

What GRAMA says about sharing records

Sharing records refers to a governmental entity providing another governmental entity with access to private, controlled, or protected records. Details about sharing records are found in GRAMA (Utah Code § [63G-2-206](#)). Governmental entities do not make GRAMA requests to each other. Instead, record sharing is governed by the provisions outlined below.

When sharing records is permissible

GRAMA outlines certain governmental entities that are eligible to receive shared records based on their government functions. These entities are:

- a repository or archives which receives records for the purpose of historical preservation, administration, or destruction.
- any entity that litigates or investigates civil, criminal, or administrative law when the record is necessary for an investigation or proceeding.
- an entity that is authorized to conduct an audit.
- the Legislature along with its various committees and staff members when the record relates to Legislative duties (Utah Code § [63G-2-206\(1\)](#)).

GRAMA also outlines certain situations in which governmental entities may share records. These situations include:

- when records are necessary for the performance of the governmental entity's duties and functions.
- when the shared records will be used for a purpose similar to the purpose for which the records were collected or obtained.
- when sharing records produces a public benefit that is equal to or greater than anyone's individual privacy rights (Utah Code § [63G-2-206\(2\)](#)).

When sharing records is mandatory

In all of the above cases, record sharing is permissible, but not mandatory. However, GRAMA identifies some situations in which governmental entities are required to share private, controlled, or protected records with other governmental entities. These situations are:

- when a governmental entity is entitled by law to inspect the records; and
- when a governmental entity is required to inspect the records as a condition for participating in a state or federal program, or for receiving state or federal funding (Utah Code § [63G-2-206\(3\)\(a\)](#)).

Records can be shared with contractors and private providers

A contractor is a person who contracts with a governmental entity to provide goods and services directly to the governmental entity. It can also be a private or nonprofit organization that receives funds from a governmental entity (Utah Code § [63G-2-103\(5\)](#)).

A private provider is a person who contracts with a governmental entity to provide goods and services directly to the public (Utah Code § [63G-2-103\(18\)](#)).

Governmental entities may share protected, private, and controlled records with contractors or private providers when sharing creates a public benefit, and:

- the record is necessary for the performance of the contract;

- the record will only be used for the performance of the contract;
- the recipient agrees not to disclose the record to any other person; and
- the recipient agrees not to use the records for advertising or solicitation purposes (Utah Code § [63G-2-206\(6\)](#)).

Although not required by law, the terms of a contract could require contractors or private providers to return or destroy restricted records as soon as they are no longer needed to fulfill the contract.

Record sharing agreements

GRAMA states that before sharing a private, protected, or controlled record, a governmental entity must inform the recipient of the record's restricted classification (Utah Code § [63G-2-206\(2\)](#)). If the recipient government is a Utah entity, it is governed by GRAMA, which states that the recipient may not share or disclose the received shared record(s).

But, if the recipient entity is the federal government, another state, a foreign government or a contractor or private provider, the sharing entity should obtain a written agreement from the recipient entity that it will not disclose the record(s). An exception is made when another statute, federal regulation, or interstate agreement governs access to the shared record.

Governmental entities may not provide access to records received as a shared record.

GRAMA requires persons who request records to make their request to the governmental entity that prepares, owns, or retains the desired record. (Utah Code § [63G-2-201\(2\)\(a\)](#)).

GRAMA further provides that a governmental entity may not provide access to a record it received under Utah Code § [63G-2-206](#) as a shared record. Instead, the governmental entity shall deny the request and notify the requester of the governmental entity from which the shared record was obtained. (Utah Code § [63G-2-201\(2\)\(b\)](#)).

The Legislature added this restriction to the law in 2019. Adherence to this law is particularly important for governmental entities that are sharing records in common databases. In the shared database environment, custody of information should be delineated, and records officers should provide access or make referrals accordingly.