

General Data Protection Regulation (GDPR) Checklist for Reviewers

Purpose: The purpose of this Checklist is to function as a reference document to aid in determining whether a Researcher has provided the required information pertaining to their requested transfer of Personal Data.

Instructions: You, as the negotiator reviewing the DUA, based on the below datapoints, should determine whether the appropriate responses have been recorded in the SmartForm. If not, please take steps to ensure such information is added.

The DUA may not be approved until this information has been recorded in the Agreements Application.

1. **Question: Will the Personal Data solely be used for research purposes (classroom, scientific, historical, etc.)?**

In the SmartForm: Response should be on Page 1, Agreement Upload, Question 7

2. **Question: What is the scale and regularity of the Personal Data transfer? For example, will there be more than one transfer, or is it a one-time event? How many datasets will be transferred?**

In the SmartForm: Response should be on Page 3, DSP Agreement Information, Question 1

3. **Question: Will any Special Categories of Personal Data be exchanged?**

Special Categories of Personal Data: Health (mental or physical), sex life or sexual orientation, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric, or *criminal activities (*treated similar to Special Categories)

In the SmartForm: Response should be on Page 3, DSP Agreement Information, Question 1

4. **Question: Will any parties other than the Provider and Harvard have access to the Personal Data exchanged under this DUA (either before Harvard receives the data, or afterwards – includes collaborators, vendors, subrecipients, etc.)?**

In the SmartForm: Response should be on Page 4, DSP Additional Information, Question 2

5. **Question: What is your anticipated Period of Performance? Please provide a month and year for either full Anonymization of the Personal Data (destroying all identifiers and links to any individuals), or complete destruction of the Personal Data.**

In the SmartForm: Response should be on Page 4, DSP Additional Information, Question 3

Local laws pertaining to public authorities' access to underlying data:

The University understands that pursuant to the July 16 Schrems II decision of the European Court of Justice, we are required to take account of laws that may prevent Harvard from complying with our obligations under the Standard Contractual Clauses referenced in Article 46 of the General Data Protection Regulation (GDPR). In regard to the protections afforded under U.S. law, the below white paper prepared by the U.S. Department of Commerce answers a number of questions pertaining to the state of U.S. law as it relates to GDPR. More generally, we understand the Schrems II Court to be principally concerned with requests by U.S. agencies for bulk surveillance data from U.S. companies such as Google or Facebook, and not with research datasets held by universities.

Information on U.S. Privacy Safeguards Relevant to SCCs and Other EU Legal Bases for EU-U.S. Data Transfers after Schrems II:
<https://www.privacyshield.gov/servlet/servlet.FileDownload?file=015t0000000kyhX>