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OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1321

RIN 0348-AB81

Fundamental Responsibilities of Recognized Statistical Agencies and Units

AGENCY: Office of Management and Budget (OMB), Executive Office of the President.

ACTION: Final rule.

SUMMARY: Public trust in Federal statistics is essential to their value and use in informing decisions across public and private sectors. To promote public trust in the statistical agencies and units that produce Federal statistics, the Office of Management and Budget issues this final rule pursuant to Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act) to provide direction to Recognized Statistical Agencies and Units (RSAUs) in carrying out their four fundamental responsibilities: produce and disseminate relevant and timely statistical information, conduct credible and accurate statistical activities, conduct objective statistical activities, and protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their responses. This final rule also provides direction to other Federal agencies to enable, support, and facilitate RSAUs in carrying out these four fundamental responsibilities.

DATES:

Effective date: December 10, 2024.

Applicability date: This final rule is applicable December 10, 2024.

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SUPPLEMENTARY INFORMATION:

I. Background

The Foundations for Evidence-Based Policymaking Act of 2018 (Evidence

Act) became law on January 14, 2019.¹ The Evidence Act seeks to “advance[] the evidence building functions in the Federal Government by improving access to data and expanding evaluation capacity.”² Part of advancing evidence-building functions is enhancing the foundation for generating high quality evidence, including improving the ability of Recognized Statistical Agencies and Units (RSAUs) to produce relevant, timely, credible, accurate, and objective statistical information. Title III of the Evidence Act (known as the Confidential Information Protection and Statistical Efficiency Act of 2018, or CIPSEA 2018) updated and enhanced the original Confidential Information Protection and Statistical Efficiency Act of 2002 (known as CIPSEA 2002)³ by, among other things, codifying the four fundamental responsibilities of RSAUs and requiring other Federal agencies to enable, support, and facilitate RSAUs in upholding these responsibilities. The four fundamental responsibilities are as follows:⁴

- (1) produce and disseminate relevant and timely statistical information;
- (2) conduct credible and accurate statistical activities;
- (3) conduct objective statistical activities; and
- (4) protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their responses.

In August 2023, OMB issued a proposed rule that would provide direction to agencies in carrying out these responsibilities.⁵ After considering comments on the proposed rule, OMB issues this final rule to be codified at 5 CFR part 1321, which sets

¹ Foundations for Evidence-Based Policymaking Act of 2018, Public Law 115-435, 132 Stat. 5529 (2019), available at <https://www.congress.gov/115/plaws/publ435/PLAW-115publ435.pdf>.

² Foundations for Evidence-Based Policymaking Act of 2017, H.R. Rep. No. 115-411, at 1-2 (2017), available at <https://www.congress.gov/congressional-report/115th-congress/house-report/411>.

³ E-Government Act of 2002, Public Law 107-347, title V, 116 Stat. 2962. The E-Government Act of 2002 as codified and amended at 44 U.S.C. 3561-3576 by CIPSEA 2018 is also known generically as “CIPSEA.”

⁴ 44 U.S.C. 3563(a)(1).

⁵ Off. of Mgmt. & Budget, Exec. Off. of the President, Fundamental Responsibilities of Recognized Statistical Agencies and Units, 88 FR 56708 (Aug. 18, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2023-08-18/pdf/2023-17664.pdf>.

forth requirements for RSAUs to carry out their fundamental responsibilities and for agencies to enable, support, and facilitate RSAUs in carrying out their fundamental responsibilities.

A. Statutory Authority

Pursuant to 44 U.S.C. 3563(c) and the general authority in 44 U.S.C. 3562(a) to promulgate rules to ensure consistent interpretation by Federal agencies of the requirements of CIPSEA 2018, OMB finalizes this rule to provide direction to agencies in carrying out the responsibilities described in section 3563. Section 3563 describes the fundamental responsibilities that RSAUs must adhere to and charges all Federal agencies with enabling, supporting, and facilitating RSAUs in meeting these responsibilities.

B. Brief History of the U.S. Federal Statistical System and Related Authorities

Federal statistics have informed decision making in the United States since its founding. The first constitutionally mandated census of population was in 1790.⁶ The 1790 Census planted the seeds for what is referred to today as the Federal statistical system. Over the 19th century, the system continued to blossom into a specialized and decentralized yet interconnected network of agencies, units, programs, and officials across the Government addressing emerging information demands of the Nation, including in the fields of tax, agriculture, education, and labor. The 20th Century presented new policy needs leading to further expansion of the Federal statistical system to include the fields of commerce, public health, energy, justice, transportation, and more. More than two decades into the 21st century, the Federal statistical system continues to provide the gold-standard for impartial, trusted Federal statistics foundational to informing decisions across the public and private sectors. Increasingly, collaboration is required across the Federal statistical system to

⁶ Carroll Wright, Comm’r of Labor, *The History and Growth of the United States Census*, S. Doc. No. 194, at 12-14 (1900), available at <https://www.census.gov/history/pdf/wright-hunt.pdf>.

unlock greater efficiencies and leverage diverse expertise.⁷

The Federal Statistical System. The Federal statistical system collects and transforms data into useful, objective information and makes it readily and equitably available to data users, while protecting the responses of individual data providers. Federal, State, local, territorial, and Tribal governments; businesses; and the public all trust this information to be credible and reliable and use it to make informed decisions. The Federal statistical system includes the following entities and officials:

- *Office of the Chief Statistician of the United States.* Led by the Chief Statistician of the United States, the Office of the Chief Statistician of the United States at OMB has the statutory authority to coordinate the Federal statistical system to ensure its efficiency and effectiveness, as well as the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes.⁸ The office accomplishes this by promulgating rules, developing and maintaining statistical policies and standards, identifying priorities for improving statistical programs, assessing statistical agency budgets, reviewing and approving collections of information from RSAUs, and coordinating U.S. participation in international statistical activities, among other functions.

- *Sixteen RSAUs.* OMB currently recognizes 16 statistical agencies and units under CIPSEA (See Table 1).⁹ OMB-recognized agencies or units are organizational units of the Executive Branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes,¹⁰ covering topics such as the economy, workforce, energy, agriculture, foreign trade, education, housing, crime, transportation, and health.

- *Approximately 100 other statistical programs.*¹¹ These other Federal

statistical programs produce and disseminate statistics in support of other mission areas and conduct a variety of evidence-building functions, including program evaluation, scientific research, data collection, policy and program analysis, and the provision of funding and other support for external research.

- *Twenty-Four Statistical Officials.* Pursuant to the Evidence Act, each Chief Financial Officers Act (CFO Act) agency¹² has designated a senior staff person in the agency to be the Statistical Official with the authority and responsibility to advise across the agency on statistical policy, techniques, and procedures, and to champion statistical data quality and confidentiality. At the 11 CFO Act agencies that contain an RSAU, the head of that RSAU has been designated the Statistical Official, as required by OMB M–19–23.¹³

- *Interagency Council on Statistical Policy (ICSP).* Chaired by the Chief Statistician of the United States, the ICSP was established to advise and assist OMB, through the Chief Statistician of the United States, in carrying out its statutory responsibility to coordinate the Federal statistical system.¹⁴ The ICSP supports the Federal statistical system's vision to operate as a seamless system and its critical role supporting evidence-based decision making. The ICSP sets strategic goals on issues such as modernizing the statistical system, ensuring data quality and confidentiality, and providing safe and appropriate data access, as well as enhancing coordination and collaboration across the system. The ICSP currently includes 29 members in addition to the Chair, including the head of each RSAU and each Statistical Official; however, 11 of the Statistical Officials are also heads of RSAUs.

Brief History of RSAUs. In June 1997, OMB issued the "Order Providing for the Confidentiality of Statistical Information," (1997 Order) which "clarified and amplified the privileged status afforded 'confidential

statistical data.'" ¹⁵ The 1997 Order established a consistent confidentiality policy across statistical agencies and units "whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes" as "determined by the Office of Management and Budget." In the 1997 Order, OMB determined 12 statistical agencies and units would be subject to the order.¹⁶ About five years later, CIPSEA 2002 was enacted, which codified OMB's authority to determine whether an agency or unit is a statistical agency or unit subject to the consistent and heightened protections for confidential statistical data under CIPSEA 2002.¹⁷ In 2007, OMB issued CIPSEA 2002 implementation guidance (2007 guidance) and recognized the 12 statistical agencies and units previously identified in the 1997 Order plus two additional statistical agencies or units.¹⁸ These 14 agencies and units listed in the 2007 guidance were known as recognized statistical agencies and units. Since 2007, OMB added two more units for a total of 16 RSAUs.¹⁹ In accordance with the 2007 guidance, OMB maintains a publicly available list of RSAUs online, now available at

¹⁵ Off. of Mgmt. & Budget, Exec. Off. of the President, Order Providing for the Confidentiality of Statistical Information, 62 FR 35044, 35044 (June 27, 1997), available at <https://www.govinfo.gov/content/pkg/FR-1997-06-27/pdf/FR-1997-06-27.pdf>.

¹⁶ *Id.* at 35049. The term "designated" was used in the 1997 Order. For the purposes of this final rule, OMB uses the term *recognized* in this discussion of the history of OMB's role in identifying these entities to provide consistency across the discussion with the current implementation.

¹⁷ CIPSEA 2018 reauthorized the OMB's authority to make this determination under and codified it at 44 U.S.C. 3562(a). CIPSEA 2018 uses the term "designate" to identify those statistical agencies or units that OMB identifies under section 3562 and therefore are subject to the responsibilities in section 3563. CIPSEA 2018 also uses the term "designated" to identify the three statistical agencies and units given the authority to share business data with each other in section 3576. To avoid confusion in this final rule, the term "recognized" is used, consistent with past practice, to refer to those statistical agencies and units identified under section 3562 and subject to the responsibilities in section 3563.

¹⁸ Off. of Mgmt. & Budget, Exec. Off. of the President, Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), 72 FR 33362, 33368 (June 15, 2007), available at <https://www.govinfo.gov/content/pkg/FR-2007-06-15/pdf/E7-11542.pdf>.

¹⁹ See About Us: Principal Statistical Agencies and Recognized Units, *StatsPolicy.gov*, <https://www.StatsPolicy.gov/about/#statistical-agencies> (last visited May 21, 2024); see also Off. of Mgmt. & Budget, Exec. Off. of the President, Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units, 79 FR 71610 (Dec. 2, 2014), available at <https://www.govinfo.gov/content/pkg/FR-2014-12-02/pdf/2014-28326.pdf>.

⁷ For example, recent collaborations have expanded the Federal Statistical Research Data Centers program and launched the Standard Application Process portal.

⁸ 44 U.S.C. 3504(e)(7).

⁹ See 44 U.S.C. 3562(a) (providing OMB the authority to recognize statistical agencies and units).

¹⁰ 44 U.S.C. 3561(12) ("The term 'Statistical purpose' (A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and (B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in [(A)].").

¹¹ Off. of Mgmt. & Budget, Exec. Off. of the President, Statistical Programs of the United States

Government: Fiscal Years 2021/2022, at 53 (2024), available at <https://www.whitehouse.gov/wp-content/uploads/2024/02/statistical-programs-20212022.pdf>.

¹² 31 U.S.C. 901.

¹³ Off. of Mgmt. & Budget, Exec. Off. of the President, M–19–23, Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance 8 & n.19 (July 10, 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf>. In the case of the Departments of Agriculture, Commerce, and Health and Human Services, which each host more than one recognized statistical agency or unit, the Statistical Official role is determined by the CFO Act agency.

¹⁴ 44 U.S.C. 3504(e).

<https://www.StatsPolicy.gov>. Table 1 provides a list of the current 16 RSAUs and their highest-level organization.

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TABLE 1—CURRENT RSAUS

Recognized statistical agency or unit	Highest level organization
Bureau of Economic Analysis	Department of Commerce.
Bureau of Justice Statistics	Department of Justice.
Bureau of Labor Statistics	Department of Labor.
Bureau of the Census	Department of Commerce.
Bureau of Transportation Statistics	Department of Transportation.
Center for Behavioral Health Statistics and Quality	Department of Health and Human Services.
Economic Research Service	Department of Agriculture.
Energy Information Administration	Department of Energy.
Microeconomic Surveys Unit	Board of Governors of the Federal Reserve System.
National Agricultural Statistics Service	Department of Agriculture.
National Animal Health Monitoring System	Department of Agriculture.
National Center for Education Statistics	Department of Education.
National Center for Health Statistics	Department of Health and Human Services.
National Center for Science and Engineering Statistics	National Science Foundation.
Office of Research, Evaluation, and Statistics	Social Security Administration.
Statistics of Income Division	Department of the Treasury.

Related authorities. Critical to a healthy, relevant Federal statistical system has been the development and implementation of statutes, rules, policies, and principles (hereafter collectively referred to as “authorities”) to support its growth. Over the years, recognizing challenges faced by the Federal statistical system as it grew, Congress, the Executive Branch, and outside experts—both nationally and internationally—have built a framework of authorities to address such challenges. In addition, maintaining the public’s trust in the statistical information produced by the Federal statistical system is critical to the usefulness of the statistical information, and authorities have been issued and revised over time to promote the Federal statistical system’s ability to provide relevant, timely, credible, accurate, and objective statistical information. Importantly, many authorities, such as individual entity authorizing statutes and cross-system statutes, co-exist and complement one another to promote a strong, vibrant, interconnected Federal statistical system. These authorities generally support the ability of the Federal statistical system to create relevant, timely, credible, accurate, and objective statistics in a way that promotes the trust of data providers. Some of the most relevant authorities to this final rule include the Evidence Act, CIPSEA 2002, CIPSEA 2018, the Paperwork Reduction Act of 1995 (PRA), the Privacy Act of 1974 (Privacy Act), and OMB Statistical Policy Directive Nos. 1, 3, and 4. In addition, other external entities—both domestic and international—have published their perspectives on how RSAUs should

meet their missions to produce relevant, timely credible, accurate, and objective Federal statistics; including the National Academy of Sciences, Engineering, and Medicine’s Principles and Practices for a Federal Statistical Agency (referred to as Principles and Practices); the United Nations’ Fundamental Principles of Official Statistics;²⁰ the European Statistics Code of Practice;²¹ and the American Statistical Association’s Ethical Guidelines for Statistical Practice.²² The proposed rule preamble includes a longer description of these related authorities.

Over many years and based on lessons learned, certain responsibilities, standards, and protections have been developed and implemented to strengthen the Federal statistical system’s ability to meet its mission reliably and objectively, which requires an appropriate level of autonomy and authority for RSAUs.²³ The concepts of

autonomy and authority as codified in this rule are important for RSAUs to meet the fundamental responsibilities enumerated in 44 U.S.C. 3563. The autonomy and authority of RSAUs must be balanced with the other responsibilities and needs of RSAUs, as well as other affected Federal agencies. Similar to the proposed rule, this final rule aims to explicate where autonomous decision-making authority is important and why.

In addition, CIPSEA 2018 contemplates a common framework for protecting statistical data, acquiring administrative or program data, and disseminating statistical data securely. This rule seeks to lay the foundation for advancing this common framework by facilitating appropriate interagency engagement and coordination and ensuring implementation is successful across the Federal Government.²⁴ The organizational structure of agencies and departments in relation to RSAUs is important for successful implementation of this rule. Currently, each RSAU is part of a larger organization, with varying reporting structures. The heads of some RSAUs are appointed by the President (either with or without Senate confirmation),

and Units in meeting their responsibilities); Comm’n on Evidence-Based Policymaking, *The Promise of Evidence-Based Policymaking* 60–64 (2017), available at <https://bipartisanpolicy.org/wp-content/uploads/2019/03/Full-Report-The-Promise-of-Evidence-Based-Policymaking-Report-of-the-Commission-on-Evidence-based-Policymaking.pdf> (noting the importance of independence).

²⁴ Notably, nothing in CIPSEA 2018 “restrict[s] or diminish[es] any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes.” 44 U.S.C. 3564(h).

²⁰ United Nations General Assembly, *Fundamental Principles of Official Statistics* (adopted Jan. 29, 2014), available at <https://unstats.un.org/fpos/>.

²¹ European Statistical System Committee, *European Statistics Code of Practice for the National Statistical Authorities and Eurostat* (adopted Nov. 16, 2017), available at <https://ec.europa.eu/eurostat/web/products-catalogues/-/KS-02-18-142>.

²² Am. Stat. Ass’n, *Ethical Guidelines for Statistical Practice* (Feb. 2022), available at <https://www.amstat.org/your-career/ethical-guidelines-for-statistical-practice>.

²³ See Foundations for Evidence-Based Policymaking Act of 2017, H.R. Rep. No. 115–411, at 19 (2017), available at <https://www.congress.gov/congressional-report/115th-congress/house-report/411> (quoting Statistical Policy Directive No. 1); see also Nat’l Acads. of Sci., Eng’g, & Med., *Principles and Practices for a Federal Statistical Agency* 53–58 (7th ed. 2021), available at <https://www.nap.edu/read/25885/> (articulating the importance of independence for Recognized Statistical Agencies

while others are senior career officials. Likewise, the heads of some RSAUs report directly to the Secretary, or equivalent head, of their highest organizational level, such as the Department, while others have several intervening layers of reporting within their organizations.

CIPSEA 2018 also requires OMB to issue guidance on the requirements and processes for seeking and obtaining OMB recognition as a new RSAU. That guidance is forthcoming; however, it should be noted that, at a minimum, agencies and units seeking this designation, along with their parent agencies, will be required to demonstrate a commitment to upholding the requirements in this rule.

C. The Proposed Rule

OMB published an NPRM entitled “Fundamental Responsibilities of Recognized Statistical Agencies and Units” on August 18, 2023 (the proposed rule), with comments requested by October 2, 2023. As a general matter, in developing the proposed rule, OMB followed the approach of adhering to the wider principles and practices contained in Statistical Policy Directive No. 1, which already contained the fundamental responsibilities now codified in CIPSEA 2018 and gave RSAUs specific guidance on how to adhere to those responsibilities.²⁵ Many of the provisions included in the proposed rule were drawn directly or adapted from Statistical Policy Directive No. 1.

After nearly a decade of the Federal Government operating under Statistical Policy Directive No. 1, experience has clarified the fundamental responsibilities and how to ensure RSAUs are able to carry out those responsibilities. In consideration of that experience, the proposed rule sought to address existing and emerging challenges and issues to create a lasting and effective policy. In the proposed rule, OMB acknowledged some overlap between the proposed rule and Statistical Policy Directive No. 1. OMB also clarified the intent of the proposed rule to address existing and emerging challenges and issues that are not addressed by Statistical Policy Directive No. 1, to ensure that RSAUs are able to meet their fundamental responsibilities. For example, the proposed rule included provisions to ensure RSAUs

have their own websites and have an opportunity to participate in discussions with OMB regarding their own budget requests. The proposed rule also included compliance review requirements to promote compliance with the proposed rule’s provisions.

OMB requested comments on all aspects of the proposed rule, as well as a number of specific issues. A total of 30 unique, in-scope public comments were received, and all comments are viewable at <https://www.regulations.gov/docket/OMB-2023-0015>. Commenters included private citizens, professional associations relevant to Federal statistics, former agency leadership, and academics. Many comments expressed support for the proposed rule. Some specifically stated that, even if OMB did not make any changes to the proposed rule, it would be a significant improvement from the status quo.

II. Overview of the Final Rule

In order to implement the legislative mandates under 44 U.S.C. 3563, OMB is finalizing requirements for Federal agencies to enable, support, and facilitate the fundamental responsibilities of RSAUs. After careful consideration of the comments, OMB is codifying the proposed rule at 5 CFR part 1321, with certain modifications made in response to comments and certain modifications to improve the clarity and readability of the rule.

