

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

SUBJECT	Number 95.20	Issue 9	Page 1 of 16
PUBLIC RECORDS ACT REQUESTS AND CIVIL SUBPOENAS; PROCEDURES FOR FURNISHING DOCUMENTS AND RECOVERING COSTS	Effective Date July 1, 2004		

1. Purpose

- 1.1 To establish policy for public access to City documents. To establish procedures for furnishing and pricing documents produced in response to either civil subpoenas or requests for public records.
- 1.2 The scope of this Administrative Regulation is limited to public records requests and to subpoenas which seek only the production of records.

2. Definitions

“Department Head” means City Department Head or his or her designee.

“Person” means any natural person, corporation, partnership, firm, or association.

“Public records” means any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by the City regardless of physical form or characteristics.

“Public Records Act Request” means any request by a member of the public to inspect a public record.

“Subpoena” means the process used in a lawsuit to secure that production of documents. There are two types of civil subpoenas commonly used in civil litigation to compel the production of documents, a deposition subpoena or a subpoena duces tecum.

“Deposition Subpoena” means a subpoena (see sample in Attachment A) used to compel any of the following at a deposition (a deposition is the taking of testimony under oath outside the formal setting of a courtroom): (1) testimony only; (2) both testimony and the production of documents and tangible things; (3) personal records of a consumer; (4) production and copying of business records, with no personal appearance at the deposition necessary.

(Supersedes Administrative Regulation 95.20, Issue 8, effective July 1, 1995)

Authorized

(signed by Terri Aja Webster)

Auditor & Comptroller

(signed by Casey Gwinn)

City Attorney

(signed by Chuck Abdelnour)

City Clerk

(signed by P. Lamont Ewell)

City Manager

(signed by Rich Snapper)

Personnel Director

(signed by Lawrence B. Grissom)

Retirement Administrator

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“**Subpoena Duces Tecum**” means a subpoena (see sample in Attachment B) used to compel a witness in a civil trial to bring specified books, papers and records to the trial to be used in conjunction with his or her testimony.

“**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.

3. Policy

3.1 Public Records Act Requests

It is the policy of the City to comply with the California Public Records Act and to respond appropriately to any request by a member of the public to inspect a public record.

3.2 Subpoenas Issued in Civil Cases for the Production of City Records

It is the policy of the City to respond in an appropriate manner to any lawfully issued subpoena demanding the production of City records.

3.3 Recovery of Costs

It is the policy of the City to recover the cost of producing records to the extent allowed by law in response to civil subpoenas and Public Records Act requests. (See Sections 6 and 7 for pricing of copies).

The City Manager is authorized to and may furnish to any person copies of any official record, document or paper of the City upon payment by such persons of the required fee. A limited number of free copies of any official record, document or paper of the City may be provided in the following cases:

- a. Any government agency or any public officer acting in his or her official capacity.
- b. Any non-profit corporation.
- c. Any person engaged in the performance of work at the City’s request where such copies of records, documents or papers are required by such person in order to perform that work.
- d. Bona fide students or teachers engaged in research projects.

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- e. Any paper deemed by the Manager as promotional in nature for the City.
- f. Documents prepared especially for presentation to the general public for its convenience and information.

4. Procedures for Responding to Public Records Act Requests

4.1 Determining Whether a Record May be Disclosed

Responsibility

Action

Department Head

Department Heads are responsible for determining whether a City record should be released in response to a Public Records Act request. If it is not clear whether a record should be disclosed, or if the preliminary determination is to deny disclosure, Department Heads should consult with their legal advisor at the City Attorney's Office.

The City has an obligation to assist the public in making a focused and effective request that reasonably describes an identifiable record or records. Department Heads shall, to the extent reasonable under the circumstances: (1) assist the public to identify records and information that are responsive to the request or to the purpose of the request, if stated; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying access to the records or information sought.

The following guidelines are to be used by Department Heads to determine whether to disclose a record.

