

**WEST MISSISSIPPI WATERSHED
MANAGEMENT COMMISSION**

DATA PRACTICES PROCEDURES

Adopted: _____, 2009

**WEST MISSISSIPPI WATERSHED
MANAGEMENT COMMISSION**

DATA PRACTICES PROCEDURES

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**WEST MISSISSIPPI WATERSHED
MANAGEMENT COMMISSION**

DATA PRACTICES PROCEDURES

I. Introduction.

These procedures are adopted to comply with the requirements of the Minnesota Data Practices Act (the “Act”), specifically Minnesota Statutes Sections 13.03, subdivision 2 and 13.05 subdivisions 5 and 8.

II. Responsible Authority and Data Practices Compliance Official.

The person who is the responsible authority and the data practices compliance official for compliance with the Act is *[insert person’s office]*. The name and contact information for the responsible authority and data practices compliance official are provided in Exhibit 1.

III. General Overview of the Act.

The Act regulates the handling of all government data that are created, collected, received, or released by a state entity, political subdivision or statewide system, no matter what form the data are in, or how the data are stored or used.

The Act establishes a system of data classifications that define, in general terms, who is legally authorized to access government data. The classification system is constructed from the definitions provided in Minnesota Statutes Section 13.02. A table that summarizes the classifications is attached as Exhibit 2.

IV. Access to Public Data.

All information maintained by the West Mississippi Wastewater Management Commission (“WMO”) is public unless there is a specific statutory designation which gives it a different classification.

A. People Entitled to Access. Any person has the right to inspect and copy public data. The person also has the right to have an explanation of the meaning of the data. The person does not need to state his or her name or give the reason for the request, unless a statute specifically authorizes the WMO to request such information. The WMO may ask a person to provide identifying or clarifying information for the sole purpose of facilitating access to the data. Examples of when identifying information may be requested include, but are not limited to, obtaining a mailing address when the person has requested that copies be mailed or requesting identification when copies have been paid for by check.

B. Form of Request. The request for public data may be verbal or written. The responsible authority or designee may require a verbal request to be made in writing, whenever a written request will assist the responsible authority or designee in performing his or her duties.

C. Time Limits.

➤ **Requests.** Requests will be received and processed only during normal business hours.

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- **Response.** If the request is made by someone other than the data subject and access or copies cannot be made at the time of the request, copies must be supplied as soon as reasonably possible. If the request is made by the data subject, the response must be immediate, if possible, or within 10 working days if an immediate response is not possible.

D. Form of Copies. Where public data is maintained in a computer storage medium, the responsible authority must provide copies of the public data in electronic form, upon request, if a copy can reasonably be made in that form. The responsible authority is not required to provide the data in an electronic format or program that is different from the format or program in which the responsible authority maintains the data. The responsible authority may charge a fee for the actual cost of providing the copy.

E. Fees.

- **No Fees Charged.** No fee may be charged for merely inspecting data. An inspection of data includes instances where the responsible authority prints copies of data, when the only method of providing for inspection is to print a copy. When copies are requested and a fee is charged for copies, no fee may be charged for time spent separating public from not public data.
- **Fees Charged.** Fees may be charged only if the requesting person asks for a copy or electronic transmittal of the data. Fees will be charged according to the WMO's standard copying policy, attached as Exhibit 3.

The responsible authority may charge an additional fee if the copies have commercial value and are a substantial and discrete portion of a formula, compilation, program, process, or system developed with significant expenditure of public funds. This additional fee must relate to the actual development costs of the information. The responsible authority may also charge a fee for remote access to data where the data or the access is enhanced at the request of the person seeking access.

V. Access to Data on Individuals.

Information about individual people is classified by law as public, private, or confidential. A list of the private and confidential information maintained by the WMO is contained in Appendix A. The forms used to collect private and confidential information are contained in Appendix B [*the WMO needs to update these forms*].

A. People Entitled to Access.

- Public information about an individual may be shown or given to anyone for any reason.
- Private information about an individual may be shown or given to:
 - The individual data subject (as limited by an applicable statute or federal law), but the WMO is not obligated to provide access to the individual data subject more frequently than only once every six months, unless a dispute or legal action pursuant to the Act is pending or unless additional data on the individual has been collected or created.

