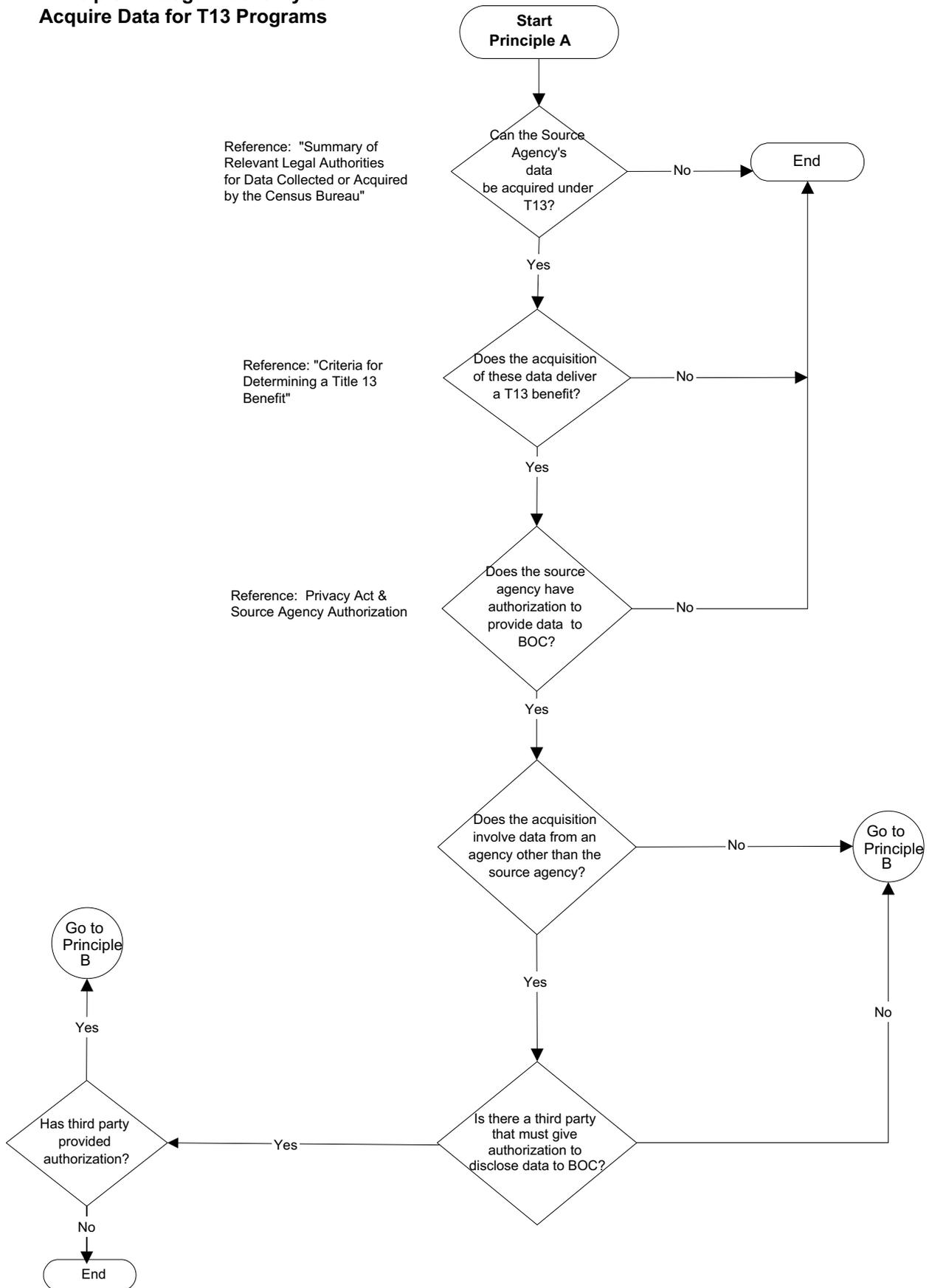


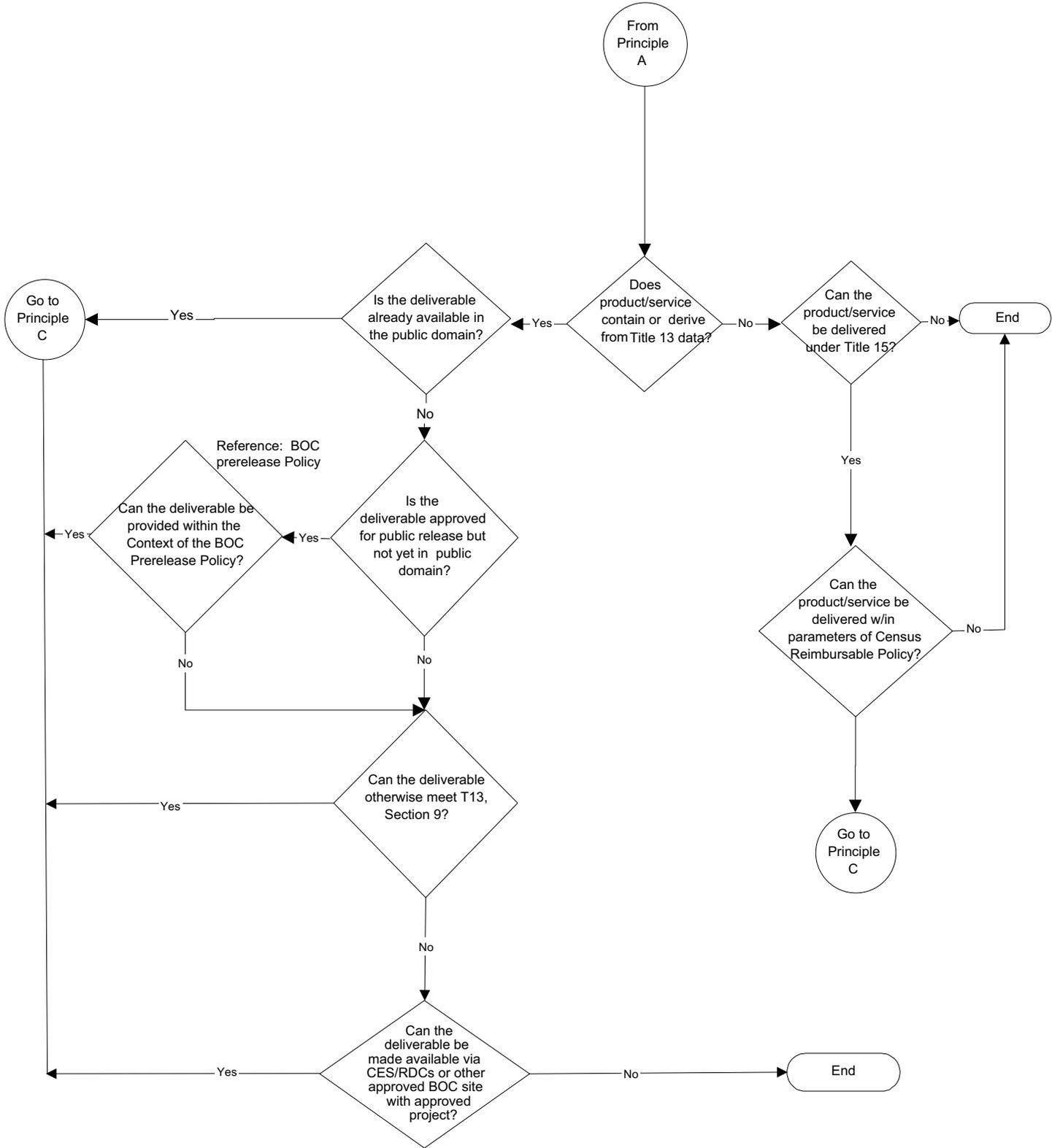
**Decision Flow for Policy on Negotiating Collaborative Arrangements with Agencies
for the Acquisition of Administrative Record Data to Support Title 13 Projects**

