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BY THE COMPTROLLER GENERAL



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Report To The Congress

OF THE UNITED STATES

After Six Years, Legal Obstacles Continue To Restrict Government Use Of The Standard Statistical Establishment List

AGC00204

The Bureau of the Census has developed the Standard Statistical Establishment List, a comprehensive list of businesses in the United States. Many Federal statistical agencies could use such information. But confidentiality laws prevent the Census Bureau from sharing List information with other agencies.

Amendments to these laws would help improve the quality and comparability of economic statistics and reduce business response burden from numerous Federal statistical surveys.

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Because some of the List data comes from the Internal Revenue Service, the Treasury Department has reservations about using tax information for statistical purposes. However, the Commerce Department plans to introduce proposals for changes to the confidentiality laws and GAO recommends favorable congressional consideration.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

CW 100001

This report discusses the development and use of a centralized list of businesses by the Bureau of the Census and the need for sharing limited information on the list with other agencies for statistical purposes.

We made our review because of congressional and public concern that statistical information be collected with minimum burden on the public and minimum cost to the Government.

Copies of the report are being sent to the Director, Office of Management and Budget; the Secretary of Commerce; and the Secretary of the Treasury.

A handwritten signature in black ink, appearing to read "James A. Stacks".

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

AFTER SIX YEARS, LEGAL
OBSTACLES CONTINUE TO
RESTRICT GOVERNMENT USE
OF THE STANDARD STATIS-
TICAL ESTABLISHMENT LIST

D I G E S T

Bcf
The Standard Statistical Establishment List maintained by the Department of Commerce's Bureau of the Census is a computerized file of information on 5.5 million U.S. corporations, partnerships, sole proprietorships, and other businesses which have employees. (See p. 1.)

*7/10/11
see 11*
Although the List would greatly benefit the data collection by other government agencies and increase the efficiency of Federal statistical information collection, Census Bureau and Income Tax confidentiality laws prevent its use by other agencies. Since 1972, efforts have been underway to draft and submit legislation to the Congress to amend the Census law and permit other agencies access to the List. However, after 6 years, no proposals have been forwarded to the Congress.

Rec
The Secretary of Commerce should direct the Office of Federal Statistical Policy and Standards to

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DLG 01693

--establish a priority date for submitting proposed changes to the Congress and

--add a provision to this legislation requiring consent of a company or establishment if information is to be used in a manner other than specified in the legislative draft. (See p. 28.)

Rec
GAO recommends that the Congress favorably consider legislation to amend the Internal Revenue Code of 1954, as amended, and title 13 of the United States Code to allow the

GGD-79-17

Bureau to provide List information to Federal and State cooperative agencies for statistical purposes.

To help in developing ^{and} considering the legislative proposal, the Secretary of Commerce should direct the Census Bureau and the Office of Federal Statistical Policy and Standards to improve plans for sharing the List by

- preparing cost estimates,
- holding technical meetings with future user agencies,
- exploring monitoring options to ensure List confidentiality, and
- collaborating with the Department of Agriculture to develop plans for the farm portion of the List. (See p. 41.)

A. 13
The need for a centralized sampling list of businesses has been recognized since 1937. Three attempts to establish such a list have been made, and the third, in 1968, has been successful to the extent that the List is being used within the Census Bureau. (See p. 5.) By using the List for economic surveys, the Bureau has lowered costs and improved the quality of collected data. (See p. 19.)

GAO discussed potential uses of the List with officials at 11 agencies and found that not only could most of these agencies make use of the List, but survey costs could also be reduced. Approximately 760 surveys could use the List to some extent. In addition, expanded use would help improve the comparability of government surveys, reduce duplication in data collection efforts, and alleviate the reporting burden on businesses. (See p. 8.)

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ABBREVIATIONS

BLS	Bureau of Labor Statistics
GAO	General Accounting Office
GNP	Gross National Product
IRS	Internal Revenue Service
OMB	Office of Management and Budget
SIC	Standard Industrial Classification
SSA	Social Security Administration
USDA	U.S. Department of Agriculture

CHAPTER 1

INTRODUCTION

The Standard Statistical Establishment List is a computerized file of all known U.S. business firms and their establishments. At this time, the List is maintained and used only by the Department of Commerce's Bureau of the Census. It contains statistical information on 5.5 million corporations, partnerships, sole proprietorships, and other businesses having employees. Eventually, the Bureau plans to add another 8 million nonemployer firms, including farms, to the List. However, despite the fact that the List would greatly benefit the data collection efforts of other government agencies and increase the efficiency of the Federal statistical system, Census Bureau and Income Tax confidentiality laws prevent its use by any outside agency. These laws must be amended before the List can be shared with other agencies.

WHAT IS THE LIST?

The List, which became operational in 1975, provides the capability to stratify samples on the basis of the standard size ranges the Bureau has developed for employment and payroll. It provides sufficient identifying information to be used as a universal sampling frame ^{1/} for Federal statistical programs involving establishments.

The establishment is the basic component of the List. The Standard Industrial Classification Manual defines an establishment as a single physical location where business is conducted or where services or industrial operations are performed.

Firms in the List are classified into two categories: a single unit firm (consisting of one establishment) and a multiunit firm (consisting of more than one establishment). Establishments of multiunit firms are linked through a census identification number.

^{1/}A sampling frame is a collection of names, numbers, areas, or symbols designating the units of a population from which a sample will be drawn.

Information Included in
The Standard Statistical Establishment List

Primary name
Secondary name
Mailing address
Actual address (physical location)
Geographic codes
Geographic coding flags (indicate reliability of geographic code)
Standard Industrial Classification (SIC) code 1/
Enterprise code (for parent company)
Legal form of organization
Tax/Employer Identification Number
Census identification number (links all establishments of a multiunit company)
Total 1st quarter employment code (as of March 12) 2/
Total annual payroll code 2/
Gross sales/receipts code (will be added in the future) 2/

The Bureau maintains values for employment and payroll and plans to include values for gross sales. However, outside agencies would only receive this information in size code form if legislation permits use of the List. For example, an establishment's annual payroll would appear in the List as \$130,000 but an outside user would only obtain a size code letter "I" meaning that the payroll was between \$100,000 and \$149,999 a year.

1/The Standard Industrial Classification (SIC) is a scheme whereby each business establishment is assigned a code or number on the basis of its primary industrial activity which is determined by its principal group of products or services rendered. It was initially designed for Government use but is now widely used by business firms, trade and professional associations and others.

2/Data would be available to users outside the Bureau in size code form only.

The primary information used as sources of the initial file were

- the Internal Revenue Service (IRS) 1972 business income tax files,
- the IRS-Social Security Administration (SSA) 1972 quarterly employer payroll tax and business "birth" files,
- the 1972 Economic Censuses, and
- reports of all multiunit firms.

To maintain this file on a current, accurate, and minimum cost basis, establishment corrections and changes are obtained periodically from IRS, SSA, and the Bureau. Update sources include the IRS-SSA business birth file, the IRS Business Master File, and IRS business tax files and quarterly employer payroll tax files. The Bureau also incorporates update information from its annual surveys, such as the Company Organization Survey and the Annual Survey of Manufactures, as well as its 5-year economic censuses.

If List sharing legislation is passed, the Bureau plans to use those statistical agencies that have major responsibilities for collecting current economic data from the business universe (Department of Labor's Bureau of Labor Statistics and the Department of Agriculture's Economics, Statistics, and Cooperatives Service) and those agencies in the Department of Health, Education, and Welfare covering specific segments of the service industry sector (Office of Education, National Center for Health Statistics) as update sources.