Data Practices Procedure

- A person or entity who has been given access by the express written consent of the individual data subject. This consent must be on the form attached as Exhibit 4, or on a reasonably similar form.
 - Entities and agencies as determined by the responsible authority who are authorized by statute, including Minnesota Statutes Section 13.05, subdivision 4, or federal law, to gain access to that specific data.
 - People within the WMO staff, the WMO Council, and outside agents under contract with the WMO (e.g., insurance adjusters or attorneys) whose work assignments reasonably require access. The responsible authority is authorized to determine whose work assignments or responsibilities require access to data.
- Confidential information may not be given to the public or the individual subject of the data, but may be shown or given to:
- People who are authorized access by statute, including Minnesota Statutes Section 13.05, or federal law to gain access to that specific data.
 - People within the WMO staff, the WMO Council, and outside agents under contract with the WMO (e.g., insurance adjusters or attorneys) whose work assignments reasonably require access. The responsible authority is authorized to determine whose work assignments or responsibilities require access to data.

B. Form of Request. Any individual may request verbally or in writing as to whether the WMO has stored data about that individual and whether the data is classified as public, private, or confidential.

All requests to see or copy private or confidential information must be in writing. An Information Disclosure Request, attached as Exhibit 5, must be completed to document who requests and who receives this information. The responsible authority or designee must complete the relevant portions of the form. The responsible authority or designee may waive the use of this form if there is other documentation of the requesting party's identity, the information requested, and the WMO's response.

C. Identification of Requesting Party. The responsible authority or designee must verify the identity of the requesting party as a person entitled to access. Verification can be through personal knowledge, presentation of written identification, comparison of the data subject's signature on a consent form with the person's signature in WMO records, or other reasonable means.

D. Time Limits.

- **Requests.** Requests will be received and processed only during normal business hours.
- **Response.** The response must be immediate, if possible, or within 10 working days, if an immediate response is not possible. If the request is made by someone other than the data subject and access or copies cannot be made at the time of the request, copies must be supplied as soon as reasonably possible.

E. Fees. Fees may be charged in accordance with the WMO's Copy Charge Policy (Exhibit 3).

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F. Summary Data. Summary data means statistical records and reports derived from data on individuals but which do not identify an individual by name or any other characteristic that could uniquely identify an individual. Summary data derived from private or confidential data is public. The responsible authority or designee will prepare summary data upon request, if the request is in writing and the requesting party pays for the cost of preparation. The responsible authority or designee must notify the requesting party about the estimated costs and collect those costs before preparing or supplying the summary data. This should be done within 10 days after receiving the request. If the summary data cannot be prepared within 10 days, the responsible authority must notify the requester of the anticipated time schedule and the reasons for the delay.

Summary data may be prepared by “blacking out” personal identifiers, cutting out portions of the records that contain personal identifiers, programming computers to delete personal identifiers, or other reasonable means.

The responsible authority may ask an outside agency or person, including the person requesting the summary data, to prepare the summary data if (1) the specific purpose is given in writing, (2) the agency or person signs a nondisclosure agreement that meets the requirements of Minnesota Rules, Part 1205.0700, subpart 5, and (3) the responsible authority determines that access by the outside agency or person will not compromise the privacy of the private or confidential data. The responsible authority may use the form attached as Exhibit 6.

G. Juvenile Records. The following applies to private (not confidential) data about people under the age of 18.

- **Parental Access.** In addition to the people listed above who may have access to private data, a parent may have access to private information about a juvenile data subject. “Parent” means the parent or guardian of a juvenile data subject, or individual acting as a parent or guardian in the absence of a parent or guardian. The parent is presumed to have this right unless the responsible authority or designee has been given evidence that there is a state law, court order, or other legally binding document which prohibits this right.
- **Notice to Juvenile.** Before requesting private data from juveniles, WMO personnel must notify the juveniles that they may request that the information not be given to their parent(s). This notice should be substantially in the form attached as Exhibit 7.
- **Denial of Parental Access.** The responsible authority or designee may deny parental access to private data when the juvenile requests this denial and the responsible authority or designee determines that withholding the data would be in the best interest of the juvenile. The request from the juvenile must be in writing stating the reasons for the request. In determining the best interest of the juvenile, the responsible authority or designee will consider:
 - Whether the juvenile is of sufficient age and maturity to explain the reasons and understand the consequences of denying parental access,
 - Whether denying parental access may protect the juvenile from physical or emotional harm,

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- Whether there is reasonable grounds to support the juvenile's reasons for denying parental access, and
- Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

The responsible authority or designee may also deny parental access without a request from the juvenile under Minnesota Statutes Section 144.335, or under any other state or federal statute that allows or requires denial of parental access and that provides standards for denying parental access.

