. 43, "Identity of Informant Privilege," p. 45, and "Public Interest Exemption," p. 54.

189 *Times Mirror Company v. Superior Court* (1991) 53 Cal.3d 1325, 1338.

190 *Ibid.*; 5 USC § 552(b)(5).

191 *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 172.

192 *Times Mirror Company v. Superior Court, supra*, 53 Cal.3d at pp. 1338, 1342.

193 *Times Mirror Company v. Superior Court, supra*, 53 Cal.3d at p. 1342, citing *Dudman Communications v. Dept. of Air Force* (D.C.Cir.1987) 815 F.2d 1565, 1568.

194 *NLRB v. Sears, Roebuck & Co.* (1975) 421 U.S. 132, 151–152.

195 *Times Mirror Company v. Superior Court, supra*, 53 Cal.3d at p. 1341, citing *Cox, Executive Privilege* (1974) 122 U Pa L Rev 1383, 1410.

196 *Jordan v. United States Dept. of Justice* (D.C.Cir.1978) 591 F.2d 753, 774; *Ryan v. Department of Justice* (D.C.Cir.1980) 617 F.2d 781, 790; *Soucie v. David* (D.C.Cir.1971) 448 F.2d 1067, 1078.

California Supreme Court applied the deliberative process privilege in determining that the Governor's appointment calendars and schedules were exempt from disclosure under the PRA even though the information in the appointment calendars and schedules was based on fact.¹⁹⁷ The Court reasoned that such disclosure could inhibit private meetings and chill the flow of information to the executive office.¹⁹⁸

Drafts

The PRA exempts from disclosure "[p]reliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure."¹⁹⁹ The "drafts" exemption provides a measure of privacy for writings concerning pending local agency action. The exemption was adapted from the FOIA, which exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency."²⁰⁰ The FOIA "memorandums" exemption is based on the policy of protecting the decision making processes of government agencies, and in particular the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny.²⁰¹

The "drafts" exemption in the PRA has essentially the same purpose as the "memorandums" exemption in the FOIA. The key question under the FOIA test is whether the disclosure of materials would expose a local agency's decision-making process in such a way as to discourage candid discussion within the local agency and thereby undermine the local agency's ability to perform its functions.²⁰² To qualify for the "drafts" exemption the record must be a preliminary draft, note, or memorandum; that is not retained by the local agency in the ordinary course of business; and the public interest in withholding the record must clearly outweigh the public interest in disclosure.²⁰³

The courts have observed that preliminary materials that are not customarily discarded or that have not in fact been discarded pursuant to policy or custom must be disclosed.²⁰⁴ Records that are normally retained do not qualify for the exemption. This is in keeping with the purpose of the FOIA "memorandums" exemption of prohibiting the "secret law" that would result from confidential memos retained by local agencies to guide their decision-making.

► PRACTICE TIP:

By adopting written policies or developing consistent practices of discarding preliminary deliberative writings, local agencies may facilitate candid internal policy debate. Consider including in such policies when a document should be considered to be "discarded," which might prevent the need to search through bins of documents segregated and approved for destruction under the policies, yet awaiting appropriate shredding and disposal. Such policies and practices may exempt from disclosure even preliminary drafts that have not yet been discarded, so long as the drafts are not maintained by the local agency in the ordinary course of business, and the public interest in nondisclosure clearly outweighs the public interest in disclosure.

¹⁹⁷ *Times Mirror Company v. Superior Court*, *supra*, 53 Cal.3d at p. 1338.

¹⁹⁸ *Ibid.*

¹⁹⁹ Gov. Code, § 6254, subd. (a).

²⁰⁰ Gov. Code, § 6254, subd. (a); 5 U.S.C. § 552, subd. (b)(5).

²⁰¹ *Times Mirror Co. v. Superior Court*, *supra*, 53 Cal.3d 1325, 1339–1340.

²⁰² *Id.* at p. 1342.

²⁰³ *Citizens for a Better Environment v. Department of Food and Agriculture* (1985) 171 Cal.App.3d 704, 711–712.

²⁰⁴ *Id.* at p. 714.

Elections

Voter Registration Information

Voter registration information, including the home street address, telephone number, email address, precinct number or other number specified by the Secretary of State for voter registration purposes is confidential and cannot be disclosed except as specified in section 2194 of the Elections Code.²⁰⁵ Similarly, the signature of the voter shown on the voter registration card is confidential and may not be disclosed to any person, except as provided in the Elections Code.²⁰⁶ Voter registration information may be provided to any candidate for federal, state, or local office; to any committee for or against an initiative or referendum measure for which legal publication is made; and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.²⁰⁷

A California Driver's License, California ID card, or other unique identifier used by the State of California for purposes of voter identification shown on the affidavit of voter registration of a registered voter, or added to voter registration records to comply with the requirements of the federal Help America Vote Act of 2002, is confidential and may not be disclosed to any person.²⁰⁸

When a person's vote is challenged, the voter's home address or signature may be released to the challenger, elections officials, and other persons as necessary to make, defend against, or adjudicate a challenge.²⁰⁹

A person may view the signature of a voter to determine whether the signature matches a signature on an affidavit of registration or a petition. The signature cannot be copied, reproduced, or photographed in any way.²¹⁰

Information or data compiled by local agency officers or employees revealing the identity of persons who have requested bilingual ballots or ballot pamphlets is not a disclosable public record and may not be provided to any person other than those local agency officers or employees who are responsible for receiving and processing those requests.²¹¹

Initiative, Recall, and Referendum Petitions

Nomination documents and signatures filed in lieu of filing fee petitions may be inspected, but not copied or distributed.²¹² Similarly, any petition to which a voter has affixed his or her signature for a statewide, county, city, or district initiative, referendum, recall, or matters submitted under the Elections Code, is not a disclosable public record and is not open to inspection except by the local agency officers or employees whose duty it is to receive, examine, or preserve the petitions.²¹³ This prohibition extends to all memoranda prepared by county and city elections officials in the examination of the petitions indicating which voters have signed particular petitions.²¹⁴

If a petition is found to be insufficient, the proponents and their representatives may inspect the memoranda of insufficiency to determine which signatures were disqualified and the reasons for the disqualification.²¹⁵

205 Gov. Code, § 6254.4, subd. (a).

206 Gov. Code, § 6254.4.

207 Elec. Code, § 2194.

208 Elec. Code, § 2194.

209 Elec. Code, § 2194, subd. (c).

210 Elec. Code, § 2194, subd. (c)(2).

211 Gov. Code, § 6253.6.

212 Elec. Code, § 17100.

213 Elec. Code, §§ 17200, 17400.

214 Gov. Code, § 6253.5.

215 Gov. Code, § 6253.5.

Identity of Informants

A local agency also has a privilege to refuse to disclose and to prevent another from disclosing the identity of a person who has furnished information in confidence to a law enforcement officer or representative of a local agency charged with administration or enforcement of the law alleged to be violated.²¹⁶ This privilege applies where the information purports to disclose a violation of a federal, state, or another public entity's law, and where the public's interest in protecting an informant's identity outweighs the necessity for disclosure.²¹⁷ This privilege extends to disclosure of the contents of the informant's communication if the disclosure would tend to disclose the identity of the informant.²¹⁸

Information Technology Systems Security Records

An information security record is exempt from disclosure if, on the facts of a particular case, disclosure would reveal vulnerabilities to attack, or would otherwise increase the potential for an attack on a local agency's information technology system.²¹⁹

Disclosure of records stored within a local agency's information technology system that are not otherwise exempt under the law do not fall within this exemption.²²⁰

Law Enforcement Records

Overview

Law enforcement records are generally exempt from disclosure.²²¹ That is, the actual investigation files and records are themselves exempt from disclosure, but the PRA does require local agencies to disclose certain information derived from those files and records.²²² For example, the names of officers involved in a police shooting are subject to disclosure, unless disclosure would endanger an officer's safety (e.g., if there is a specific threat to an officer or an officer is working undercover).²²³

The type of information that must be disclosed differs depending upon whether it relates to, for example, calls to the police department for assistance, the identity of an arrestee, information relating to a traffic accident, or certain types of crimes, including car theft, burglary, or arson. The identities of victims of certain types of crimes, including minors and victims of sexual assault, are required to be withheld if requested by the victim or the victim's guardian, if the victim is a minor.²²⁴ Those portions of any file that reflect the analysis and conclusions of the investigating officers may also be withheld.²²⁵ Certain information that may be required to be released may be withheld where the disclosure would endanger a witness or interfere with the successful completion of the investigation. These exemptions extend indefinitely, even after the investigation is closed.²²⁶

²¹⁶ Evid. Code, § 1041

²¹⁷ Evid. Code, § 1041; *People v. Navarro* (2006) 138 Cal.App.4th 146, 164.

²¹⁸ *People v. Hobbs* (1994) 7 Cal.4th 948, 961–962.

²¹⁹ Gov. Code, § 6254.19

²²⁰ Gov. Code, § 6254.19; see also Gov. Code, § 6254, subd. (aa).

²²¹ Gov. Code, § 6254, subd. (f).

²²² *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1068; 65 Ops. Cal. Atty. Gen. 563 (1982).

²²³ *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59, 63–68.

²²⁴ Gov. Code, § 6254, subd. (f)(2).

²²⁵ *Rackauckas v. Superior Court* (2002) 104 Cal.App.4th 169, 174.

²²⁶ *Rivero v. Superior Court* (1997) 54 Cal.App.4th 1048, 1052; *Williams v. Superior Court* (1993) 5 Cal.4th 337, 361–362; *Office of the Inspector General v. Superior Court* (2010) 189 Cal.App.4th 695 (Office of the Attorney General has discretion to determine which investigatory records are subject to disclosure in connection with its investigations, and investigatory records in that context may include some documents that were not prepared as part of, but became subsequently relevant to, the investigation).

Release practices vary by local agencies. Some local agencies provide a written summary of information being disclosed, some release only specific information upon request, while others release reports with certain matters redacted. Other local agencies release reports upon request with no redactions except as mandated by statute. Some local agencies also release 911 tapes and booking photos, although this is not required under the PRA.²²⁷

► **PRACTICE TIP:**

If it is your local agency's policy to release police reports upon request, it is helpful to establish an internal process to control the release of the identity of minors or victims of certain types of crimes, or to ensure that releasing the report would not endanger the safety of a person involved in an investigation or endanger the completion of the investigation.

Exempt Records

The PRA generally exempts most law enforcement records from disclosure, including, among others:

- Complaints to or investigations conducted by a local or state police agency;
- Records of intelligence information or security procedures of a local or state police agency;
- Any investigatory or security files compiled by any other local or state police agency;
- Customer lists provided to a local police agency by an alarm or security company; and
- Any investigatory or security files compiled by any state or local agency for correctional, law enforcement, or licensing purposes.²²⁸

► **PRACTICE TIP:**

Many departments that choose not to release entire reports develop a form that can be filled out with the requisite public information.

Information that Must be Disclosed

There are three general categories of information contained in law enforcement investigatory files that must be disclosed: information which must be disclosed to victims, their authorized representatives and insurance carriers, information relating to arrestees, and information relating to complaints or requests for assistance.

Disclosure to Victims, Authorized Representatives, Insurance Carriers

Except where disclosure would endanger the successful completion of an investigation or a related investigation, or endanger the safety of a witness, certain information relating to specific listed crimes must be disclosed upon request to:

- A victim;
- The victim's authorized representative;
- An insurance carrier against which a claim has been or might be made; or
- Any person suffering bodily injury, or property damage or loss.

The type of crimes listed in this subsection to which this requirement applies include arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime defined by statute.²²⁹

²²⁷ *Haynie v. Superior Court*, *supra*, 26 Cal.4th 1061 (911 tapes); 86 Ops.Cal.Atty.Gen. 132 (2003) (booking photos).

²²⁸ Gov. Code, § 6254, subd. (f); *Dixon v. Superior Court* (2009) 170 Cal.App.4th 1271, 1276 (coroner and autopsy reports).

²²⁹ Gov. Code, § 6254, subd. (f).

The type of information that must be disclosed under this section (except where it endangers safety of witnesses or the investigation itself) includes:

- Name and address of persons involved in or witnesses to incident (other than confidential informants);
- Description of property involved;
- Date, time, and location of incident;
- All diagrams;
- Statements of parties to incident; and
- Statements of all witnesses (other than confidential informants).²³⁰

Local agencies may not require a victim or a victim's authorized representative to show proof of the victim's legal presence in the United States to obtain the information required to be disclosed to victims.²³¹ However, if a local agency does require identification for a victim or authorized representative to obtain information disclosable to victims, the local agency must, at a minimum, accept a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship, or a current Matricula Consular card.²³²

The Vehicle Code addresses the release of traffic accident information. A law enforcement agency to whom an accident was reported is required to disclose the entire contents of a traffic accident report to persons who have a "proper interest" in the information, including, but not limited to, the driver(s) involved in the accident, or the authorized representative, guardian, or conservator of the driver(s) involved; the parent of a minor driver; any named injured person; the owners of vehicles or property damaged by the accident; persons who may incur liability as a result of the accident; and any attorney who declares under penalty of perjury that he or she represents any of the persons described above.²³³ The local enforcement agency may recover the actual cost of providing the information.

Information Regarding Arrestees

The PRA mandates that the following information be released pertaining to every individual arrested by the local law enforcement agency, except where releasing the information would endanger the safety of persons involved in an investigation or endanger the successful completion of the investigation or a related investigation:

- Full name and occupation of the arrestee;
- Physical description including date of birth, color of eyes and hair, sex, height and weight;
- Time, date, and location of arrest;
- Time and date of booking;
- Factual circumstances surrounding arrest;
- Amount of bail set;
- Time and manner of release or location where arrestee is being held; and
- All charges the arrestee is being held on, including outstanding warrants and parole or probation holds.²³⁴

As previously stated, a PRA request applies only to records existing at the time of the request.²³⁵ It does not require a local

²³⁰ Gov. Code, § 6254, subd. (f); *Buckheit v. Dennis* (ND Cal. 2012) 2012 U.S. Dist. LEXIS 49062 (noting that Government Code section 6254, subd. (f) requires disclosure of certain information to a victim. Suspects are not entitled to that same information).

²³¹ Gov. Code, § 6254.30.

²³² Gov. Code, § 6254.30.

²³³ Veh. Code, § 20012.

²³⁴ Gov. Code, § 6254, subd. (f)(1).

²³⁵ Gov. Code, § 6254, subd. (c).

agency to produce records that may be created in the future. Further, a local agency is not required to provide requested information in a format that the local agency does not use.

► **PRACTICE TIP:**

Most police departments have some form of a daily desk or press log that contains all or most of this information.

Complaints or Requests for Assistance

The Penal Code provides that except as otherwise required by the criminal discovery provisions, no law enforcement officer or employee of a law enforcement agency may disclose to any arrested person, or to any person who may be a defendant in a criminal action, the address or telephone number of any person who is a victim of or witness to the alleged offense.²³⁶

Subject to the restrictions imposed by the Penal Code, the following information must be disclosed relative to complaints or requests for assistance received by the law enforcement agency:

- The time, substance, and location of all complaints or requests for assistance received by the agency, and the time and nature of the response thereto;
- To the extent the crime alleged or committed or any other incident is recorded, the time, date, and location of occurrence, and the time and date of the report;
- The factual circumstances surrounding crime/incident;
- A general description of injuries, property, or weapons involved; and
- The names and ages of victims, except the names of victims of certain listed crimes may be withheld upon request of victim or parent of minor victim. These listed crimes include various Penal Code sections which relate to topics such as sexual abuse, child abuse, hate crimes, and stalking.²³⁷

Requests for Journalistic or Scholarly Purposes

Where a request states, under penalty of perjury, that (1) it is made for a scholarly, journalistic, political, or governmental purpose, or for an investigative purpose by a licensed private investigator, and (2) it will not be used directly or indirectly, or furnished to another, to sell a product or service, the PRA requires the disclosure of the name and address of every individual arrested by the local agency and the current address of the victim of a crime, except for specified crimes.²³⁸

Coroner Photographs or Video

No copies, reproductions, or facsimiles of a photograph, negative, print, or video recording of a deceased person taken by or for the coroner (including by local law enforcement personnel) at the scene of death or in the course of a post mortem examination or autopsy may be disseminated except as provided by statute.²³⁹

²³⁶ Pen. Code, § 841.5, subd. (a).

²³⁷ Gov. Code, § 6254, subd. (f)(2).

²³⁸ Gov. Code, § 6254, subd. (f); Pen. Code, § 841.5; *Los Angeles Police Dept. v. United Reporting Pub. Corp.* (1999) 528 U.S. 32.

²³⁹ Code Civ. Proc., § 129.

Mental Health Detention Information

All information and records obtained in the course of providing services to a mentally disordered individual who is gravely disabled or a danger to others or him or herself, and who is detained and taken into custody by a peace officer, are confidential and may only be disclosed to enumerated recipients and for the purposes specified in state law.²⁴⁰ Willful, knowing release of confidential mental health detention information can create liability for civil damages.²⁴¹

► PRACTICE TIP:

All information obtained in the course of a mental health detention (often referred to as a "5150 detention") is confidential, including information in complaint or incident reports that would otherwise be subject to disclosure under the PRA.

Elder Abuse Records

Reports of suspected abuse or neglect of an elder or dependent adult, and information contained in such reports, are confidential and may only be disclosed as permitted by state law.²⁴² The prohibition against unauthorized disclosure applies regardless of whether a report of suspected elder abuse or neglect is from someone who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not for compensation (a mandated reporter), or from someone else.²⁴³ Unauthorized disclosure of suspected elder abuse or neglect information is a misdemeanor.²⁴⁴

Juvenile Records

Records or information gathered by law enforcement agencies relating to the detention of, or taking of, a minor into custody or temporary custody are confidential and subject to release only in certain circumstances and by certain specified persons and entities.²⁴⁵ Juvenile court case files are subject to inspection only by specific listed persons and are governed by both statute and state court rules.²⁴⁶

► PRACTICE TIP:

Some local courts have their own rules regarding inspection and they may differ from county to county and may change from time to time. Care should be taken to periodically review the rules as the presiding judge of each juvenile court makes their own rules.

Different provisions apply to dissemination of information gathered by a law enforcement agency relating to the taking of a minor into custody where it is provided to another law enforcement agency, including a school district police or security department, or other agency or person who has a legitimate need for information for purposes of official disposition of a case.²⁴⁷ In addition, a law enforcement agency must release the name of and descriptive information relating to any juvenile who has escaped from a secure detention facility.²⁴⁸

240 Welf. & Inst. Code, §§ 5150, 5328.

241 Welf. & Ins. Code, § 5330.

242 Welf. & Inst. Code, § 15633.

243 Welf. & Inst. Code, § 15633.

244 Welf. & Inst. Code, § 15633.

245 Welf. & Inst. Code, §§ 827, 828; see Welf & Inst. Code, § 827.9 (applies to Los Angeles County only); see also *T.N.G. v Superior Court* (1971) 4 Cal.3d 767 (release of information regarding minor who has been temporarily detained and released without any further proceedings.)

246 Welf. & Inst. Code, § 827.

247 Welf & Inst. Code, § 828, subd. (a); Cal. Rules of Court, rule 5.552(g).

248 Welf & Inst. Code, § 828, subd. (b).

Child Abuse Reports

Reports of suspected child abuse or neglect, including reports from those who are “mandated reporters,” such as teachers and public school employees and officials, physicians, children’s organizations, and community care facilities, and child abuse and neglect investigative reports that result in a summary report being filed with the Department of Justice, are confidential and may only be disclosed to the persons and agencies listed in state law.²⁴⁹ Unauthorized disclosure of confidential child abuse or neglect information is a misdemeanor.²⁵⁰

Library Patron Use Records

All patron use records of any library that is supported in whole or in part by public funds are confidential and may not be disclosed except to persons acting within the scope of their duties within library administration, upon written authorization from the person whose records are sought, or by court order.²⁵¹ The term “patron use records” includes written or electronic records that identify the patron, the patron’s borrowing information, or use of library resources, including database search records and any other personally identifiable information requests or inquiries.²⁵² This exemption does not extend to statistical reports of patron use or records of fines collected by the library.²⁵³

Library Circulation Records

Library circulation records that are kept to identify the borrowers, and library and museum materials presented solely for reference or exhibition purposes, are exempt from disclosure.²⁵⁴ Further, all registration and circulation records of any library that is (in whole or in part) supported by public funds are confidential.²⁵⁵ The confidentiality of library circulation records does not extend to records of fines imposed on borrowers.²⁵⁶

Licensee Financial Information

When a local agency requires that applicants for licenses, certificates, or permits submit personal financial data, that information is exempt from disclosure.²⁵⁷ One frequent example of this is the submittal of sales or income information under a business license tax requirement. However, this exemption does not apply to financial information filed by an existing licensee or franchisee to justify a rate increase, presumably because those affected by the increase have a right to know its basis.²⁵⁸

Medical Records

California’s Constitution protects a person’s right to privacy in his or her medical records.²⁵⁹ Therefore, the PRA exempts from disclosure “personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.”²⁶⁰ In addition, the PRA exempts from disclosure “[r]ecords, the disclosure of which is exempted or prohibited pursuant

249 Pen. Code, §§ 11165.6, 11165.7, 11167.5, 11169.

250 Pen. Code, § 11167.5, subd. (a).

251 Gov. Code, § 6267.

252 Gov. Code, § 6267.

253 Gov. Code, § 6267.

254 Gov. Code, § 6254, subd. (j).

255 Gov. Code, § 6254, subd. (j).

256 Gov. Code, § 6254, subd. (j).

257 Gov. Code, § 6254, subd. (n).

258 *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 779–780.

259 Cal. Const., Art. I, § 1.

260 Gov. Code, § 6254, subd. (c).

to federal or state law,²⁶¹ including, but not limited to, those described in the Confidentiality of Medical Information Act,²⁶² physician/patient privilege,²⁶³ the Health Data and Advisory Council Consolidation Act,²⁶⁴ and the Health Insurance Portability and Accountability Act.²⁶⁵

► **PRACTICE TIP:**

Both subdivision (c) and subdivision (k) of Government Code section 6254 probably apply to most records protected under the physician/patient privilege, the Confidentiality of Medical Information Act, the Health Data and Advisory Council Consolidation Act, and the Health Insurance Portability and Accountability Act. In addition, individually identifiable health information is probably also exempt from disclosure under the “public interest” exemption in Government Code section 6255.

Health Data and Advisory Council Consolidation Act

Any organization that operates, conducts, owns, or maintains a health facility, hospital, or freestanding ambulatory surgery clinic must file reports with the state that include detailed patient health and financial information.²⁶⁶ Patient medical record numbers, and any other data elements of these reports that could be used to determine the identity of an individual patient are exempt from disclosure.²⁶⁷

Physician/Patient Privilege

Patients may refuse to disclose, and prevent others from disclosing, confidential communications between themselves and their physicians.²⁶⁸ The privilege extends to confidential patient/physician communication that is disclosed to third parties where reasonably necessary to accomplish the purpose for which the physician was consulted.²⁶⁹

► **PRACTICE TIP:**

Patient medical information provided to local agency emergency medical personnel to assist in providing emergency medical care may be subject to the physician/patient privilege if providing the privileged information is reasonably necessary to accomplish the purpose for which the physician was, or will be, consulted, including emergency room physicians.

261 Gov. Code, § 6254, subd. (k).

262 Civ. Code, § 56 *et seq.*

263 Evid. Code, § 990 *et seq.*

264 Health & Saf. Code, § 128675 *et seq.*

265 42 U.S.C. § 1320d.

266 Health & Saf. Code, §§ 128735, 128736, 128737.

267 Health & Saf. Code, § 128745, subd. (c)(6).

268 Evid. Code, § 994.

269 Evid. Code, § 992.

Confidentiality of Medical Information Act

Subject to certain exceptions, health care providers, health care service plan providers and contractors are prohibited from disclosing a patient's individually identifiable medical information without first obtaining authorization.²⁷⁰ Employers must establish appropriate procedures to ensure the confidentiality and appropriate use of individually identifiable medical information.²⁷¹ Local agencies that are not providers of health care, health care service plans, or contractors as defined in state law may possess individually identifiable medical information protected under state law that originated with providers of health care, health care service plans, or contractors.²⁷²

Health Insurance Portability and Accountability Act

Congress enacted the Health Insurance Portability and Accountability Act in 1996 to improve portability and continuity of health insurance coverage and to combat waste, fraud, and abuse in health insurance and health care delivery through the development of a health information system and establishment of standards and requirements for the electronic transmission of certain health information.²⁷³ The U.S. Department of Health and Human Services Secretary has issued privacy regulations governing use and disclosure of individually identifiable health information.²⁷⁴ Persons who knowingly and in violation of federal law use or cause to be used a unique health identifier, obtain individually identifiable health information relating to an individual, or disclose individually identifiable health information to another person are subject to substantial fines and imprisonment of not more than one year, or both, and to increased fines and imprisonment for violations under false pretenses or with the intent to use individually identifiable health information for commercial advantage, personal gain, or malicious harm.²⁷⁵ Federal law also permits the Health and Human Services Secretary to impose civil penalties.²⁷⁶

Workers' Compensation Benefits

Records pertaining to the workers' compensation benefits for an individually identified employee are exempt from disclosure as "personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of privacy."²⁷⁷ The PRA further prohibits the disclosure of records otherwise exempt or prohibited from disclosure pursuant to federal and state law.²⁷⁸ State law prohibits a person or public or private entity who is not a party to a claim for workers' compensation benefits from obtaining individually identifiable information obtained or maintained by the Division of Workers' Compensation on that claim.²⁷⁹

270 Civ. Code, §§ 56.10, subd. (a), 56.05, subd. (g). "Provider of health care" as defined means persons licensed under Business & Professions Code section 500 *et seq.*, or Health & Safety Code section 1797 and following, and clinics, health dispensaries, or health facilities licensed under Health and Safety Code section 1200 *and following*. "Health care service plan" as defined means entities regulated under Health & Safety Code section 1340 and following. "Contractor" as defined means medical groups, independent practice associations, pharmaceutical benefits managers, and medical service organizations that are not providers of health care or health care service plans.

271 Civ. Code, § 56.20.

272 Civ. Code, § 56.05, subd. (g).

273 Health Insurance Portability and Accountability Act of 1996, Pub L. No. 104-192, § 261 (Aug. 24, 1996) 110 Stat 1936; 42 U.S.C. 1320d.

274 42 U.S.C. § 1320d-1–d-3, Health and Human Services Summary of the Privacy Rule, May, 2003. The final privacy regulations were issued in December, 2000 and amended in August, 2002. The definitions of "health information" and "individually identifiable health information" in the privacy regulations are in 45 C.F.R. 160.103. The general rules governing use and disclosure of protected health information are in 45 C.F.R. 164.502.

275 42 U.S.C. § 1320d-6. Federal law defines "individually identifiable health information" as any information collected from an individual that is created or received by a health care provider, health plan, employer or health care clearing house, that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

276 42 U.S.C. § 1320d-5.

277 Gov. Code, § 6254, subd. (c).

278 Gov. Code, § 6254, subd. (k).

279 Lab. Code, § 138.7, subd. (a). This state statute defines "individually identifiable information" to mean "any data concerning an injury or claim that is linked to a uniquely identifiable employee, employer, claims administrator, or any other person or entity."

Certain information may be subject to disclosure once an application for adjudication has been filed.²⁸⁰ If the request relates to pre-employment screening, the administrative director must notify the person about whom the information is requested and include a warning about discrimination against persons who have filed claims for workers' compensation benefits. Further, a residential address cannot be disclosed, except to law enforcement agencies, the district attorney, other governmental agencies, or for journalistic purposes. Individually identifiable information is not subject to subpoena in a civil proceeding without notice and a hearing at which the court is required to balance the respective interests—privacy and public disclosure. Individually identifiable information may be used for certain types of statistical research by specifically listed persons and entities.²⁸¹

Official Information Privilege

A local agency may refuse to disclose official information.²⁸² "Official information" is statutorily defined as "information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed to the public prior to the time the claim of privilege is made."²⁸³ However, the courts have somewhat expanded on the statutory definition by determining that certain types of information, such as police investigative files and medical information, are "by [their] nature confidential and widely treated as such" and thus protected from disclosure by the privilege.²⁸⁴ Therefore, "official information" includes information that is protected by a state or federal statutory privilege or information, the disclosure of which is against the public interest, because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.²⁸⁵

The local agency has the right to assert the official information privilege both to refuse to disclose and to prevent another from disclosing official information.²⁸⁶ Where the disclosure is prohibited by state or federal statute, the privilege is absolute. In all other respects, it is conditional and requires a judge to weigh the necessity for preserving the confidentiality of information against the necessity for disclosure in the interest of justice. This is similar to the weighing process provided for in the PRA — allowing nondisclosure when the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.²⁸⁷ As part of the weighing process a court will look at the consequences to the public, including the effect of the disclosure on the integrity of public processes and procedures.²⁸⁸ This is typically done through *in camera* judicial review.²⁸⁹

There are a number of cases interpreting this statute.²⁹⁰ While many of the cases interpreting this privilege involve law enforcement records, other cases arise out of licensing and accreditation-type activities. The courts address these types of cases on an individualized basis and further legal research should be done within the context of particular facts.

► **PRACTICE TIP:**

Although there is no case law directly on point, this privilege, along with the informant privilege, may be asserted to protect the identities of code enforcement complainants and whistleblowers.

280 Lab. Code, §§ 5501.5, 138.7.

281 Lab Code, §138.7.

282 Evid. Code, § 1040.

283 Evid. Code, § 1040, subd. (a).

284 *Department of Motor Vehicles v. Superior Court* (2002) 100 Cal.App.4th 363, 373–374.

285 *White v. Superior Court* (2002) 102 Cal.App.4th.Supp. 1, 6.

286 Evid. Code, § 1040, subd. (b).

287 Gov. Code, § 6255.

288 *Shepherd v. Superior Court* (1976) 17 Cal.3d 107, 126.

289 The term "in camera" refers to a review of the document in the judge's chambers outside the presence of the requesting party.

290 *Department of Motor Vehicles v. Superior Court*, *supra*, 100 Cal.App.4th 363; *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal. App.4th 810; *County of Orange v. Superior Court* (2000) 79 Cal.App.4th 759.

Pending Litigation or Claims

The PRA exempts from disclosure “(r)ecords pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to [the California Government Claims Act] until the pending litigation or claim has been finally adjudicated or otherwise settled.”²⁹¹ Although the phrase “pertaining to” pending litigation or claims might seem broad, the courts nevertheless have construed the exemption narrowly, consistent with the underlying policy of the PRA to promote access to public records. Therefore, the claim itself is not exempt from disclosure — the exemption applies only to documents specifically prepared by, or at the direction of, the local agency for use in existing or anticipated litigation.²⁹²

It may sometimes be difficult to determine whether a particular record was prepared specifically for use in litigation or for other purposes related to the underlying incident. For example, an incident report may be prepared either in anticipation of defending a potential claim, or simply for risk management purposes. In order for the exemption to apply, the local agency would have to prove that the dominant purpose of the record was to be used in defense of litigation.²⁹³ However, attorney payment and billing records related to ongoing litigation are not subject to the pending litigation exemption, because such records are not primarily prepared for use in litigation.²⁹⁴

It is important to remember that even members of the public that have filed a claim against or sued a local agency are entitled to use the PRA to obtain documents that may be relevant to the claim or litigation. The mere fact that the person might also be able to obtain the documents in discovery is not a ground for rejecting the request under the PRA.²⁹⁵

The pending litigation exemption does not prevent members of the public from obtaining records submitted to the local agency pertaining to existing or anticipated litigation, such as a claim for monetary damages filed prior to a lawsuit, because the records were not prepared by the local agency.²⁹⁶ Moreover, while medical records are subject to a constitutional right of privacy, and generally exempt from production under the PRA and other statutes,²⁹⁷ an individual may be deemed to have waived the right to confidentiality by submitting medical records to the public entity in order to obtain a settlement.²⁹⁸

Once the claim or litigation is no longer “pending,” records previously shielded from disclosure by the exemption must be produced, unless covered by another exemption. For example, the public may obtain copies of depositions from closed cases,²⁹⁹ and documents concerning the settlement of a claim that are not shielded from disclosure by other exemptions.³⁰⁰ Exemptions that may be used to withhold documents from disclosure after the claim or litigation is no longer pending include the exemptions for law enforcement investigative reports, medical records, and attorney-client privileged records and attorney work product.³⁰¹ Particular records or information relevant to settlement of a closed claim or case may also be subject to nondisclosure under the public interest exemption to the extent the local agency can show that the public interest in nondisclosure clearly outweighs the public interest in disclosure.³⁰²

291 Gov. Code, § 6254, subd. (b).

292 *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1420–1421; *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1420.

293 *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1420; *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1419.

294 *County of Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57, 67. See also the Attorney-Client Privilege, p. 29.

295 *Wilder v. Superior Court* (1998) 66 Cal.App.4th 77.

296 *Poway Unified Sch. Dist. v. Superior Court* (1998) 62 Cal.App.4th 1496, 1502–1505.

297 See Medical Privacy Laws, p. 40.

298 *Poway Unified Sch. Dist. v. Superior Court* (1998) 62 Cal.App.4th 1496, 1505.

299 *City of Los Angeles v. Superior Court* (1996) 41 Cal.App.4th 1083, 1089.

300 *Register Div. of Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d 893, 901.

301 See, e.g., *D.I. Chadbourne, Inc. v. Superior Court* (1964) 60 Cal.2d 723; *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411.

302 Gov. Code, § 6255.

► **PRACTICE TIP:**

In responding to a request for documents concerning settlement of a particular matter, it is critical to pay close attention to potential application of other exemptions under the PRA. Additionally, if the settlement is approved by the legislative body during a closed session, release of the settlement documents are governed by the Brown Act. It is recommended that you seek the advice of your local agency counsel.

There is considerable overlap between the pending litigation exemption and both the attorney-client privilege³⁰³ and attorney-work-product doctrine.³⁰⁴ However, the exemption for pending litigation is not limited solely to documents that fall within either the attorney-client privilege or work product protection.³⁰⁵ Moreover, while the exemption for pending litigation expires once the litigation is no longer pending, the attorney-client privilege and attorney-work-product doctrine continue indefinitely.³⁰⁶

Personal Contact Information

Court decisions have ruled that individuals have a substantial privacy interest in their personal contact information. However, a fact-specific analysis must be conducted to determine whether the public interest exemption protects this information from disclosure, i.e., whether the public interest in nondisclosure clearly outweighs the public interest in disclosure.³⁰⁷ Application of this balancing test has yielded varying results, depending on the circumstances of the case.

For example, courts have allowed nondisclosure of the names, addresses, and telephone numbers of airport noise complainants.³⁰⁸ In that instance, the anticipated chilling effect on future citizen complaints weighed heavily in the court's decision. On the other hand, the courts have ordered disclosure of information contained in applications for licenses to carry firearms, except for information that indicates when or where the applicant is vulnerable to attack or that concern the applicant's medical or psychological history or that of members of his or her family.³⁰⁹ Courts have also ordered disclosure of the names and addresses of residential water customers who exceeded their water allocation under a rationing ordinance,³¹⁰ and the names of donors to a university affiliated foundation, even though those donors had requested anonymity.³¹¹

► **PRACTICE TIP:**

In situations where personal contact information clearly cannot be kept confidential, inform the affected members of the public that their personal contact information is subject to disclosure under the PRA.

303 Evid. Code, § 950 *et seq.*; *Costco Wholesale Corp. v. Superior Court* (2009) 47 Cal.4th 725.

304 Code Civ. Proc. § 2018.030.

305 *City of Los Angeles v. Superior Court*, *supra*, 41 Cal.App.4th 1083, 1087.

306 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 373 (attorney-client privilege); *Fellows v. Superior Court* (1980) 108 Cal.App.3d 55, 61–63 (work-product doctrine); *Costco Wholesale Corp. v. Superior Court*, *supra*, 47 Cal.4th 725. *But see Los Angeles County Board of Supervisors v. Superior Court* (2016) 2 Cal.5th 282 (holding that the attorney-client privilege protects the confidentiality of invoices for work in pending and active legal matters, but that the privilege may not encompass invoices for legal matters that concluded long ago).

307 Gov. Code, § 6255, subd. (a).

308 *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.

309 Gov. Code, § 6254, subd. (u)(1).

310 *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579.

311 *California State Univ., Fresno Ass'n, Inc., v. Superior Court* (2001) 90 Cal.App.4th 810.

Posting Personal Contact Information of Elected/Appointed Officials on the Internet

The PRA prohibits a state or local agency from posting on the Internet the home address or telephone number of any elected or appointed officials without first obtaining their written permission.³¹² The prohibition against posting home addresses and telephone numbers of elected or appointed officials on the Internet does not apply to a comprehensive database of property-related information maintained by a state or local agency that may incidentally contain such information, where the officials are not identifiable as such from the data, and the database is only transmitted over a limited-access network, such as an intranet, extranet, or virtual private network, but not the Internet.³¹³

The PRA also prohibits someone from knowingly posting on the Internet the home address or telephone number of any elected or appointed official, or the official's "residing spouse" or child, and either threatening or intending to cause imminent great bodily harm.³¹⁴ Similarly, the PRA prohibits soliciting, selling, or trading on the Internet the home address or telephone number of any elected or appointed official with the intent of causing imminent great bodily harm to the official or a person residing at the official's home address.³¹⁵

In addition, the PRA prohibits a person, business, or association from publicly posting or displaying on the Internet the home address or telephone number of any elected or appointed official where the official has made a written demand to the person, business, or association to not to disclose his or her address or phone number.³¹⁶

Personnel Records

The PRA exempts from disclosure "[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy."³¹⁷ In addition, the public interest exemption may protect certain personnel records from disclosure.³¹⁸ In determining whether to allow access to personnel files, the courts have determined that the tests under each exemption are essentially the same: the extent of the local agency employee's privacy interest in certain information and the harm from its unwarranted disclosure is weighed against the public interest in disclosure. The public interest in disclosure will be considered in the context of the extent to which the disclosure of the information will shed light on the local agency's performance of its duties.³¹⁹

Decisions from the California Supreme Court have determined that local agency employees do not have a reasonable expectation of privacy in their name, salary information, and dates of employment. This interpretation also applies to police officers absent unique, individual circumstances.³²⁰

312 See Gov. Code, § 6254.21, subd. (f) (containing a non-exhaustive list of individuals who qualify as "elected or appointed official[s]").

313 91 Ops. Cal. Atty. Gen. 19 (2008).

314 Gov. Code, § 6254.21, subd. (b).

315 Gov. Code, § 6254.21, subd. (d).

316 Gov. Code, § 6254.21, subd. (c).

317 Gov. Code, § 6254, subd. (c).

318 Gov. Code, § 6255; *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, 755; see also, *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272.

319 *International Fed'n of Prof. & Tech. Eng'rs, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 335; *Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 300; *Caldecott v. Superior Court* (2015) 243 Cal.App.4th 212, 231; *BRV, Inc. v. Superior Court*, *supra*, 143 Cal.App.4th 742, 755; *American Fed'n of State, County & Mun. Employees (AFSCME), Local 1650 v. Regents of Univ. of Cal.* (1978) 80 Cal.App.3d 913 914–916.

320 *International Fed'n of Prof. & Tech. Eng'rs, Local 21, AFL-CIO v. Superior Court*, *supra*, 42 Cal.4th 319, 327; *Commission on Peace Officer Standards & Training v. Superior Court*, *supra*, 42 Cal.4th 278, 289–293.

In situations involving allegations of non-law enforcement local agency employee misconduct, courts have considered the following factors in determining whether disclosure of employment investigation reports or related records would constitute an unwarranted invasion of personal privacy:

- Are the allegations of misconduct against a high-ranking public official or a local agency employee in a position of public trust and responsibility (e.g., teachers, public safety employees, employees who work with children)?
- Are the allegations of misconduct of a substantial nature or trivial?
- Were findings of misconduct sustained or was discipline imposed?

Courts have upheld the public interest against disclosure of “trivial or groundless” charges.³²¹ In contrast, when “the charges are found true, or discipline is imposed,” the public interest likely favors disclosure.³²² In addition, “where there is reasonable cause to believe the complaint to be well founded, the right of public access to related public records exists.”³²³ However, even if the local agency employee is exonerated of wrongdoing, disclosure may be warranted if the allegations of misconduct involve a high-ranking public official or local agency employee in a position of public trust and responsibility, given the public’s interest in understanding why the employee was exonerated and how the local agency employer treated the accusations.³²⁴

With respect to personnel investigation reports, although the PRA’s personnel exemption may not exempt such a report from disclosure, the attorney-client privilege or attorney-work-product doctrine may apply.³²⁵ Further, discrete portions of the personnel report may still be exempt from disclosure and redacted, such as medical information contained in a report or the names of third party witnesses.³²⁶

The courts have permitted persons who believe their rights may be infringed by a local agency decision to disclose records to bring a “reverse PRA action” to seek an order preventing disclosure of the records.³²⁷

Peace Officer Personnel Records

Peace officer personnel records, including internal affairs investigation reports regarding alleged misconduct, are both confidential and privileged. They clearly fall within the category of records, “the disclosure of which is exempted or prohibited pursuant to federal or state law”³²⁸

The discovery and disclosure of the personnel records of peace officers are governed exclusively by statutory provisions contained in the Evidence Code and Penal Code. Peace officer personnel records and records of citizen complaints “...or information obtained from these records...” are confidential and “shall not” be disclosed in any criminal or civil proceeding except by discovery pursuant to statutorily prescribed procedures.³²⁹ The appropriate procedure for obtaining information in the

321 *AFSCME, Local 1650 v. Regents of Univ. of Cal.* (1978) 80 Cal.App.3d 913, 918.

322 *Ibid.*

323 *Ibid.*

324 *Caldecott v. Superior Court* (2015) 243 Cal.App.4th 212, 223–224; *Marken v. Santa Monica-Malibu Unified Sch. Dist.* (2012) 202 Cal.App.4th 1250, 1275–1276; *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, 759; *Bakersfield City Sch. Dist. v. Superior Court* (2004) 118 Cal.App.4th 1041, 1045–1047; *AFSCME, Local 1650 v. Regents of University of California* (1978) 80 Cal.App.3d 913, 918.

325 See “Attorney-client Communications and Attorney Work Product,” page 29; *City of Petaluma v. Superior Court* (2016) 248 Cal.App.4th 1023, 1035–1036. But see *BRV, Inc. v. Superior Court*, *supra*, 143 Cal.App.4th 742, where on the facts of that case, an investigation report that arguably was privileged was ordered disclosed.

326 *BRV, Inc. v. Superior Court*, *supra*, 143 Cal.App.4th 742, 759 (permitting redaction of names, home addresses, phone numbers, and job titles “of all persons mentioned in the report other than [the subject of the report] or elected members” of the school board); *Marken v. Santa Monica-Malibu Unified Sch. Dist.*, *supra*, 202 Cal.App.4th 1250, 1276 (permitting redaction of the identity of the complainant and other witnesses, as well as other personal information in the investigation report).

327 *Marken v. Santa Monica-Malibu Unified Sch. Dist.*, *supra*, 202 Cal.App.4th 1250, 1264–1271. See also “Reverse PRA Litigation,” p. 59.

328 Gov. Code, § 6254, subd. (k); Pen. Code, §§ 832.7–832.8; *International Fed’n of Prof. & Tech. Eng’rs, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 341; *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1431.

