



CONFIDENTIALITY

CDC
Staff Manual
on
CONFIDENTIALITY

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CENTERS FOR DISEASE CONTROL STAFF MANUAL ON CONFIDENTIALITY

1. INTRODUCTION

The Centers for Disease Control (CDC) collects, compiles, and publishes a large volume of personal, medical, epidemiological, and statistical data. The success of CDC's operations depends in part on the sensitivity and voluntary cooperation of its employees to protect the confidentiality of these data. This manual is for your reference and provides information, rules, and regulations governing confidentiality protection.

The following definitions will be dealt with in this manual:

Confidential information is any information about an identifiable living person or establishment, when the person or establishment providing the data or described in it has not given consent to CDC to make that information public, and CDC assured confidentiality when the information was provided.

A **confidential record** is a record containing confidential information about an individual or establishment.

Consent to the publication, other release, or other use of information must be obtained when information is collected. The respondent is clearly informed about the uses to be made of data he is asked to supply. If the respondent then supplies the requested data, CDC staff interprets this to mean that the respondent agrees to those intended uses he has been told about. CDC can then make such uses of the data as have been described to the respondent, but no other uses of the data may be made.

How is consent obtained from an establishment? The answer to this question depends partly upon whether the request for information is made in a personal interview or by mail.

If the request for information is made in person by a staff member or agent of CDC, the contact person first inquires as to who is authorized to provide the requested data on behalf of the establishment. When such authorized person is informed of the uses to be made of the data, and then supplies the data, CDC staff interprets this to mean that the establishment has given consent to the uses of data as specified.

When data are sought from an establishment by mail, the request may be addressed to the establishment itself, to the manager of the establishment, or to some other person who, as CDC has previously

ascertained, is authorized to provide requested data on behalf of the establishment. The letter transmitting the request explains the uses to be made of the data. When CDC staff then receives the requested data from the establishment, it is interpreted to mean that the establishment has by implication consented to those uses of which it has been informed.

The statement of assurances is that set of information given to any individual or establishment asked to provide information to CDC. It must include as a minimum:

1. The legal authorization(s) for soliciting the data;
2. The purposes and uses for which the data are being collected;
3. The voluntary or mandatory nature of the response;
4. The consequences to the respondent for failing to provide any part of the requested data, and when confidentiality has been authorized;
5. A guarantee that CDC will protect the data against other uses. (With the exception of several regulatory and grant requirements, CDC's direct requests for data are *all* voluntary, and there are *no* effects upon the establishment or individual for failing to respond.)

The statement of assurances may be contained in a letter or brochure handed or mailed to a respondent so that he receives it before providing the information. It also may be included, usually in abbreviated form, on the survey schedule or questionnaire itself. The statement is included in any contract drawn up to obtain information about individuals or establishments. The statement may be given orally to a respondent, but it also must be provided in written form to be retained by the respondent. The sole exception to this requirement is that if a self-administered questionnaire is used, the statement may be made part of the questionnaire, and no separate copy need be given to the respondent.

The assurance of confidentiality is to be found in the statement of assurances. The assurance of confidentiality includes those parts of the statement which relate directly to the promise of confidentiality; these are:

1. An explanation of the purposes for which the information is being collected;
2. A description of the uses to be made of the information; and
3. A guarantee that CDC will neither make nor permit others to make any other uses of the information.

This assurance of confidentiality, then, constitutes the guarantee given to the data supplier that CDC will limit its uses of the data to those specified in writing to the respondent and that CDC will actively protect the information from any other uses.

2. BACKGROUND

Since its inception, CDC has worked diligently to maintain the confidentiality of its records. All necessary and appropriate steps must be taken to assure that CDC's record for protecting confidentiality will continue.

While it is a matter of principle for CDC to maintain the confidentiality of records, a set of laws exists which requires and/or permits CDC to do so.

2.1 Section 308(d) of the Public Health Service Act (42 U.S.C. 242m)

This section provides the basic legal requirements for protecting CDC's records. It reads in part:

No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under Section 304, 305, 306, 307, or 309 may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose; and (1) in the case of information obtained in the course of health statistical activities under Section 304 or 306, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form

The following authorities under Title III of the Public Health Service Act, as amended, were delegated by the Director, National Center for Health Statistics (NCHS), to the Director, CDC, as they pertain to the functional responsibilities assigned to CDC:

Section 304 of the Public Health Service Act (42 U.S.C. 242b), as amended—General Authority Respecting Research, Evaluations, and Demonstrations in Health Statistics, Health Services and Health Care Technology authorizes CDC to collect information through health statistical or epidemiological activities, where such activities of CDC are not duplicative of other activities of the Department, and when the Director, CDC, determines that the authority to give assurances of confidentiality based upon Section 308(d) is necessary for the successful conduct of these statistical and epidemiological activities.

Section 306 of the Public Health Service Act (42 U.S.C. 242k), as amended—NCHS authorizes CDC to collect information through health

statistical or epidemiological activities, where such activities of CDC are not duplicative of other activities of the Department, and when the Director, CDC, determines that the authority to give assurances of confidentiality based upon Section 308(d) is necessary for the successful conduct of these statistical and epidemiological activities.

Whenever CDC requests information under an assurance of confidentiality, it informs the person or agency supplying the information as to the uses to be made of it. The first clause of Section 308(d) guarantees that thereafter CDC will be limited to those uses so specified to the supplier. Moreover, the information obtained may be used only by staff of CDC, or its qualified agents, in the pursuit of such stated purposes, and by them *only* in activities *directly* aimed at achieving those specific purposes.

The second clause states that CDC may never release identifiable information without the advance, explicit approval of the person or establishment supplying the information or by the person or establishment described in the information.

2.2 Privacy Act of 1974 (5 U.S.C. 552a)

This Act also provides for the confidential treatment of records of individuals which are maintained by a Federal agency according to either the individual's name or some other identifier. (Deceased individuals are not covered by the Privacy Act.) This law also requires that such records in CDC are to be protected from uses other than those purposes for which they were collected. It further requires agencies to:

1. Collect only that information necessary to perform agency functions;
2. Publish descriptions of existing data systems (called "systems of records") so that the public can learn what records are maintained by the agency;
3. Inform individuals at the time of data collection as to the legislative authority under which it is requested, whether the request is mandatory or voluntary, the consequences, if any, of nonresponse, and the purposes and uses to be made of the data;
4. Maintain no records on how an individual exercises rights under the first amendment except with special legal authorization;
5. With certain exceptions, permit individuals to examine records maintained about themselves and to challenge the accuracy of those records;
6. Establish rules of conduct governing persons involved in collecting and maintaining records; and
7. Establish appropriate administrative, technical, and physical safeguards to protect records.

Employees of agencies and their contractors subject to the Act who willfully disclose personal information contrary to the law, or who fail to give notice of a system of records, may be fined up to \$5,000, and the agency may be sued for damages. Finally, the Act places severe restrictions on the use of an individual's Social Security number, with the effect that CDC is virtually precluded from using Social Security numbers in most of its statistical activities.

Regulations (45 CFR Part 5b) have been published by the Department of Health and Human Services (HHS) providing for implementation of the Privacy Act within this Department. Additional guidelines are in HHS General Administration Manual Part 45 and PHS supplementary chapters PHS.hf: 45-10 through 45-19. The CDC rules of conduct under the Privacy Act are set forth in Appendix I to the Manual Guide—General Administration No. CDC-63, Privacy Act. All employees are bound to comply with these regulations.

