

Dear Valued Customer,

Below, please see information regarding public record requests you may have received.

Of Special Note -

As always, please remember that when receiving a public record request, a jurisdiction should contact its local attorney and/or state election authority to determine what, if any, information being requested is required to be disclosed pursuant to applicable law. ES&S is unable to provide customers with legal advice as to which records are required to be provided under your applicable state law. A jurisdiction's legal counsel will have to make this determination.

As a general rule, most public records laws only require the jurisdiction to produce those records which are responsive to the public records request, and which are in the possession of the jurisdiction at the time of the request. The public records laws also generally only require the release of those documents that have been created by the jurisdiction.

The jurisdiction will need to determine what records it has in its possession that may be responsive to the request and work with its own legal counsel or state election authority to determine what information must be disclosed or if any such information is subject to an exemption from disclosure under applicable law.

Below is a list of reports and documentation which have been requested to date and guidance from ES&S that you should share with your local counsel:

Results Reports

ES&S has no objection to the release of the following reports: Election Summary with Group Detail, the Precinct Summary Report with Group Detail, the Numbered Key Canvass Report, and the Results Corrections Log. If a jurisdiction did not create these reports previously, and a jurisdiction's legal counsel advises the jurisdiction to create these reports in order to be responsive to a public record request, these reports can be accessed from Electionware or Unity ERM.

To generate these reports a customer must have maintained the election data for the particular election and have access to the versions of Electionware or Unity ERM software used during that election. For Unity ERM, these reports are available under the reports menu, and in Electionware these reports are available under the results module reporting in elections results workflow.

Software Log Reports

ES&S has no objection to the release of the System Log Reports, Machine Log Reports, or Electionware Audit Logs (collectively "Logs").

ES&S reminds our customers that you should seek the advice of your own legal counsel prior to the disclosure of any documentation in response to a public records request. As a general rule, public records laws only require the jurisdiction to produce those records which are in the possession of the jurisdiction at the time of the request, and which have been previously created by the jurisdiction. For most customers, the Logs being requested are not normally generated in the normal course of conducting elections and therefore may not exist at the time of the subject request.

Note - if your jurisdiction allows for the legal transmission of unofficial results via a modem connection, ES&S recommends redacting IP addresses and IMIE numbers from the Logs prior to release, there is a potential for I.P. addresses to be used by bad actors in an attempt to compromise the jurisdiction's networks and critical infrastructure. IMEI numbers identified in the reports as the "Modem ID" could be spoofed or cloned by a bad actor or potentially used in the generation of a denial-of-service attack. ES&S additionally recommends the customers consider the redaction of filenames, directory paths, usernames, machine names, motherboard type, election qualification codes (EQC) or any additional election codes for security reasons. Each jurisdiction will need to review its own logs to determine whether any additional information needs to be redacted pursuant to your state regulations.

Reports from Tabulators

As noted above, customers should seek guidance from your legal counsel and State Election Authority prior to generating or disseminating a public record. Generally, only the configuration report is printed by tabulators during an election. While event log reports and system log reports exist as part of the systems audit files, these reports are generally not printed by election officials during the elections and therefore may not exist at the time of a request.

As noted above, should your jurisdiction allow for the legal transmission of unofficial results via a modem or network connection, there may be a potential security risk in releasing the configuration report, event log report and the system log report produced by the tabulators. I.P. addresses could be used by bad actors in an attempt to compromise the jurisdiction's networks and critical infrastructure. IMEI numbers identified in the reports as the "Modem ID" can be spoofed or cloned by a bad actor or used in the generation a denial-of-service attack. Should the jurisdiction choose to produce these reports, ES&S would advise that redaction of the Modem ID number and the I.P. addresses throughout the reports. ES&S would additionally advise the redaction of filenames, directory paths, usernames, machine names, election qualification codes (EQC) or any additional election codes for security reasons.

Agreements, Invoices, Certificate of Insurance and Responses to Requests for Proposals

ES&S has no objection to the release of our agreements or invoices with our customers. ES&S does **require** that all banking account and routing numbers be redacted from the invoices prior to their disclosure. Additionally, ES&S has no objection to the release of our certificates of insurance (COI), however ES&S does **require** that policy numbers be redacted prior to disclosure.

As public records laws require jurisdictions to provide documents within its own possession, ES&S is unable to assist with the gathering of agreements, COI's or invoices associated with the public record request.

In regard to responses to requests for proposals (RFP), ES&S stands by any redactions, requests for redactions or confidentiality disclaimers included with its response to an RFP.

In the event that an RFP response is included with the agreement, ES&S stands by any redactions, requests for redactions or confidentiality/trade secret disclaimers included with its response to the RFP.

Financial Statements

Respectfully, ES&S **will not** allow the release of any of its financial statements that may be in possession of a jurisdiction. These financial records should be protected from disclosure as the records are deemed proprietary and confidential.

We realize that in most circumstances, jurisdictions will not be in possession of ES&S's financial statements. However, ES&S's financial statements are occasionally provided in response to an RFP or other formal bid process. Most states have public record exemptions or state statutes that protect against the release of this commercial or financial information submitted in response to an RFP or other formal bid process.

In the event a customer is advised that they should release such financial statements, ES&S requires that it be provided immediate notification of such intention so that ES&S may take additional measures to protect its financial statements from disclosure.

WE'RE HERE TO HELP

We appreciate our customers and we support your efforts to provide secure, safe, transparent, and accurate elections. If you have any technical-related questions, please call Technical Support at the number below. For any other questions please don't hesitate to contact your sales or account manager.

Contact an ES&S Support Representative
Telephone: 877-377-8683 (U.S. and Canada)
Email: technicalsupport@essvote.com

Support representatives are available Monday through Friday from 7:00 a.m. to 7:00 p.m. Central Time. ES&S support services are subject to the prices, terms, and conditions at the time of service.