329 Pen. Code, § 832.7; Evid. Code, §§ 1043, 1046.

protected peace officer personnel files is to file a motion commonly known as a “Pitchess” motion, which by statute entails a two-part process involving first a determination by the court regarding good cause and materiality of the information sought and a subsequent confidential review by the court of the files, where warranted.³³⁰

Peace officer personnel files are not protected from disclosure, however, when the district attorney, attorney general, or grand jury are investigating the conduct of the officers, including when the district attorney conducts a *Brady* review of files for exculpatory evidence relevant to a criminal proceeding.³³¹ The other notable exception arises where an officer publishes factual information concerning a disciplinary action that is known by the officer to be false. If the information is published in the media, the employing agency may disclose factual information about the discipline to refute the employee’s false statements.³³²

Peace officer “personnel records” include personal data, medical history, appraisals, and discipline; complaints and investigations relating to events perceived by the officer or relating to the manner in which his or her duties were performed; and any other information the disclosure of which would constitute an unwarranted invasion of privacy.³³³ The names, salary information, and employment dates and departments of peace officers have been determined to be disclosable records absent unique circumstances.³³⁴ Additionally, official service photographs of peace officers are subject to disclosure and are not exempt or privileged as personnel records unless disclosure would pose an unreasonable risk of harm to the peace officer.³³⁵ The names of officers involved in a police shooting are subject to disclosure, unless disclosure would endanger an officer’s safety (e.g., if there is a specific threat to an officer or an officer is working undercover).³³⁶ Video captured by a dashboard camera is not a personnel record protected from disclosure.³³⁷

While the Penal and Evidence Code privileges are not per se applicable in federal court, federal common law does recognize a qualified privilege for “official information” and considers government personnel files to be “official information.”³³⁸ Moreover, independent reports regarding officer-involved shootings are not exempt from disclosure, though portions of the report culled from personnel information or officers’ statements made in the course of an internal affairs investigation of the shooting are protected and may be redacted from the report.³³⁹ Such a qualified privilege in federal court results in a very similar weighing of the potential benefits of disclosure against potential disadvantages.³⁴⁰

330 See, e.g., *People v. Mooc* (2001) 26 Cal.4th 1216; *People v. Thompson* (2006) 141 Cal.App.4th 1312; *City of San Jose v. Superior Court* (1998) 67 Cal.App.4th 1135.

331 Pen. Code, § 832.7, subd. (a); *People v. Superior Court* (2015) 61 Cal.4th 696.

332 Pen. Code, § 832.7, subd. (d).

333 Pen. Code, § 832.8.

334 *International Fed’n of Prof. & Tech. Eng’rs, Local 21, AFL-CIO v. Superior Court*, *supra*, 42 Cal.4th 319, 327; *Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 289–293.

335 *Ibarra v. Superior Court* (2013) 217 Cal.App.4th 695, 700–705.

336 *Long Beach Police Officers Ass’n v. City of Long Beach* (2014) 59 Cal.4th 59, 75; 91 Ops. Cal. Atty. Gen. 11 (2008) (the names of peace officers involved in critical incidents, such as ones involving lethal force, are not categorically exempt from disclosure, however, the balancing test may be applied under the specific factual circumstances of each case to weigh the public interests at stake).

337 *City of Eureka v. Superior Court* (2016) 1 Cal.App.5th 755, 763–765. See also “Law Enforcement Records,” p. 35.

338 *Sanchez v. City of Santa Ana* (9th Cir. 1990) 936 F.2d 1027, 1033–1034, cert denied (1991) 502 U.S. 957; *Miller v. Pancucci* (C.D. Cal. 1992) 141 F.R.D. 292, 299–300.

339 *Pasadena Peace Officers Ass’n v. Superior Court* (2015) 240 Cal.App.4th 268, 288–290. See also “Law Enforcement Records,” p. 35.

340 Evid. Code, § 1043 *et seq.*; *Guerra v. Bd. of Trustees* (9th Cir. 1977) 567 F.2d 352; *Kerr v. United States Dist. Court for Northern Dist.* (9th Cir. 1975) 511 F.2d 192, *aff’d*, (1976) 426 U.S. 394; *Garrett v. City and County of San Francisco* (9th Cir. 1987) 818 F.2d 1515.

Employment Contracts, Employee Salaries, & Pension Benefits

Every employment contract between a local agency and any public official or local agency employee is a public record which is not subject to either the personnel exemption or the public interest exemption.³⁴¹ Thus, for example, one court has held that two letters in a city firefighter's personnel file were part of his employment contract and could not be withheld under either the local agency employee's right to privacy in his personnel file or the public interest exemption.³⁴²

With or without an employment contract, the names and salaries (including performance bonuses and overtime) of local agency employees, including peace officers, are subject to disclosure under the PRA.³⁴³ Public employees do not have a reasonable expectation that their salaries will remain a private matter. In addition, there is a strong public interest in knowing how the government spends its money. Therefore, absent unusual circumstances, the names and salaries of local agency employees are not subject to either the personnel exemption or the public interest exemption.³⁴⁴

In addition, the courts have held that local agencies are required to disclose the identities of pensioners and the amount of pension benefits received by such pensioners, reasoning that the public interest in disclosure of the names of pensioners and data concerning the amounts of their pension benefits outweighs any privacy interests the pensioners may have in such information.³⁴⁵ On the other hand, the courts have found that personal information provided to a retirement system by a member or on a member's behalf, such as a member's personal email address, home address, telephone number, social security number, birthday, age at retirement, benefits election, and health reports concerning the member, to be exempt from disclosure under the PRA.³⁴⁶ With regard to the California Public Employees' Retirement System (CalPERS), the identities of and amount of benefits received by CalPERS pensioners are subject to public disclosure.³⁴⁷

► PRACTICE TIP:

If a member of the public requests information regarding CalPERS from a local agency, make sure to check the terms of any agreement that may exist between the agency and CalPERS for confidentiality requirements.

Contractor Payroll Records

State law establishes requirements for maintaining and disclosing certified payroll records for workers employed on public works projects subject to payment of prevailing wages.³⁴⁸ State law requires contractors to make certified copies of payroll records available to employees and their representatives, representatives of the awarding body, the Department of Industrial Relations, and the public.³⁴⁹ Requests are to be made through the awarding agency or the Department of Industrial Relations, and the requesting party is required to reimburse the cost of preparation to the contractor, subcontractors, and the agency through

341 Gov. Code, § 6254.8; Gov. Code, § 53262, subd. (b).

342 *Braun v. City of Taft* (1984) 154 Cal.App.3d 332.

343 *International Fed'n of Prof. & Tech. Eng'rs, Local 21, AFL-CIO v. Superior Court*, *supra*, 42 Cal.4th 319, 327.

344 *Commission on Peace Officer Standards & Training v. Superior Court*, *supra*, 42 Cal.4th 278, 299, 303.

345 *Sacramento County Employees' Retirement System v. Superior Court* (2011) 195 Cal.App.4th 440, 472.

346 *Sonoma County Employees' Retirement Ass'n v. Superior Court* (2011) 198 Cal.App.4th 986, 1004.

347 Gov. Code, § 20230; See also *SDCERS v. Superior Court* (2011) 196 Cal.App.4th 1228, 1238–1239, citing with approval 25 Ops. Cal. Atty. Gen. 90 (1955), which exempts from disclosure employee election of benefits. For peace officer election of benefits see Pen. Code, §§ 832.7 - 832.8 and *International Fed'n of Prof. & Tech. Eng'rs, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 343.

348 Lab. Code, § 1776.

349 Lab. Code, § 1776, subd. (b).

which the request is made prior to being provided the records.³⁵⁰ Contractors are required to file certified copies of the requested records with the requesting entity within ten days after receipt of a written request.³⁵¹

However, state law also limits access to contractor payroll records. Employee names, addresses, and social security numbers must be redacted from certified payroll records provided to the public or any local agency by the awarding body or the Department of Industrial Relations.³⁵² Only the employee names and social security numbers are to be redacted from certified payroll records provided to joint labor-management committees established pursuant to the federal Labor Management Cooperation Act of 1978.³⁵³ The name and address of the contractor or subcontractor may not be redacted.³⁵⁴

The Department of Industrial Relations Director has adopted regulations governing release of certified payroll records and applicable fees.³⁵⁵ The regulations: (1) require that requests for certified payroll records be in writing and contain certain specified information regarding the awarding body, the contract, and the contractor; (2) require awarding agency acknowledgement of requests; (3) specify required contents of awarding agency requests to contractors for payroll records; and (4) set fees to be paid in advance by persons seeking payroll records.³⁵⁶

Test Questions and Other Examination Data

The PRA exempts from disclosure test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided in the portions of the Education Code that relate to standardized tests.³⁵⁷ Thus, for example, a local agency is not required to disclose the test questions it uses for its employment examinations. State law provides that standardized test subjects may, within 90 days after the release of test results to the test subject, have limited access to test questions and answers upon request to the test sponsor.³⁵⁸ This limited access may be either through an in-person examination or by release of certain information to the test subject.³⁵⁹ The Education Code also requires that test sponsors prepare and submit certain reports regarding standardized tests and test results to the California Postsecondary Education Commission.³⁶⁰ All such reports and information submitted to the Commission are public records subject to disclosure under the PRA.³⁶¹

Public Contracting Documents

Contracts with local agencies are generally disclosable public records due to the public's right to determine whether public resources are being spent for the benefit of the community as a whole or the benefit of only a limited few.³⁶² When the bids or proposals leading up to the contract become disclosable depends largely upon the type of contract.

350 Lab. Code, § 1776, subd. (c).

351 Contractors and subcontractors that fail to do so may be subject to a penalty of \$25 per worker for each calendar day until compliance is achieved. Lab. Code, § 1776, subds. (d) & (g).

352 Lab. Code, § 1776, subd. (e); *Trustees of Southern Cal. IBEW-NECA Pension Plan v. Los Angeles Unified School District* (2010) 187 Cal.App.4th 621.

353 Lab. Code, § 1776, subd. (e).

354 Lab. Code, § 1776, subd. (e).

355 Lab. Code, § 1776, subd. (i); see Lab. Code, § 16400 *et seq.*

356 8 C.C.R. §§ 16400, 16402.

357 Gov. Code, § 6254, subd. (g).

358 Ed. Code, § 99157, subd. (a) *Brutsch v. City of Los Angeles* (1982) 3 Cal.App.4th 354.

359 Ed. Code, §§ 99157, subds. (a) & (b).

360 Ed. Code, §§ 99153, 99154.

361 Ed. Code, § 99162.

362 *Cal. State Univ., Fresno Ass'n., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 833.

For example, local agency contracts for construction of public works and procurement of goods and non-professional services are typically awarded to the lowest responsive, responsible bidder through a competitive bidding process.³⁶³ Bids for these contracts are usually submitted to local agencies under seal and then publicly opened at a designated time and place. These bids are public records and disclosable as soon as they are opened.

Other local agency contracts for acquisition of professional services or disposition of property are awarded to the successful proposer through a competitive proposal process. As part of this process, interested parties submit proposals that are evaluated by the local agency and are used to negotiate with the winning proposer. While the public has a strong interest in scrutinizing the process leading to the selection of the winning proposer, a local agency's interest in keeping these proposals confidential frequently outweighs the public's interest in disclosure until negotiations with the winning proposer are complete.³⁶⁴ If a winning proposer has access to the specific details of other competing proposals, then the local agency is greatly impaired in its ability to secure the best possible deal on its constituents' behalf.

Some local agencies pre-qualify prospective bidders through a request for qualifications process. The pre-qualification packages submitted, including questionnaire answers and financial statements, are exempt from disclosure.³⁶⁵ Nevertheless, documents containing the names of contractors applying for pre-qualification status are public records and must be disclosed.³⁶⁶ In addition, the contents of pre-qualification packages may be disclosed to third parties during the verification process, in an investigation of substantial allegations or at an appeal hearing.

► **PRACTICE TIP:**

Local agencies should clearly advise bidders and proposers in their Requests for Bids and Requests for Proposals what bid and proposal documents will be disclosable public records and when they will be disclosable to the public.

Real Estate Appraisals and Engineering Evaluations

The PRA requires the disclosure of the contents of real estate appraisals, or engineering or feasibility estimates, and evaluations made for or by a local agency relative to the acquisition of property, or to prospective public supply and construction contracts, but only when all of the property has been acquired or when agreement on all terms of the contract have been obtained.³⁶⁷ By its plain terms, this exemption only applies while the acquisition or prospective contract is pending. Once all the property is acquired or agreement on all terms of the contract have been obtained, the exemption will not apply. In addition, this exemption is not intended to supersede the law of eminent domain.³⁶⁸ Thus, for example, this exemption would not apply to appraisals of owner-occupied residential property of four units or less, where disclosure of such appraisals is required by the Eminent Domain Law or related laws such as the California Relocation Assistance Act.³⁶⁹

► **PRACTICE TIP:**

If the exemption for real estate appraisals and engineering evaluations does not clearly apply, consider whether the facts of the situation justify withholding the record under Government Code section 6255.

363 Pub. Contract Code, § 22038.

364 Gov. Code, § 6255; *Michaelis, Montanari & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, 1077.

365 Pub. Contract Code, §§ 10165, 10506.6, 10763, 20101, 20111.5, 20209.7, 20209.26, 20651.5.

366 Pub. Contract Code, § 20101, subd. (a).

367 Gov. Code, § 6254, subd. (h).

368 Gov. Code, § 6245, subd. (h).

369 Gov. Code, § 7267.2, subd. (c).

Recipients of Public Services

Disclosure of information regarding food stamp recipients is prohibited.³⁷⁰ Subject to certain exceptions, disclosure of confidential information pertaining to applicants for or recipients of public social services for any purpose unconnected with the administration of the welfare department also is prohibited.³⁷¹ This latter prohibition does not create a privilege.³⁷²

Leases and lists or rosters of tenants of the Housing Authority are confidential and shall not be open to inspection by the public, but shall be supplied to the respective governing body on request.³⁷³ A Housing Authority has a duty to make available public documents and records of the Authority for inspection, except any applications for eligibility and occupancy which are submitted by prospective or current tenants of the Authority.³⁷⁴

The PRA exempts from disclosure records of the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information in accordance with section 18081 of the Health and Safety Code.³⁷⁵

Taxpayer Information

Where information that is required from any taxpayer in connection with the collection of local taxes is received in confidence and where the disclosure of that information would result in unfair competitive disadvantage to the person supplying the information, the information is exempt from disclosure.³⁷⁶ Sales and use tax records may be used only for administration of the tax laws. Unauthorized disclosure or use of confidential information contained in these records can give rise to criminal liability.³⁷⁷

► **PRACTICE TIP:**

Make sure to check your local agency's codes and ordinances with respect to local taxes when determining what information submitted by the taxpayer is confidential.

Trade Secrets and Other Proprietary Information

As part of the award and administration of public contracts, businesses will often give local agencies information that the businesses would normally consider to be proprietary. There are three exemptions that businesses often use to attempt to protect this proprietary information — the official information privilege, the trade secret privilege, and the public interest exemption.³⁷⁸

370 Welf. & Inst. Code, § 18909.

371 Welf. & Inst. Code, § 10850.

372 *Jonon v. Superior Court* (1979) 93 Cal.App.3d 683, 690.

373 Health & Saf. Code, § 34283.

374 Health & Saf. Code, § 34332, subd. (c).

375 Gov. Code, § 6254.1.

376 Gov. Code, § 6254, subd. (i); see also Rev. & Tax. Code, § 7056.

377 Rev. & Tax. Code, §§ 7056, 7056.5.

378 See, e.g., *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762.

However, California's strong public policy in favor of disclosure of public records precludes local agencies from protecting most business information. Both the official information privilege and the public interest exemption require that the public interest in nondisclosure outweigh the public interest in disclosure. While these provisions were designed to protect legitimate privacy interests, California courts have consistently held that when individuals or businesses voluntarily enter into the public sphere, they diminish their privacy interests.³⁷⁹ Courts have further found that the public interest in disclosure overrides alleged privacy interests. For example, a court ordered a university to release the names of anonymous contributors who received license agreements for luxury suites at the school's sports arena. Another court ordered a local agency to release a waste disposal contractor's private financial statements used by the local agency to approve a rate increase.³⁸⁰

The trade secret privilege is for information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.³⁸¹

However, even when records contain trade secrets, local agencies must determine whether disclosing the information is in the public interest. When businesses give local agencies proprietary information, courts will examine whether disclosure of that information serves the public interest.³⁸²

The PRA contains several exemptions that address specific types of information that are in the nature of trade secrets, including pesticide safety and efficacy information,³⁸³ air pollution data,³⁸⁴ and corporate siting information (financial records or proprietary information provided to government agencies in connection with retaining, locating, or expanding a facility within California).³⁸⁵

Other exemptions cover types of information that could include but are not limited to trade secrets — for example, certain information on plant production, utility systems development data, and market or crop reports.³⁸⁶

► **PRACTICE TIP:**

Issues concerning trade secrets and proprietary information tend to be complex and fact specific. Consider seeking the advice of your local agency counsel in determining whether records requested are exempt from disclosure.

379 *Cal. State Univ., Fresno Ass'n, Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 834; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 347; *San Gabriel Tribune v. Superior Court, supra*, 143 Cal.App.3d 762, 781.

380 *Cal. State Univ., Fresno Ass'n, Inc. v. Superior Court, supra*, 90 Cal.App.4th 810; *San Gabriel Tribune v. Superior Court, supra*, 143 Cal.App.3d 762.

381 Civ. Code, § 3426.1, subd. (d). This trade secret definition is set forth in the Uniform Trade Secrets Act ("UTSA"). However, Civil Code section 3426.7, subd. (c) states that any determination as to whether disclosure of a record under the Act constitutes a misappropriation of a trade secret shall be made pursuant to the law in effect before the operative date of the UTSA. At that time, California used the Restatement definition of a trade secret, which was lengthy. See *Uribe v. Howie* (1971) 19 Cal.App.3d 194. Accordingly, it is not clear that the trade secret definition that applies generally under the UTSA is the trade secret definition that applies in the context of a public records request.

382 *Uribe v. Howie, supra*, 19 Cal.App.3d 194, 213.

383 Gov. Code, § 6254.2.

384 Gov. Code, § 6254.7.

385 Gov. Code, § 6254.15.

386 Gov. Code, § 6254, subd. (e).

Utility Customer Information

Personal information expressly protected from disclosure under the PRA includes names, credit histories, usage data, home addresses, and telephone numbers of local agencies' utility customers.³⁸⁷ This exception is not absolute, and customers' names, utility usage data, and home addresses may be disclosable under certain scenarios. For example, disclosure is required when requested by a customer's agent or authorized family member,³⁸⁸ or an officer or employee of another governmental agency when necessary for performance of official duties,³⁸⁹ by court order or request of a law enforcement agency relative to an ongoing investigation,³⁹⁰ when the local agency determines the customer used utility services in violation of utility policies,³⁹¹ or if the local agency determines the public interest in disclosure clearly outweighs the public interest in nondisclosure.³⁹²

Utility customers who are local agency elected or appointed officials with authority to determine their agency's utilities usage policies have lesser protection of their personal information because their names and usage data are disclosable upon request.³⁹³

Public Interest Exemption

The PRA establishes a "public interest" or "catchall" exemption that permits local agencies to withhold a record if the agency can demonstrate that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.³⁹⁴ Weighing the public interest in nondisclosure and the public interest in disclosure under the public interest exemption is often described as a balancing test.³⁹⁵ The PRA does not specifically identify the public interests that might be served by not making the record public under the public interest exemption, but the nature of those interests may be inferred from specific exemptions contained in the PRA. The scope of the public interest exemption is not limited to specific categories of information or established exemptions or privileges. Each request for records must be considered on the facts of the particular case in light of the competing public interests.³⁹⁶

The records and situations to which the public interest exemption may apply are open-ended and, when it applies, the public interest exemption alone is sufficient to justify nondisclosure of local agency records. The courts have relied exclusively on the public interest exemption to uphold nondisclosure of:

- Local agency records containing names, addresses, and phone numbers of airport noise complainants;
- Proposals to lease airport land prior to conclusion of lease negotiations;
- Information kept in a public defender's database about police officers; and
- Individual teacher test scores, identified by name, designed to measure each teacher's effect on student performance on standardized tests.³⁹⁷

The public interest exemption is versatile and flexible, in keeping with its purpose of addressing circumstances not foreseen by the Legislature. For example, in one case, the court held local agencies could properly consider the burden of segregating exempt

387 Gov. Code, § 6254.16.

388 Gov. Code, § 6554.16, subd. (a).

389 Gov. Code, § 6254.16, subd. (b).

390 Gov. Code, § 6254.16, subd. (c).

391 Gov. Code, § 6254.16, subd. (d).

392 Gov. Code, § 6254.16, subd. (f).

393 Gov. Code, § 6265.16, subd. (e).

394 Gov. Code, § 6255; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1337-1339.

395 *CBS Broadcasting, Inc. v. Superior Court* 91 Cal.App.4th 892, 908.

396 *Times Mirror Co. v. Superior Court*, *supra*, 53 Cal.3d 1325, 1338.

397 *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008; *Michaelis, Montanari & Johnson v. Superior Court* (2006) 38 Cal.4th 1065; *Coronado Police Officers Assn. v. Carroll* (2003) 106 Cal.App.4th 1001; *Los Angeles Unified School District v. Superior Court* (2014) 228 Cal.App.4th 222.

from nonexempt records when applying the balancing test under the public interest exemption.³⁹⁸ In that case, the court held that the substantial burden of redacting exempt information from law enforcement intelligence records outweighed the marginal and speculative benefit of disclosing the remaining nonexempt information. In another case, the court applied the balancing test to the time of disclosure to hold that public disclosure of competing proposals for leasing city airport property could properly await conclusion of the negotiation process.³⁹⁹

The requirement that the public interest in nondisclosure must “clearly outweigh” the public interest in disclosure for records to qualify as exempt under the public interest exemption is important and emphasized by the courts. Justifying nondisclosure under the public interest exemption demands a clear overbalance on the side of confidentiality.⁴⁰⁰ Close calls usually do not qualify for an exemption. There are a number of examples of cases where a clear overbalance was not present to support nondisclosure under the public interest exemption. The courts have held that the following are all subject to disclosure under the public interest exemption balancing test:

- The identities of individuals granted criminal conviction exemptions to work in licensed day care facilities and the facilities employing them;
- Records relating to unpaid state warrants;
- Court records of a settlement between the insurer for a school district and a minor sexual assault victim;
- Applications for concealed weapons permits;
- Letters appointing then rescinding an appointment to a local agency position;
- The identities and license agreements of purchasers of luxury suites in a university arena; and
- GIS base map information.⁴⁰¹

The public interest exemption balancing test weighs only public interests — the public interest in disclosure and the public interest in nondisclosure. Agency interests or requester interests that are not also public interests are not considered.⁴⁰² For example, the courts have held that the public’s interest in information regarding peace officers retained in a database by the public defender in the representation of its clients is slight, and the private interests of the requesters (the police officers listed in the database) were not to be considered in determining whether the database was exempt from disclosure.⁴⁰³

398 *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.

399 *Michaelis, Montanari & Johnson v. Superior Court, supra*, 38 Cal.4th 1065.

400 *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645, 657.

401 *CBS Broadcasting Inc., v. Superior Court* (2001) 91 Cal.App.4th 892; *Connell v. Superior Court* (1997) 56 Cal.App.4th 601; *Copley Press, Inc., v. Superior Court* (1998) 63 Cal.App.4th 367; *CBS, Inc. v. Block* (1986) 42 Cal.App.3d 646; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332; *California State University, Fresno Assn. v. Superior Court* (2001) 90 Cal.App.4th 810; *Sierra Club v. Superior Court* (2013) 57 Cal.4th 157; *County of Santa Clara v. Superior Court* (2009) 170 Cal.App.4th 1301. See also, the discussion of GIS information in Chapter 6 at page 51.

402 *Coronado Police Officers Assn. v. Carroll* (2003) 106 Cal.App.4th 1001, 1015–1016.

403 *Id.*



Chapter 5

Judicial Review and Remedies

Overview

The PRA establishes a special, expedited judicial process to resolve disputes over the public's right to inspect or receive copies of public records.⁴⁰⁴ In contrast to other governmental transparency laws such as the Brown Act,⁴⁰⁵ there are no criminal penalties for a local agency's failure to comply with the PRA. Rather, the PRA is enforced primarily through an expedited civil judicial process in which any person may ask a judge to enforce their right to inspect or to receive a copy of any public record or class of public records.⁴⁰⁶ Whether the PRA provides the exclusive judicial remedy for resolving a claim that a local agency has unlawfully refused to disclose a particular record or class of records remains unresolved.⁴⁰⁷ This chapter discusses the special rules that apply to lawsuits brought to enforce the PRA.

The Trial Court Process

Jurisdiction and Venue

Any person may file a civil action for injunctive or declaratory relief, or writ of mandate, to enforce their right to inspect or receive a copy of any public record or class of public records under the PRA.⁴⁰⁸ While the PRA clearly provides specific relief when a local agency denies access or copies of public records, it does not preclude a taxpayer lawsuit seeking declaratory or injunctive relief to challenge the legality of a local agency's policies or practices for responding to public records requests generally.⁴⁰⁹

Conversely, a local agency may not commence an action for declaratory relief to determine its obligation to disclose records under the PRA.⁴¹⁰ The rationale for this rule is that allowing a local agency to seek declaratory relief to determine whether it must disclose records would require the person requesting documents to defend civil actions they did not commence and discourage

404 Gov. Code, §§ 6258, 6259.

405 Gov. Code, § 54950 *et seq.*

406 Gov. Code, § 6258.

407 *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59, 66 fn.2.

408 Gov. Code, § 6258.

409 *County of Santa Clara v. Superior Court* (2009) 171 Cal.App.4th 119, 130.

410 *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 426.

them from requesting records.⁴¹¹ That would frustrate the purpose of furthering the fundamental right of every person in the state to have prompt access to information in the possession of local agencies. However, a local agency is a “person” under the PRA and may maintain an action to compel the disclosure of records from another public entity subject to the PRA.⁴¹²

The action may be filed in any court of competent jurisdiction, which typically is the superior court in the county where the records or some part of them are maintained.⁴¹³

Procedural Considerations

Timing

The PRA does not contain a specific time period in which the action or responsive pleadings must be filed. Therefore, any action must be filed in a manner consistent with traditional actions for injunctive or declaratory relief, or writ of mandate, and is subject to any limitations periods or equitable concepts, such as laches, applicable to those actions. In a typical action under the PRA, the parties will file written arguments with the court to explain why the records should be disclosed or can be withheld. The court will also hold a hearing to give the parties an opportunity to argue the case. The judge in each case will establish the deadlines for briefing the issues and for hearings with the object of securing a decision at the earliest possible time.⁴¹⁴

Discovery

The PRA is considered a “special proceeding of a civil nature[,]” and as such, the Civil Discovery Act applies to actions brought under the PRA.⁴¹⁵ Any discovery sought must still, however, be relevant to the subject matter of the pending action and the trial court has the discretion to restrict discovery only where it would be likely to aid in the resolution of the particular issues presented in the proceeding.

A local agency that receives a request for records that would traditionally be sought through a formal discovery mechanism must handle the request in a manner consistent with the PRA rather than pursuant to discovery statutes.⁴¹⁶ A litigant using the PRA as an alternative to traditional discovery may not avoid California Environmental Quality Act’s statutory duty to pay for preparation of the administrative record by cloaking its discovery actions under the PRA.⁴¹⁷

Burden of Proof

In general, a plaintiff bears the burden of proving the plaintiff made a request for reasonably identifiable public records to a local agency and the agency improperly withheld or failed to conduct a reasonable search for the requested records.⁴¹⁸ A local agency may assert, as affirmative defenses, and bears the burden of proving that: (i) a request was unclear and the agency provided adequate assistance to the requestor to identify records but was still unable to identify any records; (ii) the withholding was justified under the PRA,⁴¹⁹ or (iii) the local agency undertook a reasonable search for records but was unable to locate the requested records.⁴²⁰

411 *Id.* at p. 423.

412 *Los Angeles Unified School Dist. v. Superior Court* (2007) 151 Cal.App.4th 759, 779.

413 Gov. Code, § 6259, subd. (a).

414 Gov. Code, § 6258.

415 *City of Los Angeles v. Superior Court* (2017) 9 Cal.App.5th 272.

416 *Bertoli v. City of Sebastopol* (2015) 233 Cal. App. 4th 353, 370-371.

417 *St. Vincent’s v. City of San Rafael* (2008) 161 Cal.App.4th 989, 1019, fn.9.

418 *Fredericks v. Superior Court* (2015) 233 Cal. App. 4th 209, 227 [“[A] person who seeks public records must present a reasonably focused and specific request, so that the public agency will have an opportunity to promptly identify and locate such records and to determine whether any exemption to disclosure applies”]; *American Civil Liberties Union of N. Cal. v. Superior Court* (2011) 202 Cal. App. 4th 55, 85 [“Government agencies are, of course, entitled to a presumption that they have reasonably and in good faith complied with the obligation to disclose responsive information.”]

419 See, e.g., *Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at p. 767.

420 *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1420.

In Camera Review

The judge must decide the case based on a review of the record or records (if such review is permitted by the rules of evidence),⁴²¹ the papers filed by the parties, any oral argument, and additional evidence as the court may allow.⁴²² If permitted, the judge may examine the record or records at issue *in camera*, that is, in the judge's chambers and out of the presence and hearing of others, to help decide the case.⁴²³ However, a judge cannot compel *in camera* disclosure of records claimed to be protected from disclosure by the attorney-client privilege for the purpose of determining whether the privilege applies.⁴²⁴

Decision and Order

If the court determines, based upon a verified petition, that certain public records are being improperly withheld, the court will order the officer or person withholding the records to disclose the public record or show cause why he or she should not do so.⁴²⁵ If the court determines the local agency representative was justified in refusing to disclose the record, the court shall return the item to the local agency representative without disclosing its content with an order denying the motion and supporting the decision refusing disclosure.⁴²⁶ The court may also order some of the records to be disclosed while upholding the decision to withhold other records. In addition, the court may order portions of the records be redacted and compel the disclosure of the remaining portions of the records.

Reverse PRA Litigation

While there is no specific statutory authority for such an action, a person who believes their rights would be infringed by a local agency decision to disclose documents may bring a "reverse PRA action" to seek an order enjoining disclosure.⁴²⁷ The court has allowed a records requester to join in a reverse PRA action as a real party or an intervener.⁴²⁸

► PRACTICE TIP:

A local agency that receives a request for records that are or could be statutorily exempt from disclosure (under the PRA or otherwise) might consider notifying affected parties prior to disclosing the records. For example, "affected parties" would be individuals or organizations for whom disclosure could constitute an unwarranted intrusion of privacy if the requested documents contain potentially confidential information, such as trade secrets or confidential information of employees, contractors, or other third-party stakeholders. The notification prior to disclosing the records would allow the third parties to file a reverse PRA action to enjoin the local agency from disclosing the records.

421 Evid. Code, § 915.

422 Gov. Code, § 6259, subd. (a).

423 Gov. Code, § 6259, subd. (a).

424 *Costco Wholesale Corp. v. Superior Court* (2009) 47 Cal.4th 725, 737.

425 Gov. Code, § 6259, subd. (a).

426 Gov. Code, § 6259, subd. (b).

427 *Marken v. Santa Monica-Malibu Unified School Dist.* (2012) 202 Cal.App.4th 1250, 1264, 1267.

428 *Id.* at p. 1269.

Appellate Review

Petition for Review

The PRA establishes an expedited judicial review process. A trial court's order is not considered to be a final judgment subject to the traditional and often lengthy appeal process. In place of a traditional appeal, such orders are subject to immediate review through the filing of a petition to the appellate court for the issuance of an extraordinary writ.⁴²⁹

Because the trial court's decision is not a final judgment for which there is an absolute right of appeal, the appellate court may decline to review the case without a hearing or without issuance of a detailed written opinion.⁴³⁰ However, the intent of substituting writ review for the traditional appeal process is to provide for expedited appellate review, not an abbreviated review. Therefore, an appellate court may not deny an apparently meritorious writ petition that has been timely presented and is procedurally sufficient merely because the petition presents no important issue of law or because it considers the case less worthy of its attention.⁴³¹ This manner of providing for appellate review through an extraordinary writ procedure rather than a traditional appeal has been held to be constitutional.⁴³²

Timing

A party seeking review of a trial court's order must file a petition for review with the appellate court within 20 days after being served with a written notice of entry of the order, or within such further time, not exceeding an additional 20 days, as the trial court may for good cause allow.⁴³³ If the written notice of entry of the order is served by mail, the period within which to file the petition is increased by five days.⁴³⁴

Once a court of appeal accepts a petition for review the appellate process proceeds in much the same fashion as a traditional appeal. Unless the parties stipulate otherwise, the appellate court will establish a briefing schedule and may set the matter for oral arguments once briefing is complete.

Requesting a Stay

If a party wishes to prevent the disclosure of records pending appellate review of the trial court's decision, then that party must seek a stay of the trial court's order or judgment.⁴³⁵ In cases when the trial court's order requires disclosure of records prior to the time when a petition for review must be filed, the party seeking a stay may apply to the trial court for a stay of the order or judgment. Where there is sufficient time for a party to file a petition for review prior to the date for disclosure, that party may seek a stay from the appellate court. The trial and appellate courts may only grant a stay when the party seeking the stay demonstrates that: (1) the party will sustain irreparable damage because of the disclosure; and (2) it is probable the party will succeed on the merits of the case on appeal.⁴³⁶

Scope and Standard of Review

On appeal, the appellate court will conduct an independent review of the trial court's ruling, upholding the factual findings made by the trial court if they are based on substantial evidence.⁴³⁷

The decision of the appellate court, whether to deny review or on the merits of the case, is subject to discretionary review by the California Supreme Court through a petition for review.

429 Gov. Code, § 6259, subd. (c); but see *Mincal Consumer Law Group v. Carlsbad Police Department* (2013) 214 Cal.App.4th 259, 265 (under limited circumstances, an appellate court may exercise its discretion to treat an appeal from a non-appealable order as a petition for writ relief).

430 Gov. Code, § 6259, subd. (c).

431 *Powers v. City of Richmond* (1995) 10 Cal.4th 85, 113–114.

432 *Id.* at p. 115.

433 Gov. Code, § 6259, subd. (c).

434 Gov. Code, § 6259, subd. (c).

435 Gov. Code, § 6259, subd. (c).

436 Gov. Code, § 6259, subd. (c).

437 *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1336.

Appeal of Other Decisions under the PRA

While the trial court's decision regarding disclosure of records is not subject to the traditional appeal process, other decisions of the trial court related to a lawsuit under the PRA are subject to appeal. Thus, a trial court's decision to grant or deny a motion for attorneys' fees and costs under the PRA is subject to appeal and is not subject to the extraordinary writ process.⁴³⁸ Similarly, an award of sanctions in a public records case is subject to appeal rather than a petition for an extraordinary writ.⁴³⁹

Attorneys' Fees and Costs

Attorneys' fees may be awarded to a prevailing party in an action under the PRA. If the plaintiff prevails in the litigation, the judge must award court costs and reasonable attorneys' fees to the plaintiff.⁴⁴⁰ A member of the public may be entitled to an award of attorneys' fees and costs even when he or she is not denominated as the "plaintiff" in a lawsuit under the PRA, if the party is the functional equivalent of a plaintiff.⁴⁴¹ Records requesters that participate in a reverse-PRA lawsuit are not entitled to an award of attorneys' fees for successfully opposing such litigation.⁴⁴² Successful local agency defendants may obtain an award of attorneys' fees and court costs against an unsuccessful plaintiff only when the court finds the plaintiff's case was clearly frivolous.⁴⁴³ Unless a plaintiff's case is "utterly devoid of merit or taken for improper motive," a court is unlikely to find a plaintiff's case frivolous and award attorneys' fees to an agency.⁴⁴⁴ Only one reported case has upheld an award of attorneys' fees to a local agency based on a frivolous request.⁴⁴⁵

Eligibility to Recover Attorneys' Fees

In determining whether a plaintiff has prevailed, courts have applied several variations of analysis similar to that used under the private attorney general laws, *i.e.*, whether the party has succeeded on any issue in the litigation and achieved some of the public benefits sought in the lawsuit. Some courts, however, have determined a plaintiff may still be a prevailing party entitled to attorneys' fees under the PRA even without a favorable ruling or other court action.⁴⁴⁶

Generally, if a local agency makes a timely effort to respond to a vague document request, then a plaintiff will not be awarded attorneys' fees as the prevailing party even in litigation resulting in issuance of a writ.⁴⁴⁷ However, where the court determines a local agency was not sufficiently diligent in locating all requested records and issues declaratory relief, stating there has in fact been a violation of the PRA, even if the records sought no longer exist and cannot be produced, the court may still award attorneys' fees on the basis of the statutory policies underlying the PRA.⁴⁴⁸

The trial court has significant discretion when determining the appropriate amount of attorneys' fees to award.⁴⁴⁹ Local agencies must pay any award of costs and fees, and not the individual local agency employees or officials who decide not to disclose requested records.⁴⁵⁰

438 *Los Angeles Times v. Alameda Corridor Transportation Authority* (2001) 88 Cal.App.4th 1381, 1388.

439 *Butt v. City of Richmond* (1996) 44 Cal.App.4th 925, 929.

440 Gov. Code, § 6259, subd. (d); *Garcia v. Governing Board of Bellflower Unified School District* (2013) 220 Cal.App.4th 1058, 1065; *Los Angeles Times v. Alameda Corridor Transportation Authority*, *supra*, 88 Cal.App.4th at p. 1385.

441 *Fontana Police Dep't. v. Villegas-Banuelos* (1999) 74 Cal.App.4th 1249, 1253.

442 *Marken v. Santa Monica-Malibu Unified School Dist.* (2012) 202 Cal.App.4th 1250, 1268.

443 Gov. Code, §6259, subd. (d).

444 *Crews v. Willows Unified School Dist. et al.* (2013) 217 Cal.App.4th 1368.

445 *Butt v. City of Richmond*, *supra*, 44 Cal.App.4th at p. 932.

446 *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 482-483; *Belth v. Garamendi* (1991) 232 Cal.App.3d 896, 901-902.

447 *Motorola Comm'n & Elecs., Inc. v. Dep't of Gen. Servs.* (1997) 55 Cal. App. 4th 1340, 1350-51.

448 *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1446.

449 *Bernardi v. County of Monterey* (2008) 167 Cal.App.4th 1379, 1394.

450 Gov. Code, § 6259, subd. (d).



Chapter 6

Records Management

In addition to the PRA, other California laws support and complement California's commitment to open government and the right of access to public records. These laws include, among others, open meeting laws under the Ralph M. Brown Act, records retention requirements, and California and federal laws prohibiting the spoliation of public records that might be relevant in litigation involving the local agency. Proper records management policies and practices facilitate efficient and effective compliance with these laws.

Public Meeting Records

Under the Brown Act,⁴⁵¹ any person may request a copy of a local agency meeting agenda and agenda packet by mail.⁴⁵² If requested, the agenda materials must be made available in appropriate alternative formats to persons with disabilities.⁴⁵³ If a local agency receives a written request to send agenda materials by mail, the materials must be mailed when the agenda is either posted or distributed to a majority of the agency's legislative body, whichever occurs first.⁴⁵⁴ Requests for mailed copies of agenda materials are valid for the calendar year in which they are filed, but must be renewed after January 1 of each subsequent year.⁴⁵⁵ Local agency legislative bodies may establish a fee for mailing agenda materials.⁴⁵⁶ The fee may not exceed the cost of providing the service.⁴⁵⁷ Failure of a requester to receive agenda materials is not a basis for invalidating actions taken at the meeting for which agenda materials were not received.⁴⁵⁸

Writings that are distributed to all or a majority of all members of a legislative body in connection with a matter subject to discussion or consideration at a public meeting of the local agency are public records subject to disclosure, unless specifically

451 Gov. Code, § 54950.5.

452 Gov. Code, § 54954.1. See *Open and Public V: A User's Guide to the Ralph M. Brown Act, 2d Edition*, 2016 (Contact the League of California Cities, 1400 K Street, Sacramento, CA 95814; phone (916) 658-8200; website <http://www.cacities.org/Resources/Open-Government>).

453 Gov. Code, § 54954.1.

454 *Ibid.*

455 *Ibid.*

456 *Ibid.*

457 *Ibid.*

458 *Ibid.*

exempted by the PRA, and must be made available upon request without delay.⁴⁵⁹ When non-exempt writings are distributed during a public meeting, in addition to making them available for public inspection at the meeting (if prepared by the local agency or a member of its legislative body) or after the meeting (if prepared by another person), they must be made available in appropriate alternative formats upon request by a person with a disability.⁴⁶⁰ The local agency may charge a fee for a copy of the records; however, no surcharge may be imposed on persons with disabilities.⁴⁶¹ When records relating to agenda items are distributed to a majority of all members of a legislative body less than 72 hours prior to the meeting, the records must be made available for public inspection in a designated location at the same time they are distributed.⁴⁶² The address of the designated location shall be listed in the meeting agenda.⁴⁶³ The local agency may also post the information on its website in a place and manner which makes it clear the records relate to an agenda item for an upcoming meeting.⁴⁶⁴

Maintaining Electronic Records

“Public records,” as defined by the PRA, includes “any writing containing information relating to the conduct of the public’s business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.”⁴⁶⁵ The PRA does not require a local agency to keep records in an electronic format. But, if a local agency has an existing, non-exempt public record in an electronic format, the PRA does require the agency make those records available in any electronic format in which it holds the records when requested.⁴⁶⁶ The PRA also requires the local agency to provide a copy of such records in any alternative electronic format requested, if the alternative format is one the agency uses for itself or for provision to other agencies.⁴⁶⁷ The PRA does not require a local agency to release a public record in the electronic form in which it is held if the release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.⁴⁶⁸ Likewise, the PRA does not permit public access to records held electronically, if access is otherwise restricted by statute.⁴⁶⁹

► PRACTICE TIP:

Local agencies should consider adopting electronic records policies governing such issues as: what electronic records (e.g., emails, texts, and social media) and what attributes of the electronically stored information and communications are considered “retained in the ordinary course of business” for purposes of the PRA; whether personal electronic devices (such as computers, tablets, cell phones) and personal email accounts may be used to store or send electronic communications concerning the local agency, or whether the agency’s devices must be used; and privacy expectations. Local agencies should consult with information technology officials to understand what information is being stored electronically and the technological limits of their systems for the retention and production of electronic records.

⁴⁵⁹ Gov. Code, § 54957.5, subd. (a).

⁴⁶⁰ Gov. Code, § 54957.5, subd. (c).

⁴⁶¹ Gov. Code, § 54957.5, subd. (d). *See* Chapter 3.

⁴⁶² Gov. Code, § 54957.5, subds. (b)(1), (b)(2).

⁴⁶³ Gov. Code, § 54957.5, subd. (b)(2).

⁴⁶⁴ Govt C § 54957.5, subd. (b)(2).

⁴⁶⁵ Gov. Code, § 6252, subd. (e).

⁴⁶⁶ Gov. Code, § 6253.9, subd. (a)(1).

⁴⁶⁷ Gov. Code, § 6253.9, subd. (a)(2).

⁴⁶⁸ Gov. Code, § 6253.9, subd. (f).

⁴⁶⁹ Gov. Code, § 6253.9, subd. (g).

Duplication costs of electronic records are limited to the direct cost of producing the electronic copy.⁴⁷⁰ However, requesters may be required to bear additional costs of producing a copy of an electronic record, such as programming and computer services costs, if the request requires the production of electronic records that are otherwise only produced at regularly scheduled intervals, or production of the record would require data compilation, extraction or programming.⁴⁷¹ Agencies are not required to reconstruct electronic copies of records no longer available to the agency in electronic format.⁴⁷²

Metadata

Electronic records may include "metadata," or data about data contained in a record that is not visible in the text. For example, metadata may describe how, when or by whom particular data was collected, and contain information about document authors, other documents, or commentary or notes. Although no provision of the PRA expressly addresses metadata, and there are no reported court opinions in California considering whether or to what extent metadata is subject to disclosure, other jurisdictions have held that metadata is a public record subject to disclosure, unless an exemption applies.⁴⁷³ There are no reported California court opinions providing guidance on whether agencies have a duty to disclose metadata when an electronic record contains exempt information that cannot be reasonably segregated without compromising the record's integrity.

