



MEMORANDUM

Date: March, 22, 2023

From: Donna Miller, MS
Confidentiality Officer
National Center for Health Statistics
Centers for Disease Control and Prevention

Subject: Annual Report from the National Center for Health Statistics to the Office of Management and Budget as required in the Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA) dated June 15, 2007

To: Margo Schwab
Statistical and Science Policy Office
Office of Information and Regulatory Affairs
Office of Management and Budget

The National Center for Health Statistics (NCHS) is filing the annual report as required by the June 15, 2007 CIPSEA Implementation Guidance. This report covers 2022 for the listed data collections covered by CIPSEA.

Use of the CIPSEA Confidentiality Pledge

Attachment 1 is a listing of the data collections that were covered by CIPSEA and had an active clearance during 2022.

The following statement appears on all NCHS data collection instruments:

We take your privacy very seriously. All information that relates to or describes identifiable characteristics of individuals, a practice, or an establishment will be used only for statistical purposes. NCHS staff, contractors, and agents will not disclose or release responses in identifiable form without the consent of the individual or establishment in accordance with section 308(d) of the Public Health Service Act (42 U.S.C. 242m(d)) and the Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA, Pub. L. No. 115-435, 132 Stat. 5529 § 302). In accordance with CIPSEA, every NCHS employee, contractor, and agent has taken an oath and is subject to a jail term of up to five years, a fine of up to \$250,000, or both if he or she willfully discloses ANY identifiable information about you. In addition, NCHS complies with the Federal Cybersecurity Enhancement Act of 2015 (6 U.S.C.

§§ 151 and 151 note) which protects Federal information systems from cybersecurity risks by screening their networks.

Attachment 2 contains an example of an NCHS survey pledge.

Compliance with the CIPSEA Implementation Guidance

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

The agency affirms its determination to have the Center be in general compliance with OMB Implementation Guidance. We affirm compliance with the following specific elements:

1. **Physical and Information Systems Security:** only persons authorized are permitted access to confidential information stored in information systems. NCHS is in compliance through the direction of the NCHS Information Systems Security Officer.
2. **Confidentiality Training:** all employees are certified annually. Every employee, contractor, fellow, etc. who enters NCHS employment completes the NCHS confidentiality training (see: <https://www.cdc.gov/nchs/training/confidentiality/training>), and signs the NCHS affidavit of nondisclosure documenting CIPSEA and other legislatively-mandated confidentiality requirements. NCHS maintains an automated system to track employee compliance for completing the annual NCHS confidentiality training and digitally signing the NCHS affidavit of nondisclosure. To date, every person at NCHS completed the annual NCHS confidentiality training and signed a new NCHS affidavit of nondisclosure.
3. **Record Keeping:** the agency has records that identify all individuals accessing confidential information.
4. **Review of Information Prior to Dissemination:** the agency has in place a process to review information prior to dissemination to ensure that confidential information is not disclosed. The NCHS Disclosure Review Board reviews and approves all public use microdata files prior to public release on the NCHS internet site. Division/Office staff are responsible for reviewing and approving all tabular data and reports. The Research Data Center staff review output prior to releasing it to researchers working on-site or off-site using Federal Statistical RDCs.

Use of Agents Provision in CIPSEA

An example of a NCHS Designated Agent Agreement and NCHS CIPSEA contract language are provided in Attachments 3 and 4. The Research Data Center (RDC) Data Use Agreement and RDC Affidavit of Nondisclosure the can be viewed on the NCHS internet site, <https://www.cdc.gov/rdc/data/b4/Access-Agreement-321.pdf> and <https://www.cdc.gov/rdc/data/b4/DesignatedAgent-321.pdf>.

Provision of the number of individual agents NCHS has designated during calendar year 2022 in the following categories:

1. **Contractors:** In CY 2022, NCHS had 171 contract employee agents on-site, who report to an NCHS Contracting Officer Representative, and 907 off-site contractor agents, who report directly to an external contract company. Approximately 88 percent of contractor agents were involved in data collection related activities.
2. **Federal or State Agencies:** In CY 2022, NCHS had designated agent agreements with 15 federal agencies/units. There were 2,266 federal agency/unit employee agents, of which 2,193 (97%) were Census staff involved in data collection or management activities on behalf of NCHS. There were no agents from a state agency.
3. **Researchers:** In CY 2022, NCHS had 106 individual researcher access data via NCHS controlled sites (e.g., a research data center).