The information in the List is tabulated annually and presented in the Bureau's County Business Patterns report. This report presents, by SIC code and geographical location, summary totals of the number of establishments, payroll, and employment. One use of the List is to provide a benchmark for statistical surveys.

HOW LIST DEVELOPMENT HAS PROGRESSED

In October 1968, the Bureau of the Budget, now the Office of Management and Budget (OMB), designated the Census Bureau as the focal agency for developing and maintaining, for

the use of statistical agencies, a Federal list of U.S. business enterprises and their establishments. The List's main purpose was to significantly improve the comparability of important economic data published by various statistical agencies.

Funding for the project began in fiscal year 1972, with the understanding that confidentiality legislation permitting other government statistical agencies to use the List would be forthcoming.

Authorized List Funding
Fiscal Years 1972 to 1978

<u>Fiscal year</u>	<u>Funding</u> <u>(note a)</u>
1972	\$ 284,000
1973	1,346,000
1974	1,617,000
1975	2,670,000
1976	2,751,000
Transition quarter (note b)	863,000
1977	2,983,000
1978	<u>3,064,000</u>
Total	<u>\$15,578,000</u>

a/Funding includes adjustments of \$621,000 from the dissolution of the Department of Commerce's Social and Economic Statistics Administration, data processing rent surcharges, and new obligation authority.

b/Reflects funding for July to September 1976 because of the change in the Federal Government's fiscal year.

During the summer of 1972, in an effort to solve the operational and legal problems associated with creating a Federal statistical list, an OMB-led interagency task force was established to promote the exchange of ideas between the Bureau and the major participating agencies. The task force met on several occasions, the last one being in February 1975, to discuss List development and operation plans and various legislative proposals. In 1975, the List became operational within the Bureau and has been used in many of its economic surveys as well as the 1977 Economic Censuses. However, the Commerce Department has yet to introduce legislation to permit other government statistical agencies to use the List.

NEED FOR A CENTRALIZED LIST OF
BUSINESSES IS WELL RECOGNIZED

Our review of various studies and Bureau documents associated with the List program disclosed six separate recommendations supporting the concept of a centralized list. The first, a 1937 report of the Committee on Government Statistics and Information Services (Committee of the American Statistical Association and the Social Science Research Council), recommended that a consolidated mailing list of businesses be maintained. The list would also be used to select samples of identical establishments. This would promote data comparability and uniform coverage and prevent unnecessary duplication.

Between 1949 and 1977, five other recommendations, by various committees, were made favoring the establishment of a centralized business list.

Recommendation For a
Centralized Business Listing

<u>Year</u>	<u>Recommended by</u>
1937	Committee on Government Statistics and Information Services
1949	Commission on Organization of the Executive Branch of the Government
1954	Report of the Intensive Review Committee to the Secretary of Commerce
1961	Report of the Subcommittee on Economic Statistics of the Joint Economic Committee
1971	Report of the President's Commission on Statistics
1977	Report of the Commission on Federal Paperwork

According to the Bureau, three attempts have been made to develop a list for statistical purposes. In 1944, the Bureau of the Budget's Division of Statistical Standards created the Joint Committee on Central Directory Establishments to attempt to initiate a permanent program for basic industrial classification work in the Federal Government. After 3 years, the Joint Committee found that it would be necessary to complete the development of an industrial classification system before a central directory could be established. Again in 1961, the Budget Bureau initiated a task force to deal with the problem of establishing a central directory but difficulties were encountered with reporting units, industrial classification, and the Census Bureau's inability to share information because of confidentiality restrictions.

The Budget Bureau's most recent attempt to establish a central directory was in 1968 when it appointed the Census Bureau as the focal agency for developing the List. The Budget Bureau stated that the existence of such a directory would promote both comparability of statistical surveys and

efficiency in statistical operations. This last effort is on-going and has been successful to the extent that the List is being used within the Census Bureau. However, the List can be used by no other government agency.

SCOPE OF REVIEW

We interviewed officials of the Commerce Department's Bureau of the Census and Office of Federal Statistical Policy and Standards and reviewed documents associated with the List program. We evaluated the Commerce Department's plans and efforts to develop and introduce legislation allowing List use outside the Bureau and performed work at 11 Federal agencies identifying potential benefits from using the List. We also reviewed the history of the Federal Government's efforts to develop a centralized statistical sampling list, including the confidentiality issues surrounding such a list.

CHAPTER 2

CENTRAL LIST WOULD BENEFIT GOVERNMENT STATISTICAL PROGRAMS AND REDUCE BURDEN ON BUSINESSES

A central statistical sampling list would benefit government statistical programs by improving comparability of economic surveys, and reducing duplicative data collection efforts and the associated reporting burden on businesses. By using the List for economic surveys, the Bureau has lowered costs and improved the quality of the data it collects.

MAJOR BENEFITS OUTSIDE THE BUREAU

Statistical programs outside the Bureau would be major beneficiaries of the List program. We discussed potential uses of the List with officials at 11 agencies. Not only would many statistical surveys be able to use information from the List, but the costs of these surveys would be reduced. However, the most important benefits from broader use of the List would be the improvement in comparability between data series and the standardization of SIC coding.

We identified over 750 surveys at 11 Federal agencies which could make some use of the List. According to the Bureau, major users of the List would include the U.S. Department of Agriculture (USDA) and the Department of Labor's Bureau of Labor Statistics (BLS). USDA performs about 460 surveys a year, and BLS performs more than 130 surveys that could make some use of the List. The Bureau of Economic Analysis, Department of Commerce, would also benefit from List sharing, both in its own surveys and in evaluating the data it uses to determine the Gross National Product (GNP) and other national economic accounts.

Potential cost savings are difficult to identify because the agencies are not familiar with the List and are uncertain about how and when it can be used. However, 11 agencies provided us with estimates of their costs for building lists of businesses that are used in performing economic surveys. We also identified those agency surveys that could make some use of the List's establishment SIC codes--an important statistical classification tool.

Estimated List Building Costs and
Agency Surveys With Potential For List Use

<u>Agency</u>	<u>Estimated costs</u>	<u>Surveys using SIC codes in listings</u>
BLS, Department of Labor	\$ 905,000	136
Economics, Statistics, and Cooperatives Service, USDA	3,500,000	460
Bureau of Economic Analysis, Department of Commerce	20,000	12
Federal Trade Commission	40,000	5
Securities & Exchange Commission	(a)	8
Federal Reserve System	2,000	26
IRS, Department of the Treasury	(a)	1
SSA, Department of Health, Education, and Welfare	1,200,000	1
National Center for Health Statistics, Department of Health, Education, and Welfare	100,000	3
Department of Energy	65,000	107
Small Business Administration	<u>(b)</u>	<u>2</u>
Total	<u>\$5,832,000</u>	<u>761</u>

a/List is a byproduct of the agency's program responsibilities.

b/New small business Advocacy Program will require the development of a new statistical list.

Of the 11 agencies, some use survey data for regulatory and supervisory purposes. Because legislative proposals limit List use to statistical purposes, these agencies probably would be unable to use the List under present operating conditions. However, use of the List by most of the 11 agencies would, according to agency officials, reduce list building/maintenance costs. It is difficult to estimate the cost savings because the technical details of sharing have not been worked out.