Computer Software

The PRA permits government agencies to develop and commercialize computer software and to benefit from copyright protections for agency-developed software. Computer software developed by state or local agencies, including computer mapping systems, computer programs, and computer graphics systems, is not a public record subject to disclosure.⁴⁷⁴ As a result, public agencies are not required to provide copies of agency-developed software pursuant to the PRA. The PRA authorizes state and local agencies to sell, lease, or license agency-developed software for commercial or noncommercial use.⁴⁷⁵ The exception for agency-developed software does not affect the exempt status of records merely because it is stored electronically.⁴⁷⁶

Computer Mapping (GIS) Systems

While computer mapping systems developed by local agencies are not public records subject to disclosure, such systems generally include geographic information system (GIS) data. Many local agencies use GIS programs and databases for a broad range of purposes, including the creation and editing of maps depicting property and facilities of importance to the local agency and the public. As with metadata, the PRA does not expressly address GIS information disclosure. However, the California Supreme Court has held, that while GIS software is exempt under the PRA, the data in a GIS file format is a public record, and data in a GIS database must be produced.⁴⁷⁷

470 Gov. Code, § 6253.9, subd. (a)(2).

471 Gov. Code, § 6253.9, subd. (b).

472 Gov. Code, § 6253.9, subd. (c).

473 *Lake v. City of Phoenix*, (Ariz. 2009) 218 P.3d 1004, 1008; *O'Neill v. City of Shoreline* (Wash. 2010) 240 P.3d 1149, 1152–1154; *Irwin v. Onondaga County* (N.Y. 2010) 895 N.Y.S.2d 262, 265.

474 Gov. Code, § 6254.9, subds. (a), (b).

475 Gov. Code, § 6254.9, subd. (a).

476 Gov. Code, § 6254.9, subd. (d).

477 *Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 170; see also *County of Santa Clara v Superior Court*, (2009) 170 Cal.App.4th 1301, 1323–1336.

Public Contracting Records

State and local agencies subject to the Public Contract Code that receive bids for construction of a public work or improvement, must, upon request from a contractor plan room service, provide an electronic copy of a project's contract documents at no charge to the contractor plan room.⁴⁷⁸ The Public Contract Code does not define the term "contractor plan room," but the term commonly refers to a clearinghouse that contractors can use to identify potential bidding opportunities and obtain bid documents. The term may also refer to an on-line resource for a contractor to share plans and information with subcontractors.

Electronic Discovery

The importance of maintaining a written document retention policy is evident by revisions to the Federal Rules of Civil Procedure, and California's Civil Discovery Act and procedures, relative to electronic discovery.⁴⁷⁹ Those provisions and discovery procedures require parties in litigation to address the production and preservation of electronic records. Those rule changes may require a local agency to alter its routine management or storage of electronic information, and illustrate the importance of having and following formal document retention policies.

Once a local agency knows or receives notice that information is relevant to litigation (e.g., a litigation hold notice or a document preservation notice), it has a duty to preserve that information for discovery. In some cases, the local agency may have to suspend the routine operation of its information systems (through a litigation hold) to preserve information relevant to the litigation and avoid the potential imposition of sanctions.

Record Retention and Destruction Laws

The PRA is not a records retention statute. The PRA does not prescribe what type of information a public agency may gather or keep, or provide a method for correcting records.⁴⁸⁰ Its sole function is to provide access to public records.⁴⁸¹ Other provisions of state law govern retention of public records.

Local agencies generally must retain public records for a minimum of two years.⁴⁸² However, some records may be destroyed sooner. For example, duplicate records that are less than two years old may be destroyed if no longer required.⁴⁸³ Similarly, the retention period for "recordings of telephone and radio communications" is 100 days⁴⁸⁴ and "routine video monitoring" need only be retained for one year, and may be destroyed or erased after 90 days if another record, such as written minutes, is kept of the recorded event. "Routine video monitoring" is defined as "video recording by a video or electronic imaging system designed to record the regular and ongoing operations of a [local agency] ..., including mobile in-car video systems, jail observation and monitoring systems, and building security recording systems."⁴⁸⁵ The Attorney General has opined that recordings by security cameras on public buses and other transit vehicles constitute "routine video monitoring."⁴⁸⁶ Whether additional recording technology used for law and parking enforcement such as body cameras and Vehicle License Plate Recognition ("VLPR") systems also constitute routine video monitoring is an open question and may depend upon its use. While the technology is very similar to in-car video systems, recordings targeting specific activity may not be "routine." The retention statutes do not provide a specific retention period for e-mails, texts, or forms of social media.

⁴⁷⁸ Pub. Contract Code, §§ 10111.2, 20103.7.

⁴⁷⁹ Fed. Rules Civ. Proc., rule 26, 28 U.S.C.; Cal. Rules of Court, rule 3.724(8); Code Civ. Proc. §§ 2016.020, 2031.020–2031.320.

⁴⁸⁰ *Los Angeles Police Dept. v. Superior Court* (1977) 65 Cal.App.3d 661, 668.

⁴⁸¹ *Ibid.*

⁴⁸² Gov. Code, § 34090, subd. (d).

⁴⁸³ Gov. Code, § 34090.7.

⁴⁸⁴ Gov. Code, § 34090.6.

⁴⁸⁵ Gov. Code, §§ 34090.6, 34090.7.

⁴⁸⁶ 85 Ops. Cal. Atty. Gen. 256, 258 (2002).

By contrast, state law does not permit destruction of records affecting title to or liens on real property, court records, records required to be kept by statute, and the minutes, ordinances, or resolutions of the legislative body or city board or commission.⁴⁸⁷ In addition, employers are required to maintain personnel records for at least three years after an employee's termination, subject to certain exceptions, including peace officer personnel records, pre-employment records, and where an applicable collective bargaining agreement provides otherwise.⁴⁸⁸

To ensure compliance with these laws, most local agencies adopt records retention schedules as a key element of a records management system.

Records Covered by the Records Retention Laws

There is no definition of "public records" or "records" in the records retention provisions governing local agencies.⁴⁸⁹ The Attorney General has opined that the definition of "public records" for purposes of the records retention statutes is "a thing which constitutes an objective lasting indication of a writing, event or other information, which is in the custody of a public officer and is kept either (1) because a law requires it to be kept; or (2) because it is necessary or convenient to the discharge of the public officer's duties and was made or retained for the purpose of preserving its informational content for future reference."⁴⁹⁰ Under that definition, local agency officials retain some discretion concerning what agency records must be kept pursuant to state records retention laws. Similarly, the PRA allows for local agency discretion concerning what preliminary drafts, notes, or interagency or intra-agency memoranda are retained in the ordinary course of business.⁴⁹¹

► **PRACTICE TIP:**

Though there is no definition of "records" for purposes of the retention requirements applicable to local agencies, the retention requirements and the disclosure requirements of the PRA should complement each other. Local agencies should exercise caution in deviating too far from the definition of "public records" in the PRA in interpreting what records should be retained under the records retention statutes.

487 Gov. Code, § 34090, subds. (a), (b), (c) & (e).

488 Lab. Code, § 1198.5, subd. (c)(1).

489 64 Ops. Cal. Atty. Gen. 317, 323 (1981).

490 *Id.* at p. 324.

491 Gov. Code, § 6254, subd. (a). See "Drafts," p. 33.

Frequently Requested Information and Records

This table is intended as a general guide on the applicable law and is not intended to provide legal advice. The facts and circumstances of each request should be carefully considered in light of the applicable law. A local agency's legal counsel should always be consulted when legal issues arise.

INFORMATION/RECORDS REQUESTED	MUST THE INFORMATION/RECORD GENERALLY BE DISCLOSED?	APPLICABLE AUTHORITY
AGENDA MATERIALS DISTRIBUTED TO A LEGISLATIVE BODY RELATING TO AN OPEN SESSION ITEM	Yes	Gov. Code, § 54957.5. For additional information, see p. 63 of <i>"The People's Business: A Guide to the California Public Records Act," "the Guide."</i>
AUDIT CONTRACTS	Yes	Gov. Code, § 6253.31.
AUDITOR RECORDS	Yes, with certain exceptions	Gov. Code, § 36525(b).
AUTOMATED TRAFFIC ENFORCEMENT SYSTEM (RED LIGHT CAMERA) RECORDS	No	Veh. Code, § 21455.5(f)(1).
AUTOPSY REPORTS	No	Gov. Code, § 6254(f); <i>Dixon v. Superior Court</i> (2009) 170 Cal. App.4th 1271.
CALENDARS OF ELECTED OFFICIALS	Perhaps not, but note that there is no published appellate court decision on this issue post- Prop. 59. ¹	See <i>Times Mirror Co. v. Superior Court</i> (1991) 53 Cal.3d. 1325 and <i>Rogers v. Superior Court</i> (1993) 19 Cal.App.4th 469 for a discussion of the deliberative process privilege. For additional information, see p. 32 of the Guide.
CLAIMS FOR DAMAGES	Yes	<i>Poway Unified School District v. Superior Court</i> (1998) 62 Cal.App.4th 1496.
CORONER PHOTOS OR VIDEOS	No	Civ. Proc. Code, § 129.
DOG LICENSE INFORMATION	Unclear	See conflict between Health & Safety Code, § 121690(h) which states that license information is confidential, and Food and Agr. Code, § 30803(b) stating license tag applications shall remain open for public inspection.
ELECTION PETITIONS (INITIATIVE, REFERENDUM AND RECALL PETITIONS)	No, except to proponents if petition found to be insufficient	Gov. Code, § 6253.5; Elec. Code, §§ 17200, 17400, and 18650; Evid. Code, § 1050. For additional information, see p. 34 of the Guide.
EMAILS AND TEXT MESSAGES OF LOCAL AGENCY STAFF AND/OR OFFICIALS	Yes	Emails and text messages relating to local agency business on local agency and/or personal accounts and devices are public records. Gov. Code § 6252(e); <i>City of San Jose v. Superior Court</i> (2017) 2 Cal. 5th 608. For additional information, see p. 12 of the Guide.
EMPLOYMENT AGREEMENTS/CONTRACTS	Yes	Gov. Code, §§ 6254.8 and 53262(b). For additional information, see p. 49 of the Guide.
EXPENSE REIMBURSEMENT REPORT FORMS	Yes	Gov. Code, § 53232.3(e).
FORM 700 (STATEMENT OF ECONOMIC INTERESTS) AND CAMPAIGN STATEMENTS	Yes ²	Gov. Code, § 81008.

INFORMATION/RECORDS REQUESTED	MUST THE INFORMATION/RECORD GENERALLY BE DISCLOSED?	APPLICABLE AUTHORITY
GEOGRAPHIC INFORMATION SYSTEM (GIS) MAPPING SOFTWARE AND DATA	No as to proprietary software. Yes as to GIS base map information.	Gov. Code, § 6254.9; 88 Ops.Cal.Atty.Gen. 153 (2005); see <i>Sierra Club v. Superior Court</i> (2013) 57 Cal.4th 157 for data as a public record; see also <i>County of Santa Clara v. Superior Court</i> (2009) 170 Cal.App.4th 1301 for GIS basemap as public record; <i>Sierra Club v. Superior Court</i> (2011) 195 Cal.App.4th 1537; for additional information, see p. 14 of the Guide.
GRADING DOCUMENTS INCLUDING GEOLOGY REPORTS, COMPACTION REPORTS, AND SOILS REPORTS SUBMITTED IN CONJUNCTION WITH AN APPLICATION FOR A BUILDING PERMIT	Yes	89 Ops.Cal.Atty.Gen. 39 (2006); but see Gov. Code, § 6254(e). For additional information, see p. 29 of the Guide.
JUVENILE COURT RECORDS	No	<i>T.N.G. v. Superior Court</i> (1971) 4 Cal.3d. 767; Welf. & Inst. Code, §§ 827 and 828. For additional information, see p. 39 of the Guide.
LEGAL BILLING STATEMENTS	Generally, yes, as to amount billed and/or after litigation has ended. No, if pending or active litigation and the billing entries are closely related to the attorney-client communication. For example, substantive billing detail which reflects an attorney's impressions, conclusions, opinions or legal research or strategy.	Gov. Code, § 6254(k); Evid. Code, § 950, et seq.; <i>County of Los Angeles Board of Supervisors v. Superior Court</i> (2016) 2 Cal.5th 282; <i>Smith v. Laguna Sun Villas Community Assoc.</i> (2000) 79 Cal.App.4th 639; <i>United States v. Amlani</i> , 169 F.3d 1189 (9th Cir. 1999). But see Gov. Code, § 6254(b) as to the disclosure of billing amounts reflecting legal strategy in pending litigation. <i>County of Los Angeles v. Superior Court</i> (2012) 211 Cal.App.4th 57 (Pending litigation exemption does not protect legal bills reflecting the hours worked, the identity of the person performing the work, and the amount charged from disclosure; only work product or privileged descriptions of work may be redacted). For additional information, see p. 30 of the Guide.
LIBRARY PATRON USE RECORDS	No	Gov. Code, §§ 6254(j) and 6267. For additional information, see p. 40 of the Guide.
MEDICAL RECORDS	No	Gov. Code, § 6254(c). For additional information, see p. 40 of the Guide.
MENTAL HEALTH DETENTIONS (5150 REPORTS)	No	Welf. & Inst. Code, § 5328. For additional information, see p. 39 of the Guide.
MINUTES OF CLOSED SESSIONS	No	Gov. Code, § 54957.2(a). For additional information, see p. 43 of <i>Open and Public V: A User's Guide to the Ralph M. Brown Act, 2d Edition</i> , 2016 (Contact the League of California Cities, 1400 K Street, Sacramento, CA 95814; phone (916) 658-8200; website http://www.cacities.org/Resources/Open-Government).
NOTICES/ORDERS TO PROPERTY OWNER RE: HDUSING/BUILDING CODE VIOLATIONS	Yes	Gov. Code, § 6254.7(c). For additional information, see p. 1 of the Guide.

FREQUENTLY REQUESTED INFORMATION AND RECORDS

INFORMATION/RECORDS REQUESTED	MUST THE INFORMATION/RECORD GENERALLY BE DISCLOSED?	APPLICABLE AUTHORITY
OFFICIAL BUILDING PLANS (ARCHITECTURAL DRAWINGS AND PLANS)	Inspection only. Copies provided under certain circumstances.	Health & Saf. Code, § 19851; see also 17 U.S.C. §§ 101 and 102. For additional information, see p. 28 of the Guide.
PERSONAL FINANCIAL RECORDS	No	Gov. Code, §§ 7470, 7471, 7473; see also Gov. Code, § 6254(n). For additional information, see p. 40 of the Guide.
PERSONNEL		For additional information, see p. 46 of the Guide.
<ul style="list-style-type: none"> Employee inspection of own personnel file 	Yes, with exceptions	For additional information, see pp. 29-31 of the Guide. Lab. Code, § 1198.5. This section applies to charter cities. See Gov. Code, § 31011. For peace officers, see Gov. Code, § 3306.5. For firefighters, see Gov. Code, § 3256.5.
<ul style="list-style-type: none"> Investigatory reports 	It depends	<i>City of Petaluma v. Superior Court</i> (2016) 248 Cal.App.4th 1023; <i>Marken v. Santa Monica-Malibu Unified Sch. Dist.</i> (2012) 202 Cal.App.4th 1250; <i>Sanchez v. County of San Bernardino</i> (2009) 176 Cal.App.4th 516; <i>BRV, Inc. v. Superior Court</i> (2006) 143 Cal.App.4th 742.
<ul style="list-style-type: none"> Name and pension amounts of public agency retirees 	Yes. However, personal or individual records, including medical information, remain exempt from disclosure.	<i>Sacramento County Employees Retirement System v. Superior Court</i> (2011) 195 Cal.App.4th 440; <i>San Diego County Employees Retirement Association v. Superior Court</i> (2011) 196 Cal.App.4th 1228; <i>Sonoma County Employees Retirement Assn. v. Superior Court</i> (2011) 198 Cal.App.4th 196.
<ul style="list-style-type: none"> Names and salaries (including performance bonuses and overtime) of public employees, including peace officers 	Yes, absent unique, individual circumstances. However, other personal information such as social security numbers, home telephone numbers and home addresses are generally exempt from disclosure per Gov. Code, § 6254(c).	<i>International Federation of Professional and Technical Engineers, Local 21, AFL-CIO, et al. v. Superior Court</i> (2007) 42 Cal.4th 319; <i>Commission on Peace Officers Standards and Training v. Superior Court</i> (2007) 42 Cal.4th 278.
<ul style="list-style-type: none"> Officer's personnel file; including internal affairs investigation reports 	No	This information can only be disclosed through a <i>Pitchess</i> motion. Pen. Code, §§ 832.7 and 832.8; Evid. Code, §§ 1043-1045; <i>International Federation of Professional & Technical Engineers, Local 21, AFL-CIO v. Superior Court</i> (2007) 42 Cal.4th 319; <i>People v. Superior Court</i> (2014) 228 Cal.App.4th 1046; <i>City of Hemet v. Superior Court</i> (1995) 37 Cal.App.4th 1411.
<ul style="list-style-type: none"> Test Questions, scoring keys, and other examination data. 	No	Gov. Code, § 6254(g).
POLICE/LAW ENFORCEMENT		For additional information, see p. 35 of the Guide.
<ul style="list-style-type: none"> Arrest Information 	Yes	Gov. Code, § 6254(f)(1); <i>County of Los Angeles v. Superior Court (Kusar)</i> (1993) 18 Cal.App.4th 588.
<ul style="list-style-type: none"> Charging documents and court filings of the DA 	Yes	<i>Weaver v. Superior Court</i> (2014) 224 Cal.App.4th 746.
<ul style="list-style-type: none"> Child abuse reports 	No	Pen. Code, §11167.5.

INFORMATION/RECORDS REQUESTED	MUST THE INFORMATION/RECORD GENERALLY BE DISCLOSED?	APPLICABLE AUTHORITY
POLICE/LAW ENFORCEMENT, Continued		
• Citizen complaint policy	Yes	Pen. Code, § 832.5(a)(1).
• Citizen complaints	No	Pen. Code, § 832.7.
• Citizen complaints – annual summary report to the Attorney General	Yes	Pen. Code, § 832.5.
• Citizen complainant information – names addresses and telephone numbers	No	<i>City of San Jose v. San Jose Mercury News</i> (1999) 74 Cal. App.4th 1008. For additional information see p.38 of the Guide.
• Concealed weapon permits and applications	Yes, except for home/business address and medical/psychological history	Gov. Code, § 6254(u)(1); <i>CBS, Inc. v. Block</i> (1986) 42 Cal.3d 646.
• Contact information – names, addresses and phone numbers of crime victims or witnesses	No	Gov. Code § 6254(f)(2). For additional information, see p. 38 of the Guide.
• Criminal history	No	Pen. Code, § 13300 et seq.; Pen. Code, § 11105 et seq.
• Criminal investigative reports including booking photos, audio recordings, dispatch tapes, 911 tapes and in-car video	No	Gov. Code, § 6254(f); <i>Haynie v. Superior Court</i> (2001) 26 Cal.4th 1061.
• Crime reports	Yes	Gov. Code, §§ 6254(f), 6255.
• Crime reports, including witness statements	Yes, but only to crime victims and their representatives	Gov. Code, §§ 6254(f), 13951.
• Elder abuse reports	No	Welf. and Inst. Code, §15633
• Gang intelligence information	No	Gov. Code, § 6254(f); 79 Ops.Cal.Atty Gen. 206 (1996).
• In custody death reports to AG	Yes	Gov. Code, § 12525
• Juvenile court records	No	<i>T.N.G. v. Superior Court</i> (1971) 4 Cal.3d 767; Welf. & Inst. Code, §§ 827 and 828. For additional information, see p. 39 of the Guide.
• List of concealed weapon permit holders	Yes	Gov. Code, § 6254(u)(1); <i>CBS, Inc. v. Block</i> (1986) 42 Cal.3d 646.
• Mental health detention(5150) reports	No	Welf. & Inst. Code, § 5328. For additional information, see p. 39 of the Guide.
• Names of officers involved in critical incidents	Yes, absent unique, individual circumstances	<i>Pasadena Peace Officers Ass'n v Superior Court</i> (2015) 240 Cal.App.4th 268; <i>Long Beach Police Officers Association v. City of Long Beach</i> (2014) 59 Cal.4th 59; <i>Commission on Peace Officer Standards and Training v. Superior Court</i> (2007) 42 Cal.4th 278; <i>New York Times v. Superior Court</i> (1997) 52 Cal.App.4th 97; 91 Ops. Cal.Atty.Gen. 11 (2008).

FREQUENTLY REQUESTED INFORMATION AND RECORDS

INFORMATION/RECORDS REQUESTED	MUST THE INFORMATION/RECORD GENERALLY BE DISCLOSED?	APPLICABLE AUTHORITY
POLICE/LAW ENFORCEMENT, Continued		
<ul style="list-style-type: none"> • Official service photographs of peace officers 	Yes, unless disclosure would pose an unreasonable risk of harm to the officer	<i>Ibarra v. Superior Court</i> (2013) 217 Cal.App.4th 695.
<ul style="list-style-type: none"> • Peace officer's name, employing agency and employment dates 	Yes, absent unique, individual circumstances	<i>Commission on Peace Officer Standards and Training v. Superior Court</i> (2007) 42 Cal.4th 278.
<ul style="list-style-type: none"> • Traffic accident reports 	Yes, in their entirety, but only to certain parties	Veh. Code, §§ 16005, 20012 [only disclose to those needing the information, such as insurance companies, and the individuals involved].
PUBLIC CONTRACTS		
<ul style="list-style-type: none"> • Bid Proposals, RFP proposals 	Yes, except competitive proposals may be withheld until negotiations are complete to avoid prejudicing the public	<i>Michaelis v. Superior Court</i> (2006) 38 Cal. 4th 1065; but see Gov. Code, § 6255 and Evid. Code, § 1060. For additional information, see p. 50 of the Guide.
<ul style="list-style-type: none"> • Certified payroll records 	Yes, but records must be redacted to protect employee names, addresses, and social security number from disclosure	Labor Code, § 1776.
<ul style="list-style-type: none"> • Financial information submitted for bids 	Yes, except some corporate financial information may be protected	Gov. Code, §§ 6254(a),(h), and (k), 6254.15; and 6255; <i>Schnabel v. Superior Court of Orange County</i> (1993) 5 Cal. App.4th 704, 718. For additional information, see p. 51 of the Guide.
<ul style="list-style-type: none"> • Trade secrets 	No	Evid. Code, § 1060; Civ. Code, § 3426, et seq. For additional information, see p. 52 of the Guide.
PURCHASE PRICE OF REAL PROPERTY	Yes, after the agency acquires the property	Gov. Code, § 7275.
REAL ESTATE		For additional information, see p. 51 of the Guide.
<ul style="list-style-type: none"> • Property information (such as selling assessed value, square footage, number of rooms) 	Yes	88 Ops.Cal.Atty.Gen. 153 (2005).
<ul style="list-style-type: none"> • Appraisals and offers to purchase 	Yes, but only after conclusion of the property acquisition	Gov. Code, § 6254(h). Note that Gov. Code, § 7267.2 requires release of more information to the property owner while the acquisition is pending.
REPORT OF ARREST NOT RESULTING IN CONVICTION	No, except as to peace officers or peace officer applicants	Lab. Code, § 432.7.
SETTLEMENT AGREEMENTS	Yes	<i>Register Division of Freedom Newspapers v. County of Orange</i> (1984) 158 Cal.App.3d 893. For additional information, see p. 44 of the Guide.
SOCIAL SECURITY NUMBERS	No	Gov. Code § 6254.29.

INFORMATION/RECORDS REQUESTED	MUST THE INFORMATION/RECORD GENERALLY BE DISCLOSED?	APPLICABLE AUTHORITY
SPEAKER CARDS	Yes	Gov. Code, § 6255.
TAX RETURN INFORMATION	No	Gov. Code, § 6254(k); Internal Revenue Code, § 6103.
TAXPAYER INFORMATION RECEIVED IN CONNECTION WITH COLLECTION OF LOCAL TAXES	No	Gov. Code, § 6254(i). For additional information, see p. 52 of the Guide.
TEACHER TEST SCORES, IDENTIFIED BY NAME, SHOWING TEACHERS' EFFECT ON STUDENTS' STANDARDIZED TEST PERFORMANCE	No	Gov. Code, § 6255; <i>Los Angeles Unified School Dist. v. Superior Court</i> (2014) 228 Cal.App.4th 222.
TELEPHONE RECORDS OF ELECTED OFFICIALS	Yes, as to expense totals. No, as to phone numbers called.	See <i>Rogers v. Superior Court</i> (1993) 19 Cal.App.4th 469.
UTILITY USAGE DATA	No, with certain exceptions.	Gov. Code, § 6254.16. For additional information, see p. 54 of the Guide.
VOTER INFORMATION	No	Gov. Code, § 6254.4. For additional information, see p. 34 of the Guide.

- 1 *The analysis with respect to elected officials may not necessarily apply to executive officers such as City Managers or Chief Administrative Officers, and there is no case law directly addressing this issue.*
- 2 *It should be noted that these statements must be made available for inspection and copying not later than the second business day following the day on which the request was received.*

Revised April 2017



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.ICS File Extension

▶ 3 file types use the .ics file extension.

File Type 1	Calendar File
Developer	N/A
Popularity	3.6 (168 Votes)
Category	Misc Files
Format	Text

What is an ICS file?

An ICS file is a calendar file saved in a universal calendar format used by several email and calendar programs, including Microsoft Outlook, Google Calendar, and Apple Calendar. It enables users to publish and share calendar information on the web and over email. ICS files are often used for sending meeting requests to other users, who can import the events into their own calendars.

More Information

Calendar files are saved in a plain text format. They contain information such as the title, summary, start time, and end time for the calendar event. The Calendar format also supports event updates and cancellations.

You can quickly convert your ICS file to other popular file formats, such as .CSV, .PDF, .XLSX, and .HTML, with the ICS File Converter web program.

NOTE: Apple Calendar was formerly known as Apple iCal but was changed in 2012 with the release of OS X Mountain Lion.

Programs that open ICS files

	Microsoft Outlook 2019
Windows	Mozilla Lightning
	Apple Calendar
Mac	Mozilla Lightning
	Mozilla Lightning
	Horde Kronolith
Linux	Claws Mail with vCalendar plugin
	Google Calendar
Web	ICS File Converter

Updated 8/24/2016

File Type 2 IronCAD 3D Drawing File

Developer	IronCAD	
Popularity		3.6 (14 Votes)
Category	CAD Files	
Format	N/A	

.ICS File Association 2

Three-dimensional model or scene created with IronCAD, a 3D CAD program; may contain one or more 3D objects with colors, textures, lighting effects, and animation data.

More Information

NOTE: ICS files may automatically open in a calendar program such as MS Outlook due to the iCalendar file association. To open ICS files in IronCAD, you may need to right-click the file, select "Open With..." and choose IronCAD as the program.

Programs that open ICS files

IronCAD

Windows

Updated 6/23/2008

File Type 3 IC Recorder Sound File

Developer	Sony
Popularity	3.2 (16 Votes)
Category	Audio Files
Format	Binary

.ICS File Association 3

Audio file created by a Sony IC recorder (e.g., the Sony ICD-R100), a handheld device used for recording personal messages; commonly used for storing voice audio, which is useful for forensics and legal environments, as well as for general personal memos.

Programs that open ICS files

Sony Digital Voice Player

Microsoft Windows Media Player with Sony Player Plug-in

Windows

Updated 7/7/2017

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Public Comment

Metadata is a “Writing” (in the CPRA sense)

GC 6252(g) - “Writing” means

- any handwriting, **typewriting**, printing, photostating, photographing, photocopying, **transmitting by electronic mail** or facsimile,
- and every other means of recording upon any tangible thing **any form of communication or representation**, including letters, words, pictures, sounds, or **symbols**, or combinations thereof,
- **and any record thereby created**,
- **regardless of the manner in which the record has been stored.**

Example: When a human hits ‘Send’ in Outlook, the email with headers is a “**record thereby created.**” That entire record, is in fact a CPRA “writing.” Indeed, some of the headers may be mere “symbols,” but because they “represent[]” information, they too are a “writing.” Nothing here requires that the metadata be usually “visible” to most City employees, and that part of City’s argument is irrelevant.

The author is a complaining party against the City, and is not an attorney, an IT administrator, or an IT security expert. Nothing herein is legal advice or professional advice of any other kind. There are absolutely no warranties, express, implied, statutory, or otherwise. The Task Force, City, and other parties should consult their own legal and IT professionals before relying on any part of this report. The report is the author’s personal, lay opinions on the public records laws, and not of any affiliated entity or employer.

Therefore, Metadata is also a “Public Record”

GC 6252(e) - “Public records” includes:

- any **writing**
- containing information relating to the **conduct of the public’s business**
- prepared, owned, **used**, or **retained** by any state or local agency
- regardless of physical form or characteristics.

Metadata is clearly “retained” and “used” by City (on and by their computer systems).

If you decide metadata is **not** a public record because it is computer-generated; the public would lose access to the following info about the public’s business:

- 911 call logs, most financial records, Bodycam timestamps, Email to/from addresses and Sent dates, Names of employees who authored a document, Creation/Modification Timestamps, end result value of formulas/calculations

No human actually types this data. But computers “**thereby created**” these records when a human calls 911, sets up an accounting system, records a crime scene, sends an email, writes a Word doc, or designs an Excel spreadsheet.

If you have any doubt Metadata is a Public Record:

San Gabriel Tribune v. Superior Court: ““**This definition is intended to cover every conceivable kind of record** that is involved in the governmental process and will pertain to **any new form of record-keeping instrument as it is developed**. Only purely personal information unrelated to "the conduct of the public's business" could be considered exempt from this definition, i.e., the shopping list phoned from home, the letter to a public officer from a friend which is totally void of reference to governmental activities.” (inline citations omitted)

City of San Jose v. Superior Court: “**Proposition 59 amended the Constitution to provide**: "A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, **shall be broadly construed if it furthers the people's right of access**, and narrowly construed if it limits the right of access." (Cal. Const., art. I, § 3, subd. (b)(2), italics added.)”

Sunshine Ordinance 67.1(c): “... every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. **New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.**”

Neither burden nor security risk exempts all metadata

- City argues that the supposedly large effort required to **manually** separate metadata should force you to rule against disclosure. This is a prohibited public interest balancing test (SFAC 67.24(g,i)).
 - Burden can extend timelines, but cannot create a new exemption
 - The City should (but is not required to) use tools to process the metadata
- City must use only explicit statutory/court case exemptions (SFAC 67.27).
 - As City states, no court case or law exempts (or rules on) metadata in entirety
- The sole relevant exemption is information security threat (GC 6254.19)
 - But not all metadata is a threat (ask the Dept. of Tech)
- In CPRA, information must be “reasonably segregable” to be inspected in person (GC 6253(a)). But no such requirement is imposed on copies of records.
- But, in SF Sunshine, **minimum withholding is required** (SFAC 67.26).

One semi-related case (*Sierra Club v Sup. Ct. (2013)*): Orange County wished to provide a geo-map database as public records only in PDF form, and believed the database itself could be charged for and licensed. Court ruled Orange Co must provide also provide the database as a public record, in its original electronic format. Not every byte stored within that database is entered in by a human being - it is generated by their computer systems.

A practical way forward

1. SOTF issues a ruling in some case that the metadata of a particular type of document (email, calendars, etc.) is a disclosable public record.
2. Dept. of Tech. issues by policy lists* of metadata/headers names and values that are not exempt under GC 6254.19 in original and "easily generated" 67.21(I) formats (ICS, EML, MSG, etc.). **SOTF should request DT to present their proposals and open their recommendation to public comment.**
3. City should create or purchase the software tools to do the redaction. But the lack of such tools does not exempt the metadata until then. The City (DT) must figure out the implementation as is their duty.

* This is a "whitelist" approach. All other metadata would be always removed. City could provide, to satisfy SFAC 67.26/67.27, a list of the standard metadata removed and state a GC 6254.19 justification. For almost all requesters, this is good enough. Requesters can always appeal to SOTF, Court, Sup. of Records when they want more than DT deems disclosable by default.

SOTF should rule on metadata being public

If SOTF waits for the tools before making rulings, the City will simply never invest in them. Tools have no bearing on the legal decision.

This is no different than redacting bodycam video footage. It required appropriate technology and, for bodycams, still needs enormous human effort to redact moving entities in hours of footage even with the technology. **But that doesn't make such records exempt or non-public.**

City is free to provide rolling responses. Let's get *one* single ICS and a single EML/MSG properly redacted in response to 19047 and 19044. If City follows DT's recommendations on which parts are exempt, I will likely not need to further appeal that.

Thank you to CIO Gerull/CISO Makstman @ DT who have been working on a way forward. I am personally happy to work with anyone else in the City who in good faith is working to ensure all non-exempt metadata can be provided to the public.

Metadata

I have three arguments for you today.

1. The text of the law does not ban metadata. In SF, unless citation can be shown for an explicit exemption, no part of a record can be withheld. The sole relevant *exemption* Gov Code 6254.19, for information security records, itself states that the section cannot in any way limit disclosure of records in an IT system, which is exactly what calendars and emails are. We are not in serious disagreement over which parts of a record are sensitive, instead they want you to ban all of it. I know there is a natural urge for compromise, but the law does not support this and you should not invent one if it doesn't exist. A judge may do that someday, but that is not your role. You should enforce the law as written. In fact when the Supreme Court ruled in *Sierra Club v Superior Court* (2013), it found that a county must produce a geographic database in its native format as a public record, when it previously only produced PDFs.

2. The City wants you to re-invent the prohibited public-interest balancing exemption: To compare the public cost or burden in producing the lawfully public part of a record vs the public interest in that information. In the committee hearing, CIO Gerull's closing argument explicitly asked you to, without legal support, use "common sense" to exempt all metadata due to the burden. But the people of SF explicitly outlawed such balancing test exemptions in Admin Code 67.24(g) and 67.24(i). They did so because they knew it was an open door for government employees to hide whatever they want using such balancing, as often happens in the rest of California. Please do not set a precedent that the people's explicit will be overturned by this body.

3. There is no legal basis for blanket exemptions based on *where* in a record information is stored vs. *what* is in the information. The timestamp when you created a meeting or the email address in From or To header of an email are lawfully public because they are not information security records and not exempt in any other way. The fact that it is stored in a particular part of an ICS calendar or an email is not relevant. If you create this exemption based on where information is, as opposed to what it is, you create a hole in the Sunshine ordinance to allow government employees to hide information in metadata. You may think that is far-fetched, but standard tools allow anyone to create or insert information into headers and other metadata, even Photoshop and Adobe Acrobat let you do this. The Supreme Court has told us in the *City of San Jose* case:

"It is no answer to say, ... that we must presume public officials conduct official business in the public's best interest. ... Indeed, the rationale behind the [CPRA] is that it is for the public to make that determination, Open access to

government records is essential to *verify* that government officials are acting responsibly and held accountable to the public they serve.”

Conclusion:

You should not incentivize the city to lack the tools and training it must have to perform all its Sunshine responsibilities. Today’s debate is not about which specific headers are sensitive, and as your committee said, there isn’t a material difference between the City and me on that issue. The City simply wants to ban as a whole all metadata.

If you vote for metadata being public, everything isn’t now instantly public - I still have to fight and win each underlying case, which are not before you today, and so will other requesters.

But if you vote to ban public metadata, the public will instantly lose access to: basic email information like the *To* and *From* email address headers, the time an email was sent, which employee wrote a particular document, and the timestamp and GPS addresses of a 911 call log or police body-cam footage. These are all forms of metadata. Human beings don’t type any of those things in, but they do direct a computer or other machine to create these records on their behalf. They are public records and they must be public.

If you outlaw conversion or exporting to a format under Admin Code 67.21(l), then even PDFs don’t have to be provided to us, because almost no record is held in PDF format; the City must always export. Remember that 67.21(l) discusses SOLELY the ease of generation of a format, not ease of redaction. And 67.26 explicitly allows the City to simply delete the exempt portions, which is exactly what they must do. Their claim of going back and forth to PDF is an intentional red herring to make it seem like it is more work. Dozens of California jurisdictions properly release metadata under the weaker CPRA, and San Francisco must as well.

Ruling in the City’s favor today will be one of the most dangerous and wide-sweeping precedents of mass exemption this Task Force has ever made.

You have never before held that a lack of tools makes public information secret. Please do not do so today.

Analysis of San Francisco Electronic Public Records Release Policy, Version 1.2

AUTHOR'S NOTE:

The author is a complaining party in various cases against the City and County of San Francisco (City) and its departments and employees before the Sunshine Ordinance Task Force, Supervisor of Records, etc. The author is not a paid advisor to the City or the Task Force and has no duty to represent any interests of the City or any other party.

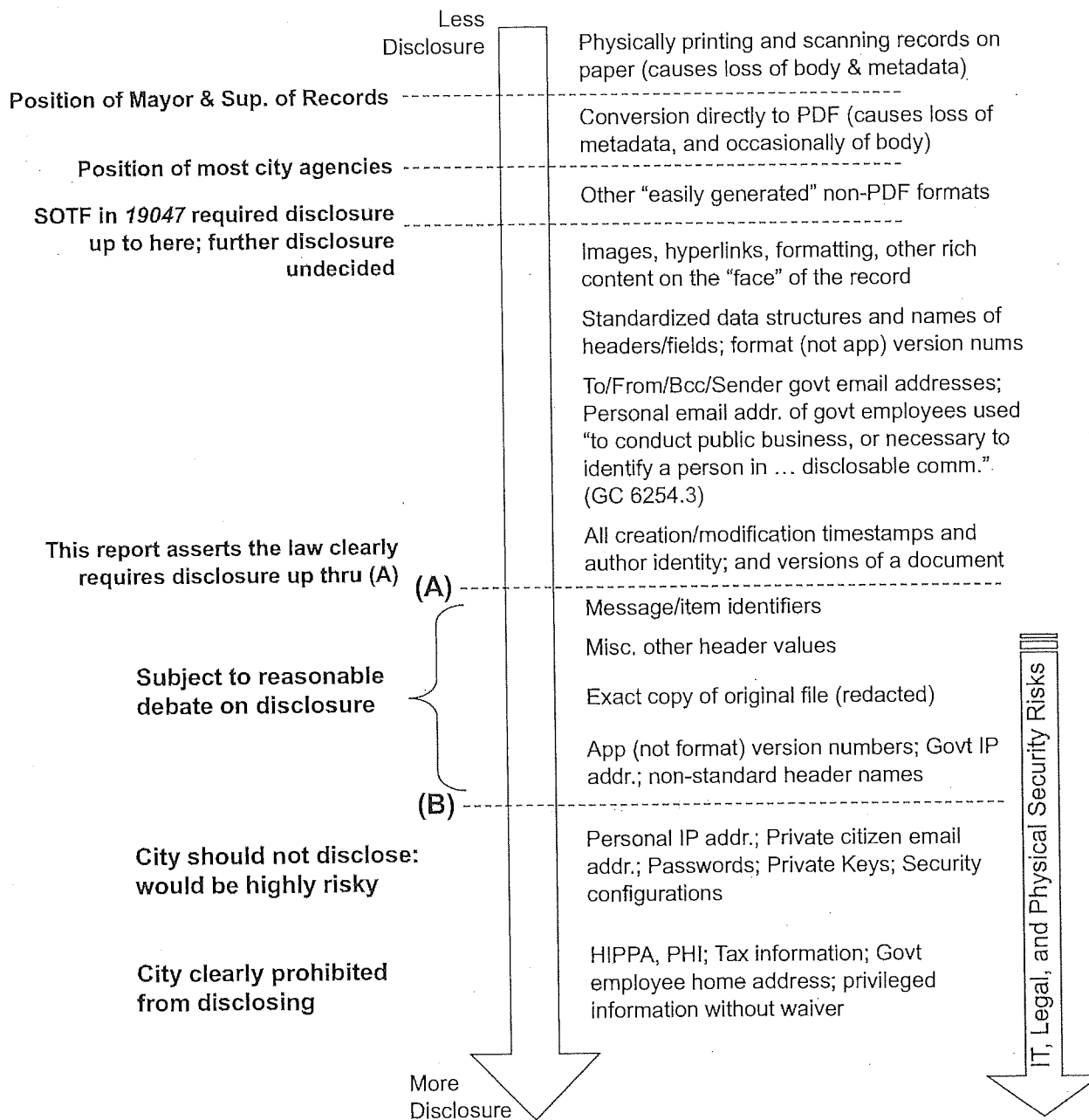
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Contents

I. City’s Electronic Records Disclosures Are Far Less Than the Legal Minimum	3
City Inappropriately Enlarges the Definition of “Metadata” to Prevent Unrelated Disclosures	4
Some City Agencies Have Published non-PDF Files Online for Years	5
Jurisdictions Outside San Francisco Routinely Provide non-PDF Files	6
II. Legal Deduction Shows Metadata is Public; Only Exempt Metadata may be Withheld	7
1. All government records are public, unless the government can prove they are exempt	8
2. Where the Sunshine Ordinance and CPRA conflict, the rule with greater public access holds	8
3. When the law is ambiguous, the interpretation favoring greater public access holds	9
4. No statute or case law prohibits the disclosure of metadata, therefore it is public	9
5. In San Francisco, withholding must be kept minimal not merely “reasonable”	10
6. Any available or “easily generated” format must be provided on request	11
7. Gov Code 6253.9(f) does not prohibit easily generated formats or metadata disclosure	12
8. Information in the metadata is public even if a particular format is not exportable	13
9. Gov Code 6254.19 does not prohibit disclosure of electronic files and metadata, which are not, in entirety, “information security records”	14
10. Electronic files as a whole, whether manually typed by a City employee or not, are public records, per Sierra Club v Superior Court	15
III. Electronic Production in Practice	17
IV. Status of Specific Formats or Methods of Production	18
V. Status of Common Electronic Information	19
VI. Relevant Terminology	21
Information Security Terms	21
General Terms	22

I. City's Electronic Records Disclosures Are Far Less Than the Legal Minimum



This whitepaper is intended to prove that the Sunshine Ordinance requires disclosure of all information from the top, down through line (A), in the figure above. What is disclosable between lines (A) and (B) is debatable. Genuine security concerns could argue for exemption for some or all of the information

between (A) and (B); such exemption would depend on the specific information and specific file format at issue. Even if the Task Force is unable to make a determination in the gray-area between (A) and (B), it should still find solid footing in the law to order disclosure of all information down through (A).

Orange County, under the CPRA, lost a California Supreme Court fight to withhold large native electronic databases while only disclosing their PDF counterparts (*Sierra Club v Superior Court* (2013), which is discussed in detail in Argument #10) and the City's extremely limited form of PDF disclosure must similarly be prohibited.

City Inappropriately Enlarges the Definition of "Metadata" to Prevent Unrelated Disclosures

Metadata has no legal definition under the CPRA or Sunshine Ordinance. However, the League of California Cities publishes a helpful opinion¹ that is relevant to this issue. Note that the League is using a CPRA interpretation, and a Sunshine Ordinance interpretation would provide strictly *more* access than the CPRA one (internal footnotes omitted):

Electronic records may include "metadata," or data about data contained in a record that is not visible in the text. For example, metadata may describe how, when, or by whom particular data was collected, and contain information about document authors, other documents, or commentary or notes. No provision of the PRA expressly addresses metadata, and there are no reported court opinions in California considering whether or the extent to which metadata is subject to disclosure.