Principles for Negotiating Collaborative Arrangements with Agencies for the Acquisition of Administrative Record Data to Support Title 13 Projects

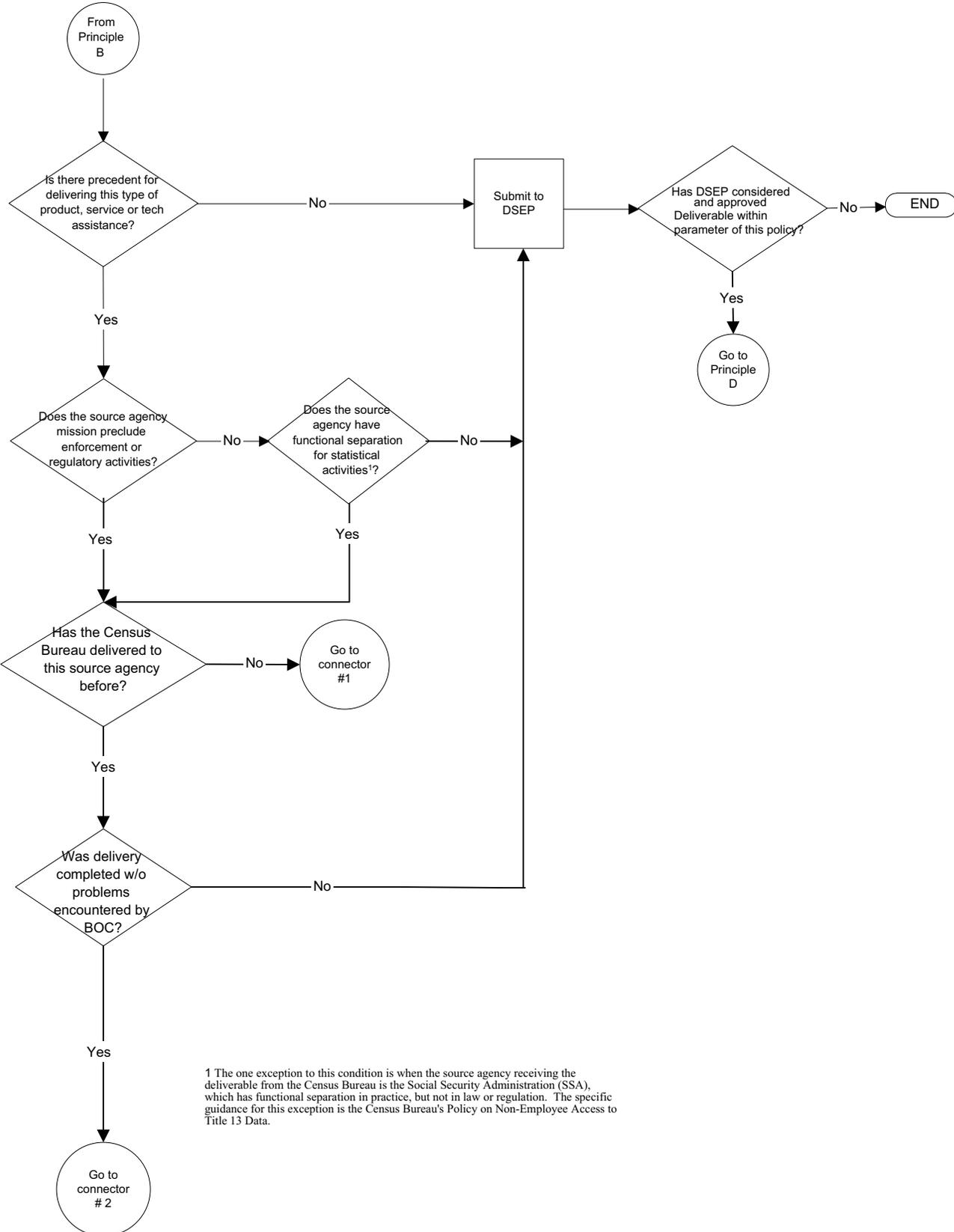
Principle A: Legal Authority to Acquire Data for T13 Programs