2.3 Federal Law Governing Federal Employees' Behavior (18 U.S.C. 1905)

This law includes the following provision, which is also relevant to the maintenance of confidentiality for CDC records:

Disclosure of Confidential Information

Whoever, being an officer or employee of the United States or any department or agency thereof, publishes, divulges, discloses or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information relates to trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and shall be removed from office or employment.

2.4 Freedom of Information Act (5 U.S.C. 552)

First passed in 1967 and amended in 1974, this Act requires Federal agencies to make their records available to persons who request them. Some have speculated that this law undoes the privacy protection required under the laws just cited. However, such a view is mistaken, since several kinds of records are specifically exempted from the disclosure requirements of the Freedom of Information Act (FOIA). Two exclusions provided in Sec-

tion 552(b) of the Act are of special relevance: Subsection (6) exempts "personal and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," and Subsection (3) provides that matters "specifically exempted from disclosure by statute" are also excluded from the disclosure requirement. Thus no records that are protected from disclosure are required by the Freedom of Information Act to be released by anyone.

Regulations (45 CFR Part 5) have been published by HHS implementing the Freedom of Information Act.

3. INDIVIDUAL EMPLOYEE'S RESPONSIBILITIES

As an employee of CDC, you are required to maintain and protect at all times the confidential records that may come into your presence or under your control. To assure that all CDC employees are aware of this responsibility and the penalties for failing to comply, each person, on entering employment in CDC, is given a Nondisclosure Agreement to read and sign (CDC O.979, Appendix C).

4. ASSURANCES OF CONFIDENTIALITY

Whenever CDC requests data concerning an individual or an establishment, it is obligated to provide certain information and assurances to the supplier of information. While this is considered a moral obligation by CDC, it is also stated or implied in both the Public Health Service Act and the Privacy Act of 1974. The Public Health Service Act, in Section 308(d), states that information may not "be used for any purpose other than the purpose for which it was supplied"; therefore, such purposes must be explained to the supplier of information before obtaining the information. The Privacy Act of 1974 states in Section(e)(3) that the agency shall:

Inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual . . .

- A. the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information

and whether disclosure of such information is mandatory or voluntary;

- B. the principal purpose or purposes for which the information is intended to be used;
- C. the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and
- D. the effects on him, if any, of not providing all or any part of the requested information.

Such information must be consistent with the information in the description of the system of records published in the *Federal Register*. If any release of any identifiable information is to be made, then the law requires that consent be obtained in advance for that specific release. The Public Health Service Act, Section 308(d)(1), states that "such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form." The Privacy Act states that, with certain exceptions, an individual's record may not be disclosed "except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains."

4.1 Policy Implementation

No CDC employee may give assurance of confidentiality under this authority to any individual or institution without specific approval of the Director, CDC. The Director, CDC, is responsible for determining that the following considerations are fully examined before giving assurance of confidentiality:

1. Extent to which the assurance of confidentiality is important to protection of the individual or institution.
2. Extent to which the individual or establishment will not furnish or permit access to it unless an assurance of confidentiality is given.
3. Extent to which the information cannot be obtained with the same degree of reliability from sources that do not require an assurance.
4. Extent to which the information is essential to the success of the particular statistical or epidemiological project and is not duplicative of other information-gathering activities of the Department.
5. Extent to which the giving of the assurance of confidentiality will restrain CDC from carrying out any of its responsibility.
6. Extent to which the advantages of assuring confidentiality outweigh the disadvantages of doing so.

The Director, Center/Institute/Office, is responsible for the following:

1. Ensuring that personnel in the organizational component have knowledge of and comply with established policies and procedures.
2. Informing staff members (either directly or through appropriate channels) that unauthorized disclosures of information obtained under an assurance of confidentiality may result in disciplinary action.

Each CDC employee will be asked to sign a Nondisclosure Agreement (See Section 3. Individual Employee's Responsibilities and Appendix C). In addition, each employee must at all times follow the principles and obey the laws, rules, and regulations that are cited or referenced in this manual. Additional copies of the manual will be available from the Office of Program Planning and Evaluation (OPPE), Office of the Director, CDC.

Preliminary information and guidance on obtaining an assurance of confidentiality may be obtained from the Director, OPPE/CDC.

Program officials requesting data which require an assurance of confidentiality will prepare a request to use Sections 304 and 306 authority of the PHS Act (CDC 0.970, See Appendix D) for signature of the Director, Center/Institute/Office, and forward seven copies to OPPE/CDC. The statement will contain the following information:

1. Programmatic purpose(s) for the conduct of the project, the type of data to be collected, and the uses which may be made of the information collected.
2. Justification giving detailed consideration to all of the issues outlined under Section 4.1 page 7 of this manual that must be met before the assurance of confidentiality is given.

OPPE/CDC staff will maintain communication with NCHS to ensure that the information is not being gathered by another Department agency under confidentiality protection of Section 308 of the Public Health Service Act, as amended. If the information is being gathered, OPPE/CDC will notify the originator. If the information is not being gathered, OPPE/CDC will coordinate the CDC processing of the request.

The request will be reviewed by the Confidentiality Review Group which will recommend approval or disapproval to the Director, CDC. The membership of the Confidentiality Review Group (appointed by Director, CDC) will include:

- Director, OPPE/CDC (Chairperson),
- A program medical epidemiologist,
- A program statistician,
- CDC Ethics Advisory Committee representatives,
- Legal Advisor to CDC,
- CDC Freedom of Information Officer, and
- CDC Privacy Act Officer.

The group will review the request according to the criteria outlined under Section 4.1 page 7 of this manual. The Director, CDC, will:

1. Review the recommendations and authorize approval or disapproval, and
2. Notify the initiating organization by returning the signed copy of the request form or advise other action.

When the assurance of confidentiality is signed, OPPE/CDC staff will also notify the following to ensure that proper safeguards for handling confidential data will be implemented:

- ADP Security Officer
- CDC Freedom of Information Officer
- Human Subjects Review Coordinator
- CDC Legal Advisor
- CDC Privacy Act Officer
- Project Clearance Officer
- CDC Records Officer
- Director, Procurement and Grants Office

The CDC Ethics Advisory Committee will periodically review applications for use of this authority and decisions which were made on those applications for the purpose of identifying and making recommendations on any ethical problems which emerge.

The safeguards will be implemented in accordance with the procedures for handling and destroying data in the following:

"CDC Staff Manual on Confidentiality,"

"Department ADP Systems Manual," Part 6 (for computerized records).

"General Administration Manual," HHS and PHS Chapters 45-13, and Appendix PHS.hf: 45-19-B (for nonautomated records).

CDC Records Control Schedule and the General Services Administration General Records Schedule.

Requests for disclosure received by the Center/Institute/Office must be reviewed with the Director, OPPE/CDC, and the Legal Advisor to CDC.

4.2 Procedures

Whenever data are to be collected directly from individuals or establishments by an employee, agent, or contractor of CDC, and where confidentiality has been authorized, the following rules governing assurances and information are to be met:

1. Print on the questionnaire in a clearly visible location and in clearly visible letters the following notice (or words to this effect) of the confi-

dential treatment to be accorded the information on the questionnaire by anyone who may see it:

Confidential Information

Information contained on this form which would permit identification of any individual or establishment has been collected with a guarantee that it will be held in strict confidence, will be used only for purposes stated in this study, and will not be disclosed or released without the consent of the individual or the establishment in accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m).

