

## **DEPARTMENT OF COMMERCE**

### **Confidentiality Pledge Revision Notice**

**AGENCY:** Department of Commerce, U.S. Census Bureau

**ACTION:** Notice of Revision of the Confidentiality Pledge under Title 13 United States Code, Section 9.

**SUMMARY:** Under 44 U.S.C. 3506(e) and 13 U.S.C. Section 9, the U.S. Census Bureau is announcing revisions to the confidentiality pledge it provides to its respondents under Title 13, United States Code, Section 9. These revisions are required by the passage and implementation of provisions of the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223), which permit and require the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. More details on this announcement are presented in the SUPPLEMENTARY INFORMATION section below.

**DATES:** These revisions become effective upon publication of this notice in the **Federal Register**. In a separate companion **Federal Register** notice, the U.S. Census Bureau is seeking public comment on these confidentiality pledge revisions.

**ADDRESSES:** Questions about this notice should be addressed to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [jjessup@doc.gov](mailto:jjessup@doc.gov))

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Robin J. Bachman, Policy Coordination Office, Census Bureau, HQ-8H028, Washington, DC 20233; 301-763-6440 (or via email at [pco.policy.office@census.gov](mailto:pco.policy.office@census.gov)). Due to delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

**SUPPLEMENTARY INFORMATION:**

Federal statistics provide key information that the Nation uses to measure its performance and make informed choices about budgets, employment, health, investments, taxes, and a host of other significant topics. The overwhelming majority of Federal surveys are conducted on a voluntary basis. Respondents, ranging from businesses to households to institutions, may choose whether or not to provide the requested information. Many of the most valuable Federal statistics come from surveys that ask for highly sensitive information such as proprietary business data from companies or particularly personal information or practices from individuals. Strong and trusted confidentiality and exclusively statistical use pledges under Title 13, U.S.C. and similar statistical confidentiality pledges are effective and necessary in honoring the trust that businesses, individuals, and institutions, by their responses, place in statistical agencies.

Under the authority of Title 13, U.S.C. and similar statistical confidentiality protection statutes, many Federal statistical agencies make statutory pledges that the information respondents provide will be seen only by statistical agency personnel or their sworn agents, and will be used only for statistical purposes. Title 13, U.S.C. and similar statutes protect the confidentiality of information that agencies collect solely for statistical purposes and under a pledge of confidentiality. These acts protect such statistical information from administrative, law enforcement, taxation, regulatory, or any other non-statistical use and immunize the information submitted to statistical agencies from legal process. Moreover, many of these statutes carry criminal penalties of a Class E felony (fines up to \$250,000, or up to five years in prison, or both) for conviction of a knowing and willful unauthorized disclosure of covered information.

As part of the Consolidated Appropriations Act for Fiscal Year 2016 signed on December 17, 2015, the Congress included the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223). This Act, among other provisions, permits and requires the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. The technology currently used to provide this protection against cyber malware is known as Einstein 3A; it electronically searches Internet traffic in and out of Federal civilian agencies in real time for malware signatures.

When such a signature is found, the Internet packets that contain the malware signature are shunted aside for further inspection by Department of Homeland Security (DHS) personnel. Since it is possible that such packets entering or leaving a statistical agency's information

technology system may contain a small portion of confidential statistical data, statistical agencies can no longer promise their respondents that their responses will be seen only by statistical agency personnel or their sworn agents. However, they can promise, in accordance with provisions of the Federal Cybersecurity Enhancement Act of 2015, that such monitoring can be used only to protect information and information systems from cybersecurity risks, thereby, in effect, providing stronger protection to the integrity of the respondents' submissions.

Consequently, with the passage of the Federal Cybersecurity Enhancement Act of 2015, the Federal statistical community has an opportunity to welcome the further protection of its confidential data offered by DHS' Einstein 3A cybersecurity protection program. The DHS cybersecurity program's objective is to protect Federal civilian information systems from malicious malware attacks. The Federal statistical system's objective is to ensure that the DHS Secretary performs those essential duties in a manner that honors the Government's statutory promises to the public to protect their confidential data. Given that the Department of Homeland Security is not a Federal statistical agency, both DHS and the Federal statistical system have been successfully engaged in finding a way to balance both objectives and achieve these mutually reinforcing objectives.

Accordingly, DHS and Federal statistical agencies, in cooperation with their parent departments, have developed a Memorandum of Agreement for the installation of Einstein 3A cybersecurity protection technology to monitor their Internet traffic and have incorporated an associated Addendum on Highly Sensitive Agency Information that provides additional protection and enhanced security handling of confidential statistical data.

However, many current Title 13, U.S.C. and similar statistical confidentiality pledges promise that respondents' data will be seen only by statistical agency personnel or their sworn agents. Since it is possible that DHS personnel could see some portion of those confidential data in the course of examining the suspicious Internet packets identified by Einstein 3A sensors, statistical agencies need to revise their confidentiality pledges to reflect this process change. Therefore, the U.S. Census Bureau is providing this notice to alert the public to the confidentiality pledge revisions in an efficient and coordinated fashion.

The following is the revised statistical confidentiality pledge for the Census Bureau's data collections:

*The U.S. Census Bureau is required by law to protect your information. The Census Bureau is not permitted to publicly release your responses in a way that could identify you. Per the Federal Cybersecurity Enhancement Act of 2015, your data are protected from cybersecurity risks through screening of the systems that transmit your data.*

The following listing includes Census Bureau information collections which are confidential under 13 U.S.C. Section 9, as well as information collections that the Census Bureau conducts on behalf of other agencies which are confidential under 13 U.S.C. Section 9 and for which the confidentiality pledges will also be revised.

