

**Criteria for the Review and Approval of Census Projects  
that Use Federal Tax Information**  
September 15, 2000

This document describes the criteria that will be applied and the procedures that will be followed by the Census Bureau and the IRS, for reviewing and approving projects that request use of Federal Tax Information (FTI). These include projects described in letters requesting access to IRS data (for internal, joint and reimbursable projects) and projects that are unexpected at the time of those letters (primarily research at the Center for Economic Studies (CES) or at the Research Data Centers (RDCs). The criteria are intended to be clear, consistent, and workable, in order to ensure that Census Bureau projects that use FTI can proceed in a timely manner and are in full compliance with the requirements of the Internal Revenue Code.

Our goal is to build on past practice to ensure the paramount importance of safeguarding FTI by enhancing the full range of measures used to protect taxpayer data while at the same time ensuring that the U.S. statistical system, and the Census Bureau in particular, can continue to be modernized so as to contribute to the creation of the knowledge base required for the analysis and development of sound economic and public policy. This contribution comes through the provision and use of economic and demographic statistics that deepen our understanding of the forces that drive our economy and federal programs. If experience with these criteria and procedures indicates that this goal is not being met, the Census Bureau and the IRS will work together to appropriately modify the criteria and procedures.

The timely completion of Census Bureau projects is vital to a wide range of federal activities: the allocation of billions of dollars in federal funds; apportionment and legislative redistricting of congressional districts; preparation of the National Income and Product Accounts; support for public policy-making; and generally measuring the economic, demographic, and social status of the United States. The procedures described below recognize that different uses, ranging from ongoing internal Census Bureau program uses to externally-driven research projects conducted through the Census Bureau's Research Data Centers, may present different levels of risk of unauthorized access or disclosure. Additional reporting requirements (both uses and processes) will be implemented and increased IRS involvement will be encouraged at the onset when projects present greater risk. Criteria for certifying the appropriate Title 13, Chapter 5 uses of FTI are provided. As long as the Census Bureau's Title 13, Chapter 5 program purposes are the predominant purpose of the project, uses that also directly benefit parties other than the Census Bureau (e.g. reimbursable projects) will be permitted (but no redisclosure of FTI) as long as those uses are consistent with Title 26, Section 6103 and its implementing regulations.

## **Definitions**

Internal Projects. Projects are sets of related tasks designed to achieve one or more objectives, conducted under the auspices of one or more Census Bureau programs. Internal projects are, in general, those Census Bureau activities carried out in Census Bureau facilities by Census Bureau employees that are essential to the planning, execution, and analysis of its core programs including its work in support of the national economic accounts. Projects to evaluate past core programs and test new approaches to carrying out core programs also qualify as internal projects.

Internal projects serving Title 13, Chapter 5 purposes, many of which have previously been approved by IRS based on the Census Bureau's purpose and process for safeguarding FTI from disclosure, are part of the routine, ongoing process by which the Census Bureau designs, carries out, and evaluates its basic data collection responsibilities and are not typically discrete activities.

While generally conducted by Census Bureau staff, this category of internal projects may also draw upon the expertise of individuals to whom the Census Bureau has granted Special Sworn Status (SSS). The number of individuals with SSS relative to the number of Census Bureau employees working on this category of internal projects is generally quite small. For example, within the Census Bureau's Economic Directorate, 707 Census Bureau employees currently work on internal projects that make some use of FTI. Only 16 individuals with SSS work on the same projects.

Joint Projects. The Census Bureau carries out some projects that serve a Title 13, Chapter 5, purpose jointly with other federal agencies. These joint projects directly enhance the Census Bureau's ability to conduct its censuses and surveys. They are joint projects in the sense that the other federal agencies provide access to their own unique databases as part of the projects. If these joint projects predominantly serve other than Title 13, Chapter 5 purposes, a 3-way arrangement under IRC 6108(b) among Census, the requesting federal agency, and IRS will probably be necessary. The requesting federal agency must have an appropriate mandate and would be permitted to retain only FTI that has been disclosure processed according to procedures acceptable to IRS. At this time, the Census Bureau conducts a joint project in collaboration with the Bureau of Labor Statistics. (As a result of the Safeguard Review, components of this project were suspended, but it is the Census Bureau's intent to clear this project with IRS using established procedures.) The Census Bureau acknowledges that joint projects may have inherent risk beyond that associated with an established internal project. Therefore, it will provide an additional level of detail in its reporting to the IRS, especially about intended safeguarding methodology, including physical location of FTI, specific safeguarding arrangements, intended period of use, and the SSS who will have access.

