

Joint Board
October 11, 2021

Action Item: Approve next generation ORCA Privacy Statement

Purpose: The Regional ORCA Operations Team (ROOT) has written a new ORCA Privacy Statement to take effect when the next generation ORCA system launches in early 2022.

Background: The new ORCA Privacy Statement is built upon the existing ORCA Privacy Statement, with updates relevant to the new next generation ORCA system.

The statement effective date will be inserted once the system launch date is confirmed.

This document does not supersede or replace the existing ORCA Privacy Statement, which will remain in effect until the current ORCA system is sunsetted in late 2022.

Recommendation: The Business Managers recommend approval of the ORCA Privacy Statement for next generation ORCA Operations.

ORCA Privacy Statement



Effective Date: _____, 2022

Welcome to ORCA, which offers people the opportunity to use a single card to ride buses, ferries and trains throughout the Puget Sound region.

This ORCA Privacy Statement explains how information is collected and treated by ORCA and its Agencies when an individual chooses to utilize the products and services provided by the Agencies under the ORCA Program, including but not limited to ORCA Cards, ORCA Products, ORCA App, ORCA Website and ORCA Customer Services. By using our services, you agree to be bound by this Privacy Statement and our terms of use.

ORCA Website, ORCA App and any ORCA Customer Services that require Personally Identifiable Information (PII) are not intended for use by minors under age 13. We will not accept or request information from individuals we know to be under age 13 unless provided by a parent or guardian.

This Privacy Statement does not apply to any PII (e.g. your name and credit card number) you provide to a Retailer. If you provide PII to a Retailer, the Retailer, not ORCA or its Agencies, is responsible for the collection, storage, transmittal, safekeeping and use of that information.

This Privacy Statement does not apply to information, including PII, you provide to your employer, school or other Business Account to which the Agencies sell Business Cards and ORCA Products. If you provide PII to your employer, school or other Business Account in connection with obtaining a Business Card or ORCA Product, the Business Account, not the Agencies, is responsible for the collection, storage, transmittal, safekeeping or use of that information.

1. Definitions

As used in this Privacy Statement, the following terms shall have the meanings indicated.

Agency(ies) means one or more of the following public transportation providers and the contractors and subcontractors which these Agencies, individually or collectively, have retained for purposes related to the ORCA Program.

- Central Puget Sound Regional Transit Authority (“Sound Transit”);
- City of Everett (“Everett Transit”);
- King County Metro Transit Department (“King County Metro”);
- Kitsap County Public Transportation Benefit Area (“Kitsap Transit”);
- Pierce County Public Transportation Benefit Area Corporation (“Pierce Transit”);
- Snohomish County Public Transportation Benefit Area (“Community Transit”); and
- Washington State Department of Transportation, Ferries Division (“WSF”).

For clarification, the term “Agency(ies)” does not include Business Accounts or Retailers.

Autoload is the process for automatically loading ORCA Products on a registered ORCA Card and making a corresponding charge against the Cardholder’s credit card to pay for the loaded product. Autoload may be authorized by a Cardholder or a Business Account.

Business Account is an entity other than an individual customer, including but not limited to an employer, educational institution or social service agency, that purchases Business Cards and/or products for distribution to its employees, students or other program participants according to the terms of an agreement with one of the Agencies.

Business Card is a type of ORCA Card issued to a Business Account for distribution to individuals who are eligible participants in the Business Account’s transportation program.

LIFT is a type of ORCA Card issued to individuals who are eligible for reduced fare based on income on Community Transit, Everett Transit, King County Metro, Kitsap Transit, and Sound Transit services. LIFT ORCA cards are not transferable.

ORCA App is the myORCA mobile application used by customers for ORCA account and card management.

ORCA Card is the card, physical or virtual, that can be presented for fare payment on train, bus and ferry services provided by, and in accordance with the terms established by the Agencies. ORCA Card can mean cards issued to individuals and Business Cards, unless the context indicates it means one or the other.

ORCA Customer Services are the facilities and services of one or more of the Agencies that exchange information with customers regarding the ORCA Program and sell ORCA Cards and ORCA Products, including customer service counters, calls centers, mail centers, business account support and vending machines.

ORCA Product(s) or Product(s) are any transit fare payment option offered for sale within the ORCA Program including, but not limited to, monthly or period passes and E-purse stored value.

ORCA Program is the equipment, systems, facilities, ORCA Cards, ORCA Products, ORCA App, ORCA Website, data, information, and any products and services related to the regional fare coordination and payment program implemented by the Agencies using ORCA Cards as the common media for fare payment on their public transportation services.

