

SVENSK STANDARD

SS-ISO/IEC 27050-3:2021

**Informationsteknik – Electronic discovery – Del
3: Uppförandekod för elektronisk upptäckt (ISO/
IEC 27050-3:2020, IDT)**

**Information technology — Electronic discovery — Part 3: Code
of practice for electronic discovery (ISO/IEC 27050-3:2020, IDT)**



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Den internationella standarden ISO/IEC 27050-3:2020 gäller som svensk standard. Detta dokument innehåller den officiella engelska versionen av ISO/IEC 27050-3:2020.

The International Standard ISO/IEC 27050-3:2020 has the status of a Swedish Standard. This document contains the official English version of ISO/IEC 27050-3:2020.

LÄSANVISNINGAR FÖR STANDARDER

I dessa anvisningar behandlas huvudprinciperna för hur regler och yttre begränsningar anges i standardiseringsprodukter.

Krav

Ett krav är ett uttryck i ett dokumentets innehåll som anger objektivet verifierbara kriterier som ska uppfyllas och från vilka ingen avvikelse tillåts om efterlevnad av dokumentet ska kunna åberopas. Krav uttrycks med hjälpverbet ska (eller ska inte för förbud).

Rekommendation

En rekommendation är ett uttryck i ett dokumentets innehåll som anger en valmöjlighet eller ett tillvägagångssätt som bedöms vara särskilt lämpligt utan att nödvändigtvis nämna eller utesluta andra. Rekommendationer uttrycks med hjälpverbet bör (eller bör inte för avrådanden).

Instruktion

Instruktioner anges i imperativ form och används för att ange hur något görs eller utförs. De kan underordnas en annan regel, såsom ett krav eller en rekommendation. De kan även användas självständigt, och är då att betrakta som krav.

Förklaring

En förklaring är ett uttryck i ett dokumentets innehåll som förmedlar information. En förklaring kan uttrycka tillåtelse, möjlighet eller förmåga. Tillåtelse uttrycks med hjälpverbet får (eller motsatsen behöver inte). Möjlighet och förmåga uttrycks med hjälpverbet kan (eller motsatsen kan inte).

READING INSTRUCTIONS FOR STANDARDS

These instructions cover the main principles for the use of provisions and external constraints in standardization deliverables.

Requirement

A requirement is an expression, in the content of a document, that conveys objectively verifiable criteria to be fulfilled, and from which no deviation is permitted if conformance with the document is to be claimed. Requirements are expressed by the auxiliary shall (or shall not for prohibition).

Recommendation

A recommendation is an expression, in the content of a document, that conveys a suggested possible choice or course of action deemed to be particularly suitable, without necessarily mentioning or excluding others. Recommendations are expressed by the auxiliary should (or should not for dissuasion).

Instruction

An instruction is expressed in the imperative mood and is used in order to convey an action to be performed. It can be subordinated to another provision, such as a requirement or a recommendation. It can also be used independently and is then to be regarded as a requirement.

Statement

A statement is an expression, in the content of a document, that conveys information. A statement can express permission, possibility or capability. Permission is expressed by the auxiliary may (its opposite being need not). Possibility and capability are expressed by the auxiliary can (its opposite being cannot).

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Foreword

ISO (the International Organization for Standardization) and IEC (the International Electrotechnical Commission) form the specialized system for worldwide standardization. National bodies that are members of ISO or IEC participate in the development of International Standards through technical committees established by the respective organization to deal with particular fields of technical activity. ISO and IEC technical committees collaborate in fields of mutual interest. Other international organizations, governmental and non-governmental, in liaison with ISO and IEC, also take part in the work.

The procedures used to develop this document and those intended for its further maintenance are described in the ISO/IEC Directives, Part 1. In particular, the different approval criteria needed for the different types of document should be noted. This document was drafted in accordance with the editorial rules of the ISO/IEC Directives, Part 2 (see www.iso.org/directives).

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ISO and IEC shall not be held responsible for identifying any or all such patent rights. Details of any patent rights identified during the development of the document will be in the Introduction and/or on the ISO list of patent declarations received (see www.iso.org/patents) or the IEC list of patent declarations received (see <http://patents.iec.ch>).

Any trade name used in this document is information given for the convenience of users and does not constitute an endorsement.

For an explanation of the voluntary nature of standards, the meaning of ISO specific terms and expressions related to conformity assessment, as well as information about ISO's adherence to the World Trade Organization (WTO) principles in the Technical Barriers to Trade (TBT) see www.iso.org/iso/foreword.html.

This document was prepared by Technical Committee ISO/IEC JTC 1, *Information technology*, Subcommittee SC 27, *Information security, cybersecurity and privacy protection*.

This second edition cancels and replaces the second edition (ISO/IEC 27050-3:2017), which has been technically revised.

The main changes compared to the previous edition are as follows:

- the title has been updated;
- the publication date of ISO/IEC 27050-1 has been updated.

A list of all parts in the ISO/IEC 27050 series can be found on the ISO website.

Any feedback or questions on this document should be directed to the user's national standards body. A complete listing of these bodies can be found at www.iso.org/members.html.

Introduction

This document provides requirements and recommendations associated with the electronic discovery process elements described in ISO/IEC 27050-1. The requirements and recommendations are expected to be useful for both technical and non-technical personnel involved in some or all of the electronic discovery activities. Additional materials are provided to help organizations better understand the objectives associated with each electronic discovery process element and considerations to avoid failures, which can mitigate risk and expense if electronic discovery becomes an issue.

Electronic discovery often serves as a driver for investigations, as well as evidence acquisition and handling activities (covered in ISO/IEC 27037). In addition, the sensitivity and criticality of the data sometimes necessitate protections like storage security to guard against data breaches (covered in ISO/IEC 27040).

Information technology — Electronic discovery —

Part 3: Code of practice for electronic discovery

1 Scope

This document provides requirements and recommendations on activities in electronic discovery, including, but not limited to, identification, preservation, collection, processing, review, analysis and production of electronically stored information (ESI). In addition, this document specifies relevant measures that span the lifecycle of the ESI from its initial creation through to final disposition.

This document is relevant to both non-technical and technical personnel involved in some or all of the electronic discovery activities. It is important to note that the user is expected to be aware of any applicable jurisdictional requirements.

2 Normative references

The following documents are referred to in the text in such a way that some or all of their content constitutes requirements of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

ISO/IEC 27000, *Information technology — Security techniques — Information security management systems — Overview and vocabulary*

ISO/IEC 27050-1:2019, *Information technology — Electronic discovery — Part 1: Overview and concepts*

3 Terms and definitions

For the purposes of this document, the terms and definitions given in ISO/IEC 27000 and ISO/IEC 27050-1 apply.

ISO and IEC maintain terminological databases for use in standardization at the following addresses:

- ISO Online browsing platform: available at <https://www.iso.org/obp>
- IEC Electropedia: available at <http://www.electropedia.org/>

4 Abbreviated terms

| | |
|-----|---|
| ESI | Electronically stored information |
| ICT | Information and communications technology |
| OCR | Optical character recognition |

5 Electronic discovery background

Electronic discovery is an element of traditional discovery and it is a process that typically involves identifying, preserving, collecting, processing, reviewing, analysing, and producing electronically stored information (ESI) that may be potentially relevant to a particular matter. The requirements and recommendations provided in this document are in accordance with the electronic discovery concepts described in the following clauses and subclauses of ISO/IEC 27050-1:

- ISO/IEC 27050-1:2019, Clause 3: key electronic discovery terminology;

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- ISO/IEC 27050-1:2019, 6.2: electronic discovery issues and primary cost drivers;
- ISO/IEC 27050-1:2019, 6.3: general electronic discovery objectives;
- ISO/IEC 27050-1:2019, Clause 7: common ESI types, common sources and representations;
- ISO/IEC 27050-1:2019, Clause 8: description of the electronic discovery process and the process elements.

ISO/IEC 27050-1 differentiates between generic actions such as "identifying" from the specific electronic discovery process elements by preceding the names with "ESI" (e.g. ESI identification). Likewise, this document follows this approach. ISO/IEC 27050-1:2019, Figure 1, shows all of the electronic discovery process elements and the interrelationships between them (see ISO/IEC 27050-1:2019, 8.1, for a full description).

