

Data Use Agreement (DUA)

Summary Description:

A Data Use Agreement (DUA) is a legal binding agreement between CMS and an external entity (e.g., contractor, private industry, academic institution, other Federal government agency, or state agency), when an external entity requests the use of CMS personal identifiable data that is covered by the Privacy Act of 1974. The agreement delineates the confidentiality requirements of the Privacy Act, security safeguards, and CMS' data use policies and procedures. The DUA serves as both a means of informing data users of these requirements and a means of obtaining their agreement to abide by these requirements. Additionally, the DUA serves as a control mechanism through which CMS can track the location of its data and the reason for the release of the data. A DUA requires that a [System of Records \(SOR\)](#) be in effect, which allows for the disclosure of the data being used.

Status:

Conditionally Mandatory - All funded IT projects must prepare a Data Use Agreement (DUA) when a contractor(s) will be utilized to develop a system and will be required to access personal identifiable information for the purposes of developing the system. A DUA must also be prepared when an external entity (such as a CMS contractor, private industry, academic institution, other Federal government agency, or state agency) requests the use of CMS personal identifiable data from a system after it has been fully developed and is operating in the production environment. Before a DUA can be authorized, a [System of Records \(SOR\)](#) that allows for the disclosure of the data that will be used, must have already been established and published in the *Federal Register*.

Timeframe:

A Data Use Agreement (DUA) must be initiated and completed when a contractor(s) will be utilized to develop a system and will require access to personal identifiable information covered by the Privacy Act of 1974 for the purposes of developing the system. A DUA must also be initiated and completed when an external entity (such as a CMS contractor, private industry, academic institution, other Federal government agency, or state agency) requests the use of CMS personal identifiable data from the system after it has become fully operational in the production environment.

Responsible Reviewing Component:

[OIS/EDG/DPCDD](#) is the CMS component that has functional responsibility to control guidelines and policies for the language in the Data Use Agreement (DUA) and coordinates the requests for release of personal identifiable data.

Primary Information Exchange Partners:

The following are the primary stakeholders who have an interest in the Data Use Agreement (DUA):

[Project Owner/Manager](#)
[System Owner/Manager](#)

Contractors and other external CMS users of personally identifiable data (e.g., private industry, academic institutions, other Federal government agencies, state agencies).

Government Responsibilities:

The [Project Owner/Manager](#) has primary responsibility for securing signature approval of a Data Use Agreement (DUA) from the contractor(s) who will require access to personal identifiable information for the purposes of developing a system. The [System Owner/Manager](#) has primary responsibility for ensuring that a corresponding [System of Records \(SOR\)](#) has been established and published in the Federal Register to allow for the disclosure of the data.

Contractor Responsibilities:

All external entities (e.g., contractors, private organizations, academic institutions, other Federal government agencies, or state agencies) requesting the use of CMS personal identifiable data that is covered by the Privacy Act of 1974 must sign a Data Use Agreement (DUA) and adhere to CMS' data use policies, procedures, and security safeguards, in addition to the confidentiality requirements of the Privacy Act.

Content:

For an electronic copy of the instructions and template for preparing a Data Use Agreement (DUA), see [Data Use Agreement \(DUA\) Template \(PDF - 46KB\)](#).

Guidance:

For additional guidance in the preparation, formal review, and clearance of a Data Use Agreement (DUA), contact [OIS/EDG/DPCDD](#).

Review Process:

OIS/EDG/DDLD reviews the prepared Data Use Agreement (DUA) prior to signature by the external entity to ensure that the DUA will satisfy CMS' requirements and that a System of Records (SOR) has already been established and published in the *Federal Register* to allow for the disclosure of the data.

Date Created/Modified:

March 2002/October 2004