

Virginia Department of Education

Restricted-Use Data Agreement

INSTRUCTIONS: Please submit an original-signature copy of this agreement; this will be countersigned and a copy returned to you.

The Restricted Use Data Agreement requires the completion of:

1. A description of the proposed research/analysis project (Section A)
2. A data protection security plan for the restricted-use data (Section B)
3. Affidavits of Non-Disclosure for each person who will have access to the data (Section C)

This agreement shall be reviewed by a committee appointed by VDOE. If approved, the committee shall direct the disclosure of the requested information under the terms of this Agreement. If disapproved, the committee shall provide specific information about the reasons for non-approval.

Definitions:

“Restricted-Use Data” shall mean personally identifiable information requiring specific procedures to protect confidentiality.

“Public-Use Data” shall mean data that contain no personally identifiable information requiring no specific procedures to protect confidentiality.

“Merging Restricted-Use data records with Public-Use data records” shall mean a file containing both Restricted-Use Data and Public-Use Data merged into one file. Such merged file shall be considered Restricted-Use Data. Merely deleting identifying fields from a "Restricted-Use Data" file **does not** create a "Public-Use Data" file. Disaggregations of "Restricted-Use Data", even without explicit identification fields, may result in a record where the identity of the subject could be reasonably inferred.

Agreement:

This Agreement is an attachment to and incorporated into Contract No. _____ between the Virginia Department of Education (VDOE) and _____ (hereinafter “Contractor”).

Purpose:

VDOE administers programs that involve the collection and analysis of personally identifiable information. VDOE carefully safeguards the security of such personally identifiable information restricting its use to authorized personnel and purposes. Disclosure of such “Restricted-Use Data” is permitted only under strict control in accordance with federal and state laws and regulations and VDOE policy.

On behalf of the VDOE, the Contractor shall conduct analysis that can only be accomplished using “Restricted-Use Data” and shall comply with VDOE security requirements set out below for the handling of “Restricted-Use Data”.

The VDOE shall provide to the Contractor a read-only file containing personally identifiable information as specified below:

The Contractor shall comply with the terms of this Agreement. Any data provided by the VDOE shall remain the property of VDOE.

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Information Subject to this Agreement:

All data files containing personally identifiable information provided by the VDOE or on behalf of the VDOE to the Contractor are subject to this Agreement. All information derived from those data, and data resulting from merges, matches, or other uses of the data with other data are subject to this Agreement and are referred to in this Agreement as "Restricted-Use Data".

Violations of this Agreement shall require the immediate return to VDOE or written verification of destruction of all restricted-use data. In addition, the Contractor will be barred from access to restricted-use data for five years from the date of the violation pursuant to relevant provisions of federal law. Should a violation occur, then the Contractor may be subject to provisions in Contract No. _____ related to debarment and/or findings of non-responsibility under Title 2.2-4359, *Code of Virginia* for any other contracts with the Department and/or the Commonwealth.

Uses of the Data:

The Contractor shall only use the restricted-use data in a manner and for a purpose consistent with the statistical purpose for which the data were supplied pursuant to the proposed research/analysis project described in Section A. A description of the proposed research/analysis project is attached and made a part of this Agreement.

Individuals Who May Have Access to Restricted Data:

Only individuals employed by the Contractor who have an approved Affidavit of Non-disclosure (Section C) shall have access to the restricted-use data. A list of the names, titles and authorization status of each of those individuals shall be made part of the security plan (Section A).

Limitations on Disclosure:

1. The Contractor shall not disclose the restricted-use data to any organization or to any persons other than those included in the security plan for which affidavits of non-disclosure have been completed.
2. The Contractor shall not make any publication or disclosure of restricted-use data provided under this agreement even if the individual identifiers have been removed.
3. Unless otherwise agreed to in Contract No. _____ all copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the Commonwealth of Virginia. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the Commonwealth to evidence the Commonwealth's sole ownership of specifically identified intellectual property created or developed in the performance of the contract. The Contractor shall provide to VDOE all results analysis or other information developed using restricted-use data made available under this Agreement only in summary or statistical form so that the identity of individuals contained in the restricted-use data is not revealed. The VDOE shall make such reports available to the public in accordance with state public records laws. The Contractor shall provide VDOE with all published reports using findings from data provided through this Agreement in a form specified by the VDOE.

Administrative Requirements:

1. The Contractor shall provide a copy of this Agreement, together with the attached security plan to each employee of the Contractor who will have access to restricted-use data and shall require each of those employees to execute an Affidavit of Non-disclosure.

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2. The Contractor shall ensure that each individual who executes an Affidavit of Non-disclosure reads and understands the materials provided to her or him before executing the Affidavit.
3. The Contractor shall not permit any individual specified in the security plan to have access to restricted-use data until items one and two of this subsection are fulfilled for that individual.
4. The Contractor shall promptly, after the execution of each affidavit, send the original affidavit to the designated VDOE representative keeping a copy as part of its security procedures.
5. The Contractor shall promptly notify the VDOE when an individual who has been authorized to have access to restricted-use data is no longer authorized to have access to those data.
6. The Contractor shall notify the VDOE immediately upon receipt of any legal, or other demand for disclosure of restricted-use data.
7. The Contractor shall notify the VDOE immediately upon discovering any breach or suspected breach of this agreement, including breach of security or any disclosure of restricted-use data to unauthorized parties or agencies and provide the names of any individuals involved.
8. The Contractor shall permit representatives of the VDOE to make unannounced and unscheduled inspections of the Contractor's facilities to evaluate compliance with the terms of this agreement.
9. The Contractor shall maintain personnel policies that subject employees to disciplinary action, including termination for actions that violate the employee's Affidavit of Non-Disclosure, or cause a violation of this Restricted Data Use Agreement.

