

Data Use Agreement (DUA) Standard Operating Procedure ESFCOM Office of Research

A Data Use Agreement (DUA) is a contractual document used for the transfer of non-public or restricted use data. A (DUA) is required under the Privacy Rule and must be entered into before there is any use or disclosure of a limited data set to/from an outside institution or party. Below are the necessary steps for completion of a DUA.

1. Identify the correct forms. When a DUA is needed the investigator has two options:
 - a. The partnering institution may have their own required document (e.g., WA DOH).
 - b. WSU Office of Research provides a template DUA that can be used in lieu of the partnering institution not having their own. This template can be found below.
2. Once it has been determined what document will be used, follow these steps:
 - a. Review and complete the document as instructed.
 - b. Submit the draft DUA to the ESFCOM ORR at medicine.grants@wsu.edu for review.
 - c. Once review is complete, the OOR will submit the document to ORSO via Deb Cox (with an email CC to the primary WSU contact) for negotiation and finalization.

IMPORTANT NOTES

- It is possible that the external institution will need a DUA AND WSU will want our DUA used in addition. It is critical to be in close contact with the sponsor or other agency with whom the DUA will include.
- Remember to determine whether IRB approval is needed and submit your application either prior to or in parallel with the DUA in order not to delay your research program.
- Please ensure you are reporting and using the proper data storage.

Frequently Required Information

Business Official

Dan Nordquist
Lighty Student Services Building, Room 280
PO Box 641060
Pullman, WA 99164
509-335-9661
orso@wsu.edu

IT Officer and/or Privacy Officer

Tom Ambrosi
Information Technology Services, Room 1059
PO Box 641222
Pullman WA 99164
509-335-1642
tambrosi@wsu.edu

ORSO #:

Data Transfer and Use Agreement ("Agreement") Washington State University	
Provider:	Recipient:
Provider Contact Name: Email:	Recipient Contact Name: Email:
Agreement Term" Start Date:"	Project Title:
End Date: after the Start Date"	Attachment 2 Type:"

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- 1) Provider shall provide the data set described in Attachment 1 (the "Data") to Recipient for the research purpose set forth in Attachment 1 (the "Project"). Provider shall retain ownership of any rights it may have in the Data, and Recipient does not obtain any rights in the Data other than as set forth herein.
- 2) If applicable, reimbursement of any costs associated with the preparation, compilation, and transfer of the Data to the Recipient will be addressed in Attachment 1.
- 3) Recipient shall not use the Data except as authorized under this Agreement. The Data will be used solely to conduct the Project and solely by Recipient Scientist and Recipient's faculty, employees, fellows, students, and agents ("Recipient Personnel") and Collaborator Personnel (as defined in Attachment 3) that have a need to use, or provide a service in respect of, the Data in connection with the Project and whose obligations of use are consistent with the terms of this Agreement (collectively, "Authorized Persons").
- 4) Except as authorized under this Agreement or otherwise required by law, Recipient agrees to retain control over the Data and shall not disclose, release, sell, rent, lease, loan, or otherwise grant access to the Data to any third party, except Authorized Persons, without the prior written consent of Provider. Recipient agrees to establish appropriate administrative, technical, and physical safeguards to prevent unauthorized use of or access to the Data and comply with any other special requirements relating to safeguarding of the Data as may be set forth in Attachment 2.
- 5) Recipient agrees to use the Data in compliance with all applicable laws, rules, and regulations, as well as all professional standards applicable to such research.
- 6) Recipient is encouraged to make publicly available the results of the Project. Before Recipient submits a paper or abstract for publication or otherwise intends to publicly disclose information about the results of the Project, the Provider will have thirty (30) days from receipt to review proposed manuscripts and ten (10) days from receipt to review proposed abstracts to ensure that the Data is appropriately protected. Provider may request in writing that the proposed publication or other disclosure be delayed for up to thirty (30) additional days as necessary to protect proprietary information.