4.2 Guidelines to Determine Whether to Disclose a Record

Every person has the right to inspect any public record, except for those records specified below which are exempt from disclosure pursuant to Government Code Sections 6253.5 and 6254, or unless it can be demonstrated that the public interest served by not making the record public clearly outweighs the public interest served by its disclosure.

The following records are exempt from disclosure **because they are subject to particular exceptions:**

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- a. Preliminary drafts, notes or interdepartmental or intra-agency memoranda which are not retained by the City in the ordinary course of business, provided that the public interest in withholding such record clearly out weighs the public interest in disclosure.
- b. Records pertaining to pending litigation to which the City (or the People in a criminal case) is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.
- c. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. "Similar files" include financial information furnished by a lessee, proposed lessee or contractor, as a requirement of a request for proposals or real estate transaction, e.g., sale or lease. "Similar files" also includes any financial information obtained through credit checks, by an audit, or through other means as a requirement or lease, concession contract, or agreement.
- d. Records contained in or related to:
 - (1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.
 - (2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).
 - (3) Preliminary drafts, notes, or interdepartmental or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).
 - (4) Information received in confidence by any state agency referred to in paragraph (1).
- e. Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
- f. Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of the San Diego Police Department or any such investigatory or security files compiled by any City department for correctional, law enforcement or licensing purposes, except:

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(1) City departments shall disclose the names and addresses of persons involved in or witnesses, other than confidential informants, to the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of an incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime as defined by California Government Code Section 13960(c), unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; and

(2) City departments shall disclose notices and orders directed to the owner of any building of violations of housing or building codes, ordinances, statutes, or regulations which constitute violations of standards provided in Section 1941.1 of the Civil Code, and records of subsequent action with respect to those notices and orders; and

(3) In no event is a City department obligated to disclose that portion of any investigative file which reflects the analysis or conclusions of the investigating officer.

- g. Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the California Education Code.
- h. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the City relative to the acquisition of property, or to the prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. Any information relative to an ongoing real estate transaction, e.g., negotiation to lease, sell, or acquire real property, negotiation of any agreement affecting real property, or the relocation activities of an individual or business in connection with a real estate transaction until such time as the lease, sale, acquisition, agreement or relocation has been completed. The law of eminent domain shall not be affected by this provision.
- i. Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.

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- j. Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.
- k. Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including but not limited to, provisions of the Evidence Code relating to privilege. For example, records determined by a department head and their legal advisor to be exempt under 23 U.S.C. Section 409 (data compiled to identify, evaluate or plan the safety enhancement of potential accident sites or hazardous roadway conditions), shall not be subject to disclosure.
- l. Correspondence to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary.
- m. Trade secrets or proprietary information, plans or specifications submitted to the City by licensed design professionals, i.e., any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented, which is known to only certain individuals within a commercial concern who are using it to fabricate, produce, or compound an opportunity to obtain a business advantage over competitors who do not know the trade secrets or use them.
- n. Statements of personal worth or personal financial data required by a licensing department of the City and filed by an applicant with such department to establish his personal qualification for the license, certificate or permit applied for.
- o. Documents prepared by a local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

The following records are exempt from disclosure **because they are not public records**:

- a. City initiatives, referendum, and recall petitions and all memoranda prepared by the City Clerk in the examination of the petitions indicating which registered voters have signed particular petitions, except that such documents may be inspected by the public officer or public employees who have the duty of receiving, examining or preserving the petitions is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefore; provided, however, that the Attorney General, the Secretary of State, the Fair Political Practices Commission and the City Attorney shall be permitted to examine the material upon approval of the superior court.

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- b. Computer software developed by a City department is not itself a public record and may be sold, leased or licensed for commercial or noncommercial use. “Computer software” includes computer mapping systems, computer programs, and computer graphics systems.

4.3 Timing of Response

Responsibility

Action

Department Head

Department Heads are responsible for responding to Public Records Act requests in a timely manner.

Within ten (10) calendar days after a Public Records Act request is received, Department Heads must (1) determine whether a record should be disclosed; and (2) notify the person making the request of the determination, and the estimated date and time when the records will be made available.

