



MEMORANDUM

Date: September 20, 2007

From: Alvan O. Zarate, Ph.D.
Confidentiality Officer
National Center for Health Statistics
Centers for Disease Control and Prevention

Subject: Initial Report from the National Center for Health Statistics to the Office of Management and Budget as required in the CIPSEA Implementation Guidance dated June 15, 2007

To: Brian Harris-Kojetin, Ph.D.,
Statistical and Science Policy Office
Office of Information and Regulatory
Affairs, Office of Management and Budget

The National Center for Health Statistics (NCHS) is filing an initial report as required by the June 15, 2007 CIPSEA Implementation Guidance. Attachment 1 is a listing of the data collections that were covered by CIPSEA during the period December 2002-December 2006. Attachment 2 provides information on the use of the Agent provision including type and number of agents and type of access from late 2005 through August 2007. Examples of the interagency agreement and statements provided by on-site agents and NCHS Research Data Center users are found in Attachments 3, 4 and 5. NCHS CIPSEA contract language, which is being inserted in all current contracts, is provided in Attachment 6.

With the assistance of the NCHS Information Systems Security Officer and OMB Clearance Officer, the NCHS Confidentiality Officer reviews NCHS confidentiality and security procedures for adherence to OMB CIPSEA standards as set forth in the June 15, 2007 Implementation Guidance. This review involves all interagency agreements for offsite access to CIPSEA-protected information as well as all proposed data collection approval requests as they move through the PRA OMB clearance process. For data collections that are OMB exempt, the CIPSEA requirements are monitored during the NCHS Ethics Review Board process.

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Per guideline instructions, this memorandum with attachments will be posted on the NCHS website.

Sincerely,

Alvan O. Zarate, Ph.D

Attachments

cc:

Dr. Sondik
Dr. Madans
Mrs. Moien
Mr. Macias

**Attachment 1. NCHS Data Collection Activities conducted under CIPSEA
(initial report: December 2002 – December 2006)**

OMB Clearance Number	Survey/Data Collection Name
0920-0212	National Hospital Discharge Survey
0920-0213	National Vital Statistics Report
0920-0214	National Health Interview Survey
0920-0215	National Death Index
0920-0217	Mortality Training Application
0920-0222	Questionnaire Development Research Laboratory
0920-0234	National Ambulatory Medical Care Survey
0920-0237	National Health and Nutrition Examination Survey
0920-0278	National Hospital Ambulatory Medical Care Survey
0920-0298	National Hospice and Home Care Survey
0920-0314	National Survey of Family Growth
0920-0334	National Survey of Ambulatory
0920-0353	National Nursing Home Survey
0920-0404	State and Local Area Integrated Telephone Survey
0920-0564	Canada-US Joint Health Survey
0920-0648	Technology and Aging Pilot Study
0920-0729	NCHS Generic Customer Satisfaction Survey
OMB exempt	National Immunization Survey

Attachment 2. NCHS Use of the CIPSEA Designated Agents Provision (through August 2007)

1. Off-Site access: 11 interagency agreements 9/13/05 – 2/15/07, mainframe access, encrypted cdrom. Agreements arranged with:
 - CDC (six)
 - USDA (two)
 - NIH (two)
 - HUD (one)

These agreements followed recommendations given in Appendix C of the CIPSEA Implementation Guidance. Attachment 3 contains a copy of the interagency agreement format employed.

2. On-Site Designated Agents: 7 agents, notarized statements, 11/29/2005 – 8/27/2007, NCHS-supervised access to paper and electronic documents, video, tapes. Attachment 4 contains a copy of this agreement format.
3. On-Site Designated Agents in NCHS Research Data Center: 33 agents, notarized statements, 1/30/2007 – 8/29/2007, restricted access to electronic files. Attachment 5 contains a copy of this agreement format.

Attachment 3. Interagency Agreement for the Designation of Off-Site NCHS Agents

NCHS Designated Agent Agreement

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Disease Control and Prevention
National Center for Health Statistics

AGREEMENT BETWEEN NCHS AND [AGENCY]
REGARDING DESIGNATION OF [AGENCY]STAFF[and contractors if applicable] AS
NCHS AGENT(S) TO PERFORM STATISTICAL ACTIVITIES USING NCHS DATA

The National Center for Health Statistics(NCHS)conducts statistical and epidemiological activities under authority granted by the Public Health Service Act (42 USC 242k). The [Survey] is conducted under this authority. Pursuant to the authority granted under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) allowing NCHS to provide access to confidential information to designated agents, the NCHS designates [Agency] staff who have signed this agreement as NCHS agents and agrees to provide[access to][Agency] a data file from [Survey] containing _____ *[include here a description of data file(s) to be made available including the specific information is contained that could permit identification of individuals or establishments, such as unusual occupational, income or ethnic detail or identifiers for Census region, state, county or finer geographical units.]* This will enable [Agency] to _____ *[describe research topic and protocol, and include (1) a clear and detailed description of the purposes of the access (2) a clear justification of the need for the confidential data described above; 3) a description of how the data will be used – including plans for dissemination of research results and products planned for public distribution; 4) a description of how this agreement will benefit NCHS and the Designated Agent, and 5) a description of procedures planned to safeguard the confidentiality of identifiable data]*