ORSO #:

- 7) Recipient agrees to recognize the contribution of the Provider as the source of the Data in all written, visual, or oral public disclosures concerning Recipient's research using the Data, as appropriate in accordance with scholarly standards and any specific format that has been indicated in Attachment 1.
- 8) Unless terminated earlier in accordance with this section or extended via a modification in accordance with Section 13, this Agreement shall expire as of the End Date set forth above. Either party may terminate this Agreement with thirty (30) days written notice to the other party's Authorized Official as set forth below. Upon expiration or early termination of this Agreement, Recipient shall follow the disposition instructions provided in Attachment 1, provided, however, that Recipient may retain one (1) copy of the Data to the extent necessary to comply with the records retention requirements under any law, and for the purposes of research integrity and verification.
- 9) Except as provided below or prohibited by law, any Data delivered pursuant to this Agreement is understood to be provided "AS IS." PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE DATA WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Notwithstanding, Provider, to the best of its knowledge and belief, has the right and authority to provide the Data to Recipient for use in the Project.
- 10) Except to the extent prohibited by law, the Recipient assumes all liability for damages which may arise from its use, storage, disclosure, or disposal of the Data. The Provider will not be liable to the Recipient for any loss, claim, or demand made by the Recipient, or made against the Recipient by any other party, due to or arising from the use of the Data by the Recipient, except to the extent permitted by law when caused by the gross negligence or willful misconduct of the Provider. No indemnification for any loss, claim, damage, or liability is intended or provided by either party under this Agreement.
- 11) Neither party shall use the other party's name, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of that party. The parties agree that each party may disclose factual information regarding the existence and purpose of the relationship that is the subject of this Agreement for other purposes without written permission from the other party provided that any such statement shall accurately and appropriately describe the relationship of the parties and shall not in any manner imply endorsement by the other party whose name is being used.
- 12) WSU agrees to securely protect any data that is confidential, and any information which identifies an individual, including but not limited to name, date of birth, social security number, and court case number, by maintaining the data in a physically secure location when not in use and by using computer passwords and encryption, physical locks and restricting access solely to the principal investigators, and those other persons necessary to conduct the work. Recipient shall exercise due care to protect the data from unauthorized physical and electronic access. Due care includes establishing and maintaining security policies, standards and procedures which detail access security, premise security, and sanctions or unauthorized use or disclosure of data. Recipient shall notify provider as soon as practicable after becoming aware of any unauthorized access, use or disclosure.

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13) Unless otherwise specified, this Agreement and the below listed Attachments embody the entire understanding between Provider and Recipient regarding the transfer of the Data to Recipient for the Project:

- I. Attachment 1: Project Specific Information
- II. Attachment 2: Personally Identifiable Information (insert one: <http://thefdp.org/default/committees/research-compliance/data-stewardship/>)
- III. Attachment 3: Identification of Permitted Collaborators (if any)
- IV. Confidentiality/Safeguarding Information

14) No modification or waiver of this Agreement shall be valid unless in writing and executed by duly authorized representatives of both parties.

15) The undersigned Authorized Officials of Provider and Recipient expressly represent and affirm that the contents of any statements made herein are truthful and accurate and that they are duly authorized to sign this Agreement on behalf of their institution.

By an Authorized Official of

By an Authorized Official of Recipient:"

Entity:

Washington State University

Name: _____

Name: _____

Title: _____

Title: _____

Contact Information for Formal Notices: _____
Date

Contact Information for Formal Notices: _____
Date

Address:"

Address:

Email:"

Email:"

Phone:"

Phone:"

"

ORSO #:

Attachment 1 Data Transfer and Use Agreement Project Specific Information

1. Description of Data:

2. Description of Project:

3. Provider Support and Data Transmission:

Provider shall transmit the Data to Recipient: (select one) electronically or by mail to:

Name:	
Address:	
Email:	
Phone:	

Agreement ID:

Upon execution of this Agreement, Provider shall send any specific instructions necessary to complete the transfer of the Data to the contact person listed above, if not already included below in this section of Attachment 1.

4. Reimbursement of Costs:

None

As governed by a separate written agreement between the parties
Reimbursement Agreement Reference # (if required):

As set forth herein:

5. Disposition Requirements upon the termination or expiration of the Agreement:

Agreement ID:

Attachment 2
Data Transfer and Use Agreement
Identification of Permitted Collaborators (if any)

For all purposes of this Agreement, the definition of "Collaborator Personnel" checked below will pertain:

"Collaborator Personnel" means: None. No collaborators are permitted on the Project.

-OR-

"Collaborator Personnel" means as set forth below and agreed upon between the Parties: