



Comment on the Interagency Council on Statistical Policy's Recommendation for a Standard Application Process (SAP) for Requesting Access to Certain Confidential Data Assets

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Prepared with the input and guidance of the ASA [Privacy and Confidentiality Committee](#)

The American Statistical Association (ASA) appreciates this opportunity to respond to the comment request from the Office of Management and Budget (OMB) on the Standard Application Process. ([OMB 2022-0001](#)) The ASA Privacy and Confidentiality Committee would like to share the following views with you, as structured in the Federal Register Notice. [Committee responses appear in blue.](#)

Metadata standards:

- To provide flexibility over time, the proposed policy would require the SAP Program Management Office (PMO) to develop and maintain a set of metadata standards subject to approval by the SAP Governance Body.
1. Should key metadata elements be considered as part of the policy? If so, which?

Yes, the minimum key elements to be included in the metadata should be specified in the policy, including data set level and variable level metadata. The elements recommended by the ICSP seemed like a good minimum.

2. What are the key metadata elements that the PMO should consider in its development of the metadata standards?

There are other elements of information that would be useful to include as the portal itself matures, including whether identifiers (person or other entity) needed for linkage are available, or whether linkage keys have already been appended. However, it is more important to get the basic data set and data element information available to researchers and include additional information later, as long as there was a link to agency websites where more detailed information about the data could be accessed. Some examples of metadata that might be useful in the future would be to provide information about the manner in which it was collected, quality metrics, and how the data had been used in other research. It would be useful to consider the metadata elements employed by the Inter-university Consortium for Political and Social Research as well as other national and international standards.

3. Would it be valuable for the metadata standards to comply with any other existing metadata standards? If so, which?

Yes, the metadata should conform to existing, widely accepted metadata standards. To the extent possible, conformance with SDMX to facilitate metadata exchange would be preferred. It would not be beneficial to researchers both inside and outside the government to have to search through widely different metadata content and formats because the data sets are under the control of different federal statistical agencies.

Application windows:

- The proposed policy would allow each individual statistical agency or unit to establish their own time window during which applications will be accepted for a given data asset as a way to manage resource constraints. This approach is designed to maximize services from higher capacity statistical agencies, which have resources to keep an application window open all year in many cases, but at the potential expense of standardization across statistical agencies, because some lower capacity statistical agencies may not have the resources to review applications on a constant flow basis.
4. How could this proposed approach be improved, if at all?
- If instead the policy were to require all agencies to align to a common fixed-length window, we believe that has the potential to lead to a decrease in availability for higher capacity agencies.

The proposed approach indicates a lack of commitment to provide the resources necessary to advance access to data for evidence-building on the part of OMB and the statistical agencies. Researchers who desire data from a smaller agency should not have to put their own plans and resources on hold because the smaller agency doesn't allocate resources to a reasonable review period. This could be particularly troubling if a

project requires data from both small and large agencies. Possible approaches are detailed below.

5. How could this policy be implemented in a way that maximizes its usefulness? How could the following aspects help:

i. Frequency of windows for accepting applications (*e.g.*, annual, quarterly)?

The frequency of windows for accepting applications to all agencies should be no less than quarterly. A quarterly submission enables researchers to plan ahead and would be particularly important for graduate students or others funded by grants, where time for project initiation and completion could be limited, and a delay by a year could be too hard to overcome. This is particularly the case if the recommended time frame for project approval and subsequent appeals is followed.

ii. Minimum number of days for accepting applications (*e.g.*, 60 days) for each window?

If the window is quarterly, a 30 day window should be sufficient.

iii. Alignment of acceptance windows across statistical agencies or products?

The quarterly windows should be aligned, with exceptions made if an agency determines that time is important for particular projects or if an agency has the resources to consider projects more frequently. That is, a quarterly alignment should be the minimum but should not constrain agencies that want to consider proposals more frequently. For example, during the COVID-19 pandemic, it may have made sense to provide access very quickly to some data, particularly sharing between federal agencies or between federal and state agencies, in which case, there should be provisions for exceptions to the quarterly submissions, in a manner that preserves resources for non-governmental data access.

iv. Any other features to assist applicants seeking data from multiple statistical agencies for a single project?

Some of the scientific agencies that are very experienced with approving grants have a process instituted that could be tailored to a quarterly process. That is, each quarter after proposals are received, representatives from all agencies where there is a joint proposal could meet together and make a simultaneous determination about a project, rather than directing the proposal separately to each agency to make a separate determination. This would streamline the approval process considerably, particularly if one of the agencies would like some modifications made to the proposal. In addition, there should be a second meeting time scheduled between these quarterly meetings to consider modified proposals.

If a researcher is requesting data from only one agency, there is no need to convene a group approval quarterly meeting to make a determination on that proposal.

As stated above, it should not be left to each agency to decide how much resources to devote to project approvals. OMB should make sure that this process is fully resourced and supported by the Project Management Office and its contracted support.