Security Requirements:

Maintenance of, and Access to, Restricted-use Data

1. The Contractor shall retain the original version of the restricted-use data supplied by VDOE at a single, secure location and shall make no copy or extract of the restricted-use data to anyone except those specifically authorized as above.
2. The Contractor shall maintain restricted-use data in a space limited to access by authorized personnel.
3. The Contractor shall transport restricted-use data in a secure manner by authorized personnel.
4. The Contractor shall ensure that access to restricted-use data maintained in computer systems is controlled by password protection. If the workstation is part of a network, access to restricted-use data shall be controlled by login passwords **and** directory authorities.
5. The Contractor shall ensure that restricted-use data maintained in computer systems are not accessible via unauthorized networked computer systems.
6. The Contractor shall maintain all hard copy, personal computers with restricted-use data on hard disks, or other physical products containing personally identifiable information derived from restricted-use data in locked cabinets, file drawers, or other secure locations when not in use.

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- 7. The Contractor shall ensure that all hard copy, tabulations, and reports are edited for any possible disclosures of restricted-use data.

Retention and Disposition of Data

- 1. The Contractor shall return to the VDOE the read only media of restricted-use data provided by the VDOE under this agreement when the statistical analysis that is the subject of this agreement has been completed or this agreement terminates, whichever occurs first.
- 2. At the time that the restricted-use data media is returned to the VDOE the Contractor shall destroy all physical or electronic files containing personally identifiable data.

Compliance with Established Security Procedures

The Contractor shall comply with the Data Protection Plan in Section B and made part of this Agreement.

Processing of this Memorandum of Agreement

- A. This Agreement shall be for the period _____ until _____.
- B. This Agreement may be amended, extended or terminated by mutual written, signed, agreements between the parties.
- C. The VDOE may unilaterally terminate this Agreement for any breach of this Agreement by the Contractor or agents of the Contractor.

Signatures

Each party to this Agreement certify, by his/her signature, that:

- 1. The organization has the authority to undertake the commitments in this Agreement;
- 2. The Principal Project Officer has the authority to bind the organization to the provisions of this Memorandum of Agreement.

On behalf of:

Contractor _____

_____ Date:
Principal Project Officer

The Virginia Department of Education

_____ Date:_____

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Section A: Description of the Proposed Research/Analysis Project

Restricted-use data is provided through a Restricted-Use Data Agreement limiting access only to specific organizations and specific personnel for specific purposes under specific security conditions. This section shall become part of the Agreement and will provide a description of how the restricted-use data will be used.

Organization: _____

Name of the Principal Project Officer:

Description

- I. What is the objective of the research or analysis?

- II. What statistical methods will be used?

- III. Why are personally identifiable records required?

- IV. How many individuals will have access to the restricted-use data and what are their positions?

Section B: Data Protection Plan for Restricted-Use Data

System Identification

Provide a brief description of the computer system and software that will be used to run the restricted-use data. Examples are provided below. A logical system diagram is required for all networked installations. Organizations are encouraged to attach additional documentation of their security policies and procedures.

example – Standalone Computer.

The restricted-use data (CD-ROM format) will be run at the licensed site on a standalone PC (a Pentium system running Windows XP). A modem is attached to the PC, but the software will not be enabled when the restricted-use data is on the machine. The restricted-use data is removed from the system each day after use and any residual data are purged by write-over software.

example – Standalone LAN.

The LAN consists of a NetWare operating system, running on a Pentium server. The system supports four workstations and a printer. There is no external connectivity to this system. SAS software is used to analyze the restricted-use data. There is no other sensitive data on the system.

example – Safe Workgroup within a LAN.

The LAN/WAN consists of NetWare running on a super-server with six additional servers--one communications server, one database server (for restricted-use data), and four print servers. The system supports 200 users within the VDOE. The restricted-use SAFE

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WORKGROUP is physically and logically configured to meet all requirements cited in the Security Procedures. Additionally, the SAFE WORK GROUP dedicated server is configured to run “packet signature”, a digital signature feature that prevents packet forgery.

Section C: AFFIDAVIT OF NON-DISCLOSURE

Name: _____

Date: _____

Organization: _____

Job Title: _____

I, _____, do solemnly swear that when given access to Virginia Department of Education Restricted-Use Data, I shall not

Use any individually personally identifiable information furnished, acquired, retrieved or assembled for any purpose other than the statistical project specified in the attached Restricted-Use Data Agreement, which I have read and understand.

Make any disclosure or publication whereby any individual could be identified or the data furnished or related to any particular person.

Permit anyone to examine individual records or files other than the individuals authorized in the Restricted-Use Data Agreement.

Store any restricted-use data on any portable electronic computing device or other electronically retrievable sources.

I understand that a violation of these terms may subject my employer to liability for breach of contract and may subject me to disciplinary action by my employer. Furthermore, I understand that I may be held personally liable for any violation.

[signature of affiant]

[printed name of affiant]

[address of affiant, line 1]

[address of affiant, line 2]

Subscribed and sworn to before me, this _____ day of _____ [month], 20____.

[Notary Seal:]

[signature of Notary]

[printed name of Notary]

NOTARY PUBLIC: My commission expires: _____, 20____.