

Data Transfer and Use Agreements (DTUAs)

Guidance for Researchers at the University of Illinois at Urbana-Champaign

Purpose of Guidance

This guidance was created to introduce Data Transfer and Use Agreements (DTUAs) and help researchers understand the process on the Urbana-Champaign campus. This document contains basic information about DTUAs and an associated assessment form.

A DTUA is used in “both directions” where ‘outgoing’ is when a UIUC Investigator wants to share data with an outside party and ‘incoming’ is when a UIUC Investigator wants to receive data from an outside party.

About Data Transfer and Use Agreements (DTUAs)

What

DTUAs are contractual documents used for the transfer of data [1] that are not public. Data that are, or can be, made publicly available without restriction do not need a DTUA. DTUAs define the terms and conditions of the transfer, such as limitations on use of the data, obligations to safeguard the data, time limits, liability for harm arising from the use of the data, publication, and privacy rights.

Why

Per the [University's General Rules](#), research data are owned by the University of Illinois. This means that the University has the right and obligation to ensure that data are shared in ways consistent with the best interests of the organization and State of Illinois. DTUAs are used for data sharing because they define clear requirements and expectations.

Who

Investigators initiate the DTUA process by contacting the Office of Technology Management (OTM) or Sponsored Programs Administration (SPA). As formal contractual agreements, all DTUAs must be signed on behalf of The Board of Trustees of the University of Illinois by the Comptroller and cannot be signed by an Investigator.

Where

Incoming and Outgoing DTUAs are handled by different units:

- For Outgoing DTUAs, the Investigator contacts OTM at otm@illinois.edu.

- For Incoming DTUAs, the Investigator or Unit Business Office Staff completes the [“Software License or Data Use Agreement” eForm](#) on the [SPA website](#).

If, for any reason, the DTUA should be handled by another office, either OTM or SPA will route the request appropriately. For example, purchasing data goes through [OBFS Purchasing Department](#) by contacting urbanapurchasing@uillinois.edu.

How

If existing DTUAs documents are not available, both OTM and SPA use the [Federal Demonstration Partnership \(FDP\) Data Stewardship](#) resources in the creation of DTUAs. The process for initiation is:

- For Outgoing DTUAs, once OTM receives an email initiating the request, a Technology Manager will engage the Investigator to obtain needed information.
- For Incoming DTUAs, once the eForm is submitted, it is logged in and assigned to a SPA negotiator for review. If a DTUA was provided with the eForm request, the negotiator will review the terms and consult with the researcher on any questions or concerns.

When

The timeline for review and execution of a DTUA is dependent on the complexity and number of cycles needed to agree on terms with the other party. Therefore, Investigators are strongly encouraged to initiate the process **as early as possible**. Complete the Assessment Form to begin.

[1] Research data is "the recorded factual material commonly accepted in the scientific community as necessary to validate research findings" (US Office of Management and Budget [Circular 110](#)). For definitions of specific terms, such as “personal data,” see the [FDP’s DTUA Glossary](#).

Assessment Form

	Considerations	Yes	No	Unsure
1	<p>If the data are derived from human subjects research, is the associated informed consent form silent about how the data will be shared?</p> <p>⚠ The consent form that subjects signed, or the relevant IRB waiver of consent, dictates data sharing. If nothing was said in the consent form about how the data will be shared, then subjects must be re-consented before sharing the data. Contact irb@illinois.edu to start the process to amend the protocol before continuing.</p>			
2	<p>If the data are derived from human subjects research, are you planning to deviate from the data sharing procedures as described in the associated currently approved IRB protocol?</p> <p>⚠ Data sharing is not permitted unless covered by a currently approved protocol. Contact irb@illinois.edu to start the process to amend the protocol before continuing. As above, this may include re-consenting participants if they have not consented to the proposed data sharing.</p>			
3	<p>Do the data contain individual-level protected health information?</p> <p>⚠ In order to qualify as completely de-identified, the data must be completely de-identified within the meaning of the HIPAA “Safe Harbor” regulation and is not disclosed with a code or other means to re-identify the data. There must be no knowledge that the information to be shared could be used alone or in combination with other information to identify an individual, and the data must be stripped of all PHI Identifiers.</p> <p>⚠ If the data contain PHI identifiers (see above) or constitute a Limited Data Set (LDS) within the meaning of HIPAA, contact privacy@illinois.edu to help assess the sensitivity of the data before continuing.</p>			
4	<p>Do the data contain information about a living individual, that is, do they have anything to do with a person, such as their activities, behaviors, descriptions, histories, thoughts, emotions, or anything else tied to a human at all?</p> <p>⚠ If the data may contain potentially sensitive information about</p>			

	<p>people, contact privacy@illinois.edu to help assess the sensitivity of the data before continuing. Start by reviewing the guides and flowcharts at https://cybersecurity.uillinois.edu/data_classification .</p>			
5	<p>Were the data collected pursuant to a sponsored research project with an obligation to restrict data sharing?</p> <p>⚠ The terms and conditions of the grant, contract, agreement, etc. may govern data sharing. In some cases, the terms and conditions may include a restriction on data sharing. Conversely, the sponsor may have imposed the reverse--an obligation to share the data. If a Data Management/Sharing Plan (DMP or DMSP) was submitted, any obligations in that plan must be followed.</p>			
6	<p>Do rules governing access to publicly available databases apply?</p> <p>⚠ For example, if the data were obtained from a publicly available database and/or are subject to online click-through agreements, redistribution may be prohibited or other regulations may apply, such as international export control regulations, etc.</p>			
7	<p>Were the data initially received from, or derived from data received from a third party pursuant to a contract?</p> <p>⚠ The contract may restrict sharing or redistribution or have other terms or conditions relevant to creation of a DTUA.</p>			
8	<p>Will the data be collected, processed, transferred or stored across international borders?</p> <p>⚠ The data may be subject to international privacy laws such as the European Union’s General Data Protection Regulation (GDPR) or China’s Personal Information Protection Law (PIPL), or similar laws may apply. Contact privacy@illinois.edu.</p>			
9	<p>Is there any potential for the data to contribute to an intellectual property claim, or can otherwise be valuable for commercial use?</p> <p>⚠ Data may be valuable for creation of products for societal benefit. Please contact OTM at otm@illinois.edu, if you have received interest from a third party, or otherwise believe your data has commercial potential.</p>			

Next Steps

- If you were directed to reach out to another office in any of the Considerations, please do so before continuing.
- Once you are ready to continue:
 - For Incoming data, if you answered “Yes” or “Unsure” to any of the questions in the assessment, contact SPA as indicated above and include a copy of this assessment and any other relevant documents and a description of the data
 - For Outgoing data, if you answered “Yes” or “Unsure” to any questions in the assessment, contact OTM as indicated above and include a copy of this assessment and any other relevant documents and a description of the data.
- NOTE: even if you answered “No” to all of the questions in the assessment, you may still contact either office to receive a formal review.

Document History

Version	Date	Action	Authors
1	2022-01-24	Document created	Anita Balgopal (OPRS), Patty Jones (Beckman), Heidi Imker (RDS), Jan Novakoski (OVCRI), Phil Reiter (Privacy), Julie Robinson (SPA), Svetlana Vranic-Sowers (OTM)