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Description of document: US Census Bureau policy regarding how to respond to law enforcement/intelligence agency requests for confidential/personal Census data, 2005-2009

Requested date: 03-August-2012

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Title of document DS-021, "Policy on Providing Custom Tabulations under Section 8(b) of Title 13 U.S.C."

Source of document: FOIA Request  
US Census Bureau  
FOIA and Information Branch  
FOIA officer  
4600 Silver Hill Road  
Suitland, MD 20746  
[Electronic FOIA \(E-FOIA\) Request form](#)

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AUG 3 0 2012

This letter is in response to your email dated August 3, 2012 for:

1. [a] copy of the policy regarding how to respond to law enforcement requests for confidential/personal Census data; and
2. [a] copy of the policy regarding how to respond to intelligence agency requests for confidential/personal Census data.

We received your request in this office on August 7, 2012 and assigned to it tracking number 2012-00268. We are responding under the Freedom of Information Act (FOIA).

Enclosed are two documents (8 pages) that are responsive to your request. The two documents are being released in full with no redactions. There is no charge for this information.

Sincerely,

Michael J. Toland, Ph.D.  
Freedom of Information Act Officer  
Freedom of Information Act and Information Branch

Enclosures (2)

Originally Issued: October 20, 2005  
Organizational Names Updated: April 29, 2009

**DS-021, "Policy on Providing Custom Tabulations  
under Section 8(b) of Title 13 U.S.C."**

**PURPOSE**

The purpose of this policy is to state the Census Bureau's procedures for filling requests for special statistical data products under section 8(b) of Title 13 U.S.C. and for providing copies of these products to others. The Census Bureau provides such products in keeping with its mission to collect, tabulate and disseminate data about the nation's people and economy while protecting the confidentiality of all respondents.

**LEGAL AUTHORITIES**

Section 8(b) of Title 13 states that the Secretary of Commerce may "furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any particular respondent...for departments, agencies, and establishments of the Federal Government...state or local agencies, or other public and private persons and agencies upon payment of the actual or estimated cost of such work." The Secretary has delegated this authority to the Director of the Census Bureau.

Section 9(a) of Title 13 provides that the Census Bureau *may not* "...make any publication whereby the data furnished by any particular establishment or individual under this title can be identified." Section 214 of Title 13, as amended by Sections 3559 and 3571 of Title 18, United States Code, provides for a fine of up to \$250,000 or imprisonment of up to five years, or both for violating the Section 9 prohibition on disclosure of individually identifiable information.

The Freedom of Information Act (FOIA) provides for the public disclosure of custom tabulations except in those instances where exemptions to the FOIA prevent their release.

## ***The Data Stewardship Program***

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### **SCOPE**

This policy applies to special data products referred to as "custom tabulations" produced outside the Census Bureau's regular publication activities for other government agencies, private sector organizations, and the members of the public. For the purpose of this policy, a custom tabulation is: 1) a statistical aggregation of confidential data, collected under the authority of Title 13, that are developed from internal Census Bureau files that are not accessible by the public, or 2) the reorganization of an existing Census Bureau data product by staff requiring either (a) a significant effort or (b) access to files, including underlying source files, that are not easily manipulated by novice or casual data users. Custom tabulations result in new tangible data products prepared to meet specific data use needs of the requester and must meet the Census Bureau's disclosure avoidance requirements. The Census Bureau provides a service in creating custom tabulations. Requests for custom tabulations may be made formally (e.g., written request) or informally (e.g., telephone call) and the cost to create them is usually, but not always, reimbursed.

### **POLICY**

1. The Census Bureau, as authorized under section 8(b) of Title 13, may produce custom tabulations derived from data protected under section 9 of Title 13 consistent with "Census Bureau Pricing Policy" (PPM B-17).
2. All custom tabulations shall comply with "Census Bureau Standard: Disclosure Review" and the relevant Associate Director's determination that the work can be accomplished within the mission priorities of the directorate.
3. Prior to agreeing to produce a custom tabulation, the Census Bureau will encourage and help the requester to use available resources, such as the Internet or State Data Centers, to the extent possible.
4. Documentation provided to requesters establishing the agreement to produce custom tabulations will contain language informing them that the identity of the requester and the data product (or a description thereof) is subject to public disclosure.
5. When requested, the Census Bureau will provide copies of any available custom tabulations to the public (including government agencies or private sector organizations) upon the payment of the cost to reproduce, or free of charge if the cost to reproduce is less than the expense to process cost recovery. In addition, the Census Bureau will make available a list of requesters and a description of their custom tabulations upon request.

