

Data Practices Policy for Data Subjects

The Office of the Legislative Auditor (OLA) is subject to the Minnesota Government Data Practices Act (MGDPA), *Minnesota Statutes*, Chapter 13.¹ The MGDPA governs access to “government data”; this term applies to virtually all recorded information maintained by OLA.

When we can identify you in government data, you are the subject of that data. The MGDPA gives you, as a data subject, certain rights. This policy provides information about the rights of data subjects, as well as the procedures for data subjects to access public or private data about themselves.

What Data Does OLA Maintain?

Most of the information OLA maintains is related to the audits, evaluations, special reviews, inquiries, or investigations we conduct. This information is largely about other government agencies and the programs they administer, but it may also include data about individuals. To understand what kind of information OLA generally maintains, please consult our reports available on our website: <https://www.auditor.leg.state.mn.us/>. These reports contain a significant amount of information, and they are immediately available without charge.

OLA also maintains information related to our personnel, budget, and other administrative activities.

OLA only maintains its own data and does not maintain data on behalf of any other governmental agency or entity. Similarly, OLA does not maintain data on behalf of the Minnesota Legislature, either legislative body, other legislative entities, or any individual legislator. OLA cannot accept requests on behalf of other agencies, or obtain information from other agencies to respond to a data request to OLA. As a result, if you are interested in data about yourself that may be maintained by another government entity or agency, the Legislature, or legislators, you should contact the appropriate responsibility for that agency or entity.

Public and Not Public Data on Individuals

Under the MGDPA, all government data are presumed to be public unless designated otherwise by a state or federal law. Public data are available to anyone.

However, a significant portion of the data OLA maintains are classified as “not public” by state or federal law, which means that access to the data is limited by law. Under *Minnesota Statutes*, 3.979, subd. 1, OLA “shall protect from unlawful disclosure data classified as not public.” Consistent with this obligation, OLA has established safeguards to restrict access to not public data only to those with a legal right to access the data.

¹ See *Minnesota Statutes*, 3.979, subd. 1.

Not public data on individuals are classified as private or confidential and are not accessible by the general public. Private data are available to the subject of the data and others the data subject authorizes to see the data. Confidential data are not available, even to the subject of the data.

All not public data on individuals—including private and confidential—may be accessible or released to OLA staff whose work reasonably requires access to the data, to other individuals or entities if that access is authorized by the Legislative Audit Commission, to comply with a court order, to another government entity for an audit, or as permitted or required by state or federal law. Further, all not public data on individuals that relates to fraud, misuse of public funds or resources, or other criminal activity may be released to the Legislative Audit Commission, to the Attorney General or the appropriate county attorney, or to another state or federal government entity.

Your Rights as a Data Subject

You have certain rights as a data subject.

Access to Data About You

You may request data about yourself from OLA. With limited exceptions, you will be informed about the existence and classification of data about you, and you will be provided access to public or private data about you. More information is provided below.

Access to Data About Minor Children

You may request data about your minor children, meaning children who are under the age of 18 at the time of your request. In most cases, you will be informed about the existence and classification of data about your children, and you will be provided access to public or private data about your children. You may have these same rights in relation to data about children for whom you are the legally appointed guardian.

Minor children have the right to request that OLA not give data about them to their parent or guardian, and they will be told that they have this right at the time of collection of the data. OLA may require minor children to make this request in writing and to provide reasons that their parent or guardian should not have access to the data. OLA will make the final decision about a child's request according to factors in applicable law.

Data Practices Notices/Tennessee Warnings

When OLA asks you for not public data about you, we will give you a data practices notice called a Tennessee warning. The data practices notice will advise you about the purpose and use of the data, whether you are required to provide the data, the consequences of providing or not providing the data, and other individuals or entities who may have a legal right to access the data. OLA's use of the data is generally limited to the uses identified in the data practices notice.

We will ask for your written permission if we need to use or release private data about you in a different way, or if you ask us to release the data to another person. This permission is called informed consent.

Data Accuracy and Completeness

As set out in state law, you may challenge the accuracy and/or completeness of public and private data about you, and you may appeal our decision about your challenge. A parent or guardian may be able to challenge the accuracy and/or completeness of data about their minor child.

Breach of Security of Not Public Data

If, despite extensive safeguards, the security of not public data about you is breached, OLA will notify you as required by law.

How to Make a Request For Your Data

You must make a written request via web form, email, or paper mail to the Responsible Authority, Designee, or Data Practices Compliance Official, as follows:

- Web Form: You may submit a request for data by completing the Request for Government Data Form accessible via OLA's website.
- Email: You may email your data request to datapactices.ola@state.mn.us.
- Paper Mail: You may mail your request to Legislative Auditor Judy Randall, c/o Nathan Shepherd, 658 Cedar Street, Room 140, Saint Paul, Minnesota 55155.

If you choose not use the data request web form, your written request should include:

- That you are making a request as a data subject, for data about you (or your child, or person for whom you are the legal guardian), under the MGDPA.
- Whether you would like to inspect the data, have copies of the data, or both.
- A clear description of the data you would like to inspect or have copied (be as specific as possible, including subject matter, dates, etc.).
- Proof that you are the data subject or data subject's parent/legal guardian, as set out in this policy.

NOTE: Information about data requests is generally public, including the name of an individual making a public data request and the nature of the request.