Provision of information on NCHS compliance with the elements in Section IV of the CIPSEA Implementation Guidance concerning Requirements and Guidelines for Statistical Agencies or Organizational Units When Designating Agents to Acquire or Access Confidential Information Protected under CIPSEA. The agency's report should affirm its compliance with the following specific elements or note any exceptions or areas where the agency is working to come into full compliance:

1. **Contracts and Written Agreements:** all contracts or agreements include the appropriate provisions in the Appendix of the CIPSEA Implementation Guidance. As a NCHS example, Attachment 4 contains language from a contract.

Physical and Information Systems Security: For those accessing NCHS CIPSEA protected data under a Designated Agent Agreement, NCHS adopted the policy that data released to *another CDC Center or Federal agency* would not require a physical inspection as long as the NCHS Information Systems Security Officer (ISSO) was satisfied that the data would be treated in conformance with Federal security standards and that the requirement that Federal Policies will be adhered to is included in the original agency agreement. The result of this practice is that data held by another CDC Center or Federal agencies would be subject to the same security as that at NCHS. In agreements with non-CDC Federal agencies, the NCHS ISSO was consulted and submitted to CDC detailed security certification and accreditation statements provided by the agency involved for final vetting by the CDC Chief Information

and Privacy Officer. For all other agreements, the NCHS ISSO consulted directly with his counterpart in the other organizations to review security standards and policies.

NCHS is committed to conducting an inspection of non-federal off-site facilities at least once during the data access agreement period. In CY 2022, no off-site facilities were inspected because of the pandemic.

2. Confidentiality Training: all agents are certified annually. All agreements stipulated the annual recertification of agents.
3. Record Keeping: the agency has records that identify all agents with access to confidential information. For all Designated Agent Agreements, the NCHS Confidentiality Office has records that identify those agents.

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

Sincerely,

/Donna M. Miller/

Donna M. Miller, MS

cc:

Dr. Moyer

Dr. Greene

Dr. Branum

Mrs. King

Mr. McGough

**Attachment 1. NCHS Data Collection Activities Conducted Under
CIPSEA (activities with an active clearance during 2022)**

OMB Clearance Number	Survey/Data Collection Name
0920-0212	National Hospital Care Survey (NHCS)
0920-0214	National Health Interview Survey (NHIS)
0920-0222	NCHS Questionnaire Design Research Laboratory
0920-0234	National Ambulatory Medical Care Survey (NAMCS)
0920-0278	National Hospital Ambulatory Medical Care Survey (NHAMCS)
0920-0314	National Survey of Family Growth (NSFG)
0920-0943	Data Collection for the Residential Care Community and Adult Day Services Center Components of the National Study of Long-term Care Providers (NPALS)
0920-0950	National Health and Nutrition Examination Survey (NHANES)
0920-1015	National Electronic Health Record Survey (NEHRS)
0920-1030	Developmental Studies to Improve the National Health Care Surveys
0920-1208	Developmental Projects to Improve the National Health and Nutrition Examination Survey and Related Programs (Generic)

Attachment 2. Example of Confidentiality Pledge Under CIPSEA

National Health and Nutrition Examination Survey

A. Confidentiality Brochure

The brochure contains detailed information on the confidentiality aspects of the survey including the following statement, **“We take your privacy very seriously. All information that relates to or describes identifiable characteristics of individuals, a practice, or an establishment will be used only for statistical purposes. NCHS staff, contractors, and agents will not disclose or release responses in identifiable form without the consent of the individual or establishment in accordance with section 308(d) of the Public Health Service Act (42 U.S.C. 242m) and the Confidential Information Protection and Statistical Efficiency Act of 2018 (Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (Pub. L. No. 115-435, 132 Stat. 5529 § 302))...”**

B. Signed Consent Form

You have been chosen to take part in the National Health and Nutrition Examination Survey (NHANES), conducted by the National Center for Health Statistics, part of the Centers for Disease Control and Prevention (CDC). This research tells us about the health and nutrition of people in the United States. It combines an interview with a health exam. Our interviewer will ask questions about you and your family. Some questions are about your work and general health. Others are about health problems and other health topics. Health research using NHANES can be enhanced by combining your survey records with other data sources. The data gathered are used to link your answers to vital statistics, health, nutrition, and other related records. The questions today will take about one hour. We may contact you to check the work of your interviewer. We may contact you again for further studies.

Data gathered in this survey are used to study many health issues. We are required by law to use your information for statistical research only and to keep it confidential.

You may take part in this survey or not. The choice is yours. You will not lose any benefits if you say no. If you choose to take part, you don't have to answer every question and you can stop the interview at any time.

