

### **DS-021, “Policy on Providing Custom Tabulations and Custom Extracts Under 13 U.S.C. § 8(b)”**

#### **PURPOSE**

This policy establishes the Census Bureau’s procedures for filling requests for special statistical data products under 13 U.S.C. § 8(b) and for providing copies of these products to others. This policy supersedes the custom tabulation portion of DS-015, “Policy on Accepting Reimbursable Projects.” The policy also replaces the prior DS-021, “Policy on Providing Custom Tabulations Under 13 U.S.C. § 8(b),” signed October 20, 2005. 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.

#### **BACKGROUND**

Fulfilling customer requests for custom tabulations and custom extracts enhances the Census Bureau’s reputation of being a leading source for current statistical data; however, the creation of such products must not interfere with delivery of core and legislatively mandated data products. The Census Bureau created the Custom Tabulations and Custom Extracts Policy to be transparent with the public on how it uses their confidential data in creating products of special benefit to individual customers. In addition, how much we charge for such custom tabulations and custom extracts must be communicated uniformly across the Census Bureau to maintain our reputation for fairness and transparency and our good relationships with census partners, stakeholders, and other data users. The policy clarifies the definition of custom tabulations to distinguish them from custom extracts and customer service. This policy updates guidelines for program areas to use to determine when to begin charging for work on a custom tabulation or custom extract. It also reaffirms that Census Bureau staff receiving a request from the media forward the request to the Public Information Office.

#### **SCOPE**

This policy provides guidance for producing and charging for data products produced outside of the Census Bureau’s regular publication activities and at the request of a particular customer. We produce these data products on a reimbursable basis, and refer to them as “custom tabulations” and “custom extracts”.

- “Custom Tabulation” is defined as: “A statistical aggregation of confidential microdata collected by the Census Bureau under the authority of Title 13 of the United States Code, that is produced by the Census Bureau at the request of a particular customer.” Custom tabulations are developed from internal Census Bureau files that are not accessible by the public.

- “Custom Extract” is defined as: “A statistical aggregation or reorganization of non-confidential Census Bureau data, that is produced at the request of a particular customer.” Custom extracts are developed from published and previously published tables or from unpublished data that has been cleared for disclosure avoidance.

The “particular customer” in these definitions may include other government agencies, private organizations, and individual members of the public.

### **Products and Services Out of Scope**

Tables created with data that are confidential under 13 U.S.C. Section 301(g) are subject to additional protections and have a separate procedure by which the Census Bureau must determine whether it can create and release the data product.

The Census Bureau does not charge for customer service nor publish a list of such routine responses to customers. “Customer Service” is defined as “the assistance a Census Bureau employee provides a customer to identify what information the customer needs.” Customer service may involve one or more of the following:

- a. oral or written instructions to the customer to help him/her understand what statistics are available and how to find, retrieve or download such information;
- b. assisting customers with accessing and manipulating publicly-available files — when such manipulations are limited in scope, yet may be difficult for a novice or casual data user to perform;
- c. providing the customer a link to the data, a document, or spreadsheet of the publicly-available data; and
- d. providing assistance to customers of Census Bureau subscription-based services, when such assistance is limited in scope and is necessary to demonstrate the utility of the subscription.

The cost recovery guidance in this policy ensures the Census Bureau meets its legal obligations to obtain full cost recovery for any work we do at the request of a particular customer.

The following products do not fit under the definition of custom tabulations or custom extracts:

1. Age Search requests. This service involves an individual requesting her/his own census record. The service is by a set fee, and the records are released only to that individual or her/his representative.
2. Products previously created for Census Bureau use that are readily available internally and available to the public upon request.
3. Interim and final tabulations and extracts produced with data collected under a reimbursable survey, reimbursable statistical study, or a joint statistical project. The terms of the agreement for that survey, study, or project and other laws and policies govern the use of the data produced.
4. Tabulations and extracts created by the Census Bureau for its own use with administrative records obtained under 13 U.S.C. Section 6 or as part of a joint statistical project conducted under 13 U.S.C. Section 8(b). The agreement with the agency or government body that provided the records may govern whether the Census Bureau can

release those tables to other customers. Other laws and policies also apply to the release of products from that data.