VI. Denial of Access.

If the responsible authority or designee determines that the law does not permit the requesting party to have access to the requested data, the responsible authority or designee must inform the requesting party orally at the time of the request or in writing as soon after that as possible. The responsible authority or designee must give the specific legal authority, including statutory section, temporary classification or specific provision of federal law upon which the determination is made for withholding the data. Upon request, the responsible authority or designee must place an oral denial in writing and cite the specific statutory section, temporary classification or specific provision of federal law upon which the denial was based.

VII. Collection of Data on Individuals.

The collection and storage of information about individuals will be limited to that necessary for the administration and management of programs specifically authorized by the state legislature, the WMO or the federal government.

➤ **Tennessee Warning: When Required**

When the WMO requests an individual to provide private or confidential data about him/herself, the WMO will give that individual a notice – sometimes called a Tennessee warning. The Tennessee warning is given at the time the data is collected. It must be given whenever all four of the following conditions are met:

- The WMO requests data;
- The data is requested from an individual;
- The data requested is classified as private or confidential; and
- The data requested is about the individual from whom the data is being requested.

➤ **Tennessee Warning: When *Not* Required**

A Tennessee warning is not required to be given by a law enforcement officer who is investigating a crime. In addition, a Tennessee warning is not required if:

- The data subject is not an individual (e.g., the data subject is a corporation or partnership);
- The data subject offers information that has not been requested by the WMO;
- The information requested from the individual is about someone else;

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- The WMO receives information about the subject from someone else; or
- The information requested from the subject is classified as public data.

➤ Contents of a Tennesen Warning

A Tennesen warning must inform the individual data subject of the following:

- The purpose and intended use of the requested data (why the data are requested and how the WMO will use the data);
- Whether the individual may refuse or is legally required to supply the requested data;
- Any known consequences from supplying or refusing to supply the requested data; and
- The identity of other persons or entities authorized by state or federal law to receive the data.

A Tennesen warning may be on a separate form or may be incorporated into the form which requests the private or confidential data. See attached Exhibit 8 for an example of a Tennesen warning.

Collection of Data on Individuals through the Use of the WMO's Computer

When an individual gains access to government information or services through the WMO's computer, the WMO may create, collect, or maintain electronic access data or use its computer to install a cookie on an individual's computer. The WMO must inform individuals gaining access to the WMO's computer of the creation, collection, or maintenance of electronic access data or the WMO's use of cookies before requiring the individual to provide any data about the individual to the WMO. As part of that notice, the WMO must inform the individual how the data will be used and disseminated. Notwithstanding an individuals' refusal to accept a cookie on its computer, the WMO must allow the individual to gain access to data or information, transfer data or information, or use government services by means of the WMO's computer.

VIII. Challenge to Data Accuracy.

An individual who is the subject of public or private data may contest the accuracy or completeness of that data maintained by the WMO of which he or she is the subject. "Accurate" means the data are reasonably correct and free from error. "Complete" means the data describe all of the subject's transactions with the WMO in a reasonable way.

To challenge the accuracy or completeness of data, the individual must notify the WMO's responsible authority in writing describing the nature of the disagreement. The statement should describe why or how the data are inaccurate or incomplete and should also state what the individual wants the WMO to do to make the data accurate or complete. Within 30 days, the responsible authority or designee must respond and either (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual, or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data. The responsible authority should provide the data subject with a written statement that informs the data subject of the right to appeal and should also provide a copy of Minnesota Rules Part 1205.1600.

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An individual who is dissatisfied with the responsible authority's action may appeal to the Commissioner of the Minnesota Department of Administration, using the contested case procedures under Minnesota Statutes Chapter 14. The responsible authority will correct, complete or destroy any data if so ordered by the Commissioner.

IX. Data Protection.

A. Accuracy and Currency of Data.

- All WMO employees will be requested, and given appropriate forms, to annually provide updated personal information to the appropriate supervisor or the WMO Clerk or Finance Director, as necessary for tax, insurance, emergency notification, and other personnel purposes. Other individuals who provide private or confidential information will also be encouraged to provide updated information when appropriate.
- The responsible authority should periodically review forms used to collect data on individuals to delete items that are not necessary and to clarify items that may be ambiguous.
- All records must be disposed of according to the WMO's records retention schedule.

B. Data Safeguards.

- Private and confidential information will be stored in files or databases which are not readily accessible to individuals who do not have authorized access and which will be secured during hours when the offices are closed.
- Private and confidential data on individuals must be kept only in WMO offices, except when necessary for WMO business.
- Only those WMO officials and employees whose job responsibilities require them to have access will be allowed access to files and records that contain private or confidential information. The officials and employees will be instructed to:
 - Release or disclose private or confidential data only to those persons, within and outside of the WMO, who are authorized by law to have access to the data,
 - Not leave private or confidential data where unauthorized individuals might see it, and
 - Shred private or confidential data before discarding.
- When a contract with an outside party requires access to private or confidential information, the contracting party will be required to use and disseminate the information consistent with the Act. The WMO must include in a written contract the language contained in Exhibit 9 or substantially similar language.