We can do additional health research by linking the interview and exam data of everyone listed under “SP NAME” in the gray box below to vital statistics, health, nutrition, and other related records. May we try to link these survey records with other records?

☐ Yes ☐ No ☐ N/A

Do you have more questions about the survey? You can make a toll-free call to the Senior Medical Officer at 1-800-452-6115, Monday-Friday, 7:30 AM-4:30 PM EST. If you have questions about your rights about being in the survey, call the Research Ethics Review Board at the National Center for Health Statistics, toll free, at 1-800-223-8118. Please leave a brief message with your name and phone number. Say that you are calling about Protocol # 2018-01. Your call will be returned as soon as possible.

Signature of person answering questions

I have read the information above. I agree to proceed with the interview.

Date

IF PERSON ABOVE IS 16 OR 17 YEARS OLD, A PARENT/GUARDIAN MUST ALSO SIGN BELOW:
(Unless participant is an emancipated minor ☐)

Signature of parent/guardian

Date

I observed the interviewer read this form to the person named above and he/she agreed to participate by signing or marking this form.

Attachment 2. Example of Confidentiality Pledge Under CIPSEA

Witness (if required)

Date

Name of staff member present when this form was signed:

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

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

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

INTRODUCTION

The National Center for Health Statistics (NCHS) conducts statistical and epidemiological activities under authority granted by the Public Health Service Act (42 U.S.C. 242k). The [Survey] is conducted under this authority. Pursuant to the authority granted under Title III of Pub. L. No. 115-435, 132 Stat. 5529 § 302 (the Confidential Information Protection and Statistical Efficiency Act, or CIPSEA) allowing NCHS to provide access to confidential information to designated agents, the NCHS designates [Agency] staff who have signed this agreement as NCHS agents and agrees to provide access to [Agency] a data file(s) from [Survey] containing _____ *[identify the data file(s) to be made available including the specific information it contains that could permit identification of individuals or establishments, such as identifiers for Census region, state, county or finer geographical units.]*

PURPOSE

The purpose of this agreement is to enable [Agency] to _____ *[describe the justification and purpose of the access]*. This effort will *[describe how this agreement will benefit NCHS and the Designated Agent]*.

BACKGROUND [or PROPOSED RESEARCH or ACTIVITY]

(a) Describe in detail

- The data NCHS is providing or requesting be acquired
- The research topic or collection activities or other activities and protocol
- How the data will be used
- Any plans for disseminating information, including products planned for public distribution

DATA SECURITY AND SAFEGUARDS

1. Access, storage and disposition of the data

The [Survey] processes sensitive information categorized as Moderate for confidentiality and integrity per NIST SP 800-60 and FIPS-199. The [Survey] is periodically assessed by NCHS and CDC, in order to confirm that it has the appropriate security in place.

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

[Agency] agrees to provide adequate security arrangements for access to, storage of, and disposition of all files, extracts, printed listings, or outputs to prevent unauthorized use of the [Survey] restricted use files. [Agency] will ensure their contractors also meet these requirements. The [Survey] restricted use files will be stored in a restricted directory/share drive with access granted only to those listed as NCHS Designated Agents. [Agency's] and contractor's security plans will also comply with the requirements of the Federal Information Security Management Act (FISMA), the Office of Management and Budget (OMB), and CDC by working with NCHS Information Systems Security Officer (ISSO), the COR, and/or NCHS security/privacy staff.

The NCHS ISSO, security steward, and/or designee will review and approve the security arrangements [Agency] and contractor provides for [Survey] restricted use files to ensure the system has an appropriate level of protection for restricted use data (e.g., survey respondent names, geographical identifiers, detailed race and income) as provided by NCHS and as established by meeting moderate level protection criteria.

To preclude observation of [Survey] restricted use files by persons other than designated agents, [Agency] and contractor shall maintain all [Survey] restricted use files that identify respondents or establishments or from which respondents or establishments could be identified under lock and key. Specifically, at [Agency] and contractor facilities where the [Survey] restricted use files are processed or maintained, all [Survey] restricted use files containing direct and indirect identifiers that may permit the identification of respondents or establishments are to be kept in secured areas when not in use.

NCHS permits storage of [Survey] restricted use files on portable media only under extraordinary circumstances. The NCHS Confidentiality Officer must approve the use of portable media for storage of [Survey] restricted use files in advance. Once written approval is obtained, the medium on which the files are stored (floppy disks, CD's, DVD's, flash drives, and removable hard drives) must be encrypted using FIPS 140-2 *as amended* and kept in locked fireproof containers or, if maintained on a computer or external hard drive, access must be secured by all available means (including keyboard locks, passwords, encryption, etc. and office locks).