Therefore, metadata should only properly be used to describe "data about data" that is not "visible in the text." Of course, much of what the City calls metadata *is* visible in certain views of the software used by the City, even if those views are not used by most City employees. IT professionals are certainly City employees, and if they can see that information, there is no reason for it to be automatically exempt. However, the City's current electronic records disclosures often withhold, possibly unintentionally, public parts of records that no reasonable person would call "metadata."

The Mayor's Office has even argued, and the Supervisor of Records has approved² by refusing to overturn its decisions when petitioned to do so, that emails can be merely printed on physical paper and scanned back in (see *19091 Anonymous v Breed et al.*). This goes far beyond the issue of what even commonly would be called metadata. Metadata is *not* an issue about searchable PDFs; that is a *format* issue, not a *metadata* issue. Even the CPRA requires exact copies of records when practicable, and it is entirely practicable to, at the very least, go directly from the original software to a PDF, and

¹ League of California Cities, April 2017. *The People's Business*.
<https://www.cacities.org/Resources/Open-Government/THE-PEOPLE%E2%80%99S-BUSINESS-A-Guide-to-the-California-Pu.aspx> pg. 14, Retrieved 2019-Oct-16.

² Brad Russi on behalf of Dennis Herrera, responses dated Aug. 26 (1), Aug. 26 (2), Sept. 5, Oct. 1, and 2019 all denying Supervisor of Records petitions

redact in Adobe Acrobat, without physically printing on a piece of paper. The physical printing method of production sometimes destroys, and thus improperly withholds:

- images
- hyperlinks
- formatting chosen by the author
- attachments
- public government email addresses

The City argues that the fact these items simply do not get produced when they print/scan their records is not an unlawful withholding, but is merely a side effect of their (purportedly legal) use of the printing method. This is incorrect. **Those images and other parts of records are clearly public (they have never claimed otherwise), the City retained them, but the City failed to produce them -- thus this is a withholding, and is unlawful.** Withholding must be minimal (SFAC 67.26).

Because there is no legal definition of “metadata,” instead we should consider each piece of information on its own and determine whether it is public or not under the usual exemptions of the CPRA and Sunshine Ordinance, as we do in this report.

It is possible that the City may also attempt to use its new-found Prop B powers to purportedly “clarify” the Sunshine Ordinance to eliminate all these important classes of public information, and vigilance is required in this matter.

Unfortunately, due to the City’s over-exemption position, the Task Force may actually be *underestimating genuine security risks*, so a glossary of common security concerns is provided at the end using definitions from the US Department of Homeland Security and our own explanations. When making a risk assessment, the Task Force and City should consider what anyone in the world, with the worst intentions, could do with a record, not what any particular requester may do, because the CPRA generally prohibits discrimination by purpose of request (Gov Code 6257.7) or by requester (Gov Code 6254.5). What is public for one is public for all; in almost all cases of relevancy to this paper.

Some City Agencies Have Published non-PDF Files Online for Years

First note that the City itself has been releasing non-PDF files for a long time:

- .msg files since November 2017:
[https://sanfrancisco.nextrequest.com/documents?filter=.msg&documents_smart_listing\[sort\]\[upload_date\]=](https://sanfrancisco.nextrequest.com/documents?filter=.msg&documents_smart_listing[sort][upload_date]=)
- .pst files since June 2018:
[https://sanfrancisco.nextrequest.com/documents?filter=.pst&documents_smart_listing\[sort\]\[upload_date\]=asc](https://sanfrancisco.nextrequest.com/documents?filter=.pst&documents_smart_listing[sort][upload_date]=asc)
- .doc/.docx files since October 2017:
[https://sanfrancisco.nextrequest.com/documents?filter=.doc&documents_smart_listing\[sort\]\[upload_date\]=asc](https://sanfrancisco.nextrequest.com/documents?filter=.doc&documents_smart_listing[sort][upload_date]=asc)

- .ics files since July 2018:

[https://sanfrancisco.nextrequest.com/documents?filter=.ics&documents_smart_listing\[sort\]\[upload_date\]=asc](https://sanfrancisco.nextrequest.com/documents?filter=.ics&documents_smart_listing[sort][upload_date]=asc)

This is just a small subset of all records requests since many departments do not use NextRequest,³ use of NextRequest is only recent, and not all departments on NextRequest make their public records *publicly available* (which is on its own, highly suspect⁴). For example, the SF Public Library and SOTF also have released .eml files to the author and are not on the above list.

Jurisdictions Outside San Francisco Routinely Provide non-PDF Files

As cursory guidance, we look to what other jurisdictions provide in terms of electronic file public records access. A simple Google search for NextRequest jurisdictions providing online access to public records in non-PDF file formats includes the following. Given that the SF Sunshine Ordinance is considered “among the best, local public records laws in the country,”⁵ as a rough guide, we would expect that San Francisco would release *at least* as much information as others, especially California jurisdictions under the strictly weaker CPRA.

Note also that many jurisdictions do not use NextRequest, and many that do use NextRequest for some reason do not make any supposedly *public* records *publicly* accessible without logging in, so this is a significant underestimation. Jurisdictions providing raw files range from some of the smallest to the biggest:

- San Diego, CA (CPRA) - <https://sandiego.nextrequest.com/documents?filter=.pst>;
<https://sandiego.nextrequest.com/documents?filter=.msg>;
<https://sandiego.nextrequest.com/documents?filter=.ics>;
<https://sandiego.nextrequest.com/documents?filter=.doc>;
- Sacramento County, CA (CPRA) - <https://saccounty.nextrequest.com/documents?filter=.msg>;
<https://saccounty.nextrequest.com/documents?filter=.doc>;
<https://saccounty.nextrequest.com/documents?filter=.ics>;
- Port of Oakland, CA (CPRA) - <https://portofoakland.nextrequest.com/documents?filter=.msg>;
<https://portofoakland.nextrequest.com/documents?filter=.doc>;
<https://portofoakland.nextrequest.com/documents?filter=.ics>
- Vallejo, CA (CPRA; Vallejo Sunshine Ordinance) -
<https://vallejo.nextrequest.com/documents?filter=.msg>;
<https://vallejo.nextrequest.com/documents?filter=.doc>
- Santa Maria, CA (CPRA) - <https://cityofsantamaria.nextrequest.com/documents?filter=.msg> ;
<https://cityofsantamaria.nextrequest.com/documents?filter=.doc>

³ We are not endorsing NextRequest.

⁴ SFAC 67.21-1(a): ... To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.

⁵ <https://www.sfchronicle.com/opinion/openforum/article/Vote-no-on-San-Francisco-Prop-B-it-13291008.php>

- Fort Bragg, CA (CPRA) - <https://cityoffortbraggca.nextrequest.com/documents?filter=.msg>;
<https://cityoffortbraggca.nextrequest.com/documents?filter=.doc>
- Oakland, CA (CPRA; Oakland Sunshine Ordinance) -
<https://oaklandca.nextrequest.com/documents?filter=.msg>
- Placer County, CA (CPRA) - <https://placercounty.nextrequest.com/documents?filter=.msg>
- Marin County, CA (CPRA) - <https://marincountyca.nextrequest.com/documents?filter=.msg>
- San Mateo County Harbor District, CA (CPRA) -
<https://smharbor.nextrequest.com/documents?filter=.pst>;
<https://smharbor.nextrequest.com/documents?filter=.msg>
- Los Angeles, CA (CPRA) - <https://recordsrequest.lacity.org/documents?filter=.msg>
- West Sacramento, CA (CPRA) -
<https://westsacramento.nextrequest.com/documents?filter=.msg>;
<https://westsacramento.nextrequest.com/documents?filter=.pst>
- Mendocino County, CA (CPRA) -
<https://mendocinocounty.nextrequest.com/documents?filter=.doc>
- Port of Seattle, WA - <https://portofseattle.nextrequest.com/documents?filter=.msg>
- Lakewood, WA - <https://cityoflakewoodwa.nextrequest.com/documents?filter=.msg>;
<https://cityoflakewoodwa.nextrequest.com/documents?filter=.doc>;
<https://cityoflakewoodwa.nextrequest.com/documents?filter=.xls>
- Bainbridge Island, WA - <https://bainbridgewa.nextrequest.com/documents?filter=.msg>
- Miami, FL - <https://miami.nextrequest.com/documents?filter=.pst>;
<https://miami.nextrequest.com/documents?filter=.msg>;
<https://miami.nextrequest.com/documents?filter=.xls> ;
<https://miami.nextrequest.com/documents?filter=.doc>
- Las Cruces, NM - <https://cityoflascruces.nextrequest.com/documents?filter=.msg> ;
<https://cityoflascruces.nextrequest.com/documents?filter=.doc>
- Albuquerque, NM - <https://nextrequest.cabq.gov/documents?filter=.msg>

II. Legal Deduction Shows Metadata is Public; Only Exempt Metadata may be Withheld

We can follow the below 10 step analysis, with citations, to conclude without doubt that, within the City of San Francisco, metadata and the electronic files that hold them are, as a rule, public information and public records. Certain laws (SFAC 67.21(l), Gov Code 6253.9 and 6254.19) previously cited by the City using only partial sentences to argue for exemption cannot be read as exemptions when read in full and others are overridden by the Sunshine Ordinance.

1. All government records are public, unless the government can prove they are exempt

In *City of San Jose v Superior Court* (2017), the California Supreme Court states (internal citations omitted, emphasis in original):

CPRA establishes a basic rule requiring disclosure of public records upon request. In general, it creates “a presumptive right of access to any record *created or maintained* by a public agency that relates in any way to the business of the public agency.” Every such record “must be disclosed unless a statutory exception is shown.”

The Sunshine Ordinance states (SFAC 67.21(g)):

In any court proceeding pursuant to this article there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

2. Where the Sunshine Ordinance and CPRA conflict, the rule with greater public access holds

The CPRA expressly provides that local law, like the Sunshine Ordinance, may allow greater public access (Gov Code 6253(e)):

Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

“Prohibited by law” exemptions are mandatory exemptions. The CPRA has both permissive and mandatory exemptions. Permissive exemptions allow an agency not to disclose certain information under the CPRA, but do not prohibit such disclosure. Mandatory exemptions are very few, and are worded very specifically, for example (emphasis mine):

- “The home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of all employees of a public agency *shall not be deemed to be public records...*” (Gov Code 6254.3(a))
- “Unless used by the employee to conduct public business, or necessary to identify a person in an otherwise disclosable communication, the personal email addresses of all employees of a public agency *shall not be deemed to be public records*” (Gov Code 6254.3(b)(1))
- “... the identity of persons who have requested bilingual ballots or ballot pamphlets ... *shall not be deemed to be public records ...*” (Gov Code 6253.6) or
- “The director *shall not knowingly disclose information...*” (Gov Code 6254.2(h))

Mandatory state law exemptions cannot be overridden by the Sunshine Ordinance, but permissive exemptions can be. For example, the permissive public interest balancing test exemption, which allows governments to withhold almost any record or part thereof on a murky self-asserted judgment call, is

prohibited⁶ in the City. Furthermore, every exemption “similar” to such exemption is also prohibited. All arguments cited by the City against metadata disclosure are permissive exemptions under the CPRA, and overridden by the Sunshine Ordinance, as detailed below.

The Sunshine Ordinance itself states that the CPRA governs only when the Ordinance itself does not speak.⁷ Together that means the provision that provides greater public access must hold.

3. When the law is ambiguous, the interpretation favoring greater public access holds

The California Supreme Court held in *San Jose* (internal citations omitted):

In CPRA cases, this standard approach to statutory interpretation is augmented by a constitutional imperative. Proposition 59 amended the Constitution to provide: “A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” “ ‘Given the strong public policy of the people’s right to information concerning the people’s business and the constitutional mandate to construe statutes limiting the right of access narrowly, “all public records are subject to disclosure unless the Legislature has expressly provided to the contrary.” ‘ ”

4. No statute or case law prohibits the disclosure of metadata, therefore it is public

The League of California Cities⁸ and the City have stated that no case law exists declaring metadata (however vaguely defined) either public or private. They appear to be correct. Since there is no such case law or statute declaring all metadata private, **in San Francisco, under SFAC 67.27, which requires statute or case law citation for all withholding, metadata is public by default.**

Moreover, as discussed above there is no objective definition of metadata vs data in the CPRA or Sunshine Ordinance, and for good reason. Allowing the government to withhold from the public certain

⁶ SFAC 67.24 (g) Neither the City nor any office, employee, or agent thereof may assert California Public Records Act Section 6255 or any similar provision as the basis for withholding any documents or information requested under this ordinance.

(h) Neither the City nor any office, employee, or agent thereof may assert an exemption for withholding for any document or information based on a “deliberative process” exemption, either as provided by California Public Records Act Section 6255 or any other provision of law that does not prohibit disclosure.

(i) Neither the City, nor any office, employee, or agent thereof, may assert an exemption for withholding for any document or information based on a finding or showing that the public interest in withholding the information outweighs the public interest in disclosure. All withholdings of documents or information must be based on an express provision of this ordinance providing for withholding of the specific type of information in question or on an express and specific exemption provided by California Public Records Act that is not forbidden by this ordinance.

⁷ SFAC 67.21(k): Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirements provided in this ordinance

⁸ “... there are no reported court opinions in California considering whether or the extent to which metadata is subject to disclosure.” *The People’s Business* pg. 14

information because they call it “metadata” gives broad powers to the City to withhold anything they want to. Such powers to withhold are already improperly asserted by the City.

5. In San Francisco, withholding must be kept minimal not merely “reasonable”

The CPRA Gov. Code 6253(a) provides for *inspection* of “reasonably segregable” information.⁹ **Gov Code 6253(a) applies solely to inspection of a record not copying.**¹⁰ This provision cited by the city is completely irrelevant to the production of copies of electronic records. The City incorrectly argues this “reasonably segregable” clause allows exemption of *all* metadata or an entire document in a native format if the exempt metadata and the non-exempt metadata cannot be “reasonably” segregated. This provision is, quite reasonably, dictating that a requester cannot walk into City Hall and demand to inspect a record where the exempt and non-exempt information is mixed together.

Regardless, the Sunshine Ordinance eliminates such grey areas via SFAC 67.26 which states:

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. **Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released,** and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 67.27 of this Article. ...

No limitation or condition of reasonable segregation exists in San Francisco - 67.26 is very clear that a record simply cannot be withheld in entirety, and solely the exempt portion be removed.

However, even if a reasonably segregated condition is *incorrectly* imposed on the Sunshine Ordinance, **exempt metadata is reasonable segregated from non-exempt metadata because generally each datum is separated into distinct rows, each with a field name and a field value.** Thus, even in the interpretation most disfavorable to transparency, certain rows of metadata must be disclosed, even if others are not (in this interpretation, the government would likely not be required to piece apart parts of the). This disfavorable interpretation should not apply, due to Arguments #2 and #3.

The unrelated restriction in SFAC 67.21(l) on “unseparably intertwined”¹¹ information applies solely to “inspection...on a computer monitor” — not copying of a record. It is entirely reasonable that the City may deny a requestor’s demand to see on a city employee computer a record that has both

⁹ Gov Code 6253(a): Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

¹⁰ This is very similar to the “computer monitor” exception of SFAC 67.21(l) discussed below.

¹¹ SFAC 67.21(l) - ... Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under this ordinance. ...

exempt and non-exempt information on-screen -- this is not an issue of burden, but of protection. However, this provision too has absolutely no relevance to copies of records, by its terms.

Costs of redaction or withholding or any other labor costs cannot be passed on to the requester either.¹²

6. Any available or “easily generated” format must be provided on request

This was already decided in case 19047 Anonymous v. Mayor London Breed, et al. in which the Mayor and her office were found to have violated, inter alia, SFAC 67.21(l) for failing to provide the requested .ICS calendar format, which was found to be “easily generated” in Outlook.

The CPRA (Gov Code 6253.9) only requires agencies to provide a format if it is:

- the “format in which it holds the information” or
- “one that has been used by the agency to create copies for its own use or for provision to other agencies”

The CPRA indeed does not require agencies to perform conversion steps. **City respondents have incorrectly previously argued 6253.9(a) requires your Task Force to reject any exporting; not only is this false (see immediately below), but it would also exclude from production nearly all electronic records in a .PDF format, because most records, including email, text messages, web pages, spreadsheets, calendar entries, photographs, Word documents, and databases, are not “held” by the City in a .PDF format.**

By the City’s argument almost all electronic files would not have to be converted to .PDF, and the City would then also argue that the original format, too, is an IT security threat, and thus the record need not at all be disclosed. The Task Force must reject such absurd conclusions.

Regardless, the Sunshine Ordinance (SFAC 67.21(l)) goes further¹³ than the CPRA and requires agencies to provide any requested format if it is:

- “available” (this word can be interpreted to cover the two CPRA options above), or
- “easily generated.”

Note the exact words used by the ordinance are “easily *generated*.” “Generate” is defined as “to bring into existence¹⁴.” As soon as the City saves, converts, or exports a record in a format, the City has “generated” that format. **Withholding and redaction is not generation.** It is a step performed after generation. **Ease of redaction is not part of the legal rubric in 67.21(l).** Redaction is instead handled in SFAC 67.26 (see above for minimal withholding), and the City is explicitly, and absolutely, required to perform withholding solely of the minimally exempt information.

¹² SFAC 67.26 - ... This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any City employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

¹³ SFAC 67.21(l) - Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, ...

¹⁴ <https://www.merriam-webster.com/dictionary/generate>

Exporting a document by clicking menu items is also not “program[ming] ... a computer” (which is not required of the City). Since programming is not required, ease of generation should be judged by the time it takes to do a manual export (either individually or in bulk). If you accept this City argument that exporting or converting using off-the-shelf software is “programming,” the City would no longer even have to provide PDF files. Programming should include writing software or scripts. Note the City *may* do programming to ease its own burden, and we suggest it should, but it is not required to.

Furthermore, the costs of such generation cannot be passed on to the requester¹⁵ except the cost of the final physical medium (in the modern world: USB sticks, CD-ROM, etc.). If a record is transmitted by email, the bandwidth and storage cost should be much less than one penny, thus it is free.

Finally, the listing of old formats from decades past, or, as the Mayor’s Office called them in 19047, “primitive” formats does not exclude current formats. Argument #3 applies here, as well as the following from SFAC 67.1(c):

New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.

Technology has evolved, and our interpretation of the law must evolve as well.

7. Gov Code 6253.9(f) does not prohibit easily generated formats or metadata disclosure

This requires a careful analysis of Gov Code 6253.9(f) (emphasis mine):

(f) Nothing in **this section** shall be construed to **require** the public agency to release an electronic record **in the electronic form in which it is held by the agency** if its release would jeopardize or compromise the **security or integrity of the original record** or of any **proprietary software** in which it is maintained.

The author, like the City, has previously read this exemption more broadly than is appropriate.

First, the Sunshine Ordinance SFAC 67.21(l) is not “this section” (which is Gov Code 6253); we can demand electronic formats under SFAC 67.21(l) which has no such provision. This citation by the City is irrelevant.

Second, Gov Code 6253.9(f) has nothing to say about metadata. It governs solely formats. See argument #8 below.

Assuming, *arguendo*, the applicability of this subsection, Gov Code **6253.9(f) does not prohibit disclosure of any electronic formats** in general; it simply does not *require* disclosure in “the electronic form in which it is held by the agency” in certain cases. This is a “permissive” exemption, not a “mandatory” exemption. When a CPRA exemption is permissive rather than mandatory, local law, like the Sunshine Ordinance, can provide greater access, and SFAC 67.21(l) does just that.

¹⁵ SFAC 67.21(l) - ... at a charge no greater than the cost of the media on which it is duplicated.

Regardless, if we ask for a format that is not the “form in which it is held by the agency,” then even the permissive exemption of Gov Code 6253.9(f) cannot apply by its terms. Contrary to the City’s argument, Gov Code 6253.9(f) has nothing to say about any format that is not one held by the agency; those “easily generated” formats are governed solely by SFAC 67.21(l).

Even if somehow 6253.9(f) did apply, if we request records in an open or standard format, such format should not jeopardize *proprietary* software. We would suggest records always be produced in open or standard formats both to reduce risks (since a record in such a format can be inspected and analyzed using open tools for exempt information) and also to maximize accessibility by the public.

City respondents often use the undefined term “live” to describe the file formats we request. We request copies, not live files. “Live” is misleading -- we of course would agree that access to the *actual*, underlying, dynamically and real-time modified file on the City’s computer systems would be extraordinarily dangerous and not required by any law. We are asking for *copies* not access to the underlying files. They are not “live” because we cannot see modifications made by the City and we of course are not requesting access to any network resource of the City.

8. Information in the metadata is public even if a particular format is not exportable

Even if it was found that a particular format does not qualify under SFAC 67.21(l) as available or easily generated, and even if a particular format is not disclosable under Gov Code 6253.9(f), all non-exempt information must be disclosed per SFAC 67.26 and SFAC 67.21.

In San Francisco, it is not just the public record *itself* that is disclosable, it is also public information that must be disclosed (SFAC 67.21(a)). “Public information” is the content of a public record¹⁶ (SFAC 67.20(b)); it is clear that the record as “prepared, owned, used, or retained” by the City does contain a lot more information than is generally given when you convert to a PDF, and that information must be disclosed on request if it is non-exempt. Therefore if the City is unable to produce the format with the metadata included, it must still somehow produce the non-exempt metadata that they would otherwise be improperly withholding.

For example, if a requester asks for the creation time of a calendar invite, and the City withholds the full ICS file, it must provide the creation timestamp, since it is a public *part* of a record, regardless.

Any “rule of reason” argument about metadata could potentially allow the City more time to respond with metadata, but it does not make such information exempt.

¹⁶ SFAC 67.20(b) “Public Information” shall mean the content of “public records” as defined in the California Public Records Act (Government Code Section 6252), whether provided in documentary form or in an oral communication. “Public Information” shall not include “computer software” developed by the City and County of San Francisco as defined in the California Public Records Act (Government Code Section 6254.9).

9. Gov Code 6254.19 does not prohibit disclosure of electronic files and metadata, which are not, in entirety, “information security records”

CPRA (Gov Code 6254.19) is another *permissive*, not mandatory, exemption which reads:

Nothing in **this chapter** shall be construed to **require** the disclosure of an **information security record** of a public agency, if, on the facts of the particular case, disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency. **Nothing in this section shall be construed to limit public disclosure of records stored within an information technology system** of a public agency that are not otherwise exempt from disclosure pursuant to this chapter or any other provision of law.

As before, the Sunshine Ordinance is not “this chapter” (Gov Code Chapter 3.5, the CPRA). 6254.19 merely states the CPRA does not *require* certain disclosures.

“Information security record” is not defined in the CPRA; however, “information security” has a dictionary definition¹⁷ of “the state of being protected against the unauthorized use of information, especially electronic data, or the measures taken to achieve this.” **Most records requested are instead the latter, “records stored within an information technology system,” and must be disclosed, and this section cannot even “limit” their disclosure.** The vast majority of records are neither serving an IT security purpose nor a measure taken to protect against unauthorized use of information, however the following could be exempt under this provision:

- Firewall, antivirus, and spam detection rules and configuration
- An email conversation between IT employees discussing the manners in which attacks are prevented
- A manual or policy on IT security containing methods or practices for intrusion detection
- Passwords and cryptographic private key material

Note that to be exempt under 6254.19 a record must be *both* an information security record *and* reveal vulnerabilities or increase the chance of an attack. If a record is not an “information security record” this exclusion simply does not apply.

Common record types, like emails, Word documents, calendar entries, computer aided drawings, memos and plans, are simply not information security records in their entirety. At oral argument on Oct. 2, in *19044 Anonymous v Dennis Herrera et al.*, the Office of the City Attorney claimed that the emails at issue were information security records. At issue were two emails, one sent by the author to the City Attorney and one reply sent back, both regarding a separate public records request. Such emails are not “information security records” but are instead “records stored within an information technology system.”

¹⁷ https://www.lexico.com/en/definition/information_security

It could be a reasonable interpretation to conclude that even if a record in its entirety is not an “information security record,” a specific *portion* of that record (such as one or more headers) might be an information security record and may be subject to exemption under GC 6254.19. Consider the following hypothetical: an email between the Mayor and her Director of Technology has a paragraph about politics, with an intervening sentence about upgrading firewalls. The City would have to produce the political part of the paragraph and redact solely the firewall-related sentence. Merely because there is some security information in a record cannot exempt the entire record, due to SFAC 67.26 (minimal withholding).

10. Electronic files as a whole, whether manually typed by a City employee or not, are public records, per *Sierra Club v Superior Court*

The California Supreme Court’s opinion in *Sierra Club v Superior Court* (2013) has many important holdings for our discussion. It is a CPRA case where the Sierra Club wished for Orange County to disclose raw geographic information system (GIS) databases as public records, and solely at the cost of the duplication. The Supreme Court ruled in Sierra Club’s favor, holding:

The issue in this case is whether the OC Landbase is subject to disclosure in a GIS file format at the actual cost of duplication under the California Public Records Act or whether, as the County contends, it is covered by the statute’s exclusion of “[c]omputer software” (Gov. Code, § 6254.9, subd. (a)) — a term that “includes computer mapping systems” (id., § 6254.9, subd. (b)) — from the definition of a public record. We hold that although GIS mapping software falls within the ambit of this statutory exclusion, a GIS-formatted database like the OC Landbase does not. **Accordingly, such databases are public records that, unless otherwise exempt, must be produced upon request at the actual cost of duplication.**

Orange County lost on its argument that it should only provide PDF files (*Sierra Club*):

The County offered to provide such records in Adobe PDF electronic format or as printed paper copies. However, the County took the position that the PRA did not require it to disclose the same records in a GIS file format and that it would provide the records in that format only if Sierra Club paid a licensing fee and agreed to the license’s restrictions on disclosure.

Sierra Club also holds:

The PRA applies to “public records,” defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (§ 6252, subd. (e).) In this case, the County’s offer to produce alternative records with the information underlying the OC Landbase implicitly recognizes that the *information* within the OC Landbase constitutes public records subject to disclosure unless otherwise exempt from

the PRA. What the parties dispute is whether the OC Landbase *in a GIS file format* is a public record that must be disclosed in that format pursuant to the PRA.

The format of information is not generally determinative of the public record status of government information. A 2000 amendment to the PRA makes electronic data available in whatever format it is normally maintained by the agency.

(Of course as described above the Sunshine Ordinance also allows “easily generated” formats.)

The City has many times called metadata “computer code” because it does not appear readily decipherable to people without a computer science background. However, such term is generally reserved for software. *Sierra Club* explicitly holds that while the software itself is not a public record, the files produced by the software are.

Note that the City has also made an argument on October 2 in *19044* that many *parts* of these native files are not created by a City employee “in the course and scope of their employment,” and thus are simply not *public records* to begin with. This is a dangerous and wrong argument.

First, most of the content of the *Sierra Club* GIS files would also have not been typed in by a human; they are generated by a computer from human input, by processing of maps and other input files, etc, just like email and calendar and other native files are generated by human operation.

Second, **the City’s interpretation would exclude the following, absurdly, from the scope of public records laws:**

- Police body cam footage, or the timestamps and watermarks therein (a human didn’t make them)
- Video camera recordings (a human didn’t make them)
- General emails from the public to the City (since they aren’t written by City employees)
- Financial, tax, and accounting records (most of a financial record is computer generated based on inputs from the employee or gathered automatically from bank systems)
- Filled out forms (the form templates were copied by a computer from some other document, not written by the City employee)
- Nearly all of a PDF file (the human writing in a PDF is minimal, most of the file is computer-generated)

In the modern world, computers generate almost all portions of many records automatically. But a City employee or other human being operates the computer to directly or indirectly perform those actions and generate that record, just like a human being directs a camera to record footage, even though the human being does not draw out every frame of footage with a paintbrush.

We must interpret the public records laws broadly, and native electronic files and their metadata must be disclosed.

III. Electronic Production in Practice

Generally, a requester chooses to request a certain easily generated SFAC 67.21(l) format specifically *because* the format conveniently describes *some* public, non-exempt information they would otherwise not be provided if the City either printed/scanned the record or converted it to PDF. For example, iCalendar format allows us to know when a calendar entry was created and modified, which would not be visible if the City converted to PDF.

Alternatively, the requester may wish to do bulk analysis, commonly done for investigative reporting, such as:

- search through documents for certain words;
- examine the frequency of communication between two government employees;
- build an analysis of groups of employees by communication patterns

The author has previously done such analysis of public records for journalists. Most famously, examples of such analysis are commonly done on the Enron Corpus, “600,000 emails generated by 158 employees of the Enron Corporation and acquired by the Federal Energy Regulatory Commission.”¹⁸

If a standardized format is requested, and easily generated, redaction should generally be performed by deletion. The Task Force in *19047* appeared to believe only masking or redaction is permitted. That is not supported by SFAC 67.26.

Furthermore, the City must follow both SFAC 67.21(l) and 67.26 - thus deletion, with clear reference, is the only redaction mechanism available to the City. Remember, 67.26 explicitly allows either classical redaction (called “masking”) or deletion. Converting to PDF and applying black lines would mean the information is no longer in the easily generated format. In order to provide a file in the requested easily generated format, deletion (with justification) may be the only option.

While programming is never required of the City, a few simple scripts to delete the exempt information from generated files may, on the balance, cost less total labor time. This also allows a completely standard redaction list, and comprehensive and consistent protection of the City’s IT security, without relying on error-prone repetitive human analysis.

¹⁸ Wikipedia contributors. (2019, August 29). Enron Corpus. In Wikipedia, The Free Encyclopedia. Retrieved 19:17, October 13, 2019, from https://en.wikipedia.org/w/index.php?title=Enron_Corpus&oldid=913085743

IV. Status of Specific Formats or Methods of Production

Format or Method of Production	Status	Citations or Rationale
Printing to a physical paper and scanning it back in to PDF	Prohibited unless the document is not electronic	Gov Code 6253(b); SFAC 67.26 (Minimal withholdings). This method withholds various information that is public, whether metadata or not.
Virtually converting to PDF	Permitted if no other available or “easily generated” format requested	SFAC 67.21(l), Gov Code 6253(b) Nearly all software can “virtually” print directly to PDF, which can then be redacted in Adobe Acrobat
Native electronic files and databases in general	Public	<i>Sierra Club v Superior Court</i> (2013) Gov Code 6254.19 (“records stored within an information technology system”)
Forwarding an email and producing the forwarded email	Prohibited	Gov Code 6253(b) When an email is forwarded its metadata is completely changed, and the original record’s data is lost.
Calendars in .ICS form	Easily generated	SOTF 19047; SFAC 67.21(l); Standardized format: RFC 5545 (Updated by: RFC 5546, RFC 6868, RFC 7529, RFC 7986) ¹⁹
Emails in .PST format	Original format, but may be arguably exempt as IT risk	Gov Code 6253.9
Emails in .MSG format	Easily generated	SFAC 67.21(l)
Emails in .EML format	Easily generated	SFAC 67.21(l) “The files contain the email

¹⁹ Wikipedia contributors. (2019, September 21). ICalendar. In Wikipedia, The Free Encyclopedia. Retrieved 22:10, October 16, 2019, from <https://en.wikipedia.org/w/index.php?title=ICalendar&oldid=917036223>

		contents as plain text in MIME format, containing the email header and body, including attachments in one or more of several formats.” ²⁰
Word documents in .DOCX form	Original format OR easily generated	Gov Code 6253.9; SFAC 67.21(I); standardized in ECMA-376, ISO/IEC 29500-1:2012 ²¹
Text files in .TXT form	Original format OR easily generated	Gov Code 6253.9; SFAC 67.21(I)
Excel spreadsheets in .XLSX	Original format OR easily generated	Gov Code 6253.9; SFAC 67.21(I); Standardized in ECMA-376, ISO/IEC 29500:2008 ²²
Any spreadsheet in .CSV or .TSV format	Easily generated	SFAC 67.21(I); plain text inspectable

V. Status of Common Electronic Information

Data Type	Status	Citations or Rationale
Formatting in emails/other files	Public	Gov Code 6253(b); No exemption, thus public by default
Images in emails/other files	Public	Gov Code 6253(b); No exemption, thus public by default
Attachments in emails	Public	Gov Code 6253(b); No exemption, thus public by default
Timestamps or timezones of sending or receiving a communication	Public	No citation, thus public by default
Standardized file format structures and header names	Public	This is not information specific to the City’s systems, and is publicly documented. No citation, thus public by default
Government email address	Public	No citation, thus public by default

²⁰ Wikipedia contributors. (2019, October 10). Email. In Wikipedia, The Free Encyclopedia. Retrieved 22:09, October 16, 2019, from <https://en.wikipedia.org/w/index.php?title=Email&oldid=920475854>

²¹ Wikipedia contributors. (2019, October 9). Office Open XML. In Wikipedia, The Free Encyclopedia. Retrieved 23:44, October 16, 2019, from https://en.wikipedia.org/w/index.php?title=Office_Open_XML&oldid=920342339

²² *Ibid*

Personal email address of govt employee used for govt business	Public	Gov Code 6254.3(b)(1)
Personal email address of govt employee not used for govt business	Exempt	CA Constitution, Prop B
Personal email address of private citizen	Exempt	CA Constitution, Prop B
Government IP address	Unsure	These are sent in emails sent by the govt to the public, and they are publicly and officially documented as owned by the City (as a group, not individually) by the American Registry for Internet Numbers. There could thus be a debate on individual identifiers vs subnetworks, but that is beyond the scope of this analysis. Gov Code 6254.19
Personal IP address	Exempt	CA Constitution, Prop B
Security configurations	Exempt	Gov Code 6254.19
Non-standard or proprietary file format structures and header names	Case by case	Possibly Gov Code 6253.9(f) and/or 6254.19
Application version numbers	Unsure	Possibly Gov Code 6254.19
Application version names	Case by case	In certain cases, these are “enterprise systems” and must be disclosed. In other cases, Gov Code 6254.19
Misc. header values	Case by case	In some cases, Gov Code 6254.19; in other cases they are not information security records and should be disclosed
Message identifiers	Case by case	In some cases, Gov Code 6254.19; in other cases they are not information security records and should be disclosed
Prior versions of a document	Case by Case	SFAC 67.24(a) Deliberative process exemption prohibited

VI. Relevant Terminology

Information Security Terms

The definitions below are taken from the US Department of Homeland Security’s “Glossary of Common Cybersecurity Terminology” (<https://niccs.us-cert.gov/about-niccs/glossary>, published November 28, 2018, retrieved October 16, 2019, no claim to original government works). The explanations are cited from Wikipedia.

Term	US DHS/NICCS Definition	Our explanation
Spoofing	Faking the sending address of a transmission to gain illegal [unauthorized] entry into a secure system. Extended Definition: The deliberate inducement of a user or resource to take incorrect action. Note: Impersonating, masquerading, piggybacking, and mimicking are forms of spoofing.	We presume this is the key concern of the City. The City wishes to withhold certain information to prevent or reduce the likelihood of impersonation of City employees or computers. This is indeed risky and thus info may be properly exempt under GC 6254.19. It is unfortunately an extremely common type of attack due to the fact that email ²³ and IP (Internet protocol) were originally invented as insecure protocols and do not in general verify the sender’s identity. Numerous statistical and cryptographic mechanisms have been built on top of the email and IP protocols to make them safer, including general spam detectors, DKIM, SPF, DMARC, and SSL/TLS, which are beyond the scope of this report. ²⁴
Phishing	A digital form of social engineering to deceive individuals into providing sensitive information.	Phishing is often performed by first performing spoofing. ²⁵ If someone can trick someone into thinking a message came from a City employee, then they might click a link and fill out a form (for example a login page which would steal your passwords) or reply with

²³ Wikipedia contributors. (2019, September 19). Email spoofing. In Wikipedia, The Free Encyclopedia. Retrieved 23:49, October 16, 2019, from https://en.wikipedia.org/w/index.php?title=Email_spoofing&oldid=916615676

²⁴ Ibid

²⁵ Ibid

		confidential information. This concern is a good reason to withhold certain information under GC 6254.19.
Malware	Software that compromises the operation of a system by performing an unauthorized function or process. Synonym(s): malicious code, malicious applet, malicious logic	This is malicious computer software that attempts to do criminal damage. While there are numerous attacks used, spoofing and phishing are methods attackers could use to install malware by tricking City employees. ²⁶ This concern is a good reason to withhold certain information under GC 6254.19.

General Terms

- **Native format** - The format regularly used by the agency software system to store a record. This is the record as physically “retained” by the agency. All easily generated formats are produced *from* this format. This format is what the CPRA calls the “electronic format in which it holds the information” (Gov Code 6253.9(a)(1)). It is also an “available” format under SFAC 67.21(l).
- **Easily generated format** - a format that can be exported, converted, or saved from the native file format, “easily” under SFAC 67.21(l).

²⁶ Ibid

[Digital Preservation Home](#) | [Digital Formats Home](#)

Sustainability of Digital Formats: Planning for Library of Congress Collections

Search this site

Go

[Introduction](#) | [Sustainability Factors](#) | [Content Categories](#) | [Format Descriptions](#) | [Contact](#)
[Format Description Categories](#) >> [Browse Alphabetical List](#)

iCalendar Electronic Calendar and Scheduling Format

[>> Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000394
- Short name: iCal
- Content categories: text, other (calendar)
- Format Category: encoding
- Other facets: unitary, text, structured, sampled
- Last significant FDD update: 2014-05-01
- Draft status: Full

Identification and description ⁱ

Full name	iCalendar Electronic Calendar and Scheduling Format
Description	iCalendar, or iCal, is a widely-used format for the exchange of electronic calendaring and scheduling data between applications or systems. Based on the vCalendar format created by the Internet Mail Consortium, iCalendar files can be exchanged through a wide variety of methods including SMTP, HTTP, interactive desktop protocols such as the use of a memory-based clipboard or drag/drop interactions, and others because they are designed to be independent of specific transport protocols. The iCalendar format supports functionality such as requesting, replying to, modifying, and canceling meetings or appointments, to-dos, and journal entries. Through the iCalendar Transport-independent Interoperability

	<p>Protocol (iTIP) defined in RFC 2446, iCalendar objects can be used to define other calendaring and scheduling operations such as requesting for and replying with free/busy time data.</p> <p>See Notes for description of the file structure.</p>
Relationship to other formats	
Has subtype	hCalendar , HTML Electronic Calendar and Scheduling Format. HTML representation of iCal calendar information

Local use

LC experience or existing holdings	
LC preference	

Sustainability factors

Disclosure	Open standards available from Internet Engineering Task Force (IETF).
Documentation	iCalendar is fully documented though RFC 5545, RFC 2446, and RFC 2447.
Adoption	<p>According to Wikipedia (accessed on May 1, 2014), "iCalendar is used and supported by a large number of products, including Google Calendar, Apple Calendar (formerly iCal), IBM Lotus Notes, Yahoo! Calendar, Evolution (software), eM Client, Lightning extension for Mozilla Thunderbird and SeaMonkey, and partially by Microsoft Outlook and Novell GroupWise."</p> <p>The iCalendar implementation page on Microformats.com provides details about some modifications for specific implementations including Apple iCal 2.0.5 (date and date-time formatting) and Microsoft Outlook 2003 (where the VEVENTS calendar component is required to have UID, DTSTAMP, and METHOD properties or an error is returned).</p>
Licensing and patents	None
Transparency	<p>The primary content of iCalendar files is straightforward text that can be read by humans or processed by computers. An iCalendar file consists of lines of text, each line limited to 75 octets and delimited by a CRLF sequence. The default character encoding is UTF-8. To facilitate automated parsing, RFC 5545 defines the iCalendar format using ABNF notation, as defined in RFC 5234.</p> <p>Applications must also read, but are not required to write, US-ASCII.</p> <p>Calendar objects, such as events, may have binary attachments encoded using the BASE64 encoding defined in RFC 4648 and embedded inline.</p>
Self-documentation	iCalendar has syntax and structure that features well-defined

	metadata. See Notes for description of the file structure.
External dependencies	None
Technical protection considerations	None

Quality and functionality factors ⁱ

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	ics ifb	"ics" is used to designate a file containing calendaring and scheduling information consistent with text/calendar MIME content type. "ifb" is used to designate a file containing free or busy time information consistent with text/calendar MIME content type.
Internet Media Type	text/calendar	Registered with IANA
Mac OS file type	iCal iFBf	"iCal" is used to designate a file containing calendaring and scheduling information consistent with text/calendar MIME media type. "iFBf" is used to designate a file containing free or busy time information consistent with text/calendar MIME media type.
File signature	fmt/388	PRONOM entry for Internet Calendar and Scheduling format . Identification based on internal signifier.

Notes ⁱ

General	<p>At the most basic level, iCalendar files are organized into individual lines of text (called content lines) which are limited to 75 octets in length. Content lines are delimited by a CRLF sequence. Long data items (i.e., longer than 75 octets) can be split between any two characters by inserting a CRLF immediately followed by a single SPACE or TAB white-space character.</p> <p>At a higher level of structure, the Calendaring and Scheduling Core Object is a collection of calendaring and scheduling information. Typically, this information will consist of an iCalendar stream with a one or more sequentially grouped iCalendar objects together in an iCalendar stream.</p> <p>Within the iCalendar object, the first line must be "BEGIN:VCALENDAR" and the last line must be "END:VCALENDAR". Between these encapsulating lines is the iCalendar body which consists of a sequence of calendar properties and one or more calendar components. The calendar properties are</p>
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attributes that apply to the calendar object as a whole. The calendar components are collections of properties that express a particular calendar semantic. For example, the calendar component can specify an event, a to-do, a journal entry, time zone information, free/busy time information, or an alarm.

Within the iCalendar body structure:

- two calendar properties are required and may not appear more than once: "PRODID" which specifies the identifier for the product that created the iCalendar object and "VERSION" which specifies the identifier corresponding to the highest version number or the minimum and maximum range of the iCalendar specification that is required in order to interpret the iCalendar object. The value "VERSION:2.0" indicates that the data is in iCalendar format as specified in [RFC 5545](#). "VERSION:1.0" is used to specify that data is in the now-defunct [vCalendar format](#);
- two calendar properties are optional and may not appear more than once: "CALSCALE" which defines the calendar scale used for the calendar information specified in the iCalendar object (default is Gregorian) and "METHOD" which defines the iCalendar object method associated with the calendar object;
- other calendar properties are optional and may appear more than once.

Applications that import iCalendar objects are expected to support all of the component types defined in RFC 5545. Practically, this means that applications are expected to ignore values they don't recognize and should not silently drop any components as that can lead to user data loss.

Moreover, compliant applications must generate iCalendar streams in the UTF-8 charset and must accept iCalendar streams in UTF-8 or US-ASCII charsets. A different character set can be specified using the "charset" MIME parameter.

iCalendar objects can have attachments. The default value type for the Attach descriptive component property is [URI](#). The value type can also be set to BINARY to indicate inline binary encoded content information.