The Census Bureau may create custom products free of charge in response to Information Requests, and the Census Bureau publishes information about the Information Request along with information about custom tabulations. An “Information Request” is defined as “A request for Census Bureau data made:

- a. by a member of the White House staff on behalf of the White House, or
- b. made by the chairperson/head of a House or Senate committee or subcommittee on behalf of that committee or subcommittee.”

NOTE: requests from members of the media or media organizations do not qualify as Information Requests.

## **POLICY**

The Census Bureau may accept custom tabulation and custom extract requests made by the general public, organizations, and government agencies as long as the request does not violate the confidentiality of our respondents’ data, and does not interfere with the Census Bureau’s goals, objectives, and mission.

### **Sensitive Topics/Sensitive Populations**

The program area will contact the Policy Coordination Office before beginning work on a custom tabulation or custom extract on sensitive topics or sensitive populations, topics that have policy implications, or topics that may negatively impact the Census Bureau's reputation. The Policy Coordination Office will involve the Data Stewardship Executive Policy Committee as appropriate. (See “Related Policies and Procedures” for instructions on how to retrieve the Census Bureau’s list of sensitive topics and sensitive populations.)

### **Transparency**

All fulfilled custom tabulation requests are reported to the Policy Coordination Office (PCO) to be incorporated into the custom tabulation and custom extract list. All fulfilled requests for custom extracts on sensitive topics and sensitive populations also are incorporated on that list.

The list of all resulting products will be made available to the public, consistent with the White House Open Government policy initiative. Requests for a copy of previously produced custom tabulations or custom extracts that are on the list are **not** reported again on the custom tabulation/custom extract list.

The Census Bureau publishes the list of custom tabulations and custom extracts, including a description of the tabulation or extract, and who requested the tabulation on the Internet as part of the Freedom of Information Act (FOIA) Electronic FOIA Library. The Census Bureau will furnish any available custom tabulation or custom extract to anyone who requests it, for the cost of reproduction.

Prior to agreeing to produce a custom tabulation or custom extract, the Census Bureau, to the best extent possible, will encourage and help requesters use other available resources, such as data products the Census Bureau makes available on the Internet, or will direct the requester to

the Census Bureau's State Data Center partners. Contact information for state data centers is available at this webpage: <http://www.census.gov/sdc/network.html>.

### **Public Disclosure of Information about Requests**

It is the responsibility of the program directorate producing the custom tabulation to inform the requester, prior to fulfilling the custom tabulation request, that their request will be included on the custom tabulation/custom extract list on the Internet. This requirement also applies to a custom extract on a sensitive topic or involving a sensitive population.

Documentation provided to requesters establishing the agreement to produce custom tabulations will contain language informing them that the identity of the requester, the data product, and a description thereof is subject to public disclosure. This requirement also applies to a custom extract on a sensitive topic.

### **Quality Standards and Prohibition of Disclosing Confidential Information**

Custom tabulations and custom extracts must comply with Census Bureau Standards and ensure that work can be accomplished within the mission priorities of the directorate.

In those cases when a requested custom tabulation or custom extract will not meet quality standards, the Census Bureau may still agree to produce the custom tabulation or custom extract, but the program directorate must inform the requestor in writing, in advance, and include a disclaimer on the custom tabulation once completed stating that the custom tabulation or custom extract does not meet Census Bureau quality standards (Statistical Quality Standard F1 Releasing Information Products Sub Requirement F1-6.2.2.c).

A custom tabulation involving confidential data will follow the Standard Disclosure Review process.

### **Pricing and Agreements**

The Census Bureau, as authorized under 13 U.S.C. § 8(b) may produce custom tabulations derived from data protected under 13 U.S.C. § 9(a) upon payment of the actual or estimated cost of the work.

- When customers contact the Census Bureau requesting data, the Census Bureau does not charge for the customer services portion of the work required to answer that request. *See* definition of "customer service" in Section titled "Scope" above. However, the Census Bureau must charge for all work on a custom extract and custom tabulation above and beyond customer service.
- Custom tabulation and custom extract pricing will vary by each program area within the Census Bureau depending on the staff involved, complexity, disclosure avoidance, quality assurance, level of expertise needed for the tabulation or extract, and any work done by the program area to create an agreement. The Census Bureau may charge the customer for work with the customer refining the scope of what the customer wants if that work involves significant effort.
- The price charged for tabulation of non-public Census Bureau data includes work done to avoid disclosure of confidential information.