In unusual circumstances, as specified below, the ten (10) calendar days’ time limit may be extended by written notice by the Department Head to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. In no event may the notice specify a date that would result in an extension for more than ten (10) working days.

“Unusual circumstances” means:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office or department processing the request; or
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
- (3) The need for consultation, which shall be conducted with all practicable speed, with another City department or agency having a substantial interest in the determination of the request.

Any notification of denial or partial denial of any request for records shall set forth the justification for the denial in writing along with the names and titles or positions of each person responsible for the denial.

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4.4 Form of Response

Responsibility

Action

Department Head

Every person has a right to inspect any public record during the office hours of the City. Except for public records exempt from disclosure, the records shall be made promptly available to any person for inspection, or for copying upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. (See Section 6 for pricing of copies). Any reasonably segregable portion of a record shall be made available after deletion of the portions that are exempted by law. An exact copy of the record requested shall be provided unless it is impracticable to do so.

When the information is in an electronic format, it shall be made available in an electronic format when requested by any person. The City shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the City to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of the records in an electronic format. However, the requester shall bear the cost of producing a copy of the records, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the records when: (1) the record is one that is produced only at otherwise regularly scheduled intervals; or (2) the request would require data compilation, extraction, or programming to produce the record.

4.5 Denial of Records

Responsibility

Action

Department Head

Any notification of denial of any request for records shall set forth the reasons for denial, and the names and titles or positions of each person responsible for the denial.

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5. Procedure for Responding to Civil Subpoenas

Responsibility

Action

Department Head

Department Heads are responsible for controlling the responses made by their employees to subpoenas which require the production of City records. Each Department shall designate an individual who will serve as the department's Subpoena Clerk.

Department Heads are not responsible for and shall not accept or process subpoena requests which demand the production of City records which are all within the custody and control of another City department. However, if the subpoena calls for the production of records from multiple departments, the Department Head accepting the subpoena should contact the party issuing the subpoena as outlined below in paragraph 5.5 and explain that multiple subpoenas are required.

Department Heads shall notify the City Attorney if additional time is needed to provide appropriate response to the request.

City Attorney

When a civil subpoena requesting City records has been issued directly to the City Attorney, the City Attorney shall be responsible for forwarding the request to the appropriate Department Head via facsimile.

5.1 Logging and Intake of Subpoenas

Responsibility

Action

Department Head

Subpoena Clerks shall time stamp incoming subpoenas and maintain a log and filing system of all subpoenas received. The log shall contain entries reflecting: when the subpoena was received, how the subpoena was received (by mail or personal delivery), the type of subpoena (deposition subpoena or subpoena duces tecum) and the date specified on the subpoena when a response is required.

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5.2 Determining Whether the City is Involved in Litigation

For purposes of determining whether the City is involved in litigation, “City” means The City of San Diego, a City office, or City employee in his or her official capacity.

Responsibility

Action

Department Head

Before producing any City records in response to a subpoena, Department Heads shall check with Risk Management to determine whether a claim has been filed against the City and shall check with the Litigation Division of the City Attorney’s Office to determine whether a civil complaint has been filed with the City by any party to the litigation.

Department Heads shall correspond by facsimile with Risk Management and the City Attorney (using a standard form) to determine whether the City is involved in the litigation. (See Attachment C-1 for format of standard form).

Risk Management and the City Attorney shall promptly respond, by facsimile, to Department Head inquiries. (See Attachment C-2 for format of standard response from Risk Management; see Attachment C-3 for format of standard response from City Attorney).

(1) When City is involved in litigation.

City Attorney

The City Attorney shall designate a contact person at the City Attorney’s Office. The City Attorney shall inform the appropriate Department Head(s) of the contact person so designated.

Department Head

Department Heads shall consult with the designated contact person at the City Attorney’s Office. The designated contact person shall be responsible for coordinating the response to the subpoena.

(1) When City is not involved in litigation.

Department Heads may unilaterally respond to subpoenas requiring the production of City records when the City is not named as a party to the litigation and when no claim has been filed with the City by any party to the litigation.