Exhibit 1

**RESPONSIBLE AUTHORITY AND COMPLIANCE OFFICIAL
AND DESIGNEES**

Responsible Authority and Compliance Official

Judie Anderson
West Mississippi Watershed Management Commission
3235 Fernbrook Lane North
Plymouth, MN 55447
TELEPHONE: (763) 553 1144
E-MAIL ADDRESS: judie@jass.biz

Records

All records

Exhibit 2

THE MINNESOTA GOVERNMENT DATA PRACTICES ACT: DEFINITIONS AND CLASSIFICATIONS OF DATA

The Minnesota Government Data Practices Act (MGDPA) establishes a system of data classifications that define, in general terms, who is legally authorized to access government data. This classification system is constructed from the definitions provided in Minnesota Statutes Section 13.02. See also Minnesota Rules Part 1205.0200.

<p>GOVERNMENT DATA</p> <p>All data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.</p> <p>MINN. STAT. §13.02, SUBD. 7</p>

DATA ON INDIVIDUALS*	DATA ON DECEDENTS	DATA NOT ON INDIVIDUALS *
MINN. STAT. §13.02, SUBD. 5	MINN. STAT. §13.10, SUBD. 1	MINN. STAT. §13.02, SUBD. 4
<p>PUBLIC</p> <p>Accessible to anyone for any reason.</p> <p>MINN. STAT. §13.02, SUBD. 15</p>	<p>PUBLIC</p> <p>Accessible to anyone for any reason.</p> <p>MINN. STAT. §13.02, SUBD. 15</p>	<p>PUBLIC</p> <p>Accessible to anyone for any reason.</p> <p>MINN. STAT. §13.02, SUBD. 14</p>
<p>PRIVATE</p> <p>Accessible to the data subject and WMO employees and officials with a business need to know. Not accessible to the public.</p> <p>MINN. STAT. §13.02, SUBD. 12</p>	<p>PRIVATE **</p> <p>Accessible to the representative of the decedent and WMO employees and officials with a business need to know. Not accessible to the public</p> <p>MINN. STAT. §13.10, SUBD. 1(B).</p>	<p>NON-PUBLIC</p> <p>Accessible to the subject of the data, if any and WMO employees and officials with a business need to know. Not accessible to the public.</p> <p>MINN. STAT. §13.02, SUBD. 9</p>
<p>CONFIDENTIAL</p> <p>Not accessible to the data subject; Not accessible to the public. Accessible only to WMO employees and officials with a business need to know.</p> <p>MINN. STAT. §13.02, SUBD. 3</p>	<p>CONFIDENTIAL**</p> <p>Not accessible to the representative of the decedent; Not accessible to the public. Accessible only to WMO employees and officials with a business need to know.</p> <p>MINN. STAT §13.10, SUBD. 1(A)</p>	<p>PROTECTED NON-PUBLIC</p> <p>Not accessible to the data subject. Not accessible to the public. Accessible only to WMO employees and officials with a business need to know.</p> <p>MINN. STAT. §13.02, SUBD. 13</p>

* “Individual” is defined by Minnesota Statutes Section 13.02, subdivision 8. “Individual” means a living human being. It does not mean any type of entity created by law, such as a corporation.

** Private and confidential data on decedents become public data ten years after the death of the data subject *and* 30 years have elapsed from the creation of the data.

**Exhibit 3
WMO COPY CHARGE POLICY**

Regular Photocopy Charge (if 100 or fewer pages of black and white letter or legal size paper copies are requested) <i>[if the WMO's costs are less for these types of copies, it should lower the charge to reflect that cost]</i>	\$.25 per page \$.05 per page for additional copies of the same document
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Special Copy Charge (Charged in all other circumstances, including requests to provide data electronically or by facsimile)	Actual Cost*
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*the "actual cost" means the cost of any materials (paper, copier ink, staples, CDs/DVDs, video/audio tapes, etc.), any special costs associated with making copies from computerized data, such as writing or modifying a computer program to format data, any mailing costs and any vehicle costs directly involved in transporting data to the appropriate facility when necessary to provide copies. In addition, "actual cost" also includes WMO staff time spent making and certifying and compiling the copies (when requested by the data subject). For requests by anyone other than the data subject, the "actual cost" also includes the WMO staff time spent retrieving the data to be copied, sorting and labeling documents (if this is necessary to identify what is to be copied), removing staples or paper clips, taking documents to the copier for copying as well as making and certifying and compiling the copies. Labor costs are never charged for separating public from not public data.