ORCA Website is the following public website: www.myORCA.com

Personally Identifiable Information (PII) is the 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.

Retailer or ORCA Retailer is a retail business or other entity authorized to sell new ORCA Cards and add E-purse stored value to new and current ORCA Cards.

Regional Reduced Fare Permit (RRFP) is a type of ORCA Card issued to an individual who is eligible for reduced fare by one of the Agencies based on the individual's disability or age (65+ years). A valid Medicare card is proof of eligibility for an RRFP. RRFP ORCA cards are not transferable.

Youth is a type of ORCA Card issued to an individual who is eligible for reduced fare based on the individual's age (6-18 years). Youth ORCA cards are not transferable.

2. Customer Services Requiring Information

No information is required if you pay cash fares for your public transportation rides. Information may be needed, however, if you choose to use services such as an ORCA Card, ORCA App or ORCA Website. If you contact ORCA Customer Services by mail, telephone, email or in-person, that contact may be logged and the information you provide may be collected by the ORCA Program. The type of information required will vary with the services sought. If you decline to submit information for some services, the Agencies may be unable to provide you those services.

Certain information, such as location information, device details, and cookie data, is transmitted to ORCA automatically when you use an ORCA Card, ORCA App or ORCA Website. Aggregate and non-personal information helps us deliver relevant and responsive services. This notice does not restrict how we use such non-identifiable data.

ORCA Website, ORCA App and any ORCA Customer Services that require PII are not intended for minors. We will not accept or request PII from individuals we know to be under 13 unless provided by a parent or guardian.

When you provide PII to establish your eligibility for reduced fare programs, certain PII is retained in the ORCA Program to enable the Agencies to administer and monitor use of these reduced fare programs, such as first name, last name, address, date of birth, paratransit ID, and date of eligibility expiration, depending upon the reduced fare program you are utilizing.

An individual is not required to register an ORCA Card with the Agencies unless the individual requests a Regional Reduced Fare Permit, a LIFT ORCA Card or to purchase a pass for use on paratransit services such as King County's Access service. If an individual chooses to provide PII to the Agencies for purposes of registering an ORCA Card, such PII is held by the ORCA Program and associated with the card number.

3. Information Related to the Purchase of ORCA Cards and ORCA Products

When you purchase an ORCA Card or an ORCA Product, the system collects varying amounts of information depending on your method of payment. The system will always collect information regarding the date and time of purchase; the number of the ORCA card; information about where the purchase was made; the amount/type of ORCA Product

purchased; and the amount of and method of purchase. In addition, the system will collect PII if your purchase is by check, credit card or debit card.

Information about the purchase of ORCA Cards and ORCA Products is associated with the card number. If you have provided PII (e.g. to establish eligibility for a reduced fare program or to make a purchase using a check, credit card or debit card), the PII that is retained can be associated with the card number.

4. Information Related to the Use of ORCA Cards and Products

When an ORCA Card is presented to an ORCA reader device for fare payment or to check the card's status, the system collects information such as:

1. Date and time the card was presented.
2. Number from the reader device used.
3. I.D. of the Agency whose reader device was used.
4. Location of the reader device.
5. Vehicle and route numbers if the card is read by a device on an Agency vehicle.
6. Nature of the transaction (i.e.. fare payment or validating fare payment).
7. Amount/type of ORCA Product used.
8. Any transfer applied.
9. ORCA card number.

Information related to the ORCA Card's use is associated with the card number. If you have provided PII linked to your card number, the information about the use of the ORCA Card can be associated with your PII.

5. ORCA App and the Information Collected

PII will be collected on an ORCA App if you seek certain services and only if you provide or access such information in the mobile application. The PII required for ORCA-related services are described in other sections of this Privacy Statement.

When you submit questions or comments to the ORCA Program using the Contact us form, the Agencies may retain these communications, and use your email address and other information included in your correspondence in order to process your communications, respond to you and improve our services.

The ORCA App may have links to other websites, such as the Agencies' individual websites. When you link to one of these external websites, you are no longer on the ORCA App and this Privacy Statement no longer applies. Instead, you are subject to the privacy notice and other terms of that external website.

ORCA complies with the requirements of the Children's Online Privacy Protection Act ("COPPA") and the Federal Trade Commission's rule interpreting COPPA (16 CFR § 512). ORCA App is not directed at children, and we do not knowingly collect any personal information through the ORCA App from children under 13 years of age. If we learn that a child under 13 years of age has provided us with personal information, we will delete this information from our databases.