When [Survey] restricted use files are in use, whether by themselves or viewed on computer monitors, they must be kept out of the sight of persons not authorized to work with the records. Computer screens showing protected [Survey] restricted use data must not be unattended or left in view when someone who is not a Designated Agent is standing by the monitor. Printouts containing [Survey] restricted use data must not be left at printers.

Except as needed for operational purposes, copies of [Survey] restricted use files are not to be made. Any duplicate copies made of [Survey] restricted use files are to be destroyed as soon as operational requirements permit, using appropriate means of destruction such as shredding, burning, and macerating, or for electronic media intended for reuse, deleting files and then overwriting so that [Survey] restricted use files cannot be recovered.

Access to [Survey] restricted use files containing personally identifiable information such as survey respondent names, geographical identifiers, and detailed race and income should be held to the minimum number deemed essential to perform the work outlined in the agreement, kept in a highly

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

secure manner, and kept only as needed to carry out the tasks outlined in the contract. [Survey] restricted use files must be stored separately from non-[Survey] files. Access to [Survey] restricted use files must be controlled by Active Directory using a least-privileged approach. Backup tapes/files containing [Survey] restricted use files must be kept separate from backup tapes/files containing non-[Survey] files. All backup tapes/files containing [Survey] files must be destroyed at the end of the contract regardless of the contractor's records management schedule.

The Designated Agents must not share or output (tables, graphs, or maps) generated while using [Survey] restricted use files with other [Agency] or contractor staff who are not Designated Agents of NCHS until the output has been reviewed and cleared by the NCHS program representative (named below) for disclosure risks (also see section 3.j below). Output and documentation containing [Survey] restricted use data must also be physically secured in locked file rooms or cabinets when not in use.

It is understood that authorized staff of NCHS may, upon request, be granted access to premises where [Survey] restricted use files are kept or used for the purpose of inspecting data security arrangements. NCHS will be notified in advance of any change in [Agency] or contractors' site access. Specifically, if the agreed upon systems security arrangements for access to and/or storage of [Survey] restricted use files changes, NCHS will be notified immediately.

No [Survey] restricted use files may be removed from [Agency] or contractors' offices to an alternative worksite—including a telecommuting worksite. No restricted [Survey] files may be electronically accessed from any location other than the [Agency] and contractor offices. Exception: [Survey] restricted use data may be removed from [Agency] and contractors' offices so interviewers can conduct data collection activities. [Survey] restricted use files may not be sent via email.

The global COVID-19 pandemic has introduced challenges for contractors and NCHS employees as it relates to access to restricted use NCHS files while teleworking. Due to COVID-19, [Agency] and contractor employees are currently teleworking full time. To allow [Agency] and contractors to complete [Survey] work, [Agency] and contractor employees will be temporarily permitted to complete [Survey] work as outlined in the contract, including accessing confidential information, while teleworking. This telework arrangement is permitted until [Agency] and contractor employees can return to their offices. NCHS reserves the right to revoke this special telework access if NCHS has reason to believe the security of its data is at risk.

2. Data Transport

All data transmissions between the [Agency] and NCHS must utilize [CDC's SAMS (Secure Access Management Services)] **[or describe other secure mechanism such as encrypted hard drive, etc that will be used for transmission and is approved by the NCHS ISSO]**. Under no circumstances should such data be transmitted through electronic mail or fax.

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

3. Disclosure and Confidentiality

Being aware that they are subject to all of the requirements of both the Public Health Service Act and the Confidential Information Protection and Statistical Efficiency Act, and with the understanding that violation of the terms of this agreement is subject to conviction of a class E felony, imprisonment and a fine of up to \$250,000, all persons on the attached list who will be granted access to [Survey] agree that:

- a. The [Survey] restricted use files will be accessed only for purposes including data collection, coding, and processing. Unless specified in the agreement, no attempt will be made to learn the identity of respondents or establishments in the survey. Survey information will not be used in any way to directly affect any [Survey] respondent or establishment including any administrative or judicial purposes.
- b. In accordance with the provisions of CIPSEA, the only persons to be granted access privileges to the confidential [Survey] data will be those who:
 - i. Are named in the list to be provided by the [Agency] Data Custodian as authorized to have access to [Survey] data as NCHS Designated Agents;
 - ii. Have completed the NCHS affidavit of nondisclosure (Attachment 3a);
 - iii. Read the [Survey] assurances of confidentiality (Attachment 3b);
 - iv. Read the NCHS confidentiality statute section 308(d) [42 U.S.C. 242m(d)] of the Public Health Services Act) and excerpts of Title III of PL 115-435 (CIPSEA) (Attachment 3c);
 - v. Have been certified as having completed the NCHS training (hyperlink to training: <https://www.cdc.gov/nchs/training/confidentiality/training>);
 1. Submit a certificate of completion for each agent.

