

# Appendices

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# **Confidentiality Applicable to Administrative Records**

## **Introduction**

The U.S. Census Bureau obtains administrative records from various sources including federal, state, local, and tribal government agencies and non-governmental entities. These data are primarily used in planning, conducting, processing, and developing surveys, censuses, and estimates conducted under the authority of the Census Act, Title 13, United States Code. They also may be used in the course of performing statistical services (including special censuses, surveys, classifications, geocoding, etc.) for other federal, state, local, and tribal governmental agencies, as well for the private sector.

This appendix provides guidance regarding the confidentiality protection applicable to administrative records coming into the Census Bureau's possession. A determination of applicable confidentiality protection is necessary to establish allowable uses and required safeguards that may apply to any particular data set. It should be noted at the outset that this determination can be rather complicated. It will depend upon the nature of the data being provided, the entity providing the records, the authority under which the provider collected the information, the confidentiality restrictions imposed by that authority, the disclosure/use restrictions imposed by the provider, the way the Census Bureau will use the data, and federal statutes, in addition to Title 13, that could impose confidentiality constraints. Accordingly, these guidelines provide a process to be followed in determining whether and the extent to which a particular set of administrative records is afforded confidential treatment.

### General Guidelines For Determining Confidentiality Status

#### **A. Applicability of Title 13 Confidentiality.**

1. If the administrative records are in the public domain (either published by or made available to the public by the provider) then, assuming they are

not commingled with identifiable Title 13 data, no confidentiality protection under Title 13 attaches/applies.

2. If the administrative records are commingled with Title 13 protected data, then Title 13 confidentiality applies to the entire commingled data set.

3. Products prepared for administrative agencies in exchange for the use of the administrative data cannot contain identifiable Title 13 data.

Enhancements to the source data are permitted as long as the enhancements do not compromise the confidentiality of census data. For instance, adding geographic codes to addresses from the administrative data is acceptable.

4. If the administrative records contain data that identify individuals or businesses that are to be used for an authorized Title 13 census or survey “instead of conducting direct inquiries” under Section 6 of Title 13, then Title 13 confidentiality applies upon commencement of such use. (This may consist merely of receipt of the data by the Census Bureau but generally takes effect, at the latest, when the data are used as, or commingled with, identifiable Title 13 data.)

#### B. Other Statutory or Regulatory Protection.

1. Administrative records may be subject to specific confidentiality restrictions in the authorizing legislation of the federal, state, local, or tribal government providing the data.

a) The agency furnishing the records should advise the Census Bureau of applicable confidentiality restrictions, if any, and provide a citation to the source law (statute/ordinance/ regulation), together with a copy of the applicable language.

#### 2. General Federal Statutes:

a) Freedom of Information Act (5 U.S.C. § 552) – this law permits a requester to obtain government documents but exempts from disclosure documents that are: (i) made confidential by statute; (ii) proprietary (trade secrets, commercial or financial) information; and (iii) personnel/medical and similar files, disclosure of which would constitute an unwarranted invasion of personal privacy.

b) Privacy Act (5 U.S.C. § 552a) — this law applies only to data pertaining to individuals (as opposed to businesses) and prohibits disclosure of individual data if it is kept in a “system of records,” (retrievable by name or other symbol/number) and are required by statute to be maintained and

used solely as statistical records.

c) Trade Secrets Act (18 U.S.C. § 1905) — this law prohibits the disclosure of proprietary business information of a particular establishment such as income, profits, losses, etc.

### C. Terms of the Agreement.

The Agreement under which the administrative records are provided to the Census Bureau may contain terms restricting its use of the data. While these terms are binding upon the Census Bureau, they do not and cannot create confidentiality protection by agreement alone. To provide protection against requests for access by third parties, the data must be made confidential by law; otherwise, the data may be vulnerable to a request under the Freedom of Information Act.

1. The Agreement should reference all laws, particularly those addressing confidentiality, that authorize the provider's collection and use of the data. Additional restrictions agreed to by the Census Bureau would be subject to applicable federal law, noted in B.2. above.

## Specific Guidelines for Data Sets Obtained Under an Agreement for Services

### A. Authority to Perform Statistical Services:

The Census Bureau has authority to perform statistical services under Section 8 of Title 13 and Section 1525 of Title 15, United States Code. Both statutes grant broad authority to the Secretary to:

furnish copies of tabulations and other statistical materials that do not disclose the information reported by, or on behalf of, any particular respondent, and may make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area (including political subdivisions thereof) referred to in Section 191(a) of this title, State or local agencies, or other public and private persons and agencies, upon payment of the actual or estimated cost of such work (13 U.S.C. § 8(b)).

The authority granted in Title 15, Section 1525 is virtually identical to that in Title 13, with one exception - Title 13, Section 8 expressly states that work performed under that section is “[S]ubject to the limitations contained in Section 6(c) and 9” of Title 13. Although this language might be read to impose Title 13 confidentiality on any data obtained by the Census Bureau in the course of performing statistical services under Section 8(b), the better reading would be that the limitations of Section 9 do not apply unless Title 13 protected data are involved. Consequently, the Census Bureau could perform statistical services under both Title 13 and Title 15 authority and, so long as no identifiable Title 13 confidential data are used in the process, provide the sponsor with identifiable data as an end product.

Notwithstanding the foregoing interpretation, if identifiable data are to be provided to a sponsor, the perception in the eyes of the public might be that the Census Bureau is breaching confidentiality if the services were performed under Section 8(b) of Title 13. That being the case, it would be best to perform all services involving the return of identifiable data as an end product under Title 15, Section 1525. Thus, the choice of authority under which the Census Bureau performs statistical services is dependent upon whether the project requires the use or development of Title 13 data and the sponsor’s need for identifiable data as an end product – these are mutually exclusive.

### B. Confidentiality of Data Obtained/Produced in Performing Services:

Where the Census Bureau comes into possession of data sets either provided by a sponsor or developed in the course of the project, two broad

issues are presented: (1) “What confidentiality provisions apply while the sponsor’s data are in the hands of the Census Bureau?” and (2) “What kinds of statistical services can be performed for the sponsor without subjecting the end product; i.e., the “Deliverable,” to Title 13 confidentiality?”

#### 1. Confidentiality Applicable to Sponsor’s Data:

a) As discussed earlier, the sponsor’s data coming into possession of the Census Bureau, whether as a data acquisition under Section 6 of Title 13 or part of an agreement for services under either Section 8 of Title 13 or Section 1525 of Title 15, will be subject to the confidentiality constraints imposed at the time of its creation, e.g., the confidentiality provisions of the Internal Revenue Code.

b) Additional limitations on use of the data may be imposed by the terms of the agreement under which the data are provided and the federal statutes referenced in B.2. of the General Guidelines.

#### 2. Confidentiality Applicable to Deliverables:

Whether, and the extent to which, Title 13 confidentiality applies is dependent upon the authority under which and the purpose for which the data are provided to the Census Bureau, the nature of the statistical services performed on the data base, if any, and, if the data are returned to the sponsor, the extent to which the data to be returned are identifiable.

In addressing this issue as it pertains to an agreement for services, there are a few tenets that are immutable –

a. If the sponsor’s data are commingled with Title 13 confidential data, then the entire commingled data set, in its identifiable format, is subject to Title 13 confidentiality.

i. Under such circumstances, only non-identifiable data could be returned to the sponsor.

b. If title 13 confidential data are used to draw the sample for a sponsor’s survey, then the identifiable data produced by the survey are subject to Title 13 confidentiality.

c. If title 13 data are used to revise/enhance the sponsor’s data, then no identifiable data, as revised, can be returned to the sponsor.

d. Where a database is supplied by the sponsor, and no Title 13 data are involved, then no Title 13 confidentiality applies, and identifiable data may

be returned to the sponsor.

- i. Such tasks should be conducted under Title 15, Section 1525.

There may be some instances where the Census Bureau enhances/revises a sponsor's data set by applying statistical/geographic methodologies, which methodologies are derived from Title 13 protected data. The simplest example of this would be geocoding a sponsor's list of establishments using the sponsor's addresses. While the geocoding process was developed using Title 13 protected data, the process itself does not disclose identifiable, Title 13 protected addresses. Were the Bureau, on the other hand, asked to correct the addresses for the sponsor's list of establishments, this would constitute a disclosure of Title 13 protected data. Depending upon the nature of the statistical/geographic process involved, the sponsor's data, as enhanced, could be returned to it in identifiable form. Any agreement involving the use of Title 13 derived processes of this nature, must first be reviewed by the Policy Office and the Legal Office of the Census Bureau.

#### C. Title 13 Confidentiality When Data Provided for a Dual Purpose:

In rare instances, the Census Bureau might receive a data set for a dual purpose – both as a data collection under 13 U.S.C. § 6 and as a base structure for statistical services provided under either 15 U.S.C. 1525 or 13 U.S.C. § 8. In such circumstances, the data would have a dual nature, and the confidentiality attending the data would be determined by the authorities under which the data were obtained and the uses to which put.

1. As used for a Title 13 data collection purpose, the data would be subject to Title 13 confidentiality.
2. The data set, while serving as the base structure for statistical services being worked on under either 15 U.S.C. 1525 or 13 U.S.C. § 8, assuming no Title 13 data are implicated in the services performed, would remain the property of the sponsor, and Title 13 confidentiality would not apply.
  - i. Under the usage described in 2. above, the data set would be protected only under the confidentiality provisions applying at the time of its creation, if any, and the protection provided by the Trade Secrets Act, the Freedom of Information Act, and the Privacy Act.
  - ii. Where data are provided for a dual purpose, Census Bureau personnel should maintain the distinction and assure that the data are treated separately.

#### Making a Determination

The following questions represent decision points for determining what protections apply to administrative records obtained by the Census Bureau:

1. What are the legal (statutory/regulatory) requirements applicable to the agency providing the data? (The Census Bureau generally agrees to comply with the provider's legal restrictions, as well as its own.)
2. What are the terms of the Agreement with the provider as they define the Census Bureau's access to and use of the administrative records? Does the Agreement permit re-release to a third party, or are they to be returned to the provider? (Generally, data cannot be re-released or returned if enhanced with identifiable Title 13 data.)
3. What is the base unit of the file data — person/household, establishment, locator (information that may locate a specific person or business. See Section 8 (Glossary) A for a complete definition of Locator data). (Data on individuals may be covered by the Privacy Act, but establishment (business) data will not. Locator data will generally be public record.)
4. Will the data be used for a Title 13 purpose and in what manner? (The answer to this question may depend upon the kind of data being provided. An address list purchased from a commercial source or obtained from the Postal Service may not be covered by Title 13 until actually commingled with Census Bureau confidential data. IRS data to be used, instead of collecting the same information under Title 13, will automatically be covered by Title 13, as well as the Internal Revenue Code.)

### Resolution

Given the many factors that can enter into a particular determination, it may not be possible for a program area to reach a conclusion. In such cases, any questions about access and use of particular administrative records should be referred to the Policy Office, which will consult with the Legal Office in making a determination.





## **Administrative Records Project Case Studies**

### CASE EXAMPLE #1:

#### ***Process for an Administrative Records Project Using Federal Tax Returns and Return Information Already at the Census Bureau***

Recently, the U.S. Census Bureau's Economic Planning and Coordination Division (EPCD), met with staff at the Bureau of Economic Analysis (BEA), the Bureau of Labor Statistics (BLS), and the Federal Reserve Board to discuss plans for the upcoming quinquennial Economic Census. During the meeting, Steve Hartford, a BEA Division Chief, suggested that the Census Bureau and BEA collaborate on a project to develop a bridge table for the County Business Patterns (CBP) series. The bridge table was necessary because the Census Bureau has recently started presenting the CBP series using the North American Industry Classification System (NAICS) coding structure instead of the Standard Industrial Classification (SIC) coding structure it had previously used.

George Moore, an Assistant Division Chief in EPCD, agreed that this bridge table was essential to the ability of data users to create historical data series on the NAICS basis. George agreed to develop a project and submit it to the Census Bureau ADREC Project Review Team for review and approval. Because the CBP series incorporated the Employer Identification Number (Census File Number (CFN), Business Name, And Business Mailing Address) and other Federal Tax Returns and Return Information, George also noted that the project would be submitted to the Internal Revenue Service (IRS) for formal approval.

George prepared the CPB Bridge Table project and submitted it to the Administrative Records Tracking System (ARTS) for review. The Division Chief in EPCD verified the scientific merit of the project and indicated her approval electronically in ARTS. The Division Chief approval triggered an e-mail to the Project Review Coordinator at the

Center for Economic Studies (CES). After conducting a preliminary scan of the project to ensure that it was complete, the Project Review Coordinator informed the Census Bureau ADREC Project Review Team that the project was ready for review.

The Census Bureau ADREC Project Review Team reviewed the project against the Administrative Records Project Review Criteria. The team approved the project, as it met all of the criteria and could be conducted under the authority of Title 13, Chapter 5. The Project Review Coordinator indicated the team's approval in ARTS.

The Administrative Records Coordinator (one of the Census Bureau's ADREC Project Review Team members) then transmitted the Census Bureau-approved project to the IRS for review. The IRS reviewer later called the Administrative Records Coordinator to request clarification on two issues: (1) the Title 13, Chapter 5, purpose of the project; and (2) the role of the BEA employees and whether they would be producing data for public release. The Administrative Records Coordinator consulted with George (as the Project Contact) to provide the IRS with additional information on the purpose of the project and to confirm that the BEA employees – who would be given Special Sworn Status by the Census Bureau – would be working on the project solely to produce statistical algorithms. In addition, the algorithms would have to pass disclosure review before BEA could remove them from the Census Bureau.

The IRS indicated its approval for the project to the Administrative Records Coordinator. The Administrative Records Coordinator informed the Project Review Coordinator of IRS' approval, who noted the final approval in ARTS.

Since the CBP series also contained data from BLS and the Social Security Administration, EPCD consulted its Memoranda of Understanding with these source agencies to determine that the bridge table project would be an appropriate use of the data. Once it was confirmed that the project could be implemented under these existing agreements, George contacted Steve at BEA and informed him that the Census Bureau was ready to initiate the project.

The BEA employees took an oath as Special Sworn Status individuals and completed the Census Bureau's Title 26 Awareness Training. At that point, they were provided access to the CBP data through CES to develop the bridge tables.

## CASE EXAMPLE #2:

### ***Process for an ADREC Project with Policy Implications and Requiring External Data Acquisition***

While attending a Population Association of America conference last year, Census Bureau Math/Stat Colleen McCracken ran into an old colleague, Sara Joslyn. Sara had once worked at the National Center for Health Statistics (NCHS), at which time she and Colleen had worked together on the American Mortality Research Project (AMRP). The result of the AMRP was a database that had proved useful in studying the effect of socioeconomic status on mortality differentials.

Sara now worked at the National Cancer Institute (NCI), where she researches sites. The sites collected data on cancer patients, including their diagnosis and treatment. NCI had been interested for some time in finding a way to study the socioeconomic implications on cancer care. Sara proposed an idea whereby the Census Bureau would conduct a reimbursable study for NCI to match the research data to the AMRP database.

Colleen was intrigued by this idea, and said she would develop a project proposal for consideration at the Census Bureau. Sara offered to inquire informally at NCI to determine the level of support for this idea, the logistics of making the research data available to the Census Bureau, and what costs would be involved. Colleen encouraged Sara to make these informal inquiries and offered to do the same at the Census Bureau. Colleen also informed Sara that the Census Bureau has a structured process for reviewing administrative record proposals and negotiating for the acquisition of the files. She emphasized that the Census Bureau could not enter into any formal Memorandum of Understanding or data agreement with NCI until the project review process was complete.

Colleen returned to the Census Bureau and drafted a project proposal to match the research data to the AMRP. As the Project Contact, she entered the proposal into the Census Bureau Administrative Records Tracking System (ARTS). Her Division Chief determined that the study had scientific merit and noted his approval electronically in ARTS. The Division Chief approval triggered an e-mail to the Project Review Coordinator at the Center for Economic Studies (CES). After conducting a preliminary scan of the project to ensure that it was complete, the Project Review Coordinator informed the Census Bureau

ADREC Project Review Team that Colleen's project was ready for review.

The Census Bureau ADREC Project Review Team evaluated the project against the review criteria for administrative record projects. The project easily met the criteria for scientific merit and its benefit to the Census Bureau. There were no conflicts of interests; the project did not appear to compromise the Bureau's relationships with other agencies; and it could be conducted under the authority of Title 15 U.S.C. The team did express some concerns, however, with the criteria relating to privacy and disclosure, given the fact that the research database contained individuals' medical records. Because the use of these medical records would set a precedent with implications for future reviews, the team decided to refer this project to the Data Stewardship Executive Policy Committee (Stewardship Committee).

In collaboration with Colleen, the Administrative Records Coordinator (who was a review team member) consulted with the Disclosure Review Board about the proposed product deliverable to NCI, and with the Privacy Policies and Research Committee to apply the Census Bureau Privacy Principles to the project. Based on those discussions, the Administrative Records Coordinator prepared an issues paper and presented it to the Stewardship Committee. After weighing the issues presented, the Stewardship Committee determined that the project should be approved.

The Administrative Records Coordinator informed the Project Review Coordinator at CES that the project now had final approval. The Project Review Coordinator entered the final approval into ARTS. As the Project Contact, Colleen called Sara at NCI and informed her that the project was approved and that the Census Bureau was ready to develop a formal agreement with NCI to acquire the research data. Colleen informed Sara that she would be working with the Planning, Research, and Evaluation Division (PRED) as the office responsible for formally negotiating this data acquisition.

After some negotiation on the specific data items required, timing and the ability to provide a disclosure-proofed deliverable that met NCI's needs, the Census Bureau entered into a Memorandum of Understanding with NCI. NCI transmitted the research data directly to PRED, where it stripped the personal identifiers and replaced each record with a Personal Identification Key (PIK) according to the Census Bureau's Restricted Access Policy for Administrative Records. The

PIK'd data was then released to Colleen as the Project Contact, with a data release memorandum informing her of the appropriate uses for the data. Colleen was then ready to implement the project.



## **Accessing & Using the Administrative Records Tracking System (ARTS)**

### **SUMMARY**

This Appendix provides summary instructions for accessing and using the Administrative Records Tracking System (ARTS). More detailed instructions can be found in the "Help" section once in the system. ARTS can be accessed only through the Census Bureau Intranet, and it is not available through remote dial-up.

ARTS maintains information on Census Bureau administrative records (ADREC) projects described in the introduction. This includes information about the specific ADREC data sets used by Census Bureau projects and the various interagency agreements that allow (or provide for) access to these data sets. ARTS also is designed to track commitments made by the Census Bureau contained in the interagency agreements as well as individual contacts between Census Bureau staff and agencies that provide ADREC data to the Census Bureau.

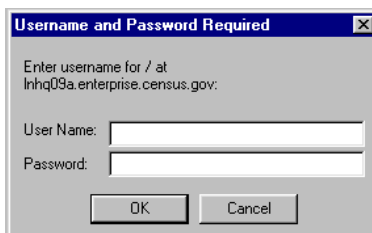
Information regarding agreements, data sets and Census Bureau commitments is updated regularly by staff from the Planning, Research and Evaluation Division (PRED) and the Economic Planning and Coordination Division (EPCD). In addition, PRED, EPCD, and the Policy Office support the preparation of external reports, based on the information documented in ARTS.

## ACCESSING ARTS

To access ARTS, go the following link:  
<http://lnhq09a.enterprise.census.gov/demog/agreeapp.nsf>. ARTS will soon be available via the Policy Office Web site at <http://cww.census.gov/po/index.html> by clicking on the link for “Admin. Records Policy.”

*Note: For issues related to accessing ARTS, including problems associated with login names and passwords, please contact the Demographic Directorate LAN Staff at (301) 457-8400.*

ARTS is name and password protected to allow for identification of unique users and to maintain control of various administrative areas. Once you click on the system link, you will be prompted for your User Name and Password via a pop-up window (below):



For User Name, enter your standard “James Bond” name (e.g., “smith001”). For Password, enter your standard “Intranet” password. This is the same password that is used for remote dial-up to access e-mail. This is different from the *Internet* firewall password.

If you have not set your Intranet password, this can be easily done via Lotus Notes. Contact the Directorate LAN Staff at (301) 457-8400 for a link to a Lotus Notes application that allows each person to set their own password for Intranet programs like ARTS.

## BASIC SYSTEM NAVIGATION AND FUNCTIONS

When you first enter the system, you will be presented with a “view” of the various agreement records in ARTS (see figure below). These documents represent the current and planned interagency agreements that provide the Census Bureau with access to ADREC data.

Menu →

Version 2.0 Beta

U.S. Census Bureau

Administrative Records Tracking System

Search

Create new record

Agreements All Records

Agreements	Activities	Contacts	Special Sworn Status	All	Other Docs
Projects	External Request Letter	Internal Data Requests	My Documents		

Select Category: All (56)

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Agreements by Title 1 - 15 of 56

Title	Source Agency	Tracking No	Status
<a href="#">100% NUMIDENT - YR 2000</a>	Social Security Administration		Active
<a href="#">100% NUMIDENT (1998)</a>	Social Security Administration		Active
<a href="#">1967 Master Agreement</a>	Census/SSA		Active
<a href="#">1994 Addendum to the 1967 MOA</a>	Census/SSA		Active
<a href="#">American Business Information File - 1998</a>	InfoUSA		Active
<a href="#">American Business Information File - 2000 Decennial File</a>	InfoUSA		Active
<a href="#">California Health Services - MEDS</a>	California Department of Health Services (DHS)		Active
<a href="#">California UI</a>	California Employment Development Department		Active
<a href="#">CPS 2001</a>	SSA/CENSUS		Pending
<a href="#">Florida MOU - Agency for Workforce Innovation</a>	Agency for Workforce Innovation/Labor Market Statistics		Pending
<a href="#">Florida MOU (DLES) Ex 6/30/01</a>	Florida Dept of Labor and Employment Statistics		Active
<a href="#">Florida MOU (Education Dept) - FUNWR (1999)</a>	Florida Department of Education		Active
<a href="#">FY2001 MOA for Sustaining Employer (IRS Form SS-4) Coding within SSA</a>	Social Security Administration	61-01-MOA-04	Active
<a href="#">FY2002 MOA for Sustaining Employer (IRS Form SS-4) Coding within SSA</a>	Social Security Administration		Pending
<a href="#">HCFA MEDICARE/MEDICAID (2000)</a>	HCFA	92-00-MOU-01	Active

Record View

Along the top of the screen is a menu that provides access to the other document types in the system. The records in the system can be presented via different views or “sorts.” These sorts are presented via a “pull-down” menu located just below the main menu. The main menu provides access to the other documents in ARTS, each of which contains its own set of views or sorts unique to that type of document.