With the availability of the List, agencies would not have to do much of the SIC coding work. For example, BLS could have saved a substantial amount if it had used the Bureau's revised SIC codes in fiscal years 1973 and 1974 when BLS was adjusting its Employment and Wages survey program to reflect revision in the SIC codes. According to BLS officials, the recoding effort consisted of revising about 4 million employer SIC codes and cost BLS \$5 million over a 2-year period. A BLS official responsible for the program estimates that the coding for about one-half of the establishments could have been taken from Census SIC codes, thus substantially reducing the cost of the program.

Officials of the Agriculture Department, which spends \$3.5 million annually to build a list of farm operators, said if it could use the List, a significant amount of the work (mailings and personal visits) now being done by its field offices would be eliminated.

In addition, we identified Federal Government purchases of business listings from private sources in 1977 which cost at least \$850,000. In the future, a portion of this cost could be eliminated if the List were used by Federal statistical agencies.

Qualitative improvements

A number of qualitative improvements would occur if the List were made available to Federal statistical agencies. The major improvements would be

- improved comparability among published government economic data series and
- reduced duplicative data collection and maintenance efforts to the government and the associated reduction in reporting burden on businesses.

At present, differences in economic data series arise because the agencies are forced to classify and tabulate data independently without reference to a government-wide source of classification codes. If agencies could draw their statistical samples from the List, the comparability of data series, which purport to represent the same industry, size, or geographical location of firms or establishments, would significantly improve. In addition, the List could be used as an agency source for company and establishment SIC codes.

Once the List becomes available, separate SIC coding operations at the various agencies could be reduced or eliminated. Many agencies expressed an interest in comparing their SIC codes with those in the Bureau's List. The amount and specificity of data and information available as a basis for industry coding differs substantially from agency to agency. Major industry coding operations now exist at BLS, SSA, and IRS. BLS obtains its business list through State cooperative agencies who assign codes on the basis of "nature-of business" information submitted by respondents. SSA and IRS also assign SIC codes on the basis of the respondent's description of the business. IRS requests the larger businesses to assign codes themselves. The Bureau, on the other hand, assigns SIC codes on the basis of the percentage of sales or production for the various products. Of the three methods, the latter appears to be the most objective. If agencies obtained SIC codes from the Bureau, their surveys could serve as a check on the Bureau's codes.

To demonstrate how SIC codes may differ even within agency programs, BLS conducted a study which compared SIC codes assigned by its regional offices with those assigned by the State cooperative agencies. A disagreement rate of about 25 percent between the two sets of codes existed at the 4-digit SIC code level. Once the necessary legislation is passed, the exchange of SIC code information between agencies should help make survey data more reliable and comparable.

The Commission on Federal Paperwork recognized that the comparability between economic data series is poor. Comparability problems become evident when series are consolidated by the Commerce Department's Bureau of Economic Analysis to formulate the GNP and other national economic accounts.

An official of the Bureau of Economic Analysis said that comparing independent studies dealing with an industry is difficult because of differences in industry definitions used in the various studies. He said that his agency's programs would benefit from the List through its use by other government agencies whose data is used in preparing national economic accounts. Use of List industry codes by the Bureau, BLS, SSA, and the Federal Trade Commission would improve the comparability between their industry data. Data from these agencies is used by the Bureau of Economic Analysis. The official added that when an agency uses the List for a program, the industrial distribution of the resulting data will be consistent with data from other major statistical programs that also use this List. In addition, the OMB Advisory Committee on Gross National Product Data Improvement recommendations call for many improvements in the preparation of the GNP estimates that rely on the List for implementation.

Survey data from the Bureau and BLS are major sources in computing GNP. A summary of the Census Bureau's survey universe is published in the annual "County Business Patterns" report, and BLS publishes "Employment and Wages" that describes its universe quarterly. Both reports list employment, wages, and number of establishments by industry SIC code. Although the data sources for these reports differ, the industry totals should be approximately the same if comparability in coverage and SIC coding exists.

We compared the employment and wages shown in each report for the first quarter of 1975. Comparisons of industry divisions showed some differences between the two reports, although total employment and wages were close.

Comparison of Employment and Wages
BLS and Census Bureau

<u>Industry division</u>	<u>Percent difference in BLS employment is</u>		<u>Percent difference in BLS wages is</u>	
	<u>Higher</u>	<u>Lower</u>	<u>Higher</u>	<u>Lower</u>
Agriculture services, forestry, and fisheries	4		2	
Mining	2		6	
Contract construction		1	2	
Manufacturing		1		1
Transportation and other public utilities	1		2	
Wholesale trade	1		5	
Retail trade	(a)		5	
Finance, insurance, and real estate		5		4
Services		4		2
Nonclassifiable establishments		83		76

a/Less than 0.5 percent.

For example, the manufacturing industry had an overall difference of 1 percent in employment and 1 percent in wages. However, when a more detailed breakdown is made, the differences become significant. Employment and wages of major industry groups at the detailed 2-digit SIC code level had larger differences.

Comparison of Employment and Wages
Manufacturing Industry
BLS and Census Bureau

Major industry group (2-digit SIC code level)	Percent difference in BLS employment is		Percent difference in BLS wages is	
	Higher	Lower	Higher	Lower
Food and kindred products	2		1	
Tobacco manufactures		3		9
Textile mill products		5		9
Apparel and other textile products		1		8
Lumber and wood products		1	(a)	
Furniture and fixtures		(a)		3
Paper and allied products		(a)	1	
Printing and publishing		3		4
Chemicals and allied products	1		1	
Petroleum and coal products		9		7
Rubber and miscellaneous plastics products		5		3
Leather and leather products		1		7
Stone, clay, and glass products	(a)		4	
Primary metal industries		3	(a)	
Fabricated metal products		(a)	1	
Machinery, except electrical		3		1
Electric and electronic equipment		1		1
Transportation equipment		1	3	
Instruments and related products	2		2	
Miscellaneous manufacturing industries		2		2

a/Less than 0.5 percent.

The two series also differ on how many units or establishments are in an industry. Part of the difference occurs because the agencies report at different company levels. For example, the Bureau compiles information at the establishment level, but BLS collects data on a reporting unit level. This can encompass several establishments for certain industries. Specifically, a reporting unit can contain a group of establishments located in a single county. On the basis of this information, usually more establishments in an industry should be reported by the Bureau than BLS reporting units. However, our comparison shows this is not always the case.

Comparison of Reporting Unit Versus Establishment
BLS and Census Bureau

<u>Industry division</u>	<u>Percent difference in BLS reporting units is</u>	
	<u>Higher</u>	<u>Lower</u>
Agriculture services, forestry, and fisheries	11	
Mining	3	
Contract construction	22	
Manufacturing	2	
Transportation and other public utilities	1	
Wholesale trade	2	
Retail trade		9
Finance, insurance, and real estate		7
Services		5
Nonclassifiable establishments		91

In six of the nine industries, BLS had more reporting units than the Bureau had establishments. One explanation for this is that 200,000 establishments were not classified by the Bureau and this resulted in a large percentage

difference in nonclassifiable establishments. In manufacturing, BLS had 2 percent more reporting units than the Bureau had establishments. At the more detailed 2-digit SIC code level, these differences become larger.