Descriptions of 40 Census Bureau internal and joint projects were sent to Mr. John Dalrymple, then Chief Operations Officer, IRS, on July 5, 2000. This document is available upon request.

Reimbursable projects. Reimbursable projects eligible to use FTI are defined as those data collection efforts (surveys or censuses), special studies or reports, or statistical research relating to topics within the mission of the Census Bureau, authorized by Title 13, Chapter 5, Sections 182 and 193, but funded in whole or in part by other agencies or organizations. Reimbursable projects grow out of, are supplements to, and/or provide a more complete picture of the topics covered by the Census Bureau's censuses. For example, the Plant Capacity Utilization Survey is co-funded by the Defense Logistics Agency and the Federal Reserve Board. The sample for this survey is drawn from the most recent economic census. Value of shipments data from the economic census are used as a control for the actual data collected. The Census Bureau has a long history of gathering very extensive data on the manufacturing sector in the Census of Manufactures; this survey builds on that elaborate body of information.

Sponsors of reimbursable projects do not get access to FTI. Sponsors, and the public, receive only aggregate data that have been reviewed by both the Census Bureau's Disclosure Review Board and, in some cases, the IRS. The Census Bureau does use a few (currently 6) technical experts from two sponsoring agencies, who are granted SSS, to assist in the quality control of two surveys. If sponsors wish to get access to microfiles that may contain some FTI, they must submit a research proposal to CES and go through all the approval steps required for any external research project.

As required by OMB regulation, the Census Bureau conducts its reimbursable projects on a strict cost recovery basis. Reimbursable projects conducted by the Census Bureau under Title 15 will not be permitted to use FTI.

In rare cases where the Census Bureau conducts a reimbursable survey on subjects authorized by a section of Title 13 other than Chapter 5, a 3-way arrangement under IRC 6108(b) among the Census Bureau, the requesting federal agency, and IRS may be necessary. The requesting federal agency must have an appropriate mandate and would be permitted to retain only FTI that has been disclosure processed.

External research. External research projects are defined as statistical analyses with benefits related to the Census Bureau's mission, but proposed by someone outside the Census Bureau. Once approved, these projects are generally conducted at CES or an RDC by the proposal author, including those from other federal agencies or academic institutions, upon whom the Census Bureau confers SSS.

## **Criteria**

Consistent with past practice, all projects using FTI, whether internal, joint, reimbursable, or external, will have as a prerequisite the expectation for providing benefits to the Census Bureau's programs authorized under Title 13 U.S.C., Chapter 5.<sup>1</sup> An improvement to past practice is that the

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<sup>1</sup>The one exception is the Quarterly Financial Report (QFR) program, which is authorized under Title 13, Chapter 3. Section 91

criteria used to judge whether projects can access FTI will be explicit and specific, as agreed to by the Census Bureau and IRS. Any approved project must have as its predominant purpose increasing the utility of Title 13, Chapter 5 data. If a project has as its predominant purpose one, or any combination of, the following criteria, it will be considered to have as its predominant purpose increasing the utility of Title 13, Chapter 5 data:

- C Understanding and/or improving the quality of data produced through a Title 13, Chapter 5 survey, census or estimate;
- C Leading to new or improved methodology to collect, measure, or tabulate a Title 13, Chapter 5 survey, census or estimate;
- C Enhancing the data collected in a Title 13, Chapter 5 survey or census. For example:
  - C Improving imputations for non-response;
  - C Developing links across time or entities for data gathered in censuses and surveys authorized by Title 13, Chapter 5.
- C 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;
- C Identifying shortcomings of current data collection programs and/or documenting new data collection needs;
- C Constructing, verifying, or improving the sampling frame for a census or survey authorized under Title 13, Chapter 5;
- C Preparing estimates of population and characteristics of population as authorized under Title 13, Chapter 5;
- C Developing a methodology for estimating non-response to a census or survey authorized under Title 13, Chapter 5;
- C Developing statistical weights for a survey authorized under Title 13, Chapter 5.