In the figure below, “Other Docs” is selected from the main menu. Once “Other Docs” is selected, a sub-menu of additional choices is displayed below the main menu. Choices in the sub-menu provide access to other documents in the “Other Docs” category. In the figure below, “Datasets” has been selected from the sub-menu, while “In-House Datasets” has been selected from the pull-down menu.

**U.S. Census Bureau**  
**Administrative Records Tracking System** Version 2.0 Beta

Search [ ] [Search]  
 ☒ Datasets ☐ All Records

**Main Menu** → **Other Docs**  
**Sub Menu** → **Datasets**  
**Pull-Down Menu** → **In-House Datasets (82)**

Dataset	Data Source	FTI
<a href="#">0_CKL-421A buildings list</a>		
<a href="#">421A buildings list</a>		
<a href="#">American Business Information (ABI) - 1998</a>	infoUSA	
<a href="#">American Business Information (ABI) - 2000</a>	infoUSA	
<a href="#">Article 4 buildings list</a>		
<a href="#">Business Register</a>		Yes
<a href="#">Computerized Homes Underwriting Management System (CHUMS)</a>		
<a href="#">Department of Agriculture -- Food Stamps</a>		
<a href="#">Department of Education FAFSA/CAR</a>	US Dept. of ED	No
<a href="#">DHCR rent regulated units file</a>		
<a href="#">Economic Census Files</a>		Yes
<a href="#">Federal Application for Student Aid (FAFSA) CAR</a>		
<a href="#">Federal Prisons</a>		
<a href="#">FEMA - FIRE</a>		

**Record View**

The main record view window displays the various documents in the system organized by the chosen view. You can read each individual record from the main window by clicking on the document from the record view. You can change the record view using either of the menu selections listed along the top of the screen.

The following sections provide instructions for:

- Creating New ARTS Records
- Reviewing and Approving ARTS Documents

## CREATING/EDITING NEW ADREC PROJECT RECORDS

To create a new ADREC project record, click on the “Create New Record” pull-down menu located just above the main menu (see figure below). You will then be presented with a new project record in edit mode ready to be completed. Once completed, you may “Save and Close” the document using the links at the top or bottom of the screen.

Create New Record

Arts - Projects by Contact - Netscape

File Edit View Go Communicator Help

Back Forward Reload Home Search Netscape Print Security Shop Stop

Bookmarks Location: [http://lnhq09a.enterprise.census.gov/demog/agreeapp.nsf/\\$\\$SearchTemplate+for+projectsbyconname?op](http://lnhq09a.enterprise.census.gov/demog/agreeapp.nsf/$$SearchTemplate+for+projectsbyconname?op)

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U.S. Census Bureau

Administrative Records Tracking System

- Create new record -

Create new record -

Contact

Proposed Project

Internal Data Request

Activities

Contacts

Special Sworn Status

My Documents

All

Other Docs

By Contact

By Dataset

By Division

By Name/Num

By Parent

By Status

Select Contact: \_Comisarow\_Carol (1)

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Projects by Contact 1 - 1 of 1

Project Name	Parent Program	Contact Division	Dataset
<a href="#">Produce Nonemployer Statistics</a>	Nonemployer Statistics	Economic Planning & Coordination Division	Nonemployer Business Register
Project Name	Parent Program	Contact Division	Dataset

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To edit the document once saved, simply navigate to the view of projects records from main and sub-menus and “click” on the document from the record view. Once you open the document, click on the “Edit” action link at the top.

The creation of “Internal Data Requests” and “Contact” records is completed in the same manner as described above for project documents.

For more detailed information about completing project records, please see the “Help” section in ARTS. For substantive assistance regarding the process for creating and approving project records, you may wish to contact staff listed in Appendix F of the ADREC Handbook: *Administrative Records Role Summary and Key Contacts*.

## **REVIEWING AND APPROVING ARTS DOCUMENTS**

As part of the internal review of new Agreements, Projects or External Request Letters, you may be asked to approve the substantive content of a given document. If so, you will receive an automatically generated message from ARTS requesting your review and approval and containing a link to the specific record that you are being asked to review. Simply click on the link to the system to open the record. If you are not already in ARTS, you will be prompted for your user name and Intranet password.

To denote your approval or disapproval of the document, use the menu at the top of the document to enter "Edit" mode for the record. Once in edit mode, scroll down to the approval section of the document. You should see your name listed as a document approver, and then "Yes" and "No" choices for denoting your approval/disapproval. Use your cursor to "click" your choice, and then "Save and Close" the document from the menu at the top or bottom of the record.

## GETTING HELP

To get additional help using ARTS, go to the “Help” section of ARTS. To access the Help records, click on the “Help” link at the upper right of any record view screen. A link to Help also can be found at the upper right of each record in ARTS.

If you have problems accessing ARTS because of a User Name or Password problem, please contact Mr. Bill Lloyd in the Demographic Directorate LAN Staff at (301) 457-8400.

If you have questions about ARTS content, including the available lists of ADREC Data sets or Program names, please contact PRED or EPCD staff identified in Appendix F.



## **Guidance for the Negotiation of Data Acquisition Agreements**

### Purpose of this Document

This document provides guidance for U.S. Census Bureau employees who are or may be involved in the negotiation of data acquisition agreements, agreements to acquire restricted data from other agencies (state or federal) or from data vendors. For clarification of any information in this Guide please contact the Administrative Records Coordinator or, as appropriate, the Legal Office.

These guidelines are premised on the assumption that Census Bureau Project Contacts (PC) need flexibility to entertain ideas for new projects with colleagues in external agencies, to identify potential sources of administrative data, and to preliminarily investigate what involvement and/or deliverables the source agency desires in return for its data. On the other hand, formal and informal negotiations for the acquisition of administrative data files must take place in a manner that protects the broader corporate interests of the Census Bureau.

### Types of Agreements

This document covers only agreements to acquire administrative records covered by the Administrative Records Handbook; it does not cover all varieties of Memorandums of Understanding (MOUs).

There are many different legal authorities under which the Census Bureau acquires data and a variety of resulting agreements, including Section 6 Agreements, Joint Project Agreements, Title 15 Reimbursable Agreements, and Title 13 Reimbursable Agreements. The distinctions among the different agreements are subtle, and employees are encouraged to consult with the Planning, Research, and Evaluation Division (PRED)/Economic Planning and Coordination Division (EPCD), which may involve the Legal Office, to figure out which authorities apply. In certain circumstances, more than one type of authority may apply, and in certain circumstances, more than one agreement may be executed. Some of the Census Bureau's

existing agreements may not reflect the distinctions made in this document.

Important factors in determining which type of agreement to use include, but are not limited to:

- Whether the Census Bureau will be receiving or paying money;
- Whether the agreement permits the Census Bureau to provide something other than money in exchange for the acquired data;
- Whether the acquired data set will enjoy Title 13 confidentiality protection; and
- Whether the data are being acquired for a Title 13 purpose, that is, whether the data are being acquired to support a current or proposed Census Bureau statistical project.

The different types of agreements under which the Census Bureau acquires administrative records data can be generally described as follows:

Title 13, Section 6 Agreements. Section 6 of the Census Act requires the Census Bureau “to the maximum extent possible and consistent with the kind, timeliness, quality and scope of the statistics required” to acquire and use administrative records from other agencies. This section permits the Census Bureau to acquire data from other agencies “by purchase or otherwise.” Data acquired under this section must be acquired for a Title 13 purpose and may enjoy Title 13 protection. The Census Bureau is authorized to compensate the supplier agency by payment of funds or by returning an improved (non-confidential) data set.

Title 13 Reimbursable Agreements. Reimbursable agreements are authorized under Section 8 of the Census Act, 13 U.S.C. § 8(b), that permits the Secretary to “make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area ..., or other public and private person and agencies, upon payment of the actual or estimated cost of such work.” Reimbursable Agreements under Title 13 are only used for transactions in which the Census Bureau will receive funds. These types of agreements may permit the Census Bureau to maintain the resulting data set and use it for Title 13 purposes. The acquired data may enjoy Title 13 protection.

Title 15 Reimbursable Agreements. Reimbursable agreements also are authorized under general Department of Commerce authority set forth in 15 U.S.C. § 1525, that permits the Secretary to “make special studies ... to prepare from its records special compilations, lists, bulletins, or reports ... upon the payment of the actual or estimated cost of such work...” A Title 15 Reimbursable Agreement may be proper when the data are not acquired for a Title 13 purpose and when any acquired data will not enjoy Title 13 confidentiality protection. A Title 15 Reimbursable Agreement would be appropriate, for example, when another agency or company transfers a sample frame to the Census Bureau and pays the Census Bureau to perform a survey based on the sample frame, and then return the resulting data. Under certain circumstances, the Census Bureau may be authorized to maintain the resulting data set and use it for Title 13 purposes. In the case of Title 15 surveys using administrative records data, the attached Memorandum from the Deputy Director entitled “Policy for Non-Title 13 Reimbursable Surveys” dated April 15, 1987, should also be consulted. This memorandum sets forth the conditions under which the Census Bureau will approve Title 15 reimbursable surveys, including requirement that the data be used only for statistical purposes, that it not be redisclosed, and that the purposes, content, methods, and other aspects of the proposed survey not be deemed objectionable by the Census Bureau.

Joint Project Agreements. Joint project agreements are authorized by 15 U.S.C. § 1525, which allows the Secretary to “engage in joint projects, or perform services, on matters of mutual interest ...” (Joint Project Agreements and Reimbursable Agreements are authorized under different paragraphs of § 1525.) Joint project authority may be appropriate for agreements in which the work on the acquired data set will be joint. For example, if the Census Bureau and the data supplier will be working together on the acquired data set, the agreement may be a joint project. While the Census Bureau can pay out funds under a Joint Project Agreement, costs for joint projects must be “apportioned equitably,” meaning that the Census Bureau cannot alone be responsible for the vast majority of the project costs. Additionally, the agreement must reflect mutuality of contribution and benefit. Data acquired under Joint Project Agreements is acquired for a Title 13 purpose.

It is important to understand the distinction between these types of agreements not only to properly document the proposed transaction in the agreement, but also because the distinction may have implications for the confidentiality provisions for the data sets in question. Please keep in mind that non-confidential data sets maintained by the Census Bureau may be subject to public disclosure under the Freedom of Information Act.

The following chart summarizes the characteristics of the four types of agreements:

<b>Type of Agreement</b>	<b>Authority</b>	<b>Criteria</b>
Section 6 Agreement	13 U.S.C. § 6	<ul style="list-style-type: none"> <li>• Data acquired for Title 13 purposes.</li> <li>• Cannot be used for transactions in which the Census Bureau will receive funds.</li> <li>• Permits agreements in exchange for services.</li> <li>• Acquired data may enjoy Title 13 protection.</li> </ul>
Title 13 Reimbursable Agreement	13 U.S.C. § 8	<ul style="list-style-type: none"> <li>• Data acquired for Title 13 purposes.</li> <li>• Used only for transactions in which the Census Bureau will receive funds.</li> <li>• The acquired data may enjoy Title 13 confidentiality protection.</li> </ul>
Title 15 Reimbursable Agreement	15 U.S.C. § 1525	<ul style="list-style-type: none"> <li>• The data are not protected by Title 13 and are not acquired for a Title 13 purpose.</li> <li>• Frequently used for survey work.</li> <li>• Permits agreements in exchange for services.</li> <li>• Used only for transactions in which the Census Bureau will receive funds.</li> </ul>



Joint Project Agreement	15 U.S.C. § 1525	<ul style="list-style-type: none"> <li>• Data acquired for Title 13 purposes.</li> <li>• While Census Bureau can pay money out, the costs must be “equitably apportioned.”</li> <li>• Not strictly a data acquisition vehicle; mutuality of benefit and contribution required. Envisions joint work on the data set.</li> </ul>
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### The Economy Act

The Census Bureau seldom relies on the Economy Act to acquire administrative records, but other agencies frequently cite this statute as their authority to order statistical work from the Census Bureau. The Economy Act, 31 U.S.C. § 1535, authorizes Reimbursable Agreements between federal agencies for the procurement of goods and services if in the interest of the government. The procuring agency in an Economy Act agreement must execute a D & F, a Determination and Finding, stating that the agency has determined that the ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise and that the order is in the best interests of the government.

### Model Agreements

Data acquisition agreements are prepared as Memorandums of Understanding or MOUs. MOU is a generic instrument referring to all varieties of interagency agreements. Title 13 Reimbursable Agreements may use a SF 505A instead of a model agreement. Counsel may use either a model agreement, a SF 505A, or a MOU prepared by the other agency, depending on the complexity and nature of the work involved. Model agreements and the SF 505A are attached. In general, the agreement will consist of a model agreement (or Form 505A), along with an attached Statement of Work (SOW). All terms on the attached model agreements are mandatory and must be included in the agreement. The terms on the SOW will vary by project. The only mandatory term on the SOW is confidentiality; the SOW must discuss confidentiality, even if only to say that it is not an issue. The provisions in the attached SOW are illustrative only and you may add other applicable terms.

## Responsibility for Negotiating and Approving Original Agreements

Please consult the Administrative Records Handbook to determine who is responsible for the different aspects of negotiating an administrative records acquisition MOU. Keep in mind that PCs should not send the potential data supplier a draft or model agreement before securing clearances at the Census Bureau. This issue should be addressed in the strategy meeting.

## Amendment of Existing Agreements

A data acquisition agreement needs to be formally amended when a material or substantial term changes. For example, if the amount of money paid changes, or if the expectations for confidentiality change, an amendment may be needed, and you should consult with PRED/EPCD to facilitate this change. Examples of non-material changes are a change in the custodian or minor changes in delivery dates. If the agreement is being amended to use a new data set from the same supplier on the same terms, it may be appropriate to execute a new SOW to append to the original agreement, rather than amending the entirety of the agreement.

## Special Guidance Applicable to Agreements to Return Data

Special considerations apply when the Census Bureau contemplates entering into an agreement that involves returning data to the supplier agency. While this type of agreement is often a good managerial tool, allowing the acquisition of valuable data sets without payment, employees need to be particularly aware of the following:

1. *Confidentiality.* Issues of confidentiality and privacy are frequently raised in these agreements, particularly in instances where the proposed agreement involves the Census Bureau linking Title 13 data with the data supplied by the proposed partner agency and then returning variants of the initial data set to the partner. These types of proposals require a higher degree of scrutiny; while this type of agreement may well pass legal and policy review, these proposals will require an extra level of sensitivity assessment and, possibly, by the Census Bureau's Disclosure Review Board, because of the possibility that comingling issues will arise.
2. *Other Agencies' Data.* Extra concern must be exhibited when the proposed agreement would allow linkage with a data set that includes data acquired from a third agency, e.g., the Business Register.
3. *Security Issues.* Extra concern also must be exhibited when the proposed

agreement may raise security concerns, such as remote access to Title 13 data via computer.

4. *The Specifics of the Transaction.* The identity of the proposed data supplier and what it intends to do with the returned data may also require a higher degree of scrutiny. A proposal to return data to a sister statistical agency is more likely to be approved than a proposal to return data to an agency with a regulatory or enforcement mandate. Return of data to a commercial entity also raises issues. Similarly, the use that will be made of the returned data is important. The proposed use of returned data for anything other than statistical purposes raises perception issues. Uses for law enforcement or commercial purposes, e.g., are unlikely to be approved. Some examples of situations that would raise concern would be return of data to a private company that would give that company a competitive advantage, return of data to a law enforcement agency, and return of data to a direct marketing company. This list of examples is not exhaustive, but rather illustrative. The important thing to keep in mind is that the perception that may arise from the proposed transaction is an important factor in this decision. (This will be covered in more detail in a future Appendix.)
5. *Relationship to Other Census Bureau Programs.* In general, extra sensitivity must be exhibited if the proposed agreement has the potential to adversely impact another Census Bureau program or project.
6. *Disclosure Review Board.* Products generated from Title 13 data for public release, including release to supplying agency, must be cleared by the Disclosure Review Board.

Given the special sensitivity of agreements that involve the return of data to the supplier agency, PCs must NOT commit to any proposed project prior to the completion of project review; rather PCs should convey to the potential data supplier that they do not have the ability to commit the Census Bureau prior to completion of the internal review process.

### Legal Review

PRED/EPCD handles the coordination of all policy, legal, and security reviews for proposed data acquisition agreements; accordingly, PRED/EPCD will refer all data acquisition agreements, both original agreements and renewals, to the Legal Office for review and approval and to the Policy Office for policy review and approval. Census Bureau legal staff will determine which agreements they can review and approve and which must be sent to the Department of Commerce for additional review and approval. Review of an uncomplicated data purchase and renewals can generally

secure legal review in a matter of days, while certain varieties of agreements may require a longer period for legal review. In general, agreements to return data will require the longest amount of time for legal review, and agreements where the Census Bureau pays out money will take longer than agreements where the Census Bureau receives money. You should convey to Census Bureau legal counsel any extraordinary time constraints at the time the agreement is submitted for legal clearance.

### Requirements for Data Acquisition MOUs

The most important principle in the preparation of a data acquisition MOU is that all important terms of the contract must be mutually agreed to and must be written; oral understandings are not sufficient.

Data acquisition agreements may be for any period of time, but periods of time over three years should, as a general rule, be avoided, absent special circumstances. Experience has proven that circumstances may change significantly over a three year period and that it is wise to re-examine agreements periodically. Agreements may be subject to semi-automatic renewal, that is, agreements may renew automatically, unless either party notifies the other in writing that the agreement will terminate; however, agreements should provide for periodic reassessment to ensure that the agreement is still in the Census Bureau's best interests. All agreements that require the Census Bureau to pay money or perform services must indicate that they are subject to the availability of future appropriations.

The basic requirements for data acquisition are set forth in the attached model agreements. The basic agreement consists of a model agreement with an attached SOW. As stated earlier, all terms in the model agreements must be filled out. The terms in the model SOW are intended to be illustrative and will vary by project; the only mandatory term is that a SOW must contain a confidentiality provision (unless this is covered in the model itself, such as in the 505A form). The list of terms in the model SOW is not intended to be exclusive and additional terms should be added where applicable. The goal is that the agreement and the SOW taken together should completely and accurately describe the agreement.

### Time Expectations

As should be evident from the above discussion, negotiating a data acquisition agreement can be a lengthy task. PCs should expect all except the most simple agreements to take six months or more from the time the idea is broached to agreement completion.

### Attachments

1. Model Section 6 Agreement
2. Form 505A
3. Model Title 15 Reimbursable Agreement
4. Model Joint Project Agreement
5. Model SOW
6. April 14, 1987 Policy Memo

**DRAFT**  
**2-1-01**

**Model Section 6 Agreement**

MEMORANDUM OF UNDERSTANDING (MOU)  
ESTABLISHING A DATA ACQUISITION AGREEMENT BETWEEN THE

U.S. Census Bureau  
AND  
[name of the other agency]

Agreement No. \_\_\_\_\_

**I. PARTIES**

The parties to this MOU are the Census Bureau, U.S. Department of Commerce, and [name of the other agency].

**II. AUTHORITIES**

This Agreement is entered into pursuant to 13 U.S.C. § 6, which permits the Census Bureau to acquire administrative records data by purchase or otherwise.

[Include also the citation to the state or federal statutory authority that allows the donor agency to undertake the project, frequently the Economy Act.]

**III. PURPOSE**

The purpose of this MOU is for the Census Bureau to acquire administrative records data from [name of other agency].

**IV. DATA ACQUISITION**

[Name of other agency] agrees to provide the Census Bureau with data, as described in the attached Statement of Work.

**V. PAYMENT**

[Set forth the payment terms here]

## VI. CONTACTS

The contacts for this agreement are:

[Name of Census Bureau contact]  
[Title of Census Bureau contact]  
[Address of Census Bureau contact person]  
[Phone number of Census Bureau contact person]  
[Fax number of Census Bureau contact person]  
[E-mail address of Census Bureau contact person]

[Name of other party's contact person]  
[Title of other party's contact person]  
[Address of other party's contact person]  
[Phone number of other party's contact person]  
[Fax number of other party's contact person]  
[E-mail address of other party's contact person]

The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

## VII. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This agreement will become effective when signed by all parties. The agreement will terminate three years from the data of execution [or other date], and may be amended at any time by mutual written agreement of the parties.

[NOTE: If the agreement will last longer than three years, the following sentence should be included in the agreement: "The parties will review this agreement at least once every three years to determine whether it should be revised, renewed, or canceled."]

Any party may terminate this agreement by providing \_\_\_\_ days written notice to the other party. In the event this agreement is terminated, each party shall be solely responsible for the payment of any expenses it has incurred. This agreement is subject to the availability of funds.

## VIII. RESOLUTION OF DISPUTES

Should disagreement arise on the interpretation of the provisions of this agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

## IX. STATEMENT OF WORK

The attached Statement of Work sets forth additional details related to the MOU. Additional

topics, and the specifics of this agreement, are described on the attached Statement of Work.

