

*The Sedona Conference*  
*Practical In-House Approaches for Cross-Border*  
*Discovery & Data Protection*  
(June 2016)

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Building on the groundbreaking *International Principles on Discovery, Disclosure and Data Protection*, The Sedona Conference *Practical In-House Approaches for Cross-Border Discovery and Data Protection* aims to provide the practical guidance that organizations and in-house counsel need to navigate challenging cross-border data transfer and discovery issues, and effectively implement the *International Principles*. This publication represents the collective effort of members of Sedona Working Group 6 on International Electronic Information Management, Discovery and Disclosure, with input from the public on its recommendations.

The commentary section of the publication is organized around eight essential Practice Points:

1. Balance the need for urgency in preserving information with the need to proceed deliberately in countries with comprehensive Data Protection Laws.
2. As early as possible, meet and reach agreements with key stakeholders on a plan that sets expectations regarding legal obligations, roles and responsibilities, and a reasonable timeline.
3. Identify and define privacy issues with opposing parties or regulators through Outside counsel where possible.
4. Set up transparency "checkpoints," beginning with preservation and continuing through the life of the matter, to avoid revocation of consent.
5. Plan a successful in-country collection with detailed surveys of appropriate systems well in advance, and by soliciting support from key stakeholders, both in corporate departments and local business units.
6. Use the processing stage of discovery as an opportunity to balance compliance with both discovery and Data Protection Laws, thereby demonstrating due respect for Data Subjects' privacy rights.



7. During review of data for production and disclosure, parties may consider ways to limit the production of Protected Data; when production of Protected Data is necessary, safeguards can be established to demonstrate due respect for both discovery and Data Protection Laws.
8. To avoid keeping data longer than necessary, counsel should prepare to release legal holds and return or dispose of data promptly upon termination of a matter.

The publication goes beyond commentary on the issues by providing a “tool kit” for implementing an effective in-house data protection and cross-border discovery process that includes a detailed model corporate policy, a model cross-border discovery management checklist, model Frequently Asked Questions language and a useful infographic for employee and client education, and an exemplar “heat map” for identifying cross-border data protection issues most relevant to a particular enterprise or project.

*The full text of The Sedona Conference Practical In-House Approaches for Cross-Border Discovery & Data Protection is available free for individual download from The Sedona Conference website at [https://thesedonaconference.org/publication/Practical\\_In-House\\_Approaches\\_for\\_Cross-Border\\_Discovery\\_and\\_Data\\_Protection](https://thesedonaconference.org/publication/Practical_In-House_Approaches_for_Cross-Border_Discovery_and_Data_Protection).*

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