## **Process**

Internal, Joint and Reimbursable Projects. Currently, the Census Bureau provides to IRS general descriptions of its internal and reimbursable programs in its data request letters and more detailed project information in its annual needs-use reports. In the future, detailed project descriptions of its internal, joint and reimbursable programs will also be provided in its data request letters to IRS and in the Census Bureau's annual safeguard activity report.

The Census Bureau is best positioned to determine whether a project will predominantly meet a Title 13, Chapter 5 purpose and that the procedural requirements of the Internal Revenue Code are being followed. The Census Bureau accepts that responsibility. By the same token, the Census Bureau acknowledges IRS's responsibility to ensure that the Census Bureau uses of FTI are

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(c) of Chapter 3 says that for purposes of 6103(j) the QFR program shall be considered a related statistical activity authorized by law. The criteria and procedures described herein will apply to the QFR program.

consistent with IRS statute and regulation. Therefore, in the future, the Census Bureau will certify to IRS, before a project begins, that it meets the specified criteria. IRS will certify to the Census Bureau, within a reasonable time period, that the uses of FTI are consistent with IRS statute and regulation. The specific process will include ensuring, prior to a project commencing, that letters requesting FTI:

- C Clearly acknowledge that the specified FTI is intended to be used for the project, and is necessary to achieve the predominant purpose of the project;
- C Certify that the predominant purpose of the project is, or is expected to be, Title 13, Chapter 5 according to the above criteria;
- C Include project descriptions in sufficient detail to confirm that the project is expected to satisfy, as its predominant purpose, at least one of the criteria, above, that elaborate on the Title 13, Chapter 5 requirements; and
- C Identify those people with SSS who need to be associated with the project and the location where FTI will be accessed. Every effort will be made to identify SSS individuals in advance. Should this not prove possible, the identification will be made as soon as is feasible, after the fact.

Because letters of request are sent from the Secretary of Commerce to the Commissioner of the IRS, requiring extensive clearance processes, the Census Bureau will provide program-level information in the letter requesting FTI, and will transmit the detailed project-level information in a separate letter to the IRS simultaneously.<sup>2</sup>

For any projects not known at the time of the data request letters, the Census Bureau will report to IRS promptly and before they commence, using the same general reporting format described above. IRS will certify in a reasonable time period whether the uses of FTI satisfy IRS statute and regulation. The accepted projects will be included in the next annual needs-use report to IRS and in the Census Bureau's annual safeguard activity report. For longer-term projects, the request letters and annual reports will note their continuation, to the extent that they continue to require FTI.

External research projects. By definition, most specific external research projects are unanticipated at the time of the request letters. Therefore, they undergo a different project review process.

In the future, prior to an external research project commencing, the Census Bureau, in consultation with IRS, will confirm the following:

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<sup>2</sup> For example, the Annual Survey of Manufactures (ASM) and the Intercensal Population Estimates program are both "programs." Examples of projects under the ASM are (a) evaluation of the 1999 ASM and (b) production of the 2000 ASM. Examples of projects under the Intercensal Population Estimates program include (a) production of the migration component of the 1990 estimates and (b) evaluation of the coverage of IRS data employed to produce the migration component of the population estimates.

1. The project contributes predominantly to the censuses, surveys, and other related statistical activities described in the prior request and authorization letters that provided access to the Census Bureau for the relevant FTI.
2. Formal Census Bureau project review is completed (see attachment 1). Census Bureau project approval includes an assessment of the project in terms of the benefits to Census Bureau programs authorized under Title 13, Chapter 5, using the criteria indicated above. As part of the review, IRS will confirm that the uses of FTI are consistent with IRS statute and regulation.
3. All SSS individuals who need to have access to FTI for the project are identified.
4. Appropriate safeguard controls for limiting access and use of tax data are in place, including:
  - a. Physical security safeguards appropriate to IRS Pub 1075
  - b. Computer security safeguards appropriate to IRS Pub 1075
  - c. Approved method of data transmittal (under IRS Pub 1075)
  - d. Site approval (valid security plan in place)
  - e. Oversight of SSS using FTI (training and supervision)
  - f. Approved disclosure protections applied to data products

At present, CES conducts formal bi-monthly project proposal review meetings. The membership of the Review Committee includes:

- C CES Director
- C CES Assistant Division Chief
- C CES Research Proposal Manager
- C CES Policy Officer
- C CES Demographic Programs Officer
- C Assistant Division Chief for Administrative Records Research, Planning, Research and Evaluation Division
- C Policy Office Administrative Records Program Officer
- C Security Office Representative

The procedures followed in the review process are as follows:

- C Proposals are assigned to two reviewers six weeks in advance of the review meeting. Proposal reviewers are typically staff economists at CES with significant experience using the data required in the proposal. Written reviews (see Attachment 1) are due back to the Research Proposal Manager within four weeks. Proposals are available upon request to all Review Committee members.

