

Joint Board Meeting
March 14, 2022

Action item: Approve ORCA Data Privacy Policy Revisions

Purpose: To revise the ORCA Data Privacy Policy, dated June 10, 2019, to align with the new ORCA system and with standards for the release of ORCA data:

- Complies with applicable laws and regulations,
- Provides the user with useful information, and
- Protects the privacy of individual ORCA cardholders.

The revised Policy has been through legal review. A review of the related Data Release business procedures will be conducted.

Recommendation: The Business Managers recommend approval of the revised ORCA Data Privacy Policy.



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ORCA Data Privacy Policy

Version: 1.0

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1 Purpose and Stakeholders

- 1.1 To establish an ORCA Data Privacy Policy that creates standards for responding to requests for the release of ORCA data in a way that:
 - 1.1.1 Complies with applicable laws and regulations,
 - 1.1.2 Provides the user with useful information, and
 - 1.1.3 Protects the privacy of individual ORCA cardholders.
- 1.2 To guide the identification of what data and in what format can be provided in response to a given request.

2 Scope

- 2.1 This Policy applies only to release of ORCA system data.
- 2.2 The types of ORCA system data covered under this Policy include, but are not limited to, cardholder information, transaction records, business account information, and customer service records.
- 2.3 ORCA data may be provided to a variety of users via a variety of sources, all of which are covered under this Policy.
 - 2.3.1 ORCA data may be accessed both through an information request fulfilled by an Agency employee or representative, as well as through a self-service interaction with the ORCA system, for example, through the ORCA website, a mobile application, or a vending machine.
- 2.4 Seven User Types have been created to cover the spectrum of potential ORCA Data Requests into a hierarchical structure.
 - 2.4.1 Defined obligations and guiding principles inform the ORCA data that is appropriate to release to each User Type.
 - 2.4.2 This Policy focuses on providing User Types with data they may need while also handling privacy considerations relative to the User Type.
- 2.5 Requests for ORCA data that fall outside this framework and the User Types defined in sections 7.6 – 7.12 shall be handled on a case-by-case basis and may be subject to legal review by the ORCA Agencies if necessary.

3 Reference Documents

- 3.1 [Chapter 42.56 of the Revised Code of Washington \(RCW\), Washington State Public Disclosure Act](#)

- 3.2 Chapter 47.04 RCW, Public Highways and Transportation - General Provisions
- 3.3 ORCA Public Records Disclosure Policy

4 Data User Types

- 4.1 The ORCA Data User Types are grouped based on:
 - 4.1.1 The individual or party making the Data Request,
 - 4.1.2 The purpose of the Data Request, and related, the permissible uses of ORCA data by the requesting party,
 - 4.1.3 Any privacy concerns related to a User Type and the appropriate level of aggregation and anonymity for providing ORCA data,
 - 4.1.4 Obligations a User Type must complete in order to access ORCA data,
 - 4.1.5 Existing ORCA policies, and
 - 4.1.6 The ORCA data that is currently available to the User Type.
- 4.2 There are seven primary User Types described in detail in sections 7.6-7.12:
 - 4.2.1 ORCA Cardholders
 - 4.2.2 Business Accounts
 - 4.2.3 ORCA Agencies
 - 4.2.4 Research Entities
 - 4.2.5 Third Parties
 - 4.2.6 General Public
 - 4.2.7 Law Enforcement

5 Data Release Requirements

- 5.1 For each User Type, a list of common reasons for requesting ORCA data is provided. These request purposes, while inclusive of a wide variety of use cases applicable to the User Type, do not necessarily represent the full spectrum of valid Data Requests.
- 5.2 The guiding principles are intended to help establish the appropriate levels of aggregation and anonymity necessary to protect the personally identifying information (PII) of individuals. If an Agency determines that these thresholds put the privacy of an individual or individuals at risk, the Agency may exercise its discretion to define additional privacy rules on a case-by-case basis.

- 5.3 A set of guiding principles is also defined. These principles are used to support Agency efforts to establish the ORCA data that is appropriate and permissible to provide to the User Type, and at what level of anonymity and aggregation.
- 5.4 Any obligations the User Type must fulfill in order to receive the ORCA data are, when applicable, also described in this section.
- 5.5 Requests for ORCA data that fall outside the defined User Types shall be handled on a case-by-case basis and may be subject to review by the ORCA Agencies and Joint Board if necessary.