The [Survey] Data Custodian (named in 3.f below) will complete and submit to NCHS the Certification that Confidentiality Rules Have Been Reviewed by NCHS Designated Agents Form (Attachment 3d) with the designated agent paperwork outlined in item 3.B (above). Additionally, the [Survey] Data Custodian will annually certify these conditions have been met for all agents and will submit the required paperwork to NCHS.

A list of [Agency] and contractor employees with access to [Survey] restricted use files and a justification for the person's inclusion as a NCHS Designated Agent (e.g., interviewer, coder, analyst, etc.) will be maintained. For any new person assigned to the project during the period of performance, [Agency] and their contractors are required to have each person accessing [Survey] restricted use files review NCHS training materials, complete the forms as described in 3.b (above), and send all completed paperwork to the NCHS Confidentiality Office (see section 4. below for contact information) prior to accessing [Survey] restricted use files. [Agency] will provide NCHS with electronic copies of the paperwork and the original, signed the NCHS affidavit of nondisclosure.

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

- c. If the period of performance exceeds one year, on an annual basis:
 - i. NCHS and **[Agency]** will review and update this agreement if necessary. NCHS reserves the right to discontinue the agreement;
 - ii. **[Agency]** must submit a Designated Agent Agreement (DAA) extension request at least six weeks prior to the DAA termination date if an extension to the current agreement is going to be requested. The NCHS Confidentiality Office will assist **[Agency]** with preparing the extension request;
 - iii. **[Agency]** and the NCHS program representative will submit a DAA Memo to document any changes to the terms and conditions set forth in the original DAA. These changes may include personnel changes, or data storage and access changes. This memo must be submitted to the NCHS Confidentiality Office and include documentation detailing the server locations of **[Survey]** restricted use files including back-up files. This documentation will be used to determine if all **[Survey]** restricted use files and back-up files are either returned and/or destroyed at the end of the period of performance or upon NCHS request;
 - iv. **[Agency]** will ensure that there is at least one steward of these files who will execute the provisions of this agreement; and
 - v. **[Agency]** and contractor staff will complete the required NCHS confidentiality training in Item 3.b (above).
- d. **[Survey]** restricted use files covered under this Agreement will not be accessed by anyone other than the NCHS Designated Agents identified by the **[Agency]** Data Custodian. All requests for **[Survey]** restricted use files from any other party (e.g., Freedom of Information Act request) will be referred immediately to NCHS.
- e. **[Agency]** agrees to report any confirmed or suspected losses, including theft and unauthorized disclosure/access, of personally identifiable information (PII) from the **[Survey]** restricted use file(s) to the CDC Computer Security Incident Response Team's (CSIRT) 24 x 7 Emergency Number (1-866-655-2245) within one hour of discovery. Additionally, **[Agency]** agree to prepare a list of all **[Survey]** restricted use variables/elements involved in the incident. Lastly, after notifying CSIRT, **[Agency]** will notify the NCHS program representative (named below) with the incident number issued by CDC CSIRT and provide the list of all **[Survey]** restricted use variables/elements involved in the incident. **[Agency]** will not communicate PII details (e.g., survey respondent names, geographical identifiers, detailed race, and income) via email. **[Agency's]** contractors will notify **[Agency's]** data custodian in the event of any confirmed or suspected losses, including theft and unauthorized disclosure/access, of personally identifiable information (PII) from the **[Survey]** restricted use file(s). **[Agency's]** data custodian will then follow the same procedures outlined above for notifying CSIRT.