Throughout the rule text, OMB made global modifications to address the following:

- OMB made changes throughout the rule text to update the use of “shall” to “must” for clarity.²⁶ In this rule, uses of “must,” “shall,” or “will” indicate requirements.
- OMB revised the terms “regulation” and “regulations” to “rule” for clarity.
- OMB added titles to all first level provisions within Sections for clarity and readability.
- OMB spelled out the acronyms OMB (Office of Management and Budget), CIPSEA (Confidential Information Protection and Statistical Efficiency Act), and SAOP (Senior Agency Official for Privacy).
- OMB added clarifying phrases such as “in this part” to clarify the scope of certain provisions.
- OMB adjusted language to reflect updated terms with definitions, such as “parent agency head.”

- OMB edited to address grammar issues and typos.
- OMB edited to conform to Office of the Federal Register requirements for references.

This section of the preamble provides a discussion of the comments received on the proposed rule and an explanation of the final rule. OMB notes that the preamble of the proposed rule²⁷ provided detailed background information, much of which is not repeated here, but remains equally relevant, unless changes were made as outlined in this section.

A. § 1321.1—Purpose

OMB issues this rule to implement 44 U.S.C. 3563. The proposed rule stated that the authority for issuing 5 CFR part 1321 is under the Budget and Accounting Procedures Act of 1950;²⁸ the Paperwork Reduction Act of 1995;²⁹ the Information Quality Act;³⁰ and Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), also known as CIPSEA 2018.³¹ OMB did not receive any comments on this section of the proposed rule; however, because the rule as proposed and as finalized includes requirements related to authorities throughout the Evidence Act, and is not limited to Title III (CIPSEA 2018), the final rule at § 1321.1 adds a specific reference to the broader Evidence Act. Otherwise, OMB finalizes § 1321.1 as proposed.

B. § 1321.2—Definitions

The final rule at § 1321.2 defines terms used in this rule. In general, OMB revised the first sentence to remove “for purposes of implementing 5 U.S.C. 314 and all of title III of the Evidence Act” for accuracy because the definitions are for this rule, not for those sections of law. In addition, OMB has removed specific regulatory citations for each definition and reordered definitions so they are alphabetical for clarity. OMB also made updates to use defined terms when available and to follow the Government Printing Office style guide, as well as to remove small typos and duplicative text for clarity and accuracy.

Similar to the proposed rule, definitions in the final rule are aligned with existing statutes and rules

²⁷ The preamble of the proposed rule is available on the **Federal Register** website at <https://www.federalregister.gov/documents/2023/08/18/2023-17664/fundamental-responsibilities-of-recognized-statistical-agencies-and-units>.

²⁸ 31 U.S.C. 1104(d).

²⁹ 44 U.S.C. 3504.

³⁰ Treasury and General Government Appropriations Act, 2001, Tit. V, Sec. 515(a), Public Law 106–554, 114 Stat. 2763A–153 (2000).

³¹ 44 U.S.C. 3561–3583.

²⁵ Off. of Mgmt. & Budget, Exec. Off. of the President, Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units, 79 FR 71610 (Dec. 2, 2014), available at <https://www.govinfo.gov/content/pkg/FR-2014-12-02/pdf/2014-28326.pdf>.

²⁶ As explained at <https://www.plainlanguage.gov/guidelines/conversational/shall-and-must>, “[t]he legal community is moving to a strong preference for ‘must’ as the clearest way to express a requirement or obligation.”

wherever possible. OMB received comments on the following proposed definitions: *accurate*, *credible*, *confidentiality*, *identifiable form*, *parent agency*, *statistical law*, and *statistical products*. In response to these comments this rule finalizes some definitions as proposed, revises some proposed terms, and includes newly defined terms that were not included in the proposed rule in order to clarify the final requirements of 5 CFR part 1321.

Accurate and Credible. One commenter noted that the proposed rule uses the terms *accurate* and *credible* in a common language way and suggested defining each of the terms in a way that is consistent with more formal statistical concepts like unbiased, consistent, robust, and precise. The proposed rule defined the term *accurate* in the same way the term is defined in 44 U.S.C. 3563(d). OMB believes that it is appropriate for the regulatory definition for *accurate* to be the same as the statutory definition to minimize confusion and is finalizing the definition as proposed. The proposed rule did not include a definition for the term *credible*, and OMB believes adding a definition is unnecessary at this time.

Confidential Statistical Data. The proposed rule defined *confidential statistical data* as “any information that is acquired for exclusively statistical purposes and under an obligation not to disclose the information to an unauthorized party.” One commenter recommended amending the definition of *confidential statistical data* by replacing the word “obligation” with the term “pledge” or defining the term “obligation” to ensure the term is inclusive of the term “pledge.” The commenter asserted without explanation that the term “obligation” is narrow and implies formality and thorough documentation. OMB disagrees with this assertion and considers “obligation” to broadly cover a wide range of methods of obligating the agency, including any law, “pledge,” interagency agreement, memorandum of understanding, contract, or other agreement or requirement to maintain confidentiality. This broader term is used in the definition of confidentiality under 44 U.S.C. 3563, as established in CIPSEA 2018. Notably, Congress used the term “obligation” rather than “pledge” to define confidentiality when it expanded CIPSEA to grant RSAUs greater access to data held by other agencies, and OMB believes the term is intended to include data acquired through means other than direct collection from respondents. At this time, OMB is not defining

“obligation,” but may consider defining this term in the future.

Many agencies have confidential data that they use for statistical purposes which is not considered confidential statistical data under this regulation. For example, an evaluation office in an agency may conduct a survey of program participants as part of a program evaluation of an employment and training program for low-income adults. In doing so, the agency may ensure participants’ confidentiality, and use those data solely for evidence-building³² purposes to assess the effectiveness of the particular intervention. In this example, such data are collected for “research” purposes, which can include statistical activities but is not limited to exclusively statistical purposes. Because these types of activities are not limited to exclusively statistical purposes, the data are not considered confidential statistical data and are not subject to the requirements for confidential statistical data under this regulation.

Identifiable form. In the proposed rule, the term *identifiable form* is defined to mean “any representation of information that permits the identity of the individual or entity to whom the information applies to be reasonably inferred by either direct or indirect means,” as the term is defined in 44 U.S.C. 3561. One commenter highlighted the need for continued evolution in relation to how the term *identifiable form* is defined. This commenter suggested clarifying to what degree statistical agencies are obligated to protect against even partial reidentification in order to shed light on ways in which Federal statistical agencies can safely innovate with new methods as well as modernize data governance practices. Although the final rule finalizes the term *identifiable form* as proposed, OMB is of the view that addressing the scope of obligation regarding protecting against reidentification may be better aligned with other regulatory actions related to the Evidence Act and will take this comment under advisement for future rulemaking.

“Error”. One commenter stated that the proposed rule and preamble use the term “error” often in a statistical sense

and suggested instead using the term “statistical error” and explaining the difference between a statistical error and a mistake in order to improve clarity for those not trained in statistics. The term “error” is used in the context of § 1321.6(a)(2)(iii) of this final rule and the related preamble discussion. OMB is of the view that the preamble discussion of the term “error” provides the right amount of context for readers to understand the intent and therefore is not including a new definition for the term in this final rule.

Statistical Laws. OMB received a comment on the definition for *statistical laws*. The proposed rule defines *statistical laws* to mean “44 U.S.C. chapter 35, subchapter III and other laws pertaining to the protection of information collected for statistical purposes as designated by the Director of the Office of Management and Budget,” as the term is defined in 44 U.S.C. 3502. One commenter suggested adding language to reflect that OMB should document which laws are *statistical laws*. OMB has already documented some of the laws that are covered by the term *statistical laws* in OMB M–19–23³³ and agrees generally with the idea of documenting the *statistical laws* designated by the Director of OMB. However, the definition of *statistical laws* does not need to be updated to accomplish this proposal. OMB will consider ways to further document the *statistical laws* designated by the Director of OMB following finalization of this rule.

Statistical Products. OMB received a comment on the term *statistical products*, which the proposed rule defined to mean

information dissemination products that are published or otherwise made available for public use that describe, estimate, forecast, or analyze the characteristics of groups, customarily without identifying the persons, organizations, or individual data observations that comprise such groups. Statistical products include general purpose tabulations, analyses, projections, forecasts, or other statistical reports. Statistical products include products of any form, including both printed and electronic forms.

This definition is consistent with Statistical Policy Directive No. 4.³⁴

The commenter suggested revising definition of the term *statistical products* to refer to “any information

³² The term evidence as used here has the meaning given in Appendix A of OMB M–19–23, which includes activities that extend beyond statistical activities, such as policy analysis and performance measurement. See Off. of Mgmt. & Budget, Exec. Off. of the President, M–19–23, Phase 1 Implementation of the Foundations for Evidence-Based Policymaking Act of 2018: Learning Agendas, Personnel, and Planning Guidance app. A (July 10, 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf>.

³³ *Id.* at 24–25.

³⁴ Off. of Mgmt. & Budget, Exec. Off. of the President, Statistical Policy Directive No. 4: Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies, 73 FR 12,622, 12,625 (Mar. 7, 2008), available at <https://www.govinfo.gov/content/pkg/FR-2008-03-07/pdf/E8-4570.pdf>.

dissemination products, including public-use microdata files, that are published or otherwise made available for public use that describe, estimate, forecast, or analyze the characteristics of groups, customarily without identifying the persons, organizations, or individual data observations that comprise such groups. Statistical products include (but are not limited to) general purpose tabulations, analyses, projections, forecasts, or other statistical reports whether published by the RSAU or through some other mechanism. Statistical products include products of any form, including both printed and electronic forms.” OMB appreciates this comment but believes that it is not necessary to add an “including” statement, and the “or through some other mechanism” language would unnecessarily broaden the definition and may lead to further confusion. The final rule therefore defines *statistical products* as proposed.

Recognized Statistical Agency or Unit. In the proposed rule, the term *Recognized Statistical Agency or Unit* was defined as “an agency or organizational unit of the executive branch whose activities are predominantly the creation or collection, processing, dissemination, use, storage, and disposition of data for statistical purposes, as designated by the Director of the Office of Management and Budget under 44 U.S.C. 3562.” In keeping with the intent to align definitions with statute, where possible, the final rule modifies the definition of the term *Recognized Statistical Agency or Unit*, to align with the definition of “statistical agency or unit” in 44 U.S.C. 3561, which is “an agency or organizational unit of the executive branch whose activities are predominately the collection, compilation, processing, or analysis of information for statistical purposes, as designated by the Director of the Office of Management and Budget under [44 U.S.C. 3562].”

Definitions for Organizational Units. To provide greater clarity about which parts of an agency are given responsibilities under this rule, the final rule adds definitions for *component*, *core component*, and *parent agency head* and adjusts the definition of *parent agency*. The final rule also replaces the term *support function* with *support component*.

Federal agencies consist of many different components including sub-agencies, offices, bureaus and units that support the mission of the agency. Some components, such as RSAUs, perform programmatic functions to achieve the agency’s mission. Other components

provide support to programmatic components by providing services and resources such as legal, human resources, communications, legislative affairs, budget, information technology (IT), or procurement. Further, other components provide non-programmatic agency-wide functions by advising and collaborating with other components to achieve the agency’s mission, such as the Offices of the Chief Data Officer, the Evaluation Officer, the Senior Agency Official for Privacy, the Chief Information Officer, and the Chief Freedom of Information Act (FOIA) Officer.

The final rule adds the term *component* to mean a sub-agency, office, unit, bureau, or other distinct entity when that entity is within an agency that contains an RSAU. OMB notes that an RSAU may be organizationally positioned within a component, such as a sub-agency that may contain additional components.

The proposed rule included a definition for the term *support function* to mean “a core function of an agency that supports the programmatic functions in achieving the agency’s mission, including legal, human resources, communications, legislative affairs, budget, information technology (IT), or procurement functions.” In the final rule, the term *support function* is replaced with the term *support component* and is defined as “a component that supports the programmatic functions in achieving the agency’s mission, including legal, human resources, communications, legislative affairs, budget, information technology (IT), or procurement functions, but excludes any component within an RSAU that provides these functions.”

A sub-agency component containing an RSAU may also contain additional components, including components that provide support such as legal, human resources, communications, legislative affairs, budget, information technology (IT), or procurement services to the RSAU and other components within the same sub-agency component. The change to the definition of *support component* clarifies that the requirements in this final rule are applicable regardless of where such component is positioned within an agency, except for when these functions are performed within the RSAU itself. The final rule definition for *support component* also removes the term “core function,” from the definition, which is separately defined in the newly defined term *core component* in the final rule.

For clarity, the final rule adds a definition for the term *core component*,

which means “any support component [as defined above] and any component that performs any agency-wide function, such as the office of the Chief Data Officer, the Evaluation Officer, the Senior Agency Official for Privacy, the Chief Information Officer, the Chief FOIA Officer, and similar functions.”

The proposed rule included the definition of *parent agency* to mean “each agency and every organizational level within the agency, including sub-agencies, offices, components, or units within the agency, as well as the highest organizational level of such agency and excluding the Recognized Statistical Agency or Unit in any agency with more than one Recognized Statistical Agency or Unit, each Recognized Statistical Agency or Unit is considered a parent agency to any other Recognized Statistical Agency or Unit. This term is meant to apply to the full organizational structure.” Some commenters supported this proposed definition while other commenters recommended revisions. Commenters supporting the proposed definition noted its broad scope, which includes all levels of the organization including the highest level. Another commenter stated that the proposed definition of *parent agency* should be kept because the RSAU must have support from all components of the *parent agency*, including the head of the agency, regardless of where the RSAU sits in the *parent agency* or its direct line of reporting, to ensure that the RSAU has the appropriate authorities and resources to conduct its fundamental responsibilities.

In contrast, other commenters stated that the proposed definition for *parent agency* was confusing, a deterrent to the stated objectives, and that it should be redefined. Commenters who did not support the proposed definition interpreted the definition for *parent agency*, as proposed, more narrowly, describing it as only including the organization where the RSAU is immediately located within the agency’s organizational structure and offered several reasons to provide a broader definition; such as the RSAU’s duty to serve the data needs of the entire agency. These commenters noted that the lack of congruent priorities between the RSAU and the office, unit, or sub-agency in which it is positioned often leads to budget and staffing issues which in turn significantly hurt the ability of the RSAU to collect and disseminate needed and timely data for the agency.

OMB agrees with commenters both in support and not in support of the proposed definition that the definition of *parent agency* should be broad

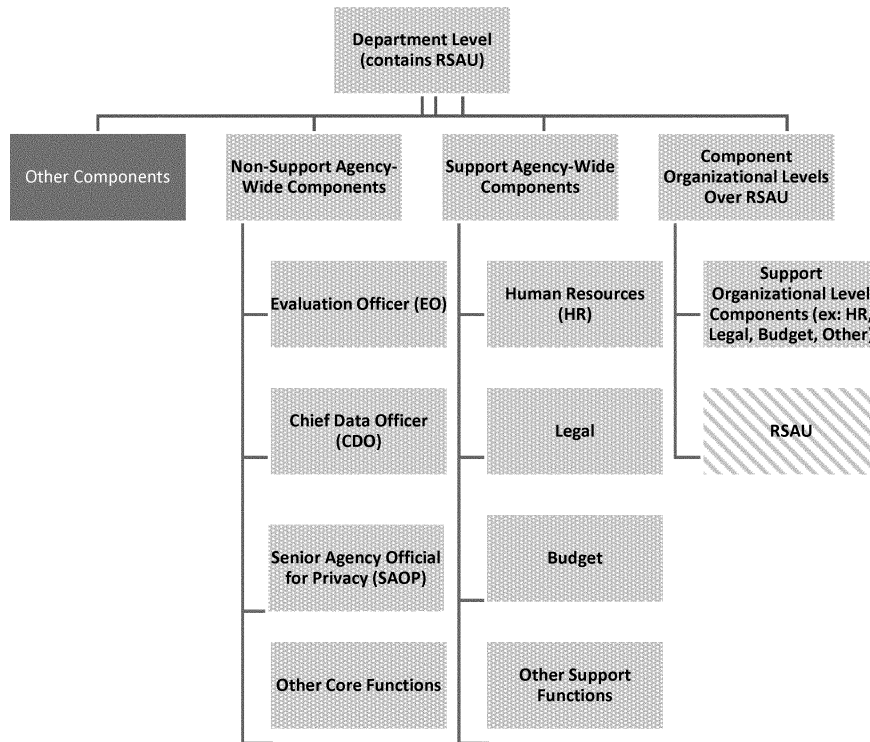
enough to not only include the component of the agency (such as an office, unit, or sub-agency) under which the RSAU is immediately positioned, but also the highest organizational level of the organization, as well as any component in between. OMB also believes it is important to include any office that has a direct and recurring relationship with the RSAU such as an office that provides a service or other support for the RSAU or any agency-wide office. However, OMB also believes it is important for clarity that the definition of *parent agency* does not extend to agencies or components that do not have similar direct and recurring relationships with an RSAU. Therefore, to provide clarity, the final rule revises the definition of *parent agency* to mean the following components in an agency that contains a Recognized Statistical

Agency or Unit: the parent agency head, each organizational level within the agency under which the RSAU is positioned, and each core component.

Notably, there are some components in agencies that contain RSAUs that may have a direct working relationship with the RSAU but are not included in the definition of parent agency. For example, the Bureau of Labor Statistics (BLS) has a direct working relationship with units within the Employment and Training Administration and the Occupational Safety and Health Administration in the Department of Labor (DOL). While not explicitly within the parent agency definition, these DOL units or components with a direct working relationship with BLS are still required to comply with this regulation within the context of that relationship. As discussed further

below, the final rule adds § 1321.3(e), which requires that any other agency or component not within the definition of parent agency that has a direct working relationship with a RSAU must uphold the same responsibilities as a parent agency to the extent that a responsibility applies. In this example, this means that the DOL units with direct working relationships with BLS are effectively parent agencies to the extent that any parent agency responsibility applies in the context of that relationship.

Image 1 is a diagram of a possible structure to show the RSAU, parent agency, and component relationships. The RSAU is green (pattern with diagonal stripes), the parent agency is orange (pattern with dots), and components that are not an RSAU or within the definition of parent agency are blue (solid).



Chief Statistician of the United States. The proposed rule used different terms to refer to the Chief Statistician of the United States, including in some places including text to specify that it referred to the Chief Statistician of the United States “appointed under 44 U.S.C. 3504(e)(7)” and in some places leaving this out. To promote clarity and consistency in the final rule, the final rule adds a definition of *Chief Statistician of the United States*, which is defined as the Chief Statistician appointed under 44 U.S.C. 3504(e)(7). OMB uses this defined term throughout

the final rule and has therefore removed the reference to “appointed under 44 U.S.C. 3504(e)(7)” elsewhere in the regulatory text.

OMB finalizes all other definitions in § 1321.2 as they were proposed.

C. § 1321.3—General Provisions

This section describes the scope of the rule; the impact on existing OMB guidance and policies, including that this rule supersedes any provisions within Statistical Policy Directives that conflict; and the parties responsible for carrying out this rule. OMB received

one comment related to § 1321.3(d) of the proposed rule which directs a parent agency and RSAU to discuss and determine how to address deviations from the standard parent agency-level process to ensure compliance with 5 CFR part 1321 and other applicable laws and rules when appropriate or necessary. The commenter suggested that the final rule include language to clarify how such determinations will be resolved when the parent agency and RSAU disagree or cannot reach an agreement and suggest that in such cases the Chief Statistician of the United

States be the mediator and be empowered to make the final determination. OMB appreciates this comment, but does not believe it is necessary to establish such a requirement as a general provision at this time. OMB will monitor these situations and consider future rulemaking if necessary. OMB expects the parent agency and RSAU will resolve any areas of disagreement within the hierarchy of the parent agency, in consultation with OMB on interpretation of the requirements in this rule, as needed, and further expects the head of the parent agency to retain responsibility for final determinations, when appropriate.

