

Sunshine Portal:

Handbook on Template Responses

Version 1.0 | November 2, 2017

Background

Purpose. The purpose of this handbook is to provide departments with guidance about how to use the template responses available through the NextRequest portal when responding to Sunshine requests.

Audience. This handbook is for department users of the Sunshine Portal deployed by NextRequest. Other department Sunshine point of contacts are free to use this as well, if helpful.

Feedback. This is a working draft and your feedback is welcome so we can refine both this handbook and the templates. Send feedback to joy.bonaguro@sfgov.org.

General Guidance and Overview

General Guidance

Use your judgement. While the templates are designed to support you in crafting Sunshine responses - do not apply them unthinkingly. Part of your job is to exercise judgement about when the template fits or does not. Always consult your assigned Deputy City Attorney for more complicated responses.

Use the templates as a starting point. Your request may require additional language or customization. Think of the templates as a starting point that you can customize to the request.

Overview of Templates

The templates are grouped into 5 groups. Most responses should fit into one of these 5 groups:

1. Immediate Disclosure
2. Standard Request
3. Responses Standard
4. Responses Miscellaneous
5. Withheld/Redacted Records

Group 1: Immediate Disclosures

| # | Template Title | Template Text | Additional guidance |
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| 1.1 | (Immediate Disclosure) COB Next Business Day - Introduction | We received your Immediate Disclosure Request, dated _____, on _____. [ADD IF APPLICABLE: Public records requests received after the close of business, or received on a weekend or holiday, are considered received on the next business day.] You have requested the following records: [QUOTE THE RECORDS REQUEST, OR IF IT IS EXTREMELY LONG, SUMMARIZE IT] | It is important to communicate both the date of the request and the date the Department received it. The received date is the date the Department should use to determine the response deadline. If the Department receives a request after 5:00 pm on a business day, or anytime on a weekend or City holiday, the received date is the next business day. It is also good practice to restate or summarize the request. |
| 1.2 | (Immediate Disclosure) COB Next Business Day – Final Response | Immediate Disclosure Request Introduction Template Applicable Response Template | If the Department is able to respond to an immediate disclosure request the same day or the next business day, it should do so. Repeat template 1.1 and append an applicable template response from Group 3 (or Group 4 and 5, as appropriate). |
| 1.3 | (Immediate Disclosure) COB Next Business Day – Invoking Extension of Time | Immediate Disclosure Request Introduction Template We are not able to respond to your Immediate Disclosure Request today. Pursuant to San Francisco Administrative Code Section 67.25(b) and California Government Code Section 6253(c), we are invoking an extension of up to 14 days (until _____) because of [CHOOSE ONE OR MORE: the voluminous nature of the request/the need to consult with another department/the storage | If the Department receives a request and is unable to respond to it by the next business day due to one or more of the reasons for an extension identified in Section 6253(c), but the Department will be able to respond within 14 days, use this option. Repeat template 1.1 and append this template. Pick one or more of the 4 reasons for the delay. |

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| | | of records off-site/the need to compile or extract electronic data]. We will endeavor to complete our response before that date. | |
| 1.4 | (Immediate Disclosure) COB Next Business Day –Treating as Standard Request | Immediate Disclosure Request Introduction Template Although you labeled your request as an Immediate Disclosure Request, it is not “simple, routine, or otherwise readily answerable,” as is required by San Francisco Administrative Code Section 67.25(a). For this reason, we are treating your Immediate Disclosure Request as a standard public records request, subject to the normally applicable 10-day response time, with a possible extension. Accordingly, we will be in touch with you regarding the request by no later than _____. | The Department should consult with its assigned Deputy City Attorney before using this template. |
| 1.5 | (Immediate Disclosure) Final Response After Invoking Extension of Time | This follows our communication of _____, in which we invoked an extension of time to respond to your Immediate Disclosure Request dated _____, which we received on _____. We have now completed our search for [ADD IF APPLICABLE: and review of] records responsive to your request. Applicable Response Template | Use this template to respond to an immediate disclosure request after invoking an extension for (See 1.3). Use the language and append an applicable template response from Group 3 (or Group 4 and 5, as appropriate). |
| 1.6 | (Immediate Disclosure) Final Response After Treating as Standard Request | This follows our communication of _____, in which we notified you that we would treat your Immediate Disclosure Request dated _____, which we received on _____, as a standard public records request. We have now completed our search for [ADD IF APPLICABLE: and review of] records | Use this template to respond after treating an immediate disclosure request as a standard request (See 1.4). Use the language and append an applicable template response from Group 3 (or Group 4 and 5, as appropriate). |

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| | | responsive to your request. | |
| | | Applicable Response Template | |