## X. SIGNATURES

The parties indicate their agreement by the following signatures:

---

[signature -- must be XXXXXX]

---

Date

[Typed name]

[Typed title]

[Typed office at Census Bureau]

U.S. Department of Commerce

[Address]

---

[Signature of person who has authority to  
commit the other agency to the agreement]

---

Date

[Typed name]

[Typed title]

[Typed name of organization]

[Address of partner]

### Attachment:

- Statement of Work
- Other attachments, if any



# **REIMBURSABLE AGREEMENT** **COST ESTIMATE AND ACCEPTANCE**

	<p><i>See enclosed attachment for mailing instructions</i></p> <p><b>NOTE - Please include File reference number (item 4b) or Project number (item 4d) on all correspondence with the Census Bureau.</b></p>
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<b>a. Customer's name/Title</b>	<b>Telephone number</b>	<b>b. Census Bureau</b>	<b>Telephone number</b>

<b>a. Sponsoring division</b>	<b>b. File reference number</b>	<b>c. Project number</b>

**d. Project title**

Fiscal year	Amount	a. From	<p><b>a.</b> <input type="checkbox"/> The amount stated in item 5 will be the final charge provided the agreement is signed and returned within 90 days of the date in item 12c.</p> <p><b>b.</b> <input type="checkbox"/> The final charge will be determined by actual costs incurred.</p>
<b>a.</b>			
<b>b.</b>		<b>b. To</b>	
<b>c.</b>			

<b>a. Method of payment</b>	<b>d. Name of financial contact</b>	<b>f. Payment amount by fiscal year</b>	
<b>b. Document identification</b>	<b>Telephone number</b>	<b>Year</b>	<b>Amount</b>
<b>c. Payment schedule - Mark (x) one box</b>		<b>e. ALC number</b>	
<b>1.</b> <input type="checkbox"/> Annual advance <b>3.</b> <input type="checkbox"/> Monthly advance <b>2.</b> <input type="checkbox"/> Quarterly advance <b>4.</b> <input type="checkbox"/> Other (see attached)			

☐ **a. Additional terms/Conditions**   
 ☐ **b. BC-505A (Addendum)**   
 ☐ **c. Other attachments**

This agreement incorporates all provisions set forth on the reverse side Terms of Agreement and any additional provisions contained in any attachments indicated in item 10. Customer should carefully review all information and understand all conditions under which the Bureau of the Census performs work. Official signatures in items 12 and 13 should represent officials who have the authority to obligate funds and authorize work.

<b>a. Name and title - Please type</b>		<b>a. Name and title - Please type</b>	
<b>b. Signature</b>	<b>c. Date</b>	<b>b. Signature</b>	<b>c. Date</b>

**DRAFT**  
**2-1-01**

**Model Title 15 Agreement**

MEMORANDUM OF UNDERSTANDING (MOU)  
ESTABLISHING AN AGREEMENT BETWEEN THE

U.S. Census Bureau  
AND  
[name of the other agency]

Agreement No. \_\_\_\_\_

**I. PARTIES**

The parties to this MOU are the Census Bureau, U.S. Department of Commerce, and [name of the other agency].

**II. AUTHORITIES**

The Census Bureau enters into this Agreement pursuant to 15 U.S.C. § 1525, Commerce Department's authority to do work on a reimbursable basis for other agencies or organizations and which specifically permits the Commerce Department or its agencies to "make special studies ... to prepare from its records special compilations, lists, bulletins, or reports ... upon the payment of the actual or estimated cost of such work..."

[Include also the citation to the state or federal statutory authority that allows the other agency to undertake the project, frequently the Economy Act.]

**III. PURPOSE**

The purpose of this MOU is for [describe the purpose of the agreement, e.g., "the Census Bureau to perform a survey for ABC agency to determine the parameters of XYZ."]

**IV. DATA ACQUISITION**

[Name of other agency] agrees to provide the Census Bureau with non-confidential data (Comment: could be confidential), as described in the attached Statement of Work.

## V. PAYMENT

[Set forth the payment terms here]

## VI. CONTACTS

The contacts for this agreement are:

[Name of Census Bureau contact]  
[Title of Census Bureau contact]  
[Address of Census Bureau contact person]  
[Phone number of Census Bureau contact person]  
[Fax number of Census Bureau contact person]  
[E-mail address of Census Bureau contact person]

[Name of other party's contact person]  
[Title of other party's contact person]  
[Address of other party's contact person]  
[Phone number of other party's contact person]  
[Fax number of other party's contact person]  
[E-mail address of other party's contact person]

The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

## VII. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This agreement will become effective when signed by all parties. The agreement will terminate three years from the data of execution [or other date] and may be amended at any time by mutual written agreement of the parties.

[NOTE: If the agreement will last longer than 3 years, the following sentence should be included in the agreement: "The parties will review this agreement at least once every three years to determine whether it should be revised, renewed, or canceled."]

Any party may terminate this agreement by providing \_\_\_\_ days written notice to the other party. In the event this agreement is terminated, each party shall be solely responsible for the payment of any expenses it has incurred. This agreement is subject to the availability of funds.

## VIII. RESOLUTION OF DISPUTES

Should disagreement arise on the interpretation of the provisions of this agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

## IX. ADDITIONAL TOPICS

Additional topics, and the specifics of this agreement, are described on the attached Statement of Work.

## X. SIGNATURES

The parties indicate their agreement by the following signatures:

\_\_\_\_\_  
[Signature]  
[Typed name]  
[Typed title]  
[Typed office at Census Bureau]  
U.S. Department of Commerce  
[Address]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Signature of person who has authority to  
commit the other agency to the agreement]  
[Typed name]  
[Typed title]  
[Typed name of organization]  
[Address of partner]

\_\_\_\_\_  
Date

Attachment:

- Statement of Work
- Other attachments, if any

**[NOTE: In the case of Title 15 surveys using ADREC data,  
you must consult the April 15, 1987 Memorandum from the Deputy Director  
entitled " Policy for Non-Title 13 Reimbursable Surveys " .]**

**DRAFT**  
**2-1-01**

**Model Joint Project Agreement**

MEMORANDUM OF UNDERSTANDING (MOU)  
ESTABLISHING A JOINT PROJECT BETWEEN THE

U.S. Census Bureau  
AND  
[name of the other agency]

Agreement No. \_\_\_\_\_

**I. PARTIES**

The parties to this MOU are the Bureau of the Census, U.S. Department of Commerce, and [name of the other agency].

**II. AUTHORITIES**

This Joint Project is entered into pursuant to 5 U.S.C. § 1525, the Department of Commerce's Joint Project Authority, which provides that the Department may enter into joint projects with nonprofit, research, or public organization on matters of mutual interest, the cost of which is equitably apportioned. [Include also, citation to the U.S. Code or other state or federal statutory authority that allows the donor agency to undertake the project.]

**III. PURPOSE**

The purpose of this MOU is for the parties to [provide a clear and succinct description of the project.]

This project is necessary and essential to further the mission of the Census Bureau in that it will [explain how it will further the mission of the Census Bureau in relation to the statutory authorities cited].

The Census Bureau has determined that this project cannot be done at all or done as effectively without the participation of [name of donor agency] because [provide an explanation why the project cannot be done at all or as effectively without the other agency's participation].

#### IV. MUTUAL INTEREST OF THE PARTIES

This activity is of mutual interest to the parties because [provide an explanation of how it benefits each party].

#### V. RESPONSIBILITIES OF THE PARTIES

The Census Bureau agrees to perform the following activities and provide the following resources in support of the project:

[This section should typically refer to attached SOW, which needs to list all activities that both the Census Bureau and the other agency promise to undertake under the agreement, e.g., perform research, provide data, etc.].

[Given the need in JPAs for equitable apportionment of costs, JPAs should list the activities that each party will perform separately.

#### VI. EQUITABLE APPORTIONMENT OF COSTS

The costs of this activity are equitably apportioned as follows: [provide an explanation that establishes that the costs of the project are equitably apportioned. This may be done, among other ways, by stating the percentage of overall costs, including in-kind, that each party is contributing to the project, e.g., "The Census Bureau's estimated percentage of total costs of this project are \_\_\_ percent. The [other agency's] estimated percentage of costs of this project are \_\_\_ percent."]

#### VII. CONTACTS

The contacts for this agreement are:

[Name of Census Bureau contact]  
[Title of Census Bureau contact]  
[Address of Census Bureau contact person]  
[Phone number of Census Bureau contact person]  
[Fax number of Census Bureau contact person]  
[E-mail address of Census Bureau contact person]

[Name of other party's contact person]  
[Title of other party's contact person]  
[Address of other party's contact person]  
[Phone number of other party's contact person]  
[Fax number of other party's contact person]  
[E-mail address of other party's contact person]

The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

#### VIII. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This agreement will become effective when signed by all parties. The agreement will terminate three years from the date of execution [or other date], and may be amended at any time by mutual written agreement of the parties.

[NOTE: If the agreement will last longer than three years, the following sentence should be included in the agreement: "The parties will review this agreement at least once every three years to determine whether it should be revised, renewed, or canceled."]

Any party may terminate this agreement by providing \_\_\_ days written notice to the other party. In the event this agreement is terminated, each party shall be solely responsible for the payment of any expenses it has incurred. This agreement is subject to the availability of funds.

#### IX. CONFLICT WITH OTHER DIRECTIVES

[NOTE: This paragraph is to be used only when the agreement is with a Federal Government partner.]

Nothing herein is intended to conflict with current Department of Commerce, Census Bureau or (name of other agency) directives. If the terms of this agreement are inconsistent with existing directives of either of the agencies entering into this agreement, then those portions of this agreement which are determined to be inconsistent shall be invalid; but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the agreement, all necessary changes will be accomplished by either an amendment to this agreement or by entering into a new agreement, whichever is deemed expedient to the interest of both parties.

#### X. DISPUTE RESOLUTION

Should disagreement arise on the interpretation of the provisions of this agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

## XI. STATEMENT OF WORK

The attached SOW sets forth additional details relating to this MOU.

## XII. SIGNATURES

The parties indicate their agreement by the following signatures:

\_\_\_\_\_  
[Signature -- Must be an Operating  
Unit Head or official designee with  
authority to sign Joint Project Agreements]  
[Typed name]  
[Typed title]  
[Typed office at Census Bureau]  
U.S. Department of Commerce  
[Address]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Signature of person who has authority to  
commit Joint Project Partner to the agreement]  
[Typed name]  
[Typed title]  
[Typed name of Joint Project partner's organization]  
[Address of Joint Project partner]

\_\_\_\_\_  
Date

Attachment: Statement of Work  
Any other attachments



**DRAFT**  
**2-1-01**

**Model Statement of Work**

[The Statement of Work should include the nuts and bolts of the agreement for all types of agreements. The following list is not intended to be exclusive; all applicable terms of the agreement should be reflected in the agreement. These are just examples of matters you may want to consider in negotiating and finalizing an agreement with another agency.]

Statement of Work  
in Support of Agreement No. \_\_\_\_\_  
Between the U.S. Census Bureau and \_\_\_\_\_

1. Data Description, Including Transfer Media and Availability

Describe the data set with specificity (e.g., years, universe, variables) and indicate the media in which the data will be exchanged and in what form it can/cannot be made available.

2. Disposition of Intermediate and Final Products

Provide a description of residence/maintenance of intermediate and final products resulting from the project.

3. Confidentiality and Privacy

Include privacy and confidentiality provisions, such as requiring both agencies to agree not to identify individual match files, except in certain instances, restricting matching to other files held by either agency, etc.

Include, if applicable, file data receipt and disposition procedures for original files, extract files, and copies.

Discuss, if applicable, the use of Special Sworn Status (SSS) individuals, noting the Census Bureau's possible use of SSS and their requirement to maintain confidentiality. Specify under what conditions the Census Bureau will confer SSE status to an employee of another agency.

Note, if applicable, the Census Bureau's and the other agency's statutory confidentiality requirements, e.g., by a statement that the data that are the subject of the agreement are subject to the confidentiality provisions of 13 U.S.C. Sections 9 and 214.

Note that Census Bureau labor agreements may limit the agreement's ability to require individual employees to sign confidentiality pledges. In such cases, written confirmation by supervisors that employers have been informed of their legal responsibilities may be sufficient.

**This is a mandatory provision; your SOW must have a confidentiality provision, even if only to say that it is not applicable.**

#### 4. Use of Data (by Both Agencies)

Set forth how the files covered by the agreement will be used by both agencies. Discuss more fully the scope of the research. While general phrases (i for statistical purposes) may be used, more specific statements are preferred. Specify obligations of both parties in the event that the scope of research changes.

Specify any time frames for either agency's use of the file(s).

#### 5. Progress Reporting

Indicate expectations for progress reporting (if any) throughout the term of the agreement.

#### 6. Security Requirements

Set forth any required security provisions, both physical and procedural, including if applicable, provisions for informing each involved agency about those individuals having access to the data.

#### 7. Designation of File Custodian/Agency Representative

If applicable, require that an individual be designated as primarily responsible for implementing the conditions of the agreement; that individual is to be denominated as the file custodian. If, in rare circumstances, e.g., the file custodian with the other agency has access to Title 13 data, then he/she must be an SSS employee of the Census Bureau.

Indicate any requirement for designation of the person/title of person charged with institutional responsibility for ensuring that the agency will establish adequate procedures to comply with the conditions of the agreement and to monitor the application of compliance procedures.

#### 8. Reviews and Audits

Specify expectations of each party for review and/or audit of work in progress.

## 9. Third-party Approvals

If applicable, specify the agency responsible for initiating and obtaining third party approval(s), such as approvals from the Internal Revenue Service.



K3.2A *Continued*  
UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of the Census  
Washington, D.C. 20233  
File  
OFFICE OF THE DIRECTOR

APR 15 1987

MEMORANDUM FOR All Divisions and Offices

From: C. L. Kincannon (Signed) C. L. Kincannon  
Deputy Director

Subject: Policy for Non-Title 13 Reimbursable Surveys

A large part of the Census Bureau's program involves conducting reimbursable surveys, mainly for other Government agencies. Historically, the Census Bureau has protected the confidentiality of data collected in reimbursable surveys that use census records for the sampling frame in accordance with the provisions in Title 13. The Census Bureau has placed great emphasis on our ability to protect the confidentiality of these data by law. Our assurances of confidentiality under Title 13, however, do limit the information we can release to serve the needs of the user community, in particular, those of other government agencies. These limitations conflict with our responsibility as the major statistical data provider of the U.S. Government. Therefore, we need a way of conducting certain surveys outside of Title 13 to fulfill our mission for a number of sponsors.

Previously, we have used Title 15 to conduct reimbursable surveys based on a non-census sample source, for example, list frames provided by the sponsor, geographic area frames, and telephone random digit dialing (RDD) frames. This authority does not require us to protect the confidentiality of the survey data. Until recently, however, very few sponsors requested the Census Bureau to conduct surveys using these kinds of sampling frames. Because there was no official policy stating the conditions under which we would use Title 15 instead of Title 13, we made the decision for each survey on an ad hoc basis.

Changes in the current environment, however, make it clear that the Census Bureau should establish a policy on conducting surveys outside of Title 13. These changes include increased demands from sponsors for identifiable data for use in conducting follow-up surveys or in merging a respondent's microdata with administrative record data. In particular, sponsors often have administrative data that could enrich the survey data and extend their usefulness for several years at a very low cost to the government. Sponsors also have computing capabilities now that permit sophisticated analyses that require finer detail on geography, income, and other variables than is available within the Census Bureau's confidentiality restrictions. In addition, advanced sampling techniques such as RDD and the greater availability of list frames for sampling have made it more feasible to select efficient samples without using Title 13 data. In the past few months, for instance, the Census Bureau has received inquiries from several Federal agencies regarding five surveys that would use administrative records for the sampling frame and two surveys that would use RDD. We believe that the number of requests for such surveys will continue to increase, and at some point, a major portion of the surveys we conduct may not require Title 13 protection.

The policy we have adopted on conducting surveys under Title 15 will ensure that the Census Bureau makes consistent decisions in response to all requests to conduct surveys outside of Title 13. The policy, described below, reflects our traditional concerns for providing useful data and protecting the confidentiality of the respondents who provide the data. In essence, this policy allows the Census Bureau to act as a collecting agent on behalf of a sponsor who agrees to specific conditions relating to conducting the survey and to the uses of and confidential treatment of the survey data. Also, the letter to the respondent in Title 15 surveys will no longer come from the Director of the Census Bureau. Instead, an official of the sponsoring agency will sign the letter. This action will focus the respondent's attention on the fact that the legal authority for the survey and the protection of the data are the responsibility of the sponsoring agency.

#### **Policy for Title 15 Reimbursable Surveys**

The Census Bureau will conduct reimbursable surveys under Title 15 in conjunction with the sponsor's authority to collect data if the following conditions are met:

1. The sponsor has the legal authority to collect such information and to contract with the Census Bureau for conducting this work.
2. The sample is not derived from Census Bureau records protected by Title 13.
3. The purposes, content, methods, or other aspects of the proposed survey are not deemed objectionable by the Census Bureau.
4. The sponsor will sign an agreement with the Census Bureau that binds all parties including their respective employees, agents, contractors, grantees, successors, and assigns to:
  - a. Conduct the survey and maintain the data in accordance with all applicable Federal laws, with particular emphasis upon compliance with the provisions of the Privacy Act, 5 U.S.C. 552(a); the Freedom of Information Act, 5 U.S.C. 552; and 18 U.S.C. 1905 (protection of commercial trade secrets) if applicable.
  - b. Advise all respondents of:
    - 1) The authority for collecting the data.
    - 2) Whether response is mandatory or voluntary.
    - 3) The principal purpose(s) for which the information is to be used.
    - 4) The routine uses that may be made of the information.
    - 5) The effects on the respondent of not providing the information.
    - 6) The extent to which the data are to be kept confidential.
    - 7) Whether the survey data will be combined with other record data.

- c. Further advise all respondents that:
- 1) The Census Bureau is conducting this survey as the agent of the sponsor.
  - 2) The sponsor is solely responsible for compliance with applicable provisions of its laws.
  - 3) The Census Bureau will comply with the sponsor's laws, while directly engaged in the survey activities.
- d. Use the data only for statistical purposes.
- e. Prohibit redisclosure in a form permitting identification of an individual respondent except when the data are collected from public records.
- f. Prohibit use of the data for law enforcement (criminal or civil) or regulatory purposes involving an identifiable individual respondent except for enforcement of statutory or regulatory provisions authorizing or pertaining to the collection and reporting of such data. For purposes of the Agreement, "identifiable individual respondent" includes individual persons, corporations, partnerships, associations, or organizations of any other nature.

When the Census Bureau conducts a reimbursable survey under these conditions, and consistent with other provisions of the reimbursable agreement, names, addresses, and other data that may identify or lead to the identification of a respondent will be released to the sponsor.



## **Project Review Criteria**

The following criteria serve as the basis for reviewing and approving new Administrative Records projects:

### **Scientific Merit**

- Is the research relevant and important to the U.S. Census Bureau?
- Is the methodology sound?
- Are data readily available? Is there an existing Memorandum of Understanding (MOU) or data agreement to secure necessary data?
- Is the proposed time frame realistic?
- Are the resource requirements for this project reasonable?

### **Benefit to the Census Bureau/Legal Authority**

- Does this project benefit the Census Bureau under Title 13?
- Is this project required to demonstrate a Title 13, Chapter 5 benefit? If so, how is this benefit demonstrated:
  - By improving understanding and/or quality of Title 13, Chapter 5 data?
  - By providing potential for developing new or improved methodology to collect, measure, or tabulate a Title 13, Chapter 5 survey, census, or estimate?
  - By enhancing the data collected?
  - By identifying the limitations of or improving the underlying business register, household Master Address File, and industrial and geographical classification schemes used to collect the data?
  - By identifying shortcomings of current data collection programs and/or document new data collection needs?
  - By constructing, verifying, or improving the sampling frame for a census or survey authorized under Title 13, Chapter 5?
  - By preparing estimates of population and characteristics of population as authorized under Title 13, Chapter 5?
- Would this project be conducted under other authority besides Title 13?

#### Corporate Benefit

- Does this project forward the overall mission of the Census Bureau?
- Does it meet one or more of the following Key Strategic Objectives?
  - Providing for the development of new, relevant data products without imposing new data collection costs.
  - Extending the scope and reducing the overall cost of our reimbursable and appropriated programs.
  - Reducing individual and business response burden and assuring confidentiality of response data.
  - Increasing the use of administrative records for data collection, processing and evaluation to reduce respondent burden and costs, and developing innovative, useful products.
  - Improving the relevancy and usefulness of economic and/or demographic statistics.

#### Disclosure Risk

- Does this project present significant disclosure risks?

#### Conflict of Interest

- Is there any conflict of interest for the Census Bureau in being affiliated with this project, the source agency of the administrative record data, or the funding source?



#### Relationship with Partner Agencies

- Does this project compromise the Census Bureau's relationship with any of the agencies with which it works?

#### Privacy Issues

- Will this project create new linkages that have the potential to generate privacy concerns?
- Can this project be implemented within the parameters set forth in the Census Bureau's Privacy Principles?

#### New Policy Issues

- Does this project raise new policy issues for the Census Bureau?
- If so, do these issues warrant review by the Data Stewardship Executive Policy Committee?