Prior to being granted access to identifiable data from the [Survey], each individual staff member of [Agency] **[and its contractor(s) – if applicable]** to be granted access will review the following attached materials:

- 1) the NCHS confidentiality statute (42 U.S.C. 242m (d) of the Public Health Service Act; **[Obtain from Confidentiality Officer]**
- 2) Section 7 of the NCHS Staff Manual on Confidentiality; and **[Obtain from Confidentiality Officer]**
- 3) written confidentiality assurances provided survey respondents. **[Supplied by NCHS Program Representative]**

Being aware that they are subject to all of the requirements of both the Public Health Service Act and the Confidential Information Protection and Statistical Efficiency Act of 2002 [**To be attached by Program Representative. Found at www.eia.doe.gov/oss/CIPSEA.pdf**], and with the understanding that violation of the terms of this agreement is subject to conviction of a class E felony, imprisonment and a fine of up to \$250,000, all persons on the attached list [**Attach list**] of those who will be granted access to confidential data from [Survey] agree that:

1. The [Survey] data will be used only for purposes of health-related research and statistical analysis. No attempt will be made to learn the identity of individuals/establishments in the survey; and survey information will not be used in any way to directly affect any survey participant
2. In accordance with the provisions of CIPSEA, the only persons to be granted access privileges to the [Survey] file will be those persons (a) named in the attached list as authorized to work with the file as NCHS Agents, b) who have signed the NCHS Nondisclosure Affidavit [**Attach affidavits**], c) have been certified as having seen the NCHS confidentiality Videotape and read the NCHS confidentiality statute, Section 7.1 of the Confidentiality Manual and the [Survey] assurance of confidentiality. The person named in Item 5 will prepare a suitable memo certifying compliance with item 2 c) that this has taken place. [**Attach certification memo signed by person names in Item 5**]
3. No identifiable [Survey] data will be released to anyone other than the persons referred to in item 2. **All requests for identifiable [Survey] data from any other party will be referred immediately to NCHS.**
4. **Outside CDC**
The [Survey] has been certified at a (low, moderate or high) level of required protection. [Agency] agrees to attach a System Security Plan for the system on which [NCHS Survey] data will reside that provides for the same or higher level of protection. [**If such a Plan is not already in place, substitute:** [Agency] has submitted confirmation (attached) that a Certification Statement **or** Security Plan is under development. Until that has been completed, an MOU/MOA will suffice specifying the steps to be taken in providing the required level of protection for [Survey] data. **Ask Confidentiality Officer for guidance document**].

It is understood that authorized staff of NCHS may, upon request, be granted access to premises where [Survey] data files are kept or used for the purpose of inspecting data security arrangements.

For CDC

All requirements for protection of the security of data as detailed in Section IV of the CDC Manual Guide *Information Resources Management--CDC 3 Protection of Information Resources* O will be adhered to by all persons authorized to have access to [Survey] data. [**Obtain from Confidentiality Officer**]

It is understood that authorized staff of NCHS may, upon request, be granted access to premises where [Survey] data files are kept or used for the purpose of inspecting data security arrangements.

5. _____ will be designated as the [Agency] custodian of the files and will be responsible for the observance of all conditions of use and for the establishment and maintenance of security arrangements to prevent unauthorized use of these files. It is the custodian's responsibility to notify NCHS:
- a) when access to [Survey] is no longer needed,
 - b) if a change in site access is contemplated,
 - c) of the intent to modify the project's purpose and
 - d) if these responsibilities are transferred. If responsibilities are to be transferred, notification must be made promptly and before such official transfer is made.
6. All reports based on [Survey], will be submitted prior to *public release* (whether as oral presentation, papers or publications) to the NCHS staff member named in Item 8 (below) for confidentiality review and comment. Failure to do so will be considered a violation of this agreement and access to [Survey] data will be immediately revoked.
7. At the conclusion of the research, and no later than _____, **[NOTE: Access should not be provided for any longer than necessary. No more than one year should elapse between signing of this agreement and return of files or discontinuation of access.]** [Agency] will return to NCHS all data files **[or "access to confidential data from [Survey] will be discontinued"]** and all copies or backup files returned or destroyed (including any copies or backup files) based on [Survey]. Official confirmation will be provided by the person named in item 5, of their return/destruction. Should [Agency] require additional time, a new agreement may be negotiated subject to approval of the NCHS Confidentiality Officer. **[NOTE: Unless significant change is contemplated, the new agreement may take the form of a simple memo, but should be initiated at least one month prior to the termination of the existing agreement.]**
8. The NCHS program representative for this project is _____.
- (print name)

Director, [AGENCY]

Print name	Signature	Date
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Director, National Center for Health Statistics

Print name	Signature	Date
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Program Representative, National
Center for Health Statistics

Print name	Signature	Date
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Designated Agents, [AGENCY]

Custodian

Print name

Signature

Date

Other Agents

Print name

Signature

Date

Print name

Signature

Date

Confidentiality Officer _____ (signature) _____ (date)
_____ (signature) _____ (date)

Part C

Affidavit of Non-Disclosure

I, _____, do solemnly swear (or affirm) I will observe all policies and procedures to protect the confidentiality of data to which I will have access and that I will not disclose confidential information, either while an agent or after, contained in data files, lists, or reports created using National Center for Health Statistics data, as specified under section 308 (d) of the Public Health Service Act and under penalties* set forth in §513 of the Confidential Information Protection and Statistical Efficiency Act of 2002 (PL 107-347, title V), 44 USC 3501 note.