Document Charge (Charged for certain frequently requested documents, such as zoning codes, maps, etc.)	Fee as established in the WMO fee schedule
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Exhibit 4

CONSENT TO RELEASE PRIVATE DATA

I, _____, authorize the West Mississippi Watershed
Management Commission (“WMO”) to
(print name)

release the following private data about me:

to the following person(s) or entity(ies):

The person(s) or entity(ies) receiving the private data may use it only for the following purpose or purposes:

This authorization is dated _____ and expires on _____

I understand that my records are protected under state privacy regulations and cannot be disclosed without my written consent unless otherwise provided for by law. I also understand that I may cancel this consent at any time prior to the information being released and that in any event this consent expires automatically 90 days after signing. By signing this document, I give my full and voluntary consent to the WMO to release the above-listed data to the persons identified in this release, and I waive any and all claims against the WMO for the disclosure of private data about me in accordance with this document.

Signature

Signature of parent or guardian
(if data subject is under 18 years of age)

IDENTITY VERIFIED BY:

- Witness:** x _____
- Identification:** Driver’s License, State ID, Passport, other: _____
- Comparison with signature on file**
- Other:** _____

Responsible Authority/Designee: _____

Exhibit 6

GOVERNMENT DATA ACCESS AND NONDISCLOSURE AGREEMENT

1. AUTHORIZATION. The West Mississippi Watershed Management Commission (“WMO”) hereby authorizes _____, (“Authorized Party”) access to the following government data:

2. PURPOSE. Access to this government data is limited to the objective of creating summary data for the following purpose:

3. COST. (Check which applies):

The Authorized Party is the person who requested the summary data and agrees to bear the WMO’s costs associated with the preparation of the data which has been determined to be \$_____. The Authorized Party agrees to pay the actual WMO costs, regardless of whether those costs exceed the estimate.

The Authorized Party has been requested by the WMO to prepare summary data and will be paid in accordance with attached Exhibit A.

4. SECURITY. The Authorized Party agrees that it and any employees or agents under its control must protect the privacy interests of individual data subjects in accordance with the terms of this Agreement.

The Authorized Party agrees to remove all unique personal identifiers which could be used to identify any individual from data classified by state or federal law as not public which is obtained from WMO records and incorporated into reports, summaries, compilations, articles, or any document or series of documents.

Data contained in files, records, microfilm, or other storage media maintained by the WMO are the WMO’s property and are not to leave the WMO’s custody. The Authorized Party agrees not to make reproductions of any data or remove any data from the site where it is provided, if the data can in any way identify an individual.

No data which is not public and which is irrelevant to the purpose stated above will ever be disclosed or communicated to anyone by any means.

The Authorized Party warrants that the following named individual(s) will be the only person(s) to participate in the collection of the data described above: _____

5. LIABILITY FOR DISCLOSURE. The Authorized Party is liable for any unlawful use or disclosure of government data collected, used or maintained in the exercise of this Agreement and classified as not public under state or federal law. The Authorized Party understands that it may be subject to civil or criminal penalties under those laws.

The Authorized Party agrees to defend, indemnify, and hold the WMO, its officials and employees harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from an act or omission of the Authorized Party, its agents, employees, officers or assignees under this Agreement and against all loss by reason of the Authorized Party's failure to fully perform in any respect all obligations under this Agreement.

6. INSURANCE. In order to protect itself as well as the WMO, the Authorized Party agrees at all times during the term of this Agreement to maintain insurance covering the Authorized Party's activities under this Agreement. The insurance will cover \$1,000,000 per claimant for personal injuries and/or damages and \$1,000,000 per occurrence. The policy must cover the indemnification obligation specified above.

7. ACCESS PERIOD. The Authorized Party may have access to the information described above from _____ to _____.

8. SURVEY RESULTS. (Check which applies):

If the Authorized Party is the requester, a copy of all reports, summaries, compilations, articles, publications or any document or series of documents which are created from the information provided under this Agreement must be made available to the WMO in its entirety.

If the Authorized Party is a contractor of the WMO, all copies of reports, summaries, compilations, articles, publications or any document or series of documents which are created from the information provided under this Agreement must be provided to the WMO. The Authorized Party may retain one copy for its own records but may not disclose it without WMO permission, except in defense of claims brought against it.