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5.3 Time Frame for Response

Responsibility

Action

Department Head

(1) Deposition Subpoena - A deposition subpoena requesting production of records will ordinarily reflect a date specifying when the records must be produced. (See Attachment A). Notwithstanding the production date specified on the subpoena, the date by which the records must be produced is the later of fifteen (15) calendar days after the subpoena was personally delivered or twenty (20) calendar days after the subpoena was issued. An additional five (5) calendar days to respond is permitted (from the date of postmark), if the subpoena was served by mail.

(2) Subpoena Duces Tecum - A subpoena duces tecum will also reflect a date specifying when the records must be produced. (See Attachment B-1). The records must be produced within fifteen (15) calendar days from the receipt of the subpoena. When a subpoena duces tecum is served, it must be accompanied by a declaration or an affidavit which specifically sets forth the exact matters or things to be produced, good cause for the production of the matters and things so described, a detailed description of how these things or matters are material to the issues involved in the case and a representation that the desired matters and things are in the witness's possession or control. (See Attachment B-2).

5.4 Personal Records of Employee

Responsibility

Action

Department Head

Determine whether the subpoena seeks production of the personal records of an employee other than a peace officer (wages, benefits, personal address, medical records, etc.). If the subpoena seeks this information, it must be accompanied by a Notice to Consumer (See Attachment D) along with proof that the Notice to Consumer was served on the employee personally or the employee's attorney by mail (See Attachment E), or written authorization from the employee for the release of the records. The Notice to Consumer alerts the City employee that his or her City records are being sought and informs the City employee of his or her right to object to the request by filing the appropriate document in court.

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Department Head (cont'd) If it is not clear whether a record is a personal record, Department Heads should consult with their legal advisor at the City Attorney's Office. For example, Peace Officer personnel records are confidential and shall not be disclosed except by discovery pursuant to Evidence Code Sections 1043 and 1046. "Personnel records" include records relating to personnel data (marital status, family members, education and employment history, home addresses, medical history, election of employee benefits, employment advancement and appraisal or discipline).

Determine the date of service upon the City employee. If the City employee was personally served with the Notice to Consumer, the records may not be released until ten (10) calendar days after service to the employee. If the City employee was served with the Notice to Consumer by mail, the records may not be released until fifteen (15) calendar days after service.

If the subpoena seeks the production of the personal records of an employee and the above conditions are not satisfied, Department Heads shall contact the party serving the subpoena and discuss the matter. The name and telephone number of a contact person will appear on the subpoena. (See Attachments A & B). Department heads shall contact their Civil Advisory Attorney in the City Attorney's Office if they cannot satisfactorily resolve the problem with the party issuing the subpoena.

5.5 Ability to Comply

Responsibility

Action

Department Head

If, for any reason, Department Heads cannot respond to a deposition subpoena or a subpoena duces tecum by the production data specified, the Department Head shall contact the party serving the subpoena and discuss the matter. The name and telephone number of a contact person will appear on the subpoena. (See Attachments A & B). Department Heads shall contact their Civil Advisory Attorney in the City Attorney's Office if they cannot satisfactorily resolve the problem with the party issuing the subpoena.

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Department Head (cont'd) If the request for records, as set forth in the deposition subpoena or the subpoena duces tecum, is vague, ambiguous, unduly burdensome, beyond the scope of documents within the custody and control of the department served, or if the records requested do not exist, the Department Head shall contact the party serving the subpoena and discuss the matter. The name and telephone number of the contact person will appear on the subpoena. (See Attachments A & B). Department Heads shall contact their Civil Advisory Attorney in the City Attorney's Office if they cannot satisfactorily resolve the problem with the party issuing the subpoena.

If the party issuing the subpoena seeks the production of common records kept in the normal course of business, other than the personal records of an employee as described in Section 5.4 above, such as traffic signal records, utility records, existing maintenance records, repair records, daily work reports and similar documents prepared in the normal course of City business or records of complaints regarding damage or operation of City equipment, Department Heads shall respond directly.