6. ORCA Website and the Information Collected

ORCA servers automatically record and store information that a computer or browser sends whenever a person visits the ORCA Website, even if only to browse or download information. These server logs may include the following information:

1. Internet Protocol (IP) Address and domain name associated with your computer's connection to the Internet. The IP Address is a numerical identifier assigned either to your Internet service provider or directly to your computer.
2. Type of browser, browser language and operating system used.
3. Date and time you visited the ORCA Website.
4. Website you visited prior to coming to the ORCA Website.
5. Pages viewed by users, the amount of time users spent on a certain page, search terms and other non-personally identifiable information that may be collected as the ORCA Website is navigated.
6. One or more cookies that may uniquely identify your browser.

We also may collect statistical information about your use of the ORCA Website, such as "clickstream data" and "user hits" which are visits and sessions that may be logged to determine which pages are visited most frequently.

When you visit the ORCA Website, your computer will receive one or more “cookies.” Cookies are small text files placed on a user’s computer and accessed by the ORCA Website to recognize repeat users, to facilitate the user’s ongoing access to and use of the website, and to compile data to improve the site and related business purposes. Most browsers are set up to accept cookies, but you can reset your browser to refuse all cookies or to indicate when a cookie is being sent. However, some ORCA Website features and services may not function properly if your cookies are disabled.

PII will be collected on the ORCA Website only if you seek certain services and only if you or the Business Account associated with your ORCA Card provide such information. The PII required for ORCA-related services are described in other sections of this Privacy Statement. Should you seek a service that requires PII but you do not wish to provide PII via the ORCA Website, you may choose to provide the required PII by visiting an Agency Customer Service office or from the ORCA call center.

When you submit questions or comments to the ORCA Program using the Contact us form, the Agencies may retain these communications, and use your email address and other information included in your correspondence in order to process your communications, respond to you and improve our services.

The ORCA Website may have links to other websites, such as the Agencies’ individual websites. When you link to one of these external websites, you are no longer on the ORCA Website and this Privacy Statement no longer applies. Instead, you are subject to the privacy notice and other terms of that external website.

ORCA complies with the requirements of the Children’s Online Privacy Protection Act (“COPPA”) and the Federal Trade Commission’s rule interpreting COPPA (16 CFR § 512). ORCA Website is not directed at children, and we do not knowingly collect any personal information through the ORCA Website from children under 13 years of age. If we learn that a child under 13 years of age has provided us with personal information, we will delete this information from our databases.

7. Use and Sharing of Information

Except as otherwise restricted in law or in this Privacy Statement, the Agencies plan to use and share all information collected through or generated by the ORCA Program for the purposes of fare media sales, fare collection, support of Business Account transportation programs, monitoring the functionality and performance of the ORCA Program, soliciting and receiving feedback, developing the ORCA Program, making reports on ORCA Card use and other ORCA-related activities or products, and for any other ORCA Program or Agency purposes.

The Agencies will not sell PII to other entities for their marketing purposes. The Agencies will only share PII with Agency employees, officials and contractors on a “need to know” basis for purposes of fulfilling their duties and responsibilities. The Agencies may share PII with other persons or entities if it is reasonably necessary to:

1. Satisfy an applicable law or regulation.
2. Respond (voluntarily or involuntarily) to a subpoena, court order or other legal process and requests by a governmental agency; and to protect the Agencies from any kind of potential harm (as an Agency perceives that potential in its discretion).
3. Enforce Agency terms of use and other provisions applicable under the ORCA Program or an Agency transportation service, including investigation of potential violations thereof.
4. Detect, prevent, or otherwise address fraud, security or technical issues.
5. Protect against harm to the rights, property or safety of the Agencies, the users of their services, or the public, as required or permitted by law.

Persons or entities that receive information from the Agencies may be able to combine such information with other information they independently possess. The Agencies are not responsible for combining or any later use that may be made of information provided to others in accordance with this Privacy Statement.

8. Retention of Information

Information collected through or generated by the ORCA Program may be retained in the ORCA central system and at individual Agencies, on both active databases and in archive systems, and in electronic as well as hard copy form. The

Agencies will store all information related to the ORCA Program for as long as they believe it useful or required by applicable law.

When you send an email or letter with questions or comments to the ORCA Program or an Agency, or if you provide your contact information when ordering ORCA Cards, ORCA Products or services, the Agencies may retain these communications, and use your email address and other information included in your correspondence in order to process your communications, respond to you and improve our services.

