

Record Sharing



**Utah Office of
Data Privacy**

VIRTUAL WORKSHOP

*The information in this presentation is provided as a resource to assist governmental entities and **does not constitute legal advice**. Governmental entities should consult with their legal counsel regarding this information.*

LEARNING OBJECTIVES



01

Identify your duties in code

02

Execute lawful record sharing w/
Governmental entities

03

Comply with GDPR restrictions and
reporting

04

Differentiate between DSAs and
MOUs

05

Manage Contractor and Vendor
compliance

GRAMA Definition

A **record** includes any documentary material regardless of its physical form or characteristics that is:

- prepared, owned, received, or retained by a governmental entity; and
- reproducible by mechanical or electronic means.



A record includes **electronic data**.



Utah Code 63G-2-103

Sharing with Other Governmental Entities



- The sharing provisions in GRAMA describe when records may be shared with another governmental entity.
- The sharing provisions specify:
 - **what** records can be shared;
 - **why** records may be shared; and
 - **how** records may be shared.

Required Sharing



The sharing provisions in GRAMA also describe when records **must** be shared.

Other state or federal statutes or rules may **authorize** or **limit** the disclosure or sharing of government records.

63G-2-107 & 63G-2-206

GDPA Restrictions

A governmental entity may:

- only **share** personal data if permitted by law; and
- not **sell** personal data unless expressly required by law.



63A-19-401(3).



Reporting Requirements

The annual Privacy Program Report must describe the governmental entity's sharing, selling, and purchasing of personal data.



63A-19-401.3

Notice to Receiving Entity



When sharing a record the originating entity must **notify** the receiving entity of:

- how the records are **classified**;
and
- any **restrictions** on access.

A **receiving entity** is subject to the same restrictions as the **originating entity**.

63G-2-206(5)



Notice to Receiving Entity.

NOTICE FOR SHARING RECORDS TEMPLATE



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Limitations on Disclosure



A receiving entity may not provide a shared record in response to a records request.

The request must be denied and the receiving entity must send the requester back to the originating entity.

63G-2-204(2)

Written Assurances



When sharing certain records the receiving entity must provide written assurance that the:

- records are necessary to the performance of their duties and functions;
- records will be used for a similar purpose; and
- use of the record produces a public benefit.

63G-2-206(2)



VERSION 1.1

WRITTEN ASSURANCE TEMPLATE



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Written Assurances

63G-2-206

DATA SHARING AGREEMENT (DSA)

When sharing electronic records or data the originating entity and receiving entity should enter into a DSA that describes:

- 01 who can access the records
- 02 how the records may be used
- 03 how the records must be secured; and
- 04 the responsibilities of each party



Data Sharing. Agreement

VERSION 1.1

DATA SHARING AGREEMENT TEMPLATE



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A **DSA** relates to sharing records.

VS



A **MOU** relates to the provision of services.

SHARING RECORDS WITH CONTRACTORS



A governmental entity **may share** records with a contractor if the records are:

01 required to perform the contract;

02 only used to perform the contract;

03 not disclosed further; and

04 not used for advertising.

63G-2-206

Who is a Contractor?

Any person who:

- has entered into a contract with a governmental entity; and
- processes personal data on behalf of the governmental entity.

This **includes** a contractor's employees, agents, or subcontractors.

A vendor is a contractor



Requirements for Contractors



A contractor who processes personal data on behalf of a governmental entity **must comply** with the requirements in the GDPA the same as the governmental entity.

- A contract entered into or renewed after 7/1/27 must include these specific terms and conditions.



DATA PRIVACY TERMS AND CONDITIONS TEMPLATE



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Data Privacy Terms and Conditions

Technology Terms and Conditions for State Agencies



ATTACHMENT B: STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS

This is for a contract of information technology products and services and must be accompanied by the State of Utah Standard Terms and Conditions for Goods and Services as Attachment A. In addition to the definitions in this Attachment B, the definitions in Attachment A apply to this attachment. If a term is defined in both Attachment A and Attachment B, the definition in Attachment B will govern. All policies referenced by number in this Attachment B are available at <https://dts.utah.gov/policies>. Other policies are available upon request.



Record and Personal Data Sharing, Selling, or Purchasing



Practice 2.8

Summary

The Governmental Records Access and Management Act (GRAMA) not only describes how government records are classified but also how those records may be disclosed or shared. There are other state and federal laws that may apply to the sharing of government records.

Templates

Data Sharing Agreement - [Download DOCX](#)

Data Privacy Terms & Conditions - [Download DOCX](#)

Authority

[Utah Code § 63A-19-401](#) [§ 63G-2-202](#), [§ 63A-19-401.4](#) [§ 63G-2-206](#)

Legal Basis for Sharing Records with Other Governmental Entities

Utah Code § 63G-2-206(1), (2), and (3) provide three separate legal bases for sharing records with other governmental entities.

Legal Basis for Sharing Records for Research Purposes

Utah Code § 63G-2-202(8) provides requirements and restrictions for disclosing private or controlled records for research. Entities must analyze the governing law for appropriate applicability, as numerous code sections specifically address data disclosure for research.

Give Feedback

Authority

[Utah Code § 63A-19-401](#) [§ 63G-2-206](#), [§ 63A-19-401.4](#) [§ 63G-2-202](#)

Microtraining



Record and Data Sharing or Selling

Practice 14

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Office of Data Privacy

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