5.6 User Type 1 – Cardholder

User Type 1 includes all individuals that own an ORCA card. Data released is based on cardholder's relation to the card, either load only access or full access.

5.6.1 Purpose for Requests

- a. Manage details of the ORCA cardholder's account,
- b. Review transaction history attached to the User Type's ORCA card,
- c. Access information about the current status or balance of the ORCA card, or
- d. Access information regarding a card unregistered to an account or by a cardholder unable to access information from their linked account.

5.6.2 Guiding Principles

- a. Provide ORCA cardholder with the relevant data associated with their ORCA card or account.
- b. Prevent the disclosure of ORCA card data to customer who cannot establish ownership of the card.
- c. Support ORCA cardholder with limited technology access or ability, access relevant account data.

5.6.3 Obligation of the User Type

ORCA cardholder must establish ownership of their card or account prior to receiving ORCA data. Individual ownership is defined as being linked to a card with full access permissions. Or, in the event no customer account is linked as full access, the cardholder account that is linked to a card has ownership by default. Owners can be given all information about the card.

5.7 User Type 2 – Business Account

User Type 2 includes all entities that have an established Business Account agreement for Business Choice or Business Passport, both of which are regional ORCA programs that allow the business to provide ORCA cards to program participants and manage these cards.

5.7.1 Purpose for Requests

- a. Analyze program utilization and effectiveness,
- b. Analyze the utilization and effectiveness of business-funded agency service hours,
- c. Analyze aggregated travel patterns of ORCA customers associated with the business, or
- d. Support investigations of fraud, per established Business Account agreements.

5.7.2 Guiding Principles

- a. Provide enough data in an appropriate format for business accounts to make meaningful insights. The business procedure developed to implement this should consider the size and needs of the specific business account.
- b. Provide data for a time range and aggregation level to prevent misinterpretations or overgeneralizations.
- c. Except for the purpose of preventing fraud, ensure that a single ORCA cardholder cannot be identified or tracked through the data provided.

5.7.3 Obligation of the User Type

- a. Business Accounts must provide participating ORCA cardholders with terms of use, per established Business Account agreements

5.8 User Type 3 - ORCA Agency

User Type 3 includes all Agency employees or Agency contractors.

5.8.1 Purpose for Requests

- a. Support Agency research, analysis, and planning,
- b. Support efforts of Agency contractors,
- c. Support program management and analysis,
- d. Supplement public-facing reports or other publications,
- e. Support Agency investigations in defense of claims filed against it by a third-party, or
- f. Support other User Types where requests cannot be fulfilled through self-service, following relevant Guiding Principles and Obligation of the User Type.

5.8.2 Guiding Principles

- a. Provide data in an appropriate format for ORCA Agencies to make meaningful insights and plan service effectively.
- b. Ensure that a single ORCA cardholder cannot be identified and tracked through the data provided when not required for the purpose of the request.
- c. Provide, for cases in which it may be publicly released in its original format, ORCA data in an appropriate format to prevent misinterpretations or overgeneralizations.

5.8.3 Obligations of the User Type

- a. ORCA Agency employees that use ORCA data must follow applicable laws and Agency policies.
- b. Agency contractors that request and receive ORCA data must follow non-disclosure rules set by individual ORCA agencies.

5.9 User Type 4 – Research Entities

User Type 4 includes all entities that request ORCA data for research purposes.

5.9.1 Purpose for Requests

- a. Support research efforts concerning the ORCA system, ORCA programs, or
- b. Support general transportation-related research efforts.

5.9.2 Guiding Principles

- a. Provide data in an appropriate format to assist with effective research efforts.
- b. Ensure that data provided complies with ORCA cardholder consent as established under ORCA Terms of Use.
- c. Ensure that data provided complies with Institutional Review Board-approved research methods, when applicable.

5.9.3 Obligations of the User Type

Research entities that request and receive ORCA data must follow non-disclosure rules set by the ORCA Agencies and the research organization or the Institutional Review Board.

