



**MEMORANDUM**

February 28, 2017

**To:** Honorable Paul Ryan, Speaker of the House of Representatives  
Attention: Ted McCann

Honorable Patty Murray, Ranking Member, Senate Committee on Health, Education,  
Labor, and Pensions  
Attention: John Righter

**From:** Clinton T. Brass, Specialist in Government Organization and Management, 7-4536, Co-  
Coordinator

Jennifer D. Williams, Specialist in American National Government, 7-8640, Co-  
Coordinator

**Subject: Selected Information Regarding Statistical and Evaluation Entities in the Executive  
Branch**

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This memorandum responds to your request for selected information regarding multiple statistical and evaluation-oriented entities in the executive branch.<sup>1</sup> More specifically, you requested information about several categories of statutory authorities under which each entity may operate.<sup>2</sup> This memorandum provides information that the Congressional Research Service (CRS) was able to compile in written form—including citations and brief characterizations of the provisions—in the time available before your deadline of March 1, 2017.

In particular, you expressed interest in the following categories of information for each entity:

- authorities that establish the entity (or authorize its establishment) and specify its mission and major duties or activities;
- any agency-specific authorities that govern how the entity uses data, provides data to or shares data with third parties inside and outside the federal government, acquires data, or prohibits data from disclosure or other uses;<sup>3</sup>

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<sup>1</sup> CRS staff across four research divisions contributed to this memorandum, as shown in footnotes for each sub-section, below.

<sup>2</sup> Congress may include these statutory authorities in authorizing legislation and annual appropriations legislation. Alternatively, if an entity was established administratively instead of statutorily and operates primarily under administrative authorities (e.g., regulations or other non-statutory guidelines or requirements), you expressed interest in these administrative authorities to the extent they could be identified in the time available. However, you indicated the primary emphasis of this memorandum was to focus on statutory provisions.

<sup>3</sup> For purposes of this memorandum, the term “agency-specific authorities” means authorities that cover a specific entity or its parent agency, and the term excludes authorities that cover most or all agencies across the executive branch. To illustrate the latter concept, direct hire authority under 5 U.S.C. 3304 covers executive agencies generally and is not specific in statute to a (continued...)

- any agency-specific authorities that relate to funding (e.g., authority to be reimbursed from other federal agencies, authority to collect funding from fees), personnel (e.g., flexibilities to hire or pay federal employees), or other noteworthy operational functions; and
- any agency-specific authorities that establish, or authorize the establishment of, an independent body that may engage in oversight of the entity or otherwise in some way support governance of the entity.

You indicated that the 16 entities to be covered by the memorandum were drawn from a document produced by the Office of Management and Budget (OMB) in July 2016.<sup>4</sup> Out of the 16 entities you requested to be within this memorandum's scope, 13 entities are often referred to as "principal statistical agencies."<sup>5</sup> The remaining three entities fall into other categories identified by OMB. OMB identified these three entities as having missions that focus on program evaluation or, alternatively, a more diverse mix of so-called "evidence-building" approaches.<sup>6</sup>

A few caveats may be highlighted regarding the information in this memorandum.

- CRS is providing information that it could compile and review in the time available. Consequently, the information in this memorandum is not necessarily comprehensive. In cases where CRS did not identify relevant information about a specific entity in the time available, the entry indicates this.<sup>7</sup>
- Each entity's entry uses a standard set of four subheadings. However, the format, content, and length of written material under each of the subheadings differs across entries, depending on the nature of the underlying entity and provisions. Furthermore, CRS used citations as each respective policy community typically cites them. This diversity especially appears to be present when comparing the 13 principal statistical agencies with

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(...continued)

particular department or entity within a department. See U.S. Office of Personnel Management, "Hiring Information: Direct Hire Authority," at <https://www.opm.gov/policy-data-oversight/hiring-information/direct-hire-authority/#url=Governmentwide-Authority>. Similarly, the Privacy Act of 1974 broadly covers agencies in the executive branch. The Privacy Act was originally enacted in 1974 (P.L. 93-579; 88 Stat. 1896) and now is codified at 5 U.S.C. 552a. For a compendium of general authorities that, as of 2004, covered executive agencies, see CRS Report RL30795, *General Management Laws: A Compendium*, by Clinton T. Brass et al.

<sup>4</sup> OMB identifies these 13 agencies as entities that have statistical work as their principal missions. U.S. Executive Office of the President, Office of Management and Budget (hereinafter OMB), "Overview of Federal Evidence-Building Efforts," July 15, 2016, tables 2, 3, and 4, at [https://obamawhitehouse.archives.gov/omb/management/commission\\_evidence](https://obamawhitehouse.archives.gov/omb/management/commission_evidence). During the Obama Administration, OMB said it produced this and four additional documents to provide background information for the Commission on Evidence-Based Policymaking. The commission was established by the Evidence-Based Policymaking Commission Act of 2016 (P.L. 114-140, 130 Stat. 317, March 30, 2016), at <https://www.gpo.gov/fdsys/pkg/PLAW-114publ140/pdf/PLAW-114publ140.pdf>. OMB posted the five documents on its website. The documents currently are available on an archived version of the OMB website that the National Archives and Records Administration posted at the end of the Obama Administration, at <https://www.archives.gov/presidential-libraries/archived-websites>.

<sup>5</sup> OMB, *Statistical Programs of the United States Government, Fiscal Year 2017*, January 10, 2017, pp. 4-5, at [https://obamawhitehouse.archives.gov/omb/inforeg\\_statpolicy](https://obamawhitehouse.archives.gov/omb/inforeg_statpolicy).

<sup>6</sup> In its July 2016 paper, OMB included numerous activities within the scope of the term "evidence-building." See OMB, "Overview of Federal Evidence-Building Efforts," July 15, 2016, p. 1. Usage of the term "evidence" has been controversial in the evaluation field, in light of debates about (1) what constitutes evidence for certain purposes and, conversely, what does not constitute evidence; (2) how to assess the relevance, quality, and utility of evidence for certain purposes; (3) what mix of methods should be used to generate useful information; and (4) who may be authorized or empowered to decide on relevance, quality, and utility for those purposes. For related discussion, see CRS Congressional Distribution Memorandum, *Obama Administration Agenda for Government Performance: Evolution and Related Issues for Congress*, January 19, 2011, pp. 33-35 (text under the heading "Making a Connection Between Evidence and Policy Making") (available from CRS upon request).

<sup>7</sup> As you permitted, in some cases CRS attempted to gather further information directly from an entity.

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the three entities that OMB does not identify as principal statistical agencies. Accordingly, this memorandum includes under separate headings the 13 principal statistical agencies and the three other entities.

- The memorandum covers all 13 entities identified by OMB as principal statistical agencies. By contrast, the three other entities that focus on evaluation, research, and policy analysis should not necessarily be viewed as representative of related federal government practice.<sup>8</sup>
- As noted above, contributors generally focused on agency-specific authorities rather than statutes that broadly cover agencies in the executive branch, such as the Privacy Act of 1974 and the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA).<sup>9</sup>
- As discussed, time limitations prevent analysis of ambiguities that may reside in the cited authorities and, in addition, comparative analysis across entities. However, research in this memorandum may facilitate such analysis prospectively.

The author or authors of each section of this memo are included in footnotes.<sup>10</sup> A brief table of contents is included, below, for your reference. Please feel free to contact the relevant authors directly with questions about a specific entity, or to contact the coordinators with more general questions.

The information in this memorandum is drawn from publicly available sources and is of general interest to Congress. As such, all or part of this information may be provided by CRS in memoranda or reports for general distribution to Congress. Your confidentiality as a requester will be preserved.

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<sup>8</sup> The federal government’s capacities to conduct evaluation-related tasks and perform policy analysis are heterogeneous across agencies and typically decentralized within agencies. This variety manifests itself in terms of organizational arrangements, distribution and competencies of staff, processes in which these capacities are involved, and the evaluation/analytical methods that an agency’s internal and external stakeholders consider to be useful. In practice, evaluation and analytical activities may draw upon a large diversity of methods. For a survey of evaluation methods, see U.S. Government Accountability Office, *Designing Evaluations: 2012 Revision*, GAO-12-208G, January 2012, at <http://www.gao.gov/products/GAO-12-208G>. It may be noted in this context that under the Obama Administration, OMB oftentimes said it placed a priority on one subset of methods known as “impact evaluation” (e.g., see OMB, “Overview of Federal Evidence-Building Efforts,” July 15, 2016, p. 4). Impact evaluations oftentimes use treatment and control groups to compare how each group fares on a particular outcome, after an intervention takes place. The difference in their measured outcomes is the “impact.” By contrast, other observers have called for a broader priority on multiple methods to inform learning and policy making (e.g., see American Evaluation Association, “An Evaluation Roadmap for a More Effective Government,” October 2013, pp. 6-7, at <http://www.eval.org/p/cm/ld/fid=129>, and American Statistical Association, “Legislation and Statistical Evidence: Bill Language that Promotes High Quality Policy Making,” October 11, 2016, at [http://www2.amstat.org/misc/SPAAC\\_GuidanceStatisticalEvidence.pdf](http://www2.amstat.org/misc/SPAAC_GuidanceStatisticalEvidence.pdf)).

<sup>9</sup> For related provisions, see the Privacy Act (P.L. 93–579; 88 Stat. 1896, now codified at 5 U.S.C. 552a) and CIPSEA, which was included as Title V of the E-Government Act of 2002 (P.L. 107-347, 116 Stat. 2899, at 2962; 44 U.S.C. 3501 note). It should be noted that Subtitle B of CIPSEA authorizes the sharing of business data among three particular entities: the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics (116 Stat. 2967). This memorandum takes note of CIPSEA here but generally does not focus on its Subtitle B provisions.

<sup>10</sup> In addition to CRS staff cited in footnotes for individual entries, four additional CRS staff provided research support related to the 13 principal statistical agencies: Julie Jennings, Senior Research Librarian (7-5896); Justin Murray, Senior Research Librarian (7-4092), Jared C. Nagel, Senior Research Librarian (7-2468); and Jennifer Teefy, Senior Research Librarian (7-7625).

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## Entity-Specific Information for the 13 Principal Statistical Agencies

This section of the memorandum discusses 13 entities that OMB identifies as principal statistical agencies. A later section of the memorandum focuses on the three additional entities you asked CRS to discuss.

### Bureau of Economic Analysis (BEA), Department of Commerce (DOC)<sup>11</sup>

#### Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities<sup>12</sup>

BEA’s stated role in the federal statistical system is to “[produce] economic accounts statistics that enable government and business decision-makers, researchers, and the American public to follow and understand the performance of the Nation’s economy. To do this, BEA collects source data, conducts research and analysis, develops and implements estimation methodologies, and disseminates statistics to the public.”<sup>13</sup>

BEA identifies four statistical products that make up its core programs.<sup>14</sup>

<sup>11</sup> This section was prepared by Jeffrey M. Stupak, Analyst in Macroeconomics (7-2344).

<sup>12</sup> U.S. Department of Commerce (DOC), “Department Organization Order; Bureau of Economic Analysis,” 45 *Federal Register* 85496, December 29, 1980.

<sup>13</sup> DOC, Bureau of Economic Analysis (BEA), “Mission, Vision, & Values,” at <https://www.bea.gov/about/pdf/Mission%20Vision%20&%20Values.pdf>.

<sup>14</sup> BEA, *Selected Authorities and Authorizations for BEA Core Programs*, at (continued...)

- The National Income and Product Accounts provide detailed information on economic activity within the United States and are best known for their use in producing gross domestic product (GDP) estimates.<sup>15</sup>
- The Industry Accounts provide a detailed look at interactions between industries, economic activity by industry, and the impact of changes in resource costs and demand on industries.<sup>16</sup>
- The International Accounts provide information on the international flow of economic activity, including trade, foreign investment, and capital flows.<sup>17</sup>
- The Regional Accounts provide similar information as the national income and product accounts, however at the state and local level, including state-by-state GDP and personal income estimates.<sup>18</sup>

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

- A number of statutes govern BEA's use of data.<sup>19</sup> BEA is authorized to gather, compile, and publish statistical and other information related to economic activity in order to foster and promote such activity. Additionally, BEA is to analyze and report data related to producers' sources of raw materials, markets, exchanges with producing regions of the country, transportation of products, wages, and other conditions affecting the industries' prosperity to Congress. Additionally, BEA may collect, arrange, and classify statistical information to show the condition of manufacturing, trade, currency, and banks.
- A number of statutes discuss BEA's ability to share information with other agencies.<sup>20</sup> Congress and the President may request special investigations/reports on specific topics by BEA. Additionally, BEA, the Bureau of the Census, and the Bureau of Labor Statistics may share statistical and business information with each other, and enter into joint statistical projects.
- BEA's statutory authority to acquire data is relatively broad.<sup>21</sup> BEA may collect data related to the condition of and activity related to domestic and foreign economic activity.

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[https://www.bea.gov/about/pdf/bea\\_core\\_programs\\_2008.doc](https://www.bea.gov/about/pdf/bea_core_programs_2008.doc).

<sup>15</sup> Chapter 5 of Title 15, *U.S. Code*, except for the Plant and Equipment Survey conducted under Section 175 et seq.; Section 1516 of Title 15, *U.S. Code*; Sections 401 and 402 of Title 13, *U.S. Code*. For more information related to BEA's national income and product accounts, see [https://www.bea.gov/about/overview\\_national.htm](https://www.bea.gov/about/overview_national.htm).

<sup>16</sup> Section 4908 of Title 15, *U.S. Code*; E.O. 10033 of February 8, 1949, as amended by E.O. 11269 of February 14, 1966; E.O. 12013 of October 7, 1977; and E.O. 12318 of August 21, 1981. For more information related to BEA's industry accounts, see [https://www.bea.gov/about/overview\\_industry.htm](https://www.bea.gov/about/overview_industry.htm).

<sup>17</sup> Section 3 of E.O. 11961 of January 19, 1977, as amended by E.O. 12013 of October 7, 1977; E.O. 12318 of August 21, 1981; and E.O. 12518 of June 3, 1985 delegating to the Secretary of Commerce authority of the President under Sections 4(a)(1), (2), (4), (5) and 4(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108). For more information related to BEA's international accounts, see [https://www.bea.gov/about/overview\\_international.htm](https://www.bea.gov/about/overview_international.htm).

<sup>18</sup> Chapter 5 of Title 15, *U.S. Code*, except for the Plant and Equipment Survey conducted under Section 175 et seq.; Section 1516 of Title 15, *U.S. Code*; Sections 401 and 402 of Title 13, *U.S. Code*. For more information related to BEA's regional accounts, refer to <https://www.bea.gov/regional/about.cfm>.

<sup>19</sup> Sections 175, 176, 176a, and 182 of Title 15, *U.S. Code*.

<sup>20</sup> Sections 401 and 402 of Title 13, *U.S. Code*; Sections 172 and 182 of Title 15, *U.S. Code*; Sections 3104, 3142, and 3501 of Title 22, *U.S. Code*.

<sup>21</sup> Sections 172, 175, 176, 178, 182 of Title 15, *U.S. Code*; Sections 401 and 402 of Title 13, *U.S. Code*.

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- There are a number of restrictions that govern BEA's use of data, largely meant to preserve the confidentiality of individuals.<sup>22</sup> All statistical information provided to BEA shall only be used for the statistical purpose for which it was provided. All statistical information given to BEA regarding individuals, corporations, and firms shall remain confidential. Additionally, except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002,<sup>23</sup> only employees of BEA should see individual reports, and may not distribute reports in ways that may compromise the confidentiality of the data. Reports produced by BEA may not discuss partisan, political, religious, or moral questions.

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

BEA is funded through annual appropriations to the Economics and Statistics Administration (ESA), which includes the Bureau of the Census and BEA.<sup>24</sup> Under a general provision in the annual appropriations act that provides funds for BEA, funds appropriated to ESA that remain available for obligation may be used for expenses of cooperative agreements with outside entities including federal, state, and local governmental units, and institutions of higher education “to aid and promote statistical, research, and methodology activities.”<sup>25</sup>

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- The Federal Economic Statistics Advisory Committee advises the Directors of the Bureau of the Census, the Bureau of Labor Statistics, and BEA on statistical methodology and other technical matters.<sup>26</sup>
- The BEA Advisory Committee advises the Director of BEA on the development and improvement of BEA's economic accounts.<sup>27</sup>

## **Bureau of Justice Statistics (BJS), Department of Justice (DOJ)<sup>28</sup>**

### **Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities**

The Bureau of Justice Statistics (BJS) was established in 1979 by the Justice System Improvement Act of 1979 (P.L. 96-157). BJS is the statistical arm of the Department of Justice (DOJ) and is the principal source for national criminal justice statistics. BJS collects, analyzes, publishes, and disseminates data on crime, offenders, crime victims, and the operations of the criminal justice system at all levels of

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<sup>22</sup> Section 9 of Title 13, *U.S. Code*; Sections 176a and 190 of Title 15, *U.S. Code*; 3104, 3144, and 3501 of Title 22, *U.S. Code*.

<sup>23</sup> P.L. 107-347, Title V.

<sup>24</sup> Division B, P.L. 114-113.

<sup>25</sup> For example, see P.L. 114-113 (2015), 129 Stat. 2296.

<sup>26</sup> U.S. Department of Labor, “Committee Management; Notice of Establishment,” 64 *FR* 68121, December 6, 1999. For more information related to the Federal Economic Statistics Advisory Committee, see <http://www.census.gov/fesac/>.

<sup>27</sup> DOC, “Establishment of the Bureau of Economic Analysis Advisory Committee,” 64 *FR* 40816, July 28, 1999. For more information related to the BEA Advisory Committee, see <https://www.bea.gov/about/advisory.htm>.

<sup>28</sup> This section was prepared by Nathan James, Analyst in Crime Policy (7-0264).

government. BJS also assists state and local governments' efforts to develop their capabilities to supply criminal justice information and data by providing financial and technical support for the development of information systems.

- **Statutory Citations.** 42 U.S.C. 3731 (mission); 42 U.S.C. 3732 (main duties).
- **Brief Characterization of Provisions.** When Congress established BJS, it stated that the purpose of the agency is to

provide for and encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system and to support the development of information and statistical systems at the Federal, State, and local levels to improve the efforts of these levels of government to measure and understand the levels of crime, juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system.<sup>29</sup>

There are nearly two dozen statutory duties and functions of BJS. In general, the duties and functions of BJS relate to the agency's responsibility to collect, analyze, and disseminate data related to the criminal justice system; serve as a leader in the field of criminal justice statistics and information sharing; and award grants related to collecting, analyzing, and disseminating criminal justice data. Some of BJS's duties and functions include:

- Supporting national, state, tribal, and local justice policymaking by collecting and analyzing data on the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, civil disputes, and other related statistical factors.
- Collecting and analyzing statistical information concerning the operations of the criminal justice system at the federal, state, tribal, and local levels.
- Collecting and analyzing information concerning criminal victimization.
- Collecting, analyzing, and disseminating statistics about drug offenses, drug-related offenses, and drug control activities.
- Recommending national standards for justice statistics and for insuring the reliability and validity of justice statistics.
- Providing information to the President; the Congress; the judiciary; state, tribal, and local governments; and the general public on justice statistics.
- Providing for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of state and tribal criminal history records, supporting the development and enhancement of national criminal history, and facilitating state and tribal participation in national records and information systems.
- Liaising with state, tribal, and local governments and governments of other nations concerning justice statistics.
- Cooperating in and participating with national and international organizations in the development of uniform justice statistics.
- Making grants to public agencies, institutions of higher education, private organizations, or private individuals for purposes related to BJS's duties and functions.

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<sup>29</sup> 42 U.S.C. 3731.

## Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

- **Statutory Citations.** 42 U.S.C. 3732 (data acquisition); 42 U.S.C. 3735 and 3789g (data use/restrictions).
- **Brief Characterization of Provisions.** In order to ensure that the collection, analysis, and dissemination of justice data is conducted in an orderly manner, the Director of BJS is authorized to
  - utilize the services, equipment, records, personnel, information, and facilities of other federal, state, local, and private agencies for purposes of data collection and analysis;
  - confer and cooperate with state and local agencies;
  - request such information, data, and reports from any federal agency that may be required to carry out BJS's duties and functions;<sup>30</sup>
  - seek the cooperation of the judicial branch in gathering data from criminal justice records;
  - encourage replication, coordination and sharing among justice agencies regarding information systems, information policy, and data; and
  - confer and cooperate with federal statistical agencies as needed to carry out BJS's duties and functions.

Congress has placed restrictions on how data collected by BJS can be used. Per 42 U.S.C. 3735, data collected by BJS can only be used for statistical or research purposes, and it must be gathered in a manner that “precludes their use for law enforcement or any purpose relating to a private person or public agency other than statistical or research purposes.”

In addition, per 42 U.S.C. 3789g(a), employees and officers of BJS are prohibited from using or revealing any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained.

## Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions

- **Statutory Citations.** 42 U.S.C. 3793 (funding); 42 U.S.C. 3732 (personnel).
- **Brief Characterization of Provisions.** BJS receives an appropriation each year through the annual Commerce, Justice, Science, and Related Agencies (CJS) Appropriations Act. Appropriations for BJS are discretionary. Appropriations for BJS are authorized at 42 U.S.C. 3793(a)(1). Congress has continued to provide funding for BJS even though authorized appropriations expired at the end of FY1995.

The authorizing legislation for BJS does not include any specific requirements for the agency's general personnel, but it does provide a set of requirements for BJS's Director. Per 42 U.S.C. 3732(b), the Director is

- appointed by the President;
- required to have experience in statistical programs;

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<sup>30</sup> Per 42 U.S.C. 3732(e), federal agencies are required to furnish any information, data, or reports requested by BJS to help it carry out its duties and functions.

- responsible for the integrity of data and statistics and is required to protect against improper or illegal use or disclosure;
- not to hold any other position while serving as Director; nor is the Director allowed to hold any office in, or act in any capacity for, any organization, agency, or institution with which BJS makes any contract or other arrangement.

In addition, the director has final authority for all grants, cooperative agreements, and contracts awarded by BJS.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citations.** CRS did not identify current, relevant information within the time available.
- **Brief Characterization of Provisions.** CRS did not identify current, relevant information within the time available. However, the authorizing legislation for BJS (P.L. 96-157; 93 Stat. 1178) established an advisory board for BJS. The board included 21 members appointed by the Attorney General who represented state and local governments, members of the criminal justice system, experts in research and statistics, neighborhood and community organizations, and the business community. The board was required to review and make recommendations regarding BJS's activities and formulate and recommend policies and priorities for BJS, make recommendations for candidates for the Director of BJS in the event of a vacancy, and carry out additional related functions deemed necessary by the board. The authorization for the board was repealed by P.L. 88-473 (98 Stat. 2080).

### **Bureau of Labor Statistics (BLS), Department of Labor (DOL)<sup>31</sup>**

#### **Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities**

- **Statutory Citation(s).** 29 U.S.C. 1.<sup>32</sup>
- **Brief Characterization of Provision(s).** 29 U.S.C. 1 sets out the "general design" and main duties of the Bureau of Labor Statistics (BLS) as follows: "... to acquire and diffuse among the people of the United States useful information on subjects connected with labor, in the most general and comprehensive sense of that word, and especially upon its relation to capital, the hours of labor, the earnings of laboring men and women, and the means of promoting their material, social, intellectual, and moral prosperity." Subsequent provisions identify BLS responsibilities for data collection, analysis, and publication of studies on specific topics and worker populations. These are described in the next section of this memorandum.

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<sup>31</sup> This section was prepared by David H. Bradley, Specialist in Labor Economics (7-7352), Sarah Donovan, Analyst in Labor Policy (7-2247), and Abigail R. Overbay, Senior Research Librarian (7-9519).

<sup>32</sup> BLS was originally part of the Department of the Interior (see: Bureau of Labor Act (23 Stat. 60), June 27, 1884), and moved to the DOL in 1913. An overview of BLS history is available at <http://www.bls.gov/bls/history/home.htm>.

## Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

- **Statutory Citation(s).** 29 U.S.C. 2, 2b, 5, 6, 8, and 9; 42 U.S.C. 503(a)(6); 38 U.S.C. 4110A; 19 U.S.C. 2393; 29 U.S.C. 673
- **Brief Characterization of Provision(s).**

BLS has standing, Congressionally-mandated data collection, analysis and reporting responsibilities, in addition to having authorization to develop and disseminate other products. Key among mandated products are the monthly publication of the statistics that describe employment, hours of work, and wages (29 U.S.C. 2)<sup>33</sup> and the Consumer Price Index (CPI), which measures price changes (29 U.S.C. 2).<sup>34</sup> BLS is further directed to collect and publish on at least an annual basis “full and complete statistics of the conditions of labor” (29 U.S.C. 2), to make continuing studies of labor costs and productivity by industry of production (29 U.S.C. 2b), to develop “methods for improving and expanding the collection, analysis, and publication of unemployment data relating to Americans of Spanish origin or descent” (29 U.S.C. 8), and to submit an annual report on BLS products to the President and Congress (29 U.S.C. 6).

In addition to mandated and directed reports, the Secretary of Labor has statutory authority to collect, analyze, and publish data and related studies on select worker groups or labor market phenomena. In some instances, BLS is authorized directly to publish certain products. For example, BLS is authorized to publish bulletins on domestic and international labor conditions that “may be deemed of value to the industrial interests of the country” (29 U.S.C. 5) and to prepare (at cost) statistical studies of employment and earnings as requested by “any person” (29 U.S.C. 9). In other cases, the Secretary of Labor is authorized to develop certain statistical information and BLS may be involved in carrying out such tasks.<sup>35</sup>

Regarding data collection, design and methods, 29 U.S.C. 491-2(b)(2)(E) establishes procedures for creating (e.g., data collection and concepts/definitions) and maintaining the workforce and labor market information system prescribed by the Workforce Innovation and Opportunity Act (P.L. 113-128), and 13 U.S.C. 182 authorizes biennial surveys of certain populations at the state, county, and local levels. In addition, 29 U.S.C. 2 provides that the Secretary of Labor may access, use, and publish statistical data and analysis from other federal agencies “in such manner as to him may seem wise” and, in addition, allows the Secretary to collaborate with government agencies at all levels (i.e., federal, state, local, and “other” governmental agencies) to collect data required for the monthly employment report. Similarly, 29 U.S.C. 3104 authorizes BLS to collect data from the Commerce Department’s Bureau of Economic Analysis for the purpose of “augmenting and improving BLS data.”

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<sup>33</sup> BLS is directed to publish the monthly employment, hours, and earnings statistics separately for federal, state, and local workers and by major industry (29 U.S.C. 2).

<sup>34</sup> Pub. L. 100-175, title I, 191, Nov. 29, 1987, 101 Stat. 967 directed BLS to create a consumer price index that “reflects the expenditures for consumption by Americans 62 years of age and older”; see 29 U.S.C. 2 note. In 1891, Congress further directed the Commission of Labor Statistics to “collect the quotations of prices at retail of commodities named in Schedule A, as adopted by the Committee, and the cities and towns named in Schedule B” under its authority provided in 29 U.S.C. 8 to so direct the Commissioner; see Senate Report 52-986, Part 1, Appendix B, “Report of the Commissioner of Labor” (p. CIII).

<sup>35</sup> Examples of this sort include data collection and reports on unemployment compensation participation (42 U.S.C. 503(a)(6)), statistics on veterans unemployment (annually) (38 U.S.C. 4110A), data on workers adversely affected by international trade (19 U.S.C. 2393), and occupational safety and health statistics (29 U.S.C. 673).

Finally, 5 U.S.C. 5301 – 5304 authorizes the Secretary of Labor and BLS to conduct locality-pay surveys as part of the requirements of the Federal Employees Pay Comparability Act (FEPCA).

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

- **Statutory Citation(s).** 29 U.S.C. 2, 3, 4, 9, and 9a.; Consolidated Appropriations Act, 2016, P.L. 114-113, 129 Stat. 2594.

- **Brief Characterization of Provision(s).**

BLS is funded through annual appropriations, most recently the Consolidated Appropriations Act, 2016, P.L. 114-113, which provides “\$544,000,000, together with not to exceed \$65,000,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.” (129 Stat. 2594). In addition, BLS may collect fees (at cost) for the production of special studies (29 U.S.C. 9), which it may credit to “appropriation of [the] bureau, service, office, division, or other agency of the Department of Labor which supervised such work, and may be used, in the discretion of the Secretary of Labor, and notwithstanding any other provision of law, for the ordinary expenses of such agency and/or to secure the special services of persons who are neither officers nor employees of the United States” (29 U.S.C. 9a).

29 U.S.C. 3 establishes the leadership position of the Commissioner of Labor Statistics, and defines the terms and duties of the position. 29 U.S.C. 2 permits that the Secretary of Labor may assign DOL staff (“special agents”) to any “Federal, State, or municipal bureau or other governmental agency” to assist in the collection of data required for the mandated employment report.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation(s).** Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2; 29 U.S.C. 491-2(c) (“Workforce Information Advisory Council” 2-year plan), Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128).
- **Brief Characterization of Provision(s).** As authorized by FACA provisions, BLS has chartered advisory committees to offer feedback and guidance on its research strategies and activities. These include the Bureau of Labor Statistics Technical Advisory Committee (TAC), which “presents advice and makes recommendations to [BLS] on technical aspects of data collection and the formulation of economic measures” and the Data Users Advisory Committee (DUAC), which “provides advice to [BLS] from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on matters related to the analysis, dissemination, and use of the Bureau’s statistics, on its published reports, and on gaps between or the need for new Bureau statistics.”<sup>36</sup> Along with the Bureau of Economic Analysis and the U.S. Census Bureau, BLS also receives guidance from the Federal Economic Statistics Advisory Committee (FESAC) on “statistical methodology

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<sup>36</sup> The TAC charter is available at <http://www.bls.gov/advisory/taccharter.htm>, and the DUAC charter is at <http://www.bls.gov/advisory/duaccharter.htm>.

and other technical matters related to the collection, tabulation, and analysis of federal economic statistics.”<sup>37</sup>

In addition, BLS and the DOL Employment and Training Administration receive input on the national workforce and labor market information system and its management from the Workforce Information Advisory Council (WIAC), which was established by Section 308 of the WIOA and operates in accordance with FACA provisions.<sup>38</sup>

## Bureau of Transportation Statistics (BTS), Department of Transportation (DOT)<sup>39</sup>

### Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities

- **Statutory Citation(s).** 49 U.S.C. 6301-6314,<sup>40</sup> 49 U.S.C. 329(b);<sup>41</sup> 23 U.S.C. 129 note;<sup>42</sup> 49 U.S.C. 20155 note.<sup>43</sup>
- **Brief Characterization of Provision(s).** The Bureau of Transportation Statistics (BTS) is part of the Department of Transportation’s (DOT’s) Office of the Assistant Secretary for Research and Technology. Its main duties are to advise the Secretary of Transportation on data and statistics and to gather transportation statistics that support decision-making in government and the private sector. BTS is required to collect, compile, analyze, and publish data on the performance of the transportation system and its impacts, such as safety, infrastructure condition, freight and passenger movements, environmental effects, and economic competitiveness. BTS must make the data it compiles and publishes readily accessible to the public. BTS is specifically required to maintain an intermodal transportation database, a national transportation library, and a national transportation atlas database. BTS is also mandated to publish a transportation statistics annual report. BTS is also charged with helping to improve the statistics and statistical practices of the operating administrations of DOT, such as the Federal Highway Administration and the Federal Transit Administration, and to collaborate on information collection with other federal agencies.

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<sup>37</sup> U.S. Bureau of the Census, “Federal Economic Statistics Advisory Committee (FESAC), at <http://www.census.gov/fesac/>.

<sup>38</sup> Additional information about the WIAS is available at [www.doleta.gov/wioa/wiac/](http://www.doleta.gov/wioa/wiac/). The BLS Labor Market Information Oversight Committee (BLOC) complements the work of the WIAC, and was created to “conduct oversight operations for the BLS federal-state cooperative programs, to develop strategic plans to govern broad program changes, and to provide governance for and to work across the program Policy Councils to ensure that program changes are implemented in a cooperative and coordinated manner that benefits the entire federal-state cooperative system. Also, to serve as a communication conduit to ensure that State concerns are heard at the federal level and that program information is dispersed to all States, to explore expanded use of LMI data, to conduct customer outreach, and to liaise with other teams, including the WIAC” [https://www.bls.gov/advisory/bloc\\_charter.htm](https://www.bls.gov/advisory/bloc_charter.htm)

<sup>39</sup> This section was prepared by William J. Mallett, Specialist in Transportation Policy (7-2216).

<sup>40</sup> These sections contain the main authority for BTS’ mission and activities.

<sup>41</sup> This section contains the authority of DOT to collect civil aviation data. BTS’ authority to collect the data is contained in a number of regulations including 14 C.F.R. parts 217, 234, 241, and 385.

<sup>42</sup> This section authorizes BTS to establish and maintain a national ferry database.

<sup>43</sup> This section authorizes DOT to collect railroad tank car modification data and the option of designating BTS to collect the data.

BTS has special authority to collect certain data as the DOT's main data agency. As part of its authority to oversee civil aviation, DOT is empowered to collect data from air carriers. These data are collected by BTS's Office of Airline Information. BTS is also authorized to establish and maintain a national ferry database and a port performance freight statistics program. DOT is also mandated to collect railroad tank car modification data and this task may be delegated to BTS.

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

- **Statutory Citation(s).** 49 U.S.C. 6302(c); 49 U.S.C. 6302(d)(4); 49 U.S.C. 6306; 49 U.S.C. 6307; 49 U.S.C. 6313.
- **Brief Characterization of Provision(s).** BTS is given the legal authority to obtain safety data from other parts of DOT and other federal agencies, subject to statutory or regulatory restrictions. The Director of BTS must ensure that its information technology systems protect data confidentiality by consulting with DOT's Chief Information Officer. In fulfilling its data gathering and dissemination mission, BTS has broad authority to cooperate with other federal agencies, state and local governments, private organizations, and foreign governments and organizations. When making data available, BTS must maintain the confidentiality of individuals and organizations. BTS must not allow unauthorized individuals access to individually reported data submissions. No individual responses may be obtained by other federal agencies or any judicial proceeding. BTS may not use information it collects under certain authorities for nonstatistical purposes. BTS has mandatory response authority for freight data collection, including the ability to impose fines on entities that fail to furnish data or that provide false answers.

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

- **Statutory Citation(s).** 49 U.S.C. 6308.
- **Brief Characterization of Provision(s).** Funds received by BTS from the sale of data products may be credited to the highway account of the Highway Trust Fund as reimbursement for its expenses.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation(s).** 49 U.S.C. 6305.
  - **Brief Characterization of Provision(s).** BTS must establish an advisory council on transportation statistics to help guide the mission of the agency. The council is composed of 9 to 11 members who are non-federal employees, represent a broad cross-section of transportation stakeholders, and are experts in transportation data, economics, and transportation safety. The Federal Advisory Committee Act (5 U.S.C. Appendix) applies to the advisory council, except for Section 14 that relates to termination, renewal, and continuation of advisory committees.
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## Bureau of the Census (Census Bureau), DOC<sup>44</sup>

### Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities

The general statute under which the Census Bureau operates, which specifies its mission and major duties or activities, is codified as Title 13, *U.S. Code*.<sup>45</sup> Title 13, Section 2, states that “The Bureau is continued as an agency within, and under the jurisdiction of, the Department of Commerce.”<sup>46</sup>

- Notably, the Secretary of Commerce may delegate responsibility for the operations of the Census Bureau to other Commerce Department officers and employees. Title 13, Section 4, specifies that “The Secretary [of Commerce] shall perform the functions and duties imposed upon him by this title, may issue such rules and regulations as he deems necessary to carry out such functions and duties, and may delegate the performance of such functions and duties and the authority to issue such rules and regulations to such officers and employees of the Department of Commerce as he may designate.”<sup>47</sup>
- Title 13, Section 21(c), states that “The Director shall perform such duties as may be imposed upon the Director by law, regulations, or orders of the Secretary.”<sup>48</sup>

### Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

Title 13 authorities are contained in distinct but interconnected sections, which often refer to one another regarding data uses and related restrictions. For clarity of presentation, these authorities are categorized and bulleted below. Bullets include the actual statutory text where precision may be helpful.

- **Data Collection/Acquisition.**

The Commerce Secretary or the Secretary's designee(s) are authorized to collect information from wide-ranging public and private sources.

- Title 13, Section 5, states that “The Secretary shall prepare questionnaires, and shall determine the inquiries, and the number, form, and subdivisions thereof, for the statistics, surveys, and censuses provided for in this title.”<sup>49</sup>
- Title 13, Section 6(a), states that “The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government, or of the government of the District of Columbia, for information pertinent to the work provided for in this title.”
- Title 13, Section 6(b), states that “The Secretary may acquire, by purchase or otherwise, from States, counties, cities, or other units of government, or their instrumentalities, or from private persons and agencies, such copies of records,

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<sup>44</sup> This section was prepared by Jennifer D. Williams, Specialist in American National Government (7-8640).

<sup>45</sup> Title 13, *U.S. Code* (“Census”), was formally codified into law by Public Law 740, ch. 1158, 83<sup>rd</sup> Congress (August 31, 1954), 68 Stat. 1012. Further citations to Public Law 740, below, include the specific Statutes at Large citations. Citations to subsequent legislation generally refer to the assigned Public Law (P.L.) number.

<sup>46</sup> August 31, 1954, ch. 1158, 68 Stat. 1012.

<sup>47</sup> August 31, 1954, ch. 1158, 68 Stat. 1013; P.L. 94-521, Section 3(a), October 17, 1976, 90 Stat. 2459.

<sup>48</sup> August 31, 1954, ch. 1158, 68 Stat. 1014; P.L. 112-166, Section 3(a), August 10, 2012, 126 Stat. 1291.

<sup>49</sup> August 31, 1954, ch. 1158, 68 Stat. 1013; P.L. 94-521, Section 4(a), October 17, 1976, 90 Stat. 2459.

- reports, and other material as may be required for the efficient and economical conduct of the censuses and surveys provided for in this title.”
- Title 13, Section 6(c), states that “To the maximum extent possible and consistent with the kind, timeliness, quality and scope of the statistics required, the Secretary shall acquire and use information available from any source referred to in subsection (a) or (b) of this section instead of conducting direct inquiries.”<sup>50</sup>
  - Title 13, Section 16(a), provides for the submission of address information by state and local governments to the Census Bureau in order to improve the bureau’s address list.
  - Title 13, Section 131, provides for a quinquennial economic census;<sup>51</sup> Section 141, for a decennial census of population;<sup>52</sup> Section 161, for a quinquennial census of governments;<sup>53</sup> and Section 181, for the Census Bureau to produce population estimates in the years between decennial censuses.<sup>54</sup>
  - **Data Use and Sharing.**
    - Title 13, Section 8(a), specifies that, upon written request, the Secretary may “furnish to any respondent, or to the heir, successor, or authorized agent of such respondent, authenticated transcripts or copies of reports (or portions thereof) containing information furnished by, or on behalf of, such respondent in connection with the surveys and census provided for in this title, upon payment of the actual or estimated cost of searching the records and furnishing such transcripts or copies.”
    - Title 13, Section 8(b), provides that “Subject to the limitations contained in sections 6(c) and 9 of this title, the Secretary may furnish copies of tabulations and other statistical materials which do not disclose the information reported by, or on behalf of, any particular respondent, and may make special statistical compilations and surveys, for departments, agencies, and establishments of the Federal Government, the government of the District of Columbia, the government of any possession or area (including political subdivisions thereof) referred to in section 191 (a) of this title, State or local agencies, or other public and private persons and agencies, upon payment of the actual or estimated cost of such work.”
    - Title 13, Section 16(b)(1)(A), states that “The Secretary—shall provide officials who are designated as census liaisons by a local unit of general purpose government with access to census address information for the purpose of verifying the accuracy of the address information of the Bureau for census and survey purposes.”<sup>55</sup>
    - Title 13, Section 401(a) provides that the Census Bureau “shall exchange with the Bureau of Economic Analysis of the Department of Commerce information collected under this title, and under the International Investment and Trade in Services Survey Act, that pertains to any business enterprise that is operating in the United States, if

<sup>50</sup> August 31, 1954, ch. 1158, 68 Stat. 1013, P.L. 85-207, Section 3, August 28, 1957, 71 Stat. 481; P.L. 94-521, Section 5(a), October 17, 1976, 90 Stat. 2460

<sup>51</sup> August 31, 1954, ch. 1158, 68 Stat. 1019, P.L. 85-207, Section 8, August 28, 1957, 71 Stat. 482; P.L. 88-532, August 31, 1964, 78 Stat. 737.

<sup>52</sup> August 31, 1954, ch. 1158, 68 Stat. 1019, P.L. 85-207, Section 9, August 28, 1957, 71 Stat. 483; P.L. 94-171, Sections 1 and 2(a), December 23, 1975, 89 Stat. 1023-1024; P.L. 94-521, Section 7(a), October 17, 1976, 90 Stat. 2461.

<sup>53</sup> August 31, 1954, ch. 1158, 68 Stat. 1021; P.L. 85-207, Section 12, August 28, 1957, 71 Stat. 483.

<sup>54</sup> Added by P.L. 94-521, Section 8(a), October 17, 1976, 90 Stat. 2462.

<sup>55</sup> Added P.L. 103-430, Section 2(a), October 31, 1994, 108 Stat. 4393.

the Secretary of Commerce determines such information is appropriate to augment and improve the quality of data collected under the International Investment and Trade in Services Survey Act.” The information provided “shall be only those data collected directly from respondents by the Bureau of the Census.”

- **Confidentiality/Data Protection.**

- Title 13, Section 8(c), stipulates that “In no case shall information furnished under this section be used to the detriment of any respondent or other person to whom such information relates, except in the prosecution of alleged violations of this title.”
- Title 13, Section 9(a), stipulates that

Neither the Secretary, nor any other officer or employee of the Department of Commerce or bureau or agency thereof, or local government census liaison, may, except as provided in section 8 or 16 or chapter 10 of this title or section 2(f) of the Census of Agriculture Act of 1997—

- (1) use the information furnished under the provisions of this title for any purpose other than the statistical purposes for which it is supplied; or
- (2) make any publication whereby the data furnished by any particular establishment or individual under this title can be identified; or
- (3) permit anyone other than the sworn officers and employees of the Department or bureau or agency thereof to examine the individual reports.

No department, bureau, agency, officer, or employee of the Government, except the Secretary in carrying out the purposes of this title, shall require, for any reason, copies of census reports which have been retained by any such establishment or individual. Copies of census reports which have been so retained shall be immune from legal process, and shall not, without the consent of the individual or establishment concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

- Title 13, Section 9(b), clarifies that the “provisions of subsection (a) of this section relating to the confidential treatment of data for particular individuals and establishments, shall not apply to the censuses of governments provided for by subchapter III of chapter 5 of this title, nor to interim current data provided for by subchapter IV of chapter 5 of this title as to the subjects covered by censuses of governments, with respect to any information obtained therefor that is compiled from, or customarily provided in, public records.”<sup>56</sup>
- Title 13, Section 214, provides that any current or former Census Bureau employee or “census liaison within the meaning of section 16 of this title” who “publishes or communicates any information, the disclosure of which is prohibited under the provisions of section 9 of this title, and which comes into his possession by reason of his being employed (or otherwise providing services) under the provisions of this title, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both.”<sup>57</sup>

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<sup>56</sup> August 31, 1954, ch. 1158, 68 Stat. 1013, P.L. 87-813, October 15, 1962, 76 Stat. 922; P.L. 101-533, Section 5(b)(2), November 7, 1990, 104 Stat. 2348; P.L. 103-430, Section 2(b), October 31, 1994, 108 Stat. 4394; P.L. 105-113, Section 4(a)(1), November 21, 1997, 111 Stat. 2276; P.L. 105-119, Title II, Section 210(k), November 26, 1997, 111 Stat. 2487.

<sup>57</sup> August 31, 1954, ch. 1158, 68 Stat. 1023, P.L. 94-521, Section 12(a), October 17, 1976, 90 Stat. 2464; P.L. 103-430, Section 2(c), October 31, 1994, 108 Stat. 4394. Pursuant to Title 18, Sections 3559 and 3571, the possible fine has been adjusted to not more than \$5,000.

- Title 13, Section 401(b) provides that “The Director of the Bureau requesting information under this section shall make the request in writing and shall certify that the information will be used only for statistical activities performed to improve the quality of data collected under the authority of title 13, United States Code, and the International Investment and Trade in Services Survey Act.”<sup>58</sup>

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

- Title 13, Section 8(d), specifies that “All moneys received in payment for work or services enumerated under this section shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.”<sup>59</sup>
- Title 13, Section 23(a), specifies that the Commerce Secretary may establish “as many temporary positions as may be necessary to meet the requirements of the work provided for by law.”
- Title 13, Section 23(b), states that “In addition to employees of the Department of Commerce, employees of other departments and independent offices of the Government may, with the consent of the head of the respective department or office, be employed and compensated for field work in connection with the work provided for by law without regard to section 301 of the Dual Compensation Act.”
- Title 13, Section 23(c), states that “The Secretary may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities, and employees of private organizations to assist the Bureau in performing the work authorized by this title, but only if such temporary staff is sworn to observe the limitations imposed by section 9 of this title.”<sup>60</sup>

A few provisions appear to provide the Census Bureau with a level of independence from undesired political or other undesired influence.<sup>61</sup> These include the following:

- Title 13, Section 21(a)(1), specifies that the Census Bureau “shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation.”
- Title 13, Section 21(a)(2), requires that “Such appointment shall be made from individuals who have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.”
- Title 13, Section 21(b)(1), provides that, in general, “The term of office of the Director shall be 5 years, and shall begin on January 1, 2012, and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.”
- Title 13, Section 21(b)(2), provides that “Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual’s

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<sup>58</sup> Added P.L. 101-533, Section 5(a), November 7, 1990, 104 Stat. 2347.

<sup>59</sup> August 31, 1954, ch. 1158, 68 Stat. 1013; P.L. 85-207, Section 4, August 28, 1957, 71 Stat. 481; P.L. 94-521, Section 6(a), October 17, 1976, 90 Stat. 2460.

<sup>60</sup> August 31, 1954, ch. 1158, 68 Stat. 1014; P.L. 86-769, Section 2, September 13, 1960, 74 Stat. 911; P.L. 88-448, Title IV, Section 401(p), August 19, 1964, 78 Stat. 492; P.L. 94-521, Section 12(b), October 17, 1976, 90 Stat. 2465

<sup>61</sup> August 31, 1954, ch. 1158, 68 Stat. 1014; P.L. 112-166, Section 3(a), August 10, 2012, 126 Stat. 1291.

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predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director's term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term."

- Title 13, Section 21(b)(3), provides that "An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than 60 days before the removal."

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

Section 210(a)-210(j) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998,<sup>62</sup> established a Census Monitoring Board "to observe and monitor all aspects of the preparation and implementation of the 2000 decennial census (including all dress rehearsals and other simulations of a census in preparation therefor)" and report its findings to Congress. The board consisted of eight members: two appointed by the Senate majority leader; two by the Speaker of the House of Representatives; and four by the President, including one recommended by the Senate minority leader and one recommended by the House minority leader. The board terminated on September 30, 2001.

### **Economic Research Service (ERS), Department of Agriculture (USDA)<sup>63</sup>**

#### **Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities**

- **Statutory Citation(s).** 7 U.S.C. 1621-1627 (Agricultural Marketing Act of 1946, as amended). In particular, 7 U.S.C. 1622 (relating to general collection, dissemination, and analysis of agricultural data).
- **Brief Characterization of Provision(s).** The Economic Research Service (ERS) supports statistical analysis about the economic and social science aspects of agriculture, rural development, food, commodity markets, and the environment. It collects and disseminates data concerning U.S. Department of Agriculture (USDA) programs and policies. ERS's origins date to the 1905 creation of the USDA Office of Farm Management, later renamed the Office of Farm Management and Farm Economics. In 1961, USDA reorganized and created the Economic Research Service with responsibility to conduct economic research and policy analysis that informs program and policy decisions throughout USDA. The agency's mission is to anticipate food, agricultural, environmental, and rural development policy issues and conduct peer-reviewed economic research to support policy makers. As a statistical agency, ERS does not make recommendations.

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<sup>62</sup> P.L. 105-119, Title II; 111 Stat. 2483-2487.

<sup>63</sup> This section was prepared by Jim Monke, Specialist in Agricultural Policy (7-9664).

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

- **Statutory Citation(s).** 7 U.S.C. 2276 (confidentiality of information); 7 C.F.R. 3700-3701 (generally relating to operations of ERS).  
ERS is required in statute to regularly provide various data, for example, on family farms (7 U.S.C. 2266), costs of production (7 U.S.C. 1441a), foreign ownership of land (7 U.S.C. 3504), price spreads and marketing data (7 U.S.C. 1622(g)), and nutrition monitoring (7 U.S.C. 5312).
- **Brief Characterization of Provision(s).** The statutory foundation for ERS is general in nature, via the broad requirements of the Agricultural Marketing Act. Specific statutes about confidentiality of information exist for agricultural statistical agencies. The *Code of Federal Regulations* provides the further agency-specific details about research duties and functions, and about public access to data. Regulations delineate responsibilities across the agency, and the analytic duties of each division. Public access to information is described in 7 C.F.R. 3701 (Public Information). ERS has been required in statute to provide periodic reports about various aspects of agriculture.

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

- **Statutory Citation(s).** 7 U.S.C. 1627 (appointment of personnel), and 7 C.F.R. 3700 (ERS operations).
- **Brief Characterization of Provision(s).** The statute provides for the broad operation of USDA statistical agencies, including personnel, to support the research function. The C.F.R. delineates various operational divisions within the ERS to accomplish its statistical and economics mission.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation(s).** CRS did not identify current, relevant statutory or regulatory information within the time available. However, additional information, below, may be of interest.
  - **Brief Characterization of Provision(s).** ERS participates in various statistical agency and association partnerships that strengthen its collection and use of data. It participates in the Interagency Council on Agricultural and Rural Statistics (ICARS) to improve the coordination and production of national statistics related to agriculture, food, natural resource, and rural data. ICARS is part of the Global Strategy to Improve Agricultural and Rural Statistics, which was developed under the United Nations Statistical Commission. ERS has periodically contracted with various industry and academic associations to review its statistical and economics products for relevancy and rigor. Individual research products are peer reviewed (double blind) by outside experts prior to publishing.
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## Energy Information Administration (EIA), Department of Energy (DOE)<sup>64</sup>

### Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities

EIA was established largely in its current form within the Department of Energy (DOE) in 1977 by the Department of Energy Organization Act (P.L. 95-91, 42 U.S.C. 7135). Section 7135(a) specifies that the EIA Administrator

shall be responsible for carrying out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The DOE Organization Act also transferred the functions of the Federal Energy Administration's Office of Energy Information and Analysis to EIA. Those functions had been established by the 1974 Federal Energy Administration Act (P.L. 93-275, 15 U.S.C. 761), as amended in 1976 by the Energy Conservation and Production Act (P.L. 94-385, 15 U.S.C. 790). Section 790 of the latter statute requires the establishment of a National Energy Information System that "shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate" to adequately meet the needs of the Federal Energy Administration (whose functions were transferred to DOE), Congress, relevant executive branch officials, and states.

Further significant changes to EIA's mission were made by subsequent legislation:

- Energy Policy Act of 1992 (P.L. 102-486, 42 U.S.C. 13385): "Required EIA to expand its data gathering and analysis in several areas, including energy consumption, alternative fuels and alternatively-fueled vehicles, greenhouse gas emissions, fossil fuel transportation rates and distribution patterns, electricity production from renewable energy sources, and foreign purchases and imports of uranium."<sup>65</sup>
- Energy Policy Act of 2005 (P.L. 109-58, 42 U.S.C. 15801 note): "Required EIA to undertake several new activities in the renewable fuels area, including: an inventory of renewable fuels available for consumers and a projection of future inventories; a study of renewable fuel blending; and a monthly survey on renewable fuels production, blending, importation, demand, and prices."<sup>66</sup>
- Energy Independence and Security Act (P.L. 110-140, 42 U.S.C. 17001): "Required EIA to prepare a 5-year plan to enhance the quality and scope of its data collection program, and also to prepare an assessment of State-level data needs and a plan to address those needs. Authorized funds to carry out both plans. Required EIA to prepare a semi-annual analysis of planned refinery outages and their impact on petroleum product supply and price."<sup>67</sup>

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<sup>64</sup> This section was prepared by Mark Holt, Specialist in Energy Policy (7-1704).

<sup>65</sup> EIA, "Legislative Timeline," [http://www.eia.gov/about/legislative\\_timeline.php](http://www.eia.gov/about/legislative_timeline.php).

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

- Energy Policy and Conservation Amendments Act of 1985 (P.L. 99-58, 42 U.S.C. 7277): Required EIA to prepare quarterly report on the status of U.S. coal imports.

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

The DOE Organization Act, as amended, established several EIA authorities in this area:

- The EIA Administrator does not need approval from any other DOE officer or employee to collect or analyze energy information, nor the approval of any federal officer or employee for “the substance of any statistical or forecasting technical reports which he has prepared in accordance with law” (42 U.S.C. 7135(d)).
- The EIA Administrator shall “promptly” share information or analysis with other DOE offices that have determined a need for it (42 U.S.C. 7135(f)).
- Information collected by EIA shall be available to the public upon request unless exempted from mandatory disclosure (42 U.S.C. 7135(g)).
- Authority under P.L. 93-319 (15 U.S.C. 796(b)) for the Federal Energy Administrator to compel the submission of data from the energy industry is delegated to the EIA Administrator (42 U.S.C. 7135(b)). These authorities include subpoena power, requirements for mandatory responses to questions under oath, and the power to enter places of business to inspect energy inventories, records, and other documents.

The DOE Organization Act refers to several statutory provisions that exempt government information from disclosure. Government-wide exemptions are provided for classified information, trade secrets, internal communications, and other categories under 5 U.S.C. 552b. A confidentiality provision of P.L. 93-319 (15 U.S.C. 796(d)), originally applying to the Federal Energy Administrator, allows persons providing energy information to EIA to ask that it not be released, upon a satisfactory showing of evidence that it is proprietary. EIA also maintains confidential information pursuant to the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), Title V of the E-Government Act of 2002 (P.L. 107-347, 44 U.S.C. 3501 note).<sup>68</sup>

In addition, under P.L. 93-275 as amended by P.L. 94-385, as cited above, EIA “shall have access to energy information in the possession of any Federal agency” unless expressly prohibited by law or if such sharing of information would “significantly impair” another agency’s mission. If energy information cannot be shared by another federal agency, EIA may use its legal authority to obtain the information from other sources (15 U.S.C. 790g).

P.L. 94-163, as amended, authorizes the Secretary of Energy to transmit energy information collected by EIA to the Secretary of State to be provided to the International Energy Agency. This section establishes criteria for protecting proprietary data during such transmissions and extends data collection authority indefinitely for meeting U.S. international energy program obligations (42 U.S.C. 6724).

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

P.L. 93-275 as amended by P.L. 94-385 (15 U.S.C. 790b) established administrative provisions applying to the Director of the Office of Energy Information and Analysis of the Federal Energy Administration, which were transferred to the EIA Administrator by the DOE Organization Act. These include the

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<sup>68</sup> EIA, “CIPSEA Reporting,” [http://www.eia.gov/about/cipsea\\_reporting.php](http://www.eia.gov/about/cipsea_reporting.php).

authority for the EIA Administrator “to appoint and fix the compensation of such professionally qualified employees as he deems necessary,” including up to 10 above the GS-15 pay level, and authority to delegate functions to “any officer or agency of the Federal Government.” Congressional appropriations requests by the Federal Energy Administration were required to specify the amount requested for the Office of Energy Information and Analysis and include “a statement of the differences, if any, between the amounts requested and the [Office of Energy Information and Analysis] Director's assessment of the budgetary needs of the Office.”

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

P.L. 95-91 specified that EIA “shall be subject to an annual professional audit review of performance” (42 U.S.C. 7135e) by a Professional Audit Review Team. That team was established by P.L. 93-275, Section 55, as added by P.L. 94-385 (15 U.S.C. 790d). However, Section 55 was repealed by P.L. 104-66, Section 1051(k).

## **National Agricultural Statistics Service (NASS), USDA<sup>69</sup>**

### **Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities**

- **Statutory Citation(s).** 7 U.S.C. 1621-1627 (Agricultural Marketing Act of 1946, as amended). In particular, 7 U.S.C. 1622 (relating to general collection, dissemination, and analysis of agricultural data); 7 U.S.C. 2204g (Census of Agriculture).
- **Brief Characterization of Provision(s).** Agricultural statistics were one of the foundational objectives of the Department of Agriculture when it was created in 1862. The National Agricultural Statistics Service (NASS) conducts the Census of Agriculture (every 5 years) and provides official statistics on agricultural production and indicators of the economic and environmental status of the farm sector. It conducts surveys by mail, telephone, personal interviews, and field observations. Statistics include prices received by farmers, prices paid by farmers, parity prices, farm numbers and land in farms, grazing fee policy, farm workers and wage rates, and farm production expenditures. NASS data are used by policymakers to administer a number of federal programs, and include reports that estimate livestock inventories, farm numbers and acreage, and farm labor.

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

- **Statutory Citation(s).** 7 U.S.C. 2276 (confidentiality of information); 7 U.S.C. 2204g (cooperation with other agencies for confidentiality in Agricultural Census); 7 C.F.R. 3600 (generally, relating to operations of NASS).
- **Brief Characterization of Provision(s).** The statutes undergirding the NASS are general in nature, via the broad requirements of the Agricultural Marketing Act. Specific statutes about confidentiality of information exist for agricultural statistical agencies. Statutes for the Agricultural Census have general requirements about the collection and dissemination of data, and cooperation with the Department of Commerce. The *Code of Federal*

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<sup>69</sup> This section was prepared by Jim Monke, Specialist in Agricultural Policy (7-9664).

*Regulations* provides further agency-specific details about research duties and functions, and about public access to data. Public access to information is described in 7 C.F.R. 3601 (Public Information).

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

- **Statutory Citation(s).** 7 U.S.C. 1627 (appointment of personnel), and 7 C.F.R. 3600 (NASS operations).
- **Brief Characterization of Provision(s).** The statutes provide for the broad operation of USDA statistical agencies, including personnel, to support the research function. The C.F.R. delineates various operational divisions within NASS.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation(s).** CRS did not identify current, relevant statutory or regulatory information within the time available. However, additional information, below, may be of interest.
- **Brief Characterization of Provision(s).** A group of industry and professional representatives comprise an Advisory Committee on Agricultural Statistics that regularly meets to review NASS activities and products, and to make recommendations on best practices and needed improvements. There is also an Agricultural Statistics Board, and a NASS Strategic Planning Council.

## **National Center for Education Statistics (NCES), Institute of Education Science (IES), Department of Education (ED)<sup>70</sup>**

### **Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities**

- **Statutory Citation(s).** 20 U.S.C. 9511.
- **Brief Characterization of Provision(s).** The National Center for Education Statistics (NCES) is located within the Institute of Education Sciences (IES), in the Department of Education (ED). The major federal education statistical and evaluation functions are carried out by IES, an independent research institute housed within the department, through provisions adopted with the passage of the Education Sciences Reform Act (ESRA, Title I of P.L. 107-279). These provisions state that the mission of IES is to “provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through postsecondary study” (20 U.S.C. 9511). To meet its mission, IES is to “compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need,” including information about the condition and progress of education, educational practices that improve academic achievement and access to educational opportunities, and the effectiveness of federal education programs. The provisions further state that IES activities must “conform to high standards of quality, integrity, and accuracy” and are

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<sup>70</sup> This section was prepared by Jeff Kuenzi, Specialist in Education Policy (7-8645).

“objective, secular, neutral, and nonideological [and] free of partisan political influence and racial, cultural, gender, or regional bias.”<sup>71</sup>

### Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

- **Statutory Citation(s).** 20 U.S.C. 9541-9544 (NCES establishment and data collection authorities), 20 U.S.C. 9546 (dissemination), 20 U.S.C. 9573 (confidentiality).
- **Brief Characterization of Provision(s).** ESRA establishes the NCES within IES (20 U.S.C. 9541) and charges NCES with the duty to “collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations” (20 U.S.C. 9543). To perform these duties, ESRA authorizes the NCES Commissioner to award grants and enter into contracts and cooperative agreements (20 U.S.C. 9544) and “furnish transcripts or copies of tables and other statistical records” to “state and local officials, public and private organizations, and individuals” (20 U.S.C. 9546) in addition to publishing statistical reports. ESRA requires IES to “develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data” (20 U.S.C. 9573) in accordance with the Privacy Act of 1974 and the General Education Provisions Act (20 U.S.C. 1232g-h). Implementation of these provisions resulted in the creation of NCES’s Statistical Standards Program, including confidentiality procedures, non-disclosure rules, and process for obtaining a restricted-use data license.<sup>72</sup> Anyone who uses IES data in violation of non-disclosure rules “shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of Title 18, United States Code, or both” (20 U.S.C. 9573).

### Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions

- **Statutory Citation(s).** 20 U.S.C. 1466, 9584, 9608, and 9624.
- **Brief Characterization of Provision(s).** IES appropriations authorities reside in four separate statutory provisions: (1) 20 U.S.C. 9584 provides authority to fund ESRA activities (Title I of P.L.107-279) including IES general operations, the National Centers, and the Regional Education Laboratories; (2) 20 U.S.C. 9608 provides authority to fund the Educational Technical Assistance Act (Title II of P.L.107-279) which includes the State Longitudinal Data Systems program; (3) 20 U.S.C. 9624 provides authority to fund the National Assessment of Education Progress Authorization Act (Title III of P.L.107-279); and (4) 20 U.S.C. 1466 provides authority to fund studies and evaluations authorized under Section 644 of the Individuals with Disabilities Act (IDEA).

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<sup>71</sup> Collecting statistics and facts on the condition and progress of education was the core function of the earliest version of the Office of Education (P.L. 39-73, enacted March 2, 1867). However, a coordinated national undertaking resembling today’s research and statistics effort did not begin to take shape until the mid-1970s with the creation of the National Institute of Education (NIE) under the Education Amendments of 1972 (P.L. 92-318) and the National Center for Education Statistics (NCES) under the Education Amendments of 1974 (P.L. 93-380). The Department of Education Organization Act (P.L. 96-88), which created the cabinet-level U.S. Department of Education, included provisions providing for executive authority to restructure the federal educational research function. In 1985, the NIE was replaced by the Office of Educational Research and Improvement (OERI) through executive authority. IES replaced OERI in 2002 through provisions adopted with the passage of the ESRA.

<sup>72</sup> More information on NCES statistical standards may be found at <https://nces.ed.gov/statprog/index.asp>.

- 20 U.S.C. 9584 authorizes \$400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, except for Section 174 of ESRA, the Regional Education Laboratories program, which is authorized at \$100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- 20 U.S.C. 9608 authorizes \$80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- 20 U.S.C. 9624 authorizes \$107,500,000 for the National Assessment of Educational Progress and \$4,600,000 for the National Assessment Governing Board and such sums as may be necessary for each of the 5 succeeding fiscal years.
- 20 U.S.C. 1466 authorizes such sums as may be necessary for each of the fiscal years 2005 through 2010 and, for fiscal year 2005, authorizes the Secretary to reserve \$1,000,000 to carry out the study authorized in section 664(c).

The Consolidated Appropriations Act, 2016 (P.L. 114-113) appropriated \$618,015,000 for IES to execute activities under each of the four authorities.

With regard to IES authority concerning personnel matters, CRS did not identify relevant information within the time available.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation(s).** 20 U.S.C. 9516.
- **Brief Characterization of Provision(s).** ESRA establishes the National Board for Education Sciences (NBES) to advise and consult with the IES Director on policies of the Institute. This statutory provision gives the NBES a range of responsibilities including the authority to consider and approve IES research priorities proposed by the Director, review and approve peer review procedures, advise the Director on activities to be supported by the Institute, among other authorities. ESRA requires that the NBES comprise 15 voting members appointed by the President and a number of other non-voting members, including the IES Director, the IES Research Center Commissioners, the Directors of the Census and the National Science Foundation, and others. Each voting member serves a four-year term and is considered a “special Government employee for the purposes of the Ethics in Government Act of 1978.” No member may receive financial compensation for their service, except to cover travel expenses. Members must choose an Executive Director and a majority of voting members must be present for at least 3 meetings per year. By July 1 of each year, the NBES must present a report to the Director and relevant congressional committees that assesses the effectiveness of IES and recommendations for improving the quality of its work.<sup>73</sup>

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<sup>73</sup> More information on the NBES including membership, meetings, and annual reports may be found at Institute of Education Sciences, “National Board for Education Sciences,” at <https://ies.ed.gov/director/board/>.

## National Center for Health Statistics (NCHS), Department of Health and Human Services (HHS)<sup>74</sup>

### Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities

- **Statutory Citation.** 42 U.S.C. 242k, as amended (Section 306 of the Public Health Service Act, PHSA; P.L. 93-353, Title I, § 105, July 23, 1974, 88 Stat. 365).<sup>75</sup> The National Center for Health Statistics (NCHS) was established in law and its mandate and authorities codified in 1974 in 42 U.S.C. 242k(a), having been established administratively in 1960 from the merger of two pre-existing health statistics offices.<sup>76</sup> Since 1987, NCHS has been one of the centers of the Centers for Disease Control and Prevention (CDC).<sup>77</sup>

Although subsection 42 U.S.C. 242k(b) is titled “Duties,” the duties of the NCHS are articulated throughout the section in subsections (b)-(j) and (l)-(m). Additional duties that the Secretary may delegate to NCHS are prescribed in 42 U.S.C 242b (Section 304 of the PHSA), regarding the Secretary’s “[g]eneral authority respecting research, evaluations, and demonstrations in health statistics, health services, and health care technology assessment.” Additional sections of the PHSA and provisions of other laws also assign duties to NCHS.<sup>78</sup>

- **Brief Characterization of Provision.** Subsection (a) establishes NCHS in the Department of Health and Human Services (HHS), under a Director appointed by the Secretary of HHS (“The Secretary”).<sup>79</sup> Pursuant to other subsections, NCHS is required to collect statistics on the extent and nature of illness and disability of the population of the United States and several other specified metrics, including, among others, economic effects of illness and disability; availability and use of healthcare resources such as personnel and facilities; and family formation, growth, and dissolution. The Center is also required to collaborate with states and other relevant partners (including through grants, contracts, and technical assistance) to assure uniformity and quality of data collection. Finally, the Center is required to: furnish special statistical and epidemiological compilations and surveys to committees of Congress (and may do so for members of the public, for a cost-based fee); annually collect and compile information from states on data from the records of births, deaths, marriages, and divorces; and gather data specifically to elucidate health status among ethnic and racial populations.

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<sup>74</sup> This section was prepared by Sarah A. Lister, Specialist in Public Health and Epidemiology (7-7320).

<sup>75</sup> The section of the act was amended numerous times between 1974 and 1998.

<sup>76</sup> Detailed information may be found in U.S. Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC), *Current Legislative Authorities of the National Center for Health Statistics*, Hyattsville, MD, June 2013, at <https://www.cdc.gov/nchs/data/misc/legislation2014.pdf> (hereinafter “NCHS Legislative Authorities”).

<sup>77</sup> CDC, National Center for Health Statistics, “Celebrating 50 Years,” at [https://www.cdc.gov/nchs/about/50th\\_anniversary.htm](https://www.cdc.gov/nchs/about/50th_anniversary.htm).

<sup>78</sup> NCHS Legislative Authorities.

<sup>79</sup> CDC, National Center for Health Statistics, at <https://www.cdc.gov/nchs/index.htm>.

## Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

Relevant authorities that are specific to NCHS are described in the next section regarding funding and operational functions. NCHS requirements for management of health data in general derive from such requirements of agencies in the U.S. Public Health Service, of which NCHS is a part, and other federal laws and regulations.<sup>80</sup>

## Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions

- **Statutory Citations.** 42 U.S.C. 242k(b)(4) (authorizes collection of cost-based fees for statistical services, with amounts available to the Secretary without limitation); 42 U.S.C. 242k(f) (authorizes the use of services or facilities of any state, public agency, organization, group or individual in accordance with written agreement, without regard to federal procurement rules, to facilitate collaboration); 42 U.S.C. 242k(h)(1) (requires the Secretary to collect from states and municipalities, and remunerate for costs, data on births, deaths, marriages, and divorces); and 42 U.S.C. 242k(n) (authorizes appropriations to implement this section through 2003).
- **Brief Characterization of Provisions.** As described above. Although the authorization of appropriations has lapsed, Congress has continued to provide NCHS with an annual appropriation.

## Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies

- **Statutory Citation.** 42 U.S.C. 242k(k) established the National Committee on Vital and Health Statistics (the NCVHS or “the Committee”) in law in 1974, concurrent with the establishment of NCHS. The Committee was established administratively in 1949.<sup>81</sup>
- **Brief Characterization of Provision.** This subsection of the statute establishes the NCVHS and sets forth its membership and advisory duties. The committee advises the Secretary broadly on matters of health data, statistics and national health information policy. This includes matters involving state, territorial, and tribal health entities, whose authority often enables the collection of health information, as well as international partners such as the World Health Organization (WHO). The Committee is subject to requirements of the Federal Advisory Committee Act (FACA).<sup>82</sup>

Although the NCVHS is established in law within the authority for NCHS, the Committee’s advisory responsibilities are not limited to NCHS activities. Of note, 42 U.S.C. 242k(k) was amended in 1996 to require the Committee to report on implementation of the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, P.L. 104-191, Title II). These provisions called for national standards for health data, including privacy and security

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<sup>80</sup> For more information, see CDC, “Public Health Surveillance Data: Legal, Policy, Ethical, Regulatory, and Practical Issues,” *Morbidity and Mortality Weekly Report*, vol. 6, no. 03, July 27, 2012, at <https://www.cdc.gov/Mmwr/preview/mmwrhtml/su6103a7.htm>.

<sup>81</sup> National Committee on Vital and Health Statistics, at <http://www.ncvhs.hhs.gov/>.

<sup>82</sup> National Committee on Vital and Health Statistics, Charter, renewed 2016, at <http://www.ncvhs.hhs.gov/about/charter/>.

standards, to which all healthcare providers and plans must adhere.<sup>83</sup> The complexity of this task has dominated the Committee’s work and reporting since that time.<sup>84</sup>

## National Center for Science and Engineering Statistics (NCSES), National Science Foundation (NSF)<sup>85</sup>

### Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities

- **Statutory Citations.**

- 42 U.S.C. 1862(a)(6) and (7) (NSF functions, including statistical data responsibilities).
- P.L. 111-358, America COMPETES Reauthorization Act of 2010, Title V, Section 505; 42 U.S.C. 1862p (NCSES establishment and duties).

- **Brief Characterization of Provisions.**

NSF’s organic act—the National Science Foundation Act of 1950—as amended, directs NSF to “provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal Government” (42 U.S.C. 1862(a)(6)). NSF is further directed to “initiate and maintain a program for the determination of the total amount of money for scientific and engineering research...” including money allocated for construction of research facilities and for federal funding of research by U.S. educational institutions and nonprofits, reporting annually to the President and Congress (42 U.S.C. 1862(a)(7)). According to NSF, the NCSES fulfills these mandates through a variety of activities, including the design, support, and direction of periodic surveys, data collections, and research projects; and the preparation of information products using data produced or maintained by other federal agencies, international governments and organizations, survey organizations, and private and nonprofit organizations.<sup>86</sup>

Section 505 of P.L. 111-358, as part of Subtitle A, National Science Foundation Authorization Act of 2010, established the NCSES within NSF as “a central federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development (R&D)” (42 U.S.C. 1862p(a)). The act renamed what was formerly called the Division of Science Resources Statistics (SRS) at NSF, and specified additional research and educational duties.<sup>87</sup>

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<sup>83</sup> HHS, CDC, “Administrative Simplification Overview,” at <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/HIPAA-ACA/>; HHS, Office for Civil Rights, “HIPAA for Professionals,” at <https://www.hhs.gov/hipaa/for-professionals/index.html>.

<sup>84</sup> See, for example, National Committee on Vital and Health Statistics, “Recommendations, Reports & Presentations, 2009 to Present,” at <http://www.ncvhs.hhs.gov/recommendations-reports-presentations/>.

<sup>85</sup> This section was prepared by Laurie Harris, Analyst in Science and Technology Policy (7-0504). In addition to the NCSES-specific information herein, NSF staff provided details on government-wide authorities as they pertain to NCSES broadly; please contact the author if you would like additional information.

<sup>86</sup> Email communication between CRS and NSF, February 10, 2017.

<sup>87</sup> See National Science Foundation (NSF), “NSF’s Division of Science Resources Statistics is now the National Center for Science and Engineering Statistics,” NSF Press Release 11-031, at [https://www.nsf.gov/news/news\\_summ.jsp?cntn\\_id=118648](https://www.nsf.gov/news/news_summ.jsp?cntn_id=118648), (continued...)

Specifically, Section 505 states that NCSSES shall collect statistical data pertaining to R&D trends; the science and engineering (S&E) workforce; U.S. competitiveness in science, engineering, technology, and R&D; and science, technology, engineering, and mathematics (STEM) education condition and progress. Collection of data related to U.S. competitiveness and STEM education were expansions of the agency’s prior responsibilities.<sup>88</sup> In addition to data collection and analysis, NCSSES is directed to support research that uses NCSSES data, research on related methodologies, and researcher training and education in the use of large data sets of national scope.

### Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

- **Statutory Citations.**
  - P.L. 111-358, America COMPETES Reauthorization Act of 2010, Title V, Section 505; 42 U.S.C. 1862p (NCSSES establishment and duties).
  - 42 U.S.C. 1863(j)(1) (National Science Board (NSB) reports to the President and Congress).
  - P.L. 95-516, Science and Engineering Equal Opportunities Act, as amended; 42 U.S.C. 1885d (biennial reports on equal opportunities in S&E).
  - 42 U.S.C. 1873(i) (NSF employment of personnel, public disclosure of information).

- **Brief Characterization of Provisions.**

Section 505 of P.L. 111-358 specifies that statistical data collected and analyzed by NCSSES shall be useful to a broad range of stakeholders—including policymakers, practitioners, researchers, and the public. The section also requires the Director of the NSB (NSF’s governing body), through the NCSSES, to “issue regular and, as necessary, special statistical reports on topics related to the national and international S&E enterprise” (42 U.S.C. 1862p(c)). NCSSES prepares about 30 reports each year,<sup>89</sup> including two biennial reports that are statutorily required of NSF: *Science and Engineering Indicators*, as required by 42 U.S.C. 1863(j)(1), which was produced as a web-based digital report for the first time in 2016,<sup>90</sup> and *Women, Minorities, and Persons with Disabilities in Science and Engineering*, as required by 42 U.S.C. 1885(d). In fulfilling the obligations for these two reports, 42 U.S.C. 1886a directs NSF to “continue to collect statistically reliable data on the field of degree of college-educated individuals.”<sup>91</sup>

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(...continued)

and the archived SRS site at <http://webarchive.loc.gov/all/20090730111722/http://www.nsf.gov/statistics/about.cfm>. Prior to 2002, the Division of Science Resources Statistics was the Division of Science Resources Studies. The NCSSES is currently housed within NSF’s Directorate for Social, Behavioral, and Economic Sciences (SBE).

<sup>88</sup> For additional overview information on NCSSES and NSF statistical history and mandates, see National Research Council, *Principles and Practices for a Federal Statistical Agency*, 5<sup>th</sup> ed. (Washington, DC: National Academies Press, 2013), pp. 117-118.

<sup>89</sup> See NSF, “About the NCSSES: Our Products and Services,” at <https://www.nsf.gov/statistics/about-ncses.cfm>.

<sup>90</sup> National Science Board. *Science and Engineering Indicators 2016* (NSB-2016-1), Arlington, VA: National Science Foundation, available at <https://www.nsf.gov/statistics/2016/nsb20161/#/>. This is part of ongoing NCSSES support for “developing enhanced data access tools, techniques, and visualizations,” per the NSF FY2017 Budget Request to Congress, p. SBE-13.

<sup>91</sup> 42 U.S.C. 1886a also required the Director of NSF to inform the House Committee on Science and the Senate Committee on (continued...)

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42 U.S.C. 1873(i) pertains to disclosure and confidentiality of data collected in meeting NCSES mandates.<sup>92</sup> Specifically, any information provided to NSF in surveys, questionnaires, or similar instruments that specify a pledge of confidentiality from NSF cannot be disclosed to the public “unless the information has been transformed into statistical or abstract formats that do not allow for identification of the supplier” including individual, organization, and institution identities. Any non-transformed data may only be used for statistical or research purposes.

42 U.S.C. 1873(i) further permits NSF to designate authorized persons—including employees of federal, state, or local agencies or instrumentalities or private organizations—to have access to non-transformed, identifiable information according to certain restrictions.<sup>93</sup> Such authorized users may not: (1) publish the information in a manner that could identify any provider that has received a confidentiality pledge from NSF; (2) permit any non-authorized individuals to examine identifiable information; or (3) knowingly obtain non-disclosable information under false pretenses. Any violation of this section can result in fines up to \$10,000 and imprisonment of up to 5 years.

Additional direction for NCSES statistical data collection and use comes largely from government-wide authorities; guidelines from OMB; and internal policies and guidelines, such as a Taxonomy Management Policy, NCSES Statistical Guidelines, and NCSES Publication Guidelines.<sup>94</sup>

## Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions

- **Statutory Citations.**
  - 42 U.S.C. 1873(a) (employment of personnel for NSF).
  - 42 U.S.C. 1886 (collection and analysis of data pertaining to university research facility needs).
- **Brief Characterization of Provisions.**

*Personnel.* The head of NCSES, titled the Division Director, is a non-political career position that reports to the Assistant Director of the Directorate for Social, Behavioral and Economic Sciences (SBE). NSF reports that NCSES management has authority for selecting and promoting professional staff, and although NSF provides NCSES with its overall FTE allocation, NCSES has latitude to assign staff in accordance with its required work.<sup>95</sup> (42 U.S.C. 1873(a) provides personnel employment authorization for NSF

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(...continued)

Commerce, Science, and Transportation by June 2006 if he had determined there was a legal impediment to collecting data for the *Women, Minorities, and Persons with Disabilities in Science and Engineering* report.

<sup>92</sup> Pursuant to 42 U.S.C. 1862(a)(5) and (6).

<sup>93</sup> NSF reports that access to data with identifiable information may be granted to individual researchers (through their institutions) by a license, or for researchers in the federal government, by a Memorandum of Understanding or Inter-Agency Agreement in lieu of a license.

<sup>94</sup> Email communication between CRS and NSF, February 10, 2017. NSF noted that a subset of the regulations, guidelines, and directives that guide NCSES operations include OMB’s Statistical Policy Directives No. 1 (79 *FR* 28326), No. 3 (50 *FR* 38932), and No. 4 (73 *FR* 12622); OMB’s Standards and Guidelines for Statistical Surveys (71 *FR* 55522), the Confidential Information Protection and Statistical Efficiency Act of 2002, Title V (P.L. 107-347), and OMB’s Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (67 *FR* 8452).

<sup>95</sup> Email communication between CRS and NSF, February 10, 2017.

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broadly.) Additionally, NCSSES relies on NSF-wide offices for support of functions including IT, human resources, contracting, and communications,<sup>96</sup> though the NCSSES Director provides final approval on the selection and promotion of professional staff.<sup>97</sup>

*Funding.* NCSSES budget development and implementation decisions are part of NSF's standard budget appropriations process.<sup>98</sup> The NSF FY2017 Budget Request to Congress (p. SBE-13) states that the funding portfolio for NCSSES "includes ongoing, cyclical surveys; data, reports and other products; and projects accomplished primarily through contracts and grants."

*Other operational functions.* 42 U.S.C. 1886 authorizes NSF to design, establish, and maintain a data collection and analysis capability for "identifying and assessing the research facilities needs of universities." Data to be collected includes the needs for construction and modernization of research laboratories, including major research equipment, by major field of science and engineering; university expenditures for construction and modernization of research facilities, including the source of such funds; and other appropriate data. NSF is directed to conduct necessary surveys in conjunction with other appropriate federal agencies every two years and report to Congress.

Regarding inter-agency work, NCSSES maintains three surveys conducted by the U.S. Census Bureau, and subsequently, NCSSES is subject to confidentiality statutes pertaining to that agency.<sup>99</sup> Additionally, NCSSES and NSF's Directorate for Education and Human Resources (EHR) report working with the National Center for Education Statistics (NCES) to revise the National Study of Postsecondary Faculty.<sup>100</sup>

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation(s).**

CRS did not identify relevant agency-specific statutory authorities that establish or authorize establishment of independent oversight/governance bodies within the time available; however, a brief summary of relevant internal policies and practices is included.

- **Brief Characterization of Provision(s).**

NSF reports that NCSSES carries out its fundamental statistical responsibilities with "a large degree of independence," and the NCSSES Director is a member of the Interagency Council on Statistical Policy, led by OMB, providing for on-going communications between NCSSES and OMB staff.<sup>101</sup>

NCSSES obtains third-party external program evaluations from the National Research Council's Committee on National Statistics (CNSTAT). Upcoming assessment activities include a review of NCSSES's approach to measuring the U.S. S&E enterprise, and a

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<sup>96</sup> General authorities for NSF can be found at 42 U.S.C. 1870, including authorities for prescribing rules and regulations necessary for its operations, entering into contracts, making expenditures, etc.

<sup>97</sup> Email communication between CRS and NSF, February 10, 2017.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> NSF FY2017 Budget Request to Congress, p. NSF-Wide Investments-52.

<sup>101</sup> Email communication between CRS and NSF, February 10, 2017.

workshop on innovation activities and measurement.<sup>102</sup> NSF noted additional “synergy and support, plus valuable efficiencies” through the Advisory Committee for the Social, Behavioral and Economic Sciences (SBEAC), which includes scientists, survey experts and business community representatives, and relationships with numerous scientific and statistical associations, committees, and professional societies.

## **Office of Research, Evaluation, and Statistics (ORES), Social Security Administration (SSA)<sup>103</sup>**

### **Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities**

- **Statutory Citation:** CRS did not identify relevant information within the time available.
- **Brief Characterization of Provision:** CRS did not identify relevant information within the time available.

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

- **Statutory Citation:** CRS did not identify relevant information within the time available.
- **Brief Characterization of Provision:** CRS did not identify relevant information within the time available.

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

- **Statutory Citation:** CRS did not identify relevant information within the time available.
- **Brief Characterization of Provision:** CRS did not identify relevant information within the time available.

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

- **Statutory Citation:** CRS did not identify relevant information within the time available.
- **Brief Characterization of Provision:** CRS did not identify relevant information within the time available.

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<sup>102</sup> National Science Foundation FY2017 Budget Request to Congress, p. SBE-7. Per email communications between CRS and NSF, prior CNSTAT studies have included a range of topics such as: measuring R&D expenditures; using the American Community Survey for NCSES’s science and engineering workforce statistics programs; communicating science and engineering data; and identifying and developing science, technology, and innovation indicators.

<sup>103</sup> This subject area is covered by Scott Szymendera, Analyst in Disability Policy (7-0014), who is available to discuss questions regarding ORES.

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## Statistics of Income Division (SOI), Internal Revenue Service (IRS), Department of the Treasury (Treasury)<sup>104</sup>

### Authorities Establishing and Specifying the Entity’s Mission and Major Duties/Activities

- **Statutory Citation(s).** 26 U.S.C. 6108, as authorized by the Internal Revenue Code of 1954 (P.L. 83-591, August 16, 1954, chapter 736, 68A Stat. 756).<sup>105</sup>
- **Brief Characterization of Provision(s).** Under the authority granted to the Treasury Department in 26 U.S.C. 6108, the Statistics of Income Division (SOI) collects and disseminates income, financial, and tax information to the general public and other interested users. The information is taken largely from tax returns filed by individuals, corporations, and tax-exempt organizations. SOI also provides periodic reports on items from other returns and schedules, such as estate and gift taxes, the foreign income of individuals and corporations, and gains and losses from the sale or exchange of capital assets. Upon written request, SOI will make available special statistical studies and compilations of information from tax returns.

SOI data are provided to staff in the Office of Tax Analysis at the Treasury Department and the congressional Joint Committee on Taxation for policy analysis and revenue estimation. Data are also made available to the Congressional Budget Office for the purpose of modeling Social Security and Medicare programs.

In addition, SOI is authorized by law to provide selected tax return information for use by the Census Bureau, Bureau of Economic Analysis, and the National Agricultural Statistics Service in producing censuses, estimating the national economic accounts, and conducting related statistical activities. Agency use of the tax information is bound by strict confidentiality rules.

### Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

- **Statutory Citation(s).** 26 U.S.C. 6108(c).
- **Brief Characterization of Provision(s).** Under the provision, none of the tax information or studies provided by SOI may “be associated with, or otherwise identify, directly or indirectly, any particular taxpayer.” Otherwise, CRS did not identify in the time available further statutory limits on the data and studies SOI may offer to users.

### Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions

Section 6108(b) authorizes the office to charge a fee for the services it provides. Beyond that, CRS did not identify in the time available any further statutory provision that governs the funding, staffing, or other operations of SOI. SOI’s operating budget is set by the Treasury Department as part of the annual appropriations process.

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<sup>104</sup> This section was prepared by Gary Guenther, Analyst in Public Finance (7-7742).

<sup>105</sup> This authority can be traced back to section 21 of the Revenue Act of 1916, which mandated the annual “publication of statistics reasonably available with respect to the current operation of the Income tax law.”

## Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies

CRS did not identify in the time available any statutory provision that authorizes the creation of an independent body with the power to oversee SOI's operations. In theory, SOI could be the target of an investigation by the Treasury Inspector General for Tax Administration (TIGTA). But TIGTA's mission is broader than just overseeing the operations of SOI. Specifically, TIGTA is authorized by the Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206) to conduct investigations and audits of how the Internal Revenue Service administers federal tax laws, mainly to ensure that the agency performs its functions in a fair, lawful, and efficient manner.

One informal check on how SOI fulfills its statutory mission is its collaboration with other federal statistical agencies to improve the quality of federal statistics and develop "best practices" for a variety of common issues.

## Entity-Specific Information for Three Additional Entities that are Not Principal Statistical Agencies

This section of the memorandum discusses three entities you specified, which are not included among the 13 OMB-identified principal statistical agencies. Generally speaking, these entities were established via administrative means under general statutory authorities instead of being specifically established by statute.<sup>106</sup> For the most part, CRS did not identify entity-specific statutory authorities that govern operations of these organizations. However, CRS provides below information about the entities that may be of interest.

### Chief Evaluation Office (CEO), DOL<sup>107</sup>

#### Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities

DOL established the CEO in 2010 to create a central office to coordinate, oversee, and conduct DOL-wide evaluations. DOL's evaluation agenda is developed through coordination with each DOL agency and is published in an annual strategic plan. In its fiscal year 2014-2018 strategic plan, for example, DOL cites examples of CEO-supported experimental evaluations of its employment and training activities, enforcement, and compliance programs.<sup>108</sup> Some DOL program offices also procure impact evaluations of

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<sup>106</sup> As noted in a CRS report, agency heads generally have discretion, consistent with existing statutory mandates, to organize and manage the day-to-day operations of the agencies for which they are responsible. In addition, since the 1950s, the powers, duties, and functions of the component offices of most agencies have been vested in the agency head, who is, in turn, empowered to delegate these powers, duties, and authorities. Furthermore, 5 U.S.C. 301 provides that the "head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business." The agency head's authority does not, however, supersede congressional authority to provide for specific organizational arrangements or to vest powers, duties, or authorities in particular offices established in this way. For discussion, see CRS Report R42852, *Presidential Reorganization Authority: History, Recent Initiatives, and Options for Congress*, by Henry B. Hogue, footnote #170 and accompanying main text, from which this footnote draws.

<sup>107</sup> This section was prepared by David H. Bradley, Specialist in Labor Economics (7-7352), Sarah Donovan, Analyst in Labor Policy (7-2247), and Abigail R. Overbay, Senior Research Librarian (7-9519).

<sup>108</sup> U.S. Department of Labor (DOL), *Strategic Plan, Fiscal Years 2014-2018*, at <https://www.dol.gov/sites/default/files/documents/agencies/osec/stratplan/fy2014-2018strategicplan.pdf>.

their projects. The CEO also supports data collection and research on issues of high priority to the department and engages in various knowledge-building research activities, such as literature reviews and annotated bibliographies. Many of these products—including public use data files—are available to the public.

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

CEO generates data primarily through agency-funded program evaluation and related research. All completed projects—including in some cases public use files—are published to the CEO webpage and available for download.<sup>109</sup> CEO policy identifies the following as pillars of its evaluation policy:<sup>110</sup>

- **Rigor:** DOL seeks to use the “most rigorous methods that are appropriate and feasible within statutory, budget, and other constraints.”
- **Relevance:** In selecting its evaluation priorities, DOL balances the legislative requirements and interests of various stakeholders, including DOL program offices, DOL partners (e.g., states), populations served by DOL programs, and the broader labor research community.
- **Transparency:** DOL commits to disseminating detailed and timely evaluation project information and findings broadly, including via its website.
- **Independence:** While DOL participates in identifying evaluation questions and priorities, evaluations are carried out with independence from influence by DOL CEO.
- **Ethics:** While not covered by regulations governing research involving human subjects, DOL-sponsored evaluations adhere to these requirements.

In addition, the CEO communicates its planned activities through an annual research and evaluation plan. DOL published its 2016 plan in the *Federal Register* for public comment “as part of its continuing effort to improve the quality and use of research and evaluation”.<sup>111</sup>

Related to the use of evaluation data more generally, CEO oversees the DOL Clearinghouse for Labor Evaluation and Research (CLEAR), a project to identify, assess the research quality of, and summarize studies falling under selected labor-related topic areas.<sup>112</sup> The overarching goal of the project is to “make research on labor topics more accessible to practitioners, policymakers, researchers, and the public more broadly so that it can inform their decisions about labor policies and programs.” For each topic area, CLEAR staff conduct a broad literature search, separating causal design studies from descriptive research, and summarize key findings. For causal design studies, staff assess the study’s research methodology against a set of guidelines and assign the study an evidence rating: “low evidence,” “moderate evidence,” or “high evidence.”

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<sup>109</sup> Recent studies have examined worker leave, including outcomes from state-provided paid family leave; states’ pilot projects to facilitate the reemployment of veterans, specific OSHA enforcement strategies, workplace injuries and demographic differences in workers’ compensation claims, unemployment claims and the labor and poverty impacts of the Great Recession, and the changing structure of work arrangements, among others. The full catalog of completed studies is at <https://www.dol.gov/asp/evaluation/CompletedStudies.htm> and public use data files are at <https://www.dol.gov/asp/evaluation/PublicUseData.htm>.

<sup>110</sup> DOL, Chief Evaluation Office, “U.S. Department of Labor Evaluation Policy,” November 2013, at <https://www.dol.gov/asp/evaluation/EvaluationPolicy.htm>.

<sup>111</sup> DOL, “Request for Information; Comment Request; Department of Labor Research and Evaluation Plan for 2016,” 81 *FR* 967, January 8, 2016.

<sup>112</sup> DOL, “Clearinghouse for Labor Evaluation and Research,” at <http://clear.dol.gov/>.

## Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions

The CEO is funded through annual appropriations for the Program Direction and Support budget activity in Departmental Management for DOL. The FY2016 appropriations act provides \$8,040,000 for program evaluation and the administration of evaluation grants.<sup>113</sup> In addition, Section 107 of the FY2016 appropriations act authorizes the Secretary to set aside up to 0.75% from specific DOL budget accounts for use by CEO for evaluations of programs administered by the agencies responsible for those budget accounts.<sup>114</sup>

## Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies

- **Statutory Citation(s).** No authorities were identified by CRS within the time available.
- **Brief Characterization of Provision(s).** No authorities were identified by CRS within the time available.

## Office of Planning, Research, and Evaluation (OPRE), Administration for Children and Families (ACF), HHS<sup>115</sup>

### Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities

Searches of the *U.S. Code* did not identify any explicit references to the Office of Planning, Research and Evaluation (or OPRE) within the HHS Administration for Children and Families (ACF).<sup>116</sup> Searches of the *Federal Register* identified a number of references to this office. The first such reference appears in the August 9, 1995, *Federal Register* notice (60 *FR* 40586), which establishes OPRE as an office within ACF.<sup>117</sup> A number of subsequent *Federal Register* notices have amended the mission, organization, or functions of OPRE throughout the years.<sup>118</sup> The most recent of these was published on June 24, 2016 (81 *FR* 41308). The current functional statement characterizes OPRE as follows:

- **Mission:** OPRE is the principal advisor to the Assistant Secretary of ACF on issues related to the effectiveness and efficiency of programs focused on improving the economic and social well-being of children and families. OPRE oversees and manages various research, evaluation, data, and improvement activities authorized by law and

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<sup>113</sup> Consolidated Appropriations Act, 2016, P.L. 114-113, 129 Stat. 2594.

<sup>114</sup> Consolidated Appropriations Act, 2016, P.L. 114-113, 129 Stat. 2597.

<sup>115</sup> This section was prepared by Karen Lynch, Specialist in Social Policy (7-6899), and Sarah Caldwell, Senior Research Librarian (7-9712).

<sup>116</sup> CRS searched the *U.S. Code* and Statutes at Large for the terms “office of planning research and evaluation” or “OPRE.” While these searches yielded some results on the term “OPRE,” none were in reference to the OPRE at the HHS Administration for Children and Families.

<sup>117</sup> Per 60 *FR* 40586, OPRE appears to have replaced a predecessor “Office of Policy and Evaluation” within ACF.

<sup>118</sup> For instance, see 60 *FR* 56606 (November 9, 1995), 62 *FR* 7787 (February 20, 1997), 63 *FR* 81 (January 2, 1998), 67 *FR* 4453 (January 30, 2002), 67 *FR* 67198 (November 4, 2002), 75 *FR* 42760 (July 22, 2010), 75 *FR* 41762 (July 22, 2010), 77 *FR* 47077 (August 7, 2012).

related to ACF programs and populations.<sup>119</sup> OPRE also advises ACF on matters related to privacy and the sharing of information.

- **Functions:** The *Federal Register* notice describes the functions of each office or division within OPRE. The following functions represent a small subset of these many responsibilities: strategic planning aimed at measurable results; performance measurement; surveys, research, and evaluation methodologies; demonstration testing and model development; statistical, policy, and program analysis; synthesis and dissemination of research and demonstration findings; and application of emerging technologies to improve program effectiveness and service delivery.

### **Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data**

As noted above, searches of the *U.S. Code* did not identify any explicit references to OPRE. However, the OPRE functional statements published in the *Federal Register* identify a number of responsibilities for each office or division within OPRE. The June 24, 2016, notice established a new OPRE Division on Data and Improvement. The functions of this division, excerpted below, may be of particular interest:

The Division of Data and Improvement, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to improve the effectiveness and efficiency of programs through improving the quality, usefulness, interoperability, and availability of data. Division staff provide guidance, analysis, technical assistance, and oversight on strategic planning and performance measurement; statistical, policy, and program analysis; continuous improvement; surveys, data collection, and analysis methodologies; application of data analyses to program operations and decision-making; application of emerging technologies to improve the effectiveness of programs and service delivery; privacy and data security; and data sharing. The Division conducts, manages, and coordinates major cross-program, leading-edge research, demonstration, and evaluation studies related to the quality, usefulness, interoperability, and availability of data; develops policy-relevant priorities for data collection and analysis; manages and conducts statistical, policy, and program analyses; provides consultation, coordination, direction, and support for research and evaluation activities related to the quality, usefulness, interoperability, and availability of data; coordinates and develops policies and procedures for reviewing Federal Financial Participation in the cost of automated systems development to support programs funded under the Social Security Act; coordinates and develops systems, policies, and procedures to support data exchange in support of program access and program integrity; coordinates and supports implementation of technologies, strategies, and policies related to systems integration and interoperability systems assessments, systems design and planning, data exchanges, information management, information security, and electronic information exchanges across federal, state, local, tribal, and private systems. It serves as the departmental focal point and coordinator for the development and implementation of strategies and policies related to payment integrity, welfare systems integration, electronic benefit transfer, and related initiatives and programs. The Division provides leadership and guidance to interagency work groups in these areas for the Department.<sup>120</sup>

Two additional resources may be of interest.

- The ACF website includes a section on “interoperability.” The website notes that the OPRE Division of Data and Improvement was created in 2016 with a mission to “support

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<sup>119</sup> The mission statement identifies a selection of underlying statutory authorities for research and evaluation activities undertaken by OPRE (e.g., Sections 413, 429, 511, 1110, and 2008 of the Social Security Act, and Section 649 of the Head Start Act), but these statutory authorities do not explicitly specify that OPRE is to be responsible for carrying out these activities.

<sup>120</sup> 81 *FR* 41309.

family-centered service delivery by providing federal leadership and resources to maximize data usage and sharing between human services entities.” Further, the website notes that OPRE’s Division of Data and Improvement will “assume increasing roles” with the National Information Exchange Model (NIEM) Human Services Domain Workgroup, which was established in early 2015 to provide expertise in creating standardized data exchanges.<sup>121</sup>

- In November 2012, ACF released a statement on ACF Evaluation Policy, which was made available on the OPRE website.<sup>122</sup> A version of this policy statement was later published in the *Federal Register* on August 29, 2014 (79 FR 51574). Among other things, this evaluation policy notes that ACF will “archive evaluation data for secondary use by interested researchers, typically through building requirements into contracts to prepare data sets for secondary use.” The policy statement applies to “all ACF-sponsored evaluations,” including—but not limited to—evaluation activities overseen by OPRE.

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

As noted above, searches of the *U.S. Code* did not identify any explicit references to OPRE. There is no single budget account explicitly designated for OPRE; rather, OPRE’s activities may be funded under multiple authorities and accounts. However, annual budget justifications produced by ACF do include a table summarizing the number of full-time equivalent employees by office, including OPRE.<sup>123</sup>

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

As noted above, searches of the *U.S. Code* did not identify any explicit references to OPRE. It may be worth noting, however, that there are cases in which a statute may call for an advisory committee or some other body to be convened on an issue or topic related to research conducted by OPRE. For instance, Section 649(g)(1) of the Head Start Act (42 U.S.C. 9844(g)) required the HHS Secretary to appoint an independent panel of experts to review and make recommendations on the design of studies that provide national analysis of the impact of Head Start programs.<sup>124</sup> This committee was chartered in May 2010 and submitted its final report to the Secretary in August 2012.<sup>125</sup>

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<sup>121</sup> U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF), “Interoperability,” at <https://www.acf.hhs.gov/about/interoperability>.

<sup>122</sup> HHS, ACF, OPRE, “ACF Evaluation Policy,” December 27, 2012, at <https://www.acf.hhs.gov/opre/resource/acf-evaluation-policy>.

<sup>123</sup> See, for instance, HHS, ACF, *FY2017 Justification of Estimates for Appropriations Committees*, February 2016, p. 459.

<sup>124</sup> The law requiring HHS to establish this advisory committee does not explicitly reference OPRE. However, OPRE is typically tasked with overseeing the research efforts authorized under section 649 of the Head Start Act.

<sup>125</sup> *Advisory Committee on Head Start Research and Evaluation: Final Report*, August 2012. For more information on this committee, see <https://www.acf.hhs.gov/opre/research/project/advisory-committee-on-head-start-research-and-evaluation>.

## Office of Policy Development and Research (PD&R), Department of Housing and Urban Development (HUD)<sup>126</sup>

### Authorities Establishing and Specifying the Entity's Mission and Major Duties/Activities

As described earlier in this memorandum, agency heads generally have discretion, consistent with existing statutory mandates, to organize and manage the day-to-day operations of the agencies for which they are responsible. The Office of Policy, Development and Research (PD&R) at HUD was established in 1973 under that executive authority.<sup>127</sup> However, the *research activities* undertaken by PD&R are authorized under Title V of the Housing and Urban Development Act of 1970.<sup>128</sup> That act consolidated a number of discrete research authorizations into a broad authority to undertake research, which authorizes “research, studies, testing, and demonstrations relating to the missions and programs of the Department.”<sup>129</sup>

### Agency-Specific Authorities that Govern How the Entity Uses Data, Provides Data to Third Parties, Acquires Data, or Restricts Data

The statutory authority governing HUD's research activities does not include specific guidelines related to data usage and availability.<sup>130</sup>

In December 2016, HUD published a notice in the *Federal Register* entitled “HUD Program Evaluation Policy—Policy Statement.” With regard to data usage, the notice makes several statements, including, among others:

- “PD&R is committed to using the most rigorous methods that are appropriate to the evaluation questions and feasible within budget and other constraints.... Rigor requires ensuring that inferences about cause and effect are well founded (internal validity); requires clarity about the populations, settings, or circumstances to which results can be generalized (external validity); and requires the use of measures that accurately capture the intended information (measurement reliability and validity).”
- “PD&R will, where possible, archive evaluation data for secondary use by interested researchers. PD&R typically builds requirements into contracts to prepare data sets for secondary use.”
- “PD&R-sponsored evaluations must comply with both the spirit and the letter of relevant requirements such as regulations governing research involving human subjects. In particular, PD&R protects the privacy of HUD-assisted households and HUD-insured borrowers through the Rule of Eleven; that is, PD&R allows no disclosure of information

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<sup>126</sup> This section was prepared by Maggie McCarty, Specialist in Housing Policy (7-2163).

<sup>127</sup> See Department of Housing and Urban Development, “Assistant Secretary for Policy Development and Research: Delegation of Authority,” 38 *Federal Register* 8012, March 27, 1973.

<sup>128</sup> Codified at 12 U.S.C. 1701z-1.

<sup>129</sup> Legislative history of the Housing and Urban Act of 1970, P.L. 91-609, 84 Stat. 1770, December 31, 1970.

<sup>130</sup> While not within the statutory authority cited explicitly for PD&R's research and evaluation activities, Section 7 of the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235, codified at 42 U.S.C. 3535(r)) authorized appropriations and set out guidelines for the Secretary to undertake evaluation and monitoring of most of the major programs of the department. While that authorization of appropriations has expired, that law is sometimes cited by the department (generally by program offices, not PD&R) as its authority for various data collection and program evaluation and monitoring efforts.

about the characteristics of any group of individuals or households numbering less than eleven by PD&R staff, contractors, grantees, or licensees.”<sup>131</sup>

### **Agency-Specific Authorities that Relate to Funding, Personnel, or Other Noteworthy Operational Functions**

The statutory authority authorizing HUD’s research activities includes an expired authorization of appropriations.<sup>132</sup> However, annual appropriations acts have continued to provide funding for HUD’s research and evaluation activities.<sup>133</sup> Those acts, and their accompanying report language, often contain guidance about how the funding provided should be spent and under which conditions. Further, annual appropriations acts generally include a line-item within the Program Office Salaries and Expenses account for PD&R’s salaries and expenses.<sup>134</sup>

### **Agency-Specific Authorities that Establish or Authorize Establishment of Independent Oversight/Governance Bodies**

The statutory authority governing HUD’s research activities does not establish or authorize any outside independent oversight or governance bodies.

It may be worth noting, however, that in 2006, Congress mandated that the National Research Council of the National Academies of Sciences convene a committee to evaluate PD&R.<sup>135</sup> A final report containing a number of recommendations about the future direction of PD&R entitled *Rebuilding the Research Capacity at HUD* was published in 2008.<sup>136</sup>

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<sup>131</sup> Department of Housing and Urban Development, “HUD Program Evaluation Policy-Policy Statement,” 81 *FR* 87949-87951, December 6, 2016.

<sup>132</sup> See 12 U.S.C. 1701z-1, which reads “There is authorized to be appropriated to carry out this title \$35,000,000 for fiscal year 1993 and \$36,470,000 for fiscal year 1994.” The House of Representatives Office of Law Revision Counsel indicates that this provision uses the word “is,” but that the word instead “probably should be ‘are’.” See note for 12 U.S.C. 1701z-1, at [http://uscode.house.gov/view.xhtml?req=\(title:12%20section:1701z-1%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title12-section1701z-1\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:12%20section:1701z-1%20edition:prelim)%20OR%20(granuleid:USC-prelim-title12-section1701z-1)&f=treesort&edition=prelim&num=0&jumpTo=true).

<sup>133</sup> For example, in FY2016, the “Research and Technology” account at HUD was funded at \$8 million. See Title II of Division L of P.L. 114-113.

<sup>134</sup> For example, in FY2016, PD&R was appropriated \$23.1 million for salaries and expenses. *Ibid.*

<sup>135</sup> U.S. Congress, House Committee on Appropriations, *Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies Appropriations Bill, 2006*, report to accompany H.R. 3058, H.Rept. 109-153, 109<sup>th</sup> Cong., 1<sup>st</sup> sess. (Washington, DC: GPO, 2005).

<sup>136</sup> A copy of the report is available at <http://www.nap.edu/catalog/12468.html>.