2. On a letter or other form that can be retained by the individual or the establishment, or on the questionnaire form itself if it is a self-administered questionnaire, inform in clear and simple terms each individual or establishment asked to supply information:
 - a. That the collection of the information is authorized by Section 306 of the Public Health Service Act (42 U.S.C. 242k);
 - b. Of the purpose or purposes for which the information is to be used, clearly stating that the records will be used solely for epidemiological or statistical research and reporting purposes;
 - c. Of the routine uses that may be made of the information, including all disclosures specified in the *Federal Register* for this system of records which may be applicable to this project;
 - d. That participation is voluntary and there are no penalties for declining to participate in whole or in part; and
 - e. That no information collected under the authority of Section 306 of the Public Health Service Act (42 U.S.C. 242k) may be used for any purpose other than the purpose for which it was supplied, and such information may not be published or released in other form if the individual or establishment is identifiable unless the individual or establishment supplying the information or described in it has consented to such release.

Whenever CDC arranges to purchase or otherwise obtain from another organization data that contain identifiers of individuals or establishments, and where confidentiality has been authorized, it will provide to the supplier the information specified in the previous items 4.2 (2)a., 4.2 (2)b., 4.2 (2)c., and 4.2 (2)e. This information will be provided in written form, either in the contract, purchase order, or other written statement.

Whenever data are to be collected *over the telephone* by an employee, agent, or contractor of CDC, primarily to accomplish a CDC function, and

where confidentiality has been authorized, the following rules governing assurances and information are to be met:

1. Before eliciting substantive information from a respondent in any telephone survey, the respondent will be given the following information over the telephone:
 - a. The law authorizing collection of the information. The interviewer should say, "The survey is being conducted under authority of the Public Health Service Act." If the respondent requests the citation, the interviewer will say that it is Volume 42 of the U.S. Code, Section 242k.
 - b. The purpose or purposes for which the information is to be used, such as "for epidemiological or statistical research on health problems."
 - c. That participation in the survey is purely voluntary.
 - d. The effects, if any, on the respondent for declining to participate, in whole or in part, in the survey.
 - e. Respondent is notified of any possible disclosures of identified data to be made outside the Department. (It is most unlikely that there would be any such disclosures. If there are any possible disclosures to be made, they are listed under "routine uses" in the *Federal Register* notice on the system of records in which these data will be kept.)
 - f. Respondent is assured that (except for any such disclosures) the confidentiality of any information supplied will be carefully protected, and no one other than HHS and its contractor(s) will have access to any data which identify the respondents.

The exact wording proposed for informing respondents in any particular telephone survey is to be submitted for approval in the Project Clearance request for the survey and/or the protocol for Human Subjects review.

2. The telephone interviewer must sign a statement that the information required (as indicated above) was given orally to each respondent. This information shall be given by reading the approved text and answering any of the respondent's questions about it before proceeding with the interview. The statement to be signed by each interviewer may be on the form used to collect the survey data.

4.3 Responsibilities

Formal assurances of confidentiality will be given by the Director, CDC. In view of the increased complexities involved in confidentiality assurances resulting from recent legislation and regulations, Center/Institute/Office Direc-

tors are required to submit the confidentiality assurances relating to each data collection program to OPPE/CDC for approval. This approval should be obtained before the Request for Clearance goes to the CDC Project Clearance Officer or Human Subjects Coordinator.

Each Center/Institute/Office Director in CDC has responsibility for assuring compliance with CDC policies pertaining to the confidentiality of records in cases where an assurance of confidentiality has been or is to be given. OPPE/CDC will be available to assist the Center/Institute/Office Director by:

1. Interpreting Department policies pertaining to confidentiality;
2. Providing information to employees as to how and from whom they may get information clarification or related regulations; and
3. Providing advice regarding appropriate disciplinary action that may be taken when employees violate laws, rules, or regulations relating to confidentiality.

The responsibilities of the supervisor include the following:

1. Each supervisor will inform all employees, and subsequently all new employees, of existing CDC policies and procedures relating to the subject of confidentiality and will discuss with such employees their responsibilities in this area.
2. Supervisory personnel will be responsible for assuring that all employees under their jurisdiction comply with regulations applying to the disclosure of official information that permits the identification of individuals or establishments.
3. Supervisors should recognize unique situations that call for more than usual precautionary measures and should make recommendations for improvement if necessary.

Personnel are expected to observe departmental rules and regulations and CDC policy relating to official information for which confidentiality assurances have been given. When in doubt, employees should obtain advice from the supervisor or OPPE/CDC or consult official sources as to what is permitted and what is prohibited.

4.4 Repository of Assurances

A central repository for the filing of statements of assurances has been established in OPPE/CDC. Each organizational element of CDC which has been given approval to use an assurance of confidentiality will forward copies of all such statements to the repository. This will normally include, but not be limited to, assurances given in contracts, special letters, brochures, survey questionnaires, and forms.

5. TREATMENT OF REQUESTS FOR INFORMATION

Whenever a request is received for a specified record,¹ that request is subject to requirements of the FOIA. All Freedom of Information (FOI) requests received by CDC Center/Institute/Office staff should be sent immediately to the Office of Public Affairs to be logged in and processed. The form, Freedom of Information Request (HHS 632 revised 5/82) will be used for processing requests.

The CDC FOI Officer will log in the request and return it to the action office with an FOI request form. The date on the FOI request form is the official receipt date for the timetable of 10 working days. Time is of the essence. Under the provisions of the Act, the agency must inform the requester of its determination within 10 working days of receipt of the request.

The action office staff will initiate the necessary file search and review for *all* records that come within the scope of the request. A Center/Institute/Office official should review the records and recommend release or withholding of documents. In the latter case, a check should be placed in the box(es) on the FOI request form that indicate concern with disclosure. When recommending denial, the Center/Institute/Office official will provide a memorandum describing the nature of the records, sensitivity of the information, and whether or not confidentiality was assured. The FOI request form will be returned to the CDC FOI Officer within 8 working days (allowing 2 days for action), filled out as appropriate, including time and cost information. Two copies of the requested records will accompany the completed form.

Only the Director, Office of Public Affairs, is authorized to make determinations regarding release or denial of records and determinations regarding fees. The FOI Officer for CDC will be the focal point for all CDC FOI requests and should be contacted if there are questions or need for clarification on any FOI request.

¹"Record" is defined in the Department's regulations (45 CFR Part 5) as including "books, brochures, punch cards, magnetic tapes, paper tapes, sound recordings, maps, pamphlets, photographs, slides, motion pictures, or other documentary materials, regardless of physical form or characteristics, made or received by the Department in pursuance of Federal law or in connection with the transaction of public business and preserved by the Department as evidence of the organization, functions, policies, decisions, procedures, operations, programs, or other activities." "Record" does not include objects or articles such as tangible exhibits, models, equipment, or processing materials; formulas, designs, drawings, or other items of valuable property; books, magazines, pamphlets, or other reference material in formally organized and officially designated libraries of the Department, which are available under the rules of the particular library concerned.

It is necessary to remember FOI requests do not include requests for records which are normally prepared for public distribution, such as press releases, fact sheets, information brochures, speeches, etc. Such records will be provided promptly to any requester without reference to the FOIA, without referral to an FOI staff, and without collecting any fees.

