

DATA USE AGREEMENT FREQUENTLY ASKED QUESTIONS

Why is DIR publishing this template?

Senate Bill 1877 requires "Each state agency shall develop a data use agreement for use by the agency that meets the particular needs of the agency and is consistent with rules adopted by the department [of information resources] that relate to information security standards for state agencies."

The Texas Department of Information Resources, as the primary author of Texas Administrative Code, Chapter 202 and home of the state's Chief Information Security Officer, is the appropriate party to draft a sample data use agreement that can be used by agencies to comply with SB 1877.

What is the benefit of using the DIR template?

For agencies that have not required employees to sign a data use agreement in the past, this template serves as a starting point. For agencies that would like to verify they are including the minimum requirements for a data use agreement, this template serves as an example.

Is this the only "approved" data use agreement?

No. The legislature understood that there would be "particular needs" of each agency. Thus the template presented is merely a starting point. There will be agencies with specific, regulated data types that will need to expand this template to cover individuals who handle other data.

What type of data is "sensitive"?

Confidential and sensitive information includes identifying information, federal tax information, personal health information, criminal justice information, or any information that is classified as confidential or sensitive by federal or state law, by agency policy, or is defined as "Personal Identifying Information" under Texas Business and Commerce Code §521.002(a)(1) or "Sensitive Personal Information" as defined by Texas Business and Commerce Code §521.002(a)(2).

Agencies may have other types of data not addressed by this template (HIPAA, CJIS, IRS, etc.) and should review what notice and acknowledgement is required for those who handle regulated data.

How does an employee of an agency know what "sensitive" data is?

The legislature contemplated this concern in the bill and included language that "[t]o the extent possible, a state agency shall provide employees described by Subsection (c) with cybersecurity awareness training..." Thus, each agency should ensure that employees know the types of sensitive data they could encounter in the agency.

Who should sign this agreement?

The bill only requires employees of the agency who handle confidential information to sign the agreement, but it may be prudent to also have contractor and vendor staff who will handle sensitive data sign the agreement. Additionally, some agencies may wish to have all employees sign, not just those handling confidential information