5.6 Declaration Accompanying Records Produced Pursuant to Subpoena

Responsibility

Action

Department Head

Business records produced in response to subpoenas shall be accompanied by a declaration of the custodian or other qualified witness, stating in substance each of the following:

- (1) The declarant is the duly authorized custodian of the records or other qualified witness and has authority to certify the records being produced pursuant to the subpoena.
- (2) The copies attached are true copies of all the records described in the subpoena.
- (3) The records produced pursuant to the subpoena were prepared by City personnel in the ordinary course of business at or near the time of the act, condition, or event.

A sample declaration for the production of City business records is attached as Attachment F.

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Department Head (cont') If the department has none of the records described in the subpoena or has only part of the records described, the custodian or other qualified witness shall state this fact in the declaration, and deliver the declaration and such records as are available.

6. Pricing of Copies Made in Response to Public Records Act Requests

<u>Responsibility</u>	<u>Action</u>
Department Head	<p>There shall be no charge for the mere inspection of a public record.</p> <p>However, any department producing copies of City documents, records or printed material in response to a Public Records Act request shall charge as follows:</p> <p>The price is twenty-five cents (\$0.25) per page or, if the actual cost of producing copies in a specific situation is substantially different from twenty-five cents (\$0.25) per page, a separate fee may be established based on the actual cost of duplicating the record.</p>

7. Pricing of Copies made in Response to Civil Subpoenas

<u>Responsibility</u>	<u>Action</u>
Department Head	<p>Any department producing copies of City documents, records or printed material in response to a subpoena shall charge as follows:</p> <p>(1) The charge for copying pages of 8-1/2 x 14 inches or less by photocopier shall be ten cents (\$0.10) per page or for copying of documents from microfilm the charge shall be twenty cents (\$0.20) per page. Charges for copies of records larger than 8-1/2 x 14 inches shall reflect the actual cost required to copy the record document. Charges for duplication of any records contained on photographic films or prints, discs, drums, or magnetic tapes shall reflect the actual cost required to copy the record; and,</p>

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Department Head (cont'd) (2) The party requesting the records shall pay a fee of \$24 per hour, computed on the basis of \$6 per 1/4 hour or fraction thereof, for the clerical cost incurred in locating, researching and making the records available.

8. Pricing of Documents Intended for Publication

Responsibility

Action

Department Head

(1) A department desiring to establish a document sale price shall submit to the City Manager via Financial Management Department a recommended document price based on the following:

a. The price shall be the cost of printing and handling plus the established prevailing overhead factor and shall also include sales tax. This price (including tax) shall be rounded to the nearest ten cents (\$0.10) for amounts under one dollar (\$1.00), and rounded to the nearest twenty-five cents (\$0.25) for amounts over one dollar (\$1.00).

b. Documents obtained for resale will be priced at cost plus the established prevailing overhead factor and shall also include sales tax and price rounded as in paragraph 8(1)a above.

c. Current sales tax shall be included in all recommended prices.

(2) If it is necessary to determine the price before the document is printed, an estimated cost of printing and handling may be used as a basis for price setting.

Financial Management
Department

(3) Reviews recommended price for general conformity with prices charged for similar publications, and for budget and revenue implications.

(4) Forwards departmental price recommendation to the City Manager with endorsement or comment.

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|---------------------------------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| City Manager | (5) | Approves or disapproves recommended prices. |
| | (6) | Returns departmental recommendation to the Financial Management Department. |
| Financial Management Department | (7) | Retains and files a copy of the departmental recommendation. |
| | (8) | Returns a copy of the recommendation to the department. |
| | (9) | Maintains a master schedule of prices for the City Manager of all documents sold by the City which shall be filed and available for inspection in the Office of the City Clerk. |

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):</p> <p>Attorney's name or party issuing the subpoena will appear here.</p> <p>TELEPHONE NO.: _____ FAX NO.: _____</p> <p>ATTORNEY FOR (Name): _____</p>	<p style="text-align: center;">FOR COURT USE ONLY</p>
<p>NAME OF COURT: _____</p> <p>STREET ADDRESS: _____</p> <p>MAILING ADDRESS: _____</p> <p>CITY AND ZIP CODE: _____</p> <p>BRANCH NAME: _____</p>	
<p>PLAINTIFF/ PETITIONER: _____</p> <p>DEFENDANT/ RESPONDENT: _____</p> <p style="text-align: center;">The title of the case will appear here.</p>	
<p style="text-align: center;">DEPOSITION SUBPOENA For Production of Business Records</p>	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
The Custodian of Records for:

The name of the City, a department or an employee will appear here.