<b>OMB Number</b>	<b>Title of Information Collection</b>
0607-0008	Manufacturers' Shipments, Inventories, and Orders Survey
0607-0013	Annual Retail Trade Report
0607-0049	Current Population Survey (CPS) Basic Demographics

0607-0104 Advance Monthly Retail Trade Survey (MARTS)  
 0607-0110 Survey of Housing Starts, Sales, and Completions  
 0607-0117 U.S. Census-Age Search  
 0607-0151 The Boundary and Annexation Survey (BAS) & Boundary Validation Program (BVP)  
 0607-0153 Construction Progress Reporting Surveys  
 0607-0175 Quarterly Survey of Plant Capacity Utilization  
 0607-0179 Housing Vacancy Survey (HVS)  
 0607-0189 Business and Professional Classification Report  
 0607-0190 Monthly Wholesale Trade Survey  
 0607-0195 Annual Wholesale Trade Survey (AWTS)  
 0607-0354 Annual Social and Economic Supplement to the Current Population Survey  
 0607-0368 Special Census Program  
 0607-0422 Service Annual Survey  
 0607-0432 Quarterly Financial Report (QFR)  
 0607-0444 2014 - 2016 Company Organization Survey  
 0607-0449 Annual Survey of Manufactures  
 0607-0464 October School Enrollment Supplement to the Current Population Survey  
 0607-0466 Current Population Survey, Voting and Registration Supplement  
 0607-0561 Manufacturers' Unfilled Orders Survey  
 0607-0610 Current Population Survey June Fertility Supplement  
 0607-0717 Monthly Retail Trade Survey  
 0607-0725 Generic Clearance for Questionnaire Pretesting Research  
 0607-0757 2017 New York City Housing and Vacancy Survey  
 0607-0782 Annual Capital Expenditures Survey  
 0607-0795 Generic Clearance for Geographic Partnership Programs  
 0607-0809 Generic Clearance for MAF and TIGER Update Activities  
 0607-0810 The American Community Survey  
 0607-0907 Quarterly Services Survey  
 0607-0909 Information and Communication Technology Survey  
 0607-0912 Business R&D and Innovation Survey  
 0607-0921 2017 Economic Census - Commodity Flow Survey (CFS) - Advance Questionnaire  
 0607-0932 2017 Economic Census -- Commodity Flow Survey  
 0607-0936 American Community Survey Methods Panel Tests  
 0607-0963 2015 Management and Organizational Practices Survey  
 0607-0969 Federal Statistical System Public Opinion Survey  
 0607-0971 Generic Clearance for 2020 Census Tests to Research the Use of Automation in Field Data Collection Activities  
 0607-0977 2014 Survey of Income and Program Participation (SIPP) Panel  
 0607-0978 Generic Clearance for Internet Nonprobability Panel Pretesting  
 0607-0983 Comparing Health Insurance Measurement Error (CHIME)  
 0607-0986 Annual Survey of Entrepreneurs  
 0607-0987 The School District Review Program (SDRP)

0607-0988 The Redistricting Data Program  
 0607-0989 2016 Census Test  
 0607-0990 National Survey of Children's Health  
 0607-0991 2017 Economic Census Industry Classification Report  
 0607-0992 Address Canvassing Testing  
 0607-XXXX 2017 Census Test - *currently submitted for clearance*  
 0607-0760 Economic Census Round 3 Focus Group Discussion - *currently submitted for clearance*  
 0607-XXXX Collection of State Administrative Records Data - *currently submitted for clearance*  
 0607-XXXX 2020 Census Local Update of Census Addresses Operation (LUCA) - *currently submitted for clearance*  
 2528-0017 2015 American Housing Survey  
 1220-0175 American Time Use Survey (ATUS)  
 1220-0050 Consumer Expenditure Quarterly and Diary Surveys (CEQ/CED)  
 1220-0100 Current Population Survey (CPS) - Basic Labor Force  
 1121-0317 Identify Theft Supplement to the NCVS  
 1121-0111 National Crime Victimization Survey 2015-2018  
 3145-0141 National Survey of College Graduates (NSCG)  
 1018-0088 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation  
 1121-0260 2015 Police Public Contact Supplement  
 1121-0184 2017 School Crime Supplement to the NCVS  
 1121-0302 Supplemental Victimization Survey  
 2528-0013 Survey of Market Absorption (SOMA)  
 2528-0276 Rental Housing Finance Survey (RHFS)  
 1905-0169 Manufacturing Energy Consumption Survey (MECSA)  
 2528-0029 Manufactured Housing Survey (MHS)  
 0935-0110 Medical Expenditure Panel Survey (MEPS)  
 1220-0187 ATUS-Eating and Health Supplement  
 0536-0043 Food Security Supplement to the Current Population Survey  
 1220-0153 Contingent Worker Supplement to the Current Population Survey - (Currently in Federal Register Notice Stage - has not been fully approved)  
 1220-0102 Veterans Supplement to the Current Population Survey  
 0970-0416 Child Support Supplement to the Current Population Survey  
 3064-0167 National Survey of Unbanked and Underbanked Households  
 1220-0102 Volunteers Supplement  
 1220-0104 Displaced Workers Supplement  
 3135-0136 Survey of Public Participation in the Arts  
 0660-0221 Computer and Internet Use

Dated:

**Sheleen Dumas,**

Office of the Chief Information Officer.

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