

FacIT Information Confidentiality Policy

August 25, 2011

The California Department of Resources Recycling and Recovery (CalRecycle) and any project contractors and subcontractors (Contractors) representing CalRecycle are committed to ensuring that information identified as confidential by CalRecycle received from public or private waste management and recycling firms and agencies (individually and collectively referred to as "Company" and "Companies") is managed appropriately and not publicly released.

Towards this end, CalRecycle and any Contractors will abide by the following policies.

1. Clearly Identify Confidential Information

Companies or their Facility Operator agents providing information for the FacIT facility and activity inventory database or other FacIT tools will be clearly informed of which requested information will be treated as confidential and which may be released to the public.

2. No Public Release of Confidential Information

No information specifically identified by CalRecycle as confidential will be publicly released on a company or facility-specific basis, with the exception of information that is already public as described under "Exceptions" below.

- Confidential company or facility-specific data may be reported to the public as an aggregated number (e.g., as totals or averages across multiple facilities).
- Data may also be aggregated at a geographic level and with a number and size of facilities sufficient to ensure that the reader cannot reasonably infer sensitive data regarding a particular company or facility. Special attention will be given to safeguarding confidential data associated with large facilities whose data may be readily discernable if aggregated only with small facilities in a given region.
- Specific data on individual facilities may also be reported as being within a broad data range, size class, or as being the average of a broad range where the reported number does not infer to the public the exact company or facility performance.

3. Limited Access to Confidential Information

Facility operators will be given an opportunity to view and edit their information by logging on with a unique password to a secure CalRecycle website server. CalRecycle staff and any Contractor staff access to sensitive data/information will be password protected and access will be limited to only the technical staff maintaining the FacIT database.

4. Confidentiality Provisions in Contracts

CalRecycle's contracts with any Contractors working with FacIT data (which will be incorporated by reference in all subcontract agreements) will include the following clause (as part of Exhibit D, Special Terms and Conditions).

"Confidentiality/Public Records: The Contractor and CalRecycle understand that each party may come into possession of information and/or data, which is deemed confidential or proprietary by CalRecycle and disclosed as such to the person or organization furnishing the information or data. Such information or data may be subject

to disclosure under the California Public Records Act, commencing with GC § 6250, or the PCC. CalRecycle and the Contractor agree not to disclose such information or data furnished by the by the person or organization and to maintain such information or data as confidential only to the extent that such information or data is exempt from disclosure under the California Public Records Act and the PCC.”

Further, subcontractors will also be required to sign subcontracts that include the following clause:

“Confidentiality and Proprietary Information: Subconsultant shall keep confidential all information it obtains in connection with the services to be provided under this Agreement and will not disclose any of it without the written consent of the Contractor unless the information is otherwise generally available to the public.

5. Exceptions

CalRecycle and the Contractor or its subcontractors will not be prohibited from disclosing any information which:

- Is not considered confidential under the terms of the California Public Records Act;
- Is or becomes generally available to the public other than as a result of a disclosure by the Company through the FacIT project;
- Was already in CalRecycle’s or the Contractor’s possession before any disclosure of the information by the Company;
- Has been or is obtained by CalRecycle or its Contractor from a third party (other than one acting on behalf of the Company) who CalRecycle or the Contractor has no reason to believe is not lawfully in possession of the information and who CalRecycle or the Contractor has no reason to believe is in violation of any contractual, legal or fiduciary obligation to the Company with respect to the information;
- Is required to be disclosed by a subpoena or other directive of a court, administrative agency, quasi-judicial body or arbitration panel; or
- Is independently developed by CalRecycle or the Contractor.