History	<p>iCalendar is based on the vCalendar format published in 1996 by the Internet Mail Consortium (IMC). RFC 2445, which defined the first iCalendar format, was created by the Internet Engineering Task Force Calendaring and Scheduling Working Group in 1998; the RFC 5545 update and current specification was published by IETF in 2009.</p>
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Format specifications

- RFCs for iCal
 - [RFC 5545: Internet Calendaring and Scheduling Core Object Specification \(iCalendar\)](#) (<http://www.ietf.org/rfc/rfc5545.txt>). Current RFC

- [RFC 2445: Internet Calendaring and Scheduling Core Object Specification \(iCalendar\)](http://www.ietf.org/rfc/rfc2445.txt) (http://www.ietf.org/rfc/rfc2445.txt). Obsoleted by RFC 5545
- [RFC 2446: iCalendar Transport-Independent Interoperability Protocol \(iTIP\) Scheduling Events, BusyTime, To-dos and Journal Entries](http://www.ietf.org/rfc/rfc2446.txt) (http://www.ietf.org/rfc/rfc2446.txt). Specifies how calendaring systems use iCalendar objects to inter-operate with other calendar systems
- [RFC 2447: iCalendar Message-Based Interoperability Protocol \(iMIP\)](http://www.ietf.org/rfc/rfc2447.txt) (http://www.ietf.org/rfc/rfc2447.txt). Specifies a binding from RFC 2446 (iTIP) to Internet email-based transports

Useful references

URLs

- [Wikipedia entry for iCalendar](http://en.wikipedia.org/wiki/ICalendar) (http://en.wikipedia.org/wiki/ICalendar).
- [Wikipedia entry for Calendaring Software](http://en.wikipedia.org/wiki/Calendaring_software) (http://en.wikipedia.org/wiki/Calendaring_software).
- [PRONOM entry for fmt/388. Outline entry only.](http://www.nationalarchives.gov.uk/PRONOM/fmt/388) (http://www.nationalarchives.gov.uk/PRONOM/fmt/388). Information in PRONOM from UK National Archives about Internet Calendar and Scheduling format. PUID: fmt/388.
- [vCard and vCalendar](http://www.imc.org/pdi/) (http://www.imc.org/pdi/). Information about vCalendar, precursor to iCal, from the now defunct IMC
- [Google: Format iCalendar files](https://support.google.com/calendar/answer/45664?hl=en) (https://support.google.com/calendar/answer/45664?hl=en). Basic overview of format including instructions on editing iCalendar files
- [Microformats.org iCalendar implementations](http://microformats.org/wiki/icalendar-implementations) (http://microformats.org/wiki/icalendar-implementations). Includes modifications for specific implementations

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[Digital Preservation Home](#) | [Digital Formats Home](#)

Sustainability of Digital Formats: Planning for Library of Congress Collections

[Introduction](#) | [Sustainability Factors](#) | [Content Categories](#) | [Format Descriptions](#) | [Contact](#)
[Format Description Categories](#) >> [Browse Alphabetical List](#)

Email (Electronic Mail Format)

>> [Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000388
- Short name: EML
- Content categories: text, email
- Format Category: file-format
- Other facets: unitary, binary, structured, symbolic
- Last significant FDD update: 2014-04-01
- Draft status: Full

Identification and description ⁱ

Full name	Email (Electronic Mail Format)
Description	<p>EML, short for electronic mail or email, is a file extension for an email message saved to a file in the Internet Message Format protocol for electronic mail messages. It is the standard format used by Microsoft Outlook Express as well as some other email programs. Since EML files are created to comply with industry standard RFC 5322, EML files can be used with most email clients, servers and applications. See IMF for a description of the message syntax.</p> <p>EML files typically store each message as a single file (unlike MBOX which concatenates all the messages from a folder into one file), and attachments may either be included as MIME content in the</p>

message or written off as a separate file, referenced from a marker in the EML file.

Relationship to other formats

Defined via IME, Internet Mail Format

Local use ⁱ

LC experience or existing holdings	
LC preference	

Sustainability factors ⁱ

Disclosure	Partially documented through RFC 5322 but documentation about EML specifically is not readily available.
Documentation	There is no known specification that defines EML as a file format to store email messages on a file system although it is commonly considered to be an extension of <u>IME</u> as defined in RFC 5322.
Adoption	<p>Besides the Microsoft Outlook Express, EML files can be opened using most email clients, such as Microsoft Outlook, Microsoft Entourage, Mozilla Thunderbird, Apple Mail, or IncrediMail. Since EML files are plain text and formatted much like MHT (MIME HTML) files, they can also be opened directly in the Internet Explorer, Mozilla Firefox and Opera, by first changing the file extension from .eml to .mht. It is also possible to view EML files using notepad or any other text editor.</p> <p>Windows 8, however, does not natively support EML in the built in Mail application so an <u>EML Viewer</u> was developed in order to support reading EML files.</p> <p><u>Prom reports</u> that <u>MBOX</u> and EML have "achieved a certain status as de facto standards because most modern email clients and servers can import and export one or both of the formats" including Thunderbird, Apple Mail, Outlook and Eudora. In addition, external programs such as Aid4Mail, Emailchemy and Xena can convert between the two formats and numerous proprietary formats. Once in an <u>MBOX</u> or EML format, the data can be parsed into XML using standardized schemas.</p> <p>Harvard University Libraries' <u>Electronic Archiving System (EAS)</u> normalizes email messages to EML.</p>
Licensing and patents	None
Transparency	EML files are usually simple text files and can be opened in Notepad or a web browser, either by changing the extension from eml to txt or HTML, or by changing the file association to Notepad.
Self-documentation	See <u>IME</u>

External dependencies	None
Technical protection considerations	None

Quality and functionality factors ⁱ

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	eml	
Internet Media Type	message/rfc822	This is the common MIME type for all formats based on RFC 822.
Pronom PUID	See note.	No corresponding PUID because EML is based on <u>IMF</u>
Wikidata Title ID	See note.	See <u>IMF</u>

Notes ⁱ

General	
History	

Format specifications ⁱ

- See IMF

Useful references

URLs

- PRONOM entry for fmt/278 (<http://nationalarchives.gov.uk/PRONOM/fmt/278>). Information in PRONOM from the UK National Archives about Internet Message Format which defines EML. PUID: fmt/278
- Internet mail message header format (<http://cr.yip.to/immhf.html>). Describes format of an Internet mail message header
- Archivematica Email Preservation (https://wiki.archivematica.org/Email_preservation). Brief format descriptions including EML
- Wikipedia Email (<http://en.wikipedia.org/wiki/Email>). Includes discussion of many email formats including EML
- EML file extension - Email message file (<http://www.file-extensions.org/eml-file-extension>).

- Preserving Email: DPC Technology Watch report 2011 by Christopher J. Prom
(<http://dx.doi.org/10.7207/twr11-01>). Excellent coverage of issues with preserving email.

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[Digital Preservation Home](#) | [Digital Formats Home](#)

Sustainability of Digital Formats: Planning for Library of Congress Collections

[Introduction](#) | [Sustainability Factors](#) | [Content Categories](#) | [Format Descriptions](#) | [Contact](#)
[Format Description Categories](#) >> [Browse Alphabetical List](#)

Microsoft Outlook Item (MSG)

[>> Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000379
- Short name: MSG
- Content categories: text, email
- Format Category: file-format
- Other facets: unitary, binary, structured, symbolic
- Last significant FDD update: 2014-03-28
- Draft status: Full

Identification and description ⁱ

Full name	Microsoft Outlook Item (MSG)
Description	<p>The Outlook Item MSG (.msg) file format is a syntax for storing a single Message object, such as an email, an appointment, a contact, a task, and so on, in a file. Any properties that are present on the Message object, including Attachment objects, are also present in the MSG file.</p> <p>MSG is based on the CFB_3 format which implements a simplified file system through a hierarchical collection of storage objects and stream objects which behave as directories and files, respectively within a single file. Message files contain objects which contain properties and collections of properties. For all intents and purposes,</p>

objects are represented by storages and properties are represented and reside in streams.

MSG specifies five storage elements, each representing one major component of the Message object and a number of streams are contained within those storages, each stream representing a property (or a set of properties) of that component.

The storages are:

- Recipient object storage
- Attachment object storage
- Embedded Message object storage
- Custom attachment storage
- Named property mapping storage

The numbers and types of storages and streams present in a MSG file depend on the type of Message object, the number of Recipient objects and Attachment objects it has, and other properties. Properties define attributes of the object like the sender email, whether a read receipt was requested by the sender, whether this message was auto forwarded, an attachment's filename, etc.

String properties in MSG must be either Unicode or non-Unicode. The .msg File Format does not allow the presence of both simultaneously.

Production phase	MSG files provide a mechanism for the storage of an email message, an appointment, a contact, or a task within a file system.
Relationship to other formats	
Defined via	<u>CFB_3</u> , Compound File Binary File Format, Version 3
Defined via	<u>CFB_4</u> , Compound File Binary File Format, Version 4

Local use ⁱ

LC experience or existing holdings	
LC preference	

Sustainability factors ⁱ

Disclosure	Fully documented. Proprietary file format developed by Microsoft.
Documentation	[<u>MS-OXMSG</u>]: Outlook Item (.msg) File Format specification available from Microsoft.
Adoption	MSG is implemented in the following Microsoft products: Microsoft Exchange Server 2003-2013 and Microsoft Office Outlook 2003-2013.
Licensing and patents	The MSG format specification is covered by the Microsoft Interoperability Program. See <u>Useful references</u> below. Microsoft

	claims no patents in the MSG format. Patents and licenses may apply to some operations and protocols that are used by Microsoft in its electronic mail products and that the MSG format is designed to support. In late 2015, the only patents listed by Microsoft as associated with the related protocol specifications listed in this format description are associated with operational systems for managing messages according to a retention policy: US 8620869 B2 -- Techniques to manage retention policy tags ; and US 20140095641 A1 -- Techniques to manage retention policy tags .
Transparency	A .msg file can be saved in Outlook or compatible email client and then viewed in an hex editor or binary file parser.
Self-documentation	See CFB 3
External dependencies	None
Technical protection considerations	None

Quality and functionality factors ⁱ

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	msg	From specification
Internet Media Type	application/vnd.ms-outlook	Not registered with IANA but listed on MIME Types by Content Type .
File signature		See CFB 3

Notes ⁱ

General	<p>Microsoft reports that there are scenarios for which storing a Message object in the MSG format would not be advisable:</p> <ul style="list-style-type: none"> • Maintaining a large standalone archive. A better option would be a more full-featured format that can render views more efficiently. • Sending information to an unknown receiver. In this scenario, it is possible that the format is not supported by the receiver or that information that is private or irrelevant might be transmitted. <p>MSG provides some security mechanisms for ensuring that clients read the correct number of bytes from constituent streams.</p> <ul style="list-style-type: none"> • In the case of multiple-valued variable-length-properties, the length stream contains the lengths of each value. Clients can
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	<p>compare the lengths obtained from there with the actual length of the value streams. If they are not in sync, it can be assumed that there is data corruption.</p> <ul style="list-style-type: none"> • In case of the strings, stream entries are stored prefixed with their lengths; and if any inconsistency is detected, clients can assume that there is data corruption.
History	

Format specifications ⁱ

- [\[MS-OXMSG\]: Outlook Item \(.msg\) File Format](https://msdn.microsoft.com/en-us/library/cc463912.aspx) (https://msdn.microsoft.com/en-us/library/cc463912.aspx). Format specification from Microsoft. Document covered by Microsoft Interoperability Program. No patents are associated with this specification..
- Property schemas for MSG Message objects are defined by separate documents. These protocol specifications are covered by the Microsoft Interoperability Program. See [Useful References](#) below. The only associated patents listed by Microsoft relate to active operation of a mail system that uses tags to manage and expire messages in line with a retention policy.
 - [\[MS-OXCMSG\]: Message and Attachment Object Protocol](https://msdn.microsoft.com/en-us/library/cc463900.aspx) (https://msdn.microsoft.com/en-us/library/cc463900.aspx). Specifies the basic property schema for a Message object
 - [\[MS-OXPROPS\]: Exchange Server Protocols Master Property List](https://msdn.microsoft.com/en-us/library/cc433490.aspx) (https://msdn.microsoft.com/en-us/library/cc433490.aspx). Specifies the basic property schema for a Message object and the default property schema for a Folder object

Useful references

URLs

- Helpful blog series from Microsoft Open Specifications Support Team Blog on MSG format
 - [.MSG File Format \(Part 1\)](http://blogs.msdn.com/b/openspecification/archive/2009/11/06/msg-file-format-part-1.aspx) (http://blogs.msdn.com/b/openspecification/archive/2009/11/06/msg-file-format-part-1.aspx). Overview of the MSG format
 - [.MSG File Format, Rights Managed Email Message \(Part 2\)](http://blogs.msdn.com/b/openspecification/archive/2010/06/20/msg-file-format-rights-managed-email-message-part-2.aspx) (http://blogs.msdn.com/b/openspecification/archive/2010/06/20/msg-file-format-rights-managed-email-message-part-2.aspx). General exploration of rights managed MSG email messages
 - [.MSG File Format, Rights Managed Email Message \(Part 3\)](http://blogs.msdn.com/b/openspecification/archive/2011/06/14/msg-file-format-rights-managed-email-message-part-3.aspx) (http://blogs.msdn.com/b/openspecification/archive/2011/06/14/msg-file-format-rights-managed-email-message-part-3.aspx). More detail about rights managed MSG email messages
- Links related to the Microsoft Interoperability Program, a documentation program designed in connection with the 2009 Interoperability Undertaking between Microsoft and the European Commission. Covers Exchange-Outlook protocols documentation.
 - [Microsoft Interoperability Program](https://msdn.microsoft.com/en-us/library/gg134029.aspx). (https://msdn.microsoft.com/en-us/library/gg134029.aspx).
 - [Microsoft Statement on European Commission Decision, December 2009](http://news.microsoft.com/2009/12/16/microsoft-statement-on-european-commission-decision/). (http://news.microsoft.com/2009/12/16/microsoft-statement-on-european-commission-decision/).
 - [Persistent Microsoft link to Microsoft Statement on European Commission Decision, December 2009](http://go.microsoft.com/fwlink/?LinkId=179741). (http://go.microsoft.com/fwlink/?LinkId=179741).
 - [Microsoft Open Specifications Programs: Patent Promises and Patents](https://msdn.microsoft.com/en-us/openspecifications/dn750984) (https://msdn.microsoft.com/en-us/openspecifications/dn750984). Includes an interactive table that enables identification of any Microsoft patents or patent applications that Microsoft believes to be associated with a published specification.

- Microsoft Interoperability Program (MIP): Patent License and Covenant Agreements
(<https://msdn.microsoft.com/en-us/openspecifications/dn646762>). See Patent Pledge for Open Source Developers.
- See also CFB 3

Last Updated: 05/18/2018

[Digital Preservation Home](#) | [Digital Formats Home](#)

Sustainability of Digital Formats: Planning for Library of Congress Collections

Search this site

[Introduction](#) | [Sustainability Factors](#) | [Content Categories](#) | [Format Descriptions](#) | [Contact](#)
[Format Description Categories](#) >> [Browse Alphabetical List](#)

DOCX Transitional (Office Open XML), ISO 29500:2008-2016, ECMA-376, Editions 1-5

>> [Back](#)
[Table of Contents](#)

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000397
- Short name: DOCX/OOXML_2012
- Content categories: text, office/business
- Format Category: file-format
- Other facets: text, structured, symbolic
- Last significant FDD update: 2017-01-20
- Draft status: Full

Identification and description ⁱ

Full name	DOCX, (Office Open XML, WordprocessingML) ISO 29500:2008-2016, also ECMA-376, Editions 1-5.
Description	<p>The Office Open XML-based word processing format using .docx as a file extension has been the default format produced for new documents by versions of Microsoft Word since Word 2007. The format was designed to incorporate the full semantics and functionality of the binary .doc format produced by earlier versions of Microsoft Word. For convenience, this format description uses DOCX to identify the corresponding format. The primary content of a DOCX file is marked up in WordprocessingML, which is specified in parts 1 and 4 of <i>ISO/IEC 29500, Information technology -- Document description and processing languages -- Office Open XML File Formats (OOXML)</i>. This description focuses on the specification in <i>ISO/IEC 29500:2012</i> and represents the format variant known as "Transitional." Although editions of ISO 29500 were published in 2008, 2011, 2016, and 2016, the specification in the standard has had very few changes other than clarifications and corrections to match actual usage in documents since WordprocessingML was first standardized in ECMA-376, Part 1 in 2006. Hence, this description should be read as applying to all WordprocessingML versions published by ECMA International and by ISO/IEC through 2016. See Notes below for more detail on the chronological versions and minor differences.</p> <p>A DOCX file is packaged using the Open Packaging Conventions (OPC/OOXML_2012, itself based on ZIP 6.2.0). The package can be explored, by opening with ZIP software, typically by changing the file extension to .zip. The top level of a minimal package will typically have three folders (<i>_rels</i>, <i>docProps</i>, and <i>word</i>) and one file part (<i>[Content_Types].xml</i>). The <i>word</i> folder holds the primary content of the document in the file part <i>document.xml</i>. The other folders and contained parts support efficient navigation and manipulation of the package:</p> <ul style="list-style-type: none"> • <i>_rels</i> is a Relationships folder, containing a single file <i>.rels</i> (which may be hidden from file listings, depending on operating system and settings). It lists and links to the key parts in the package, using URIs to identify the type of relationship of each key part to the package. In particular it specifies a relationship to <i>word/document.xml</i> as the primary <i>officeDocument</i> and to parts within <i>docProps</i> as core and extended properties. • <i>docProps</i> is a folder that contains properties for the document as a whole, typically including a set of core properties, a set of extended or application-specific properties, and a thumbnail preview for the document. • <i>[Content_Types].xml</i> is a file part, a mandatory part in any OPC package, that lists the content types (using MIME Internet Media Types as defined in RFC 6838) for parts within the package. <p>The <i>word</i> folder contains at a minimum <i>document.xml</i> and files and subsidiary folders that support presentation styles and themes. Headers and footers are stored in separate parts if present. The minimal structure for <i>document.xml</i> will include a nested set of elements:</p> <ul style="list-style-type: none"> • <code><w:body></code> --- text body • <code><w:p></code> --- paragraph

DOCX Transitional (Office Open XML), ISO 29500:2008-2016, ECMA-376, Editions 1-5

	<ul style="list-style-type: none"> • <w:r> --- run, text having a given set of formatting parameters, e.g., font face and size, regular, bold or italic, etc. • <w:t> --- textual characters, allowing any Unicode character allowed by XML. <p>Optional elements <w:pPr> and <w:rPr> define the formatting properties of a particular paragraph or run.</p> <p>The standards documents that specify this format run to over six thousand pages. Useful but thorough introductions to the DOCX format can be found at:</p> <ul style="list-style-type: none"> • Anatomy of a WordprocessingML File by Daniel Dick of Reuters. • Structure of a WordprocessingML document from Open XML SDK documentation. Includes diagram showing typical document parts.
Production phase	Can be used in any production phase. Particularly used for creating documents (initial state) and for editing and review (middle-state). Documents that are formally published are often converted to a format that is designed for final publication and not for convenient editing.
Relationship to other formats	
Subtype of	OOXML Family, OOXML (ISO/IEC 29500) Format Family
Subtype of	OPC/OOXML 2012, Open Packaging Conventions (Office Open XML), ISO 29500-2:2008-2012
May contain	MCE/OOXML 2012, Markup Compatibility and Extensibility (Office Open XML), ISO 29500-3:2008-2015, ECMA-376, Editions 1-5
Has modified version	DOCX/OOXML Strict 2012, DOCX Strict (Office Open XML), ISO 29500-1: 2008-2016. The Strict variant of DOCX disallows legacy markup as specified in Part 4 of ISO/IEC 29500. Hence the Strict variant has less support for backwards compatibility when converting documents from older formats.
Has modified version	Associated template format using extension .dotx, not described separately on this website. A .dotx template file is a WordprocessingML document based on the same schema and namespaces (specified in ISO/IEC 29500) as a .docx file. The difference is its intended use.
Affinity to	Associated format for WordprocessingML documents or templates with embedded macros, using file extensions .docm and .dotm, not described separately at this website. The language used by Microsoft for macros, VBA, is not covered by the ISO/IEC 29500 specification, but is fully documented by Microsoft. Macros are embedded as parts in the OPC package.
Defined via	XML, Extensible Markup Language (XML)

Local use ⁱ

LC experience or existing holdings	Used by Library of Congress staff. Sometimes used as the master for documents published by the Library of Congress as PDFs, for example for oral history transcripts in the Civil Rights History Project .
LC preference	For works acquired for its collections, the list of Library of Congress Recommended Formats Statement for Textual and Musical works , as of 2016, lists the OOXML family of formats, which includes the DOCX format, as acceptable for textual works and electronic serials. Since the binary (.doc) format is not listed as either preferred or acceptable, the DOCX format is implicitly preferred over the binary equivalent.

Sustainability factors ⁱ

Disclosure	International open standard. Maintained by ISO/IEC JTC1 SC34/WG4. Originated by Microsoft Corporation and first standardized through ECMA International in 2006. Approval as ISO/IEC 29500 was in 2008.
Documentation	<p><i>ISO/IEC 29500-1, Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference and ISO/IEC 29500-4, Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 4: Transitional Migration Features</i>. Latest version (dated 2016 as of February 2017) is available from ISO/IEC Publicly Available Standards.</p> <p>All editions of the OOXML standards as published by ECMA are available from ECMA-376: Office Open XML File Formats. See Notes below for version chronology.</p> <p>The Transitional variant of DOCX is specified by applying the differences described in Part 4 (Transitional Migration Features) to the specification in Part 1. Part 4 cannot be read without detailed reference to subclauses in Part 1.</p> <p>Annex L of Part 1 is a Primer (informative rather than normative) that introduces key features of WordprocessingML, relating elements and attributes to intended functionality through examples.</p>
Adoption	Very widely used. DOCX was originally developed by Microsoft as an XML-based format to replace the proprietary binary format that uses the .doc file extension. Since Word 2007, DOCX has been the default format for the Save operation. Although the market share for the Microsoft Office productivity suite is declining, in the enterprise arena, it was still 90% in 2012, according to Gartner, as reported by CNN Money in Nov 2013. That article sees Google Docs as the primary competitor; Google Docs can export in six formats, with DOCX top of the list (as of September 2014). A June 2014 blog post by LifeHacker reported that the Google Docs App for Android could now edit DOCX files natively, without format conversion. A Google Drive blog post from June 25, 2014 confirms this introduction and indicates that the same feature is available online to users of the Chrome browser.

	<p>Wikipedia's Office Open XML: Application Support and List of software that supports Office Open XML document support in a wide variety of word-processing applications and file conversion software, including the open source Libre Office (Read and Write support) and Apache OpenOffice (Read support). In June 2014, Microsoft released its Open XML SDK (first released for use in 2007), as open source.</p> <p>In early 2017, the compilers of this resource are not aware of any word-processing applications other than Microsoft products (for Windows Word 2013 and 2016, and Office 365) that can create the Strict variant of DOCX (as defined in Part 1 of the ISO/IEC 29500 standard). Tests in February 2017 indicated that Google Docs and Libre Office both created new documents in the Transitional variant described in this document, as indicated by the namespace declarations, even when the document includes no elements or attributes not present in the Strict versions of the schemas. This corresponds to the default behavior of Microsoft Word since 2013.</p> <p>DOCX is an acceptable format for a number of national archival institutions, including the Library of Congress, the U.S. National Archives, National Archives of Australia, and Library and Archives Canada. Many journal publishers prefer or even mandate DOCX for article submission; some provide associated templates (see examples among Useful References, below).</p> <p>Comments welcome.</p>
Licensing and patents	<p>The specification originated from Microsoft Corporation. Current and future versions of ISO/IEC 29500 and ECMA-376 are covered by Microsoft's Open Specification Promise, whereby Microsoft "irrevocably promises" not to assert any claims against those making, using, and selling conforming implementations of any specification covered by the promise (so long as those accepting the promise refrain from suing Microsoft for patent infringement in relation to Microsoft's implementation of the covered specification).</p> <p>Features introduced into DOCX through the MCE mechanism may be subject to patent protection. However, Microsoft's interoperability principles indicate "Microsoft will also make available a list of any of its patents that cover any extensions, and will make available patent licenses on reasonable and non-discriminatory terms."</p>
Transparency	<p>The structure and text of a DOCX file are all represented in XML and hence viewable without special tools, although XML-aware tools that can show the element hierarchy make viewing and interpretation more convenient. The most commonly used parts, elements, and attributes have recognizable names. Simple documents can be interpreted with very basic tools. However, interpreting the semantics of some elements and the correspondence of some elements and attributes to word-processing functionality will require understanding of both the schema and the textual specification. The specification provides valuable examples, for example of text effects, and not all normative constraints for DOCX can be represented fully in the W3C XML Schema Language (XML Schema 1.0).</p> <p>The transparency of embedded image, audio, and video files depends on the formats of those files.</p> <p>For transparency of the package containing the constituent parts of the DOCX file, see OPC/OOXML 2012.</p>
Self-documentation	<p>The property file <code>/docProps/core.xml</code> is usually present for OPC packages, although all elements in this Core Properties part are optional and the part can be omitted if none of its elements are used. For more on self-documentation of the package containing the constituent parts of the DOCX file, see OPC/OOXML 2012.</p> <p>A single optional part with a pre-defined set of extended properties for the package is permitted. Microsoft uses the part name <code>/docProps/app.xml</code> for this and it is always present in DOCX files created by Microsoft. The extended properties (each optional and non-repeatable) are primarily administrative and are not related to the intellectual or bibliographic nature of the document. Elements include: name of creating application; version of creating application; various size metrics (pages, words, etc.); template used; document security level; and a list of embedded hyperlinks. Judging from tests in October 2014, Libre Office and Google Docs use the same part names for the core and extended properties parts. The extended properties part typically records fewer properties than in files created by Microsoft; both applications identify themselves as the creating application for non-empty documents.</p> <p>The nature of the OPC package would permit the addition of a part that included rich XML-based metadata, preferably in a well-known schema, and that was listed in the relationships file associated with the Core Properties part with an appropriate relationship type. However, no part of ISO/IEC 29500:2016 predefines such a relationship. Embedding such a part in an OPC package could be done without affecting the primary document content. An example of embedding an ONIX metadata record in an OOXML file is given in ISO/IEC TR 30114-1:2016 Information technology — Extensions of Office Open XML file formats — Part 1: Guidelines, in Clause 5.4 <i>Embedding foreign Open Packaging Convention (OPC) parts</i>.</p>
External dependencies	<p>None beyond XML-aware software.</p> <p>See also OPC/OOXML 2012.</p>
Technical protection considerations	<p>See OPC/OOXML 2012.</p>

Quality and functionality factors ¹

Text	
Normal rendering	<p>Editable document, with embedded support for powerful word-processing functionality. Textual content is conveniently extractable for quotation and for indexing. Full support for Unicode character set.</p>

Integrity of document structure	Paragraphs and sections are easily recognized, as are headers and footers. Excellent support is available for higher-level constructs through the consistent use of named styles (e.g., for headings), automatically generated tables of contents and indexes, and structured templates. However, use of such styles is not required, and structural semantics may only be reflected through font usage and paragraph indenting.
Integrity of layout and display	Excellent support for layout choices. Represents entire layout and formatting as intended by an author who used a word-processor for which DOCX is a native format. Bi-directional and vertical display of text can be specified. Differences in detail can occur on display if the original fonts used are not available in the system used for viewing or due to conversion from another word-processing format with different markup semantics.
Support for mathematics, formulae, etc.	ISO/IEC 29500 defines Office Math Markup Language (OMML), a mathematical markup language that can be embedded in WordprocessingML. Microsoft has published XSLT transformations to convert between MathML and Office Math Markup Language. Key reasons given for not using MathML directly in DOCX include: <ul style="list-style-type: none"> • Word supports equations embedded within paragraphs and MathML's presentation markup is designed for independent presentation of mathematical expressions. • Use of MathML would not allow tracking for changes within mathematical expressions.
Functionality beyond normal rendering	In contrast to formats designed for documents as publications, word-processing formats such as DOCX typically store much information associated with the process of creating and reviewing documents, including tracked changes, threaded comments, and other annotations. DOCX supports embedding of other OOXML content (including spreadsheetML, presentationML, DrawingML, and Office Mathematical Markup Language), embedding of media objects in binary formats, and links to external media objects, such as images, audio, or video. DOCX files may include markup to support building an index or bibliography from references entered in the text. DOCX documents may include tables of contents generated automatically from section headings; such files will include elements and attributes to support regeneration of the table of contents using the author's choice of levels to include and of layout style. DOCX files may include forms designed to be filled in by a reader. The DOCX specification includes markup to support convenient navigation between fields in a form and to constrain information entered in forms (for example, to be a date or a choice from a drop-down menu). In contrast to the Strict variant of DOCX, the Transitional variant described here may include markup to support backwards compatibility and to preserve visual and functional characteristics of documents originating in earlier word-processing formats.

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	docx	Three closely related filetypes have different extensions: .dotx for template files; .docm for document files with embedded macros; and .dotm for template files with embedded macros. All are based on the same WordprocessingML specification and on ISO/IEC 29500.
Internet Media Type	application/vnd.openxmlformats-officedocument.wordprocessingml.document	From IANA registration .
XML namespace declaration	http://schemas.openxmlformats.org/wordprocessingml/2006/main	This namespace declaration is for the Transitional variant of DOCX. It occurs in the mandatory Main Document part of a DOCX file (package), which usually has the name <i>/word/document.xml</i> and is mapped to the prefix <i>w</i> . The use of <i>/word/document.xml</i> as the name of the main part is conventional, rather than mandated in ISO 29500.
Other	Target="word/document.xml"	This signifier assumes the usual name of the main part of an XLSX file. The target declaration will occur in the top-level Relationships part (<i>_rels\rels</i> part in an OPC package of a DOCX file, as an attribute of a <Relationship> element within the <Relationships> element. In a Transitional DOCX, it will be the target of a relationship of type http://schemas.openxmlformats.org/officeDocument/2006/relationships/officeDocument . See root namespace and source relationship for Main Document Part in ISO/IEC 29500-4:2012, §9.1.10, which refers to ISO/IEC 29500-1:2012, §11.3.10.
Pronom PUID	fmt/412	See http://www.nationalarchives.gov.uk/PRONOM/fmt/412
Wikidata Title ID	Q26207802	Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2012. See https://www.wikidata.org/wiki/Q26207802
Wikidata Title ID	Q26207729	Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2011. See https://www.wikidata.org/wiki/Q26207729
Wikidata Title ID	Q26205749	Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2008. See https://www.wikidata.org/wiki/Q26205749
Wikidata Title ID	Q26211522	Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2012, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211522
Wikidata Title ID	Q26211320	Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2011, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211320
Wikidata Title ID	Q26207979	Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2008, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26207979

Notes ⁱ

General	<p>This description uses filenames (e.g., core.xml) that are used by most, if not all, implementations. As parts are defined by their content type in the mandatory [Content_Types].xml file part, use of these names is conventional rather than mandatory.</p> <p>Relationship between DOCX and binary .doc format: Conversion from the binary .doc format to DOCX using the Save As operation in Microsoft Word is designed to have 100 percent fidelity. For Word 2007, the formats should be equivalent. Features added since Word 2007 will usually not be supported in the binary format; when converting from DOCX to .doc, later versions of Word will attempt to "down-convert" to supported features and will present a compatibility check that indicates which features will be converted or lost.</p> <p>Conversion between DOCX and ODT: Acknowledging the interest in whether conversion between DOCX and ODT (OpenDocument Format word-processing) files could be reliable, ISO started a work item to explore this issue. <i>ISO/IEC TR 29166:2011 Information technology -- Document description and processing languages -- Guidelines for translation between ISO/IEC 26300 and ISO/IEC 29500 document formats</i> is the output of that expert working group. The report documents the challenges of translation between OOXML and ODF formats, including the word-processing formats, based on the standards as documented at the time. This report, available from ITTF, describes features and functionality for the three primary types of office document and characterizes the translatability of features and functions as <i>high</i>, <i>medium</i>, or <i>low</i>. The challenges are significant since the two formats use different underlying models. Although simple documents can be effectively converted, a round-trip to an identical document should never be expected. Display differences will be common after conversion, most of no semantic significance, but many resulting in different pagination or spacing. Among the features that are particularly problematic for conversion, and could lead to problems of more substance, are:</p> <ul style="list-style-type: none"> • Use of Themes in DOCX documents, since ODF has no equivalent concept • East Asian fonts, particularly when mixing Western and East Asian fonts, representing dates and times, and <i>ruby text</i>. • Tables within tables • Embedded vector graphics, since OOXML uses DrawingML and ODT uses SVG. • Tracked changes. [To be addressed by changes to the ODF specification. See paragraph on OSBA below.] • Bibliographies. Note that conversion/preservation of bibliographies might be more effectively done by converting the underlying database. • Forms • Numbering of nested lists <p>Microsoft documents how it handles features that do not correspond when the Save As .odt feature is used in Differences between the OpenDocument Text (.odt) format and the Word (.docx) format.</p> <p>The Open Source Business Alliance (OSBA) has a crowd-funded project to improve the handling of OOXML files within LibreOffice and Apache OpenOffice. Funding is provided by interested institutions. Phase 1, completed in September 2013, emphasized the visual presentation of documents and covered formatting of borders, tables, lists, and comments and embedding of fonts. A proposed specification for Phase 2 was published in Spring 2014. This included application enhancements to function more like Microsoft Word, particularly for mail-merge, and production of a revised, more complete specification for change-tracking markup within the ODF format. As of February 2017, the proposal is no longer online.</p> <p>When considering tools for conversion from OOXML to ODF, it is important to understand which version of ODF is the target. Significant extensions to the standard have been made since ODF 1.1. ODF 1.2 was approved as an ISO standard in 2015. See ODF text 1.2. Office 2013 supports export to ODF 1.2, but without change tracking. ODF 1.3 is already in the works, and LibreOffice offers the option to save as "1.2 Extended." See Wikipedia entry for Open Document Format and ODF Implementer Notes from LibreOffice Development wiki. The compilers of this resource believe that some of the amendments and features added in more recent versions of ODF are expected to improve the fidelity of conversion when supported in conversion tools but have no direct experience. New editions of ISO/IEC 29500 were published in 2011, 2012 and 2016; however, the changes were primarily corrections and clarifications to reflect DOCX documents as produced in practice. Of more relevance in relation to fidelity of conversion is whether a document includes any of the few new features introduced in recent versions of Word and marked up in the Markup Compatibility and Extensibility namespace (MCE/OOXML 2012). Microsoft has documented these extensions in [MS-DOCX] Word Extensions to the Office Open XML (.docx) File Format.</p>
History	See Notes/History for OOXML Family .

Format specifications ⁱⁱ

- [ECMA-376: Office Open XML File Formats](http://www.ecma-international.org/publications/standards/Ecma-376.htm) (http://www.ecma-international.org/publications/standards/Ecma-376.htm). Provides access to all chronological published versions.
- The latest versions of ISO/IEC 29500 are made available at no charge from ISO. The formal titles of the two parts that together specify the Transitional variant of DOCX are *Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference* (which specifies the Strict variant) and *Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 4: Transitional Migration Features*. The schemas for the Transitional variant described here are available as [electronic inserts](#) to Part 4.

- [ISO/IEC Publicly Available Standards](http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html) (<http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html>).
- [ISO/IEC 29500-1:2016, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip).
- [ISO/IEC 29500-4:2016, Transitional Migration Features](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016.zip).
- [Schemas in W3C XML Schema language and in RELAX NG for the Transitional variant of DOCX, etc.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016_Electronic_inserts.zip).
- [ISO/IEC 29500-1:2012, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip). Superseded, but still accessible as of February 2017.
- [ISO/IEC 29500-4:2012, Transitional Migration Features](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012.zip). Superseded, but still accessible as of February 2017.
- [Schemas in W3C XML Schema language and in RELAX NG for the Transitional variant of DOCX.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012_Electronic_inserts.zip). Superseded, but still accessible as of February 2017.

Useful references

URLs

- [PRONOM entry for fmt/412](http://www.nationalarchives.gov.uk/PRONOM/fmt/412) (<http://www.nationalarchives.gov.uk/PRONOM/fmt/412>). Information in PRONOM from UK National Archives about DOCX. PUID: fmt/412
- [IANA registration for MIME media type for DOCX \(wordprocessingML\) files.](http://www.iana.org/assignments/media-types/application/vnd.openxmlformats-officedocument.wordprocessingml.document) (<http://www.iana.org/assignments/media-types/application/vnd.openxmlformats-officedocument.wordprocessingml.document>).
- [Wikipedia entry for Office Open XML](http://en.wikipedia.org/wiki/Office_Open_XML) (http://en.wikipedia.org/wiki/Office_Open_XML).
- [Wikipedia list of software supporting Office Open XML](http://en.wikipedia.org/wiki/List_of_software_that_supports_Office_Open_XML) (http://en.wikipedia.org/wiki/List_of_software_that_supports_Office_Open_XML). Not necessarily kept up-to-date. In September 2014, several links had been detected by Wikipedia's automated link-checking tool as "dead links."
- Microsoft provides various documentation pages related to DOCX. Much of this documentation is aimed at programmers writing applications that manipulate WordprocessingML markup directly, perhaps using the Open XML SDK.
 - [Welcome to the Open XML SDK 2.5 for Office](https://msdn.microsoft.com/en-us/library/office/bb448854.aspx) (<https://msdn.microsoft.com/en-us/library/office/bb448854.aspx>). In June 2014, the Open XML SDK was made available as open source.
 - [Structure of a WordprocessingML document \(Open XML SDK\)](https://msdn.microsoft.com/en-us/library/office/gg278308.aspx) (<https://msdn.microsoft.com/en-us/library/office/gg278308.aspx>).
 - [Introduction to WordprocessingML](http://openxmldeveloper.org/wiki/w/wiki/introduction-to-wordprocessingml.aspx) (<http://openxmldeveloper.org/wiki/w/wiki/introduction-to-wordprocessingml.aspx>). From the OpenXMLDeveloper wiki. Links to video explanations that are screencasts showing use of Visual Studio.
 - [Working with WordprocessingML Documents](https://msdn.microsoft.com/en-us/library/office/gg278327.aspx) (<https://msdn.microsoft.com/en-us/library/office/gg278327.aspx>). Introduces basic topics for working with WordprocessingML (.docx) files through program code.
 - [Mastering Text in Open XML WordprocessingML Documents](https://msdn.microsoft.com/en-us/library/office/ff686712.aspx) (<https://msdn.microsoft.com/en-us/library/office/ff686712.aspx>).
 - [Using Open XML WordprocessingML Documents as Data Sources](https://msdn.microsoft.com/en-us/library/office/ff433640.aspx) (<https://msdn.microsoft.com/en-us/library/office/ff433640.aspx>). Introduces "content controls" and how their use to define structured areas within a document can facilitate tasks that involve entering text or data in a form for convenient later extraction.
 - [Identifying Open XML Word-Processing Documents with Tracked Revisions](https://msdn.microsoft.com/en-us/library/office/ff629396.aspx) (<https://msdn.microsoft.com/en-us/library/office/ff629396.aspx>).
 - [New file format options in the new Office \[Office 2013\]](https://blogs.office.com/2012/08/13/new-file-format-options-in-the-new-office/) (<https://blogs.office.com/2012/08/13/new-file-format-options-in-the-new-office/>). Announces support for writing files in DOCX Strict and ODF 1.2 formats.
 - [Differences between the OpenDocument Text \(.odt\) format and the Word \(.docx\) format](https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Text-odt-format-and-the-Word-docx-format-d9d51a92-56d1-4794-8b68-5efb57aebfde) (<https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Text-odt-format-and-the-Word-docx-format-d9d51a92-56d1-4794-8b68-5efb57aebfde>). Shows features supported and unsupported in relation to conversion from DOCX to ODT by Word 2007, Word 2010, and Word 2013.
 - [Differences between the Open Document Text \(.odt\) format and the Word \(.docx\) format used by Word Online](https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Text-odt-format-and-the-Word-docx-format-used-by-Word-Online-1183ee75-0aae-47c2-b2ba-0c839135011f) (<https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Text-odt-format-and-the-Word-docx-format-used-by-Word-Online-1183ee75-0aae-47c2-b2ba-0c839135011f>). Table that shows which Word features are fully, partially, or not supported in the OpenDocument (.odt) format.
 - [MathML and Ecma Math \(OMML\)](https://blogs.msdn.com/b/murrays/archive/2006/10/07/mathml-and-ecma-math-2800_omml_2900_.aspx) (https://blogs.msdn.com/b/murrays/archive/2006/10/07/mathml-and-ecma-math-2800_omml_2900_.aspx). By Murray Sargent in his Math in Office blog.
 - [\[MS-DOCX\] Word Extensions to the Office Open XML \(.docx\) File Format](https://msdn.microsoft.com/en-us/library/dd773189.aspx) (<https://msdn.microsoft.com/en-us/library/dd773189.aspx>). Describes extensions to the format used in the Word Application, and represented in document files through the use of Markup Compatibility and Extensibility (MCE)
 - [Use Word 2016 to open documents created in earlier versions of Word](https://support.office.com/en-us/article/Use-Word-2016-to-open-documents-created-in-earlier-versions-of-Word-5b38a00a-840b-4719-a8a3-ce155df82554) (<https://support.office.com/en-us/article/Use-Word-2016-to-open-documents-created-in-earlier-versions-of-Word-5b38a00a-840b-4719-a8a3-ce155df82554>). Has table that indicates what features in Office for Windows 2016 files are not supported in earlier versions. Features not available in Office 2010 make use of Microsoft extensions to ISO/IEC 29500.
- [Anatomy of a WordprocessingML File](http://officeopenxml.com/anatomyofOOXML.php) (<http://officeopenxml.com/anatomyofOOXML.php>). By Daniel Dick, principal attorney editor at Thomson Reuters. The site is in no way affiliated with his employer.
- [ISO/IEC TR 29166:2011 Information technology -- Document description and processing languages -- Guidelines for translation between ISO/IEC 26300 and ISO/IEC 29500 document formats](http://standards.iso.org/ittf/PubliclyAvailableStandards/c045245_ISO_IEC_TR_29166_2011.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c045245_ISO_IEC_TR_29166_2011.zip). Highlights challenges to conversion between DOCX and ODT word-processing formats.
- Selected lists of preferred or acceptable formats and other deposit or submission guidelines. As of September 2014, several national archival institutions list DOCX (or OOXML in general) as acceptable. Publisher submission guidelines often mandate use of DOCX and some provide a template file.
 - [Library of Congress Recommended Formats for Textual Works and Musical Compositions](http://www.loc.gov/preservation/resources/rfs/textunus.html) (<http://www.loc.gov/preservation/resources/rfs/textunus.html>). Issued 2014, updated 2016. Lists DOCX as acceptable.
 - [U.S. National Archives: Format Guidance for the Transfer of Permanent Electronic Records -- Tables of File Formats](http://www.archives.gov/records-mgmt/policy/transfer-guidance-tables.html) (<http://www.archives.gov/records-mgmt/policy/transfer-guidance-tables.html>). NARA 2014-04; Appendix A. Lists DOCX as Acceptable.
 - [National Archives of Australia: Dissecting the Digital Preservation Software Platform](http://naa.gov.au/Images/Digital-Preservation-Software-Platform-v1_tcm16-47139.pdf) (http://naa.gov.au/Images/Digital-Preservation-Software-Platform-v1_tcm16-47139.pdf). Version 1.0, last modified in 2011. Lists DOCX as acceptable.
 - [Library and Archives Canada: File Format Guidelines for Preservation and Long-term Access](http://www.bac-lac.gc.ca/eng/services/government-information-resources/guidelines/Pages/guidelines-file-formats-transferring-information-resources-enduring-value.aspx#j) (<http://www.bac-lac.gc.ca/eng/services/government-information-resources/guidelines/Pages/guidelines-file-formats-transferring-information-resources-enduring-value.aspx#j>). Version effective October, 2014 lists DOCX as acceptable.
 - [Journal of Integrated Bioinformatics: Instructions for Manuscripts in Microsoft Word](http://journal.imbio.de/instructions_word.php) (http://journal.imbio.de/instructions_word.php). Mandates use of DOCX or LaTeX using templates provided.
 - [Development: Manuscript Preparation Guidelines: File Format](http://dev.biologists.org/site/submissions/manuscript_prep.xhtml#file_formats) (http://dev.biologists.org/site/submissions/manuscript_prep.xhtml#file_formats).
 - [Science Translational Medicine \(AAAS\): File naming and formats for initial submission](http://stm.sciencemag.org/content/instructions-authors-new-research-articles) (<http://stm.sciencemag.org/content/instructions-authors-new-research-articles>). DOCX is preferred.
 - [Journal of Libraries and Scholarly Communication Submission Guidelines: Formats](http://jisc-pub.org/about/submissions/#format) (<http://jisc-pub.org/about/submissions/#format>). Preferred format is "Microsoft Word."