The final rule adds new § 1321.3(e) to ensure all agencies are fulfilling their statutory responsibilities, which is necessary because of the revision to the *parent agency* definition. In the proposed rule, *parent agency* was defined more broadly than the final rule to cover all agencies regardless of whether the agency has a direct relationship with the RSAU. As revised, *parent agency* extends to certain parts of agencies that contain an RSAU, detailed above, and as such, to ensure that all agencies continue to be required to uphold their responsibility to enable, support, and facilitate RSAUs in upholding their fundamental responsibilities, OMB added this provision. The provision at § 1321.3(e) clarifies and reinforces that all agencies, if engaged with RSAUs, must uphold any applicable responsibilities of a parent agency. The final rule states that when an agency or component has a direct working relationship with an RSAU, the agency or component must uphold the responsibilities of a parent agency under this part to the extent that a responsibility applies. For example, when another agency or component is working with an RSAU to access confidential statistical data or to produce a new statistical product, that agency or component is responsible for complying with confidentiality requirements in § 1321.8 and deferring to or delegating responsibility to the RSAU with regard to decisions about statistical methodology and quality standards.

The final rule includes new § 1321.3(f) that provides that RSAUs should consult with the Office of the Chief Statistician of the United States on any implementation challenge that may arise under this rule or other statistical laws. OMB has added this provision to clarify the working relationship between RSAUs and the Office of the Chief Statistician of the United States.

OMB finalizes all other provisions of § 1321.3 as they were proposed.

D. § 1321.4—Supporting the Four Fundamental Responsibilities

This final rule defines the fundamental responsibilities of RSAUs at § 1321.4 as they are codified in 44 U.S.C. 3563(a)(1). As discussed elsewhere in this preamble, these fundamental responsibilities are

- (1) produce and disseminate relevant and timely statistical information;
- (2) conduct credible and accurate statistical activities;
- (3) conduct objective statistical activities; and
- (4) protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their responses.

OMB proposed requirements at § 1321.4 to bolster RSAUs' ability to fulfill their fundamental responsibilities in order to protect and enhance public trust in RSAUs, and enhance public trust in their statistical products.

In general, OMB made several revisions to § 1321.4 to streamline and reorganize provisions to improve clarity and readability and address public comments. OMB finalizes the rule with an updated title for § 1321.4 to more accurately reflect the provisions within the section. OMB removed "bear the responsibilities" language from two provisions for clarity and readability.

OMB received overall support for § 1321.4 of the proposed rule. One commenter emphasized how this section of the proposed rule was fundamental to the rule itself and critically important, as it makes explicit the fact that RSAUs carry the responsibility of fulfilling the fundamental responsibilities, whereas parent agencies play a key role in supporting the ability of the RSAU to meet their responsibilities.

OMB also received specific comments on certain provisions in this section of the proposed rule. Two commenters noted that better education, communication, and collaboration requirements between RSAUs and parent agencies would promote better outcomes. One commenter noted that awareness of RSAU responsibilities and structures would complement the rule's emphasis on increased communication between RSAUs and their parent agencies. This commenter noted that communications conducted under the umbrella of the proposed rule have the potential to improve the utility of collected statistics and avoid the collection of irrelevant statistical data. The other commenter noted in particular the need to collaborate and

coordinate with key evidence and data officials to preserve the vision of the Evidence Act. In response to this comment, OMB is adding a new provision to the final rule at § 1321.4(b) which requires the heads of RSAUs and parent agencies to engage in regular communication and seek to educate each other. This communication should be targeted toward improving collaboration between the units in support of better meeting the responsibilities outlined in this part.

Two commenters noted the need to promote sustainability and innovation within the Federal statistical system through requirements on RSAUs to seek improvements to their collections and methods. In response to these public comments, the final rule also adds a new provision at § 1321.4(d) related to innovation and burden reduction. Section 1321.4(d)(1) requires each RSAU to continually seek to improve their statistical products and methods and engage in research to support innovation in data collection, analysis, and dissemination, among other statistical activities. In addition, another commenter suggested adding a requirement on RSAUs to minimize burden. In response, OMB finalizes at § 1321.4(d)(2) a requirement that each RSAU maximize the utility and minimize duplication of statistical products, as well as minimize the burden on their respondents, including by engaging with each other to identify opportunities to better meet these goals. The PRA requires all Federal agencies to maximize utility, minimize duplication, and minimize burden. This rule builds on this requirement and requires further engagement and consultation across RSAUs to better identify where duplication is occurring and to address it where found.

Several commenters strongly supported the requirements that were proposed at § 1321.4(b) related to websites and branding. Several commenters emphasized the importance of RSAU branding so that users know they are using trusted data provided and protected by strict legal protections of the Federal statistical system. One commenter expressed the importance of RSAUs to maintain independently branded websites as proposed at § 1321.4(b), in order to emphasize independence and engender public trust in that independence. This commenter cited the Bureau for Labor Statistics and Bureau of Economic Analysis for being forerunners in this regard. Other commenters expressed the value of branding as it will allow for the identification of the responsible agency, and precludes the possibility that

questions about a given statistic or statistical method would go to an entity that does not have professional knowledge and understanding of said statistic or method. These commenters and several others suggested that the requirement related to branding apply beyond websites and include all reports and products produced by the RSAU. OMB agrees and accepts these comments. OMB has revised the final rule at § 1321.4(e)(3) to require RSAUs to include clear branding with the name of the RSAU on all websites, statistical products, and press releases.

Several commenters suggested that RSAU branding as well as the development and maintenance of RSAU websites that was proposed at § 1321.4(b) be coordinated through the Office of the Chief Statistician of the United States. One commenter provided several examples of ways OMB, through the Office of the Chief Statistician of the United States, could support such efforts, such as a feeder or indexing website for all statistical agencies, by coordinating website design choices across agencies to make the system easier to use, or establishing interoperability standards or a single format for scientific citations. The commenter cited reduced costs and more coordination to show relationships between statistical agencies as reasons for implementing such efforts. Several commenters also identified a value in coordinated branding across RSAUs. One commenter stated that coordinated branding could strengthen the shared independence of RSAUs and therefore engender more public trust.

OMB generally agrees the Office of the Chief Statistician of the United States has an important coordination role across the Federal statistical system. Indeed, in early 2023, *StatsPolicy.gov* was launched to provide a centralized location for finding information about Federal statistical system. However, at this time, OMB is of the view that RSAUs should maintain their own websites rather than having a centralized one that is managed by OMB because each RSAU has different policies, rules, and statutes to adhere to. Therefore, the final rule at § 1321.4(e)(2) continues to require that the RSAU maintain a website clearly branded with the name of the RSAU to provide information to providers, data users, and the general public. However, OMB does agree with commenters regarding the benefit in coordinated branding across the Federal statistical system and therefore the final rule at § 1321.6(e)(1) requires RSAUs to participate in the development of coordinated and complementary system-wide branding

in collaboration with the Chief Statistician of the United States. This branding does not supplant the individual branding for each RSAU. This branding will complement individual branding to promote a more cohesive, seamless statistical system, in support of achieving the ICSP's vision to operate more seamlessly as a system. This branding should appear on relevant websites and products, including on *StatsPolicy.gov*.

The proposed rule at § 1321.4(b) required that each RSAU "maintain" a website. One commenter suggested the use of "have control of" rather than the word "maintain." OMB appreciates this comment but does not think that it is necessary to make this change. The proposed rule at § 1321.4(b)(1)(i) through (iii) and this rule as finalized at § 1321.4(f)(1) through (3), provides detailed requirements to parent agencies that are intended to ensure that RSAUs maintain control of their websites. More specifically, as finalized at § 1321.4(f)(1) through (3), parent agencies are required to ensure that each RSAU has (1) sufficient resources to develop and maintain its website; (2) the necessary authority and autonomy to determine the content, functionality, appearance, and layout of its website; and (3) the capacity to directly update the content, functionality, appearance, and layout of the website without reliance on any parent agency official unless the official is directly assigned to the RSAU. OMB believes that this detail provides the adequate direction to both RSAUs and parent agencies regarding the RSAU's responsibilities and authorities regarding its website.

As discussed elsewhere in this rule, several non-substantive changes were made to this section of the rule to improve clarity and readability. The requirements of proposed § 1321.4(b) are reorganized into § 1321.4(e) and (f) to clarify the responsibilities for RSAUs and those of parent agencies regarding websites and branding.

At § 1321.4(c), the proposed rule outlined requirements related to the appropriate resources the heads of RSAUs should have with respect to their statistical products and statistical information. The final rule separates these requirements into two parts: (1) requirements related to budget formulation, which are finalized at § 1321.4(g) and (2) requirements related to RSAU capacity to carry out their fundamental responsibilities, which are finalized at § 1321.4(h). Both paragraphs include non-substantive changes for clarity and readability. The final rule streamlines language at § 1321.4(g) to clarify the importance of each RSAU

having the appropriate resources to carry out the fundamental responsibilities. The provisions that were proposed at § 1321.4(c)(1) through (3) are being finalized at § 1321.4(g) and (h)(1) through (3) with changes described in this preamble to emphasize the role of the parent agency in the budget formulation process and to further encourage collaboration and communication between the RSAU and the parent agency.

OMB received several comments regarding proposed § 1321.4(c)(1) through (3). With regard to these provisions, one commenter supported RSAUs having their own budgets within their parent agency, and encouraged OMB also to require cross-cut budgets that demonstrate how statistical agencies work together and a Statistical Programs Budget to help communicate needed increases in the Chief Statistician's budget. Another commenter cautioned that the provision to require separate RSAU budgets may have an adverse effect by presenting unintended limitations on an RSAU's ability to leverage budget authorities effectively, which may limit the Federal statistical system's ability to grow and innovate and prevent smaller units from seeking recognition as a statistical agency or unit if they are unable to bear the additional administrative burden. Another commenter suggested promoting transparency and completeness in budget requests by requiring RSAUs to include funding sources such as set-asides in their budget requests and suggested further that if any agency's staffing level is determined through a separate agency account, the staffing levels and the requested changes for the RSAU be included as part of the budget request.

OMB appreciates these comments and has made changes to the final rule to clarify the requirements as follows: OMB finalizes § 1321.4(c)(1) of the proposed rule at § 1321.4(g)(1)–(2) of the final rule. Paragraph (g)(1) clarifies that, within the parent agency's budget submission, the RSAU's budget request should be presented separately. The RSAUs' budget requests should clearly present requests that would support cross-agency statistical priorities and investments, such as for implementation of the Standard Application Process required under 44 U.S.C. 3583 and related guidance. In the cases where RSAUs also receive funds through other sources, such as set-asides, such funds and their sources should be clearly stated with the budget request. Further, if an agency's staffing level is determined through a separate agency account, the staffing levels and the

requested changes for the RSAU should be included as part of the budget request. In paragraph (g)(2), OMB clarifies the requirement for RSAUs to have an opportunity to participate in budget discussions with OMB by requiring the parent agency to provide the opportunity to the RSAU when such discussions specifically pertain to the RSAU's budget.

In the proposed rule, § 1321.4(c)(2) contained two provisions. The first required the parent agency, to the extent practicable, to make necessary resources available to the RSAU if the parent agency or the RSAU determines that the RSAU lacks sufficient resources. The second required the parent agency and the RSAU to notify OMB if the necessary resources could not be made available. One commenter cautioned that the responsibility of the parent agency to provide resources to RSAUs could impact the relationship between the parent agency and the RSAU. Another commenter suggested that objective criteria be developed to evaluate whether an agency has sufficient resources to carry out its fundamental responsibilities because the parent agency and the RSAU may have different views of what constitutes necessary resources. This commenter also stated that an RSAU should have a role in identifying if resources are sufficient.

OMB appreciates these comments and will consider working with RSAUs to understand whether objective criteria would be useful and effective. Further, OMB will monitor and assess whether any of the requirements of this rule impede agencies or units from seeking recognition as an RSAU. As discussed in the preamble to the proposed rule, parent agencies must also allow sufficient autonomy and authority to the RSAU to determine how their positions are allocated among job series, how their staff are selected and trained, and how their budgets are deployed to ensure their ability to meet their four fundamental responsibilities.

In the final rule, to better clarify the process and to provide a better distinction between general discussions of capacity and specific discussions of budget formulation, § 1321.4(c)(2) of the proposed rule is finalized in the final rule at § 1321.4(g)(3) and (h)(1) and (2). Section 1321.4(g)(3) of the final rule requires the parent agency, in the annual budget formulation process, to provide a written explanation to OMB as part of the parent agency's budget submission when the budget request lacks sufficient resources for the RSAU to carry out its responsibilities under this final rule. In this written

explanation, the parent agency must explain the programmatic implications of the requested funding levels and what tradeoffs would be necessary within the parent agency to make necessary resources available to the RSAU.

New paragraph (h)(1) finalizes the first sentence of § 1321.4(c)(2) of the proposed rule with changes to clarify that ensuring the RSAU has capacity to carry out this final rule is a joint responsibility of RSAUs and parent agencies and should be done in a collaborative manner. Therefore § 1321.4(h)(1) of the final rule states that if the parent agency and the RSAU identify a lack of capacity to meet the fundamental responsibilities (e.g., through the agency Capacity Assessment required by Title I of the Evidence Act or other means), the parent agency and the RSAU should jointly develop options to address capacity needs and, to the extent practicable, make the necessary resources available. Efforts should include exploring all possible funding options and alternative solutions that could achieve these goals. The final rule at § 1321.4(h)(2) requires that if the RSAU finds, after all efforts with the parent agency are exhausted, that it still does not have the necessary capacity to carry out its responsibilities under this final rule, the head of the RSAU should submit to the Chief Statistician of the United States and the relevant Resource Management Office in OMB a written explanation of the expected capacity deficit, including an estimate of the amount of resources, labor, or other support needed to address the capacity deficit and a detailed description of the anticipated impact of the current capacity.

The proposed rule at § 1321.4(c)(3) is finalized largely as proposed in the final rule at § 1321.4(h)(3), with updates to the last sentence of paragraph (h)(3)(v) to reflect the updated language in § 1321.4(g) of the final rule.

The proposed rule at § 1321.4(c)(4) presented two options to promote collaboration between RSAUs and parent agencies to establish joint requirements for services to be shared across RSAUs and other agencies (whether within the same organization or across organizations), hereinafter referred to as "shared services." As discussed in the proposed rule, OMB recognizes the value of shared services and the efficiencies and cost savings they can generate. The proposed rule requested comments on two methods of achieving this collaboration between RSAUs and parent agencies. Under Option A in the proposed rule, each

parent agency would be required to enter into a written agreement with an RSAU when providing any service to the RSAU. Under Option B, parent agency officials are required to consult the RSAU prior to making or renewing an award for services or software that would directly affect the RSAU and are only required to enter into a written agreement if requested by the head of the RSAU or the head of the support component.

The majority of commenters supported option B, which this final rule adopts at § 1321.4(h)(4). Commenters stated that they preferred option B because it would clarify the role of the parent agency in providing sufficient resources or services and because of the strength it provides to the heads of RSAUs, which is critical to promoting trust in the agency. One commenter recommended that the agreements between RSAUs and parent agencies be reviewed and re-signed on a regular basis, such as every five years, to ensure necessary updated and continues compliance with such agreements. For the reasons outlined in the preamble to the proposed rule, OMB is finalizing option B. The provisions proposed at § 1321.4(d) are being finalized at § 1321.4(i) as proposed. One commenter provided suggested revisions to three aspects of this language. In particular, the commenter suggested changing "may" to "shall" in proposed § 1321.4(d)(1), adding "and the Chief Statistician of the United States" to the end of proposed § 1321.4(d)(3), and removing "may" from proposed § 1321.4(d)(4)(ii). OMB appreciates these suggestions but does not accept them. OMB does not believe it is appropriate to require delegation in every instance but does believe it is important that the option for delegation exist. In addition, the Chief Statistician of the United States does not need to know every delegation determination made by the RSAU or be consulted in every instance. The final rule requires that RSAUs have the appropriate decision-making authority within their agencies for the specified activities. (Appropriate is described further in the relevant key provisions above for the RSAU.) One of the most challenging institutional factors affecting the fundamental responsibilities are overlapping or unclear lines of authority between the heads of RSAUs and other parent agency officials with authorities that directly affect the fundamental responsibilities, such as Chief Data Officers, Evaluation Officers, Chief Information Officers, Senior Agency Officials for Privacy, and others.

Similarly, statistical activities can at times directly affect the responsibilities of these other senior officials. Often these overlapping authorities originate in statute and adjudicating them can be challenging. This rule identifies the decisions and authorities that are key to the ability of an RSAU to uphold its fundamental responsibilities and requires either delegation to or consultation with the head of the RSAU.

The final rule finalizes at § 1321.4(c) the provisions regarding the development and revision of policies that were proposed at § 1321.4(e) in the proposed rule. OMB proposed that the revision of policies happen within 1 year of the effective date of the rule and offered 2 years as a regulatory alternative. OMB did not receive comments on the effective date for the revision of policies, and as such, maintains the 1-year timeline. OMB did not receive any comments on this section of the rule. OMB added text to clarify that where the rule requires that the parent agency revise existing rules, policies, procedures, and organizational structures that impede an RSAU's ability to comply with this regulation, the parent agency must also undertake the actions necessary to be able to comply with the rule. This is especially important where this rule includes a mandate that is required unless otherwise prohibited by statute, such as in §§ 1321.4(i), 1321.6(b)(1), 1321.7(b)(2), and 1321.8(b)(1), where the agency may need to take steps to comply with any Administrative Procedure Act requirements in carrying out the requirements under this rule.

Proposed § 1321.4(e) directs parent agencies to review their rules, policies, and practices, and revise any that impede an RSAU's ability to meet its statutory responsibilities because agency rules, policies, and practices are so central to accomplishing the purpose of 44 U.S.C. 3563(b). The existing rules, policies, and practices of the parent agency can affect an RSAU's ability to meet its fundamental responsibilities in several ways. Rules, policies, and practices that require review and approval from officials external to the RSAU for their statistical products, statistical press releases, website appearance and content, and other communications to external stakeholders such as the press and the Congress specifically addressing statistical products or statistical press releases can create perceived and actual risk of interference with the RSAU. Actual or perceived undue influence harms the RSAU and the parent agency, undermining trust and support for both. Parent agencies must assess their rules,

policies, and practices and revise any that do not enable, support, and facilitate the ability of their RSAU to meet their fundamental responsibilities. If disagreements arise between RSAU and the parent agency as to the revision of any parent agency rule, policy, or practice, the head of the RSAU and the relevant officials at the parent agency may contact OMB through the Administrator of OIRA to discuss and resolve.

OMB is finalizing at § 1321.4(j) in the final rule the provisions related to the delegation of duties that were proposed at § 1321.4(f) in the proposed rule, with some non-substantive changes for clarity and consistency with existing statutory authority. Commenters were in strong support of the provisions which require OMB to conduct its coordination of Federal information policy in a manner consistent with the Evidence Act and this rule and to delegate the management of OMB's statistical functions to the Chief Statistician. The policy embodied in the Evidence Act's requirement under 44 U.S.C. 3563(b) for the head of each agency to enable, support, and facilitate RSAUs in carrying out their fundamental responsibilities extends to OMB. Notably, OMB has a variety of authorities that directly affect the ability of RSAUs to meet their responsibilities. OMB will exercise those authorities in a manner consistent with the Evidence Act requirements and this final rule.

The proposed rule at § 1321.4(f)(2) required OMB to delegate the authority to perform the functions described in 44 U.S.C. 3504(e). The purpose of that provision was to ensure that the Chief Statistician of the United States, a position that was created to coordinate and oversee the Federal statistical system, had the authority to ensure the efficiency and effectiveness of the Federal statistical system and to ensure OMB policies supported the objectivity and accuracy of statistical products generated by RSAUs. OMB is finalizing the rule with a change to this provision to clarify and reaffirm the existing authority of the Chief Statistician of the United States to perform the statistical policy coordination under section 3504(e).

