

Frequently Asked Questions (FAQ) for Contracts NIH Policy for Data Management and Sharing (DMS) - NOT-OD-21-013

This communication serves to inform you of upcoming changes to solicitation and contract requirements for the management and sharing of research data, as described in the [Final NIH Policy for Data Management and Sharing, NOT-OD-21-013](#), which was released on October 29, 2020, with an effective date of January 25, 2023. Currently, NIH Data Sharing requirements are identified in DGS and reflect the 2003 NIH Final Statement on Sharing Research Data, NOT-OD-083-032. New articles have been developed for NIH Policy for Data Management and Sharing, NOT-OD-21-013.

1. Q: What is the effective date of the DMS Policy (NOT-OD-21-013) for contracts?

R: The effective date of the DMS Policy (NOT-OD-21-013) applies to proposals submitted on or after January 25, 2023.

For contract implementation, the NIH Document Generation System (DGS) language regarding the policy shall be included in all solicitations released as of July 5, 2022 with an original proposal receipt date of January 25, 2023 or after. The Policy will not apply to *solicitation amendments* that result in proposal receipt extensions resulting in proposal submission to NIH on or after January 25, 2023 or beyond.

The NIH Data Sharing Policy NOT-OD-03-032, dated February 26, 2003, will remain applicable to proposals received and contracts awarded prior to January 25, 2023, and contracts resulting from those proposals.

Contracting officers should ensure the DGS language for either NOT-OD-21-013 or NOT-OD-03-032 as applicable.

2. Q: When should DMS Plans be submitted and deemed acceptable for a contract?

R: The DMS Plan must be submitted with the proposal provided by the offeror. In contrast to the Data Sharing Policy NOT-OD-03-032, the DMS Plan must be deemed acceptable *prior* to contract award.

3. Q: How should the evaluation of the DMS Plan be accomplished, prior to contract award?

R: The evaluation of DMS Plans will be conducted by the Contracting Officer Representative (COR) with input from other NIH subject matter experts, as part of the proposal evaluation process. Anyone reviewing the proposal must sign the nondisclosure agreement in advance of proposal access.

4. Q: How would a post award revision to a DMS Plan be handled?

R: In accordance with the COR's technical monitoring responsibilities, the COR would evaluate the post-award revision, in order to determine whether it is still considered acceptable.

5. Q: If the offeror has questions prior to contract award, who should they contact?

R: Prior to contract award all questions/comments regarding the solicitation or award, including the DMS Plan, shall be submitted to the Contracting Officer (CO) referenced in the solicitation.

6. Q: When is the data obtained through research projects expected to be shared?

R: Scientific data should be made accessible as soon as possible, and no later than the time of an associated publication or the end of the award period, whichever comes first. The DMS Policy expects scientific data to be shared at the earlier of:

- The time of an associated publication: Scientific data underlying peer-reviewed journal articles should be made accessible no later than the date on which the peer-reviewed article is first made available in print or electronic format.
- The end of the performance period: Scientific data underlying findings not disseminated through peer-reviewed journal articles should be shared as soon as possible and no later than the end of the performance period. These scientific data may underlie unpublished key findings, developments, and conclusions; or findings documented within preprints, conference proceedings, or book chapters. For example, scientific data underlying null and negative findings are important to share even though these key findings are not always published. Researchers should be aware that some preprint servers may require the sharing of data upon preprint posting, and repositories storing data may similarly require public release of data upon preprint posting.

NIH Institutes, Centers and Offices (ICOs), funding opportunity announcements (FOAs), and other NIH policies (e.g., the Genomic Data Sharing Policy) may specify earlier expectations for data sharing timelines, in which case, the data should be made available as required by those expectations. To ensure compliance with the DMS Plan, COs shall include the timeframe for data sharing in all applicable contract deliverables.

7. Q: Is "To Be Determined" an acceptable response to DMS Plan elements for a contract?

R: Offerors may not have all details at proposal development, but they are encouraged to fill out the DMS Plan to the best of their knowledge and ability, so the Plan may be appropriately assessed for acceptability. As indicated in the DMS Policy, offerors will have

opportunities to update their Plans throughout the course of their contract(s), subject to NIH staff approval, as per Section VI, Data Management and Sharing Plans, first paragraph.

8. Q: How will an offeror's history or experience of data sharing or lack thereof be considered for future contracts?

R: The DMS Policy, NOT-OD-21-013 states, "after the end of the funding period, non-compliance with the NIH ICO-approved Plan may be taken into account by NIH for future funding decisions for the recipient institution." Within contracts, enforceability of the DMS Plan does not extend beyond the period of performance of the contract. COs are encouraged to use alternative means of evaluating an offeror's history of data management and sharing outside the performance period of a contract (e.g., DMS questionnaire (data management and sharing history) could be provided to offerors in solicitations and use of Contractor Performance Assessment Reporting System (CPARS) to capture DMS during contract performance).