When requesting public data, you are not required to identify yourself or explain the reason for your data request. However, providing contact information allows OLA to contact you for any needed clarifications of your request and will aid OLA in providing you with copies of public data. Similarly, providing further information about your request, such as the goal or purpose of the request, may help us better identify responsive data or identify ways to provide that data

more quickly. If we do not understand your request and have no way to contact you, we cannot respond to your request.

When requesting not public data about yourself, you must provide proof of your identity before we can respond to your request for data. In addition, if you are requesting data about your minor child, you must provide proof that you are the minor's parent or legal guardian. If you do not provide proof of your identity that you are the data subject (or the parent or legal guardian of the data subject), as set out below, we cannot provide not public data about you or your minor child.

How We Will Respond to Your Data Request

We will generally respond to data requests in the order in which they were received and will provide a response within a reasonable time.

After we review your request, we may ask you to provide clarifying information about the data you requested.

If the data you requested are confidential or not public data about someone else, we will inform you in writing of the legal basis for the not public classification as soon as reasonably possible.

If the data you requested are private data about you and/or your minor children, and you have not provided proof of your identity, we will request in writing that you provide proof of your identity and/or proof of your legal relationship with the minor child.

If the data you requested are public or private data about you (and you have provided proof of your identity, as necessary), we will respond to your request by doing one of the following:

- For requests to inspect data, arrange for you to review the requested data during OLA's normal operating hours.
- For requests to receive copies of data maintained in an electronic format, provide you with the data by email or through a remote download portal. Whether the data will be emailed or made available to download will depend on the size, type, and classification of the responsive data, or other factors.
- For requests to receive physical copies of data in person, we will mail the data to you or arrange for you to retrieve the requested data during OLA's normal operating hours.

If there is a cost for obtaining the data, we will inform you of the cost and any prepayment requirement before preparing the responsive data.

If we cannot reach you about your request, we will consider your request to have been abandoned. Similarly, if you do not respond to a request for clarification, for proof of your identity, for prepayment, or to make arrangements to inspect or retrieve data within 10 business days, we will conclude that you no longer want the data and will consider your request closed.

Requests for data related to audits, evaluations, special reviews, inquiries, or investigations will be interpreted as requests for workpapers, unless your request indicates you want other types or formats of data.

If you are provided with data about you in response to your request, we do not have to provide you with the same data again for six months. This may not apply if there is a dispute about the data and does not apply to new data about you that we may collect or create.

OLA must keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. However, response times may be impacted by the size and/or complexity of your request, and also by the number of requests you make in a given period of time.

The MGDPA generally does not require us to create or collect new data in response to a data request, or to provide data in a specific form or arrangement if we do not keep the data in that form or arrangement. We are also not required to respond to questions that are not about your data request or that do not request government data.

If you need assistance understanding the data provided in response to your request, please email datapracitces.ola@state.mn.us.

Costs

If you do not want copies of data, you have the right to inspect public or private data about yourself free of charge. You may also look at data without charge before requesting copies.

Minnesota Statutes, 13.03, subd. 3(c), authorizes OLA to charge for copies of public or private data. We may require payment for the copies before we give them to you, and we will provide you with an estimate of the cost of providing copies, if applicable.

OLA generally does not charge for responsive data contained on 100 or fewer pages of black and white, letter or legal-size paper. For requests for data estimated to be 100 pages or more, as well as for photographs, recordings, etc., we may charge the actual time-cost for an employee to make paper copies or prepare electronic data to be provided to you. OLA may charge for the costs of mailing physical copies of data or for the costs of physical media needed to provide electronic data in a physical format. The actual cost of an employee to prepare data will be calculated using the lowest paid employee who can perform the work.

Identity Verification Standards

- As proof of identity, an individual must provide a valid, government-issued photo identification, such as a:
 - Driver's license
 - State-issued identification (including, for a minor, a school or student identification)
 - Tribal identification
 - Military identification
 - Passport
 - Foreign equivalent of any of the above
- The parent or guardian of a minor must provide a valid, government-issued photo identification and either a:
 - Certified copy of the minor's birth certificate or
 - Certified copy of documents that establish the parent or guardian's relationship to the child, such as a(n):
 - Court order relating to divorce, separation, custody, foster care
 - Foster care contract
 - Affidavit of parentage
- The legal guardian for an individual must provide a valid, government-issued photo identification and a certified copy of appropriate documentation of formal or informal appointment as guardian, such as:
 - Court order(s)
 - Valid power of attorney

Individuals may show their identification to OLA staff when inspecting or retrieving data in person at OLA's offices. Individuals who do not inspect or retrieve data in person at OLA's offices will be required to provide a notarized photocopy of the identification and/or certified copy of the parent or guardian document.

In limited circumstances involving sufficient indicia of authenticity or other extraordinary circumstances, these requirements may be altered or waived by OLA in its sole discretion. If warranted in its sole discretion, OLA may also reject proof of identity, even when it may facially meet the requirements set forth herein.

Data Practices Contacts

Responsible Authority

Judy Randall, Legislative Auditor

datapactices.ola@state.mn.us

Office of the Legislative Auditor

658 Cedar Street, Room 140

Saint Paul, Minnesota 55155

[651-296-4708](tel:651-296-4708)

Designee & Data Practices Compliance Official

Nathan Shepherd, General Counsel

datapactices.ola@state.mn.us

Office of the Legislative Auditor

658 Cedar Street, Room 140

Saint Paul, Minnesota 55155

[651-296-4708](tel:651-296-4708)