

SPECIFICATION 4:¹² LAW ENFORCEMENT AUTHORITY DISCLOSURE FRAMEWORK SPECIFICATION

Provider shall implement and comply with the requirements set forth in this Law Enforcement Authority Disclosure Framework Specification.

1. Definition of Terms

- 1.1. The “LEA Requestor”: A Requester that is a law enforcement, consumer protection, quasi-governmental or other similar authority designated from time to time by the national or territorial government of the jurisdiction in which Provider is established or maintains a physical office.
- 1.2. The “Requested Information”: The data asked for by the LEA Requestor. This must be detailed in the request submission.
- 1.3. The “Priority Level”: The urgency with which the disclosure request should be actioned. Disclosure requests may be categorized as “high priority” or “standard priority.” “High priority” requests are limited to circumstances that pose an imminent threat to life, serious bodily injury, critical infrastructure or child exploitation.

2. Minimum Standards for Disclosure Request Submissions

- 2.1. As a minimum standard for acceptance, disclosure request submissions must contain:
 - 2.1.1. Domain name or URL involved;
 - 2.1.2. Deciding authority (e.g. prosecutor, judge, police authority) behind this request and source of legal authority for request;
 - 2.1.3. Details of Requested Information;
 - 2.1.4. Priority Level, including detail about threat type and justification for Priority Level, and/or suggested deadline for response;
 - 2.1.5. Instructions regarding timeline requirements for Customer notification;
 - 2.1.6. Requestor contact details, including instructions for identity

¹² **Note to IRT:** This Specification may be edited prior to publication for public comment based on Final IRT input on the topic, requested no later than 2 March 2018. Sections that could be edited include Section 4.1.2. If a consensus view for an edit is not adopted by the IRT, and there is continued disagreement about the standard that should be applied when a high priority request is received, the various options proposed by IRT members will be published for public comment.

verification;

2.1.7. Any details otherwise required by applicable law.

2.1.8. A verification statement (e.g. all provided information is true and correct).

2.2. To assist Provider, further additional information may include:

2.2.1. Evidence of earlier contact (attempts), if any, and if deemed relevant by the Requestor;

2.2.2. Requestor contact details for the Customer;

2.2.3. Reference to applicable law or ICANN regulation(s);

2.2.4. Details of decision to order disclosure of information.

3. Receipt Process

3.1. Pre-Request: Provider will establish and maintain a designated LEA Requestor point of contact for submitting disclosure requests. Provider shall publish on its website the designated contact (e.g. email address, telephone number, form, or other means for LEA to obtain designated LEA contact information).

3.2. Receipt Process:

3.2.1. Within two business days (as observed in the location of ICANN's principal place of business) of the disclosure request being submitted by a LEA Requestor, Provider will review the request and confirm to the LEA Requestor it has been received and contains the relevant information required to meet the minimum standard for acceptance. If the request does not meet the minimum standard for acceptance, Provider will notify the LEA Requestor.

3.2.2. Where the LEA Requestor is not known to Provider, Provider will verify the identity of the LEA Requestor.

4. Provider Response Actions

4.1. Prioritization:

4.1.1. Upon completion of the Receipt Process specified in Section 3 of this Specification, Provider will action, in accordance with Sections 4.2 and 4.3 of this Specification, the disclosure request in accordance with the

Priority Level.

- 4.1.2. Where a disclosure request has been categorized as High Priority, this must be actioned within 24 hours. The LEA Requestor will detail the threat type and justification for a request with a Priority Level of High Priority.
- 4.1.3. For all other disclosure requests not identified as High Priority, Provider should seek to action these in accordance with the deadline identified in the request. If Provider cannot adhere to such deadline, Provider should notify the LEA Requestor and provide a reasonable timeframe for response.

4.2. Disclosure:

- 4.2.1. Within the applicable timeframe for a request's Priority Level, Provider will disclose to the LEA Requestor, using a secure mechanism, the Requested Information it holds [associated with]¹³ the account.
- 4.2.2. Disclosure can be reasonably refused by Provider for reasons consistent with the general policy stated herein, including any of the following:
 - 4.2.2.1. The LEA Requestor failed to provide to Provider information to meet the minimum standard for acceptance as outlined in Section 2 of this Specification;
 - 4.2.2.2. If disclosure would lead to a contravention of applicable law; or
 - 4.2.2.3. Where the Customer has provided, or Provider has found, specific information, facts, or circumstances showing that disclosure will endanger the safety of the Customer.
- 4.2.3. If disclosure is refused by Provider, Provider must provide written notice (which may be by electronic communication) to the LEA Requestor setting for Provider's specific reasons for refusing to disclose. Such notice must be provided by Provider to the LEA Requestor prior to any Customer notification by Provider, irrespective of the reason for refusal.
- 4.2.4. In exceptional circumstances, if Provider requires additional time to respond to the LEA Requestor, Provider shall inform the LEA Requestor of the cause of the delay, and agree with the LEA Requestor on a new

¹³ Note to IRT: Unclear what is meant by "against". Please advise as to whether the revised formulation reflects what was intended.

date by which it will provide its response under this Section. 4.2.

- 4.2.5. For all refusals made in accordance with the policy and requirements herein, Provider must accept and give due consideration to the LEA Requestor's requests for reconsideration of the refusal to disclose.

4.3. Customer Notification:

- 4.3.1. Provider will notify the Customer of the disclosure request ("Customer Notification") in accordance with its published Terms of Service and the timeframe identified by the LEA Requestor.
- 4.3.2. Provider may voluntarily set a generic timeframe for Customer Notifications (e.g., 90 days), which can be extended at the behest of the LEA Requestor. Details of any generic timeframe must be published on Provider's website, and the LEA Requestor with a pending Request should be informed in advance of any time limit being implemented or changed.
- 4.3.3. Provider must notify the LEA Requestor at least three business days (as observed in the location of ICANN's principal place of business) before a Customer Notification takes place.

5. Issues of Non-Response/Non-Compliance with LEA Requests

- 5.1. In cases of the LEA Requestor receiving no response from Provider, or Provider fails to comply with disclosure requests within contractually defined or mutually agreed timelines, the issue may be escalated (a) to ICANN in accordance with ICANN's existing compliance mechanisms, or (b) through other applicable legal mechanisms.

6. Additional Guidance

- 6.1. Provider may voluntarily action disclosure requests from non-designated government authorities in accordance with the processes detailed within this Specification so long as such action does not conflict with applicable law.
- 6.2. A LEA Requestor must comply with all applicable data protection laws and may only use any information disclosed to it solely for the purpose of determining whether further action on the issue is warranted, to contact the Customer, or in legal proceedings concerning the issue for which the request was made.
- 6.3. [Customer Notification should take place at the earliest opportunity, unless such disclosure would pose a risk to operational sensitivity; safety of individuals; or is prohibited by law or court order. Such circumstances must

be detailed in the disclosure request.]¹⁴

¹⁴ **Note to IRT:** Section 6.3 appears to relate to the requirements outlined in Section 4.3, but seems to be inconsistent with Section 4.3. Please clarify the intent of Section 6.3 and its relationship with Section 4.3. Also, the meaning of “operational sensitivity” is unclear. Please advise as to intended definition/scope of this undefined term.