- Links to information about support for DOCX or OOXML in general from selected software applications:
 - [Altova: Office Open XML support](http://www.altova.com/xmlspy/office-open-xml.html) (<http://www.altova.com/xmlspy/office-open-xml.html>).
- Jesper Lund Stocholm has been actively involved in OOXML standardization and in building tools that manipulate and convert OOXML and ODF documents. His posts are based on careful reading of the specifications, understanding of users' needs and the marketplace, and practical experience.
 - [a 'mooh' point: blog home page](http://web.archive.org/web/20160416031718/http://idippedut.dk/) (<http://web.archive.org/web/20160416031718/http://idippedut.dk/>). Links to this blog are now via the Internet Archive.
 - [Do your math - OOXML and OMML \(Updated 2008-02-12\)](http://web.archive.org/web/20160326225935/http://idippedut.dk/post/Do-your-math-OOXML-and-OMML) (<http://web.archive.org/web/20160326225935/http://idippedut.dk/post/Do-your-math-OOXML-and-OMML>). About representation of mathematics in DOCX
 - [Moving towards OOXML\(S\) -- dated February 2010](http://web.archive.org/web/20160402130028/http://idippedut.dk/post/Moving-towards-OOXML3cS3e) (<http://web.archive.org/web/20160402130028/http://idippedut.dk/post/Moving-towards-OOXML3cS3e>). This and the following post discuss Microsoft's progress in implementing the Strict variant of DOCX (and other OOXML document types)
 - [Moving towards OOXML\(S\) \(update\) -- dated May 2010](http://web.archive.org/web/20160325143637/http://idippedut.dk/post/Moving-towards-OOXML3cS3e-(update)) ([http://web.archive.org/web/20160325143637/http://idippedut.dk/post/Moving-towards-OOXML3cS3e-\(update\)](http://web.archive.org/web/20160325143637/http://idippedut.dk/post/Moving-towards-OOXML3cS3e-(update))).
- [Feature Comparison: LibreOffice - Microsoft Office](https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_-_Microsoft_Office) (https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_-_Microsoft_Office). Focuses on differences between applications. Some differences reflect differences between semantics of DOCX and ODT that would likely give problems on conversion.
- [Google Help: Work with Office files in Google Docs, Sheets, and Slides](https://support.google.com/docs/answer/6055139) (<https://support.google.com/docs/answer/6055139>). In early 2017, the Google apps for Android and iPad/iPhone support direct editing of DOCX files. Direct editing of Office file formats on a computer requires use of Chrome. Import and export/download of DOCX files is possible with other browsers.
- The Wikidata resource https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats is used to compile information about file formats and documentation in a highly structured machine-readable form. Each format listed at [Wikidata:WikiProject Informatics/File formats/Lists/File formats](https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats/Lists/File_formats) has a format identifier known as a Title ID. This Wikidata resource has given format identifiers to the chronological versions for DOCX and also based on whether or not Microsoft extensions are included. As of February 2017, the Title IDs that correspond to this format description are:
 - [Wikidata entry for Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2012 \(Q26207802\)](https://www.wikidata.org/wiki/Q26207802) (<https://www.wikidata.org/wiki/Q26207802>). Wikidata Title ID: Q26207802
 - [Wikidata entry for Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2011 \(Q26207729\)](https://www.wikidata.org/wiki/Q26207729) (<https://www.wikidata.org/wiki/Q26207729>). Wikidata Title ID: Q26207729
 - [Wikidata entry for Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2008 \(Q26205749\)](https://www.wikidata.org/wiki/Q26205749) (<https://www.wikidata.org/wiki/Q26205749>). Wikidata Title ID: Q26205749
 - [Wikidata entry for Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2012, with Microsoft extensions \(Q26211522\)](https://www.wikidata.org/wiki/Q26211522) (<https://www.wikidata.org/wiki/Q26211522>). Wikidata Title ID: Q26211522
 - [Wikidata entry for Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2011, with Microsoft extensions \(Q26211320\)](https://www.wikidata.org/wiki/Q26211320) (<https://www.wikidata.org/wiki/Q26211320>). Wikidata Title ID: Q26211320
 - [Wikidata entry for Office Open XML Wordprocessing Document, Transitional, ISO/IEC 29500:2008, with Microsoft extensions \(Q26207979\)](https://www.wikidata.org/wiki/Q26207979) (<https://www.wikidata.org/wiki/Q26207979>). Wikidata Title ID: Q26207979
- Microsoft commitments to interoperability include a set of interoperability principles, a promise of open specifications for certain high-volume products, and a program of documentation and "Interop" events. See Useful References for [OOXML Format Family](#).
- For historical background for Microsoft commitments to interoperability, see Useful References for [OOXML Format Family](#).

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Sustainability of Digital Formats: Planning for Library of Congress Collections

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DOCX Strict (Office Open XML), ISO 29500-1: 2008-2016

>> [Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000400
- Short name: DOCX/OOXML_Strict_2012
- Content categories: text, office/business
- Format Category: file-format
- Other facets: text, structured, symbolic
- Last significant FDD update: 2017-02-17
- Draft status: Full

Identification and description ⁱ

Full name	DOCX Strict, (Office Open XML, WordprocessingML) ISO 29500-1:2008-2016, also ECMA-376, Editions 2-5.
Description	<p>The Strict variant of DOCX disallows a variety of elements and attributes that are permitted in the more common Transitional variant (DOCX/OOXML 2012). The markup for the Strict variant is essentially a subset of markup for the Transitional variant, but the schemas use different namespaces and are distributed separately in complete form.</p> <p>Among the disallowed elements and attributes are:</p> <ul style="list-style-type: none"> • Deprecated element names related to text layout incorporating <i>left</i> and <i>right</i> that had been replaced by more correctly named and functionally equivalent names incorporating <i>start</i> and <i>end</i>. • Attribute values for non-Unicode character sets. • Legacy numbering level properties and other elements related to a legacy numbering framework. • All elements and attributes related to VML, a deprecated markup language for drawings, replaced by DrawingML.

	<ul style="list-style-type: none"> • Attributes specifying deprecated and redundant mechanisms for generating hash values to support checks against content corruption. • Compatibility settings intended to preserve visual fidelity of documents produced in earlier word-processing applications, particularly in relation to spacing, margins, pagination, etc. <p>The Strict variant of DOCX described here was introduced during the standardization in ISO/IEC 29500 in 2008 with the intention of excluding features included in ECMA-376, Edition 1 that were present simply to handle bugs and features of earlier word-processors or to permit continued use of deprecated markup (e.g. VML markup for drawings). The intent of the split of the markup specification into Strict (Part 1) and Transitional (Part 4) was that applications would create new documents in the Strict variant; however, in practice, pressure for backwards compatibility has meant that most new files are marked up by applications using the Transitional namespace even if they use no features that are incompatible with the Strict specification.</p> <p>Note that the Strict variant of DOCX does allow extensions conforming to MCE/OOXML 2012. Microsoft has used MCE to add functionality to Microsoft Word. See [MS-DOCX], Word Extensions to the Office Open XML (.docx) File Format. A summary of the extensions through Word 2016 are listed in [MS-DOCX]: 1.3 Structure Overview (Synopsis).</p> <p>For discussion of other aspects of the Strict DOCX format, see the description of the more common Transitional variant of DOCX, DOCX/OOXML 2012.</p>
Production phase	Can be used in any production phase. Likely used primarily for creating documents (initial state) and for editing and review (middle-state). Documents that are formally published are often converted to a format that is designed for final publication and not for convenient editing.
Relationship to other formats	
Subtype of	OOXML Family , OOXML Format Family -- ISO/IEC 29500 and ECMA-376
Subtype of	OPC/OOXML 2012 , Open Packaging Conventions (Office Open XML), ISO 29500-2:2008-2012
Modification of	DOCX/OOXML 2012 , DOCX Transitional (Office Open XML), ISO 29500:2008-2016, ECMA-376, Editions 1-5. The Transitional form of DOCX allows additional legacy markup to address backward compatibility with bugs and features of older word-processors. The legacy markup is specified in Part 4 of ISO/IEC 29500.
May contain	MCE/OOXML 2012 , Markup Compatibility and Extensibility (Office Open XML), ISO 29500-3:2008-2015, ECMA-376, Editions 1-5
Defined via	XML , Extensible Markup Language (XML)

Local use ⁱ

LC experience or existing holdings	In 2017, the Library of Congress is not aware of any documents in the Strict form of DOCX in its collections.
LC preference	The list of Library of Congress Recommended Formats Statement for Textual and Musical works , as of 2016, lists the OOXML family of formats, which includes the DOCX format, as acceptable for textual works and electronic serials. It does not distinguish between the Strict and the more common Transitional DOCX/OOXML 2012 form in its preferences.

Sustainability factors ⁱ

Disclosure	International open standard. Maintained by ISO/IEC JTC1 SC34/WG4 as Part 1 of ISO/IEC 29500, first published in 2008.
Documentation	<p><i>ISO/IEC 29500-1, Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference</i>. Latest version (dated 2016 as of February 2017) is available from ISO/IEC Publicly Available Standards.</p> <p>All editions of the OOXML standards as published by ECMA are available from ECMA-376: Office Open XML File Formats. The split between Strict and Transitional variants of DOCX was introduced in Edition 2 of ECMA-376 which is identical to ISO/IEC 29500:2008.</p>
Adoption	<p>The Strict variant of DOCX does not appear to be widely widely used as of February 2017, although support has been added to several applications in recent years. The ability to read Strict DOCX files was first implemented by Microsoft in Word 2010; in Windows Office, the ability to write Strict files as an option was added in Word 2013 and is available in Word 2016 and Office 365. Office for Mac 2011 could neither read nor write Strict files. The latest version of Word for a desktop Mac (in Office for Mac 2016) can read but not write Strict files.</p> <p>Versions of LibreOffice since 4.2.3 can read Strict DOCX files. The Feature Comparison provided by LibreOffice for version 5.3 (released in early 2017) indicates that Strict DOCX files can be read but not written. However, the existence of Support OOXML strict export as a project on a to-do list for LibreOffice suggests that this capability may be introduced before long. A test using LibreOffice 5.2 confirmed that DOCX files written by that application are always in the more common Transitional form, regardless of which of two .docx options is chosen from the dropdown menu in the Save As feature. Two options are presented in LibreOffice because of a few small differences found in some files produced by Microsoft Office, particularly by Office 2007. See Useful References below.</p> <p>Whether the Strict version of DOCX is more widely used in the future will likely depend on whether pressure on software vendors from governments for its adoption outweighs market pressure, which currently seems to favor backwards compatibility.</p>
Licensing and patents	See the more common Transitional form of DOCX, DOCX/OOXML 2012 and OOXML Format Family .
Transparency	See the more common Transitional form of DOCX, DOCX/OOXML 2012 .
Self-documentation	See the more common Transitional form of DOCX, DOCX/OOXML 2012 .
External dependencies	See the more common Transitional form of DOCX, DOCX/OOXML 2012 .
Technical protection considerations	See the more common Transitional form of DOCX, DOCX/OOXML 2012 .

Quality and functionality factors ⁱ

Text	
Normal rendering	See the more common Transitional form of DOCX, DOCX/OOXML 2012 for functionality supported.

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	docx	Used for Strict and the more common Transitional form of DOCX.
Internet Media Type	application/vnd.openxmlformats-officedocument.wordprocessingml.document	From IANA registration .
XML namespace declaration	http://purl.oclc.org/ooxml/wordprocessingml/main	This namespace declaration is for the Strict variant of DOCX. It occurs in the mandatory Main Document part of a DOCX file (package) with the name <i>/word/document.xml</i> and is mapped to the prefix <i>w</i> .
Other	Target="word/document.xml"	Will occur in the top-level Relationships part (<i>/_rels/rels</i> part in an OPC package in the <Relationships> element of a DOCX file. In the Strict variant, it will be the target of a relationship of type http://purl.oclc.org/ooxml/relationships/officeDocument . See root namespace and source relationship for Main Document Part in ISO/IEC 29500-1:2012, §11.3.10.
Pronom PUID	fmt/412	See http://www.nationalarchives.gov.uk/PRONOM/fmt/412 . As of February 2017, PRONOM does not distinguish between Strict and Transitional versions of DOCX.
Wikidata Title ID	Q26207818	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2012. See https://www.wikidata.org/wiki/Q26207818
Wikidata Title ID	Q26207786	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2011. See https://www.wikidata.org/wiki/Q26207786
Wikidata Title ID	Q26207675	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2008. See https://www.wikidata.org/wiki/Q26207675
Wikidata Title ID	Q26211533	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2012, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211533
Wikidata Title ID	Q26211506	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2011, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211506
Wikidata Title ID	Q26208225	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2008, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26208225

Notes ⁱ

General	See the more common Transitional form of DOCX, DOCX/OOXML 2012 .
History	For chronologies of the OOXML standard and for versions of Microsoft Office, see OOXML Family . See also the more common Transitional form of DOCX, DOCX/OOXML 2012 .

Format specifications ⁱ

- [ECMA-376: Office Open XML File Formats](http://www.ecma-international.org/publications/standards/Ecma-376.htm) (<http://www.ecma-international.org/publications/standards/Ecma-376.htm>). Provides access to all chronological published versions.
- The latest versions of ISO/IEC 29500 are made available at no charge from ISO. The formal titles of the part that specifies the Strict variant of DOCX is *Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference*. The schemas for the Strict variant described here are available as [electronic inserts](#) to Part 1.
 - [ISO/IEC Publicly Available Standards](http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html) (<http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html>). Lists only the latest version of each part of ISO/IEC 29500.
 - [ISO/IEC 29500-1:2016, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip).
 - [Schemas in W3C XML Schema language and in RELAX NG for the Strict variant of DOCX, etc.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016_Electronic_inserts.zip).
 - [ISO/IEC 29500-1:2012, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip). Superseded but still accessible as of February 2017.
 - [Schemas in W3C XML Schema language and in RELAX NG for the Strict variant of DOCX.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012_Electronic_inserts.zip). Superseded but still accessible as of February 2017.

Useful references

URLs

- [Feature Comparison: LibreOffice - Microsoft Office](https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_-_Microsoft_Office) (https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_-_Microsoft_Office). In February 2017, this indicates that LibreOffice 5.3 supports reading but not writing of Strict OOXML files.
- [File format reference for Word, Excel, and PowerPoint](https://technet.microsoft.com/EN-US/library/dd797428(v=office.16).aspx) ([https://technet.microsoft.com/EN-US/library/dd797428\(v=office.16\).aspx](https://technet.microsoft.com/EN-US/library/dd797428(v=office.16).aspx)). Applies to Office 2016 for Windows. Lists support for Strict variant explicitly.
- Listed below are blog or forum posts that discuss support for the Strict variants of OOXML formats and related interoperability problems:
 - [What is the level of support for MS Office formats? \(in LibreOffice\)](http://web.archive.org/web/20160310015945/http://en.libreofficeforum.org/node/7505) (<http://web.archive.org/web/20160310015945/http://en.libreofficeforum.org/node/7505>). Feb 2014 blog post from "unofficial LibreOffice support forum" with later addenda. Forum shut down in May 2016. Link via Internet Archive
 - [What is the level of support for MS Office formats? \(in LibreOffice\)](http://www.imacanic.org/en.libreofficeforum.org/node/7505) (<http://www.imacanic.org/en.libreofficeforum.org/node/7505>). From rescued archive of LibreOfficeForum when it closed.
 - [What is the default file format for saving in MS Office 2013? Is it still the transitional OOXML or the ISO/IEC 29500 strict format?](https://social.technet.microsoft.com/Forums/en-US/e969fc0a-9fcd-4efe-bf6d-79ea8c34360f/what-is-the-default-file-format-for-saving-in-ms-office-2013-is-it-still-the-transitional-ooxml-or-the-iso-iec-29500-strict-format?forum=officeitpro) (<https://social.technet.microsoft.com/Forums/en-US/e969fc0a-9fcd-4efe-bf6d-79ea8c34360f/what-is-the-default-file-format-for-saving-in-ms-office-2013-is-it-still-the-transitional-ooxml-or-the-iso-iec-29500-strict-format?forum=officeitpro>). From May 2013, with responses through January 2014. Explains how to set the default format for files created in Office 2013 to the Strict variant.

- [Is the "Office Open XML" option strict?](http://nabble.documentfoundation.org/Is-the-quot-Office-Open-XML-quot-option-strict-td4168963.html) (<http://nabble.documentfoundation.org/Is-the-quot-Office-Open-XML-quot-option-strict-td4168963.html>). From December 2015, with responses through January 2016. There is no definitive answer to the question here, but other evidence, including experiments with LibreOffice 5.3 and the Feature Comparison above, indicate that the answer is "no." LibreOffice does not write Strict DOCX files.
- [LibreOffice: Why does Writer offer two options for saving in DOCX format?](https://ask.libreoffice.org/en/question/3943/why-does-writer-offer-two-options-for-saving-in-docx-format/) (<https://ask.libreoffice.org/en/question/3943/why-does-writer-offer-two-options-for-saving-in-docx-format/>). From July 2012, with responses through 2014, but no clear answer to the original question. See following equivalent question.
- [LibreOffice: Which is the best .docx format?](https://ask.libreoffice.org/en/question/21580/which-is-the-best-docx-format/) (<https://ask.libreoffice.org/en/question/21580/which-is-the-best-docx-format/>). Another version (from 2013) of the same question as above, about the two .docx options on the LibreOffice Save As menu. The answer is that the "Office Open XML" choice uses markup as developers believe is specified in ISO/IEC 29500 and the "Microsoft Word 2007/2010/2013 XML" option corresponds to what they find in files created by Microsoft Office (with special mention of Office 2007). The differences are said to be few.
- [Analysis of what it would take to support OOXML strict export in LibreOffice](https://wiki.documentfoundation.org/Support_OOXML_strict_export) (https://wiki.documentfoundation.org/Support_OOXML_strict_export).
- [Apache Software Foundation Bugzilla – Bug 57699 for POI product](https://bz.apache.org/bugzilla/show_bug.cgi?id=57699) (https://bz.apache.org/bugzilla/show_bug.cgi?id=57699). Suggests that POI (Java API for OOXML files) did not support the Strict OOXML variants as of February 2017 (version 3.16).
- [PRONOM entry for fmt/412](http://www.nationalarchives.gov.uk/PRONOM/fmt/412) (<http://www.nationalarchives.gov.uk/PRONOM/fmt/412>). Information in PRONOM from UK National Archives about DOCX. PUID: fmt/412 PRONOM does not currently distinguish between Strict and Transitional versions of DOCX.
- The Wikidata resource https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats is used to compile information about file formats and documentation in a highly structured machine-readable form. Each format listed at [Wikidata:WikiProject Informatics/File formats/Lists/File formats](https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats/Lists/File_formats) has a format identifier known as a Title ID. This Wikidata resource has given format identifiers to the chronological versions for DOCX and also to whether or not Microsoft extensions are included. As of February 2017, the Title IDs that correspond to this format description are:
 - [Wikidata entry for Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2012 \(Q26207818\)](https://www.wikidata.org/wiki/Q26207818) (<https://www.wikidata.org/wiki/Q26207818>). Wikidata Title ID: Q26207818
 - [Wikidata entry for Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2011 \(Q26207786\)](https://www.wikidata.org/wiki/Q26207786) (<https://www.wikidata.org/wiki/Q26207786>). Wikidata Title ID: Q26207786
 - [Wikidata entry for Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2008 \(Q26207675\)](https://www.wikidata.org/wiki/Q26207675) (<https://www.wikidata.org/wiki/Q26207675>). Wikidata Title ID: Q26207675
 - [Wikidata entry for Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2012, with Microsoft extensions \(Q26211533\)](https://www.wikidata.org/wiki/Q26211533) (<https://www.wikidata.org/wiki/Q26211533>). Wikidata Title ID: Q26211533
 - [Wikidata entry for Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2011, with Microsoft extensions \(Q26211506\)](https://www.wikidata.org/wiki/Q26211506) (<https://www.wikidata.org/wiki/Q26211506>). Wikidata Title ID: Q26211506
 - [Wikidata entry for Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2008, with Microsoft extensions \(Q26208225\)](https://www.wikidata.org/wiki/Q26208225) (<https://www.wikidata.org/wiki/Q26208225>). Wikidata Title ID: Q26208225
- See also the more common Transitional form of DOCX, [DOCX/OOXML 2012](#)

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Sustainability of Digital Formats: Planning for Library of Congress Collections

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XLSX Transitional (Office Open XML), ISO 29500:2008-2016, ECMA-376, Editions 1-5

[>> Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000398
- Short name: XLSX/OOXML_2012
- Content categories: spreadsheet, office/business
- Format Category: file-format
- Other facets: text, structured, symbolic
- Last significant FDD update: 2017-02-21
- Draft status: Full

Identification and description ⁱ

Full name	XLSX, (Office Open XML, Spreadsheet ML) ISO 29500:2008-2016, also ECMA-376, Editions 1-5.
Description	<p>The Open Office XML-based spreadsheet format using .xlsx as a file extension has been the default format produced for new documents by versions of Microsoft Excel since Excel 2007. The format was designed to be equivalent to the binary .xls format produced by earlier versions of Microsoft Excel. For convenience, this format description uses XLSX to identify the corresponding format. The primary content of a XLSX file is marked up in SpreadsheetML, which is specified in parts 1 and 4 of <i>ISO/IEC 29500, Information technology -- Document description and processing languages -- Office Open XML File Formats (OOXML)</i>. This description focuses on the specification in <i>ISO/IEC 29500:2012</i> and represents the format variant known as "Transitional." Although editions of ISO 29500 were published in 2008, 2011, 2012, and 2016, the specification has had very few changes other than clarifications and corrections to match actual usage in documents since SpreadsheetML was first standardized in ECMA-376, Part 1 in 2006. This description can be read as applying to all SpreadsheetML versions published by ECMA International and by ISO/IEC through 2016. See Notes below for more detail on the chronological versions and differences.</p> <p>The XLSX format uses the SpreadsheetML markup language and schema to represent a spreadsheet "document." Conceptually, using the terminology of the Spreadsheet ML specification in ISO/IEC 29500-1, the document comprises one or more <i>worksheets</i> in a <i>workbook</i>. A worksheet typically consists of a rectangular grid of <i>cells</i>. Each cell can contain a <i>value</i> or a <i>formula</i>, which will be used to calculate a value, with a cached value usually stored pending the next recalculation. A single spreadsheet document may serve several purposes: as a container for data values; as program code (based on the formulas in cells) to perform analyses on those values; and as one or more formatted reports (including charts) of the analyses. Beyond basics, spreadsheet applications have introduced support for more advanced features over time. These include mechanisms to extract data dynamically from external sources, to support collaborative work, and to perform an increasing number of functions that would have required a database application in the past, such as sorting and filtering of entries in a table to display a temporary subset. The markup specification must support both basic and more advanced functionalities in a structure that supports the robust performance expected by users.</p> <p>An XLSX file is packaged using the Open Packaging Conventions (<i>OPC/OOXML_2012</i>, itself based on ZIP 6 2 0). The package can be explored, by opening with ZIP software, typically by changing the file extension to .zip. The top level of a minimal package will typically have three folders (<i>_rels</i>, <i>docProps</i>, and <i>xl</i>) and one file part (<i>[Content_Types].xml</i>). The <i>xl</i> folder holds the primary content of the document including the file part <i>workbook.xml</i> and a <i>worksheets</i> folder containing a file for each worksheet, as well as other files and folders that support functionality (such as controlling calculation order) and presentation (such as formatting styles for cells) for the spreadsheet. Any embedded graphics are also stored in the <i>xl</i> folder as additional parts. The other folders and parts at the top level of the package support efficient navigation and manipulation of the package:</p>

	<ul style="list-style-type: none"> • <code>_rels</code> is a Relationships folder, containing a single file <code>.rels</code> (which may be hidden from file listings, depending on operating system and settings). It lists and links to the key parts in the package, using URIs to identify the type of relationship of each key part to the package. In particular it specifies a relationship to the primary <i>officeDocument</i> (typically named <code>/xl/workbook.xml</code>) and typically to parts within <i>docProps</i> as core and extended properties. • <code>docProps</code> is a folder that contains properties for the document as a whole, typically including a set of core properties, a set of extended or application-specific properties, and a thumbnail preview for the document. • <code>[Content_Types].xml</code> is a file part, a mandatory part in any OPC package, that lists the content types (using MIME Internet Media Types as defined in RFC 6838) for parts within the package. <p>The standards documents that specify this format run to over six thousand pages. Useful introductions to the XLSX format can be found at:</p> <ul style="list-style-type: none"> • Anatomy of a SpreadsheetML File by Daniel Dick of Reuters. • Structure of a SpreadsheetML document from Open XML SDK documentation. Includes diagram showing typical spreadsheet document parts.
Production phase	Can be used in any production phase: for creating documents (initial state); for editing and review (middle-state); and for final distribution.
Relationship to other formats	
Subtype of	OOXML Family, OOXML (ISO/IEC 29500) Format Family
Subtype of	OPC/OOXML 2012, Open Packaging Conventions (Office Open XML), ISO 29500-2:2008-2012
May contain	MCE/OOXML 2012, Markup Compatibility and Extensibility (Office Open XML), ISO 29500-3:2008-2015, ECMA-376, Editions 1-4
Has modified version	XLSX/OOXML Strict 2012, XLSX Strict (Office Open XML), ISO 29500-1: 2008-2016. The Strict variant of XLSX disallows legacy markup specified only in Part 4 of ISO/IEC 29500. The Strict variant has less support for backwards compatibility when converting documents from older formats.
Has modified version	Associated template format using extension <code>.xltx</code> , not described separately on this website. A <code>.xltx</code> template file is a SpreadsheetML document based on the same schema and namespaces (specified in ISO/IEC 29500) as a <code>.xlsx</code> file. The difference is its intended use.
Affinity to	Associated formats for SpreadsheetML documents or templates with embedded macros, using file extensions <code>.xlsm</code> and <code>.xltx</code> , not described separately at this website. The language used by Microsoft for macros, VBA, is not covered by the ISO/IEC 29500 specification, but is fully documented by Microsoft. Macros are embedded as separate parts in the OPC package. Macros are widely used in spreadsheets used in corporate settings.
Affinity to	A hybrid variant, XLSB, not described separately on this site. XLSB uses the OPC package structure, but stores the spreadsheet data in binary form. This variant was introduced for performance (and space-saving) reasons for very large spreadsheets, particularly in relation to loading. It is not part of the ISO-29500 or ECMA 376 standard and largely unsupported except in Microsoft Excel. Although important when the XLSX format was first introduced, more powerful processors and multi-threaded applications may mean that its use will decline. Comments welcome .
Defined via	XML, Extensible Markup Language (XML)

Local use ⁱ

LC experience or existing holdings	Used by Library of Congress staff.
LC preference	For works acquired for its collections, the list of Library of Congress Recommended Formats Statement for Datasets/Databases , as of June 2016, includes XLSX (.xlsx) as a preferred format for datasets. The binary (.xls) format is also listed as a preferred format.

Sustainability factors ⁱ

Disclosure	International open standard. Maintained by ISO/IEC JTC1 SC34/WG4. Originated by Microsoft Corporation and first standardized through ECMA International in 2006. Approval as ISO/IEC 29500 was in 2008.
Documentation	<p><i>ISO/IEC 29500-1, Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference</i> and <i>ISO/IEC 29500-4, Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 4: Transitional Migration Features</i>. Latest version (dated 2016 as of February 2017) is available from ISO/IEC Publicly Available Standards.</p> <p>All editions of the OOXML standards as published by ECMA are available from ECMA-376: Office Open XML File Formats. See Notes below for version chronology.</p> <p>The Transitional variant of XLSX is specified by applying the differences described in Part 4 (Transitional Migration Features) to the specification in Part 1. Part 4 cannot be read without detailed reference to subclauses in Part 1.</p>
Adoption	Very widely used. XLSX was originally developed by Microsoft as an XML-based format to replace the proprietary binary format that uses the <code>.xls</code> file extension. Since Word 2007, XLSX has been the

default format for the Save operation. Although the market share for the Microsoft Office productivity suite is declining, in the enterprise arena, it was still 90% in 2012, according to Gartner, as reported by CNN Money in Nov 2013.

Microsoft Excel (and hence the XLSX format) is extremely widely used in corporate settings. Recent versions have introduced increasingly powerful capabilities for drawing data dynamically from other sources, and performing sophisticated analyses. See, for example, [Is Excel the Next Killer BI \(Business Intelligence\) App?](#), a June 2014 post in the SQL Server BI blog. The software supports add-ins and APIs for data import and there is an associated industry of consultants and data suppliers. For example, [the Federal Reserve Bank of St. Louis Economic Data \(FRED\) add-in](#) supports dynamic extraction of macroeconomic data. Most of the new application features introduced in Excel 2010 and 2013 are designed to support new options for data extraction and more powerful analyses. In the context of large-scale corporate management and the financial sector, the dominance of Excel and of the XLSX format for spreadsheets look likely to continue.

As of late 2014, competition has been active between Google and Microsoft for the market for office suites on mobile devices. Both players now support direct editing of the XLSX format for spreadsheets through free apps. A [Google Drive blog post from June 25, 2014](#) announced that Google Apps for Android could now edit Office files natively, without format conversion and that the same capability is available online when using the Chrome browser. The first free Microsoft apps for the iPad had only supported viewing of OOXML files; creation or editing required an Office 365 subscription. However, in November 2014, Microsoft announced that updated Office apps for iPad would support creating and editing of OOXML files. Versions for Android followed in January 2015. See [System requirements for Office: Mobile devices](#) and [Wikipedia article on Microsoft Office Mobile Apps](#).

Wikipedia's [Office Open XML: Application Support](#) and [List of software that supports Office Open XML](#) document support in a wide variety of word-processing applications and file conversion software, including the open source LibreOffice (Read and Write support) and Apache OpenOffice (Read support). In June 2014, Microsoft released its [Open XML SDK](#) (first released for use in 2007), as open source.

The corpus of existing documents on the web is still dominated by the binary .xls format. A Google search in November 2014 of the U.S. web by filetype yielded: .xls, 7,800,000; .xlsx, 1,570,000; .ods, 53,700. A comparison between .xls and .xlsx for files newly indexed in the past year showed roughly equal numbers of .xls and .xlsx files: .xls, 20,000; .xlsx, 18,000. The compilers of this resource acknowledge that searches of the web are not a reliable measure of adoption for spreadsheet file formats at the initial (creation) phase of a content lifecycle. Most spreadsheets are private and those that are made available on the web are likely to be converted to the format considered most likely to be usable by the intended audience.

XLSX and its predecessor binary .xls format appear relatively frequently on lists of acceptable formats for archiving of data. In this context, the assumption is usually that the data per se is stored in a worksheet as a rectangular grid with columns representing variables/measurements and rows representing columns. Note that recommended practice for archiving datasets always calls for a "codebook" or other documentation that explains both the scope and context for the data's collection and descriptions for each variable, but does not expect such metadata to be in the same file as the data. For example, see recommendations from the [Library of Congress](#), [UK Data Archive](#), [U.S. National Archives \(NARA\)](#), [University of California Curation Center](#), and the [Dryad Digital Repository](#).

The compilers of this resource are not aware of any spreadsheet applications other than Excel 2013 (or equivalent Excel Online or Excel App) that can create the Strict variant of XLSX (as defined in Part 1 of the ISO/IEC 29500 standard). Tests in February 2017 indicated that Google Sheets and Libre Office both created new documents in the Transitional variant described in this document, as indicated by the namespace declarations, even when the document includes no elements or attributes not present in the Strict versions of the schemas. This corresponds to the default behavior of Microsoft Excel.

[Comments welcome.](#)

<p>Licensing and patents</p>	<p>The specification originated from Microsoft Corporation. Current and future versions of ISO/IEC 29500 and ECMA-376 are covered by Microsoft's Open Specification Promise, whereby Microsoft "irrevocably promises" not to assert any claims against those making, using, and selling conforming implementations of any specification covered by the promise (so long as those accepting the promise refrain from suing Microsoft for patent infringement in relation to Microsoft's implementation of the covered specification).</p> <p>Features introduced into XLSXX through the MCE mechanism may be subject to patent protection. However, Microsoft's interoperability principles indicate "Microsoft will also make available a list of any of its patents that cover any extensions, and will make available patent licenses on reasonable and non-discriminatory terms."</p>
<p>Transparency</p>	<p>The structure and text of an XLSX file are all represented in XML and hence viewable without special tools. XML-aware tools that can show and parse the element hierarchy make viewing and interpretation more convenient. The most commonly used parts, elements, and attributes have names that will be quickly recognizable to a human reader. For example, the element <c> defines the content of a cell, the element <f> holds a formula, and <v> holds a value. The syntax of formulas is relatively intuitive and built-in functions have meaningful names. Both are documented in subclause §18.17 of ISO/IEC 29500-1. Simple documents can be interpreted with very basic tools. However,</p>

	<p>interpreting the semantics of many elements and the correspondence of elements and attributes to spreadsheet application functionality will require understanding of both the schema and the textual specification. The specification provides a primer and valuable examples, for example of the use of Styles to control cell formatting and of Pivot Tables. Additionally, not all normative constraints for XLSX can be represented fully in the W3C XML Schema Language (XML Schema 1.0).</p> <p>The organization of parts in the XLSX package may be unintuitive; for example, the textual value for a cell may be stored in a separate part, usually called <i>/xl/sharedStrings.xml</i>, rather than in the cell, which instead contains a reference to an entry in that part. This technique allows a frequently used text value to be stored once and referred to many times.</p> <p>For transparency of the package containing the constituent parts of the XLSX file, see OPC/OOXML 2012.</p>
Self-documentation	<p>The property file <i>/docProps/core.xml</i> is usually present for OPC packages, although all elements in this Core Properties part are optional. For more on self-documentation of the package containing the constituent parts of the XLSX file, see OPC/OOXML 2012.</p> <p>A single optional part with a pre-defined set of extended properties for the package is permitted. Microsoft uses the part name <i>/docProps/app.xml</i> for this and it is always present in XLSX files created by Microsoft. The extended properties (each optional and non-repeatable) are primarily administrative and, apart from <i>Company</i> are not related to the intellectual nature of the document or the context for its creation or use. Elements include: name of creating application; version of creating application; document security level; and information about embedded hyperlinks. LibreOffice uses the same part names for the core and extended properties parts, but the extended properties part typically records fewer properties. LibreOffice does identify itself as the creating application for non-empty documents. In November 2014, a newly created XLSX file downloaded from GoogleSheets did not contain any properties parts.</p> <p>The nature of the OPC package would permit the addition of a part that included rich XML-based metadata, preferably in a well-known schema, and that was listed in the relationships file associated with the Core Properties part with an appropriate relationship type. However, no part of ISO/IEC 29500 predefines such a relationship. Embedding such a part in an OPC package could be done without affecting the primary document content. An example of embedding an ONIX metadata record in an OOXML file is given in ISO/IEC TR 30114-1:2016 Information technology — Extensions of Office Open XML file formats — Part 1: Guidelines, in Clause 5.4 <i>Embedding foreign Open Packaging Convention (OPC) parts</i>.</p>
External dependencies	See OPC/OOXML 2012 .
Technical protection considerations	See OPC/OOXML 2012 .

Quality and functionality factors ⁱ

Text	
Normal rendering	<p>No specific set of factors for assessing quality and functionality of a spreadsheet format has been developed. This format description uses selected factors for assessing formats for text and datasets.</p> <p>Some spreadsheets have a printable or viewable report as a primary function. Textual content in cells in XLSX worksheets is conveniently extractable for quotation and for indexing. Full support for Unicode.</p>
Integrity of document structure	The semantic structure of formulas and their relationship to cells with values is fully represented. Rectangular areas within a worksheet can be identified as tables, with labels for rows and columns.
Integrity of layout and display	Excellent support for layout choices. Represents entire layout and formatting as intended by an author who used an application for which XLSX is a native format. Differences in detail can occur on display if the original fonts used are not available in the system used for viewing.
Support for mathematics, formulae, etc.	TBD
Functionality beyond normal rendering	As a format designed for creating and editing a spreadsheet, XLSX stores information associated with the process of creation and review of spreadsheets, such as comments by multiple authors. Also supported are embedded media objects in binary formats, and links to external media objects, such as images, audio, or video. Note that external objects may be referred to as local files using relative paths or by URIs (or IRIs).
Dataset	
Normal functionality	<p>XLSX does not support strict data-typing as typically supported in database applications and programming languages, e.g. to distinguish integers from floating point numbers, or currency values from other numbers. The display of stored numbers as integers or currency is through display format options.</p> <p>Any computing system has limits on precision that can be used in calculations. XLSX defines limits on numerical precision in Part 1 §18.17.5.2, basing it on the binary64 double-precision defined in ISO/IEC/IEEE 60559:2011 for floating-point arithmetic. LibreOffice Calc and Microsoft's <i>.xls</i> format use the same precision. In practical terms this means that the precision limit is about 15 significant decimal digits. This is insufficient for some forms of statistical analysis (see references below).</p> <p>Additionally, but of less significance in practice, the upper limit for numeric values is 9.999999999999999E+307 for positive numbers and -9.999999999999999E+307 for negative numbers. This is approximately the same as 1 or -1 followed by 308 zeros.</p>

Support for software interfaces (APIs, etc.)	There is no API specifically aimed at the use of XLSX to hold a dataset. See Notes on Relationship to CSV below for discussion of widely used support for extracting data from a spreadsheet for use in statistical software. The OpenXML SDK can be used for importing or exporting data programmatically, but has no built-in functionality that understands the semantics of observations and measured variables.
Data documentation (quality, provenance, etc.)	XLSX and its OPC package have no specific support for rich discipline-specific metadata or codebooks. See Self-documentation in Sustainability Factors above.
Beyond normal functionality	An XLSX spreadsheet document can hold not only raw data, but also formulas that perform calculations on that data and present results as numbers or in graphical form.

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	xlsx	
Internet Media Type	application/vnd.openxmlformats-officedocument.spreadsheetml.sheet	From IANA registration .
XML namespace declaration	http://schemas.openxmlformats.org/spreadsheetml/2006/main	This namespace declaration is for the Transitional variant of XLSX. It occurs in the mandatory Main Document part of a XLSX file (package), which usually has the name <i>/xl/workbook.xml</i> . The use of <i>/xl/workbook.xml</i> as the name of the main part is conventional, rather than mandated in ISO 29500.
Other	Target="xl/workbook.xml"	This signifier assumes the usual name of the main part of an XLSX file. The target declaration will occur in the top-level Relationships part (<i>\rels\rels</i> part in an OPC package of a Transitional XLSX file, as an attribute of a <Relationship> element within the Relationships element. It will be the target of a relationship of type http://schemas.openxmlformats.org/officeDocument/2006/relationships/officeDocument . See root namespace and source relationship for Main Document Part in ISO/IEC 29500-4:2012, §10.1.23, which refers to ISO/IEC 29500-1:2012, §12.3.23.
Pronom PUID	fmt/214	See http://www.nationalarchives.gov.uk/PRONOM/fmt/214
Wikidata Title ID	Q26207808	Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2012. See https://www.wikidata.org/wiki/Q26207808
Wikidata Title ID	Q26207734	Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2011. See https://www.wikidata.org/wiki/Q26207734
Wikidata Title ID	QQ26205771	Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2008. See https://www.wikidata.org/wiki/Q26205771
Wikidata Title ID	Q26211528	Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2012, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211528
Wikidata Title ID	Q26211338	Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2011, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211338
Wikidata Title ID	Q26207986	Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2008, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26207986 .

Notes ⁱ

General	<p>This description uses filenames (e.g., core.xml) that are used by most, if not all, implementations. As parts are defined by their content type in the mandatory [Content_Types].xml file part, use of these names is conventional rather than mandatory.</p> <p>Relationship between XLSX and binary .xls format: Conversion from the binary .xls format to XLSX using the Save As operation in Microsoft Excel is designed to have 100 percent fidelity. For Excel 2007, the formats should be equivalent. Features added since Excel 2007 will usually not be supported in the binary format; when converting from XLSX to .xls, later versions of Excel will attempt to "down-convert" to supported features and will present a compatibility check that indicates which features will be converted or lost.</p> <p>Relationship to CSV: The CSV format is a simple textual format for rectangular datasets. Rows represent observations and columns represent the variables measured. The first row may hold labels for the variables. Conversion from CSV to XLSX is straightforward and offered as an import feature by most spreadsheet applications. One caveat with import is that CSV imposes no limits to the precision of numeric value that can be represented. If numbers in a CSV file have more than 15 digits, the values will likely be rounded on conversion to XLSX. If an XLSX worksheet consists simply of data values where rows represent observations and columns represent variables, export/conversion to CSV is straightforward and widely offered by spreadsheet applications. If the top row gives variable names it will typically be exported appropriately. However, the exported file does not distinguish between raw data and calculated values. This loss of semantics may be significant in some contexts.</p> <p>Conversion between XLSX and ODS: Acknowledging the interest in whether conversion between OOXML and OpenDocument Format (including XLSX and ODS (OpenDocument Format</p>
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spreadsheet) files) could be reliable, ISO started a work item to explore this issue. *ISO/IEC TR 29166:2011 Information technology -- Document description and processing languages -- Guidelines for translation between ISO/IEC 26300 and ISO/IEC 29500 document formats* is the output of that expert working group. The 2011 report documents the challenges of translation between OOXML and ODF 1.1 formats, including the spreadsheet formats, based on the standards as documented at the time. This report, [available from ITTE](#), describes features and functionality for the three primary types of office document and characterizes the translatability of features and functions as *high*, *medium*, or *low*. The challenges are significant since the two formats use different underlying models. Although simple documents can be effectively converted, a round-trip to an identical document should never be expected. Display differences will be common after conversion, often of no semantic significance, but many resulting in different spacing or formatting (such as borders and shading). Judging from the *ISO/IEC TR 29166* report, and Microsoft's documentation, among the features that appear particularly problematic for conversion, and could lead to problems of more substance, particularly if a round trip is desired, are:

- The explicit typing for values in cells is different: ODF has types for float, percentage, currency (numeric types), date, time, boolean, and string; XLSX Transitional has boolean, number, or string. Percentages and currency values are identified only through display formatting.
- SpreadsheetML features for referencing, naming, and sharing formulas are not supported in ODS.
- A number of predefined functions were built in to only one of the standards at the time the report was written. [Note: Moves to address this incompatibility have been pursued, in part through the OpenFormula project, published as Part 2 of ODF 1.2. Excel 2013 claims to provide complete support for Open Formula.]
- Support for positioning graphics in or across cells in ODS cannot always reproduce positions specified in an XLSX spreadsheet.

Excel 2013 introduced support for ODF 1.2 and the OpenFormula specification incorporated as Part 2. Microsoft has documented some of the [differences between ODS and XLSX](#) as related to opening and saving ODS files in various versions of Excel. Similarly, LibreOffice, in its continually updated [Feature Comparison: LibreOffice - Microsoft Office \(Spreadsheet Applications\)](#), highlights conversion problems relating to its support for XLSX. Highlights from these two lists of incompatibilities in 2014 (using [the feature comparison LibreOffice Calc 4.3 vs. Microsoft Excel 2013](#)) included:

- ODS did not support WordArt or SmartArt features of Excel and some groupings of objects and shapes allowed in ODS must be nngrouped within XLSX.
- Various features of Pivot Tables in Excel were not supported in ODS.
- Dates before 1900-01-01 may not convert properly.
- Of ~450 functions, 22 were incorporated into LibreOffice Calc 4.3 but not in Excel 2013 and 17 were supported in Excel but not in Calc.
- Import of data from a Microsoft Access database needed re-engineering for use in Calc.
- Excel 2013 introduced a new Data Model feature that can represent relationships between tables. In Calc, equivalent relationships between tables must use the VLOOKUP function.