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

- f. **[Agency's]** designee, **[first and name]**, will be the Data Custodian of the **[Survey]** restricted use files and will be responsible for the observance of all conditions of use and for the establishment and maintenance of security arrangements to prevent unauthorized use of these files. It is the Data Custodian's responsibility to notify NCHS:
 - i. when access to NCHS data is no longer needed,
 - ii. If a change in site access is contemplated;
 - iii. Of the intent to modify the project's purpose; and
 - iv. If these responsibilities are transferred. If responsibilities are to be transferred, notification must be made promptly and before such official transfer is made.
- g. At the conclusion of the project, but no later than one year from date agreement is signed **[Agency]** will either destroy or return to NCHS all **[Survey]** restricted use files, backup files, including derivative files, containing **[Survey]** data that could permit identification of respondents/establishments as well as paradata and interviewer observation files. **[Agency]** will confirm the contractors destroy the same files. Official confirmation will be provided by the **[Agency]** Data Custodian named in item 3.f above, of their return/destruction by completion of Attachment 3e at the end of the contract.
- h. **[Agency]** and contractors shall not tabulate, analyze, release, or use the data acquired under contract for oral/poster presentations, reports, or publications without prior written approval of the NCHS Contracting Officer's Representative (COR) and the NCHS Confidentiality Officer. This includes all restricted use **[Survey]** paradata and interviewer observation data whether collected as part of the contract to collect the **[Survey]** or provided by NCHS to **[Agency]**. No oral/poster presentations, reports, or publications on data collected under the contract may be authorized by **[Agency]** and contractors without prior written approval of the NCHS COR and the NCHS Confidentiality Officer. Any approved oral/poster presentations, reports, or publications will adhere to all appropriate CDC clearance procedures. **[Agency]** and contractors will provide all tabulations and reports solely to the COR or their designee. Copies of quality control data may be maintained by the contractor. If method development is done as part of this project, the contractor may keep the data.
- i. In the event **[Agency]** needs to send direct and indirect personally identifiable information (PII) to NCHS, **[Agency]** will provide NCHS with a list of **[Survey]** variables before sending any data to NCHS. NCHS will review the list of variables and identify direct and indirect personally identifiable information (PII). **[Agency]** will use the list of **[Survey]** variables to create deliverable files for NCHS that separate direct and indirect PII into separate files.
- j. The NCHS program representative for this project is **[first and last name]**.
- k. The Designated Agent Agreement is valid starting from the date the NCHS Associate Director of Science or designee approves and signs the agreement. The agreement terminates one year after this date or sooner if agreed upon by both parties. The DAA can be extended annually for up to three years, subject to approval from the NCHS Confidentiality Officer.

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

4. Returning the Designated Agent Paperwork and Signed Agreement

The **[Agency]** Data Custodian (named in 3.F above) must return the original, signed copies of the Designated Agents' paperwork (outlined in 3.B above) and the original, signed copy of the Designated Agent Agreement to the address below. The **[Agency]** Data Custodian must also maintain copies of the paperwork submitted to NCHS for a minimum of two years.

National Center for Health Statistics (NCHS)

NCHS Confidentiality Officer, room #2582

Attn. Donna Miller

3311 Toledo Road

Hyattsville, MD, 20782

Phone: 301-458-4135

Email: DMMiller1@cdc.gov

**Attachment 3. Designated Agent Agreement (DAA) for
the Designation of Off-Site NCHS Agents**

[Agency] Signatures

Director, [Agency]

Digital Signature

[Agency] Designated Agents,

[Agency] Data Custodian

Digital Signature

Other Agents
Attach list

Attachment 3. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

NCHS Signatures

Program Representative, National Center for Health Statistics

Digital Signature

Division Director, National Center for Health Statistics

Digital Signature

Information Systems Security Officer (ISSO), National Center for Health Statistics

*“NCHS has reviewed system security plan for the **[Survey]**. The documentation indicates that the operational environment where **[Survey]** restricted use data (e.g., survey respondent names, geographical identifiers) will be stored and accessed provides an appropriate level of protection at the moderate level protection criteria. **[Agency]** must continue to work with the NCHS ISSO, NCHS security/privacy staff, as well coordinate with appropriate internal **[Agency]** POCs to provide continued assurances that the information is appropriately protected by way of the artifacts detailed in the contract.”*

Digital Signature

Confidentiality Officer, National Center for Health Statistics

Digital Signature

Director of the National Center for Health Statistics or designee

Digital Signature

Attachment 3a. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

NCHS Affidavit of Nondisclosure for Non-NCHS Staff

DEPARTMENT OF HEALTH & HUMAN SERVICES Centers for Disease Control and Prevention

National Center for Health Statistics
3311 Toledo Road
Hyattsville, Maryland 20782

The National Center for Health Statistics collects, compiles, and publishes general purpose vital and health statistics which serve the needs of all segments of the health and health related professions. The success of the Center's operations depends upon the voluntary cooperation of States, of establishments, and of individuals who provide the information required by Center programs under an assurance that such information will be kept confidential and be used only for statistical purposes. /

NCHS is subject to the **Privacy Act** and operates under the authority and restrictions of **Section 308(d)** of the **Public Health Service Act** and **Title III of the Foundations for Evidence Based Policy Making Act of 2018 (PL 115-435)** which provides in summary that information obtained under a pledge of confidentiality may be used only for the purpose for which it was supplied, and may not be disclosed, published or released in identifiable form to anyone not authorized to receive it unless the establishment or person supplying the information has consented.