AUTHORIZED PARTY: _____

By: _____

Date: _____

Title (if applicable): _____

WMO

By: _____

Date: _____

Its: _____

Exhibit 7

NOTICE TO PERSONS UNDER AGE OF 18

Some of the information you are asked to provide is classified as private under state law. You have the right to request that some or all of the information not be given to one or both of your parents/legal guardians. Please complete the form below if you wish to have information withheld.

Your request does not automatically mean that the information will be withheld. State law requires the WMO to determine if honoring the request would be in your best interest. The WMO is required to consider:

- Whether you are of sufficient age and maturity to explain the reasons and understand the consequences,
- Whether denying access may protect you from physical or emotional harm,
- Whether there is reasonable grounds to support your reasons, and
- Whether the data concerns medical, dental, or other health services provided under Minnesota Statutes Sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize your health.

NOTICE GIVEN TO: _____ DATE: _____

By: _____ (name) _____ (title)

REQUEST TO WITHHOLD INFORMATION

I request that the following information: _____

Be withheld from: _____

For these reasons: _____

Date: _____ Print Name: _____ Signature: _____

Exhibit 8

**DATA PRACTICES ADVISORY
(Tennessee Warning)**

Some or all of the information that you are asked to provide on the attached form is classified by state law as either private or confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data.

Our purpose and intended use of this information is: _____

_____.

You are / are not legally required to provide this information.

If you refuse to supply the information, the following may happen: _____

_____.

Other persons or entities who are authorized by law to receive this information are:

_____.

Exhibit 9

SAMPLE CONTRACT PROVISION

Data Practices Compliance. This contract is governed by Minnesota Statutes Section 13.05, subdivisions 6 and 11, the provisions of which are incorporated by reference into this contract. The West Mississippi Watershed Management Commission (“WMO”) agrees to give the CONTRACTOR access to data collected or maintained by the WMO as necessary to perform CONTRACTOR’S obligations under this contract. CONTRACTOR agrees to maintain all data created, collected, received, stored, used, maintained or disseminated by CONTRACTOR consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes Sections 13.02, et seq. (the “Act”). CONTRACTOR will not release or disclose the contents of data classified as not public to any person except at the written direction of the WMO. CONTRACTOR agrees to defend and indemnify the WMO from any claim, liability, damage or loss asserted against the WMO as a result of CONTRACTOR’S failure to comply with the requirements of this paragraph; provided that CONTRACTOR shall have no duty to defend or indemnify where CONTRACTOR has acted in conformance with the WMO’s written directions.

APPENDIX A

PRIVATE AND CONFIDENTIAL DATA MAINTAINED BY WMO

The list of data types is divided into the following categories: General and Personnel. The categories are provided only for convenience in locating types of data; inclusion in any particular category is not intended to indicate an exclusive location for that data type. (E.g., data listed under Personnel may be physically located in more than one WMO department.)

[The WMO should review this list and determine whether there are any items for which it does not maintain data; if the WMO does not possess that category of data, modify appropriately.]

GENERAL

Applications for Election or Appointment

CLASSIFICATION(S): Private / Public

GOVERNING STATUTE: Minn. Stat. § 13.601, subd. 3

DESCRIPTION OF DATA: Data on applicants collected by the WMO from the applicant's application is private, except the following is public: name, city of residence, education and training, employment history, volunteer work, awards and honors, and prior government service or experience. Once appointed, the following is public: residential address and either telephone number or email where the appointee may be reached, or both at the request of the appointee.

Appraisal Data

CLASSIFICATION(S): Confidential / Protected Nonpublic / Public

GOVERNING STATUTE: Minn. Stat. § 13.44, subd. 3

DESCRIPTION OF DATA: Appraisals made for the purpose of selling or acquiring land through purchase or condemnation.

Audit Data (provided by State Auditor)

CLASSIFICATION(S): Protected Nonpublic / Confidential

GOVERNING STATUTE: Minn. Stat. § 6.715, subd. 5

DESCRIPTION OF DATA: Data relating to an audit, examination or investigation performed by the state auditor. Data provided by the state auditor for purpose of review and verification must be protected from unlawful disclosure.

Award Data

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.48

DESCRIPTION OF DATA: Financial data on business entities submitted to WMO for the purpose of presenting awards to business entities for achievements in business development or performance.

Business Data

CLASSIFICATION(S): Private/Nonpublic/Public

GOVERNING STATUTE: Minn. Stat. § 13.591

DESCRIPTION OF DATA: Data submitted to the WMO by a business requesting financial assistance or a benefit financed by public funds are private or nonpublic data. The data becomes public when public financial assistance is provided or the business receives a benefit from the WMO, except that business plans, income and expense projections not related to the financial assistance provided, customer lists, income tax returns, and design, market and feasibility studies not paid for with public funds remain private or nonpublic.