Comparison of Reporting Unit Versus Establishment
Manufacturing Industry
BLS and Census Bureau

Major industry group (2-digit SIC code level)	Percent difference in BLS reporting units is	
	<u>Higher</u>	<u>Lower</u>
Food and kindred products	3	
Tobacco manufactures	21	
Textile mill products	3	
Apparel and other textile products	3	
Lumber and wood products	13	
Furniture and fixtures	4	
Paper and allied products		1
Printing and publishing	2	
Chemicals and allied products		7
Petroleum and coal products		22
Rubber and miscellaneous plastics products		(a)
Leather and leather products	7	
Stone, clay, and glass products		3
Primary metal industries		8
Fabricated metal products	5	
Machinery, except electrical		2
Electric and electronic equipment	1	
Transportation equipment	2	
Instruments and related products	3	
Miscellaneous manufacturing industries		2

a/Less than 0.5 percent.

We believe a reconciliation of statistically important differences between Bureau and BLS data would be beneficial. However, Bureau and IRS confidentiality laws have permitted no type of reconciliation between these two data series.

On January 5, 1953, Attorney General McGranery issued a decision which allowed the Bureau to share SIC code information with Federal and State government statistical agencies. Under this decision, the Bureau is permitted to match and correct a firm's SIC code for other agencies. The agency must submit a company's name and a corresponding SIC code to the Bureau. The only information that would be disclosed is the corrected SIC code shown in the Bureau's files. The Bureau cannot divulge any name not already in the agency's possession.

This decision permits a limited comparison of agency SIC codes with the List, but only SSA has taken advantage of this ruling. In any case, efficient and comprehensive SIC code comparisons cannot take place without List legislation.

Government-wide use of the List would also reduce the duplication that now occurs because lists are maintained and coded separately. Consider, for example, two similar lists of farm operators. The Bureau's list for the Census of Agriculture is built every 5 years, but USDA maintains a list annually. The cost differences give an indication of the usefulness of census and tax records. USDA spends \$3.5 million for its farm list annually and has no access to either tax or census records. The Bureau, on the other hand, using these records, spent only about \$2 million to compile its 1978 Census of Agriculture mailing lists.

The key to correcting many of the inconsistencies and discrepancies between statistical programs is in exchanging List data between the Bureau and the user agencies. When List data elements or SIC codes do not agree with agency information, the establishment in question could be flagged for closer examination by the Bureau.

Finally, as a result of using the List for statistical sampling purposes, the response burden on businesses should decline. Bureau officials said this would occur because the List permits a better stratification of industry samples. For example, a survey may be directed just towards manufacturers having 250 or more employees. Without the List, a large number of manufacturers would have to be sampled because employment size may not be known. An incomplete or

inaccurate source list may require a larger sample. However, by using the List, a sample could be taken only from manufacturers with 250 or more employees. As a result, the sample size could be kept to a minimum and unnecessary contacts with manufacturers could be avoided.

CENSUS BUREAU HAS REALIZED BENEFITS
FROM THE LIST

Many benefits have been realized since the Bureau began using the List in 1975. Use of the List has increased significantly because of the satisfaction of Bureau List users who saw that by using it they could cut costs and improve the quality of their data. Some List uses are summarized below:

- 1977 Economic Censuses. In the 1977 censuses, the List was used as the mailing list source. As a result, the need for a costly precanvas from which to construct a mailing list was eliminated.
- 1978 Census of Agriculture. The List already identifies large farm employers and multiunit farms, therefore, the need for a precanvas to identify this portion of the farm universe is no longer necessary.
- Annual Survey of Manufactures. The official in charge of the program considers the List the foundation for conducting a proper survey and he uses it for the survey's annual mailing list and for information on business births, deaths, mergers, and acquisitions.
- Current Industrial Reports. The List is being used in about six surveys to provide data on new firms not previously included in the surveys. Plans are underway to redesign the Current Industrial Reports so the List can be used as an updated sampling frame for selecting survey mailing lists.
- Current Business Reports. The List has been used for monthly and annual business surveys as the basic universe from which samples are drawn and to provide up-to-date information including new businesses.
- County Business Patterns. Through use of the List, the County Business Patterns program now provides data at the establishment level rather than the broader reporting unit level, and data on total payroll rather than only payroll subject to Social Security taxes.

--1980 Decennial Census. The List was used in conjunction with the 1980 Decennial Census "dress rehearsals" for their work history sample and place-of-work coding programs. Officials also expect that the List will be used for the 1980 Census.

The List has also enabled the Bureau to perform additional reimbursable work for other agencies. Using the List as a sampling frame, the Bureau has performed survey work for

- the National Science Foundation,
- the Export-Import Bank,
- the Department of Energy,
- the Council of Economic Advisors, and
- the Department of Labor.

Without the List, establishing sampling frames would have been extremely expensive and possibly prohibitive.

The largest savings amount the Bureau identified from using the List was \$900,000. Rather than having to make a precanvas, as formerly done, the List was used to construct an accurate, current mailing list for the 1977 Economic Censuses. The Bureau estimates that another \$46,000 is saved annually because List processing coincides with sampling improvement programs of the Current Business Reports and the Annual Survey of Manufactures.

The Bureau believes that additional indirect savings have occurred because cost increases for other programs using the List have not been necessary. Although we did not evaluate indirect savings, several Bureau program officials did point to other savings. For example, the Bureau official responsible for Current Business Reports believed that, through use the List, an estimated \$900,000 may have been saved because a reduction occurred in the number of area samples needed.

Even more important than cost savings, Bureau officials stress the qualitative improvements brought about by the List. It gives them

- an up-to-date list of establishments and their parent companies,
- a single source for determining and assigning SIC codes, and
- a common frame for use in selecting statistical samples of establishments and companies.

Officials responsible for the economic censuses said the use of the List in lieu of the precanvas reduces respondent burden, provides better quality data, and holds down their workload. Respondent burden is further reduced through greater efficiency in sample selection for various economic surveys. For example, the sample of 70,000 establishments in the Annual Survey of Manufactures is planned to be reduced by 10,000 to 15,000 establishments because the List enables them to concentrate on significant establishments in key geographic areas. As one official pointed out, the List enables them to do an "optimum probability" survey sample, helping to achieve a maximum amount of quality with a minimum amount of dollars and survey burden.

Bureau officials stated that the List is used to update establishment and company samples to maintain the efficiency and quality of several economic survey programs because information provided through the economic censuses becomes outdated in the years between censuses. Changes in the universe of establishments and companies rapidly occur as a result of business births and deaths, mergers, and acquisitions. For example, officials responsible for Current Business Reports found it essential that sample updating continue to (1) prevent deterioration and drift in survey results and (2) avoid major differences following the 1977 Economic Censuses. The List provides the means for the desired updating.

Bureau officials also stated that the List has improved comparability among the Bureau's economic censuses and surveys because the sampling data is coming from and corrections are fed back to the same source. Also, the availability of the List permitted revisions in the County Business Patterns program by providing data on the total payroll for the entire year, thus overcoming one of the drawbacks of the previous data. The previous data had been limited to the first quarter payroll and failed to identify seasonal operations. Additionally, data is now tabulated on an establishment rather than a reporting unit basis. Before the List, some employers in nonmanufacturing industries were counted once in each county regardless of how many establishments they operated in the same business.

In the 3 years it has been operational, use of the List within the Bureau has been extensive and more uses are being planned. For example, the List is an important part of an effort to improve the Current Industrial Reports and will be used as a data source for the 1980 Decennial Census. The Bureau also plans to supplement its County Business Patterns program by including establishment level sales and receipts

in the List. This addition would aid in (1) constructing national economic accounts, (2) estimating personal consumption expenditures and, (3) strengthening existing Bureau programs by providing a basis for comparison of results. Moreover, within the Bureau, plans are being developed to provide statistical data to the Small Business Administration on a reimbursable basis. The List is expected to be a major contributor to this work.