Group 2: Standard Requests

| # | Template Title | Template Text | Additional guidance |
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| 2.1 | (Standard Request) 10 Days After Receipt - Introduction | We received your public records request, dated _____, on _____. [ADD IF APPLICABLE: Public records requests received after the close of business, or received on a weekend or holiday, are considered received on the next business day.] You have requested the following records: [QUOTE THE RECORDS REQUEST, OR IF IT IS EXTREMELY LONG, SUMMARIZE IT] | It is important to communicate both the date of the request and the date the Department received it. The received date is the date the Department should use to determine the response deadline. If the Department receives a request after 5:00 pm on a business day, or anytime on a weekend or City holiday, the received date is the next business day. It is also good practice to restate or summarize the request. |
| 2.2 | (Standard Request) 10 Days After Receipt – Final Response | Standard Request Introduction Template Applicable Response Template | Use this template when responding to a standard request and not invoking an extension. The Department should combine the introduction (2.1), with a response template from Group 3 (or Group 4 and 5, as appropriate) |
| 2.3 | (Standard Request) 10 Days After Receipt – Invoking Extension of Time | Standard Request Introduction Template Pursuant to California Government Code Section 6253(c), we are invoking an extension of up to 14 days (until _____) because of [CHOOSE ONE OR MORE: the voluminous nature of the request/the need to consult with another department/the storage of records off-site/the need to compile or extract electronic data]. We will endeavor to complete our | If the Department receives a request and is unable to respond to it within 10 days due to one or more of the reasons for an extension identified in Section 6253(c), but the Department will be able to respond within an additional 14 days, use this template. |

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| | | response before that date. | |
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Group 3: Responses Standard

Mix and Match. Consider the responses below as a mix and match. You may need to tailor your specific response to the request.

| # | Template Title | Template Text | Additional guidance |
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| 3.1 | (Response) No Responsive Records | We have conducted a diligent search for records responsive to your request. We have found none. Accordingly, we have no records to produce in response to your request. | |
| 3.2 | (Response) Responsive Records Produced | We have conducted a diligent search for records responsive to your request. We have located responsive records, which [CHOOSE ONE: are attached/are enclosed/are available to you at this link: [ATTACH LINK]]. | Tailor this based on how the Department will provide the records to the requestor. |
| 3.3 | (Response) Responsive Records Withheld | We have conducted a diligent search for records responsive to your request. We have located responsive records but are withholding them because they are exempt from disclosure. Specifically, [ADD EXPLANATION AND CITATION(S)]. | Review the standard exemption templates in Group 5 to determine if those exemptions apply to the Department's response. There may also be other applicable exemptions. The Department should add the exemption language to the end of this template. |
| 3.4 | (Response) Responsive Records Produced in Part, Withheld in Part | We have conducted a diligent search for records responsive to your request. We have located responsive records. We are disclosing some of the responsive records, which [CHOOSE ONE: are attached/are enclosed/are available to you at this link: [ATTACH LINK]]. We are withholding some of the responsive records because they are exempt from disclosure. Specifically, [ADD EXPLANATION AND CITATIONS]. | Review the standard exemption templates in Group 5 to determine if those exemptions apply to the Department's response. There may also be other applicable exemptions. The Department should add the exemption language to the end of this template. |
| 3.5 | (Response) Responsive Records | We have conducted a diligent search for records responsive to your request. We have located | Review the standard exemption templates in Group 5 to determine if those exemptions apply to the Department's |

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| | Produced but Redacted | responsive records, which [CHOOSE ONE: are attached/are enclosed/are available to you at this link: [ATTACH LINK]]. We are redacting certain portions of these records that contain information which is exempt from disclosure. Specifically, [ADD EXPLANATION AND CITATIONS]. | response. There may also be other applicable exemptions. The Department should add the exemption language to the end of this template. |
| 3.6 | (Response) Responsive Records Rolling Basis | We have conducted a diligent search for records responsive to your request. We have located responsive records, which [CHOOSE ONE: are attached/are enclosed/are available to you at this link: [ATTACH LINK]]. Due to the [need to continue searching and reviewing/need to redact records/your request to produce on a rolling basis] we will produce any additional responsive records as soon as reasonably possible on an incremental or rolling basis. | The Department should only use this template in extreme circumstances where it is unable to respond to the request within the standard 10 day response period plus the 14 day extension period. The Department should consult with its assigned Deputy City Attorney before using this template. |