Civil Investigative Data

CLASSIFICATION(S): Confidential / Protected Nonpublic/ Not public / Public

GOVERNING STATUTE: Minn. Stat. § 13.39

DESCRIPTION OF DATA: Data collected as part of an active investigation undertaken to commence or defend pending civil litigation, or which are retained in anticipation of pending civil litigation.

Community Dispute Resolution Center Data

CLASSIFICATION(S): Private/Public

GOVERNING STATUTE: Minn. Stat. § 13.88

DESCRIPTION OF DATA: Data relating to a case in a community dispute resolution program.

Computer Access Data

CLASSIFICATION(S): Private/Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.15

DESCRIPTION OF DATA: Data created, collected, or maintained about a person's access to the WMO's computer for the purpose of: (1) gaining access to data or information; (2) transferring data or information; or (3) using government services.

Federal Contracts Data

CLASSIFICATION(S): Private/Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.35

DESCRIPTION OF DATA: All data collected and maintained by the WMO when required to do so by a federal agency as part of its contract with the WMO.

Financial Disclosure Statements

CLASSIFICATION(S): Public

GOVERNING STATUTE: Minn. Stat. § 13.601, subd. 1.

DESCRIPTION OF DATA: Financial disclosure statements of elected or appointed officials which, by requirement of the WMO, are filed with the WMO, are public data on individuals.

Grants

CLASSIFICATION(S): Nonpublic / Private

GOVERNING STATUTE: Minn. Stat. § 13.599

DESCRIPTION OF DATA: Data created by state agency providing grants and persons/agencies that apply for or receive grants.

Identity of Employees Making Complaints

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. §§ 181.932, subd. 2; 13.7905, subd. 5(b)

DESCRIPTION OF DATA: The identity of an individual who reports to any governmental body or law enforcement official a violation or suspected violation by the individual's employer of any federal or state law or rule.

Internal Auditing Data

CLASSIFICATION(S): Confidential/Private/Protected Nonpublic/Public

GOVERNING STATUTE: Minn. Stat. § 13.392

DESCRIPTION OF DATA: Data, notes, and preliminary drafts of reports created, collected and maintained by the internal audit offices of the city or by person performing audits for the WMO and relating to an audit or investigation; data on an individual supplying information for an audit or investigation, under specified circumstances.

Internal Competitive Response

CLASSIFICATION(S): Private/Nonpublic

GOVERNING STATUTE: Minn. Stat. §§ 13.591, subd. 5, 13.37.

DESCRIPTION OF DATA: A bid or proposal to provide government goods or services that is prepared by the staff of a government entity in competition with bids or proposals solicited by the same government entity from the private sector or a different government entity from the private sector are classified as private or nonpublic until completion of the selection process or completion of the evaluation process at which time the data are public with the exception of trade secret data as defined and classified in Minnesota Statutes Section 13.37.

Judicial Data

CLASSIFICATION(S): Confidential/Private/Protected Nonpublic/Public

GOVERNING STATUTE: Minn. Stat. § 13.03, subd. 4(e)

DESCRIPTION OF DATA: Judicial branch data disseminated to the WMO has the same classification in the hands of the WMO as it had in the hands of judicial branch entity providing it.

Municipal Self-insurer Claims

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. §§ 13.202, subd. 9(a), 471.617, subd. 5

DESCRIPTION OF DATA: Data about individual claims or total claims made by an individual under a self-insured health benefit plan of a municipality.

Pleadings

CLASSIFICATION(S): Public

GOVERNING STATUTE: Minn. Stat. § 13.03, subd. 12

DESCRIPTION OF DATA: Pleadings in a lawsuit by or against the WMO.

Property Complaint Data

CLASSIFICATION(S): Confidential

GOVERNING STATUTE: Minn. Stat. § 13.44, subd. 1

DESCRIPTION OF DATA: Data that identifies individuals who register complaints concerning violations of state laws or local ordinances concerning the use of real property.

Requests for Proposals

CLASSIFICATION(S): Private/Nonpublic/Not public/Public

GOVERNING STATUTE: Minn. Stat. §§ 13.591, subd. 3(b), 13.37.