Economic censuses and surveys performed by the Bureau are used extensively in both the private and public sectors. Industry, both trade associations and individual companies, as well as research groups and educational institutions use the data. They provide analysts in the private sector with detailed information useful in evaluating the relationship between their companies and the industry and provide data for assessing business conditions and planning future operations. The data is used by (1) the President's Council of Economic Advisors, (2) the Treasury Department, and (3) other government agencies (Federal, State, and local) concerned with monetary and fiscal policy.

IMPROVEMENT IN STATISTICS USED FOR DECISIONMAKING

The List would be beneficial in developing statistical series used as bases for making important decisions by businesses and governments. These decisions cover matters from wage negotiations or increases based on changes in the Consumer Price Index to major economic policy decisions based on GNP, the Producer Price Index (formerly the Wholesale Price Index), and Employment Statistics. The money spent developing these statistics is small in relation to the money and the importance of the programs they affect. In addition, a small statistical error can result in millions of dollars being channeled incorrectly and economic hardships for many people.

It is almost impossible to quantify the benefits of making decisions on the basis of good, reliable economic statistics. However, some economic statistics can be improved and users can be confident that decisions will be based on sound information. The availability of the List to government statistical programs and the subsequent exchange of List information between user agencies would help to insure that economic statistics have a common, comprehensive, and accurate sampling frame.

CHAPTER 3

INTRODUCTION OF LEGISLATION PERMITTING STATISTICAL

LIST SHARING HAS BEEN STALLED FOR OVER 6 YEARS

The inability of government agencies to share statistical sampling lists among themselves has long been a barrier to improving the quality and usefulness of Federal statistics. Therefore, the use restrictions placed on statistical information by both title 13 (the Census Law) and title 26 (the Tax Law) of the United States Code should be modified to give certain government agencies controlled access to important statistical information on businesses. Under strict provisions for access and monitoring, use of the List by other agencies will improve the quality of economic statistics and protect the confidentiality of business information.

CONFIDENTIALITY CONCERNS AND LIMITED STAFF RESOURCES HAVE SLOWED DEVELOPMENT OF LIST LEGISLATION

The Bureau received funding in 1972 for the List program with the understanding that legislation would be forthcoming to amend the confidentiality provision in title 13. Legislation is necessary to give other Federal and certain State statistical agencies access to the List. This will aid them in carrying out their statistical functions. Although the List has been used within the Bureau since 1975, no legislative proposals to broaden access to the List have been presented for congressional consideration.

In the summer of 1972, OMB's Statistical Policy Division established an Interagency Committee Task Force on Confidentiality and an Industrial Directory to insure that the needs of interested agencies were met. OMB prepared several legislative drafts amending title 13 and the Bureau wrote seven working papers explaining the content, scope, and operational aspects of the List. These documents were circulated among task force members for comment. Six years have passed since work started on a legislative draft to modify title 13 confidentiality restrictions, yet no legislation has been submitted.

A number of reasons have been given for the delay. One reason is that responsible agency officials in both the Commerce Department and OMB felt that the time period around 1974 to 1975 was not favorable for introducing such legislation. Because of concerns about privacy, as well as the Watergate controversy, the confidentiality issue was particularly sensitive then, and both the private and public sectors of the country--including the Congress--were not very receptive to the idea of data sharing, even for statistical purposes.

As a result of that mood, it was not until December 1976 that draft legislation amending title 13 was finally sent to Federal agencies for formal comment. Then, although agency comments were generally favorable, Executive Order No. 12013 reorganized OMB in 1977 and transferred responsibility for statistical policy to the Department of Commerce limiting further work on the legislation. Under authority of that order, the new Office of Federal Statistical Policy and Standards in the Department of Commerce became responsible for developing and implementing statistical policy, including List legislation. In addition, legislative drafting efforts resumed slowly because (1) only a limited number of staff resources were available and (2) other programs had higher priorities.

The List legislation effort finally resumed in early 1978. However, the Tax Reform Act of 1976 created another barrier to List sharing efforts by severely restricting the use of tax records by Federal agencies. Before that act, OMB and the Bureau believed only title 13 needed to be amended and an Executive Order would permit sharing tax information with statistical agencies.

The Bureau testified before the House Ways and Means Committee and the Senate Finance Committee that tax information was essential for its statistical programs. However, the legislative needs of the List program were not mentioned. The Tax Reform Act of 1976 gave the Bureau continued access to tax information but restricted this information from being released to most other Federal agencies, even for statistical purposes.

In June 1977, the effects of the restrictions in the Tax Reform Act were brought to the Commerce Department's attention when Treasury Department comments on the draft legislation stated that such list sharing was contrary to the tax code. Before this time, no assessment of the Tax Reform Act effects on the List program and its legislative efforts had been made. At the time our review was completed, the issue involving the Tax Reform Act had not been resolved. In December 1978, the Treasury Department told the Commerce Department that Treasury could not support List legislation which would modify the tax code. Because tax information is essential to the List program, the Office of Federal Statistical Policy and Standards is continuing efforts to develop a legislative proposal amending this law.

THE CONFIDENTIALITY ISSUE IN PERSPECTIVE

The confidentiality of Census Bureau and IRS records is the most sensitive aspect of the List program. The original reason for making these records confidential was the belief that respondents are more likely to give accurate information to sensitive questions if the information will not be released or used against them. In addition, the Privacy Act of 1974 was developed to give the individual some control over the ways Federal executive branch agencies handle personal information.

However, in the Privacy Act, the Congress drew a distinction between the privacy of individual financial information and that of businesses. Business information was not included in the Privacy Act to permit the Federal Government the means to gather information for various purposes, such as economic regulation.

The Privacy Act also makes a distinction between records used solely for statistical purposes and those used to make decisions about the rights, benefits, or entitlements of individuals. The head of any agency is authorized to issue rules exempting from most provisions of the act those records that are required to be maintained by statute and used solely as statistical records.

Bureau and other agency officials have stated that most of the business information included in the List is not sensitive and that the information with the greatest potential for being sensitive would only be shared in size ranges. Basic information like business name, address, and type of operation included in the List can also be found in telephone

directories. Data on the number of employees and other business information is published in some State industrial directories. Private companies providing mailing list services publish similar information. These outside sources, while serving valuable purposes, lack consistency and completeness and, therefore, cannot substitute for the List.

Moreover, the Bureau and other statistical agencies have strong incentives to keep information confidential. Breaches of confidentiality may (1) reduce survey response rates and (2) make the response less accurate and reliable. The Bureau has achieved a very high response rate from the business community. However, if economic survey data was used for other than statistical purposes, Bureau officials believe that response rates would drop, thus threatening the reliability of the final data. If a response is mandatory, businesses may be less inclined to be truthful when the confidentiality of the response is in doubt. The success of statistical surveys largely depends on the cooperation of the respondents. This cooperation would not be easy to obtain if confidentiality is not maintained.

The draft legislation for sharing the List requires that government agencies use the List only for statistical purposes. Use of the information for other purposes is forbidden and carries a \$5,000 fine to any individual responsible for misuse. In addition, IRS lawyers told us that disclosure of List information obtained from tax records would be subject to IRS penalties of \$5,000 and/or not more than 5 years in prison.