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer):	This is the date, time and address for the production of the
On (date):	records. Notwithstanding the ^{At (time):} date shown here, you are not
Location (address):	required to produce the records requested before the later of the
Do not release the requested records to the deposition officer prior to the date and time stated above.	

- in paragraph 2
- a. by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*

3. The records to be produced are described as follows:

The records to be produced will be described here.

Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

<p>DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.</p>

Date issued: This is the date the subpoena was issued

..... (TYPE OR PRINT NAME) (SIGNATURE OF PERSON ISSUING SUBPOENA)

(TITLE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
 - a. Person served (*name*):
 - b. Address where served:
 - c. Date of delivery:
 - d. Time of delivery:
 - e. (1) Witness fees were paid.
Amount: \$ _____
 - (2) Copying fees were paid.
Amount: \$ _____
 - f. Fee for service: \$ _____

2. I received this subpoena for service on (*date*):

3. Person serving:
 - a. Not a registered California process server.
 - b. California sheriff or marshal.
 - c. Registered California process server.
 - d. Employee or independent contractor of a registered California process server.
 - e. Exempt from registration under Business and Professions Code section 22350(b).
 - f. Registered professional photocopier.
 - g. Exempt from registration under Business and Professions Code section 22451.
 - h. Name, address, telephone number, and, if applicable, county of registration and number:

I **declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I **certify** that the foregoing is true and correct.

Date:

Date:

▶ _____
(SIGNATURE)

▶ _____
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Attorney's name or party issuing the subpoena will appear here. TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/ PETITIONER: _____ DEFENDANT/ RESPONDENT: _____	The title of the case will appear here.
CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents and Things at Trial or Hearing AND DECLARATION	CASE NUMBER: Court Case Number

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):
 The Custodian of Records for the City, a department or an employee will appear here.

1. **YOU ARE ORDERED TO APPEAR AS A WITNESS** in this action at the date, time, and place shown in the box below **UNLESS** your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date: _____ Time: _____ Dept.: <input type="checkbox"/> Div.: <input type="checkbox"/> Room: <input type="checkbox"/> b. Address: _____	The date, time and address for the production of records and/or attendance of a witness will appear here.
-----------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

2. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

3. **YOU ARE (item a or b must be checked):**
- a. Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
 - b. Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number; your name; and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. **IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:**

- a. Name of subpoenaing party or attorney: _____
 - b. Telephone number: _____
5. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: The date the subpoena was issued. ▶

..... (TYPE OR PRINT NAME) _____ (SIGNATURE OF PERSON ISSUING SUBPOENA)

(TITLE)

(Declaration in support of subpoena on reverse)

PLAINTIFF/PETITIONER: Plaintiff	CASE NUMBER:
DEFENDANT/RESPONDENT: Defendant	Court Case Number

The production of the documents or the other things sought by the subpoena on page one is supported by (check one):
 the attached affidavit or declaration the following declaration:

DECLARATION IN SUPPORT OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS AT TRIAL OR HEARING

(Code Civ. Proc., §§ 1985, 1987.5)

1. I, the undersigned, declare I am the plaintiff defendant petitioner respondent
 attorney for (specify): _____ other (specify): _____
in the above-entitled action.

2. The witness has possession or control of the following documents or other things and shall produce them at the time and place specified in the *Civil Subpoena for Personal Appearance and Production of Documents and Things at Trial or Hearing* on page one of this form (specify the exact documents or other things to be produced):

Description of the records sought to be produced.

Continued on Attachment 2.

3. Good cause exists for the production of the documents or other things described in paragraph 2 for the following reasons:

Reasons why the documents are sought.