- C One week before the review meetings, proposals, accompanied by all written comments, are circulated to review panel members.
- C At the review meetings, project proposal summaries and proposal reviews are presented. Concerns regarding projects are raised and fully discussed, leading to approval, rejection, or requests for revision of proposals. The Director of CES mediates disagreements, which are resolved at the meeting, when possible. However, if there is support for the proposal but also identification of a specific weakness in it, the review committee requests the proposal author to revise and resubmit his or her proposal. Roughly 30 percent of initial proposals are sent back to investigators for revision.
- C The investigator must discuss in the proposal how he or she expects the research project to satisfy Title 13, Chapter 5 requirements.

In the future, the above process will be revised to include the following:

- C IRS officials from SOI Division are invited to be full participants in the Review Committee and will receive all project descriptions along with the review form to be completed by all reviewers (Attachment 1) six weeks in advance of the review meeting. SOI, as well as other reviewer, comments will be due within four weeks. As with other reviewers, SOI reviews should be limited to specific items within its expertise or authority,; i.e., that the uses of FTI are consistent with IRS statute and regulation. Reviewer comments in the form of completed versions of Attachment 1 are circulated to all review panel members, including SOI, two weeks before the meetings. The Census Bureau will also prepare an extract of the proposal information (Attachment 2) for SOI, and provide it two weeks before the meeting.
- C Proposals must also contain a commitment by the investigator that at the end of the research project he or she will include, as part of the findings that investigators are required to file with the CES, a memo or report describing how the research project met the Title 13, Chapter 5 requirement or contributed to the improvement of Census Bureau programs in ways not anticipated at the outset of the research project. The Census Bureau will describe the impact of the research project on the Census Bureau's Title 13, Chapter 5 programs to SOI.
- C The SOI Division will approve the project within the context of the existing review process.
- C Accepted project descriptions are formally sent to IRS Office of Safeguards and the SOI for their files.

## Process for Certifying Uses of FTI

The authority level for certifying Title 13, Chapter 5 uses of FTI will be as follows:

| Stage/Activity                                   | Frequency                   | Signatory                       | Recipient                 |
|--|-----------------------------|---------------------------------|---------------------------|
| 1. Data Request*                                 | Annual                      | Secretary                       | Commissioner              |
| 1a. Detailed Project-Level Information*          | Annual                      | Director                        | SOI and Disclosure Office |
| 2. New Internal, Joint and Reimbursable Projects | Prior to project commencing | Director                        | SOI and Disclosure Office |
| 3. External Projects                             | Prior to project commencing | Through existing review process | SOI                       |
| 4. Needs/Use Reports                             | Annual                      | Director                        | SOI and Safeguards        |
| 5. Safeguard Activity Report                     | Annual                      | Director                        | Safeguards                |

*\*Items 1 and 1a will be transmitted simultaneously.*

### SSS Individuals

Training. Proper training on FTI access, including necessary safeguards information, will be provided by the Census Bureau appropriate to the background and experience level of the SSS individual. SSS individuals from outside the federal government, with no experience accessing sensitive information, may require more training than federal employees experienced in such access procedures. IRS will provide training materials and other support to the Census Bureau as needed.

Background Checks. SSS Individuals with access to FTI must be cleared for background in advance of any such access. The background checks should ensure that the SSS individual is properly authorized to access FTI and that the probability of access or disclosure violations would be minimized. IRS will provide support for this effort as needed.

Direct Control and Supervision. The Census Bureau will ensure that all SSS individuals--during all times of access to FTI and at all Census Bureau locations (CES, RDCs, etc.)--are under the direct control and supervision of Census Bureau management: e.g., the use/review of audit trails to monitor data access to FTI, routine internal inspections of all Census Bureau locations, periodic project reviews, and the implementation of the Census Bureau on-line project monitoring program.