The Commission on Federal Paperwork mentioned in its report, "Statistics," that wide agency use of the List for statistical work would help achieve greater statistical accuracy, lower costs, and more speed in producing results. In its July 1977 report, "Confidentiality and Privacy," the Commission further stated

"* * *with confidentiality and security safeguards in place, identifiable statistical data should be freely exchangeable among those programs engaged exclusively in statistical activities. As this report points out, this is often not the case. Efforts of other statistical agencies to access data from the Census Bureau's Industrial Directory List have met with no success, even though the Directory contains no

sensitive information and its use by other statistical programs would enable them to execute their data collection programs with less burden on the reporting public and with considerable cost savings, by permitting cheaper and more accurate sampling. The very stringent confidentiality provisions of the Census Act preclude even this limited sharing."

The Congress has recognized the Bureau's need for the most accurate, up-to-date source for survey sampling and has given the Bureau access to tax records and the records of other agencies in order to carry out its statistical activities authorized by law. Federal agencies outside the Bureau do not have the same sampling sources available to them but are expected to produce accurate and reliable statistics to be used by both business and government in making important economic decisions. These statistics are also used as a basis for measuring wage and salary increases and allocating Federal grant funds. Bureau officials have stated that giving other statistical agencies access to List information would be a fundamental step in improving the accuracy of these important statistical surveys.

WAIVER PROVISION NEEDED

Under the present legislative draft, agencies that draw samples from the List may not disclose individual company information gathered in surveys or other statistical undertakings. This provision may prevent the List from being used in surveys where one of the byproducts is the publication of individual data. An example is the Department of Health, Education, and Welfare's National Ambulatory Medical Care Survey which issues a directory of facilities as a survey byproduct.

Although the Census law restricts the release of identifiable response information, the Bureau has released individual information after receiving a signed confidentiality waiver from the respondent. For example, a confidentiality waiver can be used when a person wishes to prove his age to SSA so he can qualify for benefits. To document a person's age, the Bureau reviews old census records and then provides this information to SSA. The Bureau's position is that an individual may sign a confidentiality waiver even though title 13 has no specific waiver provision.

Another statistical program which routinely uses a waiver is the Bureau's Cotton Ginning statistics program. Ginners have been requested to sign waivers so the Bureau can provide USDA with copies of the ginning reports. These reports are used in developing monthly cotton production estimates. The waiver precludes both agencies from having to separately collect the same information.

Bureau officials told us that similar waivers can be used on any surveys that draw samples from the List. Although this may be so, the draft legislation does not specifically provide for a waiver. In order to remove any doubt in the matter, we believe it would be advisable to include a waiver provision in the draft legislation to prevent any misunderstanding about the use of the List. Such a provision would permit List users to disclose individual respondent information if the respondent signs a waiver.

CONCLUSIONS

If the List is to be used efficiently and as it was originally intended, the use restrictions in titles 13 and 26 must be relaxed.

Even after 6 years, the necessary legislation has not been introduced to the Congress. Staffing limitations and an OMB reorganization caused some of the delay. Work on the draft legislation was further delayed because Bureau and OMB officials believed the climate (congressional concern over confidentiality) in 1974 and 1975 was not favorable for passage. Also, the Tax Reform Act of 1976 placed another confidentiality barrier between the List and statistical users.

The draft legislation should include a provision making it clear that user agencies can release individual company information if the respondent signs a confidentiality waiver.

RECOMMENDATIONS TO THE SECRETARY OF COMMERCE

We recommend that the Secretary direct the Office of Federal Statistical Policy and Standards to

--establish a priority date for submitting to the Congress the proposed legislative changes and

--add a provision to this legislation requiring consent of a company or establishment if information gathered in surveys or other statistical undertakings which draw samples from the List is to be used in a manner other than specified in the legislative draft.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress favorably consider legislation to amend section 6103 of the Internal Revenue Code of 1954, as amended, and title 13 of the United States Code to allow the Bureau to provide List information to Federal and State cooperative agencies for statistical purposes. Suggested language for amending the Internal Revenue Code is included in appendix I. Appendix II contains the latest legislative draft to amend title 13, as prepared by the Office of Federal Statistical Policy and Standards, and is subject to change.

AGENCY COMMENTS AND OUR EVALUATION

By letter dated February 13, 1979 (app. III), the Department of Commerce agrees with our recommendation for submitting legislation and said it is in accordance with plans for work on this project. The Department further states that the administration is actively considering developing proposed legislation to permit statistical agencies to use the List. The Department advised us that it will also consider including a provision in the legislative proposal for waiver of confidentiality by the respondent. The Department is unsure whether the waiver provision needs to be explicitly stated in statute. We believe the waiver provision is advisable to prevent possible misunderstanding about the List's use. By letter dated January 24, 1979 (app. IV), the Department of the Treasury believes that protecting the privacy of tax return information outweighs our proposal for amending section 6103 of the Internal Revenue Code.

The Treasury Department states in its comments that the nontax-related statistical use of tax returns and tax return information was one of the principal concerns which led the Congress to revise section 6103. As examples, it cites Executive Orders 11697 and 11709 which would have permitted Department of Agriculture access to farmers' tax returns and tax return information for departmental statistical purposes. The resulting congressional criticism led to revocation of the orders and, according to the Treasury Department, congressional concerns generated by this situation, helped produce the 1976 amendments to section 6103. The

Treasury Department believes that the policy considerations underlying section 6103's limitations on the use of tax data for nontax statistical purposes are sound.

As discussed in previous sections of the report, we recognize that the confidentiality of Census Bureau and IRS records is the most sensitive aspect of the List program. Executive Orders 11697 and 11709 became the subject of vigorous criticism because they did not specify what information could be obtained from farmers' tax returns. Executive Order 11697 authorized USDA's Statistical Reporting Service to "inspect" IRS tax returns for statistical purposes rather than stating the information needed. Thus, the concerns leading to these orders being rescinded are different than the confidentiality issues associated with the List program.

The 1976 amendments to section 6103 did place more stringent conditions on tax return accessibility and the disclosure of return information. However, the Congress recognized the importance of tax information in the statistical system, and section 6103 provides for access by specific agencies, including the Bureau of the Census, to IRS information for certain statistical activities. Although the importance of tax information for statistical activities was discussed during hearings on the 1976 amendments, legislative needs of the List program were not mentioned. Funding for the List program was provided by the Congress with the understanding that the List information would be available to certain government agencies for statistical purposes. Therefore, we believe that the Congress should be afforded the opportunity to consider removing the legal obstacles which restrict the List from any use outside the Census Bureau.

The Department of Commerce supports the need for List sharing through legislative amendments to Census Bureau and Income Tax confidentiality laws. The List concept has been strongly endorsed by the Commission on Federal Paperwork and numerous other groups. The Commission believes that, with confidentiality and security safeguards in place, identifiable statistical data should be freely exchangeable among those programs engaged exclusively in statistical activities. The Commission proposes that the Congress provide legislation which would make the List available to

other statistical agencies. It points out that the List is useful because of its completeness--not because it contains sensitive information about companies.

The List is also prominently discussed in a document entitled "A Framework for Planning U.S. Federal Statistics for the 1980's" prepared by the Office of Federal Statistical Policy and Standards and issued in July 1978. The document points out that one of the major problems in maintaining high quality statistical output in the U.S. statistical system is ensuring that samples used for statistical purposes are as efficient and consistent as possible. The importance of the List is recognized in this regard, and the document states that it is very important that legislation authorizing access to the List be enacted now.

We believe that legislative changes are needed which would allow, with appropriate safeguards, expanded use of the List as a sampling frame for economic surveys. Inappropriate use of tax return information by statistical agencies has not been demonstrated. In fact, the Office of Federal Statistical Policy and Standards states that there are no known abuses of tax return data by statisticians. Legislative proposals include penalties for improper use, and a monitoring system should be developed to serve as a further deterrent to List misuse.