Section 3504(e)(7) specifies that the Chief Statistician of the United States must be "a trained and experienced professional statistician" and confers on the Chief Statistician the authority "to carry out the functions described in" section 3504(e), including the development and implementation of governmentwide policies, principles, standards, and guidelines concerning statistical collection procedures and

methods, statistical data classification, statistical information presentation and dissemination, timely release of statistical data, and such statistical data sources as may be required for the administration of Federal programs. Section 3504(e)(7) ensures that the Chief Statistician of the United States has the necessary authority within OMB to carry out these functions in an objective, impartial, and timely manner that only takes into account statistical considerations, and without interference. As such, the Chief Statistician of the United States already has the authority the proposed rule was requiring OMB to delegate and the delegation in the proposed rule was unnecessary and would not have provided any additional authority.

As finalized, § 1321.4(j) does not diminish OMB's coordination and oversight authorities, rather it ensures that the specified authorities are exercised without regard to any particular political or program impacts, as the Chief Statistician of the United States is statutorily required to ensure objectivity and impartiality of information collected for statistical purposes. OMB's role is also important to promote comparability of statistics across the Federal Government, as well as to promote high quality statistics in support of informed decision making by both public and private statistical data users. The final rule supports that role by retaining the requirement for the responsibilities pertaining to the approval of information collections submitted by RSAUs be delegated to the Chief Statistician of the United States. In recognition of the existing statutory delegation of such responsibility to the Administrator of OIRA, the final rule requires that the Administrator delegate the responsibilities pertaining to the approval of information collections, rather than the Director of OMB. The final rule also retains the requirement for the Director of OMB to delegate the authority to carry out the responsibilities under subchapter III of chapter 35 of Title 44 of the U.S. Code to the Chief Statistician of the United States. The proposed rule also required the Director of OMB to delegate responsibilities under 44 U.S.C. 3562. However, section 3562 is part of subchapter III of chapter 35 of Title 44 of the U.S. Code, which means the separate delegation of authority is unnecessary. That provision has therefore been removed only to improve the clarity of the final rule and not as a substantive change from the proposed rule.

E. § 1321.5—Relevance and Timeliness

The first fundamental responsibility of RSAUs is to produce and disseminate relevant and timely statistical information. This responsibility recognizes the high value of some statistical products. The Evidence Act entrusts RSAUs with the responsibility of making judgments about balancing the value of their statistical products against their costs, burden, and risk, which can change over time. Congress maintained the high expectations about RSAUs' expertise in and commitment to producing the most relevant statistics by placing this responsibility on RSAUs.

One commenter suggested changes to proposed § 1321.5(a) to "strengthen the position of the RSAUs to meet their responsibilities without interference" and suggested modifying the language in § 1321.5(a) to speak to the responsibilities of the parent agency. OMB agrees that RSAUs must be able to determine what statistical products to disseminate without interference from parent agencies. OMB believes this is addressed by § 1321.5(b)(1) in the final rule, which speaks to the responsibilities of parent agencies with regard to the review of statistical products prior to release. In addition, OMB notes that OMB Statistical Policy Directive Nos. 3 and 4 remain in place and provide guidance on such policies.³⁵ Thus, the final rule does not include any changes in response to this comment.

Multiple commenters noted support for § 1321.5(b)(1)(i), which requires consultation with parent agency officials to assess and seek improvements to the relevance of statistical products, and suggested that the consultation expand beyond the parent agency to include Congress, other parts of the Executive Branch, and the Judicial branch. One commenter suggested that each agency establish a Federal Advisory Committee. OMB agrees broader consultation would be beneficial but believes only the parent agency consultation should be required under all circumstances. OMB believes that other entities, such as State, local, territorial, and Tribal governments should also be consulted, as deemed necessary by the head of the RSAU. OMB does not agree with prescribing the approach for such consultation, for example through a Federal Advisory

Committee. As such, OMB has revised § 1321.5(b)(1)(ii) to require consultation, as the head of the RSAU determines is appropriate, with other data users, including Congress, State, local, territorial, or Tribal governments, and other parts of the Executive Branch without explicitly prescribing the approach for such consultation. OMB does not enumerate all of the possible entities with which RSAUs could consult and expects that RSAUs will include other entities in consultation as appropriate for their needs.

Multiple comments discussed the publication schedule and its importance for transparency. One commenter suggested adding a provision for the parent agency not to interfere with the release dates or the content of those releases. Another commenter suggested that, after the schedule has been published, any change to the schedule should be communicated to the Chief Statistician of the United States and publicly announced and be accompanied by a detailed explanation for such change. OMB appreciates this input and has added a requirement at § 1321.5(d)(1)(v) to notify the Chief Statistician of the United States of any changes to the schedule for any regular and recurring statistical products. OMB believes that this final rule, in conjunction with existing OMB Statistical Policy Directive Nos. 3 and 4, sufficiently addresses the other concerns raised by commenters.

OMB also made other edits to this provision in the final rule for clarity and streamlining. In particular, OMB revised proposed § 1321.5(d)(1)(i) to combine the provision from proposed § 1321.5(d)(1)(ii) into § 1321.5(d)(1)(i). In addition, OMB added "on the schedule required under paragraph (d)(1)(i)" to proposed § 1321.5(d)(1)(ii) to clarify specifically where RSAUs publish the release dates and finalized this at § 1321.5(d)(1)(ii). Finally, OMB revised proposed § 1321.5(d)(1)(iv) to replace "office" with "point of contact" to account for smaller agencies and finalized this provision at § 1321.5(d)(1)(iii).

Other comments addressed the alignment of the provisions related to relevance and timeliness in this rule with other data-related policies, including customer experience policies, learning agendas, and user experience testing policy, which are outside the scope of the fundamental responsibilities. OMB reminds agencies that they must ensure proper adherence to all relevant statutes, rules, policies, and guidance and encourages agencies to review all relevant requirements in conjunction with this final rule to

ensure alignment, as applicable. OMB did not incorporate any requirements in this rule that were not directly tied to the fundamental responsibilities of RSAUs. As such, OMB has not made modifications to the rule based on this set of comments.

Finally, one comment addressed the accessibility of data and recommended that OMB ensure "inclusivity for diverse abilities." OMB believes it is important to ensure data are accessible to all, with appropriate safeguards to maintain protection of confidential statistical data and adherence to relevant statutes, rules, policies, and guidance. For example, it is important to ensure that any means of accessing statistical data, such as through systems, platforms, software, or other means, comply with requirements for data protection and security to prevent inappropriate or inadvertent access to confidential statistical data. OMB has not modified any provisions in response to this comment, but continues to encourage agencies to work with stakeholders to understand their needs for access and address them to the extent practicable.

OMB finalizes all other provisions of § 1321.5 as they were proposed.

F. § 1321.6—Credibility and Accuracy

The second fundamental responsibility of RSAUs is to conduct credible and accurate statistical activities. Establishing credibility about the accuracy of the products produced and the scientifically rigorous processes employed to create them is fundamental to the role of a trusted provider of evidence. The more accurate evidence is, the greater value it has to the decision maker who uses it.

Any statistical product may contain some level of inaccuracy, and statistics always measure underlying concepts or conditions with varying levels of uncertainty. To confidently act on the evidence, data users need to trust that the accuracy of the statistical products is communicated in a forthright, explicit, and transparent manner. In addition, providing public documentation about the methodologies and processes used by the RSAU in developing the statistical product promotes credibility in its methods and processes. Section 1321.6 describes several actions that RSAUs must take to build and protect their credibility so that they can fill this role effectively.

OMB modified some provisions in § 1321.6 in response to public comments. One comment stated general support for this section, specifically highlighting the inclusion of proposed § 1321.6(b)(1) and suggested that

³⁵ *Id.*; Off. of Mgmt. & Budget, Exec. Off. of the President, Update of Statistical Policy Directive No. 3: Compilation, Release, and Evaluation of Principal Federal Economic Indicators—Changing Timing of Public Comments by Employees of the Executive Branch, 89 FR 11873, 11877–78 (Feb. 15, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-02-15/pdf/2024-02972.pdf>.

additional guidance “would help clarify these responsibilities and address them from the vantage of trust.” OMB appreciates the comment and will consider it in the context of developing future policies.

One comment provided specific edits to proposed provisions § 1321.6(b)(3) and (4) to “strengthen the position of the RSAUs to meet their responsibilities without interference.” Specifically, this commenter suggested that OMB revise § 1321.6(b)(3) to read as follows:

[Permit] Delegate to Recognized Statistical Agencies and Units the responsibility to determine [if] whether statistical disseminations, including related statistical press releases or publicity materials not containing policy pronouncements, [are to] should be disseminated by or through a parent agency and, if so, ensure that statistical information attributable to the Recognized Statistical Agency or Unit disseminated by or through a parent agency is not altered in any way not authorized by the head of such Recognized Statistical Agency or Unit.

OMB accepts some of the editorial updates suggested but does not accept the proposed update from “permit” to “delegate” as suggested because OMB does not believe delegation is appropriate or necessary in this situation.

The commenter further suggested the following revision to § 1321.6(b)(4):

Allow Recognized Statistical Agencies and Units to submit articles that do not address policy, management, or budget issues to refereed journals, present at professional conferences, and engage in peer review activities without requiring review or approval from outside of the Recognized Statistical Agency or Unit, unless such approval is required by law;

OMB does not accept the proposed addition of “review or” before “approval from outside of the Recognized Statistical Agency or Unit” in proposed § 1321.6(b)(4) because there are times when it is appropriate for a review to occur, such as reviews that are required by law or to verify non-statistical issues are not present in the materials.

Another comment suggested clarifying what “appropriate behavior would be to more clearly denote what is acceptable and unacceptable behavior” in the context of a “potential for discrimination against staff whose professional interests may not align with that of those of their respective agencies.” Based on this comment, OMB added a new provision § 1321.6(a)(5) to the final rule to indicate that RSAUs should determine the appropriateness of affording their staff professional autonomy and how this will be

achieved, while adhering to the requirements of any applicable statutes. This provision seeks to incorporate more clearly the need for staff at RSAUs to be able to engage in professional activities, while making sure there is still accountability for staff time and resources.

In addition to modifications in response to comment discussed above, OMB made a clarifying edit to § 1321.6(a)(1)(iii) to specify that the RSAU must assess the data quality for the statistical purposes of the RSAU and not for other purposes for which the data may be used by other components. This provision requires that the RSAU work with the CDO and Evaluation Officer to develop policies for such assessment of data that originates from outside of the RSAU to ensure the RSAU is properly assessing the data quality for the RSAU’s statistical purposes. Also, OMB revised the list of terms in § 1321.6(a)(2)(i) to align more closely with the terms outlined in Statistical Policy Directive No. 1 for clarity. In addition, OMB revised § 1321.6(b)(4) to add “and that do not contain legally privileged information” for clarity. OMB also revised proposed § 1321.6(b)(4)(i) introductory text and (b)(4)(i)(A) and (B) into final § 1321.6(b)(4)(i) and (ii) for clarity and streamlining while covering the same concepts. Finally, OMB moved proposed § 1321.6(b)(4)(ii) to § 1321.6(a)(5)(ii) in the final rule to appropriately align the requirement with the other RSAU requirements in § 1321.6(a).

OMB finalizes all other provisions of § 1321.6 as they were proposed.

G. § 1321.7—Objectivity

The third fundamental responsibility of RSAU is to conduct objective and impartial statistical activities. Impartial statistics are core to the concept of evidence-based policymaking, which is based on the fundamental practice of using facts to guide policies. To support rigorous decision-making actions, data users need to be able trust that statistical outputs are transparent and policy-neutral; therefore, this final rule includes requirements to bolster an RSAU’s ability to be an impartial source of information. OMB proposed to establish responsibilities regarding objectivity for RSAUs at § 1321.7(a) and for parent agencies at § 1321.7(b). The proposed rule adopted several provisions related to objectivity that RSAUs and parent agencies are already following through their adherence to Statistical Policy Directive No. 1. After considering the public comments, OMB

is finalizing § 1321.7 largely as proposed.

OMB made some general revisions to this section to streamline provisions to improve clarity and readability and also made some targeted revisions to address public comments. OMB revised § 1321.7(a)(4) to move the last phrase of the provision “in accordance with this section and applicable law and policy” to the beginning of the provision for clarity. OMB also added “legally privileged information” to the list of nonstatistical matters in § 1321.7(b)(1) that a reviewer outside RSAU may review and added to the end of the provision “or matters affecting current or future litigation” for clarity. OMB made changes to § 1321.7(b)(4) to remove the requirements related to the RSAU having the necessary resources because this requirement is addressed in section § 1321.4 of this final rule. Changes were also made to clarify that the resources of the RSAU are managed by the RSAU in accordance with their fundamental responsibilities as described in this final rule. OMB identified that § 1321.7(b)(4)(ii) included some text on content, functionality, appearance, and layout of the RSAU website duplicative of § 1321.4 and revised § 1321.7(b)(4)(ii) to remove the duplicative text while retaining the remainder of the provision.

OMB received a few comments regarding this section of the proposed rule. One commenter suggested adding “including to the Parent Agency” after “data users” in proposed § 1321.7(a)(2)(ii). OMB believes this call out is unnecessary and did not change the provision in the final rule. One commenter suggested several line edits to different provisions in this section. One edit suggested that § 1321.7(b)(1) add “review or” in front of “clearance.” OMB did not accept this suggestion because some level of review may be necessary to verify the statistical products do not contain nonstatistical aspects such as policy, budget, or management. Another commenter suggested adding “and for reporting on the results of those activities” to the end of the first sentence of proposed § 1321.7(b)(2). OMB accepted this suggestion in the final rule, but updated the language to use defined terms from this rule, so the addition is “and for disseminating statistical products.” Another comment suggested adding “, including its archiving” to the end of proposed § 1321.7(b)(5)(i). OMB accepted this addition in the final rule with a minor modification to read, “The governance of its data, including the archiving of its data.” One commenter suggested that RSAUs make their

statistical data available on an equitable basis and that they commit to making data as accessible as possible to members of historically underserved communities. OMB acknowledges that it is important for RSAUs to continue working toward improving equitable data access but has not made any changes to the rule based on this comment because OMB believes the concepts are covered under other provisions of this rule.

Two other commenters noted their support for this section and one of those strongly encouraged retaining the language in § 1321.7(b) in particular. OMB appreciates these comments.

OMB finalizes all other provisions of § 1321.7 as they were proposed.

H. § 1321.8—Confidentiality

The fourth fundamental responsibility of RSAUs is to protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their data. Data providers rely upon RSAUs to honor their commitments and statutory requirements to protect the confidentiality of data providers' information and to ensure that the confidential statistical data are used exclusively for statistical purposes.

The Federal statistical system is largely dependent on the willingness of individuals; businesses; and Federal, State, local, territorial, and Tribal governments to provide and allow their data to be used for statistical purposes. For example, even the perception that agencies responsible for regulating industries have unauthorized access to data provided to RSAUs may have a significant impact on survey response rates or on the willingness of a private sector entity (such as a private data warehouse) to enter into a contract to provide data in bulk to an RSAU and thereby possibly degrade data quality for those RSAUs and trust from the public. Statistical Policy Directive No. 1 highlights the importance of protecting the confidentiality of responses because it “reduces public confusion, uncertainty, and concern about the treatment and use of reported information” and articulates the importance of the “organizational climate” in which RSAUs do their work, which builds and sustains the trust of the data providers.³⁶

³⁶ Off. of Mgmt. & Budget, Exec. Off. of the President, Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units, 79 FR 71610 (Dec. 2, 2014), available at <https://www.govinfo.gov/content/pkg/FR-2014-12-02/pdf/2014-28326.pdf>.

In addition to giving data providers confidence that their confidential statistical data will be protected, these protections also give the general public confidence that RSAUs will be responsible stewards of the large amounts of sensitive information with which they are entrusted. RSAUs must have the authority to determine the tools, practices, and procedures employed to ensure the effective security, including physical and logical security, of confidential statistical data, as well as to determine how best to protect the confidentiality of, and provide appropriate access to, that data. Such determinations include whether personnel such as economists, statisticians, data scientists, IT specialists, and subject matter experts who access confidential statistical data must be directly assigned to the RSAU that controls the data.

OMB finalizes § 1321.8 with revisions to use defined terms for clarity. OMB streamlined provisions in § 1321.8(a)(1) and (2) and (c) to remove duplication and for clarity. OMB finalizes § 1321.8(a)(4)(i), which requires notifying respondents of the intended use, potential future use, relevance, and confidentiality protections of a collection of information by an RSAU, with clarifying language about the collections referenced being sponsored by RSAUs and not by other parts of the agency, as well as to conform to requirements for references from the Office of the Federal Register. OMB notes that the notification required under § 1321.8(a)(4)(i) may overlap with other notification requirements and RSAUs may consolidate this notification with any other notification to the extent that the combined notification is clear and easy to understand by the average respondent. OMB notes that in § 1321.8(b)(3), which establishes requirements for a parent agency's Senior Agency Official for Privacy in relation to an RSAU, the term *breaches* refers to breaches of personally identifiable information and should be read as consistent with the definition of breach in OMB M–17–12 or subsequent OMB guidance.³⁷ OMB added a new provision at § 1321.8(b)(4) to ensure that the agency Chief FOIA Officer coordinates with the RSAU to ensure appropriate application of exemptions in response to Freedom of Information Act requests pertaining to RSAU records. This was added to parallel the

³⁷ Off. of Mgmt. & Budget, Exec. Off. of the President, M–17–12, Preparing for and Responding to a Breach of Personally Identifiable Information 9 (Jan. 3, 2017), available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2017/m-17-12_0.pdf.

requirement of RSAUs in § 1321.8(a)(2)(i).

OMB also revised § 1321.8(c) to include “and exclusive statistical use” in two places for greater consistency with CIPSEA 2018. OMB revised § 1321.8(c)(3) to use the defined term “parent agency” and clarify that “anyone else” is included in the provision to clarify that no one other than the RSAU head would have the authority to grant access to confidential statistical data.

In addition, OMB considered the comments received on § 1321.8. One commenter suggested adding language to encourage collaboration among RSAUs so that confidentiality requirements would not be such a high barrier for purposes of improving statistics. OMB appreciates this input and is not making any changes to the final rule but will consider this in the context of forthcoming rules. Another commenter suggested specifying that the RSAU will independently (not in collaboration with the parent agency) assure confidentiality protection. OMB agrees and believes the proposed rule provides for such autonomy in this work and has not made any updates to this final rule in response. Another suggestion was to delete the phrase “in collaboration with the relevant parent agency” from proposed § 1321.8(a)(2)(iv). OMB agrees that the authority and determination of agent status should be left solely to the RSAU head. As part of streamlining to remove duplication across § 1321.8, OMB removed proposed § 1321.8(a)(2)(iv) and keeps provisions in § 1321.8(c) that speak to the determination of agency status.

Another commenter urged that language from § 1321.8(b)(1), “which establishes that statistical agencies have the sole authority to provide access to confidential statistical data,” and § 1321.8(c), “which provides a process for the head of a statistical agency to protect confidential statistical data,” be retained as proposed. This commenter also noted that language in § 1321.8(c)(4) “will be helpful in clarifying that the role that statistical agencies have to analyze disclosure risk in response to requests for statistical data for purposes of evidence-based policymaking in education.” This commenter stated that these provisions would be helpful in maintaining and even expanding access to restricted data for research and research-based policy purposes by data users. OMB appreciates this input and has retained the substance of the proposed provisions with some revisions for clarity and reorganization. Another

commenter had two suggestions for this section. One suggestion was to add a new provision that would address the idea of a risk-utility framework for confidentiality protection. OMB agrees this is an important issue and will consider this in the context of forthcoming rules.

OMB finalizes all other provisions of § 1321.8 as they were proposed.

I. § 1321.9—Compliance Review

This final rule seeks to ensure the efficiency and effectiveness of RSAUs, as well as the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes. History has shown that the ability of Federal agencies to meet the requirements and responsibilities described in the previous sections will depend on the creation of institutional processes that result in meaningful incentives for compliance. Accordingly, the proposed rule requested comments on three options to address the need for a review of agency compliance with this rule:

Option A: ICSP Review. This option would direct the ICSP to form a Peer Review Committee, which would assess each RSAU and its parent agency for compliance with this rule.