The laws excerpted below provide penalties for unauthorized disclosure of confidential information.

Privacy Act of 1974, 5 U.S.C. section 552a(i)(1): "Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, **shall be guilty of a misdemeanor and fined not more than \$5,000.**" Paragraph m(1) of section 552a further states that "(1) When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency."

Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (Section 302 of PL 115-435/Confidential Information Protection and Statistical Efficiency Act or CIPSEA): "Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, **shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$250,000, or both.**"

Your signature below indicates that you have read the above statutes and agree to protect the confidentiality of NCHS data collected under these statutes.

- I affirm I will observe all policies and procedures to protect the confidentiality of NCHS data I access and that I will not disclose confidential information contained in data files, lists, or reports created using NCHS data, as specified under Section 308(d) of the Public Health Service Act, and under penalties set forth in the Privacy Act and section 302 of PL 115-435 (CIPSEA).
- I will not release confidential data to any other person or organization without the permission of NCHS.
- I will access confidential NCHS data only from the offices of my organization unless otherwise authorized.

**Attachment 3a. Designated Agent Agreement (DAA) for
the Designation of Off-Site NCHS Agents**

NCHS Affidavit of Nondisclosure for Non-NCHS Staff

- I am bound by the conditions stated in the executed Designated Agent Agreement with NCHS for the confidential NCHS data I access.

Name

Organization

Digital Signature

**Attachment 3b. Designated Agent Agreement (DAA) for
the Designation of Off-Site NCHS Agents**

NCHS Assurance of Confidentiality

We take your privacy very seriously. All information that relates to or describes identifiable characteristics of individuals, a practice, or an establishment will be used only for statistical purposes. NCHS staff, contractors, and agents will not disclose or release responses in identifiable form without the consent of the individual or establishment in accordance with section 308(d) of the Public Health Service Act (42 U.S.C. 242m) and the Confidential Information Protection and Statistical Efficiency Act of 2018 (Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (Pub. L. No. 115-435, 132 Stat. 5529 § 302)). In accordance with CIPSEA, every NCHS employee, contractor, and agent has taken an oath and is subject to a jail term of up to five years, a fine of up to \$250,000, or both if he or she willfully discloses ANY identifiable information about you. In addition, NCHS complies with the Federal Cybersecurity Enhancement Act of 2015 (6 U.S.C. §§ 151 and 151 note) which protects Federal information systems from cybersecurity risks by screening their networks.

Attachment 3c. Designated Agent Agreement (DAA) for the Designation of Off-Site NCHS Agents

NCHS Confidentiality Legislation

SECTION 308(d) of the PUBLIC HEALTH SERVICE ACT:

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

“No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under section 242b, 242k, or 242l of this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose; and in the case of information obtained in the course of health statistical or epidemiological activities under section 242b or 242k of this title, such information may not be published or released in other form if the particular establishment or person supplying the information or described in it is identifiable unless such establishment or person has consented (as determined under regulations of the Secretary) to its publication or release in other form.”

CIPSEA LEGISLATION:

Title III of PL 115-435 (Foundations for Evidence-Based Policymaking Act of 2018) – Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA):

§ 3572. Confidential information protection

(c) DISCLOSURE OF STATISTICAL DATA OR INFORMATION.—

“(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.”

§ 3572. Confidential information protection

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

**Attachment 3d. Designated Agent Agreement (DAA) for
the Designation of Off-Site NCHS Agents**

**Certification that Confidentiality Rules Have Been
Reviewed by NCHS Designated Agents**

To be completed by the **[Agency]** Data Custodian of the **[Survey]** restricted use files:

I certify that persons named in the attached list as authorized to work with the restricted use files from the **[Survey]**:

- 1) Signed the NCHS affidavit of nondisclosure (Attachment 3a);
- 2) Read the NCHS assurances of confidentiality (Attachment 3b);
- 3) Read the NCHS Confidentiality Statute section 308(d) (42 U.S.C. 242m(d) of the Public Health Service Act and excerpts of Title III of PL 115-435 (CIPSEA) (Attachment 3c); and
- 4) Completed the NCHS Confidentiality Training (hyperlink:
http://www.cdc.gov/nchs/about/policy/confidentiality_training/index.html)
 - a. Submit the certificate of completion for each designated agent.

