

Subpoenas

Definition A subpoena is an order of the court for a witness to appear at a particular time and place to testify and/or produce documents in the control of the witness. A subpoena is used to obtain testimony from a witness at both depositions and at trial. Subpoenas are usually issued automatically by the court clerk but must be served personally on the party being summoned. Failure to appear as required by the subpoena can be punished as contempt of court if it appears the absence was intentional or without cause.

Purpose The purpose of this policy is to ensure that the above documents are handled properly to protect the interests of DGS.

DGS Policy and procedure It is the policy of the DGS that:

- Any Summons and Complaints, or other legal documents that name the Department of General Services, Real Estate Services Division (RESA), or the Division of the State Architect (DSA), and every office and division within the Department shall be served on the DGS, Office of Legal Services (OLS) at 707 Third Street, Suite 7-330, West Sacramento, California 95605
- ALL other documents brought *in person* to be served on DGS as an *entity* shall be served on OLS. The Director has delegated to the Chief Counsel and other OLS attorneys the authority to accept service of process for DGS. Anyone attempting to serve "DGS" with documents anywhere other than OLS shall be advised, "I cannot accept this, it must be served on our Office of Legal Services."
- Any documents brought *in person* to be served on DGS personnel in an *official capacity* (e.g., the Director or as custodian of Records) may be referred to OLS. However, if the person to be served is present and wishes to accept service, s/he may do so, but the documents **must** be immediately sent to OLS with a note stating:
 - Who accepted service;
 - The date and time service occurred;
 - The place of service; and
 - The name of the person sending/serving the documents.

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Subpoenas, Continued

DGS Policy and procedure (continued)

- Any documents received by mail, for DGS or for DGS personnel acting in their official capacities must immediately be sent to OLS with a note stating the same information as set forth in the preceding point. Legal documents received through the mail, Federal Express, etc., for DGS personnel in their individual (non-official) capacities shall promptly be given to the named individuals.
- Legal documents brought in person for DGS personnel in their individual capacities SHOULD NOT be accepted. If the named person is present at the work location, and wants to accept service, s/he shall be promptly advised that a process server is present. Process servers shall not be permitted in employee work areas. A process service might leave a legal document meant for a DGS employee at a reception desk or other such location, but the process server shall be made to understand that the person to whom the subpoena is left is not taking the place of the person whom the subpoena is intended and that "personal service" has not occurred.
- Any employee served with a legal document directed to such employee shall IMMEDIATELY contact OLS if the employee believes s/he is entitled to legal representation by the State and if s/he wants such representation.
- Requests for vehicle accident reports (Std. 270) shall be referred to the Attorney General if they pertain to automobile accident cases. Otherwise, these requests shall be referred to OLS.

Reminder

If a subpoena is for personnel records, the subpoena must go through the OLS; but is processed by the Customer Resource Unit (CRU) in the Office of Human Resources.

Questions

If someone shows up with legal papers and there is any question about what to do, call OLS or send the person with the papers to OLS.