(Signature of Designated Agent)

Subscribed and sworn (or affirmed) before me this ____ day of _____, 20__.

At _____(city) _____ (state)

[SEAL]

(Signature)

My commission expires _____ Title (Officer/Notary Public) _____

Note: The oath of non-disclosure must be administered by a person specified in 5 U.S.C. §2903. The word “swear,” wherever it appears above, should be stricken out when the appointee elects to affirm rather than swear to the affidavit; only these words may be stricken, and only when the appointee elects to affirm the affidavit.

*Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a **class E felony** and **imprisoned for not more than 5 years**, or fined not more than **\$250,000**, or both.

RDC employee supervising Designated Agent _____
(print name) (signature)

Part C

Affidavit of Non-Disclosure

I, _____, do solemnly swear (or affirm) I will observe all policies and procedures to protect the confidentiality of data to which I will have access in the RDC as set forth in the attached NCHS Research Data Center Procedures and Costs for Use of the Research Data Center and that I will not disclose confidential information, either while an agent or after, contained in data files, lists, or reports created using National Center for Health Statistics data, as specified under section 308 (d) of the Public Health Service Act and under penalties* set forth in §513 of the Confidential Information Protection and Statistical Efficiency Act of 2002 (PL 107-347, title V), 44 USC 3501 note.

(Signature of Designated Agent)

Subscribed and sworn (or affirmed) before me this ____ day of _____, 20__.

At _____ (city) _____ (state)

[SEAL] _____
(Signature)

My commission expires _____ Title (Officer/Notary Public) _____

Note: The oath of non-disclosure must be administered by a person specified in 5 U.S.C. §2903. The word “swear,” wherever it appears above, should be stricken out when the appointee elects to affirm rather than swear to the affidavit; only these words may be stricken, and only when the appointee elects to affirm the affidavit.

*Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a **class E felony** and **imprisoned for not more than 5 years**, or fined not more than **\$250,000**, or both.

Attachment 6. NCHS CIPSEA Contract Language

CONFIDENTIALITY/PRIVACY

All information made available to the contractor while performing this task, both electronic and otherwise, shall be maintained in a strictly confidential manner.

Contractor personnel performing this work may have access to information that is subject to provisions of the Privacy Act of 1974 (Title 5 of the U.S. Code, Section 552a), Section 308(d) of the Public Health Service Act (42 USC 242m) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA, PL 107-347). Violation of the CIPSEA is subject to conviction of a felony and fines of up to \$250,000. Contractor personnel shall adhere to appropriate nondisclosure requirements.

Additionally the Contractor shall comply with the following NCHS policies:

Safeguards for Individuals and Establishments against Invasion of Privacy

In accordance with Subsection (m) of the Privacy Act, Section 308(d) of the Public Health Service Act, and the CIPSEA, the contractors, and employees of the contractor, are required to undertake safeguards for individuals and establishments against invasions of privacy. To provide these safeguards in performance of the contract, the contractor, and contractor employees shall be bound by the following confidentiality assurance: "In accordance with Section 308(d) of the Public Health Service Act (42 USC 242m), the contractor, you as an employee of the contractor, and NCHS, assure all survey respondents that the confidentiality of their responses will be maintained and that no information will be disclosed in a manner in which an individual or establishment is identifiable, unless the individual or establishment has consented to such disclosure."

Annually and for every new hire that occurs during the period of performance, the contractor is required to have each employee of the contractor participating in this project, read and sign the nondisclosure affidavit, which indicates he/she has carefully read and understands the assurance which pertains to the confidential nature of all records to be handled in regard to this survey and he/she has viewed the mandatory DVD "NCHS Confidentiality Practices for Federal Employees and Contractors". All of the signed nondisclosure affidavits must be sent to the Technical Support person at NCHS listed on page x of this SOW. NCHS will be notified immediately of any new hires during the period of performance and the signed nondisclosure affidavit will be sent to NCHS as described above.

As an employee of the contractor, he/she understands they are prohibited by law from disclosing any such confidential information, which has been obtained under the terms of this contract to anyone other than authorized staff of NCHS. He/she understands that any willful and knowing disclosure in violation of the Privacy Act of 1974 is a misdemeanor and would subject the violator to a fine of up to \$5,000.

The contractor and his professional staff will take steps to insure that the intent of the statement of understanding is enforced at all times through appropriate qualifications standards for all personnel working on this project and through viewing of the DVD "NCHS Confidentiality Practices for Federal Employees and Contractors" that will be provided to the contractor by NCHS and periodic follow up procedures.