Group 4: Responses Miscellaneous

| # | Template Title | Template Text | Additional guidance |
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| 4.1 | (Response – Miscellaneous) Not a Request for “Identifiable” Records - Unclear | A public records request must specify an identifiable record or set of records that are being sought. Cal. Govt. Code sec. 6253(b). Your request is not sufficiently clear for us to know what record or records you are requesting. Accordingly, it is not possible for us to respond to your request at this time. You are invited to resubmit a request that more clearly sets forth the record or records you are seeking. In addition, the department is available to assist you in formulating a clearer request. Please feel free to contact us for this purpose. | The Department may use this template if it cannot determine what the requestor is seeking. |
| 4.2 | (Response – Miscellaneous) Not a Request for “Identifiable” Records – Too Open-ended | A public records request must specify an identifiable record or set of records that are being sought. Cal. Govt. Code sec. 6253(b). Your request is so open-ended and all-encompassing that it must be narrowed to meet this identifiability standard. The department is available to assist you in formulating a request that meets that standard. Please feel free to contact us for this purpose. | The Department may consider using this template in extreme situations where the request does not identify specific records. An example would be a request for all the Department’s files, or a request for all the email of a particular employee that does not limit the request by time period or by subject matter. The Department should consult its Deputy City Attorney before using this template. |
| 4.3 | (Response – Miscellaneous) Massive Burdensome Request – Implied Rule of Reason | The California courts have determined that public records laws do not impose absolute requirements upon governmental agencies, and are subject to an implied rule of reason. The scope of your request and volume of records it covers will place a huge and unreasonable burden on this department in locating and reviewing responsive records, and will make it impossible for us to comply with the request in a reasonably prompt manner. We invite you to narrow | The Department should not use this template without first consulting its assigned Deputy City Attorney. |

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| | | your request, so that we might fully respond to the request within a reasonably prompt time frame. | |
| 4.4 | (Response – Miscellaneous) No “Standing” Records Requests | You have made a request for records that do not now exist but that might be [or will be] created in the future. Neither the California Public Records Act nor the San Francisco Sunshine Ordinance gives a member of the public the right to file a standing request for records that departments may or will create or receive in the future. Accordingly, we will not be complying with this request. | The Department may use this template when the requestor phrases the request as one for records that may be created in the future. If the Department has methods to make the requester aware of future records (e.g. a listserv), consider offering that option. |

Group 5: Withheld/Redacted Records

General Guidance. Unless the use of one of the reasons below is very routine for your department, consult your attorney before using these templates. While there are other reasons for withholding or redacting records, these are the most common.

Special Note on Communications Regarding Records Requests with the Department’s Deputy City Attorney. In the Sunshine Ordinance, there is a provision that states that communications between departments and their City Attorney’s Office regarding records requests are not protected by the attorney-client privilege. A court found that this provision violates the San Francisco Charter and struck it down.

| # | Template Title | Template Text | Additional guidance |
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| 5.1 | (Withheld/Redacted Records) General Privacy | We have withheld records responsive to your request [and/or redacted parts of the records provided in response to your request] on the basis of personal privacy. Cal. Govt. Code Secs. 6254(c), 6254(k); California Constitution, Art. I, Sec. 1. | The most common usage of this template would be for redaction of contact information of a member of the general public. But privacy interests could come up in other contexts. For more information, consult the City Attorney’s Good Government Guide. |
| 5.2 | (Withheld/Redacted Records) Personnel Records of Non-Peace Officers | We have withheld records responsive to your request [and/or redacted parts of the records provided in response to your request] that constitute private personnel records of a City employee. Cal. Govt. Code Secs. 6254(c), 6254(k); California Constitution, Art. I, Sec. 1. | The Department should consult its assigned Deputy City Attorney to determine whether a particular record is a personnel record that may be withheld as stated in this template. Not all records contained in a personnel file are covered by this exemption. |
| 5.3 | (Withheld/Redacted Records) Medical Privacy | We have withheld records responsive to your request [and/or redacted parts of the records provided in response to your request] because such records contain protected health information. Cal. Govt. Code Secs. 6254(c), 6254(k); Health Insurance and Accountability Act of 1996, 45 C.F.R. Secs. 160, 164; Cal. Civ. Code Secs. 56 et seq.; California Constitution, Art. I, Sec. 1. | The City can incur liability for disclosing protected health information. The Department should seek guidance from its Deputy City Attorney if it is unfamiliar with the types of records that would be exempt from disclosure as stated in this template. |
| 5.4 | (Withheld/Redacted Records) | We have withheld records responsive to your request [and/or redacted parts of the records provided in | The Department should consult its assigned Deputy City Attorney to assist in reviewing records it intends to |

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| | Attorney-Client Privilege | response to your request] on the basis of the attorney-client privilege. Cal. Govt. Code Secs. 6254(k), 6276.04; Cal. Evid. Code Sec. 954. | withhold on this basis. |
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