- For custom tabulations and extracts produced for other federal agencies, as well as for state and local governments, and non-profit or other private organizations, the Census Bureau must execute an agreement with the other party. Agreements must fully describe the scope and cost of the work to be done. Instructions for completing agreements, and agreement templates, are available on the Policy Coordination Office’s Intranet page.
- For custom tabulations produced for individual members of the public, agreements may be executed or the program office may instead use an “invoice” to process a credit card transaction.

When requested, the Census Bureau will provide copies of any available previously produced custom tabulation or custom extract 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.

### **Communication**

All requests from members of the media will be coordinated through the Public Information Office (PIO). All requests from Members of Congress or their staffs will be coordinated through the Office of Congressional and Intergovernmental Affairs (OCIA). Program areas receiving requests directly from Congress or the media must forward the request to PIO or OCIA immediately and prior to beginning work on a custom tabulation/extract request.

Each program area that produces custom tabulations or custom extracts may designate a person(s) who will be responsible for (1) maintaining and filing communication information from the requester, (2) ensuring requesters are aware of disclosure disclaimers and guidelines, and (3) furnishing the Policy Coordination Office with monthly custom tabulation/custom extract updates.

Program areas should identify and inform the Policy Coordination Office of custom tabulations/custom extracts prepared that would be considered “hot topics” in the media or if a custom tabulation or custom extract is requested by members of the media.

Program areas that offer custom tabulation/custom extract websites as a means of information to the public should include (1) up-to-date contact information (phone and email), (2) instructions on how to request a custom tabulation (either through an electronic form or other method), (3) language that informs requesters that pricing is determined by the complexity of the tabulation and can vary for each tabulation, and lists the factors included above. (Sample language can be found in the Custom Tabulation and Custom Extract Policy Implementation Plan).

### **Divisions Seeking Exemptions**

Proposed deviations from this policy must be approved by the division chief of the division handling the request and the decision made in coordination with the Policy Coordination Office and approved by the Data Stewardship Executive Policy Committee.

## **RELATED POLICIES AND PROCEDURES**

- Policies and Procedures Manual Chapter D-5: Interagency or Other Special Agreements
- Census Bureau Standard: Disclosure Review

- Data Stewardship Policy DS-015: Policy on Accepting Reimbursable Projects
- Definitions of Sensitive Topics and Sensitive Populations from the Data Stewardship Glossary.

NOTE: Census Bureau policies are available on the Policy Portal on the Census Bureau's Intranet site. The glossary is available on the DSEP Intranet page. <https://collab.ecm.census.gov/div/pco/PDSIntranet/Pages/Data-Stewardship-Glossary.aspx>

## **EFFECTIVE DATE**

This policy is effective upon signature.

## **LEGAL AUTHORITIES**

13 U.S.C. § 8(b) 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, any particular respondents...for department, agencies, and establishments of 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.

13 U.S.C. § 9(a) 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 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.

## **IMPLEMENTATION**

The Policy Coordination Office has overall responsibility for implementing this policy. The DS-021 Policy Implementation Guidance Plan for Developing and Disclosing Custom Tabulations and Custom Extracts will contain details of tasks, procedures, responsibilities, and any Census standards that may apply for full implementation. The DS-021 Implementation Guidance plan includes specific language to be used by division staffs responsible for filling requests to ensure that requesters understand the public nature of custom tabulations.

Divisions producing custom tabulations will submit information, discussed above in the section titled “Communication,” about custom tabulations and custom extracts to the Policy Coordination Office. The Policy Coordination Office has responsibility for keeping the custom tabulation and custom extract procedures up to date and also producing a regular, comprehensive report of custom tabulations and custom extracts produced by the Census Bureau. This report will be available to the general public on the Census Bureau's FOIA website.

## **RELATED DOCUMENTS**

DS-021 Policy Implementation Guidelines for Developing and Disclosing Custom Tabulations and Custom Extracts.

**POLICY OWNER**

The Policy Coordination Office

**SIGNATURE**

By Direction:  Date: 8/20/15  
Nancy A. Pofok  
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U.S. Census Bureau

Summary Information	
Policy Title:	DS-021, "Policy on Providing Custom Tabulations and Custom Extracts Under 13 U.S.C. § 8(b)"
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Policy Owner:	Policy Coordination Office
Office Responsible for Implementation:	Policy Coordination Office
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Stakeholder Vetting:	POP, SEHSD, ACSO, ADEP, the Legal Office, PIO, CLMSO, FLD, DMD