6. THE PHYSICAL PROTECTION OF RECORDS

Employees of CDC are responsible for protecting all confidential records—from eye observation, from theft, or from accidental loss or misplacement due to carelessness.

On this subject the Privacy Act prescribes (Section 552a(e)) that each agency shall:

(9) Establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) Establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained

Absolute protection of the records would be impossible; nevertheless, all reasonable precautions (i.e., all that staff could reasonably be expected to do) must be taken to protect them.

6.1 Policy

It is policy of CDC that to insure the confidentiality of records the following steps are observed:

A. Confidential records must be kept locked up at all times when they are not actually being used. That is, they must be kept in locked fireproof cabinets or in locked rooms after business hours and whenever the persons using them are not present. Only a limited number of staff, as authorized by the Center/Institute/Office Director, may have keys or other means of access to such cabinets or rooms.

- B. When confidential records are in use, they must be kept out of the sight of persons not authorized to work with the records.
- C. Except as needed for operational purposes, copies of confidential records are not to be made. Any duplicate copies made of confidential records are to be destroyed as soon as operational requirements permit.
- D. When records are transferred to archives or record centers for storage, their containers must be sealed. The storage center must be advised that no one may have access to those records except as authorized over the signature of an appropriate official of CDC.
- E. When CDC confidential records are in the possession of other agents of CDC, their protection must be guaranteed by contract provision subscribed to and signed by the agent. The contractor must also be made liable to legal sanctions if the confidentiality pledge should be violated.
- F. In all epidemiological or statistical programs of CDC involving confidential information, records containing identifiers of individuals or establishments should be held to the minimum number deemed essential to perform CDC's functions. Identifiers are never to be carried beyond the original survey or report document when the data are processed, unless there is a legitimate and important reason for doing so. Moreover, the documents containing identifiers are to be sent to storage as soon as it is feasible to do so.

7. AUTHORIZED DISCLOSURES

7.1 Disclosure to the Parent Locator Service

With but one exception, *no* information about a person or establishment may be disclosed to anyone without the informed consent of the person or establishment supplying the information or described in it. That single exception is contained in the 1974 Amendments to the Social Security Act relating to the Parent Locator Service (42 U.S.C. 653) which reads in part:

(b) Upon request, filed in accordance with Subsection (d), of any authorized person (as defined in Subsection (c)) for the most recent address and place of employment of any absent parent, the Secretary shall, *notwithstanding any other provision of law*, provide through the Parent Locator Service such information to such person, if such information—(1) is contained in

any files or records maintained by the Secretary or by the Department of Health and Human Services . . . (Italics added.)

It seems unlikely that any information in the files of CDC would ever be useful to the Parent Locator Service in locating absent parents. However, if any such request were ever received, it should be referred immediately to the Director, CDC, who will decide the action to be taken.

7.2 Disclosures Permitted by Section 308(d) of the Public Health Service Act

Under Section 308(d), CDC is permitted to release data for identifiable individual persons or establishments if (1) such release is included in the purpose for which the data were supplied and (2) the particular person or establishment supplying the information or described in it has consented to such release.

If the information to be released relates to one or more identified individuals, then the requirements for disclosures contained in the Privacy Act of 1974 would also have to be met. Such disclosures would, nevertheless, be a departure from common CDC practices on confidentiality; it is not expected that any situations will arise in which CDC will wish to disclose identifiable data on individuals.

7.3 Disclosures Within the Department

The Privacy Act of 1974 considers HHS in its entirety as one "agency," and it permits the disclosure of records "to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties" (Section 552a(b)(1)). The Department also permits identified data in CDC to be transferred to other parts of the Department when such transfer is included in the purpose for which the data were supplied to CDC. However, CDC would not countenance the transfer of any confidential data obtained under the 304 and 306 provision to another part of the Department without positive assurance that the data will be used only for the authorized purpose and that the confidentiality of the 304 and 306 data will be protected quite as effectively in the other organization as it would be by CDC itself. In any event, no identifiable data may be transferred from CDC to any other part of the Department without the written approval of the Director, CDC.

7.4 Transfers of Data to Other Departments of the Federal Government

Section 3510 of the Paperwork Reduction Act of 1980 provides:

(a) The Director of the Office of Management and Budget may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained pursuant to an information collection request if the disclosure is not inconsistent with any applicable law.

(b) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

If an organizational element receives data collected under a legal assurance of confidentiality, please notify OPPE/CDC so that this information can be included in the Repository of Assurances and the appropriate offices notified. This refers only to data made available from another Federal agency.

7.5 Cooperative Arrangements

CDC may be a party to any of several types of arrangements in which CDC is but one of two or more organizations that are collecting, processing, or using data under a joint or cooperative arrangement. These types of situations are not discussed in detail in this manual, but several classes of cases are identified:

- A. Contractual arrangements exist in which another organization either (1) provides a service—such as field collection or keypunching—to CDC or (2) undertakes analysis of data provided by CDC and, in either case, has access and de facto control of microdata. (See Appendix A on confidentiality requirements in data collection contracts and Appendix B for requirements relating to data processing contracts.)
- B. In some instances CDC acts formally as "collecting agent" for another Federal agency under conditions specified in a reimbursable agreement.
- C. A situation prevails in the morbidity and surveillance area where the State is the collector under its own law. CDC uses the data under an arrangement with the State and abides by the terms of the arrangement.

7.6 Governing Principles

Whatever specific procedures or legal arguments are employed to bring about authorized disclosure of epidemiological and statistical data, CDC action is governed or constrained by three principles:

- A. The action leading to disclosure must be clearly within the relevant laws and regulations, and if there is any doubt, the doubt must be resolved by legal counsel.
- B. CDC must always be *candid* with respondents, making it clear who will have access to individual responses and for what (general) purpose the data are being collected.
- C. An essential requirement for release of data is the *consent* of the respondent.

8. AUTOMATIC DATA PROCESSING SYSTEMS SECURITY

8.1 General

To achieve the goal of security for Federal automatic data processing systems, policy directives have established requirements for the development of management controls to safeguard personal, proprietary, and other sensitive data in these systems. HHS and PHS computer security programs are established to reduce to the lowest acceptable level the risk of loss and unauthorized use of such data. Likewise, the CDC Security Management Plan sets forth a program to institute procedures, techniques, and methodologies for the protection of ADP resources. The program requires the development of physical, administrative, and technical safeguards to adequately protect automated records and ADP equipment.

The ADP security program is intended to provide protections for a number of systems, including but not limited to:

1. Systems applications and data bases whose data have been legislated to a state of confidentiality.
2. Systems in which there is potential for defrauding the Government.
3. Automated systems of records subject to the Privacy Act of 1974.
4. Systems which are the principal sources of information relative to decisions for allocating resources.

The functional responsibility for ensuring adequate safeguards rests with the ADP application systems managers and facility managers of computer,

mini/micro, remote ADP work stations, ancillary facilities, telecommunication services, and contracts which provide ADP support or utilize Government-owned ADP equipment and data. However, others who access or control the data share responsibility for security, including the ADP Systems Security Officer, systems programmers, analysts, computer programmer operators, tape librarians, clerks, and ADP system users.

8.2 Physical Security

Physical security measures consist of conventional door locks as well as card access control equipment at the main entrance to the facility and to the computer room. Requesters must demonstrate a work-related need to enter secure areas before being granted access.