Option B: Council of the Inspectors General on Integrity and Efficiency (CIGIE) Review. This option would direct CIGIE to form a statistical audit committee, which would designate certain Inspectors General (IGs) as statistical auditors and provide those statistical auditors with support, education, and resources. Each RSAU and its parent agency would be audited for compliance with this rule.

Option C: Inspector General Review. This option would direct each IG of a parent agency containing an RSAU to conduct audits for compliance with this rule.

Nine commenters provided feedback on this section establishing a compliance review process. Some commenters disfavored option A, raising concerns about a potential bias or lack of independence if the ICSP were to conduct the compliance review. Other commenters disfavored option C, expressing concern about the potential for IGs to be inconsistent across the agencies or that some IGs may lack familiarity with the laws and practices of the statistical agencies.

The majority of commenters recommended option B, which would require CIGIE to establish a statistical audit committee to conduct the review. Others expressed a preference for option A, which required the ICSP to conduct the review. Of those supporting option

A, some commenters recommended that the ICSP be given authority to select an outside entity to alleviate the concern of potential bias. Other commenters encouraged OMB to consider another entity entirely, such as the Government Accountability Office or the National Academies of Sciences, Engineering, and Medicine, or for OMB to conduct the reviews.

Considering these comments and available resources, and after consultation with CIGIE, OMB is finalizing a version that combines options B and C. Since 1978, IGs have been conducting audits and reviews of agencies to promote the efficiency and effectiveness of Federal programs. IGs are uniquely situated to provide an objective and independent review of agency operations. Under § 1321.9(a) of this final rule, each IG of a parent agency must conduct a review to determine whether the parent agency and the RSAU are in compliance with this rule and whether the RSAU has sufficient resources to carry out the fundamental responsibilities.

Importantly, the IG compliance review required under this final rule should be conducted in compliance with and in the spirit of this final rule. This final rule is intended to ensure the autonomy of RSAUs and ensure sufficient functional separation. As such, where this final rule requires RSAUs to make decisions or requires the parent agency to delegate or ensure the RSAU has sufficient authority to make decisions, for the RSAU and parent agency to be in compliance with this rule, the RSAU would need the authority to make the relevant decisions. The compliance review required in this final rule would not cover evaluating the decision itself, as the purpose of the policy is to give the RSAU autonomy in those decisions specified in this rule.

For example, under § 1321.6 of this final rule, an RSAU is required to determine appropriate methods for its statistical activities, and the parent agency is responsible both for ensuring the RSAU has autonomy to maintain its own quality standards and for delegating the responsibility to make determinations about quality to the RSAU. This will help to ensure that the RSAU has autonomy to determine the methods for conducting statistical activities and the quality of its statistical products. The compliance review required to be conducted by IGs under this final rule would not extend to review of the quality of the RSAU's statistical products or methodology. However, IGs should be reviewing publicly provided documentation of

statistical products or methodology to determine whether the RSAU is adequately meeting the requirements for public documentation in § 1321.6(a)(2).

Similarly, this rule ensures that an RSAU has the sole authority to provide access to its confidential statistical data, so that the RSAU can protect the confidentiality and ensure the exclusive statistical use of its confidential statistical data. Section 1321.8(c) provides a detailed policy regarding how a parent agency or other component may request access to confidential statistical data from the RSAU. Because each of the IGs conducting a compliance review under this rule is a component of an agency that contains an RSAU, the IGs are also responsible for complying with the requirements for components under § 1321.8(c) when accessing confidential statistical data.

Consistent with existing law and this final rule, IGs are not authorized to access confidential statistical data or related information systems unless such access is in compliance with this final rule, relevant statistical laws, and any other applicable statutes. IGs have existing statutory authority to access all necessary information and materials in a timely manner to perform their duties. However, to gain access to confidential statistical data, IGs must follow the requirements of § 1321.8(c) to ensure the proper use and protection of confidential statistical data. OMB expects that both the IGs and the RSAUs will comply with the relevant legal requirements of both the Inspectors General Act³⁸ and CIPSEA 2018. OMB expects the IGs to comply with § 1321.8(c) in a timely manner and for the RSAUs to provide the necessary information in a timely manner. Further, OMB expects the IGs, RSAUs, and parent agencies to consult with the Chief Statistician of the United States as necessary, and as authorized by this rule, to ensure adequate, timely, and secure access to information necessary for IGs to conduct compliance reviews or to meet any other requirements under this regulation. However, given the scope of the compliance review under this rule, OMB does not anticipate that the compliance reviews will require that IGs have regular access to confidential statistical data.

OMB agrees with commenters who emphasized the importance of consistency in compliance reviews across agencies. To further consistency and statistical expertise among IGs, the final rule at § 1321.9(e) requires CIGIE to promulgate guidance for the IGs, to

³⁸ 5 U.S.C. 406.

promote consistent reviews and consistent formatting.³⁹ CIGIE must also establish a working group for the relevant IGs to develop expertise in statistical laws and processes necessary to ensure the integrity of statistical agencies. Given the unique nature of statistical laws and processes, the working group and individual IGs must regularly consult with the Chief Statistician of the United States on the appropriate interpretation and application of statistical laws and practices.

Under the proposed rule, the compliance review would occur not less frequently than once every three years. One commenter noted that compliance with this rule may take some effort and suggested giving a five-year grace period before starting the compliance review. OMB agrees that the compliance review should start after the agencies have had an opportunity to come into compliance with this rule but does not believe that all agencies need five years to come into compliance. The final rule at § 1321.9(b)(1) requires each parent agency and RSAU to undergo a review of compliance with this final rule by the agency's IG at least once every three years, beginning no sooner than two years after issuance of this final rule. Under this framework, every agency gets at least a two-year grace period before the IG conducts the first compliance review. OMB notes that some agencies may have as much as five years before the first compliance review, depending on how the IG schedules this work. This two-year grace period also affords the IG community time to acquaint themselves better with the statistical community and statistical laws, as well as to work on a consistent framework by which to do the compliance review.

As described in the proposed rule, the final rule at § 1321.9(b)(2) establishes a process for an off-schedule compliance review. Under the final rule, the ICSP may request an off-schedule review of an RSAU and parent agency if the ICSP has reason to believe there is a substantial change in circumstances regarding compliance with this part. The ICSP must submit a written request for a compliance review with a detailed explanation to the IG of the parent agency for which the review is requested. The IG must review any requests from the ICSP, determine whether a review is appropriate, and provide a written response to the ICSP within 30 days of receiving such request.

³⁹ See, e.g., 31 U.S.C. 3353(a)(3)(A) (requiring that IGs use consistent formatting for certain reports).

Under this final rule at § 1321.9(c), OMB is finalizing the proposed requirement that the IG must provide a compliance report on the determinations made under this section to the head of the agency, the head of the RSAU, the Chief Statistician of the United States, and relevant congressional committees. For purposes of this review, the head of the RSAU is considered the responsible official for purposes of the compliance review and must be given the opportunity to review and respond to the review's results.

Further, OMB is finalizing parts of the proposed rule that establish a role for the Chief Statistician of the United States related to compliance reviews. Under this final rule at § 1321.9(d), the Chief Statistician of the United States will engage with each RSAU and parent agency to address deficiencies identified in a compliance report; include a list of findings or recommendations and the status of the RSAU and parent agency in addressing each finding or recommendation on StatsPolicy.gov; make available to CIGIE appropriate educational materials, training, or other relevant resources regarding statistical laws and practices; and include standards for remedial actions for an RSAU for persistent failures to comply with this final rule in the guidance to implement the RSAU designation process required under 44 U.S.C. 3562(a).

OMB finalizes all other provisions of § 1321.9 as they were proposed.

The final rule establishes a robust role for CIGIE and the Chief Statistician of the United States to provide education to IGs on the Federal statistical system and statistical laws, to provide guidance to enable consistency across IGs in conducting compliance reviews, and to support the development of the community of IGs responsible for evaluating compliance with this rule and statistical laws. This approach will help ensure compliance reviews are conducted by an independent and unbiased entity, the agency's IG, while also addressing the concern about any potential lack of IG experience with the statistical community and statistical laws.

III. Expected Impact of This Rule

This final rule applies to Federal agencies, and does not impose requirements on individuals, businesses, associations, organizations, or other private sector entities. The purpose of this final rule is largely to conform existing rules, policies, and practices to the requirements in the Evidence Act, in particular the codification of the requirement for

RSAUs to meet the fundamental responsibilities described herein and for all agencies to enable, support, and facilitate RSAUs in meeting their fundamental responsibilities. OMB is exercising some discretion in promulgating this final rule, but any regulatory decisions will have a marginal impact on transfers, costs, and benefits, and this final rule includes only such provisions as OMB deems necessary to implement the statutory requirements of the Evidence Act. This rule furthers OMB's compliance with its obligations under the Evidence Act to promulgate rules implementing new statutory provisions and guides Federal agencies in effectuating their own obligations under the Evidence Act.

OMB did not receive comments on the estimated costs of this rule, but did receive comments on the benefits of this rule. OMB has updated the estimated costs of this rule to reflect the updates made to the definition of parent agency, as well as to adjust costs for review to reflect new calendar year pay and to adjust the review and revision hours for parent agencies to more accurately reflect the duration of time to do the work. The benefits section of this rule provides more information on the comments received for that section.

Affected Agencies and Current Landscape

This final rule has specific requirements for RSAUs, parent agencies, and core components, as defined in this final rule.

* *Agencies*: Federal agencies vary widely in size and organizational structure.⁴⁰

* *Recognized Statistical Agencies and Units*: As of the time of the publication of this final rule, there are 16 RSAUs which vary in size from around 10 full time employees to around 7,000 full time employees.⁴¹ Recognized Statistical Agencies and Units also vary

⁴⁰ For example, the Department of Education has approximately 3,900 full time employees and the Department of Veterans Affairs has approximately 342,000 full time employees. Also, there are parent agencies that are smaller than the Department of Education. See Off. of Pers. Mgmt., *Sizing Up the Executive Branch*, Fiscal Year 2017 (Feb. 2018), available at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/reports-publications/sizing-up-the-executive-branch-2016.pdf>.

⁴¹ Off. of Mgmt. & Budget, Exec. Off. of the President, *Statistical Programs of the United States Government: Fiscal Years 2021/2022 (2024)*, available at <https://www.whitehouse.gov/wp-content/uploads/2024/02/statistical-programs-20212022.pdf>. In addition, OMB notes that the Microeconomic Surveys Unit at the Federal Reserve Board has approximately 10 staff. It is not listed in the most recently published *Statistical Programs of the United States Government*.

in position within their organizational units and reporting structure.

** Parent agency:* For this final rule, the term parent agency means, for an agency that contains an RSAU, the head of the agency, each organizational level within the agency under which the RSAU is positioned, and each core component of the agency.

** Core component:* For this final rule, the term core component means any support component and any component that performs an agency-wide function. A *support component* means a component of an agency that contains an RSAU that supports programmatic functions in achieving the agency’s mission, including legal, human resources, communications, legislative affairs, budget, information technology (IT), or procurement functions, but excludes any component of an RSAU. Components that perform agency-wide functions include the offices of the Chief Data Officer, the Evaluation Officer, Senior Agency Official for Privacy, Chief Information Officer, the Chief FOIA Officer, and similar functions.

OMB uses the following counts of entities with requirements from this final rule:

- 12 agencies that contain at least one RSAU⁴² and therefore, 12 heads of those agencies
- 32 organizational levels within agencies that are in the direct reporting structure for an RSAU,⁴³
- 120 core components⁴⁴

OMB expects that the 16 RSAUs are generally already implementing most requirements of this final rule in compliance with OMB’s Statistical Policy Directive No. 1. However, OMB expects that the current landscape across agencies varies widely. OMB expects that for some parent agencies implementation of this final rule will be resource intensive; however, OMB also expects that some parent agencies already have rules, policies, and practices that align with a substantial number of the requirements in this final rule. Given the current landscape, OMB

is uncertain about the exact number of agency rules, policies, and practices that will require revision based on this final rule.

For the calculations of the estimated costs throughout this section, OMB rounds up the estimates to the nearest thousand dollars. Rounding to the nearest thousand dollars removes the appearance of precision in the estimates where precision may not be known, and rounding up, instead of down, means that the estimates will not represent underestimates of the costs based on the assumptions OMB has made. For the following calculations in this section, OMB uses a general formula of number of entities multiplied by the number of hours to perform the task multiplied by labor cost per hour to get the total cost across the type of entity. OMB rounds this total cost by type of entity up to the nearest thousand. Then, OMB sums the rounded total costs across all types of entities to get the final estimated total cost to the Federal Government. OMB outlines the assumptions for the calculations and the total costs by type of entity in narrative form below. OMB also provides a table for each step of the process to summarize the assumptions and total costs.

Estimated Cost of Agencies Reviewing This Rule

This final rule will require RSAUs and parent agencies to first review this rule. This step includes reading the full rule and taking brief notes on possible intersections with agency rules, policies, and practices.

It is likely that this review will be performed by GS–14 Step 5 or equivalent staff within RSAUs and parent agencies, as this review will require a deep understanding of the parent agency’s rules, policies, and practices to understand how the agency’s rules, policies, and practices intersect with this final rule. This initial review of this final rule will inform the next steps of reviewing and making revisions to any relevant agency rules, policies, and practices. It is also likely

that the staff will be based in the Washington, DC pay region, as many of the staff are likely to work for the headquarters locations. The hourly rate for a GS–14 Step 5 employee in the Washington, DC region per the Office of Personnel Management for calendar year 2024 is \$75.70. OMB assumes that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in a value of \$151.40 per hour.

OMB expects that, for the parent agencies, a central office would do the first review for all of its units, except RSAUs, to identify which parts of the rule would apply to the different units. OMB expects this to be resource intensive for the central office, but OMB expects review of the rule by units will be less intensive because of the work done by the central office to target the units’ review.

Because of this tiered review process, review of this rule is expected to take different lengths of time for different agencies. For each of the 16 RSAUs, OMB expects this review to take on average 16 hours. This means it would cost approximately \$39,000 across all 16 RSAUs.

OMB expects it will take the central office for the 12 parent agencies on average 80 hours to do this review and identify relevant parts of the rule for its units. This means it would cost approximately \$146,000 across the 12 agencies that contain an RSAU.

Following the central office review, OMB expects review for the 32 organization levels in direct reporting structure and 120 core components to take on average 24 hours for each. This means it would cost approximately \$554,000 across both of these types of entities.

OMB does not expect agencies without an RSAU to review this rule. Therefore, across all RSAUs and parent agencies, the Governmentwide cost for reviewing this rule would be approximately \$739,000.

COST TO REVIEW THE RULE

Type of entity	Number of entities	Hours to review the rule	Cost per hour	Total cost
RSAU	16	16	\$151.40	\$39,000
Agencies that Contain an RSAU	12	80	151.40	146,000

⁴² The Departments of Commerce, Agriculture, and Health and Human Services all contain more than one RSAU, and as such, there are 12 unique agencies under which RSAUs sit.

⁴³ Reporting structures across the Government vary widely. As such, some RSAUs report directly

to their agency’s front office, while others report to one or more interim agencies. For the 16 RSAUs, OMB assumes that on average there are 2 agencies in the reporting structure, which means there are 32 organizational levels in the direct reporting

structure. This number excludes the head of the agency level.

⁴⁴ This counts an estimated 10 entities per agency that contains a RSAU. Thus, OMB estimates there are 120 such entities across the 12 agencies that contain RSAUs.

COST TO REVIEW THE RULE—Continued

Type of entity	Number of entities	Hours to review the rule	Cost per hour	Total cost
Organizational levels in direct reporting structure	32	24	151.40	117,000
Core components	120	24	151.40	437,000
Totals	180	.....	.....	739,000

Estimated Costs of Parent Agencies Reviewing Their Own Rules, Policies, and Practices To Determine Necessary Action

After review of this rule, parent agencies will then review their own rules, policies, and practices to determine necessary action. This rule does not require RSAUs or agencies that do not fall within the definition of a parent agency to take this step. This step may require engagement across the agency, including with staff of any RSAUs in the organization.

Review of the rules, policies, and practices will vary across parent agencies, depending on the number of rules, policies, and practices issued by the agency.

OMB expects parent agencies may have different costs for reviewing their rules, policies, and practices. OMB is estimating the review time on a per rule, policy, or practice basis. Similar to the prior step of reviewing the final rule, this step to review the parent agency's own rules, policies, and practices includes reading of the full rule, policy,

or practice and taking brief notes on possible intersections with this final rule. It is likely that this review will be performed by GS-14 Step 5 or equivalent staff within the agencies, as this review will require a deep understanding of the parent agency's own rules, policies, and practices to understand the intersections with this final rule to inform the next step of making revisions to those rules, policies, and practices. It is also likely that the staff will be based in the Washington, DC pay region, as many of the staff are likely to work for the agency headquarters locations. The hourly rate for a GS-14 Step 5 employee in the Washington, DC region per the Office of Personnel Management for calendar year 2024 is \$75.70. OMB assumes that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in a value of \$151.40 per hour.

For the parent agencies, OMB estimates it will take on average 16 hours to review each rule, policy, or

practice and determine necessary action. OMB expects it to take this much time for the parent agencies because they are likely to have rules, policies, and practices that intersect with this rule. OMB expects on average that the 12 central offices of parent agencies will have 5 items to review, the 32 organizational levels in direct reporting structure will have 20 items to review, and the 120 core components will have 5 items to review. Therefore, OMB estimates that across all central offices of parent agencies, it will cost approximately \$146,000 for those entities to review their rules, policies, and practices and determine necessary action. OMB estimates that it will cost approximately \$1,551,000 across all 32 organizational levels in the direct reporting structure and that it will cost \$1,454,000 across all 120 core components to review their rules, policies, and practices and determine necessary action. Across all entities, OMB estimates it will cost approximately \$3,151,000.

COST TO REVIEW AGENCY RULES, POLICIES, AND PRACTICES

Type of entity	Number of entities	Hours to review per policy	Number of policies to review	Cost per hour	Total cost
Agencies that Contain an RSAU	12	16	5	\$151.40	\$146,000
Organizational levels in direct reporting structure	32	16	20	151.40	1,551,000
Core components	120	16	5	151.40	1,454,000
Totals	164	.....	.....	.....	3,151,000

Note: Number of hours to perform the task is calculated for this part of the process by multiplying the hours to review per policy by the number of policies to review.

Estimated Costs of Parent Agencies Revising Their Own Rules, Policies, and Practices Where Needed

Where determined necessary after review of this rule and the agencies own rules, policies, and practices, parent agencies will need to revise rules, policies, and practices because of this rule. This rule does not require RSAUs or agencies that do not fall within the definition of a parent agency to take this step. OMB expects that revisions will range from relatively small and technical to substantive and

resource intensive, which means that the time required to draft the revisions and execute the revisions to issue a final update will vary.

The following provides the analysis for expected costs for the drafting of the revisions to rules, policies, and practices. For this analysis, OMB assumes the drafting of revised rules, policies, and practices will be performed by GS-14 Step 5 or equivalent staff within the agencies, as this drafting will require a deep understanding of the agencies' own

rules, policies, and practices and their intersections with this final rule to appropriately revise those rules, policies, and practices. It is also likely that the staff will be based in the Washington, DC pay region, as many of the staff are likely to work for the agency headquarters locations. The hourly rate for a GS-14 Step 5 employee in the Washington, DC region per the Office of Personnel Management for calendar year 2024 is \$75.70. OMB assumes that the total dollar value of labor, which includes wages, benefits,

and overhead, is equal to 200 percent of the wage rate, resulting in a value of \$151.40 per hour. In addition, OMB expects that the time to draft revisions to rules, policies, and practices is consistent across parent agencies and estimates that on average the time to draft revisions would be 120 hours per rule, policy, or practice.