[Agency] Data Custodian

Digital Signature

Attach a list of **[Agency]** and contractor employees with access to **[Survey]** restricted use files and include the justification for the person's inclusion as a NCHS Designated Agent (e.g., interviewer, coder, analyst, etc.)

**Attachment 3e. Designated Agent Agreement (DAA) for
the Designation of Off-Site NCHS Agents**

Certification of Destruction of NCHS Data Files

Note: To be completed by the [Agency] Data Custodian and returned to NCHS at the end of the contract.

Designated Agent Agreement Expiration Date:

As the [Agency] Data Custodian for the [Survey] restricted use files, I affirm that all electronic and paper files for this project have been destroyed. The individual file names and data years are listed below:

File Name(s)

Data Year(s)

(attach additional pages if needed.)

All derivative and back-up copies have been destroyed. Yes ☐ No ☐ If no, state reason below:

[Agency] Data Custodian

Digital Signature

Return this signed form to the NCHS Program Representative, [first and last name], [work address for representative]

Upon receipt at NCHS:

I, [first and last name of NCHS representative], certify that the list of files above includes all files provided by NCHS under the terms of this agreement.

Signature

Date

NOTE: Provide a copy of this completed form to the NCHS Confidentiality Officer

Attachment 4: Example NCHS CIPSEA Contract Language

Confidentiality Concerns

The confidentiality requirements described in this section ensure NCHS data are protected in accordance with Title III, the Confidential Information Protection and Statistical Efficiency Act or CIPSEA (Pub. L. No. 115-435, 132 Stat. 5529 § 302). CIPSEA requirements are in addition to the information/privacy requirements under FISMA and the information security/privacy requirements outlined elsewhere in this SOW. No system will be approved for processing NCHS CIPSEA protected data until the CIPSEA requirements outlined in this section are met and NCHS issues approval. This approval is separate and distinct from CDC's Security Assessment & Authorization Process.

Confidentiality Laws – NCHS data accessed under this task order are collected under confidentiality statutes including the Privacy Act of 1974 (5 U.S.C. 552a) and Section 308(d) of the Public Health Service Act [42 U.S.C. 242m(d)] which prohibits NCHS from using any personal information for any purpose other than what was described during the informed consent process and from sharing that information with anyone not clearly identified during the informed consent process. Additionally, NCHS data are protected by Title III, the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), of the Foundations for Evidence-Based Policymaking Act of 2018 which was codified in 2019 (Pub. L. No. 115-435, 132 Stat. 5529). CIPSEA provides for stiff fines and imprisonment for violations of confidentiality. Persons who willfully disclose the NCHS confidential information accessed under this contract in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$250,000, or both. CIPSEA reinforces laws such as the Privacy Act and Section 308(d) of the Public Health Service Act, which guarantees that data provided to CDC\NCHS shall not be disclosed without the respondent's or establishment's consent.

The tasks outlined in this Statement of Work comply with the Confidential Information Protection and Statistical Efficiency (CIPSEA) Act Implementation Guidelines (https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/proposed_cispea_guidance.pdf, page 32). This is the most recent CIPSEA implementation guidance published by the Office of Management and Budget. The guidance includes an Appendix A entitled, Requirements for Contracts and Written Agreements for Agents Acquiring or Accessing Confidential Information under CIPSEA. It states that federal contracts that require the collection of confidential information must contain certain details about how the confidential information will be handled. All data collection, handling, transmittal, and storage procedures must comply with CDC/NCHS regulations for the protection of subjects. A Designated Agent Agreement (DAA) between NCHS and the contractor will be executed.

Confidentiality Training – The contractor (and any subcontractor) shall ensure that all such staff complete NCHS Confidentiality training at <https://www.cdc.gov/nchs/training/confidentiality/training/> and sign the NCHS affidavit of nondisclosure annually. The contractor (and any subcontractor) shall prepare and submit a memo to the NCHS Contracting Officer (COR) that lists all persons who have completed NCHS Confidentiality training and have also signed the NCHS affidavit of nondisclosure. The contractor (and any subcontractor) shall also send the COR paper and electronic copies of the NCHS Confidentiality training certificates with each person's name on it and the date the training was completed as well as the signed copies of the affidavits of nondisclosure. After the first memo is

Attachment 4: Example NCHS CIPSEA Contract Language

submitted, the contractor (and any subcontractor) shall submit a memo semi-annually, as specified by the COR, listing all persons completing tasks under the contract and the dates they completed NCHS Confidentiality training and signed the NCHS affidavit of nondisclosure.