8.3 Data Security

Procedural safeguards include the following:

1. User registration (requires supervisory approval).
2. User cancellation and accountability transfer when the employee transfers within the agency or terminates employment.
3. Assignment of individual user identification codes and organizational account codes.
4. Programmed verification of valid user identification code, valid account code, and valid combination of the two prior to allowing a terminal session or job submission.
5. Assignment of an individual password which must be used in addition to user identification and account code when accessing the system from an ADP terminal.
6. Programmed verification of the user password prior to acceptance of a user terminal session.
7. Daily backup of online data sets to provide for data recovery.
8. Capability for users to employ data set passwords for magnetic tape files.
9. Data Base Management System which provides for password protection of data sets, individual data elements, and update authorization.
10. Individual program libraries on ROSCOE system which allow the user to restrict access to individual members.
11. Overwrite protection for expired data sets to avoid accidental disclosure.
12. Source documents are locked in a metal cabinet inside a locked room during nonduty hours.
13. Release of reports which contain sensitive and/or confidential data requires appropriate signature on inventory records.
14. Storage of data in an offsite, fire-resistant safe.

8.4 Reference

All users of ADP equipment receive instructions concerning the requirements of ADP Systems Manual, Part 6, ADP Systems Security, July 2, 1982.

9. AVOIDING INADVERTENT DISCLOSURES IN PUBLISHED DATA

9.1 Problem

In their zeal to make available to the public a full set of information on a given subject, epidemiologists or statisticians may—and sometimes do—present so much detail in published tabulations that they accidentally reveal confidential information about particular study subjects. This may happen in several ways:

- A. One line y_i of a cross-tabulation contains a total of two individuals. On reading the table an individual with the y_i characteristic now knows the x characteristic of the other individual in the population having the y_i characteristic.
- B. All cases in line y_i of a statistical table fall in the cell in column x_j . We then know that any individual in the population with characteristic y_i also has characteristic x_j .
- C. Cell $x_j y_i$ gives the total income of all individuals with characteristics x_j and y_i . If there are only two individuals, a and b , in the population with that combination of characteristics, then a , knowing his own income, will be able to determine b 's income by simple subtraction, and b will also be able to determine a 's income.
- D. A table gives the total annual receipts for all five nursing homes in county m . However, nursing home a is much larger than all the rest combined; it accounts, in fact, for three-fourths of all nursing home receipts in the county. Knowing the county total, the manager of nursing home a is able to calculate the incomes of the other four homes, at least within some fairly narrow limits.
- E. A Standard Metropolitan Statistical Area (SMSA) contains two counties, a and b . Four hospitals are located in county a and only one in county b . A statistical report is published, giving confidential hospital data totaled for each SMSA. Another report is published with confidential data on hospitals by county, but only for counties with three or more hospitals. Using the two reports one can subtract the data for

county a from the SMSA data, deriving the confidential data for the lone hospital in county b .

- F. The maximum Social Security benefit for an individual retired person is, say, \$235 per month. A published table shows that white males aged 70 to 74 in county a receive an average benefit of \$235 per month. It is now known that *every* white male aged 70 to 74 in county a who receives a Social Security payment receives \$235 a month.

These examples imply the existence of several general types of situations in which statistical disclosure may occur. An additional possibility may be found in a group of three or more tables of subsets of a given population from which disclosures are possible through the solution of simultaneous equations. CDC guidelines as set forth in Section 9.3 take into account the several possible disclosure situations.

9.2 Types of Disclosure

CDC policy recognizes and attempts to deal with several classes of disclosure:

- A. **Exact versus approximate disclosures.** Exact disclosure is the disclosure of a specific characteristic, such as race, sex, or a particular pathological condition. Approximate disclosure is the disclosure that a subject has a characteristic that falls within a certain range of possibilities, such as being between 45 and 55 years of age or having an income between \$15,000 and \$25,000. An approximate disclosure *may* in a given situation be considered harmless because of its indefinite nature.
- B. **Probability-based versus certainty disclosures.** Data in a table may indicate that members of a given population segment have an 80-percent chance of having a certain characteristic; this would be a probability-based disclosure as opposed to a certainty disclosure of information on given individuals. In a sense, every published table containing data or estimates of descriptors of a specific population group provides probability-based disclosures on members of that group, and only in unusual circumstances could any such disclosure be considered unacceptable. It is possible that a situation could arise in which data intended for publication would reveal that a highly specific group had an extremely high probability of having a given sensitive characteristic; in such a case, the probability-based disclosure perhaps should not be published.
- C. **Internal versus external disclosures.** Internal disclosures are those that result completely from data published from one particular study. External disclosures occur when outside information is brought to bear upon the study data to create disclosures. This possibility must be recognized in any disclosure analysis.

9.3 Special Guidelines for Avoiding Disclosure

Except where otherwise indicated, the following guidelines apply to all CDC publications of statistics:

- A. In no table should all cases of any line or column be found in a single cell.
- B. In no case should the total figure for a line or column of a cross-tabulation be less than three.
- C. In no case should a quantity figure be based upon fewer than three cases.
- D. In no case should a quantity figure be published if one case contributes more than 60 percent of the amount.
- E. In no case should data on an identifiable case, nor any of the kinds of data listed in preceding items A-D, be derivable through subtraction or other calculation from the combination of tables published on a given study.
- F. Data published by CDC should never permit disclosure when used in combination with other known data.

Report writers and editors in CDC are to follow these guidelines. If a guideline appears unreasonable in a given situation, approval for a special exception to the guideline should be requested from the Director, CDC. The following types of cases represent exceptions to the above guidelines which do not require special approval from the Director, CDC:

- A. It has been a longstanding tradition in the field of morbidity or mortality statistics not to suppress small frequency cells in the tabulation and presentation of data. For example, it has been considered important to know that there were two deaths from rabies in Rio Arriba County, N. Mex., in a given year, or that there were only one infant death and two fetal deaths in Aitkin County, Minn. These types of exceptions to general CDC practices in other programs are followed because they have been accepted traditionally and because they rarely, if ever, reveal any information about individuals that is not known socially.
- B. Tables may show simple *counts* of number of persons, even though the number in a cell is only "1" or "2," provided the classifying data are not judged to be sensitive in the context of the table. For example, publication of counts of health manpower personnel by occupation by area are considered acceptable, if not accompanied by other distinguishing characteristics, or other cross-classifications that have the effect of adding descriptive information about the same persons. However, publication of counts of personnel for a specified occupation by area by income is not acceptable for cells of less than three persons because that would reveal sensitive income data.

9.4 Evaluating a Disclosure Problem

There may be mitigating circumstances in a given situation which may make it acceptable to publish data that, strictly speaking, could result in "disclosures." Such circumstances could provide grounds for requesting the "special exception" to the previously noted rules:

- A. When data in a study are based upon a small-fraction sample, for example, less than 10 percent of the universe, it might generally be assumed that disclosure will not occur through published tabulations. However, there could be exceptions. So much detail may be presented that an individual unique in the population is identified through the tables, or a member of the sample may find himself and others in the data. The usual rules precluding publication of sample estimates that do not have a reasonably small relative sampling error should prevent any disclosures from occurring in tabulations from sample data.
- B. The existence of errors or imputations in the data brings some small reduction in the likelihood of disclosure through table publication.
- C. Incompleteness of reporting, which often occurs even where studies are supposed to include 100 percent of a given group in the population, also reduces the certainty of any disclosure taking place through publication of data.
- D. In some instances, the danger of disclosure might be mitigated by the fact that the data in question have no sensitivity. They may already have appeared in a published directory, or they may involve entirely obvious characteristics; or they may relate to an earlier time. Since that time, many changes have occurred, so that the data have become completely innocuous.

9.5 Measures to Avoid Disclosure

Two methods customarily used in CDC to prevent disclosures from taking place through tabulations:

- A. The table is reduced in size when rows or columns are combined into larger categories, eliminating the particular cells that would otherwise produce disclosures.
- B. Unacceptable data in cells are suppressed. When this is done, it is necessary also to suppress other cells in the table to prevent determination of the unacceptable cell figure through subtraction. It is usually necessary to suppress four cells in a cross-tabulation in order to avoid disclosure through one cell—the offending cell (x_i, y_j) , another cell in the same row (x_i, y_k) , another cell in the same column as the offending cell (x_l, y_j) , and also the cell (x_l, y_k) at the intersect of the additional row and column involved in the newly suppressed cells.

APPENDIX A

Requirements Relating To Confidentiality and Privacy in Data Collection Contracts

I. Purpose

This appendix provides the wording to be used when the Centers for Disease Control (CDC) contracts with any organization outside CDC for the collection or use of information that identifies individuals and/or establishments when confidentiality has been authorized for a project; it does not relate to contracts involving data for which respondents (individuals or establishments) are advised that all information obtained from them will be made public. Such contracts must contain stipulations to assure confidentiality and physical security of the information and to assure that the contractor's employees abide by the stipulations. One of the three alternative wordings contained in this supplement is to be used in all such contracts, depending upon the laws governing the data collection project.

II. Background

The Privacy Act of 1974 (5 U.S.C. 552a) requires the safeguarding of individuals, and Section 308(d) of the Public Health Service Act (42 U.S.C. 242m) requires the safeguarding of both individuals and establishments against invasion of privacy. As a result of the provisions of these Acts, contractors who collect information identifying individuals and/or establishments must stipulate the appropriate safeguards to be taken regarding such information, depending on the laws governing such data collection projects. Three alternative wordings are provided for use in contracts when such information is collected by contractors outside CDC. Before a contract is signed, one of the alternative wordings covering the contract must be used.

III. Policy

One of the three alternative wordings given in the following sections is to be used in data collection contracts, depending upon the laws governing the particular project for which information is to be collected. If the particular circumstances of a given contract imply the need for different wording from that prescribed as follows, the wording may be changed, provided that the new wording is in keeping with the intentions of this manual and provided that approval for the new wording is obtained from the Director, CDC.

III.A. Alternative One

Alternative One is to be used when both the Privacy Act of 1974 (5 U.S.C. 552a) and Section 308(d) of the Public Health Service Act (42 U.S.C. 242m) apply. The project would involve the collection of information about identified individuals, and it is an activity that is authorized for CDC to perform under Section 304 or 306 of the Public Health Service Act.

Safeguards for Individuals and Establishments Against Invasions of Privacy

In accordance with Subsection (m) of the Privacy Act of 1974 (5 U.S.C. 552a) and Section 308(d) of the Public Health Service Act (42 U.S.C. 242m), the contractor is required to comply with the applicable provisions of the Privacy Act and to undertake other safeguards for individuals and establishments against invasions of privacy.

To provide these safeguards in performance of the contract, the contractor shall:

1. Be bound by the following assurance:

Assurance of Confidentiality

In accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m), the contractor assures all respondents that the confidentiality of their responses to this information request will be maintained by the contractor and CDC and that no information obtained in the course of this activity will be disclosed in a manner in which the individual or establishment is identifiable, unless the individual or establishment has consented to such disclosure, to anyone other than authorized staff of CDC.

2. Maintain the following safeguards to assure that confidentiality is protected by the contractor's employees and to provide for the physical security of the records:

- a. After having read the above assurance of confidentiality, each employee of the contractor participating in this project is to sign the following statement of understanding:

I have carefully read and understand the assurance which pertains to the confidential nature of all records to be handled in regard to this survey. As an employee of the contractor I understand that I am 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 CDC. I understand 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.

(Signature)

(Date)

- b. To preclude observation of confidential information by persons not employed on the project, the contractor shall maintain all confidential records that identify individuals or establishments or from which individuals or establishments could be identified under lock and key.

Specifically, at each site where these items are processed or maintained, all confidential records that will permit identification of individuals or establishments are to be kept in locked containers when not in use by the contractor's employees. The keys or means of access to these containers are to be held by a limited number of the contractor's staff at each site. When confidential records are being used in a room, admittance to the room is to be restricted to employees pledged to confidentiality and employed on this project. If at any time the contractor's employees are absent from the room, it is to be locked.

- c. 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 adequate training and periodic followup procedures.
3. Print on the questionnaire in a clearly visible location and in clearly visible letters the following notice of the confidential treatment to be accorded the information on the questionnaire by any individual who may see it:

Confidential Information

Information contained on this form which would permit identification of any individual or establishment has been collected with a guarantee that it will be held in strict confidence by the contractor and CDC, will be used only for purposes stated in this study, and will not be disclosed or released to anyone other than authorized staff of CDC without the consent of the individual or the establishment in accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m).

4. On a letter or other form that can be retained by the individual or the establishment, or on the questionnaire form itself if it is a self-administered questionnaire, inform in clear and simple terms each individual or establishment asked to supply information:
 - a. That the collection of the information by CDC and its contractor is authorized by Section 306 of the Public Health Service Act (42 U.S.C. 242k);
 - b. Of the purpose or purposes for which the information is intended to be used, clearly stating that the records will be used solely for epidemiological or statistical research and reporting purposes;

- c. Of the routine uses that may be made of the information, including all disclosures specified in the "Federal Register" for this system of records which may be applicable to this project;
- d. That participation is voluntary and there are no penalties for declining to participate in whole or in part; and
- e. That no information collected under the authority of Section 306 of the Public Health Service Act (42 U.S.C. 242k) may be used for any purpose other than the purpose for which it was supplied, and such information may not be published or released in other form if the particular individual or establishment supplying the information or described in it is identifiable to anyone other than authorized staff of CDC, unless the individual or establishment has consented to such release.

(The voluntary disclosure by the respondent of requested information after being informed of preceding paragraphs a through d is an acknowledgment of the uses and disclosures contained in paragraph c.)

- 5. Release no information from the data obtained or used under this contract to any person except authorized staff of CDC.
- 6. By a specified date, which may be no later than the date of completion of the contract, return all study data to CDC or destroy all such data, as specified by the contract.

III.B. Alternative Two

Alternative Two is to be used when Section 308(d) of the Public Health Service Act applies to the project but the Privacy Act does not. For example, in the case of a survey of institutions providing health services, the Public Health Service Act provisions relating to "establishments" would apply, but the Privacy Act would not, since it relates only to records on individuals.

Safeguards for Individuals and Establishments Against Invasions of Privacy

In accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m), the contractor is required to give an assurance of confidentiality and to provide for safeguards to assure that confidentiality is maintained.

To provide this assurance and these safeguards in performance of the contract, the contractor shall:

- 1. Be bound by the following assurance:

Assurance of Confidentiality

In accordance with Section 308(d) of the Public Health Service Act

(42 U.S.C. 242m), the Director, CDC, assures each respondent that the confidentiality of responses to this information request will be maintained by the contractor and CDC and that no information obtained in the course of this activity may be disclosed in a manner in which the particular establishment or individual supplying the information or described in it is identifiable, unless such establishment or individual has consented to such disclosure, to anyone other than authorized staff of CDC.

- 2. Maintain the following safeguards to assure that this confidentiality is protected by the contractor's employees and to provide for the physical security of the records:

- a. After having read the above assurance of confidentiality, each employee of the contractor participating in this project is to sign the following statement of understanding:

I have carefully read and understand the CDC assurance which pertains to the confidential nature of all records to be handled in regard to this survey. As an employee of the contractor I understand that I am 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 CDC.

(Signature)

(Date)

- b. To preclude observation of confidential information by persons not employed on the project, the contractor shall maintain all confidential records that identify establishments or individuals or from which establishments or individuals could be identified under lock and key.

Specifically, at each site where these items are processed or maintained, all confidential records that will permit identification of establishments or individuals are to be kept in locked containers when not in use by the contractor's employees. The keys or means of access to these containers are to be held by a limited number of the contractor's staff at each site.

When confidential records are being used in a room, admittance to the room is to be restricted to employees pledged to confidentiality and employed on this project. If at any time the contractor's employees are absent from the room, it is to be locked.

- c. 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 adequate training and periodic followup procedures.

3. Print on the questionnaire in a clearly visible location and in clearly visible letters the following notice of the confidential treatment to be accorded the information on the questionnaire by any individual who may see it:

Confidential Information

Information contained on this form which would permit identification of any individual or establishment has been collected with a guarantee that it will be held in strict confidence by the contractor and CDC, will be used only for purposes stated in this study, and will not be disclosed or released to anyone other than authorized staff of CDC without the consent of the individual or establishment in accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m).

4. On a letter or other form that can be retained by the individual or the establishment, or on the questionnaire form itself if it is a self-administered questionnaire, inform in clear and simple terms each individual or establishment asked to supply information:
- That the collection of the information by CDC and its contractor is authorized by Section 306 of the Public Health Service Act (42 U.S.C. 242k);
 - Of the purpose or purposes for which the information is intended to be used, any plans for disclosures of information in a form that would permit the identification of an establishment or individual, and a statement that the data will be used solely for epidemiological or statistical research and reporting purposes;
 - That participation is voluntary and there are no penalties for declining to participate in whole or in part; and
 - That no information collected under the authority of Section 306 of the Public Health Service Act (42 U.S.C. 242k) may be used for any purpose other than the purpose for which it was supplied, and such information may not be published or released in other form to anyone other than authorized staff of CDC if the particular establishment or individual supplying the information or described in it is identifiable unless such establishment or individual has consented to such release.
- (The voluntary disclosure by the respondent of requested information after being informed of preceding paragraphs a through c is an acknowledgment of the uses and disclosures contained in paragraph b.)
5. Release no information from the data obtained or used under this contract to any person except authorized staff of CDC.
6. By a specified date, which may be no later than the date of completion of the contract, return all study data to CDC or destroy all such data, as specified by the contract.

III.C. Alternative Three

Alternative Three is to be used when the Privacy Act of 1974 applies to a given data collection project but Section 308(d) of the Public Health Service Act does not. This situation occurs when information is to be collected about identified individuals under an appropriation authorized by a law other than Section 304 or 306 of the Public Health Service Act.

Safeguards for Individuals Against Invasions of Personal Privacy

In accordance with Subsection (m) of the Privacy Act of 1974 (5 U.S.C. 552a), the contractor is required to provide certain safeguards for individuals against invasion of personal privacy.

To provide these safeguards in performance of the contract, the contractor shall:

- Initiate the following safeguards to protect against unauthorized disclosure of information which would permit identification of any individual supplying the information or described in it:
 - Each employee of the contractor participating in this project is to sign the following statement of understanding after having read Subsections (m) and (i)(1) of the Privacy Act of 1974 (5 U.S.C. 552a):

I have carefully read and understand Subsections (m) and (i)(1) of the Privacy Act of 1974. As an employee of the contractor I understand that I am prohibited by law from disclosing any such protected information which has been obtained under the terms of this contract to anyone other than authorized staff of CDC. I understand 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.

(Signature)

(Date)
 - To preclude observation of protected information by persons not employed on the project, the contractor shall maintain all confidential records that identify individuals or from which they could be identified under lock and key.

Specifically, at each site where these items are processed or maintained, all confidential records that will permit identification of individuals are to be kept in locked containers when not in use by the contractor's employees. The keys or means of access to these containers are to be held by a limited number of the contractor's staff at each site. When confidential records are being

used in a room, admittance to the room is to be restricted to employees pledged to nondisclosure and employed on this project. If at any time the contractor's employees are absent from the room, it is to be locked.

- c. 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 adequate training and periodic followup procedures.
2. Print on the questionnaire in a clearly visible location and in clearly visible letters the following notice of the confidential treatment to be accorded the information on the questionnaire by any individual who may see it:

Protected Information

Information contained on this form which would permit identification of any individual has been collected with an assurance that it will not be voluntarily disclosed to anyone other than staff of CDC except as consented to by the individual or required by Federal law.

3. On a letter or other form that can be retained by the individual, or on the questionnaire form itself if it is a self-administered questionnaire, inform in clear and simple terms each individual asked to supply information:
 - a. Of the statutory authority that authorized the solicitation of the information;
 - b. Of the purpose or purposes for which the information is intended to be used, clearly stating that the records will be used solely for epidemiological or statistical research and reporting purposes;
 - c. Of the routine uses that may be made of the information by the contractor and the U. S. Department of Health and Human Services, including all disclosures specified in the "Federal Register" for this system of records which may be applicable to this project;
 - d. That participation is voluntary and there are no penalties for declining to participate in whole or in part; and
 - e. That no information furnished will be disclosed in a manner that identifies the individual and that the Department will not voluntarily disclose such information in a manner that permits identification of an individual except as consented to by the individual in writing or as required by Federal law, or for routine use as provided for in preceding paragraph c.
4. Release no information from the data obtained or used under this contract to any person except authorized staff of CDC.

5. By a specified date, which may be no later than the date of completion of the contract, return all study data to CDC or destroy all such data, as specified by the contract.

IV. Dissemination

All contracts involving the collection of information on individuals and/or establishments, in which the individuals or establishments are identified, must stipulate one of the above wordings except when respondents are advised that all of the data received from them are to be made public. Center/Institute/Office Directors should make sure that employees of CDC are familiar with contract requirements.

APPENDIX B

Requirements Relating to Confidentiality and Privacy in Data Processing Contracts

I. Purpose

This appendix provides the wording to be used when the Centers for Disease Control (CDC) contracts with any organization outside CDC for the processing of information possessed by CDC which identifies individuals and/or establishments and for which confidentiality has been assured. Such contracts must contain stipulations to assure confidentiality and physical security of the information and to assure that the contractor's employees abide by the stipulations.

II. Background

The Privacy Act of 1974 (5 U.S.C. 552a) requires the safeguarding of individuals, and Section 308(d) of the Public Health Service Act (42 U.S.C. 242m) requires the safeguarding of both individuals and establishments against invasion of privacy. As a result of the provisions of these Acts, contractors who process information identifying individuals and/or establishments must stipulate as to the appropriate safeguards to be taken regarding such information. Wording is provided for use in contracts when such information is processed by contractors outside CDC.

III. Policy

The wording given in the following section is to be used in contracts calling for processing by contractors of confidential data. If the particular circumstances of a given contract imply the need for different wording from that prescribed as follows, the wording may be changed, provided that approval for the new wording is obtained from the Director, CDC.

Safeguards for Individuals and Establishments Against Invasions of Privacy

In accordance with Subsection (m) of the Privacy Act of 1974 (5 U.S.C. 552a)² and Section 308(d) of the Public Health Service Act (42 U.S.C. 242m), the contractor is required to comply with the applicable provisions of the Privacy Act and to undertake other safeguards for individuals and establishments against invasions of privacy.

²If the data provided to the contractor relate only to establishments and not to individuals, then references to the Privacy Act of 1974 should be deleted from the prescribed contract wording.

To provide these safeguards in performance of the contract, the contractor shall:

A. Be bound by the following assurance:

Assurance of Confidentiality

In accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m), the contractor assures that the confidentiality of this information will be maintained and that no information used in the course of this activity will be disclosed in a manner in which the individual or establishment is identifiable, unless the individual or establishment has consented to such disclosure.

B. Maintain the following safeguards to assure that confidentiality is protected by the contractor's employees and to provide for the physical security of the records:

1. After having read the above assurance of confidentiality, each employee of the contractor participating in this project is to sign the following statement of understanding:

I have carefully read and understand the assurance which pertains to the confidential nature of all records to be handled in regard to this survey. As an employee of the contractor I understand that I am prohibited by law from disclosing any such confidential information to which I may have access as a result of this contract. I understand 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.

(Signature)

(Date)

2. To preclude observation of confidential information by persons not employed on the project, the contractor shall maintain all confidential records that identify individuals or establishments or from which individuals or establishments could be identified under lock and key.

Specifically, at each site where these items are processed or maintained, all confidential records that will permit identification of individuals or establishments are to be kept in locked containers when not in use by the contractor's employees. The keys or means of access to these containers are to be held by a limited number of the contractor's staff at each site. When confidential records are being used in a room, admittance to the room is to be restricted to employees pledged to confidentiality and employed on this project. If at any time the contractor's employees are absent from the room, it is to be locked.

3. 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 adequate training and periodic followup procedures.

- C. Release no information from the data obtained or used under this contract to any person except as specified by the contract.

- D. By a specified date, which may be no later than the date of completion of the contract, return all study data to CDC or destroy all such data, as specified by the contract.

IV. Dissemination

All contracts involving the processing of information on individuals and/or establishments, in which the individuals or establishments are identified, must contain the above wording except when the study subjects had been advised that all of the data to be received from them were to be made public. Center/Institute/Office Directors should make sure that employees of CDC are familiar with contract requirements.

APPENDIX C
NONDISCLOSURE AGREEMENT

The success of CDC's operations depends upon the voluntary cooperation of States, of establishments, and of individuals who provide the information required by CDC programs under an assurance that such information will be kept confidential and be used only for epidemiological or statistical purposes.

When confidentiality is authorized, CDC operates under the restrictions of Section 308(d) of the Public Health Service Act which provides in summary that no information obtained in the course of its activities may be used for any purpose other than the purpose for which it was supplied, and that such information may not be published or released in a manner in which the establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented.

"I am aware that unauthorized disclosure of confidential information is punishable under Title 18, Section 1905 of the U.S. Code, which reads:

'Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment.'

"I understand that unauthorized disclosure of confidential information is also punishable under the Privacy Act of 1974, Subsection 552a (i) (1), which reads:

'Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.'

"My signature below indicates that I have read, understood, and agreed to comply with the above statements."

Typed/Printed Name	Signature	Date
Center/Institute/Office		

APPENDIX D
REQUEST FOR
AUTHORIZATION TO GIVE ASSURANCE OF CONFIDENTIALITY

Control No. _____

(Instructions for completing this form are on the reverse side. Please submit seven copies of all attachments.)

1. REQUESTED BY:

Name: _____ Center/Institute/Office: _____
Room No.: _____ Bldg.: _____ Phone No.: _____
Period of time authorization needed for data collection: From _____ To _____
 New Request Amended Request (Control No. of previous request _____)
Approval of Request: _____ Signature of Center/Institute/Office Director _____ Date _____

2. TITLE OF PROJECT:

3. JUSTIFICATION STATEMENT: Please attach the justification statement. See instructions on reverse side.

4. FOR OD USE ONLY

Received in OPPE (Date): _____
Confidentiality Review Group recommends: (Check appropriate box) Approval Disapproval
Signature: _____ Date: _____
Chairman, CRG
Assurance of confidentiality is authorized.
Signature: _____ Date: _____
Director, CDC

OFFICERS NOTIFIED:

- | | |
|---|--|
| <input type="checkbox"/> Director, Requesting Center/Institute/Office | <input type="checkbox"/> CDC Legal Advisor |
| <input type="checkbox"/> Freedom of Information Officer | <input type="checkbox"/> Director, Procurement and Grants Office |
| <input type="checkbox"/> ADP Security Officer | <input type="checkbox"/> Human Subjects Review Coordinator |
| <input type="checkbox"/> CDC Records Officer | <input type="checkbox"/> Project Clearance Officer |
| <input type="checkbox"/> Privacy Act Officer | <input type="checkbox"/> Other, _____ |
- Specify

INSTRUCTIONS FOR REQUESTING AUTHORIZATION TO GIVE ASSURANCE OF CONFIDENTIALITY

This form and justification statement should be submitted through OPPE to the Director, CDC, by the Director, Center/Institute/Office. These materials should document the need for authority to give assurances of confidentiality based upon Section 308(d) of the Public Health Service (PHS) Act, and relate only to the conduct of statistical and epidemiological activities authorized under Sections 304, 306, and 307 of the PHS Act.

1. Insert the name of the requesting Center/Institute/Office, the name and locale of principal investigator for the project, and the period of time authorization is needed for data collection. All requests must be approved and signed by the Center/Institute/Office Director or authorized designee. If this is an amendment to a previous request, please include control number of that previous request.
2. Insert the title of the statistical or epidemiological project related to this request.
3. A justification statement should be attached and should include detailed information on each of the following:
 - A. Purpose of Project – Along with the programmatic purpose(s) for the conduct of the project, include the type of data to be collected and the uses which will be made of the information collected.
 - B. Justification – Please give detailed information on the following issues in your justification:
 - (1) Extent to which the assurance of confidentiality is important to protection of the individual or institution.
 - (2) Extent to which the individual or establishment will not furnish or permit access to it unless an assurance of confidentiality is given.
 - (3) Extent to which the information cannot be obtained with the same degree of reliability from sources that do not require an assurance.
 - (4) Extent to which the information is essential to the success of the particular statistical or epidemiological project and is not duplicative of other information gathering activities of the Department.
 - (5) Extent to which the giving of the assurance of confidentiality will restrain CDC from carrying out any of its responsibility.
 - (6) Extent to which the advantages of assuring confidentiality outweigh the disadvantages of doing so.

Please submit seven copies of this justification and all other attachments.

4. Notification of approval will be made by the return to the Center/Institute/Office of a copy of this form along with any additional information as necessary. If the authority to assure confidentiality is disapproved, the Center/Institute/Office will be notified by the Director, CDC, outlining the reasons for disapproval.
- CDC 0.970 2-83 (BACK)