## Administrative Records Role Summary & Key Contacts

ADREC Process Support Role/Handbook Section								
<i>Organization/ Title</i>	<b>Name</b>	<b>Tel.</b>	<b>Initial Project Development II.</b>	<b>Project Review &amp; Approval III.</b>	<b>Agreement Negotiation &amp; Data Acquisition IV.</b>	<b>Data Access &amp; Agreement Administration V.</b>	<b>Project Implementation VI.</b>	<b>Policy &amp; Guidance VII.</b>
<b>Policy Office (POL)</b>								
▪ Chief	Jerry Gates	x2515						Staffs Stewardship Committee
▪ Administrative Records Coordinator (ARC)	Eloise Parker	x2520	Provides advice on approaching source agencies	Review team member – IRS Liaison	Leads strategy meetings			Chairs CARPP
<b>Planning, Research, and Evaluation Division (PRED)</b>								
▪ Assistant Division Chief for Admin. Records Research	Charlene Leggieri	x8111		Review team member		Serves as data custodian & monitors agreement commitments		
▪ Acquisition Staff	Francina Kerr Susan Clark [ARTS]	x3074	Provides information about demographic data sets		Organizes agreement review & clearance -- Acquires demographic files	Receives internal demo data requests -- arranges associated data releases	Prepares reports to source agencies	
<b>Economic Planning and Coordination Division (EPCD)</b>								

ADREC Process Support Role/Handbook Section								
Organization/ Title	Name	Tel.	Initial Project Development II.	Project Review & Approval III.	Agreement Negotiation & Data Acquisition IV.	Data Access & Agreement Administration V.	Project Implementation VI.	Policy & Guidance VII.
<ul style="list-style-type: none"><li>Register Analysis Branch</li></ul>	Carol Comisarow	x2600		Review team member	Organizes agreement review/clearance; acquires federal economic files	Serves as data custodian; receives internal econ data requests; arranges associated data releases	Prepares reports to source agencies	
Center for Economic Studies (CES)								
<ul style="list-style-type: none"><li>Research Proposal Managers</li></ul>	B K Atrostic (demographic)	x8247		Responsible for external project review -- member of internal project review team				
<ul style="list-style-type: none"><li>Project Review Coordinator</li></ul>	TBD	TBD		Coordinates internal project review				
Oversight Committees								
<ul style="list-style-type: none"><li>Data Stewardship Executive Policy Committee (Stewardship Committee)</li></ul>	Contact: Jerry Gates	x2515						Sets ADREC Policy
<ul style="list-style-type: none"><li>Committee on Administrative Records Policies and Procedures (CARPP)</li></ul>	Contact: Eloise Parker	x2520						Develops ADREC policy issues & sets ADREC procedures
Program Areas								
<ul style="list-style-type: none"><li>Division Chiefs</li></ul>	-	-		Reviews				

ADREC Process Support Role/Handbook Section								
<i>Organization/ Title</i>	Name	Tel.	Initial Project Development II.	Project Review & Approval III.	Agreement Negotiation & Data Acquisition IV.	Data Access & Agreement Administration V.	Project Implementation VI.	Policy & Guidance VII.
				internal projects				
▪ Project Contacts	-	-	Documents projects into ARTS	Interacts with project Coordinator	Part of strategy meeting		Maintains project record information, including personnel supporting project	
▪ Supervisors	-	-					Ensure completion/ certification of Title 26 training for project support personnel	
<b>ITSO</b>								
▪ ITSO Security Officer	Tim Ruland/ Maureen Hollabaugh	x2862		Review team member				
<b>Personnel Security Branch (DOC)</b>								
▪ Personnel security representative	Linda Guier	x2881					Maintains SSS status in CAMS/AIMS, notifies PC's of SSS disposition status	

## Negotiation Strategy Meeting

Checklist

Action Item	Individual Responsible	Timetable	Notes	Completed
Set up strategy meeting with all participating U.S. Census Bureau program areas				
Identify data files required				
Identify cost/deliverables from source agency				
Identify security issues				
Initiate formal contact with source agency				
Draft MOU/data agreement				
Identify third party concurrence, if any				
Submit MOU to all parties for review (Census Bureau and source agency)				
Revise MOU as needed				
Submit to ARTS for Census Bureau clearance				
Secure signatures at Census Bureau and source agency				
Move MOU in ARTS from pending to "active"				
Hard copies distributed to parties involved.				
Transmit to source agency as needed.				



## TECHNICAL CONTROLS

The following technical controls govern physical and information technology security related to administrative records.

### Security Officer

The Chief of the Economic Planning and Coordination Division (EPCD) and the Chief of the Planning, Research, and Evaluation Division (PRED) will each designate Security Officers, whose duties include, but are not limited to, the following:

Serving as a liaison with the U.S. Census Bureau Security Office to develop and maintain security plans for administrative records and to verify security procedures and access controls, coordinating and monitoring user training on security procedures, and monitoring office and processing activities for compliance with security requirements.

### Computers

Computer systems used to store and process administrative records are located in secure U.S. Census Bureau facilities. These computer systems and processes satisfy requirements of the Computer Security Act of 1997 and meet standards described in the Department of Defense 12/85 report, "Trusted Computer System Evaluation Criteria," DOD 5200.28-STD, and the Census Bureau's IT (Information Technology) Security Handbook. Security plans for these systems are prepared under the direction of the Census Bureau Security Office and in compliance with the Department of Commerce "Guidelines for Developing and Evaluating Security Plans for Sensitive and Classified Systems" (February 1992).

## Access Controls

### *Administrative Records About Businesses*

User passwords, access control lists, and special rights identifiers limit and regulate access to the business register and other online storage of administrative records information about businesses.

### *Administrative Records About People and Households*

A tiered approach is used to limit access to administrative data with personal identifiers to a very small number of Census Bureau employees, based on need to know. There are several levels of access. Each level implies access to successive levels.

<u>Level</u>	<u>Security Access</u>
0	System Administrator, Security Officer, and Primary person(s) in charge of file, people with access to entire microdata file.
1	People with access to extracts of microdata with personal identifiers.
2	People with access to summary data that has not been subjected to disclosure review and to microdata extracts without personal identifiers.
3	People with access to summary data or microdata that has been subjected to disclosure review.

Only individuals with access levels 0 and 1 are permitted on the secured, restricted access PRED computer. These individuals are identified in the security plan for that system. As a rule, these are selected individuals designated by, and who report to, the Assistant Chief for Administrative Records Research, PRED. On a case-by-case basis, the Assistant Chief for Administrative Records Research also may approve specific requests for level 1 access for approved projects through a modification of the security plan. Persons with access level 2 may use administrative data on computers that meet Census Bureau and supplying agency security requirements. All access screens, as well as print and other media (e.g., tapes, etc.), contain statements indicating that disclosure is prohibited (Census Administrative Memorandum - 9: "Guidelines for Census Confidential Material") and data are to be used for authorized purposes only.

## Telecommunications

All Census Bureau communication with computer processing systems that store administrative records about businesses or people/households use either point-to-point dedicated lines and/or encryption.

### Audit Trail

System-level logs record user access to online storage of administrative records. These logs meet Census Bureau IT Security Handbook guidelines but do not track record- and field-level access to tax data, as recommended in the IRS' *Tax Information Security Guidelines for Federal, State, and Local Agencies*. The design of some existing systems cannot support a practical implementation of this latter requirement for more detailed audit trails, but we are investigating alternative solutions.

### Labeling of Data Displays

Printed material, screen displays, and other media containing administrative record information are marked "Disclosure Prohibited Title 13, U.S.C." Additionally, information supplied by the Internal Revenue Service is marked "Disclosure Prohibited Title 18 and Title 26, U.S.C." Printed materials are kept in secure Census Bureau facilities under lock and are destroyed according to Census Administrative Memorandum General—16: "Destruction of Sensitive Materials."

### Electronic Storage

All computer tapes containing administrative record information are stored in secured Census Bureau facilities. Other machine-readable media are marked with Titles 13, 18, and 26 nondisclosure caveats, as appropriate, and are kept in secure areas. Data on computer tapes are destroyed by a degaussing and reformatting procedure, and data on CD-ROM are destroyed by breaking the physical media and disposing of it according to "Destruction of Sensitive Materials" guidelines.



# Safeguarding and Protecting Federal Tax Returns and Return Information

*Guidelines for U.S. Census Bureau Officers, Employees, and Persons with Special Sworn Status*

Policy Office

6/11/01



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## *Introduction*

The mission of the U.S. Census Bureau is "to be the pre-eminent collector and provider of timely, relevant and quality data about the people and economy of the United States." To accomplish this mission, the Census Bureau is required (to the maximum extent possible) to use records collected by other federal agencies for administrative purposes (i.e., administrative records) rather than collecting the information directly. Consistent with this requirement, the Census Bureau has a long history of using administrative records (e.g., Federal tax returns and return information (FTI)) obtained from the Internal Revenue Service (IRS) for statistical purposes.

As a recipient of FTI from the IRS or other sources, such as the Social Security Administration (SSA), the Census Bureau must ensure that it establishes and maintains, to the satisfaction of the IRS, certain safeguards designed to prevent unauthorized access to and use of FTI, as well as to protect the confidentiality of that information.

Safeguarding FTI is an individual, as well as agency, responsibility. The Census Bureau's tax information security program depends on the alertness, reliability, and discretion of every individual with access to FTI. The importance of effective security and of the position of trust imposed upon each individual who has possession, access, or control of FTI is indicated by the criminal and civil penalties imposed for violation of the law.

## *Purpose*

The purpose of this document is to ensure that Census Bureau officers and employees, as well as individuals with special sworn status (SSS), having access to FTI and IRS "Official Use Only" data are aware of the legal requirements for protecting the confidentiality of those data, as well as the penalties for unauthorized disclosure, access, inspection, and use. An additional purpose is to ensure that persons with access to FTI are aware of Census Bureau procedures (approved by IRS) for safeguarding FTI and IRS "Official Use Only" data.

## *Legal Authority*

The Census Bureau's authority to use FTI is provided for under federal laws, otherwise known as the United States Code (U.S.C.). The U.S.C. is a way to organize, by topic, the laws Congress passes. The U.S.C. is divided into 50 "titles"; generally, each title addresses a specific subject. Specifically, *Title 26 Internal Revenue Code* and *Title 13 Census* provide the authority for the IRS to give FTI to the Census Bureau and for the Census Bureau to obtain and use these data for statistical purposes. This authority is further defined in the Code of Federal Regulations (CFR), which are rules made by federal agencies and executive departments to implement the laws compiled in the U.S.C. These regulations have the full force and effect of federal law.

### Title 13 Census

The Census Bureau is required to use records collected by other federal agencies for administrative purposes (i.e., administrative records). Therefore, the Census Bureau is authorized to request data from the IRS under 13 U.S.C. 6 as detailed below:

#### TITLE 13 - CENSUS

##### CHAPTER 1 - ADMINISTRATION

##### SUBCHAPTER I - GENERAL PROVISIONS

Sec. 6. Information from other federal departments and agencies; acquisition of reports from other governmental and private sources

(a) The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government, or of the government of the District of Columbia, for information pertinent to the work provided for in this title.

(b) The Secretary may acquire, by purchase or otherwise, from States, counties, cities, or other units of government, or their instrumentalities, or from private persons and agencies, such copies of records, reports, and other material as may be required for the efficient and economical conduct of the censuses and surveys provided for in this title.

(c) To the maximum extent possible and consistent with the kind, timeliness, quality and scope of the statistics required, the Secretary shall acquire and use information available from any source referred to in subsection (a) or (b) of this section instead of conducting direct inquiries.

Additionally, the Census Bureau is authorized by Section 23(c) of Title 13 to utilize individuals with SSS to assist the Bureau

in performing the work authorized by Title 13, provided that these individuals are sworn to observe the confidentiality requirements imposed by the Census Bureau's statute.

TITLE 13 - CENSUS

CHAPTER 1 - ADMINISTRATION

SUBCHAPTER II - OFFICERS AND EMPLOYEES

Sec. 23. Additional officers and employees

(c) The Secretary may utilize temporary staff, including employees of federal, state, or local agencies or instrumentalities, and employees of private organizations to assist the Bureau in performing the work authorized by this title, but only if such temporary staff is sworn to observe the limitations imposed by section 9 of this title.

Section 9 of Title 13 below is the primary provision of the Census Bureau statute governing access to and the handling of confidential census data.

TITLE 13 - CENSUS

CHAPTER 1 - ADMINISTRATION

SUBCHAPTER I – GENERAL PROVISIONS

Sec. 9. Information as confidential; exception

(a) Neither the Secretary, nor any other officer or employee of the Department of Commerce or bureau or agency thereof, or local government census liaison, may, except as provided in section [8](#) or [16](#) or chapter [10](#) of this title or section 210 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 or section 2(f) of the Census of Agriculture Act of 1997 -

(1) use the information furnished under the provisions of this title for any purpose other than the statistical purposes for which it is supplied; or

(2) make any publication whereby the data furnished by an particular establishment or individual under this title can be identified; or

(3) permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual reports. No department, bureau, agency, officer, or employee of the Government, except the Secretary in carrying out the purposes of this title, shall require, for any reason, copies of census reports which have been retained by any such establishment or individual. Copies of census reports which have been so retained shall be immune from legal process, and shall not, without the consent of the individual or establishment concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(b) The provisions of subsection (a) of this section relating to the

confidential treatment of data for particular individuals and establishments, shall not apply to the censuses of governments provided for by subchapter III of chapter 5 of this title, nor to interim current data provided for by subchapter IV of chapter 5 of this title as to the subjects covered by censuses of governments, with respect to any information obtained therefor that is compiled from, or customarily provided in, public records.

## Title 26 Internal Revenue Code

Title 26 provides for the conditions under which the IRS may disclose FTI to other agencies. Specifically, 26 U.S.C. 6103 (j) (1) provides for the disclosure of FTI to the Census Bureau for statistical purposes in the structuring of censuses and national economic accounts, as well as for conducting related statistical activities authorized by law.

### TITLE 26 - INTERNAL REVENUE CODE

#### Subtitle F - Procedure and Administration

#### CHAPTER 61 - INFORMATION AND RETURNS

#### Subchapter B - Miscellaneous Provisions

##### (j) Statistical use

##### (1) Department of Commerce

Upon request in writing by the Secretary of Commerce, the Secretary shall furnish –

- (A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and
- (B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law.

The conditions and procedures under which the Census Bureau may obtain FTI, as well as the specific data sources, specific data items, and specific uses, are further described in the implementing regulations or CFR. The CFRs that implement 26 U.S.C. 6103 (j) (1) are: 26 C.F.R. 301.6103(j)(1)-1 and 301.6103(j)(1)-1T. On February 13, 2001, IRS published for comment a notice of proposed rulemaking to promulgate the temporary regulation as a final regulation (See Attachment 1).

Section 6103(a) of Title 26 is the primary statement in the IRS statute regarding the confidentiality of returns and return information.

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter B - Miscellaneous Provisions

**Section 6103. Confidentiality and disclosure of returns and return information**

(a) General rule

Returns and return information shall be confidential, and except as authorized by this title -

- (1) no officer or employee of the United States,
- (2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section, and
- (3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), paragraph (6) or (12) of subsection (l), paragraph (2) or (4)(B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

Section 6103(p)(4) of Title 26 places the following specific requirements on the Census Bureau and other agencies to which IRS has disclosed data regarding the safeguarding of returns and return information.

TITLE 26 - INTERNAL REVENUE CODE  
Subtitle F - Procedure and Administration  
CHAPTER 61 - INFORMATION AND RETURNS  
Subchapter B - Miscellaneous Provisions

**Section 6103. Confidentiality and disclosure of returns and return information (excerpt)**

(4) Safeguards

Any federal agency described in subsection (h)(2), (h)(6), (i)(1), (2), (3), or (5), (j)(1) or (2), (l)(1), (2), (3), (5), (11), (13), or (14), or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), (9), (12), or (15) shall, as a condition for receiving returns or return information -

- (A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;
- (B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;
- (C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure maybe made under the provisions of this title;
- (D) provide such other safeguards which the Secretary determines (and



- which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;
- (D) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and
  - (E) upon completion of use of such returns or return information -
    - (i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), or (9) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,
    - (ii) in the case of an agency described in subsections (h)(2), (h)(5), (i)(1), (2), (3), or (5), (j)(1) or (2), or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), or (17), or (o)(1), or the General Accounting Office, either-
      - (I) return to the Secretary such returns or return information (along with any copies made therefrom),
      - (II) otherwise make such returns or return information undisclosable, or
      - (III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information, and
    - (iii) {Note text omitted here}

## *Definitions*

### What Is FTI?

As defined in 26 U.S.C. 6103 and IRS Publication 1075, *Tax Information Security Guidelines for Federal, State, and Local Agencies — Safeguards for Protecting Federal Tax Returns and Return Information*, Federal tax returns and return information (FTI) include the following:

- Return and return information.
- Such information even when commingled with other Census Bureau data.

### *Return*

The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by and provided to the IRS. This includes any amendment or supplement thereof, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return filed.

### *Return Information*

The term "return information" means:

- A taxpayer's identity; the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments, whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the Treasury] with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.
- Any part of any written determination or any background file document relating to such written

determination (as such terms are defined in Section 6110(b) [of Title 26]) which is not open to public inspection under Section 6110.

- Any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.

Some examples of FTI data sets used at the Census Bureau include the following:

- Economic Census Files
- IRS Individual Tax Returns
- IRS Information Returns
- IRS/Department of Labor (DOL) Form 5500
- Master Earnings File
- IRS 1099-R (subset of information returns)
- Business Register
- Non-employer Business Register
- Quarterly Financial Report
- SSA SSR
- Summary Earnings Record

### ***Commingled Data***

FTI refers to all data received from the IRS, whether about businesses or people. Files that contain FTI, along with Census Bureau-protected data, are referred to as “commingled” data sets. Commingled data are subject to the same IRS safeguard requirements as FTI, no matter how limited the use of FTI. That is, a file that contains only one data element obtained from the IRS is still considered FTI and is to be protected as such.

Examples of commingled data sets that are FTI include the following:

- a) the Business Register (also known as the Standard Statistical Establishment List (SSEL)),
- b) the Longitudinal Employer-Household Dynamics (LEHD) Master File, and
- c) Statistical Administrative Records System (StARS)

#### “Official Use Only” Data

In addition to data defined as FTI, the IRS supplies the Census Bureau with core record layouts, which illustrate administrative record data fields in record format, and IRS manuals, which define certain administrative record data element codes. These materials are necessary for Census Bureau employees to interpret the FTI and are considered “Official Use Only”. Contracts between the IRS and the Census Bureau contain the following IRS “Official Use Only” disclosure provision:

“Any Service information made available, which is marked “Official Use Only,” shall be used only for the purpose of carrying out the provisions of this contract, and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Disclosure to anyone other than an officer or employee of the [Census] Bureau shall require proper written approval of the Service.”

#### Disclosure

Unless explicitly stated otherwise, all FTI and “Official Use Only” data should be treated as confidential. Keeping data confidential means that disclosure is restricted. Disclosure is the making known of FTI or “Official Use Only” data in any manner to anyone. There are three types of disclosures: authorized disclosures, willful unauthorized disclosures, and inadvertent unauthorized disclosures.

### ***Authorized Disclosure***

Authorized disclosures are legal. Employees may need to disclose FTI to other employees with whom they are working to complete projects. This is called a “need to know” disclosure and is legal. Other examples of legal disclosure

include the IRS providing FTI data files to the Census Bureau, and the Social Security Administration providing FTI data files to the Census Bureau.

### ***Willful Unauthorized Disclosure***

Knowingly providing FTI or “Official Use Only” data to anyone who is not entitled to have them is considered an unauthorized disclosure and is illegal. Federal law prohibits unauthorized disclosure of FTI, and it provides for severe penalties for willful, unauthorized disclosure. For example, one cannot legally write a book on the tax matters of anyone whose information one came into contact with as a result of access to FTI, not even if one resigns or retires.

### ***Inadvertent Unauthorized Disclosure***

Sometimes a mistake is made and information that should have been confidential is given to a person who should not have it. This is called an inadvertent unauthorized disclosure.

Inadvertent unauthorized disclosures differ from unauthorized disclosure in four ways. Inadvertent unauthorized disclosures are made —

1. In the performance of official duties.
2. With the exercise of reasonable caution.
3. In good faith.
4. In connection to assigned work.

Each individual is responsible for avoiding inadvertent unauthorized disclosures. There is no liability under the IRS statute for inadvertent unauthorized disclosures. Title 13 does not contain any exceptions from liability for inadvertent unauthorized disclosures.

#### **Authorized Use of FTI**

An authorized use of FTI is one that has been approved by both the Census Bureau and IRS officials as satisfying applicable statutes. Using FTI for new uses that have not been through the formal review and approval process is unauthorized. A formal procedure, as documented in the *Administrative Records Handbook, Section 3*, is in place to document proposed projects requiring new uses of FTI, to initiate project review, and to obtain approval from both

Census Bureau and IRS officials. The criteria applied in the review of these projects are documented in *Criteria for the Review and Approval of Census Projects that Use Federal Tax Information, September 15, 2000*. This process is supported by the Census Bureau's Administrative Records Tracking System (ARTS). An example of an approved use of the Business Register is the 2001 Residential Finance Survey – Creating Lender Database project. This project is an approved use of FTI because it has been determined to meet established criteria. An example of an unauthorized use of FTI, is the use of IRS address information to conduct the Survey of Doctoral Recipients on behalf of the National Science Foundation (NSF). Using FTI for this project is an unauthorized use because it does not serve a Title 13, Chapter 5, benefit as required by established criteria and has not been approved by Census Bureau and IRS officials.

Each individual is responsible for understanding the authorized use of the FTI data sets for which he or she has been granted access, and using those data sets for precisely what has been authorized. Each individual is authorized to access FTI in the context of participating in one or more approved Census Bureau projects. Project descriptions and data release documents, both of which are available from ARTS, document the authorized uses of the data sets provided by the IRS. These documents shall be provided to each individual with authorized access to FTI.

## *Penalties*

As a Census Bureau officer or employee or an individual with SSS with access to FTI or “Official Use Only” data, it is important to understand that these data are confidential and highly sensitive. Each individual has a critical responsibility to protect the privacy and confidentiality of the income tax filers and provide for physical and procedural security to ensure the confidentiality of these data. Additionally, individuals are responsible for using FTI only for the purposes that have been authorized by both the Census Bureau and IRS. Failure to do so could result in the IRS revoking the Census Bureau's access to the data. Individuals can be terminated, removed from the project, fined, imprisoned, or sued by the income tax filer.

**Remember** — all tax data, including names and addresses,

are *equally* sensitive and are subject to IRS safeguard requirements and penalties regarding appropriate/authorized uses. Each individual is bound by these federal laws, regardless of his or her status — whether a current employee, furloughed employee, or an employee who has quit, retired, resigned, or been terminated.

While this document focuses on Title 26 requirements and associated penalties, be aware that FTI data are subject to the privacy and confidentiality provisions of other statutes as well. Specifically, if an individual discloses FTI or “Official Use Only” data without authorization, he or she may be subject to additional penalties covered under *Title 13 Census* and *Title 18 Crimes and Criminal Procedure*. The following table summarizes the penalties associated with unauthorized disclosure, inspection, or use of FTI and “Official Use Only” data.



