

## **EXECUTIVE ORDER 97-01**

### **ACCESS TO GOVERNMENT ELECTRONIC RECORDS FOR COMMERCIAL PURPOSES**

**WHEREAS**, The constant evolution of technology presents a challenge for state agencies responsible for maintaining and releasing public records, especially in light of ever increasing demands for government records in electronic format for a wide range of commercial purposes; and

**WHEREAS**, Commercial use of personally identifiable information contained in electronic public records raises new concerns for individual privacy; and

**WHEREAS**, in recognition of these growing concerns and the unique responsibility of government of balancing individual protection and broad public access, in vetoing House Bills 2604 and 2790 upon the close of the 1996 Legislative Session, I created a joint Executive-Legislative Work Group on Access to Government Electronic Records; and

**WHEREAS**, I called on the Work Group to examine current practices and policies with a view toward bringing consistency to the circumstances under which the state releases government records for commercial or business purposes; and

**WHEREAS**, the Work Group held a series of public meetings to consider, discuss, and take public testimony on a number of issues related to commercial access to government records; and

**WHEREAS**, on December 9th, 1996, the Work Group presented its final report of findings and recommendations, including asking that the Governor issue an executive order instructing state agencies to adhere to a model contract for the release of information for commercial purposes; and

**WHEREAS**, the use of a contract in such instances serves to advance the legitimate use of government-held information for the benefit of the state and the public while protecting personally identifying information and other data from inappropriate or unwarranted dissemination or intrusion; and

**WHEREAS**, the use of such contracts in no way hampers or complicates access by the public or media to public records otherwise available for inspection and disclosure.

**NOW THEREFORE, I**, Mike Lowry, by virtue of the power vested in me as Governor of the State of Washington, hereby order and direct:

1. All state agencies, unless otherwise directed, specified or prohibited by 42.17 RCW or other state statutes, shall allow otherwise appropriate access to public records for commercial purposes only through means of a contractual agreement between the agency and the entity requesting such access (Contractor).

2. Such agreements for access to public records for commercial purposes shall require, at a minimum, the following limitations provided herein as a general. guide to be specifically crafted by each agency as necessary and appropriate for individual legal and contractual requirements:

A. The Contractor shall use the information provided by the Agency only in connection with the use for which the information was initially sought by the Contractor and approved by the Agency;

B. The Contractor agrees to protect the confidentiality of the information to which access has been provided under the agreement;

C. The Contractor, or any employee or agent of the Contractor, shall not furnish in any form, to any person, corporation, partnership, association, or organization, a copy of any information, in whole or in part, provided by the Agency, without the express written consent of the Agency for the specific provision of the information for a specific purpose;

D. The Contractor shall adhere to any current or subsequently amended statutory or administrative rules regulating privacy or confidentiality relating to the information provided by the agency;

E. Any exceptions, revisions or waivers to these limitations requested by the Contractor must be approved in writing by the Agency and received by the Contractor prior to the requested use or of the information which is otherwise limited;

F. No name or address of any individual furnished by the Agency to the Contractor shall be published or otherwise disclosed by the Contractor in any manner not otherwise approved by the Agency;

G. The Contractor, or any officer, employee or agent of the Contractor, shall not furnish in any form, to any person, corporation, partnership, association, or organization, any of the individual name, address, or otherwise identifying information provided by the agency under the agreement for the purpose of making unsolicited commercial contact with the individuals named or otherwise identified, unless specifically approved, in writing, by the agency;

H. The Contractor agrees that the Agency may provide "control" or "salted" data as a portion of provided information as a means to ensure that any personally identifiable information is utilized only for the specific purposes allowed under the terms of the agreement;

I. The Contractor shall not gain any proprietary right to or interest in any information provided by the Agency and shall not assign their interest in the agreement or any portion thereof to any person, corporation, partnership, association, or organization of any kind;

J. The Contractor accepts full responsibility and liability for any violations of the agreement by the Contractor or any officer, employee or agent of the Contractor and any

such violation shall result in immediate termination by the Agency of all information provision to the Contractor or any officer, employee or agent of the Contractor in any form and immediate forfeiture to the Agency of any Agency provided information, in any form, held by the Contractor or any officer, employee or agent of the Contractor; and

K. The Agency reserves additional unrestricted financial remedies, on a per-record basis, for any violation of the agreement by the Contractor or any officer, employee or agent of the Contractor, in addition to any penalty allowed under state law.

3. This Order is meant to be prospective in its application and takes effect immediately.

**IN WITNESS WHEREOF**, I have hereunto  
set my hand and caused the seal of the State  
of Washington to be affixed at Olympia  
this 15th day of January A.D., Nineteen hundred and ninety-seven.

Additional

**By:**

---

MIKE LOWRY  
Governor of Washington

**BY THE GOVERNOR:**  
Secretary of State