**U S C E N S U S B U R E A U**

## ***The Data Stewardship Program***

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### **RELATED POLICIES AND PROCEDURES**

- Policies and Procedures Manual Chapter D-5: Reimbursable Work or Services for Other Agencies, Organizations, and Individuals
- Policies and Procedures Manual Chapter B-17: U.S. Census Bureau Pricing Policy
- Census Bureau Standard: Disclosure Review
- Data Stewardship Policy DS-015: Reimbursable Project Acceptance Policy

### **IMPLEMENTATION**

The Office of Analysis and Executive Support has overall responsibility for implementing this policy. An implementation guide will contain details of tasks, procedures, and responsibilities for full implementation. The guide will include specific language to be used by division staffs responsible for filling requests to ensure that requesters understand the public nature of custom tabulations.

Divisions will submit information about custom tabulations to the Office of Analysis and Executive Support (OAES). Where the number and nature of the custom tabulations warrant, as determined by an Associate Director, reporting of individual custom tabulations may be consolidated into a single report. OAES has responsibility for producing a regular, comprehensive report of custom tabulations produced by the Census Bureau. This report will be available to the general public upon request.

Date Policy Becomes Effective: Upon Signature.

Signature:

(Signed)  
Hermann Habermann  
Chair  
Data Stewardship Executive Policy Committee

10/20/2005  
Date

U S C E N S U S B U R E A U

October 27, 2008

## **Disclosure Review Procedures**

### **Introduction**

Title 13 of the United States Code (U.S.C.) mandates that the Census Bureau protect the confidentiality of responses to censuses and surveys, and of individual data on other record files that the Census Bureau receives.

The Census Bureau applies these Disclosure Review Procedures to all data products that the Census Bureau releases to protect the confidentiality of data protected by Title 13. These procedures aid the Disclosure Review Board (DRB) in ensuring that the Census Bureau's disclosure avoidance procedures are always applied.

### **Scope**

Except as noted below, all data collected or maintained by the Census Bureau under Title 13, U.S.C., need disclosure protection. This includes Title 13 information commingled with or enhanced by information from other sources. Commingled files link Census Bureau data with information from another survey, from administrative records, or from other sources. For example, the Census Bureau uses federal tax information in lieu of direct data collection for some single employer establishments and appends demographic information from the Social Security Administration's Numident File of applications for social security numbers to data collected for minority-owned businesses and to some of its other survey records. In addition to Census Bureau disclosure avoidance requirements, some commingled information may be subject to disclosure protections from the source agency as well.

### ***Exception***

Title 13, U.S.C., Section 301(g), states that Shippers' Export Declarations, which are the source of export statistics, or any successor document, wherever located, shall be exempt from public disclosure unless the Secretary determines that such exemption would be contrary to the national interest. The Secretary of Commerce has delegated this authority to the Director of the Census Bureau. While Title 13, U.S.C., Section 307 states that the confidentiality protection provisions established in Section 9 of Title 13 do not apply to foreign trade statistics, the Foreign Trade Division of the Census Bureau protects the confidentiality of foreign trade data in cases where individual exporters or importers show that released data could reveal their specific commercial activities. The Census Act also provides for respondents or their heirs or authorized representatives to obtain copies of their own records as proof of age, citizenship, and residence. Census data on persons and households are confidential for 72 years, after which time they may be released to the public by the National Archives and Records Administration (NARA). Census data on businesses can be released by NARA after 30 years.

## Disclosure Avoidance Techniques

Program managers and authors must use one of the Census Bureau's disclosure avoidance techniques to protect Title 13 data. The Census Bureau has developed several disclosure avoidance techniques, such as rounding, top-coding, data swapping, thresholds, random noise, cell suppression and complementary cell suppression, to name a few. (See also Federal Register notice, vol. 68, no. 86, pp. 23693-23694.)

The appropriate methods to use depend on whether the release is for tabular data, public-use microdata, or statistical model output. For basic information on these techniques, see *Statistical Policy Working Paper 22: Report on Statistical Disclosure Limitation Methodology*, published by the Office of Management and Budget's Federal Committee on Statistical Methodology – this report is available at: [http://www.fcsm.gov/working-papers/SPWP22\\_rev.pdf](http://www.fcsm.gov/working-papers/SPWP22_rev.pdf).

For specific information on current Census Bureau disclosure avoidance practices or assistance in developing appropriate disclosure avoidance techniques for a specific type of release, consult the Statistical Disclosure Avoidance staff in the Statistical Research Division ([http://cww.census.gov/srd/organization/adc\\_ms\\_da.html](http://cww.census.gov/srd/organization/adc_ms_da.html)).