For each of the 12 central offices of parent agencies and each of the 120 core components, OMB estimates on average that 3 rules, policies, or practices will require revision, whereas OMB estimates that for each of the 32 organizational levels in direct reporting structure, 15 rules, policies, or practices will require revision. Thus, the estimated cost to draft revisions to rules,

policies, and practices is approximately \$655,000 across all of the central offices of parent agencies and approximately \$6,541,000 across all of the core components. Across all of the organizational levels in the direct reporting structure, OMB estimates the cost to be approximately \$8,721,000. In sum, OMB estimates this to cost approximately \$15,917,000.

COST TO DRAFT OR REVISE RULES, POLICIES, OR PRACTICES

Type of entity	Number of entities	Hours to draft revisions per policy	Number of policies to revise	Cost per hour	Total cost
Agencies that Contain an RSAU	12	120	3	\$151.40	\$655,000
Organizational levels in direct reporting structure	32	120	15	151.40	8,721,000
Core components	120	120	3	151.40	6,541,000
Totals	164	.....	.....	.....	15,917,000

Note: Number of hours to perform the task is calculated for this part of the process by multiplying the hours to draft revisions per policy by the number of policies to revise.

Next, the parent agencies will need to implement the draft revisions, which includes steps such as gaining approval from the appropriate authorities within the parent agencies and issuing, if relevant, publicly available updates of the affected rules, policies, and practices. OMB expects the majority of revisions (~90 percent) to be to policies and practices and for it to be rare that a rule require revision (~10 percent). OMB also expects that finalizing revised policies and practices requires far less time (~80 hours per) than finalizing rules (~220 hours per). Taken together, OMB estimates on average that finalizing the revisions will take 100 hours per rule, policy, or practice. For

this analysis, OMB assumes the same amount of time for all agencies because procedures to finalize revisions to rules, policies, and practices should be relatively consistent across parent agencies. To account for the differing levels of engagement within parent agencies to approve the final revisions to rules, policies, and practices, OMB is using an average hourly rate equivalent for a Senior Executive Service Level IV employee based in Washington, DC which is \$92.26 for 2024. OMB assumes that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in a value of \$184.52 per hour. Using the number of

rules, policies, and practices that require revision from the previous analysis, the costs are as follows:

Across all of the 12 central offices of parent agencies, OMB estimates the costs to be approximately \$665,000. Across all of the 32 organizational levels within the agency that are in the direct reporting structure for the RSAU, OMB estimates the costs approximately \$8,857,000.

Across all of the 120 core components, OMB expects the costs to be approximately \$6,643,000. In sum, OMB expects these costs to total approximately \$16,165,000.

Type of entity	Number of entities	Hours to finalize and issue revisions per policy	Number of policies to finalize and issue revisions per entity	Cost per hour	Total cost
Agencies that Contain an RSAU	12	100	3	\$184.52	\$665,000
Organizational levels in direct reporting structure	32	100	15	184.52	8,857,000
Core components	120	100	3	184.52	6,643,000
Totals	164	.....	.....	.....	16,165,000

Note: Number of hours to perform the task is calculated for this part of the process by multiplying the hours to finalize and issue revisions per policy by the number of policies to finalize and issue revisions.

Therefore, across the Federal Government, to review this rule and review and revise rules, policies, and practices as needed to meet the requirements of this rule, the estimated costs total approximately \$35,972,000.

Estimated Costs of the Options Proposed for the Compliance Review

The proposed rule included three options under consideration for ensuring compliance with the final rule. Here OMB estimates the costs for the option selected in this final rule, which combines parts of two of the options from the proposed rule.

OMB expects that CIGIE will develop procedures and reference materials for the Inspectors General to use to provide consistency across their reviews. This final rule does not specify the structure of such work, so it may be implemented in a different format; however, OMB approximates the costs based on a committee structure. To develop estimated costs, OMB assumes that the

Committee would include representatives from 8 agencies. For this analysis, OMB is using an average hourly rate equivalent for a Senior Executive Service Level IV employee based in Washington, DC which is

\$92.26 for 2024. OMB assumes that the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in a value of \$184.52 per hour. OMB estimates that each member would

spend on average about 48 hours per year dedicated to this work. Therefore, OMB estimates that this step will cost approximately \$71,000 across all 8 agencies engaged in developing the procedures and materials.

ANNUAL COST FOR CIGIE TO DEVELOP PROCEDURES AND RELEVANT MATERIALS

Number of agencies	Hours per agency	Cost per hour	Total cost
8	48	\$184.52	\$71,000

Then, OMB estimates costs by activity for each of the reviews across the 3-year timeframe. Over the 3-year timeframe, OMB expects all 16 RSAUs to have an IG review and that the average time spent by each RSAU participating in this review would be 640 hours. OMB expects the participation to involve generally employees at a GS-14 Step 5 in the Washington, DC region, which results in a cost of \$151.40 per hour. This results in an expected cost across all RSAUs of approximately \$1,551,000.

In addition, OMB expects the 32 organizational levels in the reporting structure for RSAUs to participate in the reviews. Over the 3-year timeframe, OMB expects each of the 32 organizational levels in the reporting structure for RSAUs to spend 320 hours on average participating in the reviews.

OMB expects this participation to be done on average by employees at a GS-14 Step 5 in the Washington, DC region, which results in a cost of \$151.40 per hour. This results in an expected cost across all organizational levels of approximately \$1,551,000. Then, OMB expects all 16 RSAUs to publish a summary of findings on their website and estimates on average that publication to take 4 hours of time by an employee with a cost of \$151.40 per hour. This results in expected costs of approximately \$10,000 across all RSAUs. For the next two activities, OMB is using an average hourly rate equivalent for a Senior Executive Service Level IV employee based in the Washington, DC region, which results in a cost of \$184.52. For the Chief Statistician Engagement activity, over

the 3-year timeframe it is expected that all 16 RSAUs will need to participate and that on average each agency's engagement would require 8 hours of the time of the head of the RSAU and 8 hours of the time of the Chief Statistician of the United States for a total of 16 hours per agency. This engagement would only occur once per agency over the 3-year timeframe and would cost approximately \$48,000 across all RSAU agencies. Finally, OMB expects inspectors general (IGs) to incur time and costs engaging in these reviews. OMB estimates that over the 3-year timeframe all 16 separate reviews will need to occur and for each, each IG will spend on average 648 hours across the 3 years. Thus, OMB expects the cost for this activity across all IGs to be approximately \$1,914,000.

THREE-YEAR COST FOR ACTIVITIES RELATED TO IG REVIEW

Activity	Number of agencies	Hours across 3 years per agency	Cost per hour	Total cost of across all agencies
RSAUs Participating in Review	16	640	\$151.40	\$1,551,000
Organizational levels in direct reporting structure Participating in Review	32	320	151.40	1,551,000
Publish Summary of Findings	16	4	151.40	10,000
Chief Statistician Engagement in Deficiencies	16	16	184.52	48,000
IG Engagement	16	648	184.52	1,914,000
Total .....	.....	.....	.....	5,074,000

In sum, over a 3-year timeframe OMB expects this process to cost approximately \$5,074,000. This results in a cost of approximately \$1,692,000 per year. Adding this cost with the cost for CIGIE to develop guidance, the annual cost is approximately \$1,763,000 for the compliance review.

Regulatory Alternatives

OMB considered some regulatory alternatives, as noted below. More information on the reasons OMB finalized the rule as it did is available above in the preamble.

Handling compliance review. OMB detailed three options for proposed compliance review requirements, and

OMB finalizes the rule by combining Options B and C from the proposed rule.

Changing timeline for agencies to revise rules, policies, and practices. OMB did not receive any comments on this timeline, and OMB finalizes the rule such that these revisions must occur within 1 year of the effective date of this rule.

Benefits

This final rule promotes trust in the work of RSAUs, which ultimately promotes trust in the data used by policymakers to inform their decisions. Any loss of trust in the accuracy, objectivity, or integrity of the Federal statistical system and its statistical

products has the potential to cause uncertainty about the validity of measures the Nation uses to monitor and assess its performance, progress, and needs, as well as undermine the public's confidence in the information released by the Government. In addition, this final rule provides transparency and clarity to parent agencies and the public alike about how best a parent agency can enable, support, and facilitate the work of RSAUs.

Commenters noted in particular that maintaining trust in RSAUs has the benefits of helping to "maintain global

competitiveness,”⁴⁵ as well as supporting the functioning of capital markets and serving as key inputs to family, business, and public policy decisions.⁴⁶ To realize these continued benefits from Federal statistics and in particular RSAUs, one commenter noted that certain provisions are especially helpful, such as the requirements on budget transparency and autonomy over the website.⁴⁷ Another commenter also cited the following uses of Federal statistics from RSAUs as general benefits to the public from this rule:⁴⁸

- “The Federal Reserve relies on the statistical agencies’ estimates of output, employment, and inflation to set interest rates, which in turn affect everything from households’ grocery bills to new housing starts.”
- “Businesses use federal statistics in deciding where and when to expand and innovate.”
- “Investors use industry-specific statistics to identify rapidly growing sectors with profitable investment opportunities.”
- “The federal government uses federal statistics to set spending levels—as when, for example, BLS’s Consumer Price Index is used to set cost-of-living adjustments for 65+ million Social Security beneficiaries, and the Census Bureau’s annual American Community Survey is used to allocate \$400+ billion in funding to state and local areas each year.”
- “State and local governments rely on federal statistics for their geographic areas to set economic development strategies.”
- “Researchers use federal data collections to build evidence on the effectiveness of workforce, trade, education, housing, financial, and other types of policies.”
- “Implemented effectively, the provisions of the proposed rule should go a long way towards maintaining the multifaceted streams of public benefits from federal statistics.”
- “Well-maintained, public-facing websites can help maximize the value of federal statistics to households,

businesses, communities, policy makers, and capital markets, as the value of federally supported data collections depends on the public’s ability to find, interpret, and use the system’s output.”

- “Provisions ensuring that statistics are released on schedule builds trust in the agencies’ ability to use public funds effectively to produce high-quality data products.”
- “Securing parent agencies’ commitment to the agencies’ access to productive resources—trained and skilled staff and 21st century hardware and software—will help avoid fluctuations in the quality, accuracy, and timeliness of data releases, which undercut confidence in the system’s effectiveness.”
- “Reinforcing the federal statistical system’s reputation for objectivity and independence—with rock-solid ability to protect private data against disclosure risk—will help offset households’ and businesses’ decreasing willingness to respond to federal data collections.”

The compliance review is a tool to ensure all agencies are accountable to the provisions of this final rule. To improve consistency in the compliance reviews across agencies, the Inspectors General will lead the compliance reviews and the Council of Inspectors General for Integrity and Efficiency will develop guidance for the compliance reviews. The compliance reviews will enhance the benefits of the rest of the rule.

G. Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review,” Executive Order 13563, “Improving Rule and Regulatory Review,” and Executive Order 14094, “Modernizing Regulatory Review”

This final rule is a significant regulatory action under E.O. 12866, as amended by Executive Order 14094. Executive Order 12866 was reaffirmed by Executive Order 13563 and reaffirmed and amended by Executive Order 14094. Consistent with Executive Order 14094, OMB solicited and considered input from interested parties through a variety of means.

“Unfunded Mandates Reform Act” (2 U.S.C. 1501–1571)

This final rule is not subject to the Unfunded Mandates Reform Act because it does not contain a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

“Regulatory Flexibility Act” (5 U.S.C. 601–612)

The Director of the Office of Management and Budget has certified that this final rule is not subject to the Regulatory Flexibility Act because it does not have a significant economic impact on a substantial number of small entities. The final rule implements the fundamental responsibilities for statistical agencies and units and requires other Federal agencies to support, enable, and facilitate statistical agencies and units in meeting their fundamental responsibilities. Thus, the final rule would have no direct effect on non-governmental entities, including small businesses.

“Paperwork Reduction Act” (44 U.S.C. 3501–3520)

This final rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (PRA). However, if in accordance with any of the requirements finalized in this rule an agency were to determine a need to implement a reporting or recordkeeping requirement subject to the PRA, the agency should comply with the requirements of the PRA.

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts state law, or otherwise has federalism implications. This final rule will not impose substantial direct compliance costs on State or local governments, or otherwise have federalism implications.

List of Subjects in 5 CFR Part 1321

Statistics.

■ For the reasons stated in the preamble, the Office of Management and Budget amends 5 CFR chapter III, subchapter B, by adding part 1321 to read as follows:

PART 1321—RESPONSIBILITIES OF RECOGNIZED STATISTICAL AGENCIES AND UNITS

Sec.

- 1321.1 Purpose.
- 1321.2 Definitions.
- 1321.3 General provisions.
- 1321.4 Supporting the four fundamental responsibilities.
- 1321.5 Relevance and timeliness.
- 1321.6 Credibility and accuracy.
- 1321.7 Objectivity.
- 1321.8 Confidentiality.
- 1321.9 Compliance review.

Authority: 44 U.S.C. 3563; 44 U.S.C. 3504(e); 31 U.S.C. 1104(d).

⁴⁵ Comment submitted by Elizabeth Mannshardt (Oct. 02, 2023), available at <https://www.regulations.gov/comment/OMB-2023-0015-0019>.

⁴⁶ Comment submitted by American Economics Association (Oct. 02, 2023), available at <https://www.regulations.gov/comment/OMB-2023-0015-0022>.

⁴⁷ Comment submitted by Elizabeth Mannshardt (Oct. 02, 2023), available at <https://www.regulations.gov/comment/OMB-2023-0015-0019>.

⁴⁸ Comment submitted by American Economics Association (Oct. 02, 2023), available at <https://www.regulations.gov/comment/OMB-2023-0015-0022>.

§ 1321.1 Purpose.

This part is issued under the authority of the Budget and Accounting Procedures Act of 1950; the Paperwork Reduction Act of 1995; the Information Quality Act; title III of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), also known as the Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA 2018); and other provisions of the Evidence Act. The Office of Management and Budget (OMB), in its role as coordinator of the Federal statistical system under the Paperwork Reduction Act, is required to ensure the efficiency and effectiveness of the system, as well as the integrity, objectivity, impartiality, utility, and confidentiality of information collected or used for statistical purposes. This part is issued to meet the requirements under 44 U.S.C. 3563(c) and to strengthen and support the quality of Federal statistical information.

§ 1321.2 Definitions.

The following terms, as used in this part, are defined as follows:

Accurate, when used with respect to statistical activities, means statistics are correct and consistently match the events and trends being measured.

Agency means any entity that falls within the definition of the term *executive agency*, as defined in 31 U.S.C. 102, or *agency*, as defined in 44 U.S.C. 3502.

Chief Statistician of the United States means the Chief Statistician appointed under 44 U.S.C. 3504(e)(7).

Component means a sub-agency, office, unit, bureau, or other distinct entity when that entity is within an agency that contains a Recognized Statistical Agency or Unit.

Confidential statistical data means any information that is acquired for exclusively statistical purposes and under an obligation not to disclose the information to an unauthorized party.

Confidentiality means a quality or condition accorded to information as an obligation not to disclose that information to an unauthorized party.

Core component means any support component and any component that performs any agency-wide function, such as the offices of Chief Data Officer, Evaluation Officer, Senior Agency Official for Privacy, Chief Information Officer, Chief FOIA Officer, and similar functions.

Data users means individuals or groups of individuals who use Federal statistical information.

Dissemination means the government-initiated distribution of information to a nongovernment entity, including the

public. The term dissemination does not include distribution limited to Federal Government employees, intra-agency or interagency use or sharing of Federal information, or responses to requests for agency records under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a).

Equitable access means that statistical products are disseminated in a manner that does not privilege any one person or group over another, with exceptions only as provided in statutes, rules, or Office of Management and Budget-promulgated policies or guidance.

Fundamental responsibilities means the responsibilities of Recognized Statistical Agencies and Units listed in 44 U.S.C. 3563(a)(1).

Identifiable form means any representation of information that permits the identity of the individual or entity to whom the information applies to be reasonably inferred by either direct or indirect means.

Information means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where the agency's presentation makes it clear that what is being offered is someone's opinion rather than fact or the agency's views.

Information provider denotes members of the public; other agencies of the Federal Government; and organizations outside of the Federal Government, such as State, local, territorial, and Tribal governments, businesses, and other organizations or entities, that provide information to a Recognized Statistical Agency or Unit.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

Integrity, when used with respect to statistical information, refers to the quality of information that is protected against improper modification or destruction, and includes ensuring information nonrepudiation and authenticity.

Nonstatistical purpose—

(1) Means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights,

privileges, or benefits of a particular identifiable respondent; and

(2) Includes the disclosure under 5 U.S.C. 552 of data that are acquired for exclusively statistical purposes under an obligation of confidentiality.

Objective, when used with respect to statistical activities, means accurate, clear, complete, and unbiased.

Parent agency means the following components in an agency that contains a Recognized Statistical Agency or Unit: the parent agency head, each organizational level within the agency under which the Recognized Statistical Agency or Unit is positioned, and each core component.

Parent agency head means the head of the highest organizational level of an agency that contains a Recognized Statistical Agency or Unit.

Recognized Statistical Agency or Unit means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes, as designated by the Director of the Office of Management and Budget under 44 U.S.C. 3562.

Reference date is the time period to which data refer.

Relevant, when used with respect to statistical information, means processes, activities, and other such matters likely to be useful to policymakers and public and private sector data users.

Respondent means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency or provides that information to an agency.

Statistical activities means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole of, or relevant groups or components within, the economy, society, or the natural environment and includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

Statistical information means information produced from statistical activities.

Statistical laws means 44 U.S.C. chapter 35, subchapter III, and other laws pertaining to the protection of information collected for statistical purposes as designated by the Director of the Office of Management and Budget.

Statistical press release is an announcement to media of a statistical

product release that contains the title, subject matter, release date, internet address of, and other available information about the statistical product, as well as the name of the Recognized Statistical Agency or Unit issuing the product and may include any executive summary information or key findings section as shown in the statistical product. A statistical press release is one that provides a policy neutral description of the data and does not include policy pronouncements.

Statistical products means information dissemination products that are published or otherwise made available for public use that describe, estimate, forecast, or analyze the characteristics of groups, customarily without identifying the persons or organizations that comprise such groups or individual data observations with respect to those persons or organizations. Statistical products include general-purpose tabulations, analyses, projections, forecasts, or other statistical reports. Statistical products include products of any form, including both printed and electronic forms.

Statistical purpose—

(1) Means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(2) Includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in paragraph (1) of this definition.

Support component means a component that supports the programmatic functions in achieving the agency's mission, including legal, human resources, communications, legislative affairs, budget, information technology (IT), or procurement functions, but excludes any component of a Recognized Statistical Agency or Unit.

Timeliness or *timely* refers to the dissemination of statistical products and information at their scheduled release time or, in instances where there is no scheduled release time, the dissemination of statistical products or information as close to the event being measured as possible.

Transparent means characterized by providing as much information about the quality of and methods used to produce statistical products as practicable without compromising confidentiality.

§ 1321.3 General provisions.

(a) *Complementary application*. This part should be read as complementary

to existing Office of Management and Budget guidance or Statistical Policy Directives to the extent they are consistent. Effective December 10, 2024, this part supersedes any guidance or Statistical Policy Directives to the extent that they conflict.

(b) *Responsibility of Recognized Statistical Agency or Unit.*

Responsibilities assigned to a Recognized Statistical Agency or Unit under this part are ultimately the responsibility of the head of the Recognized Statistical Agency or Unit, or their designee, unless otherwise specified in this part.

(c) *Responsibility of parent agency.*

Responsibilities assigned to a parent agency under this part are ultimately the responsibility of parent agency head, or their designee, unless otherwise specified in this part.