## Table 1: Summary of Penalties for Improper Use of Confidential Data

Action	Legal Reference	Penalties
Willful Unauthorized Disclosure of FTI	26 U.S.C. 7213	<ul style="list-style-type: none"> <li>One or both of the following: <ul style="list-style-type: none"> <li>➤ A fine of \$5,000 or less<sup>2</sup></li> <li>➤ Imprisonment for 5 years or less</li> </ul> </li> <li>Dismissal, if a federal officer or employee</li> <li>Pay the costs of prosecution</li> </ul>
	26 U.S.C. 7431(a)(1) <sup>1</sup> 26 U.S.C. 7431(a)(2)	<ul style="list-style-type: none"> <li>Civil action<sup>3</sup> by the wronged taxpayer(s) with liability amounting to— <ul style="list-style-type: none"> <li>The greater of: <ul style="list-style-type: none"> <li>➤ \$1,000 per disclosure or</li> <li>➤ Actual damages to the taxpayer(s) plus any punitive damages that may be assessed for gross negligence</li> </ul> </li> <li>Costs of the action (plus reasonable attorneys fees)<sup>4</sup></li> </ul> </li> </ul>
	13 U.S.C. 214	<ul style="list-style-type: none"> <li>One or both of the following: <ul style="list-style-type: none"> <li>➤ A fine of \$250,000 or less<sup>5</sup></li> <li>➤ Imprisonment for 5 years or less</li> </ul> </li> </ul>
	18 U.S.C. 1905	<ul style="list-style-type: none"> <li>One or both of the following: <ul style="list-style-type: none"> <li>➤ A fine of \$100,000 or less<sup>6</sup></li> <li>➤ Imprisonment for 1 year or less</li> </ul> </li> <li>Dismissal, if a federal officer or employee</li> </ul>

1 There is no liability under sections 7431(a)(1) and (a)(2) if the disclosure results from a good faith but erroneous interpretation of section 6103.

2 Individuals found guilty of an offense under 26 U.S.C. 7213 may be fined up to \$250,000. 18 U.S.C. 3571(b)(3) and 18 U.S.C. 3559(a)(4).

3 If a federal officer or employee is responsible for the disclosure, the civil action must be brought against the United States. If the person responsible for the disclosure is not a federal officer or employee, the civil action must be brought against that individual. 26 U.S.C. 7431(a)(1) and (a)(2).

4 There are additional requirements for the recovery of attorneys fees. 26 U.S.C. 7430(c)(4) and 7431(c)(3).

5 Though section 214 of Title 13 states a maximum fine of \$5,000, individuals found guilty of the offenses cited in 13 U.S.C. 214 may be fined up to \$250,000. 18 U.S.C. 3571(b)(3) and 18 U.S.C. 3559(a)(4).

6 18 U.S.C. 3571(b)(5) and 18 U.S.C. 3559(a)(6).

Inadvertent Unauthorized Disclosure of FTI	13 U.S.C. 214	<ul style="list-style-type: none"> <li>• A fine of \$250,000 or less<sup>7</sup></li> <li>• Imprisonment for 5 years or less</li> </ul>
Willful Unauthorized Access or Inspection of FTI — Browsing	26 U.S.C. 7213A  26 U.S.C. 7431(a)(1) <sup>8</sup> 26 U.S.C. 7431(a)(2)	<ul style="list-style-type: none"> <li>• One or both of the following:               <ul style="list-style-type: none"> <li>➢ A fine of \$100,000 or less<sup>9</sup></li> <li>➢ Imprisonment of 1 year or less</li> </ul> </li> <li>• Dismissal, if a federal officer or employee</li> <li>• Pay the costs of prosecution</li> <li>• Civil action<sup>10</sup> by the wronged taxpayer(s) with liability amounting to —               <ul style="list-style-type: none"> <li>• The greater of:                   <ul style="list-style-type: none"> <li>➢ \$1,000 per inspection or</li> <li>➢ Actual damages to the taxpayer(s) plus any punitive damages that may be assessed for gross negligence</li> </ul> </li> <li>• Costs of the action (plus reasonable attorneys fees)<sup>11</sup></li> </ul> </li> </ul>
Unauthorized Disclosure of “Official Use Only” data	18 U.S.C. 1905	<ul style="list-style-type: none"> <li>• One or both of the following:               <ul style="list-style-type: none"> <li>➢ A fine of \$100,000 or less<sup>12</sup></li> <li>➢ Imprisonment for 1 year or less</li> </ul> </li> <li>• Dismissal, if a federal officer or employee.</li> </ul>
Unauthorized Use of FTI	26 U.S.C. 6103(q) 26 C.F.R. 301.6103(j)(1)	<ul style="list-style-type: none"> <li>• Suspension of access to FTI</li> </ul>

<sup>7</sup> Though section 214 of Title 13 states a maximum fine of \$5,000, individuals found guilty of the offenses cited in 13 U.S.C. 214 may be fined up to \$250,000. 18 U.S.C. 3571(b)(3) and 18 U.S.C. 3559(a)(4).

<sup>8</sup> There is no liability under these sections if the inspection results from a good faith but erroneous interpretation of section 6103.

<sup>9</sup> Individuals found guilty of an offense under this section may be fined up to \$100,000 rather than the \$1,000 or less stated in this section. 18 U.S.C. 3571(b)(5) and 18 U.S.C. 3559(a)(6).

<sup>10</sup> If a federal officer or employee inspects the FTI, the civil action must be brought against the United States. If the person inspecting the FTI is not a federal officer or employee, the civil action must be brought against that individual. 26 U.S.C. 7431(a)(1) and (a)(2).

<sup>11</sup> There are additional requirements for the recovery of attorneys fees. 26 U.S.C. 7430(c)(4) and 7431(c)(3).

<sup>12</sup> Individuals found guilty of an offense under this section may be fined up to \$100,000. 18 U.S.C. 3571(b)(5) and 18 U.S.C. 3559(a)(6).

### Willful Unauthorized Disclosure of FTI

Criminal penalties apply to willful unauthorized disclosure of FTI by federal and state employees and other persons (e.g., persons with SSS). These penalties also apply to the offering of any item of material value in exchange for a return or return information and the receipt of such information pursuant to such offer. Under section 7213 of Title 26, a court can impose a fine up to \$5,000, up to 5 years imprisonment, or both, together with the costs of prosecution. Title 18 allows the court to raise the fine up to \$250,000.

Section 9 of Title 13 gives FTI received from the IRS the confidentiality protection of Title 13 data from other sources. Thus, under section 214 of Title 13, the unauthorized disclosure of FTI allows a court to impose a fine up to \$250,000, imprisonment up to 5 years, or both. *Note that Census Title 13 penalties are generally more severe than those under IRS Title 26.*

Section 1905 of Title 18 provides additional criminal penalties for the disclosure of confidential information. A court can impose a fine up to \$100,000, imprisonment up to one year, or both. Additionally, if the person responsible for the unauthorized disclosure is a federal officer or employee, that person shall be removed from office or dismissed from employment upon conviction.

There are also civil penalties for willful unauthorized disclosure of FTI data. Under Section 7431(a) of Title 26, the taxpayer whose FTI has been willfully disclosed may file a civil action for damages of \$1,000 per disclosure or actual damages, punitive damages (for gross negligence), and the costs of the civil action (including reasonable attorneys fees). If a federal officer or employee is responsible for the disclosure, the civil action must be brought against the United States. If the person responsible for the disclosure is not a federal officer or employee, the civil suit must be brought against that individual. There is no liability under this section if the disclosure results from a good faith but erroneous interpretation of Section 6103 of Title 26.

### Inadvertent Unauthorized Disclosure of FTI

Criminal penalties apply to the inadvertent unauthorized

disclosure of FTI. Under Section 214 of Title 13, a court can impose a fine up to \$250,000 and a prison term up to 5 years.

#### Willful Unauthorized Access or Inspection of FTI

Criminal penalties apply to the unauthorized inspection of FTI. Under Section 7213A of Title 26, a court can impose a fine up to \$100,000, imprisonment up to one year, or both, together with the costs of prosecution. If the violator is a federal officer or employee, he or she shall be removed from office or dismissed as an employee upon conviction.

There are also civil penalties for unauthorized inspections. Under section 7431(a) of Title 26, a taxpayer has a private cause of action against the offender and must file his or her lawsuit against that individual. If the offender is a federal officer or employee, the civil action must be brought against the United States. In these civil actions, the taxpayer is entitled to \$1,000 per inspection or actual damages and the costs of the action. In addition, the taxpayer may be entitled to punitive damages for gross negligence and reasonable attorneys' fees.

#### Unauthorized Disclosure of "Official Use Only" Data

These data are protected from disclosure by a general confidentiality statute—Section 1905 of Title 18. Under this section, a court may impose a fine up to \$100,000, imprisonment up to one year, or both. If the violator is a federal officer or employee, he or she shall be removed from office or dismissed as an employee upon conviction.

#### Unauthorized Use of FTI

Section 6103(q) of Title 26, authorizes the Secretary of the Treasury to adopt regulations to implement the provisions of Section 6103. The Secretary has adopted a regulation (26 C.F.R. 301.6103(j)(1)) which allows IRS to take such action it determines to be necessary to ensure that FTI data are used properly. These include the suspension of access to FTI until IRS determines that the data have been or will be used properly. (See Attachment 1)

## *General Safeguard Requirements*

To avoid the penalties previously described, one should adhere to the following policies and general requirements associated with the protection of FTI:

- FTI is confidential under Title 26 and Title 13. Disclosure is prohibited. Severe penalties apply.
- Individuals working on a project and with access to FTI should know precisely for what purposes they are authorized to use the data.
- A system of records must be maintained regarding disclosure of tax information (requests, justifications, receipt, retention, and disposition).
- Safeguard tax information; secure storage of FTI is required. That is, secure the area at all times, making sure that the last person who leaves locks the door, and that confidential tax data are stored in a locked cabinet when not in use. ***Rolling file cabinets shall NOT be used to store FTI.***
- Upon completion of use, original FTI must be returned to the IRS or destroyed according to the specifications outlined in IRS Publication 1075.
- Casual browsing of FTI is illegal.
- No matter the media (electronic, paper listings, computer screen), FTI must be labeled as confidential.
- Ensure that listings and computer screens displaying FTI are never visible to visitors or other non-authorized users.
- FTI may not be transmitted via e-mail within or outside the Census Bureau.
- FTI must not be transmitted without tracking information from departure to receipt and must be documented and maintained for reporting and inspection.
- Other safeguards prescribed by the Secretary of the Treasury by regulation must be implemented.

- The Census Bureau must provide a report to the Secretary of the Treasury concerning the procedures used to safeguard FTI.

## *Record Keeping Requirements*

As a recipient of FTI, the Census Bureau is required to establish a permanent system of standardized records of requests made, by or to it, for disclosure of FTI. The record keeping needs to include requests internal to the Census Bureau, as well as requests outside of the Census Bureau. The records are to be maintained for a minimum of five (5) years or the applicable records control schedule, whichever is longer.

The Census Bureau has implemented ARTS to assist it in keeping track of approved uses of FTI.

### Electronic Files

The Census Bureau is responsible for ensuring that magnetic tapes/cartridges are secured before, during, and after processing and ensuring that the proper acknowledgment form is signed and returned to the IRS.

Inventory records must be maintained for purposes of control and accountability. Tapes containing FTI, any hard copy printout of a tape, or any file resulting from the processing of such a tape should be recorded in a log that identifies the following:

- date received
- reel/cartridge control number contents
- number of records if available
- movement and method of transmission
- if disposed of, including return to IRS or SSA, the date and method of disposition.

Such a log will permit all tapes (including those used only for backup) containing FTI to be readily identified and controlled. Responsible officials must ensure that the removal of tapes and disks (containing FTI) from the storage area is properly

recorded on charge-out records. The IRS requires a semiannual magnetic tape inventory to be conducted. The Census Bureau must account for any missing tape by documenting search efforts and notifying the initiator of the loss.

### Information Other Than That In Electronic Form

Generally, the Census Bureau does not obtain FTI from the IRS in other than electronic form. However, such information requires a listing of all documents received from the IRS and must be identified by the following:

- a taxpayer name
- tax year(s)
- type of information (i.e., revenue agent reports, Form 1040, work papers, etc.)
- the reason for the request
- date requested
- date received
- exact location of the FTI
- who has had access to the data and
- if disposed of, the date and method of disposition.

## *Secure Storage*

### General

There are a number of ways that security may be provided for a document, an item, or an area. These include, but are not limited to, locked containers of various types, vaults, locked rooms, locked rooms that have reinforced perimeters, locked buildings, guards, electronic security systems, fences, identification systems, and control measures. Minimum Protection Standards for securely storing FTI include at least two levels of protection. These two levels can be met by implementing one of the following alternatives:

#### **ALTERNATIVE 1:**

**Secured Perimeter** — Enclosed by slab-to-slab walls constructed of approved materials and supplemented by periodic inspection. Any lesser-type partition supplemented by UL approved electronic intrusion detection and fire



detection systems. Unless there are electronic intrusion detection devices, all doors entering the space must be locked. In the case of a fence/gate, the fence must have intrusion detection devices or be continually guarded and the gate must be either guarded or locked with intrusion alarms. Space must be cleaned during duty hours. This requirement could apply to exterior or interior perimeters.

**Locked Container** — A commercially available or prefabricated metal cabinet or box with riveted or welded seams or metal desks with lockable drawers.

## **ALTERNATIVE 2:**

**Locked Perimeter** — High security pin-tumbler cylinder locks meeting the following criteria:

- key operated mortised or rim-mounted dead bolt lock
- dead bolt throw of one inch or longer
- double cylinder design - must have five or more pin tumblers
- if bolt is visible when locked, must contain hardened inserts or be made of steel
- both the key and the lock must be “off master.”

**Secured Interior Area** — Same specifications as secured perimeter.

### **ALTERNATIVE 3:**

**Locked Perimeter** — See above.

**Security Container** — Metal containers that are lockable and have a resistance to penetration. There should only be 2 keys to the containers. Strict control of keys is mandatory. (For example: mini safes, metal lateral key lock files, metal pull drawer cabinets with center/off center lock bars secured by padlocks. Note: Safes must either be GSA-approved or UL of TRTL-30, TRTL-60, or TXTL-60).

Individuals, who have custody or control of FTI, are responsible for its security. While working with FTI no matter the form (paper, electronic, or magnetic), it must be kept under personal surveillance. It must be covered up, put into a desk drawer or file cabinet (not a rolling one), or otherwise protected from view from unauthorized personnel. Before leaving your work area for the evening or even for a break, FTI must be returned to secure storage (by at least two levels of protection as specified above). For example, the IRS found that having IRS materials in a burn bag within a locked office, where walls do not extend to the ceiling, to be improperly secured. While they found that the perimeter of the building is staffed by security guards, the interior officers were not considered secure. To rectify this situation, the burn bag should be locked in a security container.

#### Security During Office Moves

When it is necessary for an office to move to another location, plans must be made to properly protect and account for all FTI. Federal tax information must be in locked cabinets or sealed packing cartons while in transit. Accountability will be maintained to ensure that cabinets or cartons do not become misplaced or lost during the move. IRS material must remain in the custody of a Census Bureau employee and accountability must be maintained throughout the move.

Additionally, in advance of the relocation, the Census Bureau must make the IRS aware of its moving plans and provide the IRS an opportunity to conduct an inspection and review of the plans.

#### Handling and Transporting Federal Tax Information

The handling of FTI and tax-related documents must be such that the documents do not become misplaced or available to unauthorized personnel. Only those employees who have a

need to know and to whom disclosure may be made under the provisions of the statute should be permitted access to FTI.

Any time FTI is transported from one location to another, care must be taken to provide safeguards. In the event the material is hand-carried by an individual in connection with a trip or in the course of daily activities, it must be kept with that individual and protected from unauthorized disclosures. For example, when not in use, and definitely when the individual is out of the room, the material is to be out of view, preferably in a locked briefcase or suitcase.

All shipments of FTI (including magnetic media and microfilm) must be documented on a transmittal form and monitored to ensure that each shipment is properly and timely received and acknowledged. All FTI transported through traceable mail or courier/messenger service must be double-sealed; that is, one envelope within another envelope. The inner envelope should be marked confidential with some indication that only the designated official or delegate is authorized to open it. The use of sealed boxes serves the same purpose as double sealing and prevents anyone from viewing the contents.

### Physical Security of Computers and Magnetic Media

Due to the vast amount of data stored and processed by computers and magnetic media, the physical security and control of computers and magnetic media also must be addressed. Whenever possible, computer operations must be in a secure area with restricted access. In situations such as remote terminals, or office work sites where all of the requirements of a secure area with restricted access cannot be maintained, the equipment should receive the highest level of protection that is practical. Some minimum-security requirements must be met, such as keeping FTI locked up when not in use. Tape reels, disks, or other magnetic media must be labeled as federal tax data when they contain such information. Magnetic media should be kept in a secured area under the immediate protection and control of an authorized employee or locked up. When not in use, they should be promptly returned to a proper storage area or container. Good security practice requires that inventory records of magnetic media be maintained for purposes of control and accountability. Additionally, remote work sites must be

inspected and approved prior to use.

Alternate Work Sites

IRS guidelines provide for the use of alternate work sites, such as employees' homes or other nontraditional work sites, if FTI can be adequately protected and the minimum standards listed in Publication 1075 can be established and maintained. This includes the use of only agency-owned computers and software to process, access, and store federal tax information. *However, the Census Bureau does NOT currently authorize access to FTI at such locations.*

## *Restricting Access and Use of FTI*

Other ways of protecting FTI include restricting access to only those with a need to know, avoid commingling FTI with Census Bureau data whenever feasible, restricting how FTI is transmitted between agency officials even with a need to know, and ensuring its use is approved by both Census Bureau and IRS.

### Need to Know

Good safeguard practice dictates that access to FTI be strictly on a need-to-know basis. FTI must never be indiscriminately disseminated, even within the Census Bureau. Restricting access to designated personnel minimizes the possibility of improper disclosure. The IRS recognizes that often it may be necessary to forward FTI to technical and clerical employees for necessary processing. However, no person should be given more FTI than is needed for performance of his or her duties.

Examples follow:

- When documents are given to a clerk or typist, no FTI should be included unless it is needed for performance of clerical or typing duties.
- When information from a federal tax return is passed to a technical employee, the employee should be provided only that portion of the return that the employee needs to examine.
- In a data processing environment, individuals may require access to media used to store FTI to do their jobs but do not require access to FTI (e.g., a tape librarian or a computer operator).

The Census Bureau also implements system security policies to enforce “need-to-know” access. Controls include the following:

- Unique identification and authentication of users.

- Control of user access to data and system resources.
- An audit trail (maintain current year and 5 prior years) of user activities to ensure that user actions are within established controls.
- Protection of residual data from unauthorized access.

#### Commingling

FTI should be kept separate from other Census Bureau information to the maximum extent possible to avoid inadvertent disclosures. In situations where separation is impractical, items should be clearly labeled to indicate that FTI is included and safeguarded accordingly. The information itself should also be clearly labeled.

#### Transmitting FTI within the Census Bureau

The detailed guidelines for transmitting sensitive data, including FTI, are provided in Chapter 4 of Bureau of the Census Handbook for Information Technology Security, which is available on the Census Bureau's intranet, and is consistent with IRS Publication 1075. Be aware that sensitive information, including FTI, is never to be transmitted in the text of an e-mail. Guidelines for sending sensitive attachments to an e-mail message, as well as fax data, are provided in the security handbook.

### Restricting Use of FTI

Procedures, as documented in the *Administrative Records Handbook, Section 3*, are in place to ensure that use of FTI is restricted to only those projects that have been reviewed and approved by both Census Bureau and IRS officials. Uses are approved in accordance with the criteria documented in *Criteria for the Review and Approval of Census Projects that Use Federal Tax Information, September 15, 2000*.

## *Disposal of FTI*

FTI must be destroyed according to the specifications outlined in IRS Publication 1075 or returned to the IRS when no longer needed or at the end of the authorized retention period. All transfer or destruction of FTI must be recorded with the date and identity of responsible persons.

FTI and any material generated therefrom, such as extra copies, photo impressions, computer printouts, carbon paper, notes, stenographic notes, and work papers should be destroyed by burning, mulching, pulping, shredding, or disintegrating. The following precautions should be observed when destroying FTI:

- Burning precautions: The material is to be burned in either an incinerator that produces enough heat to burn the entire bundle or the bundle should be separated to ensure that all pages are consumed.
- Shredding precautions: To make reconstruction more difficult, the paper should be inserted so that lines of print are perpendicular to the cutting line and do not maintain small amounts of shredded paper. The paper should be shredded to effect 5/16-inch wide or smaller strips; microfilm should be shredded to effect a 1/35- inch-by- 3/8- inch strips. If shredding is part of the overall destruction of IRS data, strips can in effect be set at the industry standard (currently ½ inch). However, when deviating from IRS 5/16-inch requirement, IRS data, as long as it is in this condition (i.e., strips larger than 5/16 inch), must be safeguarded until it reaches the stage where it is rendered unreadable.

- Pulping should be accomplished so that all material is reduced to particles one inch or smaller.

Magnetic tape containing FTI must not be made available for reuse by other offices or released for destruction without first being subjected to electromagnetic erasing. If reuse is not intended, the tape should be destroyed by cutting into lengths of 18 inches or less or by burning to effect complete incineration.

Whenever disk media leaves the physical or systemic control of the agency for maintenance, exchange, or other servicing, any FTI on it must be destroyed as follows:

- Completely overwriting all data tracks a minimum of three times, using maximum current that will not damage or impair the recording equipment.
- Running a magnetic strip, of sufficient length to reach all areas of the disk over and under each surface a minimum of three times. If the information cannot be destroyed as suggested, the disk will be damaged in an obvious manner to prevent use in any disk drive unit and discarded.

Note: Hand-tearing, recycling, or burying information in a landfill are unacceptable methods of disposal.

### *Reporting Improper Inspections or Disclosures*

Upon discovery of an improper inspection or disclosure of FTI, the individual making the observation should contact the Treasury Inspector General for Tax Administration at 1-800-366-4484.

### *IRS Safeguard Reviews*

To ensure that the Census Bureau has an adequate program in place to protect the data received, and that all individuals with access to FTI are aware of and are abiding by proper procedures, the IRS conducts routine on-site reviews. Should the IRS find noncompliance, further access to FTI can be denied. Furthermore, the Census Bureau is required to annually certify to the IRS that relevant personnel and SSS



individuals have been advised of Title 26 data protection and confidentiality requirements and the penalties for unauthorized disclosure, inspection, and use. Specifically, IRS evaluates how the data are accessed, used, and protected. Specific activities reviewed include the following:

- Record keeping, tracking, and controlling maintenance of FTI
- Data storage security
- Access restrictions
- Reporting requirements
- Disposal
- Computer security
- Data needs, uses, and retention
- Physical Security

# Attachment 1: IRS Code of Federal Regulations

## Internal Revenue Service, Treasury

## § 301.6103(j)(1)-1

States or such agency is or may be a party.

