

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 *

Human Resources

Score: 31/35

See next page.

Notes to the Agency

Thank you for your thorough and timely response! It was one of the best across all agencies we've measured.

* You appear to be the sole agency that has learned how to release non-exempt hyperlinks, while also disabling exempt ones - please teach the rest of the City how to use Acrobat redaction properly! It will save a lot of SOTF complaints.

* We will dispute your citation to Times Mirror, mayoral meetings, metadata, and non-PDF formats in existing SOTF cases and no action is required at this time.

* The only real issue remaining is this citation: "Email #4 sent on December 13, 2019 at 6:10pm - We have withheld the email sent on December 13, 2019 at 6:10pm. This record consists entirely of labor relations information, the disclosure of which would "reveal a local agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under that chapter." Cal. Govt. Code 6254(p)(2)"

We believe this is a prohibited exemption by 67.24(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."

Because this is a specific potentially novel legal dispute, we have filed Supervisor of Records and SOTF petitions to resolve it. However, we are happy to withdraw the SOTF one if we are able to negotiate a compromise.

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
1. 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"/>
2. 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"/>
3. 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"/>
4. SFAC 67.25(a) - IDRs must receive response next business day.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. SFAC 67.25(d) - Rolling responses were requested. The first disclosed record was untimely. Since the first request R1 is for a long-past-3-business-days Prop G calendar, it should be easily provided immediately.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

6. SFAC 67.21(k), GC 6253(c) - No determination provided whether each of our 7 requests had responsive records or not, whether any were withheld or not.



7. 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.



8. 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.



9. 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.



10. 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 the summary view you choose to provide fails to display all of this information, that would be a violation - consider providing the entries individually.



11. SFAC 67.29-5(b,c) - Prop G Calendar (R1) - Required identities of meeting participants were either withheld and/or not maintained. If the summary view you choose to provide



fails to display all of this information, that would be a violation - consider providing the entries individually.

12. 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.



13. 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.



14. SFAC 67.27 - Past non-Prop G calendars (R2) were withheld in whole or in part without justification. See SOTF Order 19047.



15. 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.



16. SFAC 67.26 - Future calendars (R3) were withheld in their entirety. See SOTF Order 18075.



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



18. SFAC 67.26, 67.27 -



<p>Future calendars (R3) were withheld without justification. See SOTF Order 18075.</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>19. SFAC 67.27, 67.21(k), GC 6253(b) - Some records were provided in an image form or 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)).</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>20. SFAC 67.27, 67.21(k), GC 6253(b) - Even if 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)).</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>21. SFAC 67.26 - One or more entire records were withheld fully, instead of merely redacting the minimally exempt portion.</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>22. 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).</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>23. 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).</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>24. SFAC 67.27 - Some information was withheld without any justification whatsoever.</p>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<p>25. SFAC 67.27 - Some information was withheld</p>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

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).

26. 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.



27. 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.



28. 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)



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



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



31. 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).”

32. 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.



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



34. 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.



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



36. 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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