In February 2017, the comparison between LibreOffice Calc 5.3 and Excel 2016 mentions :

- The number of columns in a worksheet can be 1,024 in Calc, but in Excel 2016 can be 16,384. An Excel file in "compatibility mode" has a limit of 256 columns.
- Various features of Pivot Tables in Excel are not supported in ODS.
- Of ~500 functions, 24 are incorporated into LibreOffice Calc 5.3 but not in Excel 2016 and 14 are supported in Excel but not in Calc.
- Many chart types and features are not supported by both applications. In general, Excel offers more types and feature control than Calc.
- Import of data from a Microsoft Access database into Calc requires installation of Microsoft Access.
- In Calc, relationships between tables must use the VLOOKUP function.

When considering tools for conversion from OOXML to ODF, it is important to understand which version of ODF is the target. Significant extensions to the standard have been made since ODF 1.1, but ODF 1.1 is the only version that has completed the ISO/IEC standardization process as of August 2014, with some amendments and corrections. ODF 1.2 was approved as an ISO standard in 2015. Office 2013 and 2016 for Windows support export to ODF 1.2, but without change tracking. ODF 1.3 is already in the works, and LibreOffice offers the option to Save As "1.2 Extended." See [Wikipedia entry for Open Document Format](#) and [ODF Implementer Notes from LibreOffice Development wiki](#). The compilers of this resource believe that some of the amendments and features added in new versions of ODF are expected to improve the fidelity of conversion when supported in conversion tools but have no direct experience. New editions of ISO/IEC 29500 were published in 2011, 2012, and 2016; however, the changes were primarily corrections and clarifications to reflect XLSX documents as produced in practice. Of more relevance in relation to fidelity of conversion is whether a document includes any of the few new features introduced in recent versions of Excel and marked up in the Markup Compatibility and Extensibility namespace ([MCE/OOXML 2012](#)). Microsoft has documented these extensions in [\[MS-XLSX\]: Excel \(.xlsx\) Extensions to the Office Open XML SpreadsheetML File Format](#). Among the application features that depend on such extensions are: Power Query, Power View, Data Models (a new approach for integrating data from multiple tables, effectively building a relational database inside an Excel workbook), Slicers (a new device for configuring Pivot Tables), and Timelines (a special filter type for Pivot Tables).

	In June 2014, Google announced direct editing of XLSX files in the updated Google Sheets app on Android devices or online if using the Chrome browser with an extension Google supplies; the compilers of this resource have found no good information yet on the degree to which files edited in these versions of Google Sheets can be opened satisfactorily in Excel. Other spreadsheet applications, including LibreOffice, Apple's Numbers app, and Google Sheets when using browsers other than Chrome can both import and export/download XLSX files, but round-tripping without loss should not be expected. Apache Open Office can import XLSX files, but some loss should be expected.
History	<p>The original XLSX specification was published in ECMA-376, Part 1 in 2006. Between then and 2012, the main change to the specification for SpreadsheetML has been the split between Strict (as defined in Part 1) and Transitional (as defined in Part 4 in conjunction with Part 1). Editions of ISO/IEC 29500 and ECMA 376 between 2008 and 2016 related to spreadsheetML have primarily been corrections and clarifications, with a single exception, related to how dates are stored.</p> <p>Late in the ISO standardization process for OOXML, a proposal was made to adopt the ISO 8601 format for dates and times in spreadsheets. Dates and times in spreadsheets have usually been stored as numbers (sometimes termed "serial date-time" values), which use less space in memory or files, are convenient for common date-based calculations, and easily presented in a user-specified display format (following local conventions and using different scripts). The experts present at the ISO 29500 Ballot Resolution Meeting where votes were held on the outstanding proposals for the OOXML format were primarily experts in XML and in textual documents rather than with spreadsheets (see Why do we need serial dates in the Transitional form of IS 29500?, a 2009 blog post). The details of the proposal as approved had several shortcomings, recognized by spreadsheet experts once ISO 29500:2008 was published and software developers began to build tools. Firstly, no existing applications would be able to recognize and handle dates in the ISO 8601 format if they were included in XLSX Transitional files, as permitted by the published standard. See, for example, Losing data the silent way - ISO8601-dates. Since the intent of the Transitional variant of ISO 29500 was to be compatible with the existing corpus of .xlsx documents and the applications designed to handle them, an amendment to Part 4 to disallow ISO 8601 dates in the Transitional variant was introduced. Secondly, ISO 8601 is a very flexible format, and any use in a context that aims at interoperability needs to be specific about which particular textual string patterns are expected for dates and times. An amendment to specify particular string patterns for use in XLSX Strict, selected from the variety allowed by ISO 8601, was introduced. The associated amendments to Parts 1 and 4 were approved in December 2011 and incorporated into ISO 29500:2012. The changes were almost entirely in the text of the standard, with minimal changes to the schemas for SpreadsheetML, apart from disallowing the date cell-type in XLSX Transitional. The compilers of this resource are not aware of any SpreadsheetML implementations that would have generated XLSX Transitional files with dates in the ISO 8601 textual form that is no longer compliant with ISO 29500-4. Comments welcome.</p> <p>See also Notes/History for OOXML Family.</p>

Format specifications ¹

- [ECMA-376: Office Open XML File Formats](http://www.ecma-international.org/publications/standards/Ecma-376.htm) (http://www.ecma-international.org/publications/standards/Ecma-376.htm). Provides access to all chronological published versions.
- The latest versions of ISO/IEC 29500 are made available at no charge from ISO. The formal titles of the two parts that together specify the Transitional variant of XLSX are *Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference* (which specifies the Strict variant) and *Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 4: Transitional Migration Features*. The schemas for the Transitional variant described here are available as [electronic inserts](#) to Part 4.
 - [ISO/IEC Publicly Available Standards](http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html) (http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html).
 - [ISO/IEC 29500-1:2016, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip).
 - [ISO/IEC 29500-4:2016, Transitional Migration Features](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016.zip).
 - [Schemas in W3C XML Schema language and in RELAX NG for the Transitional variant of XLSX, etc.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071692_ISO_IEC_29500-4_2016_Electronic_inserts.zip).
 - [ISO/IEC 29500-1:2012, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip). Superseded, but still accessible as of February 2017.
 - [ISO/IEC 29500-4:2012, Transitional Migration Features](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012.zip). Superseded, but still accessible as of February 2017.
 - [Schemas in W3C XML Schema language and in RELAX NG for the Transitional variant of XLSX, etc.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061798_ISO_IEC_29500-4_2012_Electronic_inserts.zip). Superseded, but still accessible as of February 2017.

Useful references

URLs

- [PRONOM entry for fmt/214](http://www.nationalarchives.gov.uk/PRONOM/fmt/214) (http://www.nationalarchives.gov.uk/PRONOM/fmt/214). Information in PRONOM from UK National Archives about XLSX. PUID: fmt/214
- [IANA registration for MIME media type for XLSX \(spreadsheetML\) files](http://www.iana.org/assignments/media-types/application/vnd.openxmlformats-officedocument.spreadsheetml.sheet). (http://www.iana.org/assignments/media-types/application/vnd.openxmlformats-officedocument.spreadsheetml.sheet).
- Microsoft provides various documentation pages related to XLSX. Much of this documentation is aimed at programmers writing applications that manipulate WordprocessingML markup directly, perhaps using the Open XML SDK.

- [Welcome to the Open XML SDK 2.5 for Office](https://msdn.microsoft.com/en-us/library/office/bb448854.aspx) (https://msdn.microsoft.com/en-us/library/office/bb448854.aspx). In June 2014, the Open XML SDK was made available as open source.
- [Structure of a SpreadsheetML document \(Open XML SDK\)](https://msdn.microsoft.com/en-us/library/office/gg278316.aspx) (https://msdn.microsoft.com/en-us/library/office/gg278316.aspx).
- [Working with SpreadsheetML Documents \(Open XML SDK\)](https://msdn.microsoft.com/en-us/library/office/gg278328.aspx) (https://msdn.microsoft.com/en-us/library/office/gg278328.aspx). Introduces basic topics for working with SpreadsheetML (.xlsx) files through program code.
- [Working with formulas \(Open XML SDK\)](https://msdn.microsoft.com/en-us/library/office/gg278310.aspx) (https://msdn.microsoft.com/en-us/library/office/gg278310.aspx). Discussion of formula support in SpreadsheetML. SpreadsheetML formulas support the following types: array, error, logical, number, and text.
- [DocumentFormat.OpenXml.Spreadsheet namespace](https://msdn.microsoft.com/en-us/library/office/documentformat.openxml.spreadsheet.aspx) (https://msdn.microsoft.com/en-us/library/office/documentformat.openxml.spreadsheet.aspx). Detailed documentation for the classes in OpenXML SDK, elements, attributes, etc.
- [\[MS-XLSX\]: Excel \(.xlsx\) Extensions to the Office Open XML SpreadsheetML File Format](https://msdn.microsoft.com/en-us/library/dd922181.aspx) (https://msdn.microsoft.com/en-us/library/dd922181.aspx).
- [\[MS-XLSX\] 2.3.3. Functions](https://msdn.microsoft.com/en-us/library/dd907480.aspx) (https://msdn.microsoft.com/en-us/library/dd907480.aspx). Functions added to those defined in ISO/IEC 29500-1, §18.17. Uses a so-called "future-function" list.
- [\[MS-XLSX\] 2.2.2. Formulas](https://msdn.microsoft.com/en-us/library/dd906358.aspx) (https://msdn.microsoft.com/en-us/library/dd906358.aspx). Includes a more detailed ABNF grammar for formulas than in ISO/IEC 29500-1, §18.17, including a complete list of functions defined in the standard and "future" functions added to Excel since the standard was published.
- [New functions in Excel 2013](https://support.office.com/client/New-functions-in-Excel-2013-075c82bd-15b9-4ad6-af31-55bb6b011cb9) (https://support.office.com/client/New-functions-in-Excel-2013-075c82bd-15b9-4ad6-af31-55bb6b011cb9). From Microsoft support site for users.
- [New file format options in the new Office \[Office 2013\]](https://blogs.office.com/2012/08/13/new-file-format-options-in-the-new-office/) (https://blogs.office.com/2012/08/13/new-file-format-options-in-the-new-office/). Announces support for writing files in XLSX Strict and ODF 1.2 formats. Excel 2013 claims to provide complete support for Open Formula.
- [Differences between the OpenDocument Spreadsheet \(.ods\) format and the Excel \(.xlsx\) format](https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Spreadsheet-ods-format-and-the-Excel-xlsx-format-4311c54f-ee86-4197-bd2d-5ecc35deb138) (https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Spreadsheet-ods-format-and-the-Excel-xlsx-format-4311c54f-ee86-4197-bd2d-5ecc35deb138). Lists features supported and not supported in relation to saving or opening a file in ODS format from Excel 2007, Excel 2010, or Excel 2013.
- [Lists features supported and not supported in relation to saving or opening a file in ODS format from Excel Online](https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Spreadsheet-ods-format-and-the-Excel-Online-xlsx-format-0cbaf06f-7de3-4dbc-a5ac-8a8876835d37) (https://support.office.com/en-us/article/Differences-between-the-OpenDocument-Spreadsheet-ods-format-and-the-Excel-Online-xlsx-format-0cbaf06f-7de3-4dbc-a5ac-8a8876835d37).
- [ISO/IEC TR 29166:2011 Information technology -- Document description and processing languages -- Guidelines for translation between ISO/IEC 26300 and ISO/IEC 29500 document formats](http://standards.iso.org/ittf/PubliclyAvailableStandards/c045245_ISO_IEC_TR_29166_2011.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c045245_ISO_IEC_TR_29166_2011.zip).
- [Feature Comparison: Spreadsheet applications: LibreOffice Calc vs. Microsoft Excel](https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_Calc_vs._Microsoft_Excel) (https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_Calc_vs._Microsoft_Excel). Focuses on differences between applications. Some differences reflect differences between semantics of XLSX and ODS that would likely give problems on conversion.
- [Wikipedia article on Microsoft Excel](https://en.wikipedia.org/wiki/Microsoft_Excel) (https://en.wikipedia.org/wiki/Microsoft_Excel).
- [Wikipedia article on Microsoft Office Mobile Apps](https://en.wikipedia.org/wiki/Microsoft_Office_mobile_apps) (https://en.wikipedia.org/wiki/Microsoft_Office_mobile_apps).
- Resources related to representation of dates and times and associated compatibility issues
 - [Why do we need serial dates in the Transitional form of IS 29500?](https://aristippus303.wordpress.com/2009/10/22/why-do-we-need-serial-dates-in-the-transitional-form-of-is-29500/) (https://aristippus303.wordpress.com/2009/10/22/why-do-we-need-serial-dates-in-the-transitional-form-of-is-29500/). 2009 blog post by Gareth Horton, a spreadsheet expert who later took an active role in preparing the amendments to ISO 29500 that addressed the shortcomings highlighted in this blog post.
 - [Losing data the silent way - ISO8601-dates](http://web.archive.org/web/20160308235112/http://dippedut.dk/post/Losing-data-the-silent-way-ISO8601-dates) (http://web.archive.org/web/20160308235112/http://dippedut.dk/post/Losing-data-the-silent-way-ISO8601-dates). Blog post from April 2009 by Jesper Stocholm, who has been actively involved in standardization of office formats and in building tools that manipulate and convert OOXML files. Link via Internet Archive.
 - [My First BillG Review by Joel Spolsky](https://www.joelonsoftware.com/2006/06/16/my-first-billg-review/) (https://www.joelonsoftware.com/2006/06/16/my-first-billg-review/). One of the topics of the 1992 meeting with Bill Gates described by this former software developer for Microsoft was date issues that is reported as resulting from a characteristic of the date system in Lotus 1-2-3
 - [Differences between the 1900 and the 1904 date system in Excel](https://support.microsoft.com/en-us/help/214330/differences-between-the-1900-and-the-1904-date-system-in-excel) (https://support.microsoft.com/en-us/help/214330/differences-between-the-1900-and-the-1904-date-system-in-excel). From Microsoft online user support site. This resource suggests that the need for the 1904 system also related to constraints in early Macintosh computers. Note that starting with the 2011 version, Office for Mac no longer defaults to the 1904 date system for new workbooks as stated in this support page. The only problems for users related to having two date systems occur when dates are copied from a spreadsheet using one date system to one using the other system.
 - [Microsoft Excel Time Resolution | Systematix](https://www.systematix.co.uk/microsoft-excel-time-resolution-accuracy/) (https://www.systematix.co.uk/microsoft-excel-time-resolution-accuracy/). Summer 2016 post exploring whether Excel's precision for time calculations would be adequate for Olympic events.
- Blog posts about apps for mobile devices that support XLSX
 - [Google blog post, June 25, 2014. Work with any file, on any device, any time with new Docs, Sheets, and Slide](https://googledrive.blogspot.com/2014/06/newdocsheetsslides.html) (https://googledrive.blogspot.com/2014/06/newdocsheetsslides.html). Product announcement including apps "with Office editing built right in."
 - [Google Help: Work with Office files in Google Docs, Sheets, and Slides](https://support.google.com/docs/answer/6055139) (https://support.google.com/docs/answer/6055139). In early 2017, the Google apps for Android and iPad/iPhone support direct editing of XLSX files. Direct editing of Office file formats on a computer requires use of Chrome. Import and export/download of XLSX files is possible with other browsers.
 - [Tech Times, Aug 26, 2014 -- Google docs update may have Microsoft a bit worried, and rightly so.](http://www.techtimes.com/articles/14111/20140826/google-docs-update-microsoft-bit-worried-rightly.htm) (http://www.techtimes.com/articles/14111/20140826/google-docs-update-microsoft-bit-worried-rightly.htm).
 - [Tech Times, Nov 9, 2014 -- Real reason why Microsoft decided to make Office apps free for Android and iOS](http://www.techtimes.com/articles/19776/20141109/real-reason-why-microsoft-decided-to-make-office-apps-free-for-android-and-ios.htm) (http://www.techtimes.com/articles/19776/20141109/real-reason-why-microsoft-decided-to-make-office-apps-free-for-android-and-ios.htm).
- Examples of format recommendations or guidelines for archiving datasets
 - [Library of Congress Recommended Formats Statement | VL Datasets/Databases](http://www.loc.gov/preservation/resources/rfs/data.html) (http://www.loc.gov/preservation/resources/rfs/data.html).
 - [Guidance on file formats accepted by the UK Data Archive for deposited data.](http://data-archive.ac.uk/create-manage/format/formats-table) (http://data-archive.ac.uk/create-manage/format/formats-table).
 - [NARA 2014-04: Appendix A, Revised Format Guidance for the Transfer of Permanent Electronic Records – Tables of File Formats](https://www.archives.gov/records-mgmt/policy/transfer-guidance-tables.html#structuredata) (https://www.archives.gov/records-mgmt/policy/transfer-guidance-tables.html#structuredata).
 - [Data Management General Guidance: File Formats](https://dmptool.org/dm_guidance#formats) (https://dmptool.org/dm_guidance#formats). From DMPTool.org, a service of the University of California Curation Center of the California Digital Library
 - [Dryad Digital Repository: File types guidance](http://datadryad.org/pages/filetypes) (http://datadryad.org/pages/filetypes).
- Resources that describe and discuss differences between formulas as supported by SpreadsheetML and ODF. ODF support for formulas was not standardized in ODF 1.1. The OpenFormula specification was published as Part 2 of ODF 1.2 by OASIS on Sept 29, 2011.
 - [ISO/IEC 29500-1:2012, specification document for OOXML, including SpreadsheetML for XLSX](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip). The syntax for formulas and semantics of predefined functions are in subclause 18.17.
 - [Open Document Format Version 1.2, Part 2: Recalculated Formula \(OpenFormula\) Format](http://docs.oasis-open.org/office/v1.2/os/OpenDocument-v1.2-os-part2.html) (http://docs.oasis-open.org/office/v1.2/os/OpenDocument-v1.2-os-part2.html).
 - [OASIS ODF TC: Draft comparison of functions in OpenFormula and OOXML.](https://www.oasis-open.org/committees/download.php/35759/OpenFormula-ISO29500-draft-comparison.xls) (https://www.oasis-open.org/committees/download.php/35759/OpenFormula-ISO29500-draft-comparison.xls). Dates from 2010.

- [Trying to figure out where Open Formula fits in](#). Blog post by Rick Jelliffe from 2008 (<http://broadcast.oreilly.com/2008/10/trying-to-figure-out-where-ope.html>).
- Resources related to numerical precision. The typical numerical precision in spreadsheet formats/applications, including XLSX) is the *double-precision floating-point* format, also referred to as *binary64*.
 - [Wikipedia entry for double-precision floating-point format \(binary64\)](http://en.wikipedia.org/wiki/Double-precision_floating-point_format) (http://en.wikipedia.org/wiki/Double-precision_floating-point_format). As specified by IEEE 754 and IEC 60559. IEEE 754-2008 and ISO/IEC/IEEE 60559:2011 are identical standards for floating-point arithmetic.
 - [Is Microsoft Excel an Adequate Statistics Package?](http://www.practicalstats.com/xlsstats/excelstats.html). (<http://www.practicalstats.com/xlsstats/excelstats.html>). From Practical Stats. Relates to Excel versions earlier than Excel 2010. Has many references to articles on the topic.
 - [On the Numerical Accuracy of Spreadsheets](https://www.jstatsoft.org/v34/i04). *Journal of Statistical Software*, Vol. 34, Issue 4, April 2010 (<https://www.jstatsoft.org/v34/i04>). Based on Excel 2007 and other spreadsheet applications available in 2008. Concludes, "there is no safe choice among the spreadsheets here assessed."
- Documentation provided by Microsoft for related file formats not within the scope of ISO/IEC 29500 but supported by Microsoft Excel.
 - [\[MS-OVBA\]: Office VBA File Format Structure](https://msdn.microsoft.com/en-us/library/cc313094.aspx) (<https://msdn.microsoft.com/en-us/library/cc313094.aspx>). Format used to store macros written in the Visual Basic for Applications (VBA) Language used for macros in Microsoft Office applications.
 - [\[MS-OFFMACRO\]: Office Macro-Enabled File Format](https://msdn.microsoft.com/en-us/library/dd925808.aspx) (<https://msdn.microsoft.com/en-us/library/dd925808.aspx>). Office Macro-Enabled File Format for WordprocessingML, SpreadsheetML, and PresentationML file formats that are either not present in or modified from corresponding non-macro-enabled file formats as specified in Edition 1 of ECMA-376. Applicable to Excel 2007.
 - [\[MS-OFFMACRO2\]: Office Macro-Enabled File Format Version 2](https://msdn.microsoft.com/en-us/library/dd947889.aspx) (<https://msdn.microsoft.com/en-us/library/dd947889.aspx>). Modified version of OFFMACRO for use with ISO/IEC 29500 and applicable to Office 2010 and Office 2013.
 - [\[MS-XLSB\]: Excel \(.xlsb\) Binary File Format](https://msdn.microsoft.com/en-us/library/cc313133.aspx) (<https://msdn.microsoft.com/en-us/library/cc313133.aspx>). XLSB uses the OPC package structure, but stores the spreadsheet data in binary form.
- The Wikidata resource https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats is used to compile information about file formats and documentation in a highly structured machine-readable form. Each format listed at [Wikidata:WikiProject Informatics/File formats/Lists/File formats](https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats/Lists/File_formats) has a format identifier known as a Title ID. This Wikidata resource has given format identifiers to the chronological versions for XLSX and also based on whether or not Microsoft extensions are included. As of February 2017, the Title IDs that correspond to this format description are:
 - [Wikidata entry for Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2012 \(Q26207808\)](https://www.wikidata.org/wiki/Q26207808) (<https://www.wikidata.org/wiki/Q26207808>). Wikidata Title ID: Q26207808
 - [Wikidata entry for Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2011 \(Q26207734\)](https://www.wikidata.org/wiki/Q26207734) (<https://www.wikidata.org/wiki/Q26207734>). Wikidata Title ID: Q26207734
 - [Wikidata entry for Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2008 \(Q26205771\)](https://www.wikidata.org/wiki/Q26205771) (<https://www.wikidata.org/wiki/Q26205771>). Wikidata Title ID: Q26205771
 - [Wikidata entry for Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2012, with Microsoft extensions \(Q26211528\)](https://www.wikidata.org/wiki/Q26211528) (<https://www.wikidata.org/wiki/Q26211528>). Wikidata Title ID: Q26211528
 - [Wikidata entry for Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2011, with Microsoft extensions \(Q26211338\)](https://www.wikidata.org/wiki/Q26211338) (<https://www.wikidata.org/wiki/Q26211338>). Wikidata Title ID: Q26211338
 - [Wikidata entry for Office Open XML Spreadsheet Document, Transitional, ISO/IEC 29500:2008, with Microsoft extensions \(Q26207986\)](https://www.wikidata.org/wiki/Q26207986) (<https://www.wikidata.org/wiki/Q26207986>). Wikidata Title ID: Q26207986
- Microsoft commitments to interoperability include a set of interoperability principles, a promise of open specifications for certain high-volume products, and a program of documentation and "Interop" events. See Useful References for [OOXML Format Family](#).
- For historical background for Microsoft commitments to interoperability, see Useful References for [OOXML Format Family](#).

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XLSX Strict (Office Open XML), ISO 29500-1:2008-2016

>> [Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000401
- Short name: XLSX/OOXML_Strict_2012
- Content categories: spreadsheet, office/business
- Format Category: file-format
- Other facets: text, structured, symbolic
- Last significant FDD update: 2017-01-18
- Draft status: Full

Identification and description ⁱ

Full name	XLSX Strict, (Office Open XML, Spreadsheet ML) ISO 29500:2008-2016, also ECMA-376, Editions 2-5.
Description	<p>The Strict variant of XLSX disallows a variety of elements and attributes that are permitted in the more common Transitional variant (XLSX/OOXML 2012). The markup for the Strict variant is essentially a subset of markup for the Transitional variant, but the schemas use different namespaces and are distributed separately in complete form.</p> <p>The Strict variant of XLSX described here was introduced during the standardization in ISO/IEC 29500 in 2008 with the intention of excluding features included in ECMA-376, Edition 1 that were present simply to handle bugs and features of earlier spreadsheet applications. The intent of the split of the markup specification into Strict (Part 1) and Transitional (Part 4) was that applications would create new documents in the Strict variant; however, in practice, pressure for backwards compatibility has meant that most new files are marked up by applications using the Transitional namespace even if they use no features that are incompatible with the Strict specification.</p> <p>Among the key differences between the Strict variant and the Transitional variant are:</p> <ul style="list-style-type: none"> • Use of VML (Vector Markup Language) for graphics is not permitted in XLSX Strict. All graphics, for example in charts, are represented using DrawingML.

	<ul style="list-style-type: none"> • Characters in XLSX Strict are based on UNICODE. Other character sets and codepage technologies are not permitted. • To comply with XLSX Strict, elements and attributes with deprecated names that use "left" and "right" in relation to start and end of text must be replaced by substitutes that are neutral in relation to the direction of text. • Legacy techniques for protecting workbooks and their contents are disallowed in XLSX Strict. • XLSX Strict has a value type for cells of <i>date</i>, using the Complete, Extended Format Calendar representations in ISO 8601. For reasons of backwards compatibility, this typed use of ISO 8601 dates is not permitted in XLSX Transitional. See Notes below. • XLSX Strict does not permit the use of representations for drawing elements and attributes where percentages used to specify scaling and positioning are represented as integers outside the range 0-100. This technique was formerly used for performance reasons. <p>For discussion of other aspects of the Strict XLSX format, see the description of the more common Transitional variant of XLSX, XLSX/OOXML 2012.</p>
Production phase	Can be used in any production phase: for creating documents (initial state); for editing and review (middle-state); and for final distribution.
Relationship to other formats	
Subtype of	OOXML Family , OOXML Format Family -- ISO/IEC 29500 and ECMA 376
Subtype of	OPC/OOXML 2012 , Open Packaging Conventions (Office Open XML), ISO 29500-2:2008-2012
May contain	MCE/OOXML 2012 , Markup Compatibility and Extensibility (Office Open XML), ISO 29500-3:2008-2015, ECMA-376, Editions 1-4
Modification of	XLSX/OOXML 2012 , XLSX Transitional (Office Open XML), ISO 29500:2008-2016. The Transitional variant of XLSX allows legacy markup as specified in Part 4 of ISO/IEC 29500. Hence the Transitional variant has more support for backwards compatibility when converting documents from older formats.
Defined via	XML , Extensible Markup Language (XML)

Local use ⁱ

LC experience or existing holdings	In 2017, the Library of Congress was not aware of any documents in the Strict form of XLSX in its collections. Staff do not use a version of Excel that can produce spreadsheets in the XLSX Strict variant.
LC preference	For works acquired for its collections, the list of Library of Congress Recommended Formats Statement for Datasets/Databases , as of 2016, includes XLSX (.xlsx) as a preferred format for datasets. It does not distinguish between the Strict and the more common Transitional XLSX/OOXML 2012 form in its preferences.

Sustainability factors ⁱ

Disclosure	International open standard. Maintained by ISO/IEC JTC1 SC34/WG4. Originated by Microsoft Corporation and first standardized through ECMA International in 2006. Approval as ISO/IEC 29500 was in 2008.
Documentation	<i>ISO/IEC 29500-1, Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference</i> . Latest version (dated 2016 as of February 2017) is available from ISO/IEC Publicly Available Standards . All editions of the OOXML standards as published by ECMA are available from ECMA-376: Office Open XML File Formats . See Notes below for version chronology.
Adoption	The Strict variant of XLSX does not appear to be widely widely used as of

February 2017, although support has been added to several applications in recent years. The ability to read Strict XLSX files was first implemented by Microsoft in Excel 2010; in Windows Office, the ability to write Strict files as an option was added in Excel 2013 and is available in Excel 2016 and Office 365. Office for Mac 2011 could neither read nor write Strict files. The latest version of Excel for a desktop Mac (in Office for Mac 2016) can read but not write Strict files.

Versions of LibreOffice since 4.2.3 can read Strict XLSX files. The Feature Comparison provided by LibreOffice for version 5.3 (released in early 2017) indicates that Strict XLSX files can be read but not written. However, the existence of [Support OOXML strict export](#) as a project on a [to-do list for LibreOffice](#) suggests that this capability may be introduced before long. A test using LibreOffice 5.2 confirmed that XLSX files written by that application are always in the more common Transitional form, regardless of which of two .xlsx options is chosen from the dropdown menu in the Save As feature. Two options are presented in LibreOffice because of a few small differences found in some files produced by Microsoft Office, particularly by Office 2007. See [Useful References](#) below.

Whether the Strict version of XLSX is more widely used in the future will likely depend on whether pressure on software vendors from governments for its adoption outweighs market pressure, which currently seems to favor backwards compatibility.

The compilers of this resource are not aware of any spreadsheet applications other than Microsoft products that can create the Strict variant of XLSX (as defined in Part 1 of the ISO/IEC 29500 standard). Tests in February 2017 indicated that Google Sheets and Libre Office (version 5.2) both created new documents in the Transitional variant, as indicated by the namespace declarations, even when the document includes no elements or attributes not present in the Strict versions of the schemas. This corresponds to the default behavior of Microsoft products.

[Comments welcome.](#)

Licensing and patents	See the more common Transitional form of XLSX, XLSX/OOXML 2012 and OOXML Format Family .
Transparency	See the more common Transitional form of XLSX, XLSX/OOXML 2012 .
Self-documentation	See the more common Transitional form of XLSX, XLSX/OOXML 2012 .
External dependencies	See the more common Transitional form of XLSX, XLSX/OOXML 2012 .
Technical protection considerations	See the more common Transitional form of XLSX, XLSX/OOXML 2012 .

Quality and functionality factors ⁱ

Text	
Normal rendering	See the more common Transitional form of XLSX, XLSX/OOXML 2012 .
Dataset	
Normal functionality	See the more common Transitional form of XLSX, XLSX/OOXML 2012 .

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	xlsx	
Internet Media Type	application/vnd.openxmlformats-officedocument.spreadsheetml.sheet	From IANA registration .

XML namespace declaration	http://purl.oclc.org/ooxml/spreadsheetml/main	This namespace declaration is for the Strict variant of XLSX. It occurs in the mandatory Main Document part of a XLSX file (package), which usually has the name <i>/xl/workbook.xml</i> . The use of <i>/xl/workbook.xml</i> as the name of the main part is conventional, rather than mandated in ISO 29500.
Other	Target="xl/workbook.xml"	This signifier assumes the usual name of the main part of an XLSX file. The target declaration will occur in the top-level Relationships part (_rels\rels part in an OPC package of a Strict XLSX file, as an attribute of a <Relationship> element within the Relationships element. It will be the target of a relationship of type http://purl.oclc.org/ooxml/officeDocument/relationships/officeDocument . See root namespace and source relationship for Main Document Part in ISO/IEC 29500-1:2012, §12.3.23.
Pronom PUID	fmt/214	See http://www.nationalarchives.gov.uk/PRONOM/fmt/214 . As of February 2017, PRONOM does not distinguish between Strict and Transitional versions of XLSX.
Wikidata Title ID	Q26207821	Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2012. See https://www.wikidata.org/wiki/Q26207821
Wikidata Title ID	Q26207792	Office Open XML Wordprocessing Document, Strict, ISO/IEC 29500:2011. See https://www.wikidata.org/wiki/Q26207792
Wikidata Title ID	Q26207712	Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2008. See https://www.wikidata.org/wiki/Q26207712
Wikidata Title ID	Q26211536	Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2012, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211536
Wikidata Title ID	Q26211510	Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2011, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26211510
Wikidata Title ID	Q26208253	Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2008, with Microsoft extensions. See https://www.wikidata.org/wiki/Q26208253

Notes ⁱ

General	<p>Textual and serial numeric representations of dates and times: In the Strict variant of XLSX, dates may be stored using textual forms specified in the ISO 8601 standard. Late in the ISO standardization process for OOXML, a proposal was made to adopt the ISO 8601 format for dates and times in spreadsheets. Dates and times in spreadsheets have usually been stored as numbers (sometimes termed "serial date-time" values), which use less space in memory or files, are convenient for common date-based calculations, and easily presented in a user-specified display format (following local conventions and using different scripts). The experts present at the ISO 29500 Ballot Resolution Meeting where votes were held on the outstanding proposals for the OOXML format were primarily experts in XML and in textual documents rather than with spreadsheets (see Why do we need serial dates in the Transitional form of IS 29500?, a 2009 blog post). The details of the proposal as approved had several shortcomings, recognized by spreadsheet experts once ISO 29500:2008 was published and software developers began to build tools. Firstly, no existing applications would be able to recognize and handle dates in the ISO 8601 format if they were included in XLSX Transitional files, as permitted by the published standard. See, for example, Losing data the silent way - ISO8601-dates. Since the intent of the Transitional variant of ISO 29500 was to be compatible with the existing corpus of .xlsx documents and the applications designed to handle them, an amendment to Part 4 to disallow ISO 8601 dates in the Transitional variant was introduced. Secondly, ISO 8601 is a very flexible format, and any use in a context that aims at interoperability needs to be specific about which particular textual string patterns are expected for dates and times. An amendment to specify particular string patterns for use in XLSX Strict, selected from the variety allowed by ISO 8601, was introduced as an amendment</p>
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	<p>to Part 1. The associated amendments to Parts 1 and 4 were approved in December 2011 and incorporated into ISO 29500:2012. The changes were almost entirely in the text of the standard, with minimal changes to the schemas for SpreadsheetML, apart from disallowing the date cell-type in XLSX Transitional. The compilers of this resource are not aware of any SpreadsheetML implementations that would have generated XLSX Transitional files with dates in the ISO 8601 textual form that is no longer compliant with ISO 29500-4. Comments welcome.</p> <p>The Strict variant of XLSX can contain dates in a textual form, using the Complete, Extended Format of ISO 8601, as specified in subclause 18.17.4 <i>Dates and Times</i> of ISO/IEC 29500-1:2011-2016. However, operations such as determining the number of years, days, minutes, or seconds between two date/time values, will usually be done using "serial date-time values," i.e., numbers that represent days relative to a base date. For this reason, the use of serial date-time values has been common in spreadsheets and other applications where dates are used as the basis for computation. Subclauses 18.17.4.1-3 of ISO/IEC 29500-1 discuss conversion between the two representations for dates.</p> <p>See also the more common Transitional form of XLSX, XLSX/OOXML 2012.</p>
<p>History</p>	<p>For chronologies of the OOXML standard and for versions of Microsoft Office, see OOXML Family. See also the more common Transitional form of XLSX, XLSX/OOXML 2012.</p>

Format specifications ¹

- [ECMA-376: Office Open XML File Formats](http://www.ecma-international.org/publications/standards/Ecma-376.htm) (<http://www.ecma-international.org/publications/standards/Ecma-376.htm>). Provides access to all chronological published versions.
- The latest versions of ISO/IEC 29500 are made available at no charge from ISO. The formal titles of the Part 1 that specifies the Strict variant of XLSX is *Information technology -- Document description and processing languages -- Office Open XML File Formats -- Part 1: Fundamentals and Markup Language Reference*. The schemas for the Strict variant described here are available as [electronic inserts](#) to Part 1.
 - [ISO/IEC Publicly Available Standards](http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html) (<http://standards.iso.org/ittf/PubliclyAvailableStandards/index.html>).
 - [ISO/IEC 29500-1:2016, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016.zip).
 - [Schemas in W3C XML Schema language and in RELAX NG for the Strict variant of XLSX, etc.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c071691_ISO_IEC_29500-1_2016_Electronic_inserts.zip).
 - [ISO/IEC 29500-1:2012, Fundamentals and Markup Language Reference](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012.zip).
 - [Schemas in W3C XML Schema language and in RELAX NG for the Strict variant of XLSX.](http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012_Electronic_inserts.zip) (http://standards.iso.org/ittf/PubliclyAvailableStandards/c061750_ISO_IEC_29500-1_2012_Electronic_inserts.zip).

Useful references

URLs

- [Why do we need serial dates in the Transitional form of IS 29500?](https://aristippus303.wordpress.com/2009/10/22/why-do-we-need-serial-dates-in-the-transitional-form-of-is-29500/) (<https://aristippus303.wordpress.com/2009/10/22/why-do-we-need-serial-dates-in-the-transitional-form-of-is-29500/>). 2009 blog post by Gareth Horton, a spreadsheet expert who later took an active role in preparing the amendments to ISO 29500 that addressed the shortcomings highlighted in this blog post.
- [Losing data the silent way - ISO8601-dates](http://web.archive.org/web/20160308235112/http://idippedut.dk/post/Losing-data-the-silent-way-ISO8601-dates) (<http://web.archive.org/web/20160308235112/http://idippedut.dk/post/Losing-data-the-silent-way-ISO8601-dates>). Blog post from April 2009 by Jesper Stocholm, who has been actively involved in standardization of office formats and in building tools that manipulate and convert OOXML files.
- [Feature Comparison: LibreOffice - Microsoft Office](https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_-_Microsoft_Office) (https://wiki.documentfoundation.org/Feature_Comparison:_LibreOffice_-_Microsoft_Office). In February 2017, this indicates that LibreOffice 5.3 supports reading but not writing of Strict OOXML files.
- [File format reference for Word, Excel, and PowerPoint](https://technet.microsoft.com/EN-US/library/dd797428(v=office.16).aspx) ([https://technet.microsoft.com/EN-US/library/dd797428\(v=office.16\).aspx](https://technet.microsoft.com/EN-US/library/dd797428(v=office.16).aspx)). Applies to Office 2016 for Windows. Lists support for Strict variant explicitly.
- Listed below are blog or forum posts that discuss support for the Strict variants of OOXML formats and related interoperability problems:
 - [What is the level of support for MS Office formats? \(in LibreOffice\)](http://web.archive.org/web/20160310015945/http://en.libreofficeforum.org/node/7505) (<http://web.archive.org/web/20160310015945/http://en.libreofficeforum.org/node/7505>). Feb 2014 blog post from

- "unofficial LibreOffice support forum" with later addenda. Forum shut down in May 2016. Link via Internet Archive
- [What is the level of support for MS Office formats? \(in LibreOffice\)](#) (<http://www.imacanic.org/en.libreofficeforum.org/node/7505>). From rescued archive of LibreOfficeForum when it closed.
 - [What is the default file format for saving in MS Office 2013? Is it still the transitional OOXML or the ISO/IEC 29500 strict format?](#) (<https://social.technet.microsoft.com/Forums/en-US/e969fc0a-9fcd-4efe-bf6d-79ea8c34360f/what-is-the-default-file-format-for-saving-in-ms-office-2013-is-it-still-the-transitional-ooxml-or?forum=officeitpro>). From May 2013, with responses through January 2014. Explains how to set the default format for files created in Office 2013 to the Strict variant.
 - [OOXML Strict and MS Office 2010](#) (<https://flosmind.wordpress.com/2016/05/01/ooxml-strict-and-ms-office/>). Blog post about an interoperability problem with a Strict XLSX file created in Office 365 that could not be read by Office 2010.
 - [Analysis of what it would take to support OOXML strict export in LibreOffice](#) (https://wiki.documentfoundation.org/Support_OOXML_strict_export).
 - [Apache Software Foundation Bugzilla – Bug 57699 for POI product](#) (https://bz.apache.org/bugzilla/show_bug.cgi?id=57699). Suggests that POI (Java API for OOXML files) did not support the Strict OOXML variants as of February 2017 (version 3.16).
 - Listed below are some forum posts about dates and times in OOXML Strict files.
 - [Adding a date in an Excel cell using OpenXML \(in Stack Overflow\)](#) (<http://stackoverflow.com/questions/39627749/adding-a-date-in-an-excel-cell-using-openxml>). September 2016
 - [Date cells | issue raised by developers of SheetJS](#) (<https://github.com/SheetJS/js-xlsx/issues/126>). October 2014.
 - [Redmond, we have a problem | from Going Open blog](#) (<http://www.italovignoli.org/2014/02/redmond-we-have-a-problem/>). February 2014
 - [PRONOM entry for fmt/214](#) (<http://www.nationalarchives.gov.uk/PRONOM/fmt/214>). Information in PRONOM from UK National Archives about XLSX. PUID: fmt/214 PRONOM does not currently distinguish between Strict and Transitional versions of DOCX.
 - The Wikidata resource https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats is used to compile information about file formats and documentation in a highly structured machine-readable form. Each format listed at [Wikidata:WikiProject Informatics/File formats/Lists/File formats](https://www.wikidata.org/wiki/Wikidata:WikiProject_Informatics/File_formats/Lists/File_formats) has a format identifier known as a Title ID. This Wikidata resource has given format identifiers to the chronological versions for XLSX and also to whether or not Microsoft extensions are included. As of February 2017, the Title IDs that correspond to this format description are:
 - [Wikidata entry for Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2012 \(Q26207821\)](#) (<https://www.wikidata.org/wiki/Q26207821>). Wikidata Title ID: Q26207821
 - [Wikidata entry for Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2011 \(Q26207792\)](#) (<https://www.wikidata.org/wiki/Q26207792>). Wikidata Title ID: Q26207792
 - [Wikidata entry for Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2008 \(Q26207712\)](#) (<https://www.wikidata.org/wiki/Q26207712>). Wikidata Title ID: Q26207712
 - [Wikidata entry for Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2012, with Microsoft extensions \(Q26211533\)](#) (<https://www.wikidata.org/wiki/Q26211533>). Wikidata Title ID: Q26211533
 - [Wikidata entry for Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2011, with Microsoft extensions \(Q26211510\)](#) (<https://www.wikidata.org/wiki/Q26211510>). Wikidata Title ID: Q26211510
 - [Wikidata entry for Office Open XML Spreadsheet Document, Strict, ISO/IEC 29500:2008, with Microsoft extensions \(Q26208253\)](#) (<https://www.wikidata.org/wiki/Q26208253>). Wikidata Title ID: Q26208253
 - See also references listed for the more common Transitional form of XLSX, [XLSX/OOXML 2012](#).

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Microsoft Outlook PST 97-2002 (ANSI)

[>> Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000377
- Short name: PST_ANSI
- Content categories: text, email
- Format Category: file-format
- Other facets: unitary, binary, structured, symbolic
- Last significant FDD update: 2013-11-25
- Draft status: Full

Identification and description ⁱ

Full name	Microsoft Outlook 97-2002 Personal Folders File (ANSI)
Description	<p>The Personal Folders File or PST is an open proprietary data file format used to store local copies of messages, calendar events, and other items within Microsoft software including Microsoft Office Outlook. PST files are used to store archived items and to maintain off-line availability of the items.</p> <p>PST shares the same Personal Folders File format (PFF) structure as Offline Storage Table (OST) and Personal Address Book (PAB).</p> <p>PST is a stand-alone, self-contained, structured binary file format that does not require any external dependencies. Each PST file represents</p>

a message store that contains an arbitrary hierarchy of Folder objects, which contains Message objects, which can contain Attachment objects. Information about Folder objects, Message objects, and Attachment objects are stored in properties, which collectively contain all of the information about the particular item.

A PST file is organized as two B-trees with 512 byte nodes and leaves. Its architecture is based on three logical layers.