Our report cites examples of business information contained in the List that is also available from telephone directories, State industrial directories, and private mailing lists. The Treasury Department commented that because the equivalent of tax return information may be reasonably available from an alternative source does not mean tax return information itself should be generally available for statistical purposes from the Census Bureau. It also stated that a policy argument could be made that the availability of alternative sources should rule out access to tax information.

The development of a centralized sampling list of businesses has been under consideration for many years, and no viable alternative to the use of tax records has been developed. This issue was addressed in a June 23, 1978, letter from the Secretary of Commerce to the Secretary of the Treasury.

"Other ways to develop the statistical list have been evaluated. Alternatives without tax return input are prohibitively costly, both to the Federal Government and to the respondent. Without IRS input, Federal statistics would be less comparable to the true picture of the U.S. business world. Also, a procedure to ask permission of businesses to use the names and codes of their establishment in the directory would be very costly and would be substantially statistically biased."

Our report does not suggest information from telephone directories, State industrial directories, or private mailing lists could serve as alternative sources of List information. We state that these outside sources lack consistency and completeness and, therefore, cannot substitute for information sources presently used in the List.

Our report states that business information is not subject to the Privacy Act in permitting the Federal Government to gather information for various purposes. The Treasury Department questions whether the Privacy Act exempts business information and states that business information regarding sole proprietorships is clearly protected. In defining the term "individual," OMB guidelines on the Privacy Act state the definition is intended to distinguish between the rights which are given to the citizen as an individual under the Act and the rights of proprietorships, businesses, and corporations which are not intended to be covered by the Act. The guidelines go on to state that "* * * a distinction can be made between individuals acting in a personal capacity and individuals acting in an entrepreneurial capacity (e.g., as sole proprietors) and that this definition (and, therefore, the Act) was intended to embrace only the former."

The Treasury Department also suggests that no such distinction between individuals and businesses was made when Congress revised section 6103 in 1976 because it would be difficult to determine the relationship between individual tax information and that of the individual's business. We believe that no distinction was necessary when the Congress revised section 6103 because the Census Bureau was granted access to return information from both individuals and businesses for the structure of censuses and conducting related statistical activities authorized by law.

We agree with the Treasury Department that the Privacy Act should not be regarded as a definitive indication of congressional policy regarding the confidentiality of tax information. However, both the Privacy Act and the revised section 6103 recognize and deal with the importance of using administrative records for statistical purposes.

CHAPTER 4

NEED FOR PLANNING AND COORDINATION WITH USER AGENCIES

To aid in developing and considering the legislative proposal and implementing List sharing, the Bureau and the Office of Federal Statistical Policy and Standards should do additional work on several important aspects of the List program. At a minimum, planning should be done in cooperation with the major potential users of the Lists, particularly USDA and BLS.

NEED TO PLAN FOR USES OUTSIDE THE BUREAU

The Bureau should do more planning for List use by other agencies. While legislation is still being developed it should

- prepare estimates of what it will cost to operate the List, including estimates of user charges;
- conduct meetings with user agencies to resolve technical differences and to insure that their needs will be met;
- develop plans to prevent and detect List misuse, and
- develop plans with the Department of Agriculture to build and maintain the farm portion of the List.

Cost estimates should be developed

The Bureau has developed no estimates of what it would cost to build and operate a List that would meet the needs of the various user agencies. Cost estimates would help the Bureau make informed decisions and plans about what items will be included in the List. Cost information would help potential user agencies budget for use of the List and would also be useful during congressional considerations of List legislation.

Since 1972, the Bureau has tried to keep the List funding at relatively modest levels, with annual funding only recently exceeding \$3 million. No attempt has been made to

determine the cost of operating the List program as it is described in the Bureau's working papers. At the time of our review, the Bureau had no cost estimates on List use for

- operating the 39 computer terminals it plans to use for maintenance and updates,
- purchasing and operating additional terminals and/or developing procedures needed to share information with other agencies,
- adding establishment gross receipts and other information,
- maintaining the farm and the nonemployer portions on an annual basis, and
- drawing user agencies samples.

Such cost estimates would be useful for present and future planning and budgeting.

Technical meetings should be held with potential users

Although the Bureau's working papers describe the List program in fairly specific terms, several of the potential user agencies desired additional information. Officials of several agencies have a limited knowledge of the Bureau's plans for operating the List. No meetings have been held to discuss the expected scope, content, and operational plans for List sharing with these officials.

BLS officials, for example, wanted to know (1) what List information would be available, (2) the quality and timeliness of the List data, and (3) the plans for implementing List sharing. In addition, BLS believes that if the legislation prohibited List users from using outside contractors for data processing, many Federal and State agencies would not be able to use the List. In commenting on proposed List legislation, the Department of Labor said BLS needs time to evaluate the detail and the procedures for keeping the List up to date. Also, differences between BLS and Bureau confidentiality regulations must be resolved.

Discussions between the Bureau and BLS would be useful in exploring the potential benefits of comparing BLS' employment and wage data with List data.

Both Bureau and BLS officials acknowledged that sharing SIC coding information would benefit their agencies by providing a common classification scheme. For example, small single-unit firms included in the List, but not sampled in economic censuses, can go for indefinite periods without having their SIC codes updated. However, if the Bureau had access to BLS' data about these firms, the codes could be updated more frequently. Also data sharing would enable both agencies to check the accuracy and completeness of their list files. But problems exist that need to be resolved. For example, BLS obtains employment and wage data through informal agreements with the States. The States have various confidentiality laws protecting this information so, before the data can be shared, many time-consuming details need to be worked out between the Bureau, BLS, and the States.

The Bureau should hold detailed discussions with potential List users in preparation for eventual List sharing. Without such discussions, the Bureau cannot fully determine the users' needs and the users will not be able to prepare procedures to use the List. For example, BLS and SSA reporting unit levels for certain nonmanufacturing industries are different than the Bureau's, and the transition to the List's establishment reporting level will take time. The first step for this transitional process should be technical meetings.

In holding technical meetings with BLS and other potential user agencies, the Bureau should explore, during the absence of approved legislation, the feasibility of sharing SIC code information as specified and allowed under the January 5, 1953, McGranery decision. Consistency of industrial classifications by sharing information on SIC codes is a crucial element in achieving greater comparability of economic survey data.

Plans should be developed to prevent and detect misuse of List information

When List sharing begins, a monitoring system will be needed to detect the misuse of List information and help convince user agencies, the Congress, and respondents that effective safeguards against List abuses exist. In its report on "Statistics," the Commission on Federal Paperwork pointed out that the interagency exchange of List information would

require authoritative, well-policed machinery to protect guarantees of confidentiality. The Bureau has no procedures for assuring the confidentiality of List information and no plans to monitor the use of the List.

Since, under the draft legislation, the Commerce Department would be responsible for monitoring, the Bureau and the Office of Federal Statistical Policy and Standards need to meet to plan the system. Knowledge of the monitoring system could serve as a deterrent to List misuse.

More planning work needed to develop
the farm portion of the List

Although both Bureau and USDA officials told us that farm operators are considered an integral part of the List program, little planning and coordination between these agencies has occurred for this portion of the List. In fact, USDA officials told us that the List will not fulfill their survey needs because the Bureau plans to update the farm portion of the List only every 5 years. Yet, USDA needs more frequent updating because of constant changes in farm ownership, control, and type of agricultural operation.