(b) *Disclosure of returns and return information (including taxpayer return information) by officers and employees of the Department of Justice or another Federal agency.* (1) Returns and return information (including taxpayer return information), as defined in section 6103(b) (1), (2), and (3) of the Code, disclosed to officers and employees of the Department of Justice or other Federal agency (as defined in section 6103(b)(9)) as provided by paragraph (a) of this section may be disclosed by such officers and employees to other persons, including, but not limited to, persons described in subparagraph (2) of this paragraph, but only to the extent necessary in connection with a Federal grand jury proceeding, or the proper preparation for a proceeding (or in connection with an investigation which may result in such a proceeding), described in paragraph (a). Such disclosures may include, but are not limited to, disclosures where necessary—

(i) To properly obtain the services of persons having special knowledge or technical skills (such as, but not limited to, handwriting analysis, photographic development, sound recording enhancement, or voice identification);

(ii) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer to whom such return or return information relates (or such taxpayer's legal representative) or any witness who may be called to give evidence in the proceeding; or

(iii) To properly conduct negotiations concerning, or obtain authorization for, disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding. Disclosure of a return or return information to a person other than the taxpayer to whom such return or return information relates or such taxpayer's legal representative to properly accomplish any purpose or activity described in this subparagraph should be made, however, only if such purpose or activity cannot otherwise properly be accomplished without making such disclosures.

(2) Among those persons to whom returns and return information may be

disclosed by officers and employees of the Department of Justice or other Federal agency as provided by subparagraph (1) of this paragraph are—

(i) Other officers and employees of the Department of Justice (including an office, board, division, or bureau of such department, such as the Federal Bureau of Investigation or the Drug Enforcement Administration) or other Federal agency described in subparagraph (1), such as clerical personnel (for example, secretaries, stenographers, docket and file room clerks, and mail room employees) and supervisory personnel (for example, in the case of the Department of Justice, Section Chiefs, Deputy Assistant Attorneys General, Assistant Attorneys General, the Deputy Attorney General, the Attorney General, and supervisory personnel of the Federal Bureau of Investigation or the Drug Enforcement Administration);

(ii) Officers and employees of another Federal agency (as defined in section 6103(b)(9)) working under the direction and control of such officers and employees of the Department of Justice or other Federal agency described in subparagraph (1); and

(iii) Court reporters.

(Secs. 6103 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1667, 68A Stat. 917; 26 U.S.C. 6103 and 7805))

[T.D. 7723, 45 FR 65568, Oct. 3, 1980]

## § 301.6103(j)(1)-1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(1) of the Internal Revenue Code and subject to the requirements of paragraph (d) of this section, officers or employees of the Internal Revenue Service will disclose return information (as defined by section 6103(b)(2) but not including return information described in section 6103(o)(2)) to officers and employees of the Department of Commerce to the extent, and for such purposes as may be, provided by paragraphs (b) and (c) of this section. Further, in the case of any disclosure of return information so provided by paragraphs (b) and (c), the tax period or accounting period to

which such return information relates will also be disclosed.

(b) *Disclosure of return information to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Service will disclose the following return information reflected on returns of an individual taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, intercensal estimates of population and income for all geographic areas included in the population estimates program and demographic statistics programs, censuses, and related program evaluation—

- (i) Taxpayer identity information (as defined in section 6103(b)(6) of the Code), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identity information of spouse and dependents, if reported;
  - (ii) District office and service center codes;
  - (iii) Marital status;
  - (iv) Number and classification of reported exemptions;
  - (v) Wage and salary income;
  - (vi) Dividend income;
  - (vii) Interest income;
  - (viii) Gross rent and royalty income;
  - (ix) Total of—
    - (A) Wages, salaries, tips, etc.,
    - (B) Interest income,
    - (C) Dividend income,
    - (D) Alimony received,
    - (E) Business income,
    - (F) Pensions and annuities,
    - (G) Income from rents, royalties, partnerships, estates, trusts, etc.,
    - (H) Farm income,
    - (I) Unemployment compensation, and
    - (J) Total Social Security benefits.
  - (x) Adjusted gross income;
  - (xi) Type of tax return filed;
  - (xii) Entity code;
  - (xiii) Code indicators for Form 1040, Form 8814, Schedules A, C, D, E, F, and SE;
  - (xiv) Posting cycle date relative to filing; and
  - (xv) Social Security benefits.
- (2) Officers or employees of the Service will disclose to officers and employees of the Bureau of the Census for purposes of,

but only to the extent necessary in, conducting, as authorized by chapter 5 of title 13, United States Code, demographic, economic, and agricultural statistics programs and censuses and related program evaluation—

(i) From the business master files of the Service, the taxpayer name directory and entity records consisting of taxpayer identity information (as defined in section 6103(b)(6)) with respect to taxpayers engaged in a trade or business, the principal industrial activity code, the filing requirement code, the employment code, the physical location, the service center and district and area office codes, and monthly corrections of, and additions to, such entity records;

(ii) From Form SS-4, all return information reflected on such return;

(iii) From an employment tax return—

(A) Taxpayer identifying number (as described in section 6109) of the employer,

(B) Total compensation reported,

(C) Master file tax account code (MFT),

(D) Taxable period covered by such return,

(E) Employer code,

(F) Document locator number,

(G) Record code,

(H) Total number of individuals employed in the taxable period covered by the return,

(I) Total taxable wages paid for purposes of chapter 21, and

(J) Total taxable tip income reported for purposes of chapter 21; and

(iv) From Form 1040, Schedule SE—

(A) Taxpayer identifying number of self-employed individual,

(B) Business activities subject to the tax imposed by chapter 21,

(C) Net earnings from farming,

(D) Net earnings from nonfarming activities,

(E) Total net earnings from self-employment, and

(F) Taxable self-employment income for purposes of chapter 2.

(b)(3) [Reserved]. For further guidance, see § 301.6103(j)(1)-1T(b)(3).

(4) Officers or employees of the Service will disclose return information relating to a taxpayer contained in the exempt organization master files of the

Service to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, economic censuses. This return information consists of taxpayer identity information (as defined in section 6103(b)(6)), activity codes, and filing requirement code, and monthly corrections of, and additions to, such return information.

(5) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)-1, officers or employees of the Social Security Administration to whom the following return information has been disclosed as provided by section 6103(l)(1)(A) or (5) may disclose such return information to officers and employees of the Bureau of the Census for necessary purposes described in paragraph (b)(2) or (3) of this section—

(i) From Form SS-4, all information reflected on such return; and

(ii) From Form 1040, Schedule SE—

(A) Taxpayer identifying number of self-employed individual,

(B) Business activities subject to the tax imposed by chapter 21,

(C) Net earnings from farming,

(D) Net earnings from nonfarming activities,

(E) Total net earnings from self-employment, and

(F) Taxable self-employment income for purposes of chapter 2.

(6)(i) Officers or employees of the Service will disclose the following return information (but not including return information described in section 6103(o)(2)) reflected on the return of a corporation with respect to the tax imposed by chapter 1 to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, developing and preparing, as authorized by law, the Quarterly Financial Report—

(A) [Reserved]. For further guidance, see § 301.6103(j)(1)-1T(b)(6)(i)(A).

(B) From Form SS-4—

(1) Month and year in which such return was executed,

(2) Taxpayer identity information,

(3) Principal industrial activity, geographic, firm size, and reason for application codes.

(ii) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)-1, officers or employees of the Social Security Administration to whom return information described in paragraph (b)(6)(i)(B) of this section with respect to a corporation has been disclosed as provided by section 6103(l)(1)(A) may disclose such return information to officers and employees of the Bureau of the Census for a purpose described in this paragraph (b)(6).

(c) *Disclosure of return information to officers and employees of the Bureau of Economic Analysis.* (1) Officers or employees of the Service will disclose to officers and employees of the Bureau of Economic Analysis for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by law, statistical analyses return information consisting of Statistics of Income transcript-edit sheets containing return information reflected on returns of designated classes or categories of corporations with respect to the tax imposed by chapter 1 and microfilmed records of return information reflected on such returns where needed for further use in connection with such conduct or preparation.

(2) Subject to the requirements of paragraph (d) of this section and § 301.6103(p)(2)(B)-1, officers and employees of the Social Security Administration to whom the following return information reflected on returns of designated classes or categories of corporations of designated classes or categories of corporations has been disclosed as provided by section 6103(l)(1)(A)(5) may disclose such return information to officers and employees of the Bureau of Economic Analysis for necessary purposes described in paragraph (c)(1) of this section—

(i) From Form SS-4, principal industrial activity and geographic codes; and

(ii) From an employment tax return—

(A) Total compensation reported, and

(B) Taxable wages paid for purposes of chapter 21 to each employee.

(d) *Procedures and restrictions.* Disclosure of return information by officers

or employees of the Service or the Social Security Administration as provided by paragraphs (b) and (c) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Secretary of Commerce describing—

(1) The particular return information to be disclosed,

(2) The taxable period or date to which such return information relates, and

(3) The particular purpose for which the return information is to be used, and designating by name and title the officers and employees of the Bureau of the Census or the Bureau of Economic Analysis to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (b) or (c) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such bureau whose duties or responsibilities requires such disclosure for a purpose described in paragraph (b) or (c), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the Bureau of the Census or the Bureau of Economic Analysis, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) of the Code or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(1) and paragraph (b) or (c) of this section, until the Service determines that such requirements have been or will be satisfied.

(Secs. 6103(j)(1) and (g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1678, and 1685, 68A Stat. 917; 26 U.S.C. 6103(j)(1) and (g); 7805))

[T.D. 7724, 45 FR 65562, Oct. 3, 1980, as amended by T.D. 7824, 47 FR 33477, Aug. 2, 1982; T.D. 8118, 51 FR 47017, Dec. 30, 1986; T.D. 8296, 55 FR 11368, Mar. 28, 1990; T.D. 8377, 56 FR 65187, Dec. 16, 1991; T.D. 8811, 64 FR 3632, Jan. 25, 1999]

**§ 301.6103(j)(1)-1T Disclosure of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities (temporary).**

(a) through (b)(2) [Reserved]. For further guidance, see § 301.6103(j)(1)-1(a) through (b)(2).

(b)(3) Officers or employees of the Internal Revenue Service will disclose the following business related return information reflected on the return of a taxpayer to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, demographic, economic, and agricultural statistics programs, censuses, and surveys. The "return of a taxpayer" includes, but is not limited to, Form 941; Form 990 series; Form 1040 series and Schedules C and SE; Form 1065 and all attending schedules and Form 8825; Form 1120 series and all attending schedules and Form 8825; Form 851; Form 1096; and other business returns, schedules and forms that the Internal Revenue Service may issue—

(i) Taxpayer identity information (as defined in section 6103(b)(6)) including parent corporation, shareholder, partner, and employer identity information;

(ii) Gross income, profits, or receipts;

(iii) Returns and allowances;

(iv) Cost of labor, salaries, and wages;

(v) Total expenses or deductions;

(vi) Total assets;

(vii) Beginning- and end-of-year inventory;

(viii) Royalty income;

(ix) Interest income, including portfolio interest;

(x) Rental income, including gross rents;

(xi) Tax-exempt interest income;

(xii) Net gain from sales of business property;

(xiii) Other income;

(xiv) Total income;

(xv) Percentage of stock owned by each shareholder;

(xvi) Percentage of capital ownership of each partner;

(xvii) End-of-year code;

(xviii) Months actively operated;

Asset class	Asset	Fair market value
VI .....	Equipment .....	400
	Total Class V .....	2,200
	Covenant not to compete .....	900
	Total Class VI .....	900

(iii) P and S each allocate the consideration in the transaction among the assets transferred under paragraph (c) of this section in accordance with the agreed upon fair market values of the assets, so that \$500 is allocated to Class II assets, \$200 is allocated to the Class III asset, \$2,200 is allocated to Class V assets, \$900 is allocated to Class VI assets, and \$200 (\$4,000 total consideration less \$3,800 allocated to assets in Classes II, III, V, and VI) is allocated to the Class VII assets (goodwill and going concern value).

(iv) In connection with the examination of P's return, the Commissioner, in determining the fair market values of the assets transferred, may disregard the parties' agreement. Assume that the Commissioner correctly determines that the fair market value of the covenant not to compete was \$500. Since the allocation of consideration among Class II, III, V, and VI assets results in allocation up to the fair market value limitation, the \$600 of unallocated consideration resulting from the Commissioner's redetermination of the value of the covenant not to compete is allocated to Class VII assets (goodwill and going concern value).

(e) *Reporting requirements*—(1) *Applicable asset acquisitions*—(i) *In general.* Unless otherwise excluded from this requirement by the Commissioner, the seller and the purchaser in an applicable asset acquisition each must report information concerning the amount of consideration in the transaction and its allocation among the assets transferred. They also must report information concerning subsequent adjustments to consideration.

(ii) *Time and manner of reporting*—(A) *In general.* The seller and the purchaser each must file asset acquisition statements on Form 8594, "Asset Allocation Statement," with their income tax returns or returns of income for the taxable year that includes the first date assets are sold pursuant to an applicable asset acquisition. This reporting requirement applies to all asset acquisitions described in this section. For reporting requirements relating to asset acquisitions occurring before March 16, 2001, as described in paragraph (a)(2) of this section, see the temporary regulations under section 1060 in effect prior to March 16, 2001 (see 26 CFR part 1 revised April 1, 2000).

(B) *Additional reporting requirement.* When an increase or decrease in consideration is taken into account after the close of the first taxable year that includes the first date assets are sold in an applicable asset acquisition, the seller and the purchaser each must file a supplemental asset acquisition statement on Form 8594 with the income tax return or return of income for the taxable year in which the increase (or decrease) is properly taken into account.

(2) *Transfers of interests in partnerships.* For reporting requirements relating to the transfer of a partnership interest, see § 1.755-2T(c).

#### § 1.1060-1T [Removed]

Par. 12. Section 1.1060-1T is removed.

Par. 13. Section 1.1361-1 is amended as follows:

1. Redesignate paragraph (l)(2)(v) as paragraph (l)(2)(vi).

2. Add a new paragraph (l)(2)(v). The addition reads as follows:

#### § 1.1361-1 S corporation defined.

\* \* \* \* \*

(1) \* \* \*

(2) \* \* \*

(v) *Special rule for section 338(h)(10) elections.* If the shareholders of an S corporation sell their stock in a transaction for which an election is made under section 338(h)(10) and § 1.338(h)(10)-1, the receipt of varying amounts per share by the shareholders will not cause the S corporation to have more than one class of stock, provided that the varying amounts are determined in arm's length negotiations with the purchaser.

\* \* \* \* \*

Par. 14. Section 1.1361-4 is amended by removing the last two sentences of paragraph (b)(4) and adding three sentences to read as follows:

#### § 1.1361-4 Effect of QSub election.

\* \* \* \* \*

(b) \* \* \*

(4) *Coordination with section 338 election.* \* \* \* If an S corporation makes an election under section 338 (without a section 338(h)(10) election) with respect to a target, the target must file a final return as a C corporation reflecting the deemed sale. See § 1.338-10(a). If the target was an S corporation on the day before the acquisition date, the final return as a C corporation must reflect the activities of the target for the acquisition date, including the deemed sale. See § 1.338-10(a)(3).

\* \* \* \* \*

Par. 15. Section 1.1502-76 is amended by adding a parenthetical at

the end of paragraph (b)(1)(ii)(B)(3) and before the semicolon to read as follows:

#### § 1.1502-76 Taxable year of members of group.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(B) \* \* \*

(3) \* \* \* (but see § 1.338-1(d)) \* \* \*

\* \* \* \* \*

### PART 602—OMB CONTROL NUMBERS UNDER PAPERWORK REDUCTION ACT

Par. 16. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 17. In § 602.101, paragraph (b) is amended by removing the entries for §§ 1.338-2T, 1.338-5T, 1.338-10T, 1.338(h)(10)-1T, and 1.1060-1T from the table and adding new entries to the table in numerical order to read as follows:

#### § 602.101 OMB Control numbers.

\* \* \* \* \*

(b) \* \* \*

CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
1.338-2 .....	1545-1658
1.338-5 .....	1545-1658
1.338-10 .....	1545-1658
1.338(h)(10)-1 .....	1545-1658
* * * * *	* * * * *
1.1060-1 .....	1545-1658
* * * * *	* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: January 4, 2001.

Jonathan Talisman,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 01-981 Filed 2-12-01; 8:45 am]

BILLING CODE 4830-01-P

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### 26 CFR Part 301

[TD 8943]

RIN 1545-AY51

#### Disclosure of Return Information to the Bureau of the Census

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

**SUMMARY:** This document contains temporary regulations relating to additions to the list of items of information disclosed to the Bureau of the Census for use in the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project. These regulations provide guidance to IRS and Social Security Administration (SSA) personnel responsible for disclosing the information. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the *Federal Register*.

**DATES:** *Effective Date:* These regulations are effective February 13, 2001.

*Applicability Date:* For dates of applicability, see § 301.6103(j)(1)-1T(e) of these regulations.

**FOR FURTHER INFORMATION CONTACT:** Stuart Murray, (202) 622-4580 (not a toll-free number).

### Background

Under section 6103(j)(1), upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (Bureau) tax return information that is prescribed by Treasury regulations for the purpose of, but only to the extent necessary in, structuring censuses and national economic accounts and conducting related statistical activities authorized by law. Section 301.6103(j)(1)-1 of the regulations further defines such purposes by reference to 13 U.S.C. Chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes. Section 301.6103(j)(1)-1(b)(5) of the regulations provides a list of information provided to the Social Security Administration (SSA) pursuant to Internal Revenue Code section 6103(l)(1)(A) or (5) that officers or employees of SSA may disclose to the Bureau. Periodically, the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

This document adopts temporary regulations that authorize IRS and SSA personnel to disclose the additional items of return information that have been requested by the Secretary of Commerce for specified purposes related to the LEHD and SIPP projects.

Except for § 301.6103(j)(1)-1T(b)(2)(v) and (vi); (b)(3)(xxiii), (xxiv), (xxv), (xxvi), (xxvii) and (xxviii); and (b)(5)(iii), (iv), and (v); the text of the temporary regulations is the same as 26 CFR

301.6103(j)(1)-1. The changes made by § 301.6103(j)(1)-1T(b)(2)(v) and (vi); (b)(3)(xxiii), (xxiv), (xxv), (xxvi), (xxvii) and (xxviii); and (b)(5)(iii), (iv), and (v); are discussed below.

### Explanation of Provisions

By letter dated March 27, 2000, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes related to the Longitudinal Employer-Household Dynamics (LEHD) project. The request indicates that the Bureau is ready to begin a joint project with SSA to develop data files that contain linked information, matching selected worker and employer records for statistical research, in order to improve programs at the Bureau and SSA. The linked information will come from the Bureau's demographic and economic censuses and surveys, the Bureau's Standard Statistical Establishment List (SSEL), which includes business tax information, and SSA's administrative records. The Bureau's component of this project, the LEHD project, will enable the Bureau to conduct studies that are intended to improve the quality of the Bureau's core demographic and economic censuses and surveys, which are Bureau activities authorized under 13 U.S.C. Chapter 5.

The Bureau has specifically requested information from SSA's Master Earnings File (MEF), which contains information from IRS Form W-2 and Form 1040SE. The IRS information contained in SSA's MEF will permit the Bureau to link employee data with employer data. The Bureau has requested Social Security Numbers (SSNs) and Employer Identification Numbers (EINs) to link the employee and employer data.

The Bureau has also requested the disclosure of wages, tips, and other compensation and deferred wages from the Form W-2. The Bureau indicated that it wants this detailed earnings record information because it is provided separately for each employer of the employee; it covers all persons with wages, including nonfilers and other non-covered employees; and it provides specific information on deferred compensation, such as retirement contributions.

By letter dated August 2, 2000, the Secretary of Commerce requested additional items of information for purposes related to the Bureau's Survey of Income and Program Participation (SIPP) demographic survey. This request indicates that the Bureau and SSA want to ensure that the regulations authorize the continuation of a joint project to develop data files that contain linked information from the SIPP with

information from SSA's Master Earnings File. The linkage of Census survey information on family relationships with SSA's earnings histories allows for the study and assessment of welfare and social security/retirement proposals. Specifically, the Bureau intends to improve the quality of the SIPP by adding a series of projected Primary Insurance Amounts (PIAs) to the public-use version of each available SIPP.

In order to adjust for misreported data related to earnings, employment, and pensions from the Bureau's SIPP, the Bureau also requested data from Forms W-2 and 1099R or data derived from these forms. Some of the information requested for LEHD is also requested for SIPP, such as the social security number; employer identification number; wages, tips and other compensation; and deferred wages.

As provided in the Commissioner of Internal Revenue's responses to the LEHD and SIPP requests dated September 25, 2000, and October 27, 2000, respectively, information will be furnished under these temporary regulations only for the purposes of conducting the LEHD project and/or the SIPP/SSA project as specified in the request letters and with the understanding that the information will be used strictly in accordance with the provisions of the Internal Revenue Code pertaining to confidentiality.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Drafting Information

The principal author of these regulations is Jamie G. Bernstein, Office of the Associate Chief Counsel, Procedure & Administration (Disclosure & Privacy Law Division) Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR Part 301 is amended as follows:

**PART 301—PROCEDURE AND ADMINISTRATION**

**Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 301.6103(j)(1)—1T also issued under 26 U.S.C. 6103(j)(1); \* \* \*

**Par. 2.** Section 301.6103(j)(1)—1T is added to read as follows:

**§ 301.6103(j)(1)—1T Disclosure of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities (temporary).**

(a) through (b)(2)(iv) [Reserved]. For further guidance, see § 301.6103(j)(1)—1(a) through (b)(2)(iv).

(b)(2)(v) Total Social Security Taxable Earnings;

(vi) Quarters of Social Security coverage.

(b)(3)(i) through (xxii) [Reserved]. For further guidance, see § 301.6103(j)(1)—1(b)(3)(i) through (xxii).