- A NDB (Node Database) layer that allocates physical blocks of storage. The NDB layer consists of the header, file allocation information, blocks, nodes, and two BTrees: the Node BTree (NBT) and the Block BTree (BBT). The Block B-tree implements storage allocation within the PST file, based on data blocks with size up to 8 kbytes.
- A LTP (Lists, Tables, and Properties) layer that implements higher-level concepts on top of the NDB construct and contains the core elements Property Context (PC) and Table Context (TC). A PC represents a collection of properties. A TC represents a two-dimensional table where the rows represent a collection of properties and the columns represent which properties are within the rows.
- A Messaging layer (sometimes referred to as the PST layer) that implements folder objects, message objects, etc. as structures of lists, tables, and properties.

For example, a message object consists logically of a set of properties, a recipients table, the message content, an optional attachment table, and attachments (which have their own sets of properties and content). A message node connects the message object to its parent folder, the data block in which its properties are stored, and to the sub-nodes representing the recipients table, attachment table, etc.

The two versions of PST, PST_ANSI and PST_Unicode, are differentiated primarily by software implementation versions, character sets, maximum file size constraints and bit values.

Now considered a legacy format and replaced by PST_Unicode, PST_ANSI was used by Microsoft Outlook 97-2002. It employs the American National Standards Institute (ANSI) character set and has an overall size limit of 2 gigabytes (GB). PST_ANSI uses 32-bit values to represent block IDs (BIDs) and byte index (IB).

Production phase	PST files provide a mechanism for the centralized storage of email folders, email messages, their attachments, contacts, calendar items, etc.
Relationship to other formats	
Has later version	<u>PST_Unicode</u> , Microsoft Outlook PST 2003 (Unicode)

Local use ⓘ

holdings	
LC preference	

Sustainability factors

Disclosure	Fully documented. Proprietary file format developed by Microsoft.
Documentation	Microsoft [MS-PST]: Outlook Personal Folders (.pst) File Format specification available from Microsoft. See Format Specifications below.
Adoption	<p>The Outlook .pst files are used for POP3, IMAP, and HTTP accounts and are supported by several Microsoft client applications, including Microsoft Exchange Client, Windows Messaging, and Microsoft Office Outlook.</p> <p>PST_ANSI was implemented in Office Outlook versions 97-2002. Outlook 2003, Outlook 2007, and Outlook 2010 can read, write, and create both ANSI and Unicode PST files. By 2010 (when the specification was made public by Microsoft), PST_ANSI was considered a legacy format with a recommendation that it not be used to create new PST files. The default format was declared to be PST Unicode.</p> <p>At least two open-source software libraries have been developed to examine and manipulate PST files: libpff, a library (in C, with python bindings partially implemented as of late 2013) to access PST and related formats; PST File Format SDK, a cross-platform C++ library for reading PST files, developed under Microsoft auspices through a 2009-2010 project.</p>
Licensing and patents	Covered by the Microsoft Open Specification Promise , whereby Microsoft "irrevocably promises" not to assert any claims against those making, using, and selling implementations of any specification covered by the promise (so long as those accepting the promise refrain from suing Microsoft for patent infringement in relation to Microsoft's implementation of the covered specification).
Transparency	<p>Depends upon algorithms and tools to read; will require sophistication to build tools. Text in messages may be encrypted and even when not encrypted cannot be rendered by a simple text viewer. Even Microsoft in its Understanding the Outlook MS-PST Binary File Format admits that "understanding and working with binary file formats in general, and the MS-PST file format in particular, can be a challenge. Fortunately, the PST File Format SDK exists to make this easier."</p> <p>Joachim Metz in Personal Folder File (PFF) Forensics: Analyzing the Horrible Reference File Format says "the actual data of an item within a PFF is scattered over different data structures...the bad news for forensic analysis is that PFF obfuscates the information in the data structures which makes a basic text string search impossible."</p>
Self-documentation	The PST format version is declared in the file header. According to the specification, the <code>wVer</code> field for a PST_ANSI file must have a

	value of 14 or 15. Folder objects, message objects, and attachment objects all have properties which include the header fields users typically see in an email application as well as many properties relating to the status, management, and history of the object in an Outlook application. A message object also has a recipients table that identifies each recipient and may have an attachments table that lists and identifies attachments.
External dependencies	None
Technical protection considerations	<p>PST files may have encoding applied to data blocks (although not to header and BTree "pages") to provide data obfuscation. A field in the file header indicates one of three levels/types for "encryption", defined in the specification as None; Compressible encryption; and High encryption. Although the term "encryption" is used in these definitions, the specification documents two keyless cipher algorithms used to encode the data blocks in the PST. The specification (in section 4) indicates that these algorithms "can be conveniently decoded once the exact encoding algorithm is understood." The compilers of this description are unable to confirm whether the open-source software libraries are able to decode "encrypted" PST files fully. <u>Comments welcome.</u></p> <p>Another form of protection is password protection which is available as an option in PST files. However, the <u>Microsoft specification</u> admits that the password functionality in PST is not very robust, calling it "a superficial mechanism" that "does not provide any security benefit to preventing the PST data to be read by unauthorized parties." In essence, if a password is used, a CRC-32 hash of the password text is stored in the PidTagPstPassword property. If this property exists and is non-zero, implementations are expected to prompt the end user for a password, compute the CRC-32 hash of the user password, and verify it against the value stored in PidTagPstPassword. However, a password stored as a CRC-32 hash of the original password string is relatively weak and provides little functional security.</p>

Quality and functionality factors ⁱ

Text	
Normal rendering	PST_ANSI can only represent ANSI character encoding.
Integrity of document structure	<p>At the physical level, the file starts with a header, followed by an optional density list, and then a series of mapping structures interspersed at set intervals between blocks of data. The mapping structures are of fixed size, and repeat as often as needed to encapsulate areas of data as the file grows.</p> <p>At the logical level, a .pst file has three layers: the Node Database (NDB) layer, the Lists, Tables, and Properties (LTP) layer, and the Messaging layer.</p> <p>An important structural issue of PST_ANSI files is that they have a restricted size limit (2 GB) because PST_ANSI files only contain the initial FPMAP in the header and no additional FPMAP pages.</p>

The semantic structure of messages (with their headers) in folders and attachments linked to messages is represented in the Messaging layer.

Since this format is designed for active use in an email system as a stand-alone message store, the full semantics required and/or observed in the system that generated the file is represented.

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	pst	
Internet Media Type	application/vnd.ms-outlook	This is not registered with IANA but appears in Forensic Wiki's page on Personal Folder File (PAB, PST, OST).
Magic numbers	Hex: 21 42 44 4E ASCII: !BDN	From specification . This specification applies to the three Microsoft content types (PST, OST and PAB) that share the general PFF structure.
File signature	Hex: 53 4D 0E 00 Hex: 53 4D 0F 00	Offset 8 bytes from start of file. In conjunction with the magic number at the beginning of the file, this identifies that the file is a PST file using the PST_ANSI version. The first value is more frequently found.
File signature	x-fmt/248	PRONOM entry for Microsoft Outlook Personal Folders (ANSI) . Identification based on internal signifier.
Wikidata Title ID	Q1480633	See https://www.wikidata.org/wiki/Q1480633 Wikidata does not distinguish between versions of PST.

Notes ⁱ

General	The data models used for message objects in MS Outlook and in the message format used for Internet mail are significantly different. Microsoft has specified a detailed mapping in each direction: for "MIME analysis" and for "MIME generation." [MS-OXCMAIL]; RFC 2822 and MIME to Email Object Conversion Algorithm describes this complex mapping in detail. An important aspect is the use of an extra "MIME skeleton" property to store all incoming MIME message content that cannot be mapped cleanly to Microsoft's message object properties (often referred to as MAPI properties) so that the message can be regenerated. As well as using the mapping in Outlook as the basis for email sent between Outlook application systems and the Internet (as opposed to message exchanges within and among Outlook systems), Microsoft provides a MAPI-MIME Conversion API as part of Outlook.
History	

Format specifications ⁱ

- Microsoft [MS-PST]: Outlook Personal Folders (.pst) File Format. v20130206. (<http://msdn.microsoft.com/en-us/library/ff385210%28v=office.12%29.aspx>). Format specification from Microsoft that covers both PST_ANSI and PST_Unicode files.
- Property schemas for PST Message objects and Folder objects are defined by separate documents.
 - [MS-OXCMSG]: Message and Attachment Object Protocol (<http://msdn.microsoft.com/en-us/library/cc463900%28v=exchg.80%29.aspx>). Specifies the basic property schema for a Message object
 - [MS-OXOMSG]: Email Object Protocol (<http://msdn.microsoft.com/en-us/library/cc433482%28v=exchg.80%29.aspx>). Specifies the basic property schema for a Message object
 - [MS-OXPROPS]: Exchange Server Protocols Master Property List (<http://msdn.microsoft.com/en-us/library/cc433490%28v=exchg.80%29.aspx>). Specifies the basic property schema for a Message object and the default property schema for a Folder object
 - [MS-OXCFCOLD]: Folder Object Protocol (<http://msdn.microsoft.com/en-us/library/cc433475%28v=exchg.80%29.aspx>). Specifies the default property schema for a Folder object

Useful references

URLs

- Forensics Wiki Personal Folder File (PAB, PST, OST) (http://www.forensicswiki.org/wiki/Personal_Folder_File_%28PAB,_PST,_OST%29).
- Wikipedia Personal Storage Table (http://en.wikipedia.org/wiki/Personal_Storage_Table).
- Microsoft's Open Specification Promise (<https://msdn.microsoft.com/en-us/openspecifications/dn646764#Principles>).
- Overview of format of MS Outlook .pst file (<http://www.five-ten-sg.com/libpst/rn01re06.html>).
- Microsoft resource on Understanding the Outlook MS-PST Binary File Format (<http://msdn.microsoft.com/en-us/library/gg615595.aspx>).
- PRONOM entry for x-fmt/248. Outline entry only. (<http://www.nationalarchives.gov.uk/PRONOM/x-fmt/248>). Information in PRONOM from UK National Archives about Microsoft Outlook Personal Folders (ANSI). PUID: x-fmt/248
- PST File Format SDK (pstsdk) is a cross-platform header only C++ library for reading PST files. (<http://pstsdk.codeplex.com/>).
- Microsoft provides related documents on the two-way conversion between Message objects and MIME-formatted textual streams.
 - About the MAPI-MIME Conversion API (<http://msdn.microsoft.com/en-us/library/office/ff960635.aspx>). The MAPI-MIME Conversion API allows mail providers to convert between MIME objects and MAPI messages.
 - [MS-OXCMAIL]: RFC 2822 and MIME to Email Object Conversion Algorithm (<http://msdn.microsoft.com/en-us/library/cc463915.aspx>). The RFC 2822 and MIME to Email Object Conversion Algorithm consists of a set of algorithms that applications use to convert data between these two representations of e-mail messages.
 - MAPI Architecture Overview (<http://msdn.microsoft.com/en-us/library/office/cc765533.aspx>). Chart defining modular architecture for MAPI
- GitHub libpff library from Joachim Metz (<https://github.com/libyal/libpff>). libpff is a library to access the Personal Folder File (PFF) and the Offline Folder File (OFF) format
- PeDALS: Persistent Digital Archives and Library System (http://www.digitalpreservation.gov/news/2010/20100924news_article_pedals_email_tool.html?loclr=blogsig). open source software tool that extracts email, attachments and other objects from Microsoft Outlook Personal Folders (.pst) files, converting messages into XML.

- The libpff package contains a cross-platform shared library, access tools as well as commentary and analysis on the Personal Folder File (PFF) and the Offline Folder File (OFF) formats.
 - [libpff project home page](https://github.com/libyal/libpff) (https://github.com/libyal/libpff).
 - [Personal Folder File \(PFF\) forensics: Analyzing the horrible reference file format. Author: Joachim Metz](https://github.com/libyal/documentation/blob/master/PFF%20Forensics%20-%20analyzing%20the%20horrible%20reference%20file%20format.pdf) (https://github.com/libyal/documentation/blob/master/PFF%20Forensics%20-%20analyzing%20the%20horrible%20reference%20file%20format.pdf). This specification is based on the work by libpst started in 2002 and was complimented by reverse engineering of the file format in 2008 and 2009. In 2010 it was synced with Microsoft's official PST specification.
 - [Personal Folder File \(PFF\) file format specification: Analysis of the PFF format. Authored by Joachim Metz](https://github.com/libyal/libpff/tree/master/documentation) (https://github.com/libyal/libpff/tree/master/documentation).
 - [Forensics Wiki entry about libpff](http://www.forensicswiki.org/wiki/Libpff) (http://www.forensicswiki.org/wiki/Libpff).
- [PRONOM entry for x-fmt/248](http://www.nationalarchives.gov.uk/pronom/x-fmt/248) (http://www.nationalarchives.gov.uk/pronom/x-fmt/248). Information in PRONOM from UK National Archives about PST ANSI. PUID: x-fmt/248.
- [Wikidata entry for Q1480633](https://www.wikidata.org/wiki/Q1480633) (https://www.wikidata.org/wiki/Q1480633). Information in Wikidata about PST. Wikidata does not distinguish between versions of PST. Wikidata Title ID: Q1480633.

Last Updated: 05/21/2018

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Sustainability of Digital Formats: Planning for Library of Congress Collections

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[Introduction](#) | [Sustainability Factors](#) | [Content Categories](#) | [Format Descriptions](#) | [Contact](#)
[Format Description Categories](#) >> [Browse Alphabetical List](#)

Microsoft Outlook PST 2003 (Unicode)

>> [Back](#)

Table of Contents

- [Identification and description](#)
- [Local use](#)
- [Sustainability factors](#)
- [Quality and functionality factors](#)
- [File type signifiers](#)
- [Notes](#)
- [Format specifications](#)
- [Useful references](#)

Format Description Properties ⁱ

- ID: fdd000378
- Short name: PST_Unicode
- Content categories: text, email
- Format Category: file-format
- Other facets: unitary, binary, structured, symbolic
- Last significant FDD update: 2013-11-25
- Draft status: Full

Identification and description ⁱ

Full name	Microsoft Outlook 2003 Personal Folders File (Unicode)
Description	<p>The Personal Folders File or PST is an open proprietary data file format used to store local copies of messages, calendar events, and other items within Microsoft software including Microsoft Office Outlook. PST files are used to store archived items and to maintain off-line availability of the items.</p> <p>See PST ANSI for a description of general PST structure and characteristics.</p> <p>The two versions of PST, PST ANSI and PST_Unicode, are differentiated primarily by software implementation versions,</p>

	<p>character sets, maximum file size constraints and bit values.</p> <p>PST_Unicode is the default format used by Office Outlook versions starting with Outlook 2003 and includes Outlook 2007, Outlook 2010 and Outlook 2013. It employs the Unicode character set.</p> <p>The file size constraints for PST_Unicode are significantly larger than the <u>PST ANSI</u> overall size limit of 2 gigabytes (GB). PST_Unicode can support <u>file sizes up to 20 GB in Outlook 2003 and Outlook 2007</u> and <u>file sizes up to 50 GB for Outlook 2010 and Outlook 2013</u>. According to <u>Microsoft</u>, these file size limits can be extended but would negatively impact performance.</p> <p>PST_Unicode uses 64-bit values to represent <u>block IDs (BIDs)</u> and <u>byte index (IB)</u>.</p>
Production phase	PST files provide a mechanism for the centralized storage of email folders, email messages, their attachments, contacts, calendar items, etc.
Relationship to other formats	
Has earlier version	<u>PST ANSI</u> , Microsoft Outlook PST 97-2002 (ANSI)

Local use ⁱ

LC experience or existing holdings	
LC preference	

Sustainability factors ⁱ

Disclosure	Fully documented. Proprietary file format developed by Microsoft.
Documentation	Microsoft [MS-PST]: Outlook Personal Folders (.pst) File Format specification available from Microsoft. See <u>Format Specifications</u> below.
Adoption	<p>The Outlook .pst files are used for POP3, IMAP, and HTTP accounts and are supported by several Microsoft client applications, including Microsoft Exchange Client, Windows Messaging, and Microsoft Office Outlook.</p> <p>Outlook 2003, Outlook 2007, Outlook 2010 and Outlook 2013 can read, write, and create both ANSI and Unicode PST files. By 2010 (when the specification was made public by Microsoft), <u>PST ANSI</u> was considered a legacy format with a recommendation that it not be used to create new PST files. The default format was declared to be PST_Unicode.</p> <p>PST_Unicode files are not compatible with Microsoft Outlook 97-2002 which read <u>PST ANSI</u> files only.</p>

	At least two open-source software libraries have been developed to examine and manipulate PST files: libpff , a library (in C, with python bindings partially implemented as of late 2013) to access PST and related formats; PST File Format SDK , a cross-platform C++ library for reading PST files, developed under Microsoft auspices through a 2009-2010 project.
Licensing and patents	See PST ANSI
Transparency	See PST ANSI
Self-documentation	The PST format version is declared in the file header. According to the specification, the <i>wVer</i> field for a PST_Unicode file must have a value of 23. Folder objects, message objects, and attachment objects all have properties which include the header fields users typically see in an email application as well as many properties relating to the status, management, and history of the object in an Outlook application. A message object also has a recipients table that identifies each recipient and may have an attachments table that lists and identifies attachments.
External dependencies	None
Technical protection considerations	See PST ANSI

Quality and functionality factors

Text	
Normal rendering	PST_Unicode can only represent UTF-16 strings (Unicode character encoding).
Integrity of document structure	<p>At the physical level, the file starts with a header, followed by an optional density list, and then a series of mapping structures interspersed at set intervals between blocks of data. The mapping structures are of fixed size, and repeat as often as needed to encapsulate areas of data as the file grows.</p> <p>At the logical level, a .pst file has three layers: the Node Database (NDB) layer, the Lists, Tables, and Properties (LTP) layer, and the Messaging layer.</p> <p>An important structural improvement of PST_Unicode over PST ANSI is that PST_Unicode files contain additional FPMMap pages in addition to the initial FPMMap in the HEADER, thereby extending their size limit beyond the 2 GB size limit demonstrated in PST ANSI files.</p> <p>The semantic structure of messages (with their headers) in folders and attachments linked to messages is represented in the Messaging layer.</p> <p>Since this format is designed for active use in an email system as a stand-alone message store, the full semantics required and/or observed in the system that generated the file is represented.</p>

File type signifiers and format identifiers ⁱ

Tag	Value	Note
Filename extension	See related format.	See PST ANSI
Internet Media Type	See related format.	See PST ANSI
Magic numbers	See related format.	See PST ANSI
File signature	Hex: 53 4D 17 00 Hex: 53 4D 15 00	Offset 8 bytes from start of file. In conjunction with the magic number at the beginning of the file, this identifies that the file is a PST file using the PST_Unicode version. The 0x17 value is much more frequently found. According to Metz in Personal Folder File (PFF) file format specification: Analysis of the PFF format , the 0x15 value is believed to indicate the same format as 0x17 value (i.e. PST_Unicode) and was found in an 64-bit PST file created by the software Visual Recovery for Exchange Server but it is not common.
File signature	x-fmt/249	PRONOM entry for Microsoft Outlook Personal Folders (Unicode) . Identification based on internal signifier.
Wikidata Title ID	Q1480633	See https://www.wikidata.org/wiki/Q1480633 Wikidata does not distinguish between versions of PST.

Notes ⁱ

General	See PST ANSI
History	

Format specifications ⁱ

- [Microsoft \[MS-PST\]: Outlook Personal Folders \(.pst\) File Format. v20130206](https://msdn.microsoft.com/en-us/library/ff385210%28v=office.12%29.aspx) (<https://msdn.microsoft.com/en-us/library/ff385210%28v=office.12%29.aspx>). Format specification from Microsoft that covers both PST_ANSI and PST_Unicode files.
- Property schemas for PST Message objects and Folder objects are defined by separate documents.
 - [\[MS-OXCMSG\]: Message and Attachment Object Protocol](https://msdn.microsoft.com/en-us/library/cc463900%28v=exchg.80%29.aspx) (<https://msdn.microsoft.com/en-us/library/cc463900%28v=exchg.80%29.aspx>). Specifies the basic property schema for a Message object
 - [\[MS-OXOMSG\]: Email Object Protocol](https://msdn.microsoft.com/en-us/library/cc433482%28v=exchg.80%29.aspx) (<https://msdn.microsoft.com/en-us/library/cc433482%28v=exchg.80%29.aspx>). Specifies the basic property schema for a Message object
 - [\[MS-OXPROPS\]: Exchange Server Protocols Master Property List](https://msdn.microsoft.com/en-us/library/cc433490%28v=exchg.80%29.aspx) (<https://msdn.microsoft.com/en-us/library/cc433490%28v=exchg.80%29.aspx>). Specifies the basic property schema for a Message object and the default property schema for a Folder object
 - [\[MS-OXCFCOLD\]: Folder Object Protocol](https://msdn.microsoft.com/en-us/library/cc433475%28v=exchg.80%29.aspx) (<https://msdn.microsoft.com/en-us/library/cc433475%28v=exchg.80%29.aspx>). Specifies the default property schema for a Folder object

Useful references

URLs

- [PRONOM entry for x-fmt/249. Outline entry only.](http://www.nationalarchives.gov.uk/PRONOM/x-fmt/249) (<http://www.nationalarchives.gov.uk/PRONOM/x-fmt/249>). Information in PRONOM from the UK National Archives about Microsoft Outlook Personal Folders (Unicode) 2003-2007. PUID: x-fmt/249
- [PST Data Structure View Tool \(PSTViewTool\)](http://pstviewtool.codeplex.com/) (<http://pstviewtool.codeplex.com/>). This tool which facilitates viewing the file structure of PST files is no longer actively supported but may be useful nonetheless. The tool only supports PST_Unicode, not PST_ANSI.
- File size constraints for PST_Unicode
 - [The file size limits of .pst and .ost files are larger in Outlook 2010 and Outlook 2013](http://support.microsoft.com/kb/982577) (<http://support.microsoft.com/kb/982577>).
 - [The .pst file has a different format and folder size limit in Outlook 2007 and in Outlook 2003](http://support.microsoft.com/kb/830336) (<http://support.microsoft.com/kb/830336>).
- See also [PST_ANSI](#)
- [Preservation of Electronic Mail Collaboration Initiative](http://www.history.ncdcr.gov/SHRAB/ar/emailpreservation/reports.htm) (<http://www.history.ncdcr.gov/SHRAB/ar/emailpreservation/reports.htm>). Collaborative effort to develop XML schema for email records, including PST files
- [PRONOM entry for x-fmt/249](http://apps.nationalarchives.gov.uk/pronom/x-fmt/249) (<http://apps.nationalarchives.gov.uk/pronom/x-fmt/249>). Information in PRONOM from UK National Archives about PST Unicode. PUID: x-fmt/249.
- [Wikidata entry for Q1480633](https://www.wikidata.org/wiki/Q1480633) (<https://www.wikidata.org/wiki/Q1480633>). Information in Wikidata about PST. Wikidata does not distinguish between versions of PST. Wikidata Title ID: Q1480633.

Last Updated: 05/21/2018

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Leger, Cheryl (BOS)

From: Anonymous <arecordsrequestor@protonmail.com>
Sent: Wednesday, October 23, 2019 12:58 PM
To: SOTF, (BOS)
Subject: Re: SOTF 19105 - Sample records
Attachments: 19105-samples-b.pdf

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

For entry in File 19105 (including attachment, forgot it earlier)

I believe Mr. Heckel introduced these ICS files into the record physically at the hearing by passing them out. Please add them to the 19105 file as well as file 19047.

They are line numbered for ease of discussion.

----- Original Message -----

On Tuesday, October 22, 2019 12:09 PM, Anonymous <arecordsrequestor@protonmail.com> wrote:

For entry in File 19047

The attached are sample redactions for an ICS file showing how easy this work is.

Please acknowledge receipt.

--Anonymous

EXHIBIT R.1

The following is a sample ICS from my Outlook (where invitation functionality is not used).

Four redactions were made:

- Removing Outlook version (GC 6254.19)
- Removing 2 unique ids of the meeting (GC 6254.19)
- Removing the weekly recurrence (GC 6254(f))

I do not concede these exemptions are valid, but this is a demonstration of how easy this is.

BEGIN:VCALENDAR
VERSION:2.0
PROPID: -//Microsoft Corporation//Outlook for Mac MIMEDIR//EN
METHOD:PUBLISH
BEGIN:VTIMEZONE
TZID:Pacific Time (US & Canada)
X-ENTOURAGE-CFTIMEZONE:US/Pacific
X-ENTOURAGE-TZID:1
BEGIN:STANDARD
RRULE:FREQ=YEARLY;INTERVAL=1;BYSECOND=0;BYMINUTE=0;BYHOUR=2;BYDAY=1SU;BYMO
NTH=11
TZOFFSETFROM:-0700
TZOFFSETTO:-0800
DTSTART:20071104T020000
END:STANDARD
BEGIN:DAYLIGHT
RRULE:FREQ=YEARLY;INTERVAL=1;BYSECOND=0;BYMINUTE=0;BYHOUR=2;BYDAY=2SU;BYMO
NTH=3
TZOFFSETFROM:-0800
TZOFFSETTO:-0700
DTSTART:20070311T020000
END:DAYLIGHT
END:VTIMEZONE
BEGIN:VEVENT
UID:47C15D95-F324-43C7-A311-C010F5766D63
X-ENTOURAGE_UUID:47C15D95-F324-43C7-A311-C010F5766D63
DTSTAMP:20191021T040206Z
DTSTART;TZID="Pacific Time (US & Canada)":20191002T193000
DTEND;TZID="Pacific Time (US & Canada)":20191002T233000
LAST-MODIFIED:20191021T040428Z
SUMMARY:TEST SUBJECT
LOCATION:TEST LOCATION
SEQUENCE:0
RRULE:FREQ=WEEKLY;UNTIL=20200402T235959;INTERVAL=1;BYDAY=WE;WKST=SU
X-MICROSOFT-CDO-BUSYSTATUS:BUSY
X-MICROSOFT-CDO-ALLDAYEVENT:FALSE
X-MICROSOFT-DISALLOW-COUNTER:FALSE
X-MICROSOFT-DONOTFORWARDMEETING:FALSE
X-MICROSOFT-CDO-INSTTYPE:1
BEGIN:VALARM
ACTION:DISPLAY
DESCRIPTION:REMINDER
TRIGGER;RELATED=START:-PT00H15M00S
END:VALARM
END:VEVENT
END:VCALENDAR

1. BEGIN:VCALENDAR
2. VERSION:2.0
3. PROID:-//Microsoft Corporation//Outlook for Mac MIMEDIR//EN
4. METHOD:PUBLISH
5. BEGIN:VTIMEZONE
6. TZID:Pacific Time (US & Canada)
7. X-ENTOURAGE-CFTIMEZONE:US/Pacific
8. X-ENTOURAGE-TZID:1
9. BEGIN:STANDARD
10. RRULE:FREQ=YEARLY;INTERVAL=1;BYSECOND=0;BYMINUTE=0;BYHOUR=2;BYDAY=1SU;BYMO
11. NTH=11
12. TZOFFSETFROM:-0700
13. TZOFFSETTO:-0800
14. DTSTART:20071104T020000
15. END:STANDARD
16. BEGIN:DAYLIGHT
17. RRULE:FREQ=YEARLY;INTERVAL=1;BYSECOND=0;BYMINUTE=0;BYHOUR=2;BYDAY=2SU;BYMO
18. NTH=3
19. TZOFFSETFROM:-0800
20. TZOFFSETTO:-0700
21. DTSTART:20070311T020000
22. END:DAYLIGHT
23. END:VTIMEZONE
24. BEGIN:VEVENT
25. UID:47C15D95-F324-43C7-A311-C010F5766D63
26. X-ENTOURAGE_UUID:47C15D95-F324-43C7-A311-C010F5766D63
27. DTSTAMP:20191021T040206Z
28. DTSTART;TZID="Pacific Time (US & Canada)":20191002T193000
29. DTEND;TZID="Pacific Time (US & Canada)":20191002T233000
30. LAST-MODIFIED:20191021T040428Z
31. SUMMARY:TEST SUBJECT
32. LOCATION:TEST LOCATION
33. SEQUENCE:0
34. RRULE:FREQ=WEEKLY;UNTIL=20200402T235959;INTERVAL=1;BYDAY=WE;WKST=SU
35. X-MICROSOFT-CDO-BUSYSTATUS:BUSY
36. X-MICROSOFT-CDO-ALLDAYEVENT:FALSE
37. X-MICROSOFT-DISALLOW-COUNTER:FALSE
38. X-MICROSOFT-DONOTFORWARDMEETING:FALSE
39. X-MICROSOFT-CDO-INSTTYPE:1
40. BEGIN:VALARM
41. ACTION:DISPLAY
42. DESCRIPTION:REMINDER
43. TRIGGER;RELATED=START:-PT00H15M00S
44. END:VALARM
45. END:VEVENT
46. END:VCALENDAR

1. BEGIN:VCALENDAR
2. VERSION:2.0
3. PROPID:--//Microsoft Corporation//Outlook [[Redacted Gov Code 6254.19]] MIMEDIR//EN
4. METHOD:PUBLISH
5. BEGIN:VTIMEZONE
6. TZID:Pacific Time (US & Canada)
7. X-ENTOURAGE-CFTIMEZONE:US/Pacific
8. X-ENTOURAGE-TZID:1
9. BEGIN:STANDARD
10. RRULE:FREQ=YEARLY;INTERVAL=1;BYSECOND=0;BYMINUTE=0;BYHOUR=2;BYDAY=1SU;BYMO
11. NTH=11
12. TZOFFSETFROM:-0700
13. TZOFFSETTO:-0800
14. DTSTART:20071104T020000
15. END:STANDARD
16. BEGIN:DAYLIGHT
17. RRULE:FREQ=YEARLY;INTERVAL=1;BYSECOND=0;BYMINUTE=0;BYHOUR=2;BYDAY=2SU;BYMO
18. NTH=3
19. TZOFFSETFROM:-0800
20. TZOFFSETTO:-0700
21. DTSTART:20070311T020000
22. END:DAYLIGHT
23. END:VTIMEZONE
24. BEGIN:VEVENT
25. UID:[[Redacted Gov Code 6254.19]]
26. X-ENTOURAGE_UUID:[[Redacted Gov Code 6254.19]]
27. DTSTAMP:20191021T040206Z
28. DTSTART;TZID="Pacific Time (US & Canada)":20191002T193000
29. DTEND;TZID="Pacific Time (US & Canada)":20191002T233000
30. LAST-MODIFIED:20191021T040428Z
31. SUMMARY:TEST SUBJECT
32. LOCATION:TEST LOCATION
33. SEQUENCE:0
34. [[Redacted Gov Code 6254(f)]]
35. X-MICROSOFT-CDO-BUSYSTATUS:BUSY
36. X-MICROSOFT-CDO-ALLDAYEVENT:FALSE
37. X-MICROSOFT-DISALLOW-COUNTER:FALSE
38. X-MICROSOFT-DONOTFORWARDMEETING:FALSE
39. X-MICROSOFT-CDO-INSTTYPE:1
40. BEGIN:VALARM
41. ACTION:DISPLAY
42. DESCRIPTION:REMINDER
43. TRIGGER;RELATED=START:-PT00H15M00S
44. END:VALARM
45. END:VEVENT
46. END:VCALENDAR

Re: Immediate Disclosure Request for Calendars and Email - 19105

Sent: Monday, November 11, 2019 3:21 PM

From: Anonymous arecordsrequestor@pm.me

To: Licudine-Barker, Arlene (TIS) arlene.licudine-barker@sfgov.org, dtis.helpdesk@sfgov.org
dtis.helpdesk@sfgov.org, Michael.Makstman@sfgov.org Michael.Makstman@sfgov.org, Linda Gerull (CIO,
San Francisco) linda.gerull@sfgov.org

SOTF - Please enter this into the record for File 19105 re: Metadata, and I will also followup as well with a new complaint intake form

Dept of Technology, CCSF,

On November 1, the City, without specification of legal justification for each and every withholding, refused to answer requests #1-12 and closed PRR 19-4376.

This will be immediately appealed as a violation of SF Admin Code 67.21(b) for incomplete response, and 67.26 and 67.27 for lack of justification and clear reference to statute/case law.

On November 11 the City denied requests #15-19 of PRR 19-4456 as follows:

"For items #15 thru #19 we are continuing to discuss the scope, nuances and process for responding to these types of metadata in consultation with the City Attorney's Office and IT personnel. The SOTF has not yet come to a decision regarding the extent to which the city should provide metadata and requested native formats that include metadata. Pending resolution of these issues, we will not be providing the requested ICS formats and associated metadata because the provision of such materials poses a cyber-security risk to the city and because of the burdens associated with protecting against that risk. See Cal. Gov. Code 6253.9(f) and 6254.19 and Admin. Code 67.21(l)."

I want to be clear, the City has cited GC 6253.9(f) and 6254.19 and Admin. Code 67.21(l) for the following information 16 through 19:

16. the DTSTAMP (creation) timestamp in each requested file
17. the LAST-MODIFIED timestamp in each redacted file
18. the TZID timezone in each requested file
19. the SUBJECT field in each requested file

You are required to cite a specific law or court case for each and every withholding. Currently you are using 3 citations for all of #15-19, since you have failed to distinguish which of those citations would exempt which request. However, only #15 is in a specific format so 6253.9(f) and 67.21(l) about formats could only even theoretically apply to #15, and only 6254.19 can apply to the rest.

For #16-19, the City therefore has now gone on record claiming that *timezone*, *subject line*, and the *creation/modification timestamps*, of a meeting are "information security records" (because you are required to make such a finding to use GC 6254.19) and pose a cyber-security risk to the city, which is false. Alternatively, you claim

burden, but you have not cited any exemption for burden (because there is no such exemption under the Sunshine Ordinance, and balancing the public interest of disclosure or withholding is prohibited by Admin Code 67.24(g,i)).

Most importantly, requests 18 and 19 **are not even metadata** by any common definition of the term.

I will also note that the City now appears to contradict Mr. Makstman's position at the Oct. 22 SOTF hearing regarding requests for specifically identified metadata.

This will be immediately appealed as a violation of SF Admin Codes 67.26 and 67.27 for lack of or incorrect justification of withholding.

NOTE: Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature, if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the City all be public records.

Sincerely,

Anonymous

----- Original Message -----

On Thursday, October 31, 2019 2:39 PM, Anonymous <arecordsrequestor@pm.me> wrote:

I noticed you have released these records once more.

Do you now consider your response to #13 and #14 complete? While your office works on the pending requests I intend to appeal the completed ones.

Thanks,
Anonymous

----- Original Message -----

On Thursday, October 31, 2019 12:20 PM, Licudine-Barker, Arlene (TIS) <arlene.licudine-barker@sfgov.org> wrote:

Thanks, Anonymous! I appreciate it 🌟

Best Regards,

Arlene M.V. Licudine

Department of Technology

1 South Van Ness, 2nd Floor

Work (628) 652-5090

From: Anonymous <arecordsrequestor@pm.me>

Sent: Thursday, October 31, 2019 11:28 AM

To: Gerull, Linda (TIS) <linda.gerull@sfgov.org>; Makstman, Michael (TIS) <Michael.Makstman@sfgov.org>; DT Customer Service Desk, DT (TIS) <dtis.helpdesk@sfgov.org>; Licudine-Barker, Arlene (TIS) <arlene.licudine-barker@sfgov.org>

Subject: URGENT - 19-4456 - Re: Immediate Disclosure Request for Calendars

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Mr. Makstman, Ms. Gerull, Ms. Licudine-Baker,

The records you are releasing *in PDF format* do not appear to be redacted properly.

You appear to be leaving the redactions without "applying" them in the MM records. And you appear to have left conference call numbers in at least one of the LG records (ex. bayarea cio oct 23.pdf).

Please release correctly redacted records.

I will waive the IDR deadline until tomorrow so you can fix this.

RE: records released publicly at <https://sanfrancisco.nextrequest.com/requests/19-4456>

Sincerely,
Anonymous

----- Original Message -----

On Wednesday, October 30, 2019 12:03 AM, Anonymous <arecordsrequestor@pm.me> wrote:

This is a further Immediate Disclosure Request under the Sunshine Ordinance to Michael Maktzman and Linda Gerull as "custodian[s]" of their own calendars and the Department of Technology as the CPRA "local agency" for:

14. PDF exports of each meeting or appointment individually from Oct 21 to 28, 2019 (inclusive) of all business calendars of Maktzman and of Gerull
15. ICS exports of each meeting or appointment individually from Oct 21 to 28, 2019 (inclusive) of all business calendars of Maktzman and of Gerull ("requested files")
16. the DTSTAMP (creation) timestamp in each requested file
17. the LAST-MODIFIED timestamp in each redacted file
18. the TZID timezone in each requested file
19. the SUBJECT field in each requested file

See SOTF Order 19047: https://sfgov.org/sunshine/sites/default/files/SOTF_ORDER_19047.pdf

All records must be provided in a rolling fashion. If you release records using NextRequest, please release them without requiring a login.

Provide only those copies available without fees.

You must answer each of the 6 subrequests.

If you refuse to provide any of these or part thereof, you must provide a legal citation for each.

I look forward to your immediate disclosure.

Sincerely,

Anonymous

----- Original Message -----

On Friday, October 25, 2019 2:13 PM, Anonymous <arecordsrequestor@pm.me> wrote:

I have received your response #13. Thank you!

Further evidence refuting the City/DT's claims: DPW is, still, as of yesterday, releasing raw .MSG files to other requesters:

[https://sanfrancisco.nextrequest.com/documents?filter=.msg&documents_smart_listing\[sort\]\[upload_date\]=desc](https://sanfrancisco.nextrequest.com/documents?filter=.msg&documents_smart_listing[sort][upload_date]=desc)

----- Original Message -----

On Friday, October 25, 2019 12:11 PM, Anonymous <arecordsrequestor@pm.me> wrote:

Furthermore, I will be introducing the following public record released by the Clerk/BoS as evidence that at least #1, #2, #6, #7, and #13 are in fact "simple" and "routine," because they are released in bulk by the BoS/Clerk every few days:

<https://sfgov.legistar.com/View.ashx?M=F&ID=7814525&GUID=50842693-134E-48E1-80DD-E7B102968574>

Note that these records embed the government and citizen email addresses and the Microsoft Exchange identifiers in every email (just hover your mouse cursor on page 3 and most other pages).

Sincerely,
Anonymous

----- Original Message -----

On Friday, October 25, 2019 11:19 AM, Anonymous <arecordsrequestor@pm.me> wrote:

On Oct 25, DT opted for a 10-day deadline asserting Request 19-4376 was a non-IDR: <https://sanfrancisco.nextrequest.com/requests/19-4376>

You are allowed to use a non-immediate disclosure request deadline only if the request is not "simple, routine or otherwise readily answerable." While #1-12 may not be "simple" or "routine," they are "readily answerable" because the custodian Makstman is an admitted expert in this field. However, you have properly opted to consult another department (SFAC 67.25(b)), therefore the deadline is in 10-days (without any further extensions).

Regardless of our disagreement on the above, #13 is simple, routine, and readily answerable by any employee. Thus I will expect the response for #13 by close of business today.

Sincerely,
Anonymous

----- Original Message -----

On Wednesday, October 23, 2019 8:44 PM, Anonymous <arecordsrequestor@pm.me> wrote:

I also want to point out that if Mr. Makstman has no emails from Mr. Heckel, the Requested Email can be defined as the last email he received not including my emails.

----- Original Message -----

Immediate Disclosure Request - Oct 23, 2019

Ms. Gerull, Mr. Makstman, and the Department of Technology,

First, I wanted to thank you for your attendance at SOTF Oct. 22 and your legal and technical arguments. While I do not agree with your arguments, I am pleased the City is taking this seriously.

Second, CIO Gerull, you made a closing point at the hearing that humans make errors when they have to do a lot of repetitive work. That is why your Department must take the lead in helping other agencies release records safely and quickly by using your engineering talent. To allow the City to say that public records that are purportedly hard to produce are thus exempt from production creates a perverse incentive for the City: to intentionally refuse to make or buy tools to fulfill its Sunshine responsibilities so it can claim a larger burden at the Task Force next time, and thus be free of pesky Sunshine. What if an agency terminated its Adobe Acrobat licenses, would the public no longer even get redacted PDFs? I understand that you believe that is not what you or the City are doing, but that is the legal precedent that must be fought vigorously. I also do not believe the Task Force has ever agreed with such an argument before, and has directed the City to instead get the tools it needs. I would also remind you again that the City has released raw public records email MSG and PST files for years on NextRequest, long before I made any records requests to the City.

Third, the City through Mr. Makstman appeared to make an interesting concession last night at SOTF: that a requester should indeed receive parts of the (non-exempt) metadata if they specifically ask for such a datum, even if the City can refuse to provide the full native file or all metadata. We shall now test this legal theory. Remember under SFAC 67.21, both public records AND information are disclosable, and under SFAC 67.26 only specifically exempt portions may be lawfully withheld. All communications on this thread will be added to the SOTF public files *19105 (Re: Metadata)*, *19044 Anonymous v Dennis Herrera, et al.*, *19047 Anonymous v London Breed, et al.*, and others and may also be independently appealed to the Sup. of Records, the Task Force, Superior Court, and/or any other authority with jurisdiction over these matters. You may provide this information in any format you wish - PDF, text, EML, MSG, whatever.

I am thus making a **NEW immediate disclosure request under the Sunshine Ordinance to Michael Makstman as "custodian" of his own emails and the Department of Technology as the CPRA "local agency"** for:

1. the full To header (with all email addresses) of the most recent email sent by Hank Heckel to Machtzman (the "Requested Email")
2. the full From (with all email addresses) header of the Requested Email
3. the full Cc (with all email addresses) header of the Requested Email
4. the full Bcc (with all email addresses) header of the Requested Email
5. the full Delivered-To (with all email addresses) header of the Requested Email
6. the full Date header of the Requested Email
7. the full Subject header of the Requested Email
8. the timestamps of all Received headers of the Requested Email (you do not need to provide the traced IP addresses or hostnames)
9. the full Accept-Language header of the Requested Email
10. the full Content-Language header of the Requested Email
11. the full Thread-Topic header of the Requested Email
12. the full Sender header of the Requested Email
13. finally, a PDF export of the Requested Email in whatever way DT would like to provide it

These headers were chosen specifically because this information should be non-exempt and public, as Mr. Maktzman should be able to verify personally.

Since Mr. Maktzman is a cybersecurity expert, he, as custodian, should have no issue providing these public parts of a record.

All records must be provided in a rolling fashion. If you release records using NextRequest, please release them without requiring a login.

Provide only those copies available without fees.

You must answer each of the 13 subrequests.

If you refuse to provide any of these or part thereof, you must provide a legal citation for each.

Remember I have not requested any specific format so GC 6253.9(f) and SFAC 67.21(l) are not available exemptions to you. It would also be hard to argue that any of these headers are GC 6254.19 information security records.

I look forward to your immediate disclosure.

Sincerely,

Anonymous

Leger, Cheryl (BOS)

From: Anonymous <arecordsrequestor@pm.me>
Sent: Monday, December 9, 2019 2:33 PM
To: SOTF, (BOS)
Cc: Gerull, Linda (TIS); Makstman, Michael (TIS)
Subject: SOTF 19105 - Metadata agenda packet - Dec 17 still on?
Attachments: 19105 Metadata is a Public Record - Dec 17 2019.pdf; signature.asc

Please include the PDF in the packet (I think the file number is 19105). I intend to give the attached presentation during IT Committee public comment period on Dec 17.

Is the IT metadata meeting still happening Dec 17, 730pm? Will the conference call number you gave me for the Complaint committee also work for IT committee the same day?

I'm cc-ing Linda and Mike from DT as we've been having productive discussions over the last month and a half, and hope they are aware of the Dec 17 IT committee if it is still happening.

NOTE: Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature, if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the City all be public records.

Sincerely,

Anonymous