USDA has spent over \$7 million in developing a list of farm operators. However, the list building program has not progressed as quickly as anticipated because USDA has had to develop its list from many sources. These sources vary in both quality and coverage, therefore, the process has been time consuming and costly. A Bureau official acknowledged that the one-way exchange of information to Census has hurt USDA's list-building efforts. Our earlier report (GGD-78-29, Apr. 13, 1978) stated that the list building effort at USDA may not fulfill its goals because the agency cannot obtain certain tax and census data.

On the other hand, although the Bureau said it has been working closely with USDA in developing its own list for the 1978 Census of Agriculture, it has not been able to fully utilize USDA statistical listings. In August 1978, the Bureau received 2.1 million names of farm operators in 27 States from USDA, yet a complete list for all 50 States was promised in May 1978. Had the list been delivered when promised, the Bureau would have had enough time to examine the USDA list and eliminate any duplications. At the time our review was completed, the Bureau was trying to eliminate the duplications in the 2.1 million USDA names before the 1978 Census of Agriculture forms were prepared for mailing.

Both USDA and Bureau officials view the joint maintenance of the farm portion of the List as beneficial and complementary. The Bureau sees the construction of the best possible list of farm operators as a joint enterprise and supports the concept of making the List available to the statistical collection agencies of both USDA and the Bureau. USDA officials told us that their work would be substantially easier if they could obtain information and updates from the List on an annual basis. With this information their field personnel would be able to do more detailed work in locating farm operators not found on the List. While both agencies recognize that a cooperative effort is needed to develop a quality list of farm operators, little progress has been made in this direction. Therefore, two separate lists of essentially the same farm population are still being maintained.

LIST USE RESTRICTIONS BENEFIT
THE BUREAU

Although the Bureau has supported List legislation officials inside and outside the Bureau commented that the Bureau has little incentive to promote List sharing. For instance, the Bureau has used the List since it became operational in 1975. No legislative changes were required for the Bureau to build and use the List, and regular funding has continued since 1972. This funding has enabled the Bureau to develop a List that meets many of its program needs. Therefore, limited planning work has been done on developing or expanding the List program to be responsive to outside user needs.

The List has also enhanced the Bureau's capability to undertake reimbursable work for other agencies. Since the List became operational, the dollar value of reimbursable work in the Bureau's Economic Surveys Division has increased.

Economic Surveys Division Reimbursable Work

<u>Fiscal year</u>	<u>Dollar amount</u>
1972	\$ 330,000
1973	61,000
1974	54,000
(List became operational)	

1975	266,000
1976	1,214,000
Transition quarter	186,000
1977	687,000
1978 (estimated)	<u>512,000</u>
Total	<u>\$3,310,000</u>

An official of the Economic Surveys Division told us that, to some extent, most of its reimbursable work uses the List. If the List legislation is passed, some outside agencies will be able to sample from the List and perform their own survey and analysis work. The Bureau commented that the sharing of the List has been the basic thrust of the List program and the Bureau has been working towards this ultimate goal.

CONCLUSIONS

To make the List program responsive to user needs, the Bureau and Office of Federal Statistical Policy and Standards need to do more planning and coordinating with the user agencies. Although the Bureau has stated that the farm portion is an integral part of the List, no significant effort has been made to work with USDA in developing this portion of the List. Moreover, little incentive exists for the Bureau to promote List sharing because the List meets its program needs.

AGENCY COMMENTS AND OUR EVALUATION

The Bureau disagrees with most of our proposals for improving List implementation planning and does not intend to take any firm action on these proposals.

The Bureau believes that developing user charges for the List program for some time in the future is unrealistic because of the constant changes in the Bureau's computer system and charging scheme. The Bureau also believes that an investigative type of monitoring system is not necessary and plans to develop confidentiality procedures only after legislation is passed.

The Bureau commented that it has received no funding for the farm portion of the List. Once funds are received for developing the farm portion of the List, the Bureau stated that it has the capability to provide a list useable by all statistical agencies. The Bureau agrees with our proposal to increase its efforts on holding meetings with future user agencies.

We believe that both cost estimates and plans for detecting confidentiality violations are basic for a fair evaluation of the List program's merits by both potential users and the Congress. The Bureau only comments on the computation of user charges while our recommendation is directed toward needed cost estimates for operating the entire List program, including user charges. Although the Bureau says that confidentiality violations would usually be apparent, we believe that the general nature of the information in the List would make such violations difficult to detect without a monitoring system. The Office of Federal Statistical Policy and Standards and the Bureau should discuss plans for some form of monitoring to insure List confidentiality.

As we stated earlier, the farm portion of the List will not meet USDA needs. Yet the Bureau recognizes the farm portion as an integral part of the List program and USDA as a major List user. Notwithstanding the funding question, the Bureau should at least discuss potential List needs with USDA. No such discussions have taken place. These discussions are a first step towards eliminating duplication of effort in building and maintaining the two agency farm lists.

RECOMMENDATIONS TO THE
SECRETARY OF COMMERCE

We recommend that the Secretary direct the Bureau and Office of Federal Statistical Policy and Standards to improve List implementation planning by (1) preparing cost estimates, (2) holding technical meetings with future user agencies, (3) exploring monitoring options to insure List confidentiality, and (4) collaborating with the Department of Agriculture in developing plans for the farm portion of the List.

SUGGESTED REVISIONS TO THE INTERNAL
REVENUE CODE OF 1954

We suggest that the List draft bill (app. II) be revised to include the following new section.

SEC. 2 (a) Section 6103 (j)(1) of the Internal Revenue Code of 1954 is amended to read as follows:

"(j) Statistical use.--

"(1) Department of Commerce.--Upon request in writing by the Secretary of Commerce, the Secretary shall furnish--

(A) such returns, or return information reflected thereon, to officers and employees of the Bureau of the Census, and

(B) such return information reflected on returns of corporations to officers and employees of the Bureau of Economic Analysis,

as the Secretary may prescribe by regulation for the purpose of, but only to the extent necessary in, the structuring of censuses, national economic accounts and the Standard Statistical Establishment List and conducting related statistical activities authorized by law."

(b) Section 6103 (j)(4) of the Internal Revenue Code of 1954 is amended to read as follows:

"(4) Anonymous form.--No person who receives a return or return information under this subsection shall disclose such return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, except that return information authorized to be made available to the Bureau of the Census for the Standard Statistical Establishment List may be made available by the Bureau of the Census to other Federal and State agencies and designated statistical units authorized by section 10 of title 13 of the United States Code to receive such information."

LEGISLATIVE DRAFT DATED MAY 1978, TO AMEND
TITLE 13 AS PREPARED BY THE OFFICE OF FEDERAL
STATISTICAL POLICY AND STANDARDS

PROPOSED STANDARD STATISTICAL ESTABLISHMENT LIST LEGISLATION

A Bill

To amend Title 13, United States Code, to provide for a Standard Statistical Establishment List of Industries for Use by Statistical Agencies of the Government. The declared policy of the Congress of minimizing the cost of data gathering to the Government and of eliminating duplication of effort in obtaining information from respondents, makes it necessary to implement a general purpose name and address list of business firms for joint statistical use by qualified Federal agencies under approved confidentiality laws and regulations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That a new section 10 be added to Title 13, United States Code, to read as follows:

"10. Statistical Establishment List

"(a) The Secretary shall establish and maintain a Standard Statistical Establishment List (hereinafter referred to as a List) file which will include information on all types of economic units within the