(d) *Deviations*. To the extent that a parent agency or Recognized Statistical Agency or Unit determines that it is either appropriate or necessary to deviate from a standard parent agency-level process to ensure compliance with this part, the parent agency and the Recognized Statistical Agency or Unit must discuss and determine how to address such deviation, including determining where responsibility lies for compliance with other applicable laws and rules.

(e) *Direct working relationships.*

When an agency or component has a direct working relationship with a Recognized Statistical Agency or Unit, the agency or component must uphold the responsibilities of a parent agency under this part, to the extent that a responsibility applies.

(f) *Consultation*. In implementing statistical laws, this part, or other related statistical policies, the head of a Recognized Statistical Agency or Unit should consult with the Chief Statistician of the United States as necessary.

§ 1321.4 Supporting the four fundamental responsibilities.

(a) *In general*. Each Recognized Statistical Agency or Unit is charged with the fundamental responsibilities. Each agency is directed to enable, support, and facilitate Recognized Statistical Agencies and Units in carrying out these fundamental responsibilities.

(b) *Communication*. The heads of Recognized Statistical Agencies and Units and parent agencies must engage in regular communication with and seek to educate each other.

(c) *Development and revision of policies*. In consultation with the

Recognized Statistical Agency or Unit, each parent agency must:

(1) Not later than December 10, 2026, and consistent with statutory obligations, revise any rules, policies, practices, or organizational structures that impede the Recognized Statistical Agency or Unit's ability to meet its fundamental responsibilities or impede the parent agency's ability to enable, support, and facilitate the Recognized Statistical Agency or Unit in carrying out its fundamental responsibilities, including the parent agency's ability to delegate responsibilities under this part;

(2) Consider the fundamental responsibilities when new rules, policies, practices, organizational structures, or budgets are developed; and

(3) Ensure that its rules, policies, practices, and agreements support the ability of Recognized Statistical Agencies and Units to:

(i) Present and maintain accurate information; and

(ii) Make timely corrections or updates to its statistical products or data when the Recognized Statistical Agency or Unit determines such updates are needed; and

(iii) Meet its responsibility for producing relevant and timely statistical products.

(d) *Innovation and burden reduction.*

Each Recognized Statistical Agency or Unit must:

(1) Seek to continually improve its statistical products and methods and engage in research to support innovation in data collection, analysis, and dissemination, among other statistical activities;

(2) Maximize the utility and minimize duplication of its statistical products; and

(3) Minimize the burden on its respondents, including by engaging with other Recognized Statistical Agencies and Units to identify opportunities to better meet these goals.

(e) *Websites and branding*. Each Recognized Statistical Agency or Unit must:

(1) Participate in the development of coordinated and complementary system-wide branding in collaboration with the Chief Statistician of the United States;

(2) Maintain a website clearly branded with the name of the Recognized Statistical Agency or Unit to provide information to information providers, data users, and the general public;

(3) Include clear branding with the name of the Recognized Statistical Agency or Unit on all websites, statistical products, and statistical press releases; and

(4) Make available to the public on the website required under this paragraph (e):

(i) A mission statement that clearly describes the purpose of the Recognized Statistical Agency or Unit's statistical programs and its commitment to each of the fundamental responsibilities;

(ii) A strategic plan that is consistent with the requirements in 5 U.S.C. 306, which describes the Recognized Statistical Agency or Unit's goals and provides specific, measurable objectives and performance metrics and is assessed no less than every four years alongside and in alignment with the parent agency's strategic plans;

(iii) A list of relevant legislation, rules, and policies or management orders, including those defining organizational placement, that govern the Recognized Statistical Agency or Unit's ability to maintain its commitment to these four fundamental responsibilities;

(iv) Each policy or standard required under this part; and

(v) Any other information as determined by the head of the Recognized Statistical Agency or Unit.

(f) *Websites and branding support.*

Each parent agency head must ensure its Recognized Statistical Agency or Unit has:

(1) Sufficient resources to develop and maintain its website required under paragraph (e) of this section;

(2) The necessary authority and autonomy to determine the content, functionality, appearance, and layout of its website required under paragraph (e) of this section; and

(3) The capacity to directly update the content, functionality, appearance, and layout of the website required under paragraph (e) of this section without reliance on any parent agency official unless the official is directly assigned to the Recognized Statistical Agency or Unit.

(g) *Budget formulation.* It is important that each Recognized Statistical Agency or Unit have the appropriate resources to carry out the fundamental responsibilities set forth in this part.

(1) Each parent agency, in coordination with the Recognized Statistical Agency or Unit, must produce a budget request specific to the Recognized Statistical Agency or Unit that is fully compliant with the requirements of Office of Management and Budget Circular No. A-11 and is presented separately (*i.e.*, clearly presented as the request for the Recognized Statistical Agency or Unit with figures and justification specific to the Recognized Statistical Agency or Unit) as part of the parent agency's

annual budget submission to the Office of Management and Budget.

(2) Each parent agency must provide to the head of each Recognized Statistical Agency or Unit an opportunity to participate with the parent agency in discussions or engagements with the Office of Management and Budget specific to the Recognized Statistical Agency or Unit's budget request submitted in compliance with paragraph (g)(1) of this section.

(3) If a parent agency and a Recognized Statistical Agency or Unit determine that the annual budget submission to the Office of Management and Budget lacks sufficient resources for the Recognized Statistical Agency or Unit to carry out the responsibilities set forth in this part, the parent agency, in coordination with the Recognized Statistical Agency or Unit, must include in the budget submission to the Office of Management and Budget a written explanation of this determination, the programmatic implications, and the tradeoffs that would be necessary to provide the necessary resources to the Recognized Statistical Agency or Unit under the parent agency budget submission.

(h) *Capacity.* It is important that each Recognized Statistical Agency or Unit have the capacity to carry out the fundamental responsibilities set forth in this part.

(1) If a parent agency and a Recognized Statistical Agency or Unit determine (*e.g.*, through the agency capacity assessment or other means) that the Recognized Statistical Agency or Unit does not have the capacity to carry out the fundamental responsibilities set forth in this part, the parent agency and the Recognized Statistical Agency or Unit should jointly develop options for addressing capacity needs and, to the extent practicable, make the necessary resources available.

(2) If the Recognized Statistical Agency or Unit determines it does not have the capacity to carry out the fundamental responsibilities set forth in this part, the head of the Recognized Statistical Agency or Unit should submit to the Chief Statistician of the United States and the relevant Resource Management Office in the Office of Management and Budget a written explanation of the capacity deficit, including an estimate of the amount of resources, labor, or other support needed to address the capacity deficit and a detailed description of the anticipated impact of the current capacity.

(3) When a Recognized Statistical Agency or Unit relies on a support component from a parent agency:

(i) The Recognized Statistical Agency or Unit must, to the greatest extent possible, allocate labor resources to ensure that one or more employees, depending on the size of the Recognized Statistical Agency or Unit, are knowledgeable of the support component, its policies and processes, and best practices for interacting with the support component.

(ii) The parent agency must designate at least one employee of each support component to serve as a liaison for the Recognized Statistical Agency and Unit and ensure each designated employee is knowledgeable of the Recognized Statistical Agency or Unit and its fundamental responsibilities and is capable of effective intra-agency communication.

(iii) The support component and the Recognized Statistical Agency or Unit must work collaboratively to ensure the support component meets the relevant needs of the Recognized Statistical Agency or Unit in a manner that complies with this part and all applicable laws.

(4) When a Recognized Statistical Agency or Unit relies on services or software from a support component:

(i) Prior to making or renewing an award for services or software that will directly affect a Recognized Statistical Agency or Unit's ability to meet the fundamental responsibilities, the relevant support component official must coordinate with the head of the Recognized Statistical Agency or Unit to avoid binding actions and decisions that would conflict with the Recognized Statistical Agency or Unit's ability to carry out its fundamental responsibilities.

(ii) The relevant support component official must ensure that the service or software is sufficient for the Recognized Statistical Agency or Unit to meet its obligation to carry out its fundamental responsibilities. The head of the Recognized Statistical Agency or Unit must clearly communicate the needs of the Recognized Statistical Agency or Unit to meet its obligation to carry out its fundamental responsibilities. If requested by the relevant support component official, the head of the Recognized Statistical Agency or Unit must provide a written list explicitly defining the requirements needed of the service or software to meet its obligation to carry out its fundamental responsibilities.

(iii) If requested by the head of the Recognized Statistical Agency or Unit, the head of the Recognized Statistical Agency or Unit and the head of the support component must enter into a written agreement, and the support

component must provide the service or software in accordance with such agreement.

(iv) The Recognized Statistical Agency or Unit may obtain the service or software separately from the parent agency or support component if they are unable to reach an agreement or, at any point in time, the service or software is not able to be supplied in accordance with the agreement.

(v) If the Recognized Statistical Agency or Unit determines it is necessary to obtain services or software separately from the parent agency, the Recognized Statistical Agency or Unit, in coordination with relevant core component officials, must notify the parent agency head. This notification must include an explanation of why it is necessary to obtain services or software separately and an attestation that the Recognized Statistical Agency or Unit remains in compliance with relevant law and policy. If the parent agency is unable to provide the separate service or software, the parent agency, in coordination with the Recognized Statistical Agency or Unit, must notify the Office of Management and Budget in the written explanation required under paragraph (g)(3) of this section.

(i) *Decision-making authority.* The heads of Recognized Statistical Agencies and Units must have the appropriate decision-making authority with respect to their statistical products, statistical information, and statistical activities. Unless otherwise prohibited by statute, when a statute, rule, or policy authorizes any other agency official to make determinations directly affecting the ability of a Recognized Statistical Agency or Unit to carry out the fundamental responsibilities, the authorized official may delegate that responsibility in writing to the head of the Recognized Statistical Agency or Unit in accordance with paragraphs (i)(1) through (3) of this section.

(1) If the Recognized Statistical Agency or Unit determines that delegation is necessary to carry out its fundamental responsibilities, the Recognized Statistical Agency or Unit must notify the parent agency head.

(2) In making a determination regarding delegation under this paragraph (i), the parent agency head must:

(i) Consider the needs of the Recognized Statistical Agency or Unit and ensure it has all necessary and appropriate authority to carry out its fundamental responsibilities; and

(ii) Ensure the decision is consistent with the government-wide application and interpretation of statistical laws,

consulting with the Chief Statistician of the United States as appropriate.

(3) To the extent permissible under law, the individual to whom a responsibility has been delegated under this paragraph (i) must consult with the delegating official in carrying out such responsibility.

(j) *Delegation of duties.* The Office of Management and Budget must implement its authorities and responsibilities in a manner that enables, supports, and facilitates Recognized Statistical Agencies and Units in carrying out their fundamental responsibilities in a manner consistent with this part. The Chief Statistician of the United States is authorized by statute to carry out the statistical functions set out in 44 U.S.C. 3504(e) on behalf of the Director of the Office of Management and Budget. In furtherance of that authority, the Director must delegate to the Chief Statistician of the United States the authority to carry out any of the functions or responsibilities under 44 U.S.C. chapter 35, subchapter III. The Administrator of the Office of Information and Regulatory Affairs must delegate to the Chief Statistician of the United States the review and approval of proposed collections of information submitted to the Office of Management and Budget by Recognized Statistical Agencies and Units.

§ 1321.5 Relevance and timeliness.

(a) *Responsibilities.* Each Recognized Statistical Agency or Unit must uphold the responsibility to produce and disseminate relevant and timely statistical information by carrying out its requirements under this section. Each parent agency must enable, support, and facilitate the Recognized Statistical Agency or Unit in carrying out its responsibility to produce and disseminate relevant and timely statistical information. Recognized Statistical Agencies and Units must determine:

(1) What statistical products to disseminate, including in the context of the Standard Application Process required under 44 U.S.C. 3583;

(2) The content of its statistical products; and

(3) The timing of disseminations.

(b) *Relevance consultations.* Each Recognized Statistical Agency or Unit must continually seek to understand the diverse interests and needs of policymakers, current and future data users, and the public to ensure statistical products are relevant.

(1) Each Recognized Statistical Agency and Unit must:

(i) Consult with parent agency officials to assess and seek

improvements to the relevance of its statistical products to users' needs and to inform what statistical products to produce and disseminate;

(ii) Consult, as the head of the Recognized Statistical Agency or Unit determines is appropriate, with other data users, including Congress, other agencies, and State, local, territorial, or Tribal governments, to assess and seek improvements to the relevance of its statistical products to users' needs and to inform what statistical products to produce and disseminate;

(iii) Be knowledgeable about programs and policies relating to its subject domains;

(iv) Coordinate and communicate across agencies when planning information collections and dissemination activities; and

(v) Keep abreast of interests and analytical goals of data users.

(2) Each parent agency must:

(i) Share relevant policy and program needs with sufficient detail to allow the Recognized Statistical Agency or Unit to be responsive to those needs;

(ii) Consult with the Recognized Statistical Agency or Unit as part of the stakeholder engagement process when developing the agency evidence-building plan (learning agenda) required under 5 U.S.C. 312, in alignment with Office of Management and Budget guidance; and

(iii) Allow the Recognized Statistical Agency or Unit to establish, determine the membership of, and manage advisory groups or other means of systematic stakeholder engagement, in accordance with applicable law.

(c) *Maximizing timeliness.* (1) Each Recognized Statistical Agency or Unit must maximize the timeliness of statistical products by minimizing the time interval between the release of statistical products and the reference date to the extent practicable, considering available resources and the effects on the other quality dimensions of the information products, and consult with the parent agency regarding the availability of relevant support components required to support the release of statistical products.

(2) Each parent agency must support efforts to maximize timeliness of statistical products by ensuring the Recognized Statistical Agency or Unit is aware of any emerging needs and providing necessary resources to respond to such emerging need.

(3) In any instance where a parent agency observes that a Recognized Statistical Agency or Unit is not upholding the timeliness of statistical products, consistent with paragraph (c)(1) of this section, the parent agency,

after consultation with the head of the Recognized Agency or Unit, head must notify the Chief Statistician of the United States.

(d) *Schedule of release dates.* Each Recognized Statistical Agency or Unit must publicly announce and adhere to a schedule for the release of statistical products.

(1) Each Recognized Statistical Agency or Unit must:

(i) On the website required under § 1321.4, publish a schedule containing the date of release of its regular and recurring statistical products for the next calendar year prior to the beginning of that calendar year;

(ii) Publish the date for release of non-regular or non-recurring statistical products on the schedule required under paragraph (d)(1)(i) of this section as soon as the date is established;

(iii) Designate a point of contact responsible for information about the release schedule and make its contact information readily available to the public on the website required under § 1321.4;

(iv) Minimize changes to the release schedule after it has been published to accommodate only special, unforeseen circumstances; and

(v) If the release date of a statistical product is changed after the schedule has been published, publicly announce the change to the schedule as soon as possible, provide a detailed explanation for such change and, for regular and recurring statistical products, notify the Chief Statistician of the United States.

(2) Each parent agency must support adherence to the published schedule by:

(i) Communicating any parent agency activities or processes that could impact the timing of dissemination activities to the Recognized Statistical Agency or Unit before the schedule is published; and

(ii) If involved in dissemination activities, preparing for dissemination of statistical products in accordance with the published schedule.

§ 1321.6 Credibility and accuracy.

(a) *Responsibilities of each Recognized Statistical Agency or Unit.* Each Recognized Statistical Agency or Unit must uphold the responsibility to conduct credible and accurate statistical activities by carrying out its duties under this paragraph (a). The Recognized Statistical Agency or Unit must determine the appropriate methods, processes, policies, and general conduct of its statistical activities. Each Recognized Statistical Agency or Unit must:

(1) Maintain publicly available policies and standards on the quality of

the information used by the Recognized Statistical Agency or Unit and the statistical products it disseminates, by:

(i) Developing and making available to the public policies and standards to ensure the credibility and accuracy of all statistical products and data disseminated by the Recognized Statistical Agency or Unit;

(ii) Regularly reviewing, maintaining, and improving the policies in paragraph (a)(1)(i) of this section and the methods used to implement them to ensure they are current and effective; and

(iii) Establishing policies and procedures, in consultation with the parent agency's Chief Data Officer and Evaluation Officer, for assessing the quality of data that is used by the Recognized Statistical Agency or Unit but does not originate from the Recognized Statistical Agency or Unit;

(2) Publicly provide documentation for its statistical products, including:

(i) Descriptions of methods and procedures used in designing, collecting, processing, editing, compiling, storing, analyzing, and disseminating information to users, as applicable;

(ii) Indicators of data quality sufficient to allow data users to assess the fitness of the data for their own purposes;

(iii) Descriptions of known limitations or sources of error in the data;

(iv) Citation to source materials where feasible; and

(v) Identification of errors in the statistical products discovered after their release;

(3) Ensure that the Recognized Statistical Agency or Unit lifecycle data management practices adhere to all applicable statutes and standards and guidance issued by the Office of Management and Budget;

(4) Adhere to all applicable statutes and current Office of Management and Budget peer review policies when submitting articles to refereed journals, presenting at professional conferences, and engaging in peer review activities, including OMB M-05-03, *Final Information Quality Bulletin for Peer Review*, and any successor policies; and

(5)(i) Determine the appropriateness of and process for providing professional autonomy to employees of the Recognized Statistical Agency or Unit, including allowing employee engagement in professional development activities such as participating in peer review, publication, or professional associations, and attending and presenting at professional conferences without review or approval from the

parent agency, subject to applicable statutes.

(ii) When implementing paragraph (a)(5)(i) of this section, ensure all statutory requirements, such as ethics, are met.

(b) *Responsibilities of each parent agency.* Each parent agency must enable, support, and facilitate the Recognized Statistical Agency and Unit in carrying out its responsibility to conduct credible and accurate statistical activities. Each parent agency must:

(1) Ensure the Recognized Statistical Agency or Unit has sufficient autonomy to maintain its own standards for the quality of the data used and the statistical information it produces and to determine whether its statistical products are of sufficient quality for dissemination. Unless otherwise prohibited by statute, when a statute, rule, or policy authorizes any other agency official to make such determinations, that responsibility must be delegated to the head of the Recognized Statistical Agency or Unit;

(2) Prohibit its employees, contractors, and agents, other than those designated by the releasing Recognized Statistical Agency or Unit head, from publicly commenting on any data released by the Recognized Statistical Agency or Unit until after the official release of the data;

(3) Permit the Recognized Statistical Agency or Unit to determine whether statistical disseminations, including related statistical press releases or publicity materials not containing policy pronouncements, should be disseminated by or through the parent agency and, if so, ensure that statistical information attributable to the Recognized Statistical Agency or Unit disseminated by or through the parent agency is not altered in any way not authorized by the head of such Recognized Statistical Agency or Unit; and

(4) Allow the head of the Recognized Statistical Agency or Unit to determine the appropriateness of and process for providing professional autonomy to employees of the Recognized Statistical Agency or Unit to submit articles that do not address policy, management, or budget issues, and that do not contain legally privileged information or information legally prohibited from disclosure, to refereed journals; present at professional conferences; and engage in peer review activities without requiring approval from outside of the Recognized Statistical Agency or Unit, unless such approval is required by law. When approval outside of the Recognized Statistical Agency or Unit is

required, such as ethics approval, the parent agency must either:

(i) Assign the support component employee that will conduct these reviews to report to the head of the Recognized Statistical Agency or Unit; or

(ii) Ensure that the support component employee conducting the review, in coordination with the liaison designated in § 1321.4, provides sufficient information and advice, including a recommendation if appropriate, to the head of the Recognized Statistical Agency or Unit so that such head may make an informed decision regarding approval.

§ 1321.7 Objectivity.