(xxiii) Wages, tips, and other compensation;

(xxiv) Social Security Wages;

(xxv) Deferred wages;

(xxvi) Social Security Tip Income;

(xxvii) Total Social Security Taxable

Earnings;

(xxviii) Gross Distributions from Form 1099R.

(b)(4) through (b)(5)(ii) [Reserved]. For further guidance, see § 301.6103(j)(1)—1(b)(4) through (b)(5)(ii).

(b)(5)(iii) From Form W-2, and related forms and schedules—

(A) Social Security Number;

(B) Employer Identification Number;

(C) Wages, tips, and other

compensation;

(D) Social Security Wages;

(E) Deferred wages.

(iv) Total Social Security Taxable Earnings.

(v) Quarters of Social Security Coverage.

\* \* \* \* \*

(b)(6) through (d) [Reserved]. For further guidance, see § 301.6103(j)(1)—1(b)(6) through (d).

(e) *Effective date.* This section is applicable to the Bureau of the Census

on February 13, 2001 through February 13, 2004.

Approved: January 16, 2001.

**Robert E. Wenzel,**  
*Deputy Commissioner of Internal Revenue.*

**Jonathan Talisman,**  
*Assistant Secretary of the Treasury.*

[FR Doc. 01-1989 Filed 2-12-01; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF THE TREASURY****31 CFR Part 1****U. S. Secret Service; Privacy Act of 1974; Implementation**

**AGENCY:** Office of the Secretary, Treasury.

**ACTION:** Final Rule.

**SUMMARY:** The Department is amending its regulations concerning the Privacy Act of 1974, Title 5 of the United States Code, Section 552a (Privacy Act) by revising the United States Secret Services Appendix D of this subpart to identify a new official responsible for administrative appeals of initial determinations refusing amendment of records made pursuant to the Privacy Act. The Department is also updating the address of the Secret Service Headquarters listed in the Appendix.

**EFFECTIVE DATE:** February 13, 2001.

**FOR FURTHER INFORMATION CONTACT:** Donna Cahill, Associate Chief Counsel, United States Secret Service, 950 H Street, NW., Suite 8300, Washington, DC 20373-5802.

**SUPPLEMENTARY INFORMATION:** The Secret Service is updating its current Privacy Act regulation Appendix D. The Secret Service moved its headquarters to a new location, consequently the addresses shown in the Appendix are no longer current and need to be updated to provide the proper address to the public.

The Secret Service also recognizes a need to revise paragraph 4 of Appendix D, which identifies the official responsible for reviewing administrative appeals of initial determinations refusing amendment of records. Existing regulations name the "Assistant Secretary of the Treasury for Enforcement" as the reviewing official. However, to be consistent with the language implementing the Freedom of Information Act (FOIA), 31 CFR part 1, subpart A, appendix D.4, published at 65 FR 40514 on June 30, 2000, the Secret Service has determined that the reviewing official should be changed to the "Deputy Director, United States Secret Service." The address to which

an appeal should be made by mail or delivered personally is also being changed to: "Privacy Act Amendment Appeal, Deputy Director, United States Secret Service, 950 H Street, NW., Suite 8300, Washington, DC 20373-5802."

These regulations are being published as a final rule because the amendment does not impose any requirements on any member of the public. This amendment is the most efficient means for the Treasury Department to implement its internal requirements for complying with the Privacy Act. Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, the Department of the Treasury finds good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary and finds good cause for making this rule effective on the date of publication in the *Federal Register*.

In accordance with Executive Order 12866, it has been determined that this final rule is not a "significant regulatory action" and, therefore, does not require a Regulatory Impact Analysis.

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

**List of Subjects in 31 CFR Part 1**

Privacy.

**PART 1—[AMENDED]****Subpart C—Privacy Act**

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 1 continues to read as follows:

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart C also issued under 5 U.S.C. 552a.

2. Amend 31 CFR part 1, subpart C, appendix D—UNITED STATES SECRET SERVICE, paragraph 2, by removing "Room 720, 1800 G Street NW., Washington, DC 20223," and adding in its place, "Suite 3000, 950 H Street, NW., Washington, DC 20373-5802."

3. Amend 31 CFR part 1, subpart C, appendix D—UNITED STATES SECRET SERVICE, paragraph 3, by removing "Room 720, 1800 G Street NW., Washington, DC 20223," and adding in its place, "Suite 3000, 950 H Street, NW., Washington, DC 20373-5802."

4. Amend 31 CFR part 1, subpart C, appendix D—UNITED STATES SECRET SERVICE by revising paragraph 4 to read as follows:

\* \* \* \* \*

(4) Administrative appeal of initial determinations refusing amendment of



in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the FAA's web page at <http://www.faa.gov> or the Superintendent of Document's web page at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-8783. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267-9677, and request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### The Proposal

The FAA is proposing an amendment to 14 CFR part 71 (part 71) to establish two colored Federal airways, A-5 and A-6, in Alaska. Presently there is an uncharted nonregulatory route that uses the same routing as the proposed Colored Federal Airway, A-6. This uncharted nonregulatory route is used daily by commercial and general aviation aircraft. The FAA is proposing to convert this uncharted nonregulatory route to the Colored Federal Airways to add to the instrument flight rules (IFR) airway and route structure in Alaska.

Colored Federal Airway A-5 is being proposed as a result of a request from Northern Air Cargo to establish a low altitude route between Evansville NDB and Point Lay NDB. This change is necessary to improve the IFR airway structure that supports existing commercial services.

These routes would provide a means to establish an airway structure to support the existing commercial

services in Alaska, where currently a limited airway structure exists. Additionally, adoption of these Federal airways would: (1) Provide pilots with minimum en route altitudes and minimum obstruction clearance altitudes information; (2) establish controlled airspace thus eliminating some of the commercial IFR operations in uncontrolled airspace; and (3) improve the management of air traffic operations and thereby enhance safety.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Colored Federal airways are published in paragraph 6009 of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The colored Federal airways listed in this document would be published subsequently in the order.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p.389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9H, Airspace Designations and Reporting

Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

*Paragraph 6009(c) Amber Federal Airways*  
\* \* \* \* \*

##### A-5 [New]

From Evansville, AK, NDB to Point Lay, AK, NDB.

##### A-6 [New]

From Evansville, AK, NDB to Ambler, AK, NDB.  
\* \* \* \* \*

Issued in Washington, DC, on January 23, 2001.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 01-3641 Filed 2-12-01; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG-121109-00]

RIN 1545-AY52

#### Disclosure of Return Information to the Bureau of the Census

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of *Federal Register*, the IRS is issuing temporary regulations relating to additions to the list of items of information disclosed to the Bureau of the Census for use in the Longitudinal Employer-Household Dynamics (LEHD) project and the Survey of Income and Program Participation (SIPP) project. These regulations provide guidance to IRS and Social Security Administration (SSA) personnel responsible for disclosing the information. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written and electronic comments and requests for a public hearing must be received by May 14, 2001.

**ADDRESSES:** Send submissions to: CC:M&SP:RU (REG-121109-00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand-delivered between the hours of 8 a.m. and 5 p.m. to CC:M&SP:RU (REG-121109-00), Courier's Desk, Internal Revenue

Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically, via the IRS Internet site at: [http://www.irs.ustreas.gov/tax\\_regs/reglist.html](http://www.irs.ustreas.gov/tax_regs/reglist.html).

**FOR FURTHER INFORMATION CONTACT:** Stuart Murray, (202) 622-4580 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under section 6103(j)(1), upon written request from the Secretary of Commerce, the Secretary is to furnish to the Bureau of the Census (Bureau) tax return information that is prescribed by Treasury regulations for the purpose of, but only to the extent necessary in, structuring censuses and national economic accounts and conducting related statistical activities authorized by law. Section 301.6103(j)(1)-1 of the regulations further defines such purposes by reference to 13 U.S.C. Chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes. Section 301.6103(j)(1)-1(b)(5) of the regulations provides a list of information provided to the Social Security Administration (SSA) pursuant to Internal Revenue Code section 6103(l)(1)(A) or (5) that officers or employees of SSA may disclose to the Bureau. Periodically, the disclosure regulations are amended to reflect the changing needs of the Bureau for data for its statutorily authorized statistical activities.

This document contains proposed amendments to the regulations authorizing IRS and SSA personnel to disclose additional items of return information that have been requested by the Secretary of Commerce for specified purposes related to the LEHD and SIPP projects.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue

Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulation and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the *Federal Register*.

**Drafting Information**

The principal author of these regulations is Jamie G. Bernstein, Office of the Associate Chief Counsel, Procedure & Administration (Disclosure & Privacy Law Division), Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR Part 301 is proposed to be amended as follows:

**PART 301—PROCEDURE AND ADMINISTRATION**

**Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 301.6103(j)(1)-1 also issued under 26 U.S.C. 6103(j)(1); \* \* \*

**Par. 2.** Section 301.6103(j)(1)-1 is amended by:

1. Adding paragraphs (b)(2)(v) and (vi).
2. Adding paragraphs (b)(3)(xxiii), (xxiv), (xxv), (xxvi), (xxvii) and (xxviii).
3. Adding paragraphs (b)(5)(iii), (iv), and (v).
4. Revising paragraph (e).

The additions and revision read as follows:

**§ 301.6103(j)(1)-1 Disclosure of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.**

\* \* \* \* \*

(b) \* \* \*  
(2)(v) and (vi) [The text of proposed paragraphs (b)(2)(v) and (vi) is the same as the text of § 301.6103(j)(1)-1T(b)(2)(v) and (vi) published elsewhere in this issue of the *Federal Register*].

(3) [The text of proposed paragraphs (b)(3)(xxiii), (xxiv), (xxv), (xxvi), (xxvii) and (xxviii) is the same as the text of § 301.6103(j)(1)-1T(b)(3)(xxiii), (xxiv), (xxv), (xxvi), (xxvii) and (xxviii) published elsewhere in this issue of the *Federal Register*].

\* \* \* \* \*

(5)(iii), (iv), and (v) [The text of proposed paragraphs (b)(5)(iii), (iv), and (v) is the same as the text of § 301.6103(j)(1)-1T(b)(5)(iii), (iv), and (v) published elsewhere in this issue of the *Federal Register*].

\* \* \* \* \*

(e) [The text of proposed paragraph (e) is the same as the text of § 301.6103(j)(1)-1T(e) published elsewhere in this issue of the *Federal Register*].

**Robert E. Wenzel,**  
*Deputy Commissioner of the Internal Revenue.*

[FR Doc. 01-1990 Filed 2-12-01; 8:45 am]

**BILLING CODE 6830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

[FRL-6940-7]

**Project XL Site-Specific Rulemaking for the Autoliv ASP Inc. Facility in Promontory, Utah**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; request for comment.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing in this rule to implement a project under the Project XL program that would provide site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), for the Autoliv ASP Inc. (Autoliv) facility in Promontory, Utah. The principal objective of this XL Project is to explore the benefits of a more streamlined and flexible RCRA regulation of pyrotechnic hazardous wastes from the automobile airbag industry that are treated in industrial furnaces. This proposed rule would



## **Team Charters**

Data Stewardship Executive Policy Committee

Committee on Administrative Records Policies and Procedures

Disclosure Review Board

Enterprise Security Issues & Policy Group

Privacy Policy and Research Committee

## ***Data Stewardship Executive Policy Committee***

### **Section I: MISSION STATEMENT**

The mission of the Data Stewardship Executive Policy Committee is to assure that the Census Bureau can effectively collect and use data about the nation's people and economy while fully meeting the Census Bureau's legal and ethical obligations to respondents to respect privacy and protect confidentiality. This includes fully meeting the legal, ethical and reporting obligations levied by the Census Act, the Privacy Act, and other applicable statutes, including those of governmental and other suppliers of data to the Census Bureau.

### **Section II: PURPOSE AND SCOPE**

The Stewardship Committee serves as the Census Bureau Executive Staff focal point for decision-making and communication on policy issues related to privacy, security, confidentiality and administrative records. It oversees the activities of the following teams:

1. Committee on Administrative Records Policies and Procedures
2. Disclosure Review Board
3. Privacy Policy and Research Committee
4. Enterprise Security Issues Group

### **Section III: DUTIES AND RESPONSIBILITIES**

The Stewardship Committee acts on behalf of the full Executive Staff in setting policy and making decisions on policy-related matters within the scope of this charter.

The Stewardship Committee's oversight role with respect to the teams is one of guidance, communication, and review. The Committee should assign subjects of concern to the teams for analysis and subsequently review, approve, modify or disapprove team findings and recommendations.

Any analysis, prior to review by the Committee, should include the concurrence or nonconcurrence of the relevant division chiefs. Specific team charters further elaborate on the duties of team chairs and members in this regard. The Policy Office Chief or designee is responsible for ensuring such discussion has occurred prior to scheduling a matter for Committee consideration. If the division chiefs concur they may provide additional information and comment; if they do not concur, they should provide the reasons for their nonconcurrence to the respective Associate Directors.

Each of the four teams may develop issues and make recommendations on its own, with the input of relevant division chiefs, as indicated above. In addition, the Committee may consider related policy issues originating from any other part of the Census Bureau, but

will generally refer such matters to one or more of the four teams for analysis and recommendations.

The Committee will publish formal policy documents through the Policy Office to make known its decisions on specific matters and the underlying reasons for them and to serve as guidance for future issues that may arise.

The Committee will approve and publish updated policies and guidelines for Census Bureau activities related to privacy, security, confidentiality and administrative records.

The Committee may periodically ask one or more teams to organize workshops or conduct special reviews of policy issues related to privacy, security, confidentiality and administrative records.

Members of the Committee, under the direction of the Executive Staff, may discuss and negotiate data policy issues related to privacy, security, confidentiality and administrative records on behalf of the Census Bureau with respondent groups, sponsors, providers of administrative records, or others.

The Committee should evaluate the effectiveness of the new Committee and Team structure within six to nine months after it is formed. Such review should compare performance to the following measures:

- Does this structure reduce need for ad hoc meetings?
- Does this structure improve understanding between and among executive staff and division chiefs?
- Does this structure increase the number of policy decisions that are made, documented, and disseminated?
- Does this structure increase the quality of the analysis preceding policy decisions?
- Does this structure increase the quality of communication across the organization on topics within its purview?

#### Section IV: MEMBERSHIP

##### Members:

Deputy Director (Ex-Officio)  
Principal Associate Director for Programs (Chair)  
Principal Associate Director and CFO (Vice Chair)  
Associate Director for Decennial Census  
Associate Director for Demographic Programs  
Associate Director for Economic Programs  
Associate Director for Field Operations  
Associate Director for Information Technology  
Associate Director for Methodology and Standards

The Chair will invite other members of the Executive Staff to participate in meetings as topics warrant.

Other Participants:

Chief Economist  
Division Chiefs/Office Directors as designated by member Associate Directors

Committee Permanent Staff:

Chief of Policy Office or designee

Section V: MEETINGS

The Committee shall schedule a standing monthly meeting, and shall meet no less frequently than every twelve weeks. In addition, the chair may schedule special meetings at the chairperson's option or at the request of two or more members.

The Committee permanent staff shall circulate an agenda not less than five working days before any meeting. Any committee member or the chairs of any of the four teams may schedule items for discussion. The chair of the Committee shall review the agenda before it is circulated to the members.

If a member is unable to attend, the member may designate an alternate to represent his or her area.

In general, at each of the regularly scheduled meetings, the Committee will:

- Receive brief reports of each team's key activities since the last Committee meeting. These reports may include summaries of operational decisions and actions not requiring Committee review and approval, or the status or efforts to develop policy papers for Committee consideration. The Committee will provide feedback and guidance to the teams.
- Receive final reports from teams on issues assigned or self-initiated. The Committee will deliberate and decide upon the issue in question.
- Raise issues on data policy issues related to privacy, security, confidentiality and administrative records. If members have provided materials to the permanent staff in advance, which is highly desirable, copies of all materials should be provided to all attending members. The object of these discussions should be to formulate the issue in a way that it can be assigned to one or more of the teams for analysis and recommendations.

Any or all of the agenda items may be discussed in executive session. Other business may be raised in executive session as well.

## Section VI: DOCUMENTATION

The permanent staff will prepare agendas for all committee meetings, take minutes, and distribute the latter to members and other participants not later than five working days after a meeting.

In preparation for regularly scheduled meetings of the Committee, teams shall provide copies of all reports to the permanent staff not less than seven working days before a regularly scheduled meeting, and the permanent staff shall provide copies of all materials to voting and non-voting members not less than five working days before each meeting.


The Committee will have a location on the Policy Office intranet site where minutes of the meetings and all significant documents and reports will be posted.

Guidelines and policy statements on privacy, data protection and administrative records issued by the Committee shall be made available by the Policy Office in print and electronically. They shall be reviewed by the appropriate teams not less frequently than every four years, and updated as necessary.

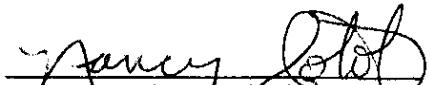
## Section VIII: APPROVALS/SIGNATURES

  
William G. Barron, Acting Director  
And Deputy Director

4/23/01  
Date

  
Paula J. Schneider, Principal Associate Director  
for Programs

4/17/01  
Date

  
Nancy Potok, Principal Associate Director  
and Chief Financial Officer

4/19/01  
Date

***Committee on Administrative Records Policies and Procedures***  
***Charter***

Rev. 5/21/01

**Section I: MISSION STATEMENT**

The mission of the Committee on Administrative Records Policies and Procedures (CARPP) is to support the Data Stewardship Executive Policy Committee in its efforts to ensure that the Census Bureau can continue to collect and use administrative records data, while fully meeting the legal, ethical and reporting obligations of governmental and other suppliers of administrative record data.

**Section II: PURPOSE AND SCOPE**

The CARPP serves as the focal point for issue identification and policy development on policy issues related to administrative records. It is also the focal point for procedural matters related to Administrative Records project review, agreement negotiation and administration, and project implementation requirements. In this regard, it serves as the change control manager for the Administrative Records Handbook and the Administrative Records Tracking System. It reports to the Data Stewardship Executive Policy Committee and coordinates its efforts with:

1. The Disclosure Review Board (DRB)
2. The Privacy Policy and Research Committee (PPRC)
3. The Enterprise Security Issues & Policy (ESIP) Group
4. Division Chiefs within affected Directorates

**Section III: DUTIES AND RESPONSIBILITIES**

The CARPP's role is to identify issues requiring policy development, develop policy papers, and submit them to the Stewardship Committee, after appropriate vetting. It receives assignments, guidance, and decisions from the Stewardship Committee. The CARPP's role with respect to the other groups is to actively communicate on inter-related activities and to coordinate responses to Stewardship Committee requests. This role will chiefly be accomplished by the mutual efforts of the Chair and the members designated as liaisons to the other groups.

CARPP members are responsible for ensuring that relevant information is shared with the division chiefs within their directorates and that division chief views are solicited on policy issues within the Committee's scope. The Chair will work with members to develop materials for such interchanges. If the division chiefs concur they may provide additional information and comment; if they do not concur, they should provide the reasons for their nonconcurrence to the respective Associate Directors.



The Chair will work with the Policy Office Chief or designee to schedule matters for Stewardship Committee consideration once the appropriate preparation has occurred.

The CARPP may periodically receive from the Administrative Records Coordinator an administrative records project proposal that the Bureau Administrative Records Project Review Team has determined raises a new policy issue. The CARPP will develop an issue paper and recommendation for the Stewardship Committee's consideration, as it would for any other policy issue.

The CARPP members also are available to project staff within the program areas as sounding boards on administrative records procedural and policy questions that arise in the planning or conduct of an administrative records project.

The CARPP may periodically organize workshops or conduct special reviews of policy issues related to administrative records, usually at the request of the Stewardship Committee, but it may also do so at its own initiative.

The CARPP, under the direction of the Stewardship Committee, may discuss and negotiate data policy issues related to administrative records on behalf of the Census Bureau with respondent groups, sponsors, providers of administrative records, or others.

#### **Section IV: MEMBERSHIP**

Administrative Records Coordinator, Policy Office (Chair)  
Representative from Center for Economic Studies  
Representative from Decennial Program area  
2 Representatives from Demographic Programs (from areas deemed most appropriate by the Associate Director)  
Representative from Economic Planning and Coordination Division  
Representative from Geography Division  
Representative from IT Security Office  
Representative from the Planning, Research and Evaluation Division  
Representative from Field Division

Representatives will be selected by their Associate Directors. They should be able to effectively represent the full scope and variety of their directorates' administrative records activities and should be knowledgeable of major Bureau administrative records policy issues and positions. The CARPP membership should include at least one member from each of the following groups: the DRB, the PPRC and the ESIP. If this does not occur naturally given the directorate selections, the Chief of the Policy Office will select a representative from any omitted groups to serve on the CARPP. These individuals should be the designated liaisons between the groups, which means they have a key role in ensuring cross-team information sharing.

## **Section V: MEETINGS**

The CARPP shall schedule a standing bi-weekly meeting and shall meet no less frequently than every other month. In addition, the Chair may schedule special meetings at the Chair's option or at the request of two or more members. The Chair shall circulate an agenda not less than one working day before any meeting. If a member is unable to attend, the member may designate an alternate.

In general, at each of the regularly scheduled CARPP meetings, the meeting agenda shall include:

- **Issue Identification/Coordination**
  - External communication updates
  - Sharing about program areas proposed new initiatives (e.g., Research, Projects)\*
  - Related group coordination (Updates from DRB, PPRC and ESIP representatives)

\*Note: the chief purposes of this information sharing are to identify potential policy issues and to facilitate research or other coordination among disparate program areas, not to discuss methodological or research issues.

- **Policy Development**
  - Strategic problem-solving on issues identified by the CARPP, the Bureau Administrative Records Project Review Team, or as assigned by the Stewardship Committee, including development of specific recommendations
- **Other Functions to be carried out by the CARPP**
  - Change Control on administrative records Handbook and periodic evaluation of administrative records processes (note: such an evaluation will initially occur within 9 months after the Handbook is initiated and again after 2 years)
  - The CARPP will *not* review specific administrative records projects, but will accept issues identified by the Bureau Administrative Records Project Review Team for further development and recommendation

## **Section VI: DOCUMENTATION**

The Chair will prepare agendas for all committee meetings, will assign the taking of minutes, and distribute the latter to members not later than five working days after a meeting.