Continued on Attachment 3.

4. These documents or other things described in paragraph 2 are material to the issues involved in this case for the following reasons:

Reasons why the documents are material to the issues involved.

Continued on Attachment 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)

▶ Attorney or the party seeking the records.
(SIGNATURE OF SUBPOENAING PARTY ATTORNEY FOR SUBPOENAING PARTY)

(Proof of service on page three)

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

**PROOF OF SERVICE OF CIVIL SUBPOENA (DUCES TECUM)
FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS
AND THINGS AT TRIAL OR HEARING AND DECLARATION**

1. I served this *Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents and Things at Trial or Hearing and Declaration* by personally delivering a copy to the person served as follows:
 - a. Person served (*name*):
 - b. Address where served:
 - c. Date of delivery:
 - d. Time of delivery:
 - e. Witness fees (*check one*):
 - (1) were offered or demanded and paid. Amount: \$ _____
 - (2) were not demanded or paid.
 - f. Fee for service: \$ _____
2. I received this subpoena for service on (*date*):
3. Person serving:
 - a. Not a registered California process server.
 - b. California sheriff or marshal.
 - c. Registered California process server.
 - d. Employee or independent contractor of a registered California process server.
 - e. Exempt from registration under Business and Professions Code section 22350(b).
 - f. Registered professional photocopier.
 - g. Exempt from registration under Business and Professions Code section 22451.
 - h. Name, address, telephone number, and, if applicable, county of registration and number:

I **declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I **certify** that the foregoing is true and correct.

Date:

Date:

▶ _____
(SIGNATURE)

▶ _____
(SIGNATURE)

SUBPOENA CLEARANCE FORM - REQUEST

(Transmit via Facsimile)

TO: Civil Litigation Attn: _____

Risk Management Attn: _____

Attached is a subpoena recently served upon our department. Pursuant to Administrative Regulation No. 95.20, we are required to check with your department for pending claims/litigation prior to complying with the subpoena.

Please respond by facsimile **as soon as possible** to:

Department Contact: Name/Phone Number/Fax Number

Department/Division

Thank you.

**SUBPOENA CLEARANCE FORM -
RESPONSE FROM RISK MANAGEMENT**

(Transmit via Facsimile)

Response from Risk Management related to subpoena served upon:

Name of Department/Division

in the case of _____

v. _____.

____ No claim is pending on this matter.

____ A claim has been filed in this matter. Release of the requested information should be coordinated with:

Name/Phone Number

of the City Attorney's office, Litigation Division.

____ Other _____

**SUBPOENA CLEARANCE FORM -
RESPONSE FROM CITY ATTORNEY**

(Transmit via Facsimile)

Response from City Attorney related to subpoena served upon:

Name of Department/Division

in the case of _____

v. _____.

____ No litigation is pending on this matter.

____ Litigation is pending on this matter. Once you have identified documents responsive to the subpoena, please call:

Name/Phone Number

to coordinate a review of the documents.

____ Litigation is pending on this matter. However, you are free to release any responsive documents, but please send a copy of what you release to:

Name/Mail Station

____ Other _____

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):	
TELEPHONE NO.:	FAX NO.:
ATTORNEY FOR (Name):	
NAME OF COURT:	
STREET ADDRESS:	
MAILING ADDRESS:	
CITY AND ZIP CODE:	
BRANCH NAME:	
PLAINTIFF/ PETITIONER:	CASE NUMBER:
DEFENDANT/ RESPONDENT:	
NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION (Code Civ. Proc., §§ 1985.3, 1985.6)	

NOTICE TO CONSUMER OR EMPLOYEE

TO (name):