(a) *Responsibilities of each Recognized Statistical Agency and Unit.* Each Recognized Statistical Agency and Unit must uphold the responsibility to conduct objective statistical activities by carrying out its duties under this paragraph (a). The Recognized Statistical Agency or Unit must determine the policies and practices that ensure objectivity of its statistical activities, including ensuring equitable access to the statistical products it disseminates. Each Recognized Statistical Agency or Unit must:

(1) Produce statistical products that are impartial and free from undue influence and the appearance of undue influence by:

(i) Employing transparent and reproducible methods and processes in producing statistical products, to the extent feasible and consistent with the protection of confidential statistical data;

(ii) Disseminating impartial statistical products in a clear and complete manner, without limitation or selection to promote a particular policy position or group interest; and

(iii) Announcing dissemination activities, such as through statistical press releases or on the Recognized Statistical Agency or Unit's website, in a manner designed to be factual, comprehensive, accurate, easily understood by the public, and without favor to a particular policy position or group interest;

(2) Ensure data users have equitable access to its statistical products by:

(i) Making public releases available to all data users at the same time, with limited exceptions as allowable in OMB Statistical Policy Directives, in accordance with the scheduled release date;

(ii) Disseminating and making available to the public free of charge any statistical product deemed suitable for

public dissemination that has been provided to any other data user; and

(iii) For confidential statistical data that are not deemed suitable for public dissemination, ensuring policies and procedures for granting access are applied consistently, in accordance with statute, rules and guidance issued by the Office of Management and Budget to implement 44 U.S.C. 3582 and 3583, and other applicable authorities that govern access to confidential statistical data;

(3) Determine the necessary qualifications for and allocate available labor resources among different job positions supporting the Recognized Statistical Agency or Unit's lifecycle data management (e.g., economists, statisticians, data scientists, information technology (IT) specialists, and other subject matter experts) and evaluate candidates based on assessments of scientific and technical knowledge, credentials, and experience; and

(4) Consistent with applicable law and policy, maintain functional separation from any administrative, regulatory, law enforcement, and policymaking functions at any parent agency or at the Recognized Statistical Agency or Unit by maintaining exclusive authority within the Recognized Statistical Agency or Unit for granting access to its confidential statistical data and the information systems that hold confidential statistical data.

(b) *Responsibilities of each parent agency.* Each parent agency must enable, support, and facilitate the Recognized Statistical Agency and Unit in carrying out its responsibility to conduct objective statistical activities. Each parent agency must—

(1) Allow the publication of statistical products without requiring clearance of the content from offices or officials outside of the Recognized Statistical Agency or Unit, and allow the Recognized Statistical Agency and Unit to respond to inquiries from external interested communities and stakeholders, including the media, the Congress, and others, about its statistical products in a manner that ensures appropriate consultation with the parent agency without the parent agency requiring review, approval, or edits to the response, unless responses to those inquiries include matters related to policy, budget, or management issues; legally privileged information; or matters affecting current or future litigation;

(2) Support the impartiality of the Recognized Statistical Agency and Unit in its production and dissemination of statistical products by ensuring it is

permitted to determine the methods for conducting statistical activities for statistical purposes and for disseminating statistical products. Unless otherwise prohibited by statute, when a statute, rule, or policy authorizes any other agency official to make such determinations, that responsibility must be delegated to the head of the Recognized Statistical Agency or Unit, as described in § 1321.4(b);

(3) Ensure compliance with 44 U.S.C. 3520(d);

(4) Ensure that the resources of the Recognized Statistical Agency or Unit are managed by the Recognized Statistical Agency or Unit in accordance with the fundamental responsibilities described in this part by allowing the Recognized Statistical Agency or Unit to:

(i) Maintain and determine the functional requirements, specifications, and performance capabilities of the information technology it uses to conduct statistical activities and disseminate statistical products;

(ii) Determine the presentation of statistical information and the timing of when statistical information is disseminated;

(iii) Allocate its labor resources among different job positions;

(iv) Develop, explain, and respond directly to queries about resource needs through congressional and executive branch budget processes, as those processes are established through OMB Circular A-11; and

(5) Support the autonomy of the Recognized Statistical Agency or Unit to manage and control its data by ensuring that the Recognized Statistical Agency and Unit has the authority to make all determinations regarding:

(i) The governance of its data, including the archiving of its data;

(ii) Access to its confidential statistical data and the information systems that hold confidential statistical data; and

(iii) The approval, direction, and management of the use of its confidential statistical data by external parties for purposes of developing evidence, as defined in the 44 U.S.C. 3561 and relevant Office of Management and Budget policies, including the authority for ensuring compliance with the Standard Application Process required under 44 U.S.C. 3583 and related guidance.

§ 1321.8 Confidentiality.

(a) *Responsibilities of each Recognized Statistical Agency and Unit.* Each Recognized Statistical Agency and Unit must uphold the responsibility to

protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of confidential statistical data by carrying out its duties under this paragraph (a). The Recognized Statistical Agency or Unit must determine whether the tools, practices, and procedures employed to ensure the effective security of the confidential statistical data it holds comply with this part and with statistical laws. Each Recognized Statistical Agency or Unit must:

(1) Secure all confidential statistical data against unauthorized access. This includes:

(i) Ensuring that any information systems containing confidential statistical data employ effective barriers to restrict access such that only employees of the Recognized Statistical Agency or Unit or its authorized agents have access to such data. This must be done in accordance with the requirements of the Confidential Information Protection and Statistical Efficiency Act of 2018, codified as amended at 44 U.S.C. 3561–3576; other applicable statistical laws; and policies and guidance issued by the Office of Management and Budget, while also ensuring compliance with the Federal Information Security Modernization Act of 2014, codified as amended at 44 U.S.C. 3551–3558, and other applicable laws and policies;

(ii) Ensuring required security policies, configurations, and controls placed on information technology assets are appropriate to protect the confidentiality of confidential statistical data throughout the data lifecycle;

(iii) Controlling logical access to data storage assets containing confidential statistical data and restricting access to authorized personnel; and

(iv) Complying with paragraph (c) of this section;

(2) Ensure that confidential statistical data are not used for any nonstatistical purposes. This includes:

(i) Coordinating with the agency Chief Freedom of Information Act Officer to ensure appropriate application of exemptions pertaining to confidential statistical data in response to Freedom of Information Act requests;

(ii) Employing current best practices, including statistical disclosure avoidance methods and procedures, to minimize the risk of disclosing confidential statistical data; and

(iii) Complying with paragraph (c) of this section;

(3) Provide information to the public about the integrity, confidentiality, and impartiality of all confidential statistical data acquired and maintained under its

authority, so that it retains the trust of its information providers and data users, by:

(i) Making readily accessible, for example, through its website, information about its policies on confidentiality and information security;

(ii) Developing and maintaining a comprehensive data inventory as required under 44 U.S.C. 3511 and related guidance; and

(iii) Complying with the Standard Application Process required under 44 U.S.C. 3583 and related guidance;

(4) Provide sufficient information to respondents to enable them to make an informed decision about whether to provide the requested information by:

(i) Providing notification statements to respondents to collections of information sponsored by the Recognized Statistical Agency or Unit consistent with this section, including the intended uses of the information being collected, potential future uses, their relevance for public purposes, and the extent of confidentiality protection that will be provided; and

(ii) When acquiring data from another agency, ensuring that any agreement with the providing agency addresses any legal requirements for notice and consent consistent with applicable law and applicable rules implementing 44 U.S.C. 3581;

(5) Maintain and develop professional staff, or identify appropriate ways to access professional staff, that are trained in statistical disclosure limitation and restricted access mechanisms to maximize the protection of the confidential statistical data throughout the data lifecycle, including creation or collection, processing, dissemination, use, storage, and disposition; and

(6) Inform employees, contractors, and other approved agents of the Recognized Statistical Agency or Unit of their responsibility not to willfully disclose confidential statistical data in an identifiable form, and of the legal consequences of such disclosure, such as the penalty in 44 U.S.C. 3572(f) that provides that any officer, employee, or approved agent of the Recognized Statistical Agency or Unit who willfully discloses such information is subject to fines and penalties, to include being guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$250,000, or both.

(b) *Responsibilities of each parent agency.* Each parent agency must enable, support, and facilitate the Recognized Statistical Agency or Unit in carrying out its responsibility to protect the trust of information providers by ensuring the confidentiality and

exclusive statistical use of its information. Each parent agency must:

(1) Ensure that the Recognized Statistical Agency or Unit has the sole authority to provide access to its confidential statistical data. Unless otherwise prohibited by statute, when a statute, rule, or policy authorizes any other official to control access to such data, that responsibility must be delegated to the head of the Recognized Statistical Agency or Unit.

(2) Ensure that implementation of the Federal Information Technology Acquisition Reform Act, 40 U.S.C. 11319, is consistent with the Recognized Statistical Agency or Unit's responsibility to protect confidential statistical data from unauthorized use or disclosure, by:

(i) Ensuring that information technology policies appropriately safeguard and protect the integrity, confidentiality, and availability of confidential statistical data; and

(ii) Ensuring that confidential statistical data are protected by any effective security standards established in writing by the Recognized Statistical Agency or Unit.

(3) Ensure that the Senior Agency Official for Privacy consults with the Recognized Statistical Agency or Unit when the Senior Agency Official for Privacy performs duties related to the Recognized Statistical Agency or Unit's statistical activities, including under the Privacy Act of 1974, codified as amended at 5 U.S.C. 552a; the E-Government Act of 2002, codified at 44 U.S.C. 3501 note; and other applicable statutory requirements, including:

(i) Conducting Privacy Impact Assessments on information technology systems that store and process confidential statistical data, as required by law and Office of Management and Budget guidance;

(ii) Responding to Privacy Act requests to access or amend confidential statistical data maintained by the Recognized Statistical Agency or Unit; and

(iii) Responding to breaches of confidential statistical data containing personally identifiable information in a way that complies with law and policy and is sensitive to the Recognized Statistical Agency or Unit's need to maintain the public trust.

(4) Ensure that the agency Chief Freedom of Information Act Officer coordinates with the Recognized Statistical Agency or Unit to ensure appropriate application of exemptions pertaining to confidential statistical data in response to Freedom of Information Act requests.

(c) *Responsibilities to protect confidential statistical data.* Each Recognized Statistical Agency or Unit is responsible for protecting the confidentiality and exclusive statistical use of confidential statistical data by carrying out its duties under this paragraph (c). Each parent agency must enable, support, and facilitate the Recognized Statistical Agency or Unit in carrying out its responsibility to protect the confidentiality and exclusive statistical use of confidential statistical data.

(1) The head of each Recognized Statistical Agency or Unit must:

(i) Determine who is authorized to access confidential statistical data;

(ii) Ensure that access to confidential statistical data is limited to officers and employees of such Recognized Statistical Agency or Unit and its designated agents; and

(iii) Establish written standards and processes by which the head of such Recognized Statistical Agency or Unit designates a person as an agent, which must:

(A) Comply with 44 U.S.C. 3572 and other applicable statistical law;

(B) Ensure designated agents are fully informed of, and have agreed to comply with, all legal requirements to access confidential statistical data; and

(C) Define the scope of such agent's authorization to access confidential statistical data.

(2) The parent agency head must:

(i) Ensure confidential statistical data are secure from access by any individual unless such individual has been authorized to access such confidential statistical data by the head of the Recognized Statistical Agency or Unit in accordance with paragraph (c)(1) of this section;

(ii) Prohibit agency officers or employees from accessing confidential statistical data unless they have been authorized to access such confidential statistical data by the head of the Recognized Statistical Agency or Unit in accordance with paragraph (c)(1) of this section; and

(iii) Ensure the Recognized Statistical Agency or Unit has the resources necessary to ensure confidential statistical data are secure from unauthorized access.

(3) Nothing in this part authorizes the parent agency head, or anyone else, to access confidential statistical data, unless the head of the Recognized Statistical Agency or Unit has designated such individual as an agent.

(4) When a component needs access to confidential statistical data, the head of the component must:

(i) Establish policies to prohibit access to confidential statistical data by any individual unless such individual has been authorized by the head of the Recognized Statistical Agency or Unit in accordance with paragraph (c)(1) of this section;

(ii) Ensure that any officer or employee that needs to access confidential statistical data meets the written requirements issued by the Recognized Statistical Agency or Unit;

(iii) To the greatest extent possible, limit the scope and number of its requests for access to confidential statistical data;

(iv) Coordinate with the Recognized Statistical Agency or Unit to determine the number of persons needing access to confidential statistical data; and

(v) Provide the Recognized Statistical Agency or Unit with any information necessary for the Recognized Statistical Agency or Unit to make a determination regarding access to confidential statistical data.

(5) The head of the Recognized Statistical Agency or Unit must coordinate with the head of the parent agency or any component requesting access to confidential statistical data as described in paragraphs (c)(2) and (4) of this section to identify and designate necessary agents to fulfill the component's responsibilities.

(6) If the parent agency head finds that the Recognized Statistical Agency or Unit is unable to designate a sufficient number of agents for the parent agency to fulfill its responsibilities, the parent agency head must consult with the head of the Recognized Statistical Agency or Unit and the Chief Statistician of the United States to resolve the issue.

(7) Each Recognized Statistical Agency or Unit must track access to its information systems that contain confidential statistical data and maintain sufficient access logs that detail the individual accessing such data and the time of access. Each Recognized Statistical Agency or Unit must ensure that confidential statistical data hosted outside of its information systems is maintained in a manner such that the host can track access to the confidential statistical data in a way sufficient to detail the individual accessing the data and the time of access and that the Recognized Statistical Agency or Unit is notified in a timely manner of any unauthorized access. The parent agency must ensure the Recognized Statistical Agency or Unit has sufficient technology resources to ensure all access to confidential statistical data is tracked.

(i) The Recognized Statistical Agency or Unit must monitor the access log to ensure only authorized persons have accessed confidential statistical data.

(ii) If any unauthorized person has accessed confidential statistical data, the Recognized Statistical Agency or Unit must notify the parent agency head and the Chief Statistician of the United States, and the parent agency head and the head of the Recognized Statistical Agency or Unit must:

(A) Address any deficiencies that led to such unauthorized access to ensure unauthorized access does not occur in the future; and

(B) Provide a written report to the Chief Statistician of the United States within 30 days detailing the remediation efforts.

§ 1321.9 Compliance review.

(a) *Compliance review.* In accordance with guidance promulgated under paragraph (e)(1) of this section, the Inspector General of each parent agency must conduct a review to determine whether the Recognized Statistical Agency or Unit and parent agency are in compliance with this part and whether the Recognized Statistical Agency or Unit has sufficient resources to carry out the fundamental responsibilities. To ensure consistent interpretation and application of statistical laws, the Inspector General must consult with the Chief Statistician of the United States.

(b) *Frequency of compliance review.*

(1) The Inspector General must conduct a compliance review of each Recognized Statistical Agency or Unit, in accordance with paragraph (a) of this section, no earlier December 10, 2026, and not less frequently than once every three years thereafter.

(2) The Interagency Council on Statistical Policy (ICSP) may request a compliance review of a Recognized Statistical Agency or Unit and parent agency at any time if the ICSP has reason to believe there is a substantial change in circumstances regarding compliance with this part.

(i) The ICSP must submit a written request for a compliance review with a detailed explanation of the reasons there may be a substantial change in compliance with this section to the Inspector General of the parent agency to be reviewed.

(ii) The Inspector General must review any request from the ICSP, determine whether a review is appropriate, and provide a written response to the ICSP within 30 days of receiving such request.

(c) *Compliance review report.* The Inspector General must submit a report on the results of the review made under

this section to the parent agency head, the head of the Recognized Statistical Agency or Unit, the Chief Statistician of the United States, and relevant congressional committees. For purposes of this review, the head of the Recognized Statistical Agency or Unit is considered a responsible official. The Inspector General shall include in the report a summary of major findings and, if deficiencies are identified during the review, a set of recommendations for improving compliance with this part.

(d) *Role of the Chief Statistician of the United States.* The Chief Statistician of the United States will:

(1) Engage with each Recognized Statistical Agency and Unit and parent agency to address any deficiencies identified in the report;

(2) Publicly post a list of recommendations appropriate for public dissemination made to each agency and the status of the agency in addressing each recommendation on <https://www.StatsPolicy.gov> or any successor website;

(3) Make available appropriate materials, training, and other relevant resources to the Council for Inspector General Integrity and Efficiency regarding statistical laws and practices; and

(4) Include standards for remedial actions for a Recognized Statistical Agency or Unit for persistent failures to comply with this part in the guidance to implement the Recognized Statistical Agency or Unit designation process required under 44 U.S.C. 3562(a).

(e) *Council of the Inspectors General on Integrity and Efficiency.* Not later than December 10, 2026, the Council of the Inspectors General on Integrity and Efficiency, in consultation with the Chief Statistician of the United States and with consideration given to the available resources and independence of individual Offices of Inspectors General, must:

(1) Develop and promulgate guidance that specifies procedures for the compliance review, and compliance determinations required under paragraph (a) of this section and a standardized format for reports required under paragraph (c) of this section to ensure consistency across agencies;

(2) Establish a working group for Inspectors General responsible for conducting reviews under this section to assist the Inspectors General in developing the expertise in statistical laws and processes necessary to ensure the integrity of statistical agencies; and

(3) Regularly consult with the Chief Statistician of the United States on the appropriate interpretation and

application of statistical laws and practices.

Shalanda D. Young,

Director, Office of Management and Budget.

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1775

[Docket Number: RUS–24–WATER–0031]

Technical Assistance Grants

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Services (RUS or Agency), an agency in the United States Department of Agriculture (USDA) Rural Development (RD) Mission area, is issuing a final rule to update the Water and Environmental Programs' (WEP) Technical Assistance Grants regulation by updating the audit and financial statement language to align with the Office of Management and Budgets (OMB) 2024 revisions.

DATES: *Effective date:* October 11, 2024.

FOR FURTHER INFORMATION CONTACT:

Michele Brooks, Assistant Administrator, Water and Environmental Programs, United States Department of Agriculture, 1400 Independence Avenue SW, Stop 1548, Room 4121-South Building, Washington, DC 20250–1548. Telephone: (202) 692–0308. Email: michele.brooks@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RD is a mission area within USDA comprised of the RUS, the Rural Business-Cooperative Service and Rural Housing Service that strives to increase economic opportunity and improve the quality of life for all rural Americans. RD invests in rural America with loan, grant, and loan guarantee programs to help drive economic security and prosperity.

Rural communities obtain the technical assistance and financing necessary to develop drinking water and waste disposal systems through RUS WEP. Safe drinking water and sanitary waste disposal systems are vital not only to public health, but also to the economic vitality of rural America. RD is a leader in helping rural America improve the quality of life and increase the economic opportunities for rural people.

OMB revised several parts of OMB Guidance for Grants and Agreements which is now called OMB Guidance for Federal Financial Assistance and is located in title 2 of the Code of Federal Regulations. The revisions were published in the **Federal Register** on April 22, 2024, at 89 FR 30046. The revisions must be implemented by October 1, 2024, but can be implemented any time after June 21, 2024. This final rule is being published as a technical/administrative correction to ensure the Agency's audit and financial statement requirements align with the OMB revisions made to 2 CFR part 200.

II. Summary of Changes

Section 1775.21(a) and (b) were updated to remove the \$750,000 monetary amount in order to reference the current Single Audit threshold and to amend the audit submission deadline. The audit submission requirement was updated to be thirty (30) calendar days after the auditee receives the auditor's report or nine (9) months after the end of the grantee's fiscal year, whichever is earlier. These changes were made to align with the updates to 2 CFR part 200.

III. Executive Orders

Executive Order 12866—Classification

This final rule is exempt from OMB review for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Congressional Review Act

This rule is not subject to the Congressional Review Act ("CRA") (5 U.S.C. 801 *et seq.*), as the CRA provides an exemption for any rule relating to agency management or personnel and for rules relating to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

Assistance Listing Number (Formally Known as the Catalog of Federal Domestic Assistance)

The Assistance Listing Numbers assigned to the programs affected by this final rule are 10.761—Technical Assistance and Training Grants and 10.762—Solid Waste Management Systems Grants. The Assistance Listings are available at SAM.gov.

Executive Order 12372—Intergovernmental Consultation

The Assistance Listing Numbers are 10.761 and 10.762 for these programs and are subject to the provisions of Executive Order 12372 which requires