

## FDP DTUA Guidance Chart

This chart is designed to provide some guidance on when and how to use the FDP Data Transfer and Use Agreement (DTUA) Template. Remember to also check your institutional policies and procedures, as these may vary based on institution type (i.e. hospital versus university).

I must have a DTUA when...	I may need a DTUA when....	I may not need a stand-alone DTUA when...
<p>Transferring (including receiving) Human Subject data that includes at least one of the 18 HIPAA identifiers and no other agreement governs the transfer and use:</p> <ul style="list-style-type: none"> <li>• Personal Health Information (PHI)</li> <li>• Personally Identifiable Information (PII)</li> <li>• Limited data set (LDS)</li> </ul> <p>HIPAA identifies <b>18 key data points</b> that define the parameters for PHI, PII, LDS or de-identified data sets. Also see the DTUA Glossary for details.</p>	<p>My institution or PI may require a DTUA for transferring non-Human Subject data if no other agreement governs the transfer and use. Provider policy or preference drives requirement to include terms beyond what is strictly required by law, such as:</p> <ul style="list-style-type: none"> <li>• destruction terms; or</li> <li>• other use restrictions</li> </ul>	<p>The practice at my institution does not require a separate DTUA and another agreement exists where the data use terms can be inserted, such as:</p> <ul style="list-style-type: none"> <li>• Subaward;</li> <li>• Material Transfer Agreement;</li> <li>• Confidentiality agreement;</li> <li>• Collaboration Agreements (including unfunded MOUs);</li> <li>• Clinical trial agreement; or</li> <li>• Notice of award</li> </ul>
<b>Use the DTUA with Attachment 2 for with the PII or LDS, as applicable</b>	<b>Use the DTUA with Attachment 1 for non-human subjects data</b>	<b>Incorporate appropriate language</b>
<p>Transferring Human Subject data that is completely de-identified (e.g. contains no HIPAA identifiers) and no other agreement governs the transfer and use.</p> <p>Other data transfers required by applicable law. Please see the DTUA Glossary for a selected list of other data types and applicable laws (such as FERPA).</p>	<p>Provider policy or preference drives requirement to include terms beyond what is strictly required by law, such as:</p> <ul style="list-style-type: none"> <li>• Requirement to notify Provider if the data set erroneously includes identifiable information;</li> <li>• Requirements not to re-identify the data;</li> <li>• destruction terms; or</li> <li>• other use restrictions</li> </ul>	<p>You may need a Business Associate Agreement (BAA) for non-research or procurement activities. BAAs are typically not appropriate for research activities.</p> <p>See the DTUA Glossary for further information.</p>
<b>Use the DTUA with Attachment 2 for with the PII or LDS, as applicable</b>	<b>Use the DTUA with Attachment 2 for de-identified human subjects data</b>	<b>See Resources for further guidance</b>

### Resources

FDP Data Use Glossary, FDP Data Use Guidance and the DTUA Templates are [located here](#).  
If you need an FDP Subaward or contract template, [visit here](#).