Applicant evaluation:

- The proposed policy would introduce four standardized authorization levels and four standard review criteria against which applicant(s) will be evaluated. The authorization levels are designed to align generally with currently used access modes as described above. They will also need to align with accessibility levels to be defined in an upcoming OMB regulation required under 44 U.S.C. 3582. The standard review criteria would respond to the requirement for an explicit, consistent, and identical review process.

6. Is the proposal an appropriate framework, and should it differ in any manner between Federal and non-Federal applicants? If not, what additional levels or criteria should guide the applicant review process to improve the efficiency of the SAP?

It is hard to comment in detail on this aspect of the proposed process without seeing the more detailed framework that is yet to be issued by OMB. However, the proposed authorization levels make sense and conform to what is in general practice right now.

The notice stated that disclosure avoidance and modes of access are not included in OMB-2022-0001. However, successful implementation of the proposed process depends on how the correct authorization level and access to data will be affected by these excluded topics and the seemingly separate implementation of privacy budgets by agencies. That is, will data sets that are currently considered public use data sets become harder to access due to some as yet unknown privacy budget that an agency decides to adopt? Will the privacy budget determination affect these four authorization levels? How will that integration of the omitted topics take place?

For example, the ASA 2020 Census Quality Task Force recommended that operational data from the 2020 Census be made available to the public at lower levels of geography than at the national level. The Census Bureau is relying on a “privacy budget” to determine what can be released. Similarly, there have been discussions in the statistical community about data sets from the American Community Survey and whether the public use files will be made available in the future, due to limitations of the “privacy budget”. Public use files currently are just that, publicly available. Will the privacy budget require that access to these files require using the proposal application process and going through the most stringent background checks due to title 13 requirements? While the ASA Privacy and Confidentiality Committee strongly supports protecting statistical data from disclosure of confidential information, much more information and discussion is needed before being able to comment on a status quo approach being adopted. OMB-2022-001 needs to clearly state that these guidelines are interim until the fuller discussion with stakeholders takes place.

In addition, the process could be greatly expedited if agencies are required to recognize each other's background checks for purposes of accessing data. That is, if you had gotten clearance to work in a Federal Statistical Research Data Center, you should not have to re-undergo a background check to access Education data in another facility. The common process should make the background checks portable across agencies. In addition, Federal employees and their designated agents should not have to undergo additional background checks beyond what was required to be an employee or contractor if those background checks have not exceeded the standard time limit for renewal.

Appeals process:

- The proposed policy would provide applicants the ability to file an appeal in the event their application receives a negative disposition. Under this process, the appeal is reviewed by three officials at the statistical agency or unit, including the statistical agency or unit head or delegate, and a consensus decision is required to reverse the original determination.

7. What additional aspects should be considered to ensure that the process is fair, equitable, and transparent?

An appeal that only includes people from the agency that originally turned down an application is unlikely to reverse the original decision. We ask that OMB and the ICSP consider that the appeal review include someone from outside the statistical agency that denied the request.

8. How, if at all, should processes vary for applications that would use data from multiple agencies?

Appeals could be considered during the interim quarterly meetings where revamped proposals are considered, but the Chief Statistician should be a member of the appeals review to provide a cross-cutting view.

Public reporting:

- The Evidence Act (44 U.S.C. 3583(a)(6)) requires public reporting on the status and disposition of each application to promote transparency.

9. What additional information should be considered as part of the proposed public reporting requirements beyond what the proposal suggests?

No additional information is suggested.

In addition, OMB welcomes more general comment on the merit of the proposed SAP both in technical terms and as statistical policy, including whether any elements should be modified in support of technical improvement or to improve statistical policy. The technical implications of the proposed SAP involve the feasibility, cost, and effectiveness of its structure and processes. The statistical policy implications relate to how well the proposed SAP supports the missions of statistical agencies and units by serving the information and research needs of policymakers and the public, while protecting the privacy and confidentiality of individuals who provide data.

In general, the ASA Privacy and Confidentiality Committee strongly supports moving ahead with the requirements laid out in the Evidence Act to have a standard process and application for researchers to use when requesting access to protected statistical data. We also support setting up a Project Management Office to run both the application portal and the process, and allowing the Project Management Office to contract out support for these functions. We also support delegating actions such as maintaining a standard inventory, determining a metadata standard, assuring the functionality of features such as links to the agency websites, and organizing a joint approval process for access to multiple-agency data sets.

Of concern are the long timeframes being suggested for project approval and the appeals process. These long timeframes create the perception that access to data for important research providing evidence to inform public policy is not a priority of the federal statistical agencies or OMB. With sufficient resources, these time frames could be shortened considerably. If a single portal and approval process is an enhancement and not a bottleneck, then a commitment to sufficient funding should be part of OMB establishing this process. Without that, this single process could become a bigger bottleneck than delays currently experienced. Particularly because there do not seem to be any consequences for agencies if they miss the approval and appeal deadlines, even repeatedly, this concern emerges.