Principle B: Legal Authority
Permitting BOC Delivery of a Product, or Service

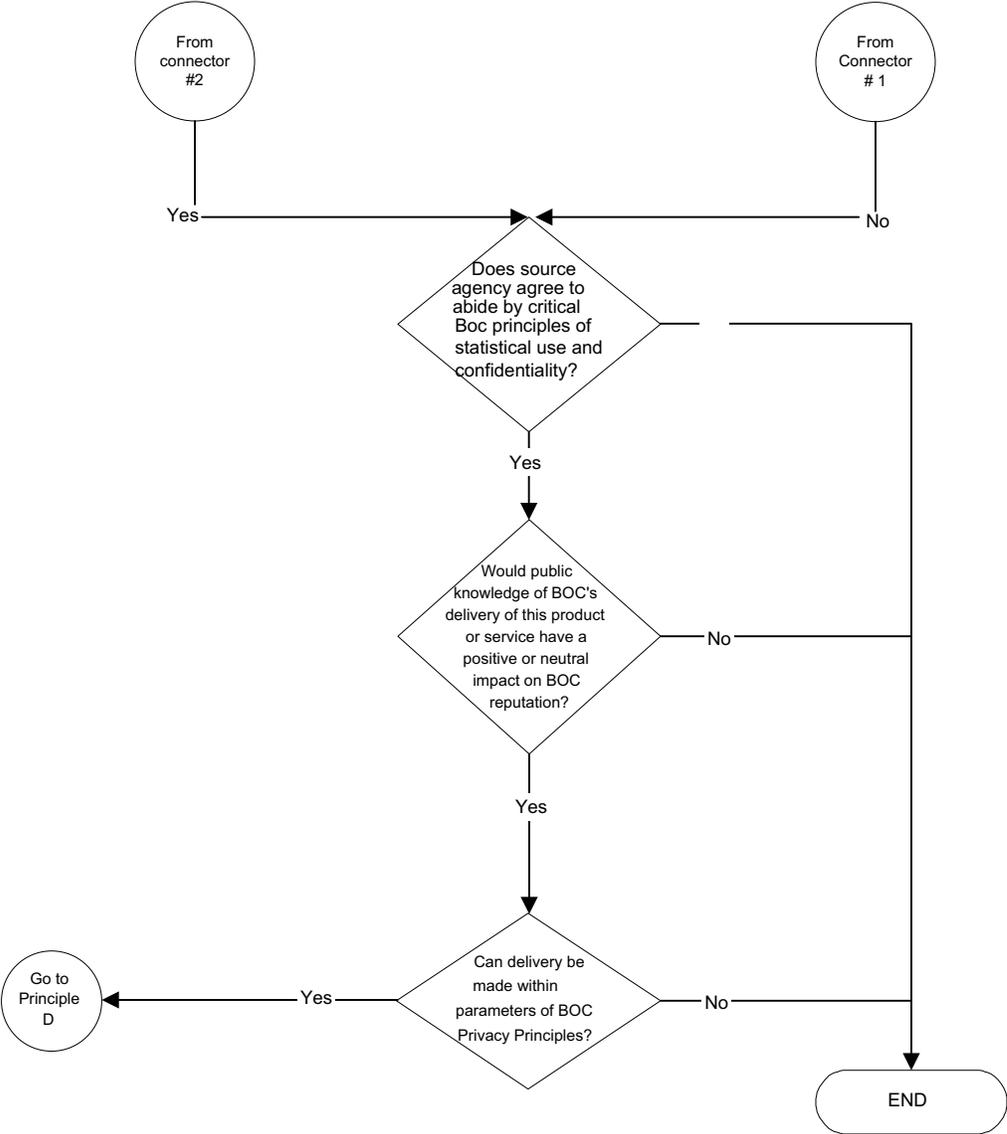


Principle C: Census Bureau Mission & Reputation

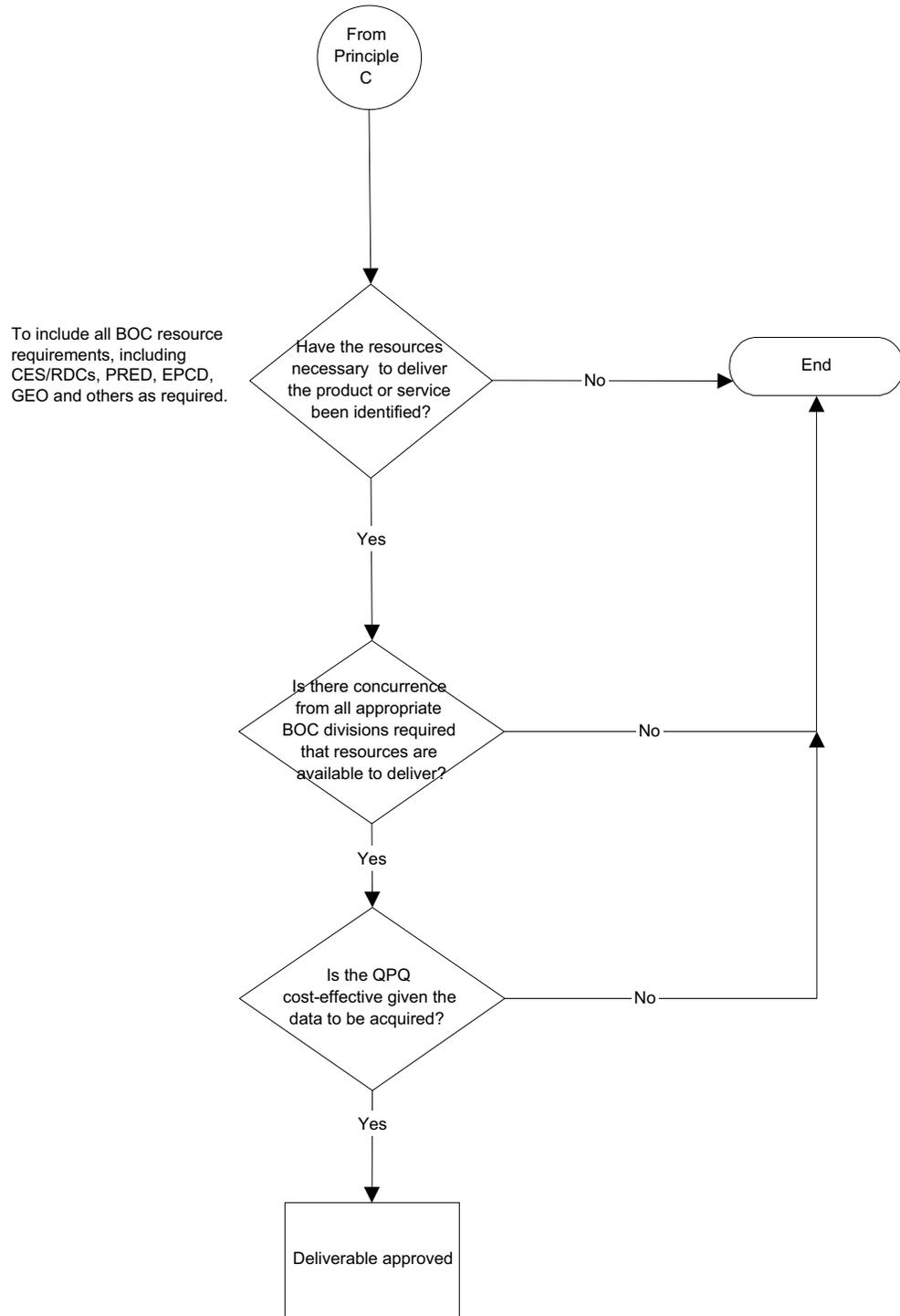


1 The one exception to this condition is when the source agency receiving the deliverable from the Census Bureau is the Social Security Administration (SSA), which has functional separation in practice, but not in law or regulation. The specific guidance for this exception is the Census Bureau's Policy on Non-Employee Access to Title 13 Data.

