

## **Information for Providers Receiving Requests for Preservation of Data and Subscriber Information from Countries Subject to CLOUD Act Agreements**

This document serves as general guidance with respect to requests for the preservation of data and legal process seeking only the disclosure of subscriber information as recognized under certain executive agreements between the United States and other countries pursuant to the Clarifying Lawful Overseas Use of Data Act (hereinafter, “CLOUD Agreements”).

### **Definitions**

Covered Providers are defined in CLOUD Agreements as private entities to the extent they are: (1) providing to the public the ability to communicate, or to process or store computer data, by means of a computer system or a telecommunications system or (2) processing or storing data on behalf of an entity defined in (1).

Foreign country, as used in this document, refers to any country other than the United States that has entered into a CLOUD Agreement.

Issuing Party, as used in this document, is the country that is a signatory to a CLOUD Agreement and issues a request for preservation of data or legal process seeking just the disclosure of subscriber information.

Subscriber information means information that identifies a subscriber or customer of a Covered Provider, including name, address, length and type of service, subscriber number or identity (including assigned network address and device identifiers), telephone connection records, records of session times and durations, and means of payment.

### **Non-applicability of Certain CLOUD Agreement Requirements to Preservation Requests and Legal Process for Subscriber Information**

As recognized in the CLOUD Agreements, Issuing Parties may send requests for the preservation of data or legal process seeking just the disclosure of subscriber information directly to providers in a CLOUD Agreement country. Issuing Parties need not submit such requests or legal process through the Designated Authority nor follow the formal procedures set forth in the CLOUD Agreement. The legal effect of a request for preservation or legal process seeking only subscriber information derives solely from the law of the Issuing Party. That is, for requests for preservation or legal process for subscriber information issued in a foreign country, the legal effect of the request or legal process comes only from the foreign country’s law; for requests for preservation or legal process issued in the United States, the legal effect of the request or legal process comes only from U.S. law.

### **Direct Requests for Preservation of Data and Production of Subscriber Information**

As recognized by the CLOUD Agreement, Covered Providers located in the United States may comply with requests for the preservation of data or legal process seeking only subscriber information that they receive directly from authorities in the foreign country relating to the prosecution, detection, investigation, or prosecution of crime. *See also* 18 U.S.C. 2702(c)(9).

These requests are not required to be transmitted by the Designated Authority of the foreign country and do not require a certificate of compliance with the particular CLOUD Agreement. Except as otherwise provided in a particular CLOUD Agreement, Covered Providers located in the foreign country are permitted under the foreign country's law to comply with requests for the preservation of data or legal process seeking only subscriber information that they receive directly from authorities in the United States relating to the prosecution, detection, investigation, or prosecution of crime. These requests are not required to be transmitted by the U.S. Designated Authority and do not require a certificate of compliance with the particular CLOUD Agreement. This guidance applies to the following countries:

- **United Kingdom.** For purposes of the U.S.-UK Agreement, state, local, and territorial authorities located in the United States will send legal process addressed to UK Covered Providers seeking only subscriber information to the U.S. Designated Authority, which will forward such legal process to UK Covered Providers on behalf of these authorities.
- **Australia.** All federal, state, local, and territorial authorities located in the United States may send legal process seeking only subscriber information directly to Australian Covered Providers.

For resources for providers receiving legal process seeking other forms of data subject to a CLOUD Agreement, please visit [here](#).