9. Public Records

The Washington Public Records Act (Chapter 42.56 RCW) (“Act”) applies to all records related to the ORCA Program including but not limited to: any data and reports related to the issuance, loading and use of ORCA Cards and Business Cards; PII that you provide; and the emails, comments and other communications between you and any of the ORCA Agencies. Generally, public records are available for inspection and copying by the public but the Act exempts some records from mandatory disclosure. For example, the Act contains the following exemptions from mandatory disclosure:

RCW 42.56.330(4) *The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.*

RCW 42.56.330(5) *The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, and for the purpose of preventing fraud. As used in this subsection, “personally identifying information” includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.*

(a) *Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.*

(b) *Personally identifying information may be released to a parent or guardian who provided PII for a youth cardholder under age 13, or to law enforcement agencies if the request is accompanied by a court order.*

The Agencies reserve their discretion, if any, to release or withhold records in accordance with the Act. The Agencies reserve the right to impose fees in accordance with the Act for responding to requests for inspection and copying of records.

In the event of a conflict between this Privacy Statement and the Public Records Act or other law governing the disclosure of records, the Public Records Act or other applicable law will control.

10. Information Security

The Agencies’ security measures are intended to protect against unauthorized access to or unauthorized alteration, disclosure or destruction of information collected or generated under the ORCA Program. For example, steps have been taken to safeguard the integrity of their telecommunications and computing infrastructure, including but not limited to authentication, monitoring, auditing and encryption. In addition, customer orders are processed through a secure server using advanced forms of encryption software. This means that all your PII entered online will be encrypted during transmission to maximize security protection. However, because the ORCA Website does not encrypt email, you should not send emails containing information that you consider sensitive.

Notwithstanding the above, this Privacy Statement should not be construed in any way as providing business, legal or other advice, or warranting as fail-proof, the security of information provided by or submitted to the ORCA Website or otherwise submitted to the ORCA Program or Agencies through customer participation in the ORCA Program. Due to the nature of Internet communications and evolving technologies, the Agencies cannot provide, and disclaim, assurance that the information you provide to them will remain free from loss, misuse, or alteration by third parties, who, despite the Agencies’ efforts, may obtain unauthorized access.

If, despite the ORCA Program’s information security measures, unencrypted “personal information” held by the Agencies was, or is reasonably believed to have been, acquired by an unauthorized person, the Agencies shall notify the subject of that personal information in accordance with RWC 42.56.590. For purposes of this Section, “personal information” has the same definition as it does in RCW 42.56.590(5) and (6).

11. Changes to Personally Identifiable Information

The Agencies depend on the users of ORCA Cards and ORCA Products to update their own PII whenever necessary. You may use the ORCA App, ORCA Website or visit an ORCA Customer Service office to update your personal details and modify or terminate your ORCA Card registration or Autoload authorization.

12. NO WARRANTIES

THE AGENCIES HAVE ADOPTED PROCEDURES AND MEASURES THEY BELIEVE TO BE COMMERCIALY REASONABLE TO PROTECT ANY INFORMATION COLLECTED FOR THE ORCA PROGRAM INCLUDING INFORMATION COLLECTED ON THE ORCA WEBSITE. HOWEVER, NO ONE IN THE AGENCIES GUARANTEES INFORMATION SECURITY OR WARRANTS THAT THE INFORMATION (INCLUDING BUT NOT LIMITED TO PII) COLLECTED IN CONNECTION WITH THE ORCA PROGRAM WILL REMAIN FREE FROM UNAUTHORIZED ACCESS OR DISCLOSURE, LOSS, MISUSE, ALTERATION OR THEFT AND THE AGENCIES EXPRESSLY DISCLAIM ANY SUCH OBLIGATION.

13. Governing Law and Venue

This Statement shall be construed in accordance with the laws of the State of Washington, without regard to any conflict of law provisions. Any dispute arising under this Statement shall be resolved exclusively by the state or federal courts sitting in King County, Washington that have jurisdiction over the matter.

14. Questions or Comments on this Privacy Statement

Please direct any questions or comments regarding this Privacy Statement to the Regional ORCA Operations Team as follows.

Email: info@myORCA.com
Phone: 888-988-6722 / TTY: 711, during regular business hours
Mail: ORCA Director
401 S Jackson St.
Seattle WA 98104

When we receive formal written questions or complaints at this address, it is our policy to contact the complainant regarding their concerns.

15. Changes to this Privacy Statement

This Privacy Statement may change over time. We expect most changes will be minor. Significant changes will be posted as an “alert” located at the top of the ORCA Website pages. The date of the most recent revision of this Statement will be identified at the top of the page and prior versions will be kept in an archive for your review upon your request.

We will post changes to this Statement at least ten (10) days before they take effect. Any information we collect under the current Privacy Statement will remain subject to the terms of this Statement. After any changes take effect, all new information we collect, if any, will be subject to the new Statement.

Alternate formats of the ORCA Privacy Statement are available upon request.

888-988-6722 / TTY: 711
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