Principle C: Census Bureau Mission & Reputation



Principle D: Resource Availability



Summary of Relevant Legal Authorities

I. Census Bureau Collection Authorities

- ***Title 13 U.S.C., Chapter 3:*** Chapter 3 authorizes the collection and publication of statistics on specific commodities, and the production of Quarterly Financial Statistics.
- ***Title 13 U.S.C., Chapter 5:*** Chapter 5 provides the Census Bureau with broad authority to conduct economic and demographic censuses and surveys, including special censuses for states, counties, cities or other governmental units.
- ***Title 13 U.S.C., Section 6:*** Section 6 authorizes 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. The Census Bureau may acquire data from other agencies “by purchase or otherwise.”
- ***Title 13 U.S.C., Section 8:*** Section 8 authorizes the Census Bureau to receive funding from other agencies to “furnish copies of tabulations and other statistical materials which 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. . . , or other public and private person and agencies, upon payment of the actual or estimated cost of such work.”
- ***Title 13 U.S.C., Chapter 9:*** Chapter 9 provides authorization to the Census Bureau to collect foreign trade data, and “compile and publish such information pertaining to exports, imports, trade and transportation relating thereto. . . .”
- ***Title 15, Section 1525:*** Title 15, Section 1525 authorizes the Census Bureau to provide services and receive payment for services rendered to other agencies; however, any data acquired under Title 15 must be used solely for a Title 15 purpose. They may not be commingled with any data collected or acquired under Title 13 nor used for any Title 13 purpose. Data acquired under Title 15 are not covered by the confidentiality protections under Title 13, Section 9, but they are subject to the provisions of the Privacy Act (see “Census Bureau Confidentiality Provisions” below).
- ***The Economy Act (Title 31 U.S.C., Section 1535):*** Other agencies generally cite the Economy Act as their authority to order statistical work from the Census Bureau. The Economy Act authorizes reimbursable agreements between Federal agencies for the procurement of goods and services if it is in the interest of the government. The

procuring agency in an Economy Act agreement must execute a Determination and Finding (“D&F”) 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.

II. Census Bureau Confidentiality Provisions

- ***Title 13, Section 9:*** Section 9 prohibits the Census Bureau from using “information furnished under the provisions of Title 13 for any purpose other than the statistical purposes for which it is supplied; or make any publication whereby the data furnished by any particular establishment or individual under this title can be identified; or permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual reports.” Section 9 protections do not apply to Foreign Trade or Governments data.
- ***Title 13, Section 23(c):*** Section 23(c) gives the Census Bureau the authority to utilize temporary staff “to assist the Bureau in performing the work authorized by this title.” Such individuals – identified as “Special Sworn Status individuals” at the Bureau – must be sworn to observe the confidentiality provisions set forth in Title 13, Section 9 (see above).
- ***Privacy Act of 1974:*** The Privacy Act regulates the collection, maintenance, use and dissemination of personal information by federal agencies. Specifically, it prohibits agencies from disclosing records to any person or agency without the specific written consent of the individuals to whom the records pertain. Agencies are exempted from this requirement, however, if they are providing such individual records to the Census Bureau “for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13.
- ***Freedom of Information Act (FOIA):*** The Freedom of Information Act (FOIA), found in Title 5 of the United States Code, section 552, was enacted in 1966 and provides that, upon request from any person, a Federal agency must release any agency record unless that record falls within one of the nine statutory exemptions and three exclusions. The FOIA binds only Federal agencies, and covers only records in the possession and control of federal agencies.
- ***Trade Secrets Act (Title 18 U.S.C., Section 1905):*** The Trade Secrets Act prohibits officers or employees of the federal government from publishing, divulging, disclosing or making known in any manner any information coming to them in the course of their employment or official duties relating to the trade secrets or other confidential information of “any person, firm, partnership, corporation or association.”
- ***McGranery Opinion (41 OP.A.G. 120 et. Seq. January 5, 1953):*** In 1953, then Attorney General James McGranery rendered an opinion on the Census Bureau’s ability to revise industrial classifications on business establishments provided by