5.10 User Type 5 – Third Parties

User Type 5 includes any external entity working with, but not in a contractual relationship, with an ORCA agency on transportation programs.

5.10.1 Purpose for Requests

- a. Support program functionality, or
- b. Analyze program utilization and effectiveness.

5.10.2 Guiding Principles

- a. Provide enough data in an appropriate format for third-party partners to make meaningful insights on program effectiveness.
- b. Provide appropriate data to support program functionality.
- c. Ensure that a single ORCA cardholder cannot be identified or tracked.
- d. Ensure that data provided complies with ORCA cardholder consent.

5.10.3 Obligations of the User Type

Entities that request and receive ORCA data must follow non-disclosure rules set by individual agencies or the third party.

5.11 User Type 6 – General Public

User Type 6 includes public Data Requests through standard public record request processes.

5.11.1 Purpose for Requests

Requests for ORCA data from User Type 6 may be made for any reason, so long as the request is not exempt under Chapter 42.56 RCW.

5.11.2 Guiding Principles

- a. Provide data for a time range and aggregation level to prevent misinterpretations or overgeneralizations.
- b. Ensure that a single ORCA cardholder cannot be identified or tracked through data provided.
- c. Ensure that ORCA data provided complies with the current ORCA Public Records Disclosure Policy.

5.11.3 Obligations of the User Type

User Type 6 carries no obligations for receiving ORCA data; Agencies cannot request information about the purpose of the request or planned use of provided data.

5.12 User Type 7 - Law Enforcement

User Type 7 includes all Data Requests by law enforcement agencies.

5.12.1 Purpose for Request

Support law enforcement efforts, including but not limited to investigations, arrest, prosecution, or defense of the accused.

5.12.2 Guiding Principles

- a. Support law enforcement investigations through disclosure of ORCA card data and associated PII when legal requirements for Data Release are met.
- b. Only release PII to law enforcement with a court order (e.g., search warrant or subpoena) (see RCW 42.56.330(5)(b)) or without a court order when consent is provided per 7.12.3.2.

5.12.3 Obligations of the User Type

- a. Law enforcement requests may only be fulfilled if legal requirements for Data Release are met.
- b. ORCA data may be released to law enforcement without a court order when the person or entity that owns the PII gives written consent.

6 Appendix A - Dictionary of Key Terms and Abbreviations

- 6.1 “Agencies” mean those transportation agencies who are current signatories to the 2019 ORCA System Interlocal Cooperation Agreement including: Everett Transit, Community Transit, King County Metro, Kitsap Transit, Pierce Transit, Sound Transit and Washington State Ferries.
- 6.2 “Card Serial Number (CSN)” means the unique serial number on each ORCA card.
- 6.3 “Data aggregation” means the process of manipulating data into summary form, usually based on a variable, or set of variables.
- 6.4 “Data lifecycle” means the cycle of data from creation to destruction, including the storage, use, and disclosure of data.
- 6.5 “Data privacy” means the policies and guidelines related to collecting, using, disclosing, and destroying that personal information.
- 6.6 “Data Release” refers to the granting of access to or provision of data from the ORCA system to a party, internal or external to ORCA Agencies.
- 6.7 “Data Request” refers to any attempt by a party, internal or external to ORCA Agencies, to access and/or extract data from the ORCA system.
- 6.8 “Institutional Review Board” refers to a type of administrative body that reviews research involving human participants in order to protect the welfare, rights, and privacy of these subjects; institutional review is required for all research that receives indirect or direct support from the United States federal government.
- 6.9 “Personally Identifiable Information (PII)” means following information when collected by the Agencies under the ORCA Program: a natural person’s name; and, if combined with said name, the address, phone number, email address, date of birth, Regional Reduced Fare Permit related information (as defined below), photo, and check/debit card/credit card information.
- 6.10 “Public Disclosure Request” means, as required by the Washington State Public Disclosure Act (Chapter 42.56 RCW), that upon request, identifiable public records be made available for public inspection and copying.
- 6.11 “User Type” means any party, internal or external to the ORCA Agencies, who requests access to data from the ORCA system.