1. PLEASE TAKE NOTICE THAT **REQUESTING PARTY (name):** SEEKS YOUR
RECORDS FOR EXAMINATION by the parties to this action on (specify date):
The records are described in the subpoena directed to **witness (specify name and address of person or entity from whom records are sought):**
A copy of the subpoena is attached.
2. IF YOU OBJECT to the production of these records, YOU MUST DO ONE OF THE FOLLOWING BEFORE THE DATE SPECIFIED IN ITEM a. OR b. BELOW:
 - a. If you are a party to the above-entitled action, you must file a motion pursuant to Code of Civil Procedure section 1987.1 to quash or modify the subpoena and give notice of that motion to the **witness** and the **deposition officer** named in the subpoena at least five days before the date set for production of the records.
 - b. If you are not a party to this action, you must serve on the **requesting party** and on the **witness**, before the date set for production of the records, a written objection that states the specific grounds on which production of such records should be prohibited. You may use the form below to object and state the grounds for your objection. You must complete the Proof of Service on the reverse side indicating whether you personally served or mailed the objection. The objection should **not** be filed with the court. **WARNING: IF YOUR OBJECTION IS NOT RECEIVED BEFORE THE DATE SPECIFIED IN ITEM 1, YOUR RECORDS MAY BE PRODUCED AND MAY BE AVAILABLE TO ALL PARTIES.**
3. YOU OR YOUR ATTORNEY MAY CONTACT THE UNDERSIGNED to determine whether an agreement can be reached in writing to cancel or limit the scope of the subpoena. If no such agreement is reached, and if you are not otherwise represented by an attorney in this action, YOU SHOULD CONSULT AN ATTORNEY TO ADVISE YOU OF YOUR RIGHTS OF PRIVACY.

Date:

..... (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF REQUESTING PARTY ATTORNEY)

OBJECTION BY NON-PARTY TO PRODUCTION OF RECORDS

1. I object to the production of all of my records specified in the subpoena.
2. I object only to the production of the following specified records:
3. The specific grounds for my objection are as follows:

Date:

..... (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE)

(Proof of service on reverse)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION

(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Notice to Consumer or Employee and Objection* as follows (check either a or b):
 - a. **Personal service.** I personally delivered the *Notice to Consumer or Employee and Objection* as follows:

(1) Name of person served:	(3) Date served:
(2) Address where served:	(4) Time served:
 - b. **Mail.** I deposited the *Notice to Consumer or Employee and Objection* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(1) Name of person served:	(3) Date of mailing:
(2) Address:	(4) Place of mailing (city and state):
- (5) I am a resident of or employed in the county where the *Notice to Consumer or Employee and Objection* was mailed.
- c. My residence or business address is (specify):
- d. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)	(SIGNATURE OF PERSON WHO SERVED)
-------------------------------------------	----------------------------------

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS

(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
2. I served a copy of the *Objection to Production of Records* as follows (complete either a or b):
 - a. **ON THE REQUESTING PARTY**
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:

(i) Name of person served:	(iii) Date served:
(ii) Address where served:	(iv) Time served:
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:	(iii) Date of mailing:
(ii) Address:	(iv) Place of mailing (city and state):
 - (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
 - b. **ON THE WITNESS**
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:

(i) Name of person served:	(iii) Date served:
(ii) Address where served:	(iv) Time served:
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:	(iii) Date of mailing:
(ii) Address:	(iv) Place of mailing (city and state):
 - (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
3. My residence or business address is (specify):
4. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)	(SIGNATURE OF PERSON WHO SERVED)
-------------------------------------------	----------------------------------

SUPERIOR/MUNICIPAL COURT OF CALIFORNIA, COUNTY OF San Diego
SAN DIEGO JUDICIAL DISTRICT

Plaintiff,) Case No. _____
) Declaration Accompanying
) Records (Evidence Code § 1561)
)
v.)
Defendant,)
_____)

I, _____, declare:

- 1. I am the duly authorized custodian of the attached records.
- 2. I have the authority to certify the records.
- 3. The copies attached are true copies of all the records described in the subpoena.
- 4. The records were prepared by _____ department personnel in the ordinary course of business at or near the time

of the act, condition or event.

4. If called to testify, I would affirm the foregoing representations.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____, 20____.

Signature

NOTE:

If your department does not have any of the records described in the subpoena, or only part thereof, state this fact after paragraph number 2 and conclude with the declaration that your response is made under penalty of perjury and the laws of the State of California.