other federal and state statistical agencies. He determined that, even though industrial classifications were maintained by the Census Bureau under Title 13, the Census Bureau could verify and correct classifications to individual establishment records as long as 1) those individual records were provided by the source agency and the Census Bureau added no additional establishment records; and 2) that the records with industry codes appended by the Census Bureau be used for statistical purposes only.

Criteria for Determining a Title 13 Benefit

1. Evaluating concepts and practices underlying Census Bureau statistical data collection and dissemination practices, including consideration of continued relevance and appropriateness of past Census Bureau procedures to changing economic and social circumstances.
2. Analyzing demographic and social or economic processes that affect Census Bureau programs, especially those that evaluate or hold promise of improving the quality of products issued by the Census Bureau.
3. Developing means of increasing the utility of Census Bureau data for analyzing public programs, public policy, and/or demographic, economic, or social conditions.
4. Conducting or facilitating Census Bureau census and survey data collection, processing or dissemination, including through activities such as administrative support, information technology support, program oversight, or auditing under appropriate legal authority.
5. Understanding and / or improving the quality of data produced through a Title 13, Chapter 5 survey, census or estimate;
6. Leading to new or improved methodology to collect, measure, or tabulate a Title 13, Chapter 5 survey, census or estimate;
7. Enhancing the data collected in a Title 13, Chapter 5 survey or census. For example:
 - a. Improving imputations for non-response;
 - b. Developing links across time or entities for data gathered in censuses and surveys authorized by Title 13, Chapter 5.
8. 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;
9. Identifying shortcomings of current data collection programs and / or documenting new data collection needs;
10. Constructing, verifying, or improving the sampling frame for a census or survey authorized under Title 13, Chapter 5;
11. Preparing estimates of population and characteristics of population as authorized under Title 13, Chapter 5;
12. Developing a methodology for estimating non-response to a census or survey authorized under Title 13, Chapter 5;
13. Developing statistical weights for a survey authorized under Title 13, chapter 5.

Definitions

The following terms are defined for the purposes of this policy:

Administrative Records: Records collected and/or maintained by federal, state, tribal or local government agencies or commercial entities for the purpose of administering programs or providing services. Title 13 U.S.C., Section 6 gives the Census Bureau legal authority to acquire such administrative records for statistical purposes.

Census Bureau Mission Statement: To be the pre-eminent collector and provider of timely, relevant and quality data about the people and the economy of the United States. We will succeed by: valuing our employees, being innovating in our work and responding to our customers.

Census confidential data: Data collected or acquired by the Census Bureau for which confidentiality protections are guaranteed under Title 13 U.S.C., Section 9. No one may access Census confidential data unless authorized to do so under this title.

Data Stewardship Executive Policy (DSEP) Committee: 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.

External Research Project: A project that meets a Title 13 purpose, but is managed by individuals granted special sworn status (SSS) by the Census Bureau. Such projects are typically funded by external sources. They are usually conducted at the Census Bureau's Center for Economic Studies (CES) or a Census Bureau Research Data Center (RDC).

Identifiable Data: Data that contain information that specifically identifies or permits identification of a person or a business entity.

Publicly Available Data: Data that have been modified to ensure that no individually identifiable records are disclosed; these disclosure-proofed data can be made available to outside agencies.

Source Agency: A federal, state, local, tribal, or commercial/non-government agency or organization that maintains administrative record files and has the authority to provide those data to the Census Bureau.