DESCRIPTION OF DATA: Data submitted by a business to the WMO in response to a request for proposals is not public data until the responses are opened. Once the responses are opened, the name of the responder is public. All other data in a response to a request for proposal are private or nonpublic data until completion of the evaluation process. After completion of the evaluation process, all remaining data submitted by responders are public with the exception of trade secret data as classified in Minn. Stat. § 13.37. If all responses to a request for proposals are rejected prior to completion of the evaluation process, all data, other than that made public at the response opening, remain private or nonpublic until a re-solicitation of the requests for proposal results in the completion of the evaluation process or a determination is made to abandon the purchase. If rejection occurs after the completion of the evaluation process, the data remains public. If re-solicitation of the proposals does not occur within one year of the proposal opening data, the remaining data become public.

Sealed Bids

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37

DESCRIPTION OF DATA: Sealed bids, including the number of bids received, prior to opening.

Security Information

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37

DESCRIPTION OF DATA: Data which if disclosed would be likely to substantially jeopardize the security of information possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. This includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers, but these may be disseminated to other volunteers participating in crime prevention programs.

Service Cooperative Claims Data

CLASSIFICATION(S): Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.203

DESCRIPTION OF DATA: Claims experience and all related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through Minnesota service cooperatives to Minnesota political subdivisions and survey information collected from employees and employers participating in these plans and programs, except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program, are classified as nonpublic data not on individuals.

Social Security Numbers

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. § 13.355

DESCRIPTION OF DATA: Social security numbers of individuals, whether in whole or in part.

Social Security Numbers on Mailings

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. § 13.355, subd. 3

DESCRIPTION OF DATA: WMO may not mail, deliver, or cause to be mailed or delivered an item that displays a Social Security number on the outside of the item or visible without opening the item.

Trade Secret Information

CLASSIFICATION(S): Private/Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37

DESCRIPTION OF DATA: Data, including a formula, pattern, compilation, program, device, method, technique or process: (1) that was supplied by the affected individual or organization; (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy; and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

Utility Disconnection Notice

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. § 13.681, subd. 6

DESCRIPTION OF DATA: Utility data on disconnections provided to cities under Minn. Stat. § 216B.0976.

WMO Attorney Records

CLASSIFICATION(S): Confidential

GOVERNING STATUTE: Minn. Stat. § 13.393

DESCRIPTION OF DATA: The use, collection, storage, and dissemination of data by the WMO attorney is governed by statutes, rules, and professional standards concerning discovery, production of documents, introduction of evidence, and professional responsibility. Data which is the subject of attorney-client privilege is confidential. Data which is the subject of the “work product” privilege is confidential.

PERSONNEL**Employee Drug and Alcohol Tests**

CLASSIFICATION(S): Confidential / Private

GOVERNING STATUTE: Minn. Stat. §§ 13.7905, subd. 5(c), 181.954, subd. 2 and 3

DESCRIPTION OF DATA: Results of employee drug and alcohol tests.

Employment and Training Data

CLASSIFICATION(S): Private

GOVERNING STATUTE: Minn. Stat. § 13.47

DESCRIPTION OF DATA: Data on individuals collected, maintained, used, or disseminated because an individual applies for, is currently enrolled in, or has been enrolled in employment and training programs funded with federal, state or local resources.

Examination Data

CLASSIFICATION(S): Private / Confidential

GOVERNING STATUTE: Minn. Stat. § 13.34

DESCRIPTION OF DATA: Completed versions of personnel and licensing examinations.

Human Rights Data

CLASSIFICATION(S): Confidential / Private / Protected Nonpublic / Public

GOVERNING STATUTE: Minn. Stat. §§ 13.552, 363A.28 and 363A.35

DESCRIPTION OF DATA: Data maintained by the human rights department of the WMO, including: investigative data in an open case file; the name and address of the charging party or respondent, factual basis of the allegations, and statute or ordinance under which the charge is brought; investigative data in a closed case file.

Labor Relations Information

CLASSIFICATION(S): Private / Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.37

DESCRIPTION OF DATA: Management positions on economic and non-economic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

Personnel and Employment Data

CLASSIFICATION(S): Private/Public

GOVERNING STATUTE: Minn. Stat. § 13.43.

DESCRIPTION OF DATA: Data on individuals collected because the individual is or was an employee of or an applicant for employment by, performs services on a voluntary basis for, or acts as an independent contractor with a government entity.

Salary Benefit Survey Data

CLASSIFICATION(S): Nonpublic

GOVERNING STATUTE: Minn. Stat. § 13.435

DESCRIPTION OF DATA: Salary and personnel benefit survey data purchased from consulting firms, nonprofit corporations or associations or obtained from employers with the written understanding that the data shall not be made public.

Appendix B

Forms which Request Private and Confidential Data

[WMO needs to update]