## Obtaining DRB Approval

The program manager or author must write a formal memorandum requesting clearance for the release of the data, complete the *Checklist for Disclosure Potential of Data*, and submit both to the Chair, DRB. Include information about the data set in the memorandum that will help the DRB identify the disclosure issues for the data set, such as:

- A description of the level of geographic detail in the data to be released
- A description of the level of detail in the variables to be released (for example, the level of detail in occupation codes)
- Frequency tables for identifying sparse variables
- Record layouts of microdata files to be released and the microdata files supporting tabulations to be released
- Table specifications showing the level of detail in the tabulations
- In repetitive surveys, any changes made since the last release that might affect the data
- New disclosure avoidance methods that have been applied
- In new data collections, the questionnaire and data collection procedures.

Contact the Chair of the DRB for help in writing the memorandum or completing the checklist. Use the following information to contact the Disclosure Review Board:

Laura Zayatz, Chair, Disclosure Review Board  
Statistical Research Division  
[laura.zayatz@census.gov](mailto:laura.zayatz@census.gov)

Data producers and program managers are encouraged to contact the Chair, DRB, informally early in the data production schedule to identify any significant disclosure issues presented by the proposed data set. Consulting the DRB early can save time and rework, and expedite the release of the data. However, that advance contacts with the Chair or with the full DRB do not represent clearance by the DRB.

### ***The DRB approval process***

The DRB generally meets weekly to discuss pending requests. A quorum of DRB members is needed to approve a release. On average, the project manager should submit the formal request for clearance one to two months before planned release. That time permits the DRB to address other pending requests, review the material submitted by the project manager, and request and review additional output (if needed). As a result of DRB discussions, the project manager may be asked to make changes to the final data set before release – e.g., collapsing some sparse cells or releasing data at a higher level of geography. Once a DRB decision is made, the Chair, DRB, will send a formal memorandum to the project manager, providing the recommendations of the Board.

In the formal DRB approval memorandum, approval is usually provided unconditionally, with no other clearances needed, aside from any required by the division, office, and directorate.

However, sometimes the DRB provides conditional approval, contingent upon specific changes to the data set. In this case, the data must be changed, as directed by the DRB, before the data may be released. When administrative records are involved, the DRB may provide conditional approval, pending any clearances required by the source agency.

In most cases, when the DRB has concerns about the release of a data set, it will work with the project manager and data producers to address those concerns. If the DRB still denies a request to release a data set, and the project manager disagrees, the reasons why there are no disclosure issues present in the data to be released must be documented and submitted in an appeal to the DRB. If there is still no resolution, then the case is appealed to the Data Stewardship Executive Policy Committee for a final decision. These further steps are rarely needed.



### ***The Checklist for Disclosure Potential of Data***

The *Checklist for Disclosure Potential of Data* is a general list of questions developed by the DRB to elicit responses from the data producers that help the DRB learn about the data set and identify potential disclosure issues.

The *Checklist on Disclosure Potential of Data* supplements the Standard and will assist the DRB in deciding which data products may be released and which products must be revised in some way prior to their release in order to meet confidentiality requirements. It is designed to pull together complete information on the data product and disclosure avoidance procedures used to protect the data. It covers microdata, demographic frequency count data, and establishment magnitude data.

The data producers are required to provide what disclosure avoidance methodologies (if any) have been used to protect the data from disclosure; what other similar data have already been released (by the Census Bureau or other sources) that could be used to identify individuals or establishments; and, if data from the same survey were approved for release last year, how does the new release differ. Questions like these help the DRB determine what additional measures may be needed (if any) to ensure protection of individual respondents' answers.

In general, this form must be completed for all types of data releases (e.g., demographic and economic microdata, demographic and economic tabular data, audio tapes, etc.). The standard does take account of those situations where it is reasonable to reduce the reporting burden. The checklist is unnecessary in the cases described below. However, the data will still be reviewed in order to take into account any change in the public availability of information that could be used for reidentification. For economic backcasting, one memo and checklist are required for approval of the disclosure avoidance techniques to be used to protect the data.

### ***Situations Where the Checklist Is Not Needed***

The memorandum to the Chair of the DRB needs to be prepared, but the Checklist does not have to be completed for the following cases:

- Repetitive survey where no changes have occurred in geographic information, in data items published, or in disclosure avoidance procedures since the previous data release
- Cross tabulations from demographic surveys that do not identify geographic areas with fewer than 100,000 people in the area from which the sample was chosen
- Decennial census special tabulations because they have their own separate set of disclosure avoidance requirements and procedures

***Situations Where Neither the Checklist Nor the Memorandum Is Needed***

Neither the memorandum nor the *Checklist for Disclosure Potential of Data* has to be completed in the following cases:

- Output from the American FactFinder (AFF) Advanced Query System that passes the confidentiality filters
- Monthly and quarterly economic releases and economic revisions
- Research Data Center data products because they have their own separate set of disclosure avoidance review requirements and procedures
- Data that can be obtained from data products already released

Most research papers fall into one of the categories above and do require disclosure review. However, if the author is unsure, he or she should contact the Chair of the DRB.