Although the goal of electronic discovery is the same as with hardcopy document discovery — to find and to produce information that is potentially relevant in a matter — the nature of electronic information adds differing layers of complexity and opportunity, since ESI carries with it such elements as metadata and requisite data processing and management functions that do not exist with paper. In addition, the collection and processing of ESI for discovery presents challenges (e.g. data corruption, password protection, encryption, indexing issues, inadequate keyword search, poor OCR) that can have importance either to the viability or accuracy of the ESI produced to the opposing side or to the ability to maintain provenance or chain of custody. Further, the escalating volumes of ESI typically created, maintained and collected present challenges for consistency and accuracy in review.

This document addresses these challenges by:

- promoting common understanding of various concepts and terminology for electronic discovery;
- articulating objectives and risks inherent in the steps in the electronic discovery process;
- encouraging practical and cost-effective discovery by those tasked with managing ESI through the process;
- providing guidance and best practices for those responsible for delivering electronic discovery projects (e.g. legal practitioners, services providers, independent experts, courts, and any other parties engaged in the process);
- identifying competency areas for those involved in electronic discovery;
- promoting the proactive use of technology to reduce costs and risks, while increasing efficiencies throughout the discovery process;
- suggesting ways to avoid inadvertent disclosures of potentially privileged, confidential, or sensitive ESI.

The overriding goal is to help organizations meet their electronic discovery goals (e.g. legal obligations, business objectives, regulatory requirements).

While this document has been written with larger electronic discovery projects in mind, and therefore covers aspects encountered in the majority of matters, it is not necessarily the case that all steps will be required or proportionate to every matter. For example, in small matters, it can well be that a single person manages and completes every aspect of the project, whereas larger matters can warrant the use of separate individuals or even teams for each element of the electronic discovery project.

6 Electronic discovery requirements and guidance

6.1 Overview

6.1.1 Structure of materials describing the process elements

Each electronic discovery process element is addressed in a separate clause and each contains the following:

- a) an overview of the process element;
- b) objectives for the process element;
- c) considerations to avoid failures;
- d) the requirements and guidance specific for the process element.

The order of the clauses in this document does not imply their importance or a particular sequence that needs to be followed.

6.1.2 Cross-cutting aspects

Cross-cutting aspects are behaviours or activities that span multiple electronic discovery process elements and need to be coordinated across the process elements.

- **Planning.** To be effective, most or all of the process elements need to be well planned from the outset, with the specific objectives and conditions taken into consideration and with the resources to be deployed readily available.
- **Transparency.** Implementation of the process elements often necessitates refinement and iteration that have to be readily explained to interested parties. An effective process will be dependent on transparency, as well as allowing for changes and for explanation later on.
- **Documentation.** The process elements need to be well documented, both for the purpose of defending the scope and activities of the process elements down the line if they are challenged, and for the purpose of improving the effectiveness and consistency of future implementations of the process elements.
- **Expertise.** Certain kinds of specialized expertise and qualifications are necessary for each process element to do the work and to meet any operative standards. This expertise can be associated with the matter at hand, language, technology, the chosen tools or methods, or the quality assurance of the results of applying those tools and methods.
- **Informed.** An effective electronic discovery process is dependent on the pertinent legal and subject matter experts being well informed as to the purposes to be served by the relevant process elements, the relevant requirements (e.g. operative, matter-specific, process-specific, etc.), and the landscape of the ESI, as well as having an understanding of the subject matter, scope and timeframe that apply to the situation in question.
- **Adaptive.** Almost all electronic discovery projects begin in a state of imperfect knowledge when requirements and definitions are not yet fully specified and the ESI landscape is not yet fully mapped. Adaptability is therefore an essential feature of an effective electronic discovery process in general.
- **Use of technology.** The effectiveness of an electronic discovery project can be dependent on how it avails itself of the tools and methods appropriate to the general approach taken in the various process elements; the specific tools and methods can vary from one approach to the other, but most approaches can benefit from the appropriate application of technology.