

# SF Public Records Compliance Score Card

NOTE: Please be certain you have properly redacted all of your responses. Once you send them to us, there is no going back. The email address sending this request is a publicly- viewable mailbox. All of your responses (including all responsive records) may be instantly and automatically available to the public online via the MuckRock.com FOIA service used to issue this request (though the requester is an anonymous user, not a representative of MuckRock). 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 disclosable public records.

Agency \*

**Score: 26/36**

Assessor

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Ms. Chu,

Thank you for your timely and thorough response.

However, we believe this response violates the Sunshine Ordinance/CPRA in various ways (see remainder of this document).

We are performing checks on the Sunshine practices of various SF agencies using a standardized request.

In lieu of the Sunshine Ordinance Task Force complaints process of hearings, findings of violations, and Order of Determination, we'd like to offer a compromise. The result of such a compromise in lieu of complaints would be a signed letter published online by the Department Head, admitting that the Department inadvertently violated certain Sunshine/CPRA provisions, but has, as of the execution of the letter, corrected its public records procedures in specified ways, along with a copy of the updated procedures document.

If you would like to negotiate such a compromise, please let us know by email.

We have various pending SOTF cases regarding exemptions of: metadata, non-PDF documents, future Mayoral meetings, citation of Times Mirror, so your action is not required for those specific issues at this time. If we win those cases at SOTF or in Superior Court, we will ask your agency to meet those requirements, later, as well.

Sincerely,  
Anonymous

## Notes to the Agency

Explanations of alleged violations:

\* Exact copies of the dept head's government emails were not provided (SFAC 67.21(k), GovCode 6253(b)). Instead of converting the department heads' emails into PDF format, your agency forwarded each of those emails from Chu to Agbayani. When you forward an email, that creates a new email with different properties than the original email. Please provide exact copies of the original emails, not of the forwards, by simply converting the original Chu emails to PDFs.

\* Various hyperlinks have lost their URLs when you converted documents to PDF. The loss of these URLs is unjustified withholding of non-exempt information. (SFAC 67.26, 67.27). Hyperlink URLs are typed in by human beings and are not metadata.

\* p.104-107 of the production appear to have been redacted, without any justification (SFAC 67.27). Alternatively, if there was a justification, there was no 'footnote or other clear reference' to the justification. (SFAC 67.26). Furthermore various headings and diagram labels are illegible in the copy of those sheets provided to us. Illegible text is considered withheld without justification. If these documents are available in electronic form, they should be converted directly to PDF, redacted and provided.

\* We will dispute at existing pending SOTF cases your withholding of the Mayor's future meetings/recurrence, citation of the Times Mirror case as an exemption, metadata, and non-PDF formats, so we will hold complaints in abeyance for those issues, and no action is required for those issues right now.

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## Score Card / Alleged Violations

\*This does not imply we believe the response completely met all requirements of the CPRA or Sunshine Ordinance in all cases. Instead it appears that in \_most\_ cases the agency appears to have met the requirement. We do not waive any right to appeal or petition to any administrative or judicial tribunal.

	Requirement generally or usually met* or Not Applicable	VIOLATION ALLEGED	Explanation
SFAC 67.21(b) - As of the filing of the complaint, Respondents refused to respond substantively to the emailed request (regardless of reason, including but not limited to: no response at all, refusal to use email, a demand to provide my name, a demand that I use a specific form or website, etc.).	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.21(k) - Respondents refuse to provide records by email, and instead require me to use a website imposing terms and conditions. This is prohibited by the CPRA: "As a matter of first impression in California, we conclude that end user restrictions are incompatible with the purposes and operation of the CPRA." County of Santa Clara v. Superior Court, 170 Cal.App.4th 1301, 1334 (Cal. Ct. App. 2009)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.21(k), GC 6270(a) - Respondents refuse to provide records directly, and instead require me to use solely a third-party private business to receive records.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.25(a) - IDR's were sent Dec 7, 8 or 9, and deemed received on Dec 9 (Monday). Full response or a declaration of maximum deadlines was due Dec 10 (Tuesday, one business day later). Late response is a violation.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.25(d) - Rolling responses were requested. The first disclosed record was untimely. Since the first request R1 is for a long-	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

past-3-business-days Prop G calendar, it should be easily provided immediately.

SFAC 67.21(k), GC 6253(c) - "Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor." No complete notice of determination was provided within 10 days (or 24 days if extended).



SFAC 67.21(k), GC 6253(c) - "No notice shall specify a date that would result in an extension for more than 14 days." Extension notice was for more than 14 days.



SFAC 67.21(k), GC 6253(c) - "When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available." No estimated date and time of record availability was provided.



SFAC 67.29-5(a) - A Prop G calendar (R1) must be kept and disclosed for the dept. head (elected or employee) for dates 3 or more business days in the past. Respondents did not produce one and/or may not maintain one.



SFAC 67.29-5(a) - Prop G calendar (R1) - Must contain at least the start and end times, locations, and (if not recorded) a general description for every meeting. Some of this required information was



withheld and/or not maintained. If all required information for every meeting is not provided			
SFAC 67.29-5(b,c) - Prop G Calendar (R1) - Required identities of meeting participants were either withheld and/or not maintained.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.21(b,k), GC 6253(c) - No response was received regarding past non-Prop G calendars (R2). Respondents must explicitly state whether responsive records exist or not, and whether any were withheld.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.26 - Past non-Prop G calendars (R2) were withheld in their entirety. See SOTF Order 19047. SFAC 67.26 - Past non-Prop G calendars (R2) were withheld partially. Some meetings or information about them may have been not provided. If agency fails to provide the individual meeting view as requested, that would qualify here.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.27 - Past non-Prop G calendars (R2) were withheld in whole or in part without justification. See SOTF Order 19047.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.21(b,k), GC 6253(c) - No response was received regarding future calendars (R3). Respondents must explicitly state whether responsive records exist or not, and whether any were withheld.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.26 - Future calendars (R3) were withheld in their entirety. See SOTF Order 18075.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
SFAC 67.26 - A limited portion of future calendars (R3) were withheld, with justification, such as with the Mayor's Office. However, minimal withholding was not	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

performed. At least some  
See SOTF Order 18075 and  
current proceeding SOTF  
19103 and SOTF 19112.

SFAC 67.26, 67.27 - Future  
calendars (R3) were  
withheld without  
justification. See SOTF  
Order 18075.



SFAC 67.27, 67.21(k), GC  
6253(b) - Some records  
were provided by printing  
and scanning electronic  
records, instead of directly  
converting (for example) to  
PDF format. Therefore,  
certain non-metadata  
information (ex. hyperlinks,  
formatting, colors, original  
full-quality images) was  
withheld without  
justification. Furthermore,  
records are not exact  
copies as we requested (GC  
6253(b)).



SFAC 67.27, 67.21(k), GC  
6253(b) - Even though  
documents were converted  
to PDFs directly, some non-  
metadata information (ex.  
hyperlinks) were withheld  
without justification.  
Furthermore, records are  
not exact copies as we  
requested (GC 6253(b)).



SFAC 67.26 - One or more  
entire records were  
withheld fully, instead of  
merely redacting the  
minimally exempt portion.



SFAC 67.26 - One or more  
non-metadata parts of a  
record were withheld  
incorrectly (aka, something  
that should not have been  
redacted, was redacted).



SFAC 67.26 - Redactions  
were not "keyed by footnote  
or other clear reference to  
the appropriate justification  
for withholding required by  
Section 67.27 of this  
Article" (i.e. a general list of  
justifications was provided,  
instead).



SFAC 67.27 - Some  
information was withheld



without any justification whatsoever.

SFAC 67.27 - Some information was withheld using a justification not allowed by SFAC 67.27 (for example, they are prohibited by SFAC 67.24, or they are not laws or court cases dictating exemptions or civil or criminal liability).



SFAC 67.24 - An exemption justification was used that is prohibited in CCSF, including but not limited to drafts, public interest balancing test (or any similar exemption), or deliberative process.



SFAC 67.21(c, k), GC 6253(c) - Incomplete response (R6/R7) - City of San Jose (2017) specifies that communications about the public business kept on personal property are still public records. Personal accounts must be searched and records provided, or Respondents must explicitly state that there are no responsive records for R6/R7.



SFAC 67.21(c, k) - Incomplete response (R6/R7) - The scope of search for public records on personal property does not meet the requirements of San Jose. (See pending SOTF 19091, 19098)



SFAC 67.27 - Personal property public records were withheld, without justification.



SFAC 67.26 - Personal property public records were withheld, but they are not exempt.



SFAC 67.21(k), GC 6254.3(b)(1) - "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 and shall not be open to public inspection, except that disclosure of that information may be made as specified in paragraphs (1) to (4), inclusive, of subdivision(a)."

SFAC 67.29-7(a) - Department head failed to disclose and/or maintain all correspondence and other documents in a professional and business-like manner.



SFAC 67.27 - The non-exempt metadata portion of one or more records was withheld without justification.



SFAC 67.26 - The non-exempt metadata portion of one or more records was withheld, but some of the metadata withheld is not in fact exempt and must be provided.



SFAC 67.27 - The original electronic format or the requested "easily generated" format were withheld without justification.



SFAC 67.21(l), GC 6253.9 - The original electronic format or the requested format were withheld, but it is "easily generated".



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