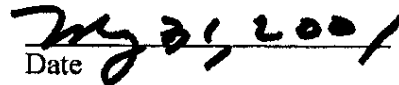
In preparation for regularly scheduled meetings of the Stewardship Committee, teams shall provide copies of all reports to the Stewardship Committee's permanent staff not less than seven working days before a regularly scheduled meeting, and the permanent staff shall provide copies of all materials to members not less than five working days before each meeting.

Guidelines and policy statements on administrative records issued by the Stewardship Committee shall be reviewed by the CARPP annually, and updated as necessary. The outcome of the annual review should be documented in a report to the Stewardship Committee. If needed, due to volume, the group may choose to focus intensively on a subset of such policies each year, as long as each is briefly reviewed annually, and more intensively at least every three years.

#### Section VII: APPROVALS/SIGNATURES

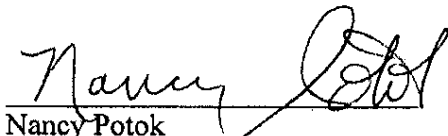


William G. Barron  
Acting Director and Deputy Director

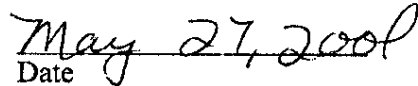
  
Date

\_\_\_\_\_  
Principal Associate Director  
for Programs

\_\_\_\_\_  
Date



Nancy Potok  
Principal Associate Director  
and Chief Financial Officer

  
Date

## **Disclosure Review Board**

### **Charter**

Rev. 5/22/01

#### **Section I: MISSION STATEMENT**

The mission of the Disclosure Review Board (DRB) is to support the Data Stewardship Executive Policy Committee in its efforts to ensure that the Census Bureau protects Title 13 respondent confidentiality. This will include proposing policies and setting methodologies underlying confidentiality protection; reviewing external products for potential disclosure; identifying policy and research issues; and coordinating the confidentiality-related activities needed to inform decision-making on data collection, data linking, and data dissemination.

#### **Section II: PURPOSE AND SCOPE**

The Disclosure Review Board serves as the focal point for issue identification, research coordination, and policy development on issues related to disclosure limitation regarding the public release of all data products. It provides a mechanism for a comprehensive and consistent approach to disclosure limitation in tabulations, microdata, and statistical products to ensure respondent confidentiality.

The DRB reviews and clears all Bureau microdata and tabulation releases under its purview for confidentiality. It provides formal written responses with clearance for such requests. It reports to the Stewardship Committee and coordinates its efforts with:

1. The Privacy Policy and Research Committee (PPRC)
2. The Committee for Administrative Records Policies and Procedures (CARPP)
3. The Enterprise Security Issues and Policy (ESIP) Group
4. Division Chiefs within Affected Directorates

#### **Section III: DUTIES AND RESPONSIBILITIES**

The Board's principal responsibilities are to: review proposed products to be distributed externally for potential disclosures, develop confidentiality protection policies and methodologies, and communicate those techniques to the subject matter areas for application in producing data for public dissemination.

The Board will serve the Stewardship Committee by receiving their guidance and review of proposed policies, recommending issues to them for policy development, and recommending and conducting research to guide their review of policies. The Stewardship Committee will ensure that programs provide resources for this disclosure limitation research. The Chair of the DRB will represent the DRB at the Stewardship Committee meetings.

The Board will also serve other Census Bureau functions by actively communicating on related activities (e.g., administrative record usage) and helping coordinate responses to Stewardship

Committee requests. This will be accomplished chiefly by the mutual efforts of the Board chair and members designated as liaisons to the other groups.

In particular, the Disclosure Review Board will:

1. Establish and review the Census Bureau's disclosure-limitation policy on the public release of data products.
2. Review and approve proposed disclosure-limitation procedures for the release of all publicly available Title 13 data products. The DRB is responsible for reviewing specifications and proposals relating to each data release intended for public disclosure to ensure adherence to guidelines of the "DRB checklist" and any other criteria established by the DRB.
3. Within the framework of the aforementioned disclosure policies, communicate the DRB's disclosure limitation policy to program managers, Census Bureau officials, data users, prospective sponsors and the general public.
4. Initiate and coordinate research on the disclosure potential in microdata, tabular data, and other statistical outputs; and on the effectiveness of disclosure-limitation techniques as applied to such outputs.
5. Revise the Census Bureau's disclosure-limitation policies and methodologies as necessary.

The Board may also review and provide guidance on confidentiality statements used to communicate with respondents, data users, and the general public; review current and future Census Bureau programs as they impact on confidentiality; and may periodically organize workshops or conduct special reviews of issues related to disclosure limitation.

The Board Chair will be the point of contact for all submissions for DRB review; establish the agenda, based on those submissions and other related issues, and schedule weekly meetings of the DRB; communicate with the subject matter areas regarding their submissions; and bring issues to the attention of the Stewardship Committee for their consideration, when appropriate.

Board members are responsible for ensuring that relevant information is shared with the division chiefs within their directorates and that Division Chiefs' views are solicited on policy and research issues within their own scope. If the division chiefs concur, they may provide additional information and comment; if they do not concur, they should provide reasons for their nonconcurrence to the respective Associate Directors.

#### Section IV: MEMBERSHIP

The membership of the DRB is as follows:

Senior Statistical Research Division researcher (Chair)  
Representative from Policy Office (permanent member)  
Principal researcher of Disclosure Limitation Research Team (SRD) (permanent member)  
Representative from CES (rotating member)  
2 Representatives from Economic Programs (rotating member)  
2 Representatives from Demographic Programs (rotating member)  
Representative from Decennial Programs (rotating member)  
Representative from CARPP (ex-officio\* member)  
Representative from ESIP (ex-officio\* member)  
Representative from PPRC (ex-officio\* member)

\* If the regular membership of the DRB must be augmented in order to ensure that a member of one of the counterpart committees is represented on the DRB, these additional members will not have voting privileges.

Associate Directors will select their representatives, who must be able to effectively represent the full scope and variety of their Directorates' confidentiality concerns and activities and must be knowledgeable of major Census Bureau practices, policy issues, and positions. Rotating members of the Board will serve no more than two consecutive three (3) year terms, with the terms of the representatives within a Directorate staggered, to ensure that only one member from that Directorate is starting a new term. When the rotating member's term expires, the rotating Board member and the Board Chair will ask the appropriate Directorate to nominate a suitable replacement.

The DRB membership should include representation from each of the counterpart committees--the PPRC, the CARPP, and the Security committee. If this does not occur naturally, given the Directorate selections, the Chief of the Policy Office will select representatives from the other committees to serve as nonvoting members of the DRB. Regardless of how they are selected, these individuals will be the designated liaisons between the DRB and the counterpart committees. Their responsibility will be to keep the DRB informed of issues and activities of their other committee and to report to that committee on DRB matters.

#### Section V: RESEARCH TEAM

The DRB is supported by the SRD Disclosure Limitation Research Team that reports to the permanent Chair of the DRB. The research team will analyze disclosure risk and propose protection schemes for microdata, tabular data, and other statistical output. Its primary focus will be on developing techniques to implement disclosure limitation at the stage of data processing. The research team leader will be a permanent member of the DRB.

## **Section VI: SUBMISSION OF CLEARANCE REQUESTS**

It is the Division's responsibility to apply the recommended disclosure limitation techniques to any data set prior to public release. The project manager should then submit a formal memorandum to the Chair, DRB, requesting clearance for the release of the data. The memorandum should contain detailed information about the data set, including a completed copy of the Census Bureau Checklist for Disclosure Potential of Data and any other information that will help the DRB determine what disclosure issues pertain to the data set. Such submissions are then reviewed by the research team and discussed by the DRB at their weekly meetings, after which the Chair of the DRB will notify the subject matter area of the Board's decisions and recommendations regarding the submission.

In the event that the DRB and the Division cannot agree on procedures to protect a data set scheduled for public release, the matter can be appealed to the Stewardship Committee. In such cases, the DRB Chair will present the DRB case to the Stewardship Committee. The decision of the Stewardship Committee is final.

## **Section VII: MEETINGS**

### **DRB Meetings**

The Board shall hold meetings weekly. In addition, the Board Chair may schedule special meetings at the Board Chair's option or at the request of two or more members. The Board Chair shall circulate an agenda not less than one working day before any meeting. If a member is unable to attend, the member may designate an alternate.

In general, at each of the regularly scheduled meetings of the Board, the meeting agenda may include, as warranted:

- Review and discussion of disclosure limitation clearance of data release requests, identification of Board issues, and determination of whether to request additional information/research or approve/deny requests.
- Related Group Coordination
  - Updates from PPRC, CARPP, and ESIP
- Research Activities
  - Results of current internal and external research activities
  - Proposed new initiatives (e.g., Research, Projects)

A quorum of two-thirds of the DRB membership is required to conduct a DRB meeting. Any motion to approve or deny clearance requires support of a majority of the Board.

Section VIII: DOCUMENTATION

The Board Chair will prepare agendas for all Board meetings, assign the recording of meeting summaries, and distribute the latter to members no later than five working days after the meeting. The Board Chair is also responsible for formally notifying the divisions regarding the Board's recommendations/approval/denial of their request for clearance.


The Policy Office will maintain the official files of the DRB.


In preparation for regularly scheduled meetings of the Stewardship Committee, the Board shall provide copies of all reports to the Stewardship Committee's permanent staff not less than seven working days before the regularly scheduled meeting, and the permanent staff shall provide copies of all materials to members not less than five working days before each meeting.

Section IX. CURRENT POLICIES

Guidelines and policy statements on confidentiality, disclosure limitation, and data protection issued by the Stewardship Committee shall be reviewed by the DRB not less frequently than every four years, and updated as necessary.

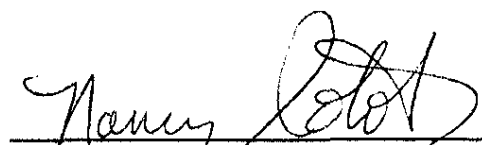
Section X: APPROVAL/SIGNATURES


  
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William G. Barron, Acting Director and  
Deputy Director

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Principal Associate Director  
for Programs

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Nancy Potok, Principal Associate Director  
and Chief Financial Officer

  
\_\_\_\_\_  
Date



## ***Enterprise Security Issues & Policy (ESIP) Group Charter***

Rev. May 19, 2001

### **Section I: MISSION STATEMENT**

The mission of the Enterprise Security Issues and Policy (ESIP) Group is to help ensure that the Census Bureau protects respondent confidentiality through sound security practices in the collection and processing of data. This will include identifying policy issues for the Data Stewardship Executive Policy Committee and developing research agendas to inform decision-making. This entails ensuring that the Census Bureau fully meets the legal, ethical and reporting obligations of governmental and other suppliers of sensitive data.

### **Section II: PURPOSE AND SCOPE**

The ESIP Group serves as the focal point for issue identification and policy development and review on physical, personnel and information security issues. It reports to the Data Stewardship Executive Policy Committee and coordinates with:

1. The Disclosure Review Board
2. The Privacy Policy and Research Committee
3. The Committee on Administrative Records Policies and Procedures
4. The IT Governing Board
5. Division Chiefs within Affected Directorate
6. The Census Bureau Computer Managers Forum
7. The Census Bureau LAN Managers Forum
8. Department of Commerce Office of Security at Census Bureau

### **Section III: DUTIES AND RESPONSIBILITIES**

The Group's role with respect to the Stewardship Committee is one of receiving requests for analysis of security policy issues, identifying possible security policy issues, providing recommendations for solutions to problems, reviewing when necessary published security policies, and recommending changes where needed. The ESIP Group's role with respect to the IT Governing Board is to refer issues wholly within its scope and to vet IT security policy issues prior to bringing them to the Stewardship Committee. The Group's role with respect to the other groups is to regularly communicate on any pertinent security related matter and to ensure that security concerns are adequately addressed in any correspondence produced. This will be accomplished through the Group leader and designated liaisons coordinating with the other groups.

Group members are responsible for ensuring that relevant information is shared with the divisions within their directorates and that division chief views are solicited on policy issues within the Group's scope. The Group leader will work with members to develop materials for such interchanges. The Group leader will work with the Associate Director for IT/CIO and his

designated representative to schedule matters for the IT Governing Board and with the Chief of the Census Policy Office for the Stewardship Committee once the appropriate preparation has occurred.

The Group will periodically organize workshops or conduct special reviews of policy issues related to information technology, personnel and physical security, both at its own initiative and at the request of either the IT Governing Board or the Stewardship Committee.

The Group leader as the IT Security Officer at the Census Bureau, under direction of the Associate Director for IT/CIO, reserves the right to discuss IT security issues with other government agencies as they relate to the IT security program at the Census Bureau. Communication with other agencies on IT security matters must be coordinated with the Group leader.

#### Section IV: MEMBERSHIP

Chief, IT Security Office and IT Security Officer, (Chair)  
Representative from Demographic Programs  
Representative from Decennial Programs  
Representative from Economic Directorate  
Representative from Field Directorate  
Representative from Methodology and Standards Directorate  
Representative from Policy Office  
Office of Security, Department of Commerce

Representatives will be selected by their Associate Directors. They should be able to effectively represent the full scope and variety of their directorate's activities and should be knowledgeable about security programs at the Bureau. The Group should include at least one member from each of the following groups: the Disclosure Review Board, the Privacy Policy and Research Committee, and the Committee on Administrative Records Policies and Procedures.

If this does not occur naturally given the directorate selections, the Chief of the Policy Office will select a representative from any omitted group to serve on this team.

These individuals should be designated liaisons between the groups.

#### Section V: MEETINGS

The Group shall schedule a standing monthly meeting. In addition, the Group leader may schedule special meetings at the Group leaders option or at the request of two or more members. The Group leader shall circulate an agenda not less than one working day before any meeting. If a member is unable to attend, the member may designate an alternate.

In general, at each of the regularly scheduled Group meetings, the meeting agenda shall include:

- **Issue Identification/Cooperation**

- External communications updates
- New security requirements/initiatives
- Proposed new technology solutions
- Coordination activities with other groups (DRB, PPRC, Admin Records Issues & Policy)
- **Policy Development/Review**
  - Review of proposed new security policies
  - Regular review of "Handbook for IT Security" to ensure it reflects current policy decisions

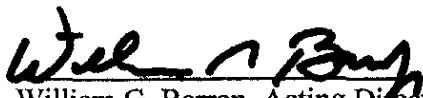
#### Section VI: DOCUMENTATION

The Group leader will prepare agendas for all committee meetings, will assign the taking of minutes, and distribute the latter to members not later than five working days after a meeting.

In preparation for scheduled IT Governing Board and Stewardship Committee meetings where the Group is scheduled to brief the committee, the Group leader shall provide copies of all reports not less than five working days before each meeting. If the Group is not scheduled to provide a formal briefing or presentation, the Group leader will provide a written status report to the IT Governing Board and Stewardship Committee not less than two working days before each meeting.

Approved guidelines and policy statements recommended by the Group shall be reviewed by the Group not less frequently than three years, or when significant changes occur in the technologies or processes employed.


#### Section VIII: APPROVALS/SIGNATURES

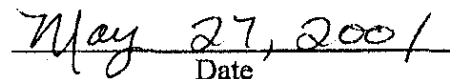
  
 William G. Barron, Acting Director  
 And Deputy Director

  
 Date

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 Principle Associate Director for Programs

\_\_\_\_\_  
 Date

  
 Nancy Potok, Principle Associate Director  
 and Chief Financial Officer

  
 Date

## ***Privacy Policy and Research Committee Charter***

### **Section I: MISSION STATEMENT**

The mission of the Privacy Policy and Research Committee is to ensure that the Census Bureau protects respondent privacy and confidentiality. This will include identifying policy issues for the Data Stewardship Executive Policy Committee and developing research agendas to inform decision-making.

### **Section II: PURPOSE AND SCOPE**

The Privacy Policy and Research Committee serves as the focal point for issue identification, research coordination, and policy development on issues related to privacy and confidentiality. It provides a mechanism for a consistent approach to development of privacy and confidentiality policy. It reports to the Data Stewardship Executive Policy Committee and coordinates its efforts with:

1. The Disclosure Review Board
2. The Committee on Administrative Records Policies and Procedures (CARPP)
3. The Enterprise Security Issues and Policy (ESIP) Group
4. Division Chiefs within Affected Directorates

### **Section III: DUTIES AND RESPONSIBILITIES**

The Committee's role with respect to its Stewardship Committee is one of recommending issues for policy development and recommending research to guide review of policies and procedures. The Committee's role with respect to the other groups is to actively communicate on inter-related activities and to help coordinate responses to Stewardship Committee requests. This will chiefly be accomplished by the mutual efforts of the Committee chair and the members designated as liaisons to the other groups.

Committee members are responsible for ensuring that relevant information is shared with the division chiefs within their directorates and that division chiefs' views are solicited on policy and research issues within the Committee's scope. The Committee chair will work with members to develop materials for such interchanges. The Committee will decide when an issue is sufficiently documented to bring it forward to the division chiefs. If the division chiefs concur they may provide additional information and comment; if they do not concur, they should provide the reasons for their nonconcurrency to the respective Associate Directors. The Committee chair will schedule issues for Stewardship Committee consideration once the appropriate preparation has occurred.

The Committee may periodically organize workshops or conduct special reviews of issues related to privacy.

The Committee may recommend research on privacy and confidentiality issues and coordinate such research.

The Committee may review and provide guidance on privacy and confidentiality statements used to communicate with respondents, data users, and the general public. The Committee may review current and future Census Bureau programs as they impact on privacy and confidentiality to ensure adherence to ethical and legal standards.

The Committee may review research undertaken by the Census Bureau for the purpose of ensuring protection of the rights of human subjects as defined by 15 CFR Part 27, Protection of Human Subjects.

#### **Section IV: MEMBERSHIP**

Each of the following Directorates is represented:

Policy Office Chief (Chair)

Representative from Communications

Representative from Decennial Programs

2 Representatives from Demographic Programs from areas selected by the Associate Director

Representative from Economic Programs

Representative from Field Operations

Representative from Information Technology

2 Representatives from Methodology and Standards from areas selected by the Associate Director

Associate Directors will select their representatives, who should be able to effectively represent the full scope and variety of their directorates' privacy and confidentiality concerns and activities and should be knowledgeable of major bureau practices, policy issues, and positions. At least one Committee member should also be a member of the DRB, the CARPP, and the ESIP groups. These members can be in addition to those listed above and will be identified by the Chief of the Policy Office. These individuals should be the designated liaisons between the groups. A staff member from the Policy Office will support the Committee and help coordinate committee activities.

## **Section V: MEETINGS**

The Committee shall hold meetings at least monthly. In addition, the Committee chair may schedule special meetings at the Committee chair's option or at the request of two or more members. The Committee chair shall circulate an agenda not less than one working day before any meeting. If a member is unable to attend, the member may designate an alternate.

In general, at each of the regularly scheduled meetings of the Committee the meeting agenda may include, as warranted:

- **Awareness**
  - External issues
  - Related group coordination (Updates from DRB, CARPP, and ESIP group representatives)
  - New Census Bureau issues
- **Research Activities/Project Development**
  - Proposed new initiatives (e.g., Research, Projects)
- **Policy Development**
  - Strategic problem-solving on issues identified by the Committee or assigned by the Stewardship Committee, including development of specific recommendations

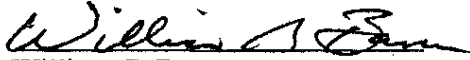
## **Section VI: DOCUMENTATION**

The Committee chair will prepare agendas for all committee meetings, will assign the taking of minutes, and distribute the latter to members not later than five working days after a meeting.

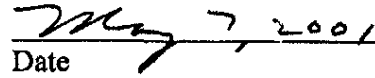
In preparation for regularly scheduled meetings of the Stewardship Committee, the Committee shall provide copies of all reports to the Stewardship Committee's permanent staff not less than seven working days before a regularly scheduled meeting, and the permanent staff shall provide copies of all materials to members not less than five working days before each meeting.

Guidelines and policy statements on privacy and confidentiality issued by the Stewardship Committee shall be reviewed by the Committee annually, and updated as necessary. The outcome of the annual review should be documented in a report to the Stewardship Committee. If needed, due to volume, the group may choose to focus intensively on a subset of such policies each year, as long as each is briefly reviewed annually, and more intensively at least every three years.

**Section VII: APPROVALS/SIGNATURES**

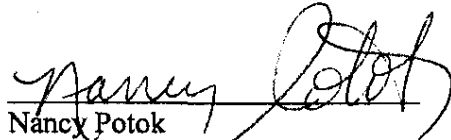


William G. Barron  
Acting Director and Deputy Director

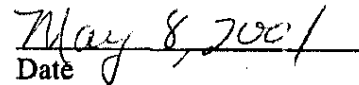
  
Date

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Principal Associate Director  
for Programs

\_\_\_\_\_  
Date

  
Nancy Potok

Principal Associate Director  
and Chief Financial Officer

  
Date

## Acknowledgments

Under the guidance of its executive steering committee, the following members of the Administrative Records Integration Team (ARIT) developed the vision for the *Administrative Records Handbook*, as well as designed, documented, and tested the various processes and procedures contained herein.

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Charlene Leggieri (PRED)  
Pat Melvin (POL)  
Eloise Parker (POL)  
Ron Prevost (DSD)  
Mary Streitwieser (CES)  
Signe Wetrogan (POP)  
Jerry Gates (POL), Advisor  
Harry Meyers (CACT/DIR), Advisor  
Kathleen Styles (ESA), Advisor

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Pat Heelen (ESA)  
Brad Jensen (CES)  
Paula Johnson (CACT/DIR)  
Francina Kerr (PRED)



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Sandy Lucas (PRED)  
Mark Mildorf (CES)  
Roddy Moscoso (Consultant to CACT/DIR)  
Lucy Pearson (POP)  
Spence Poole (HRD)  
Arnie Reznek (CES)  
Tim Ruland (ITSO)  
Patricia Ryle (PRED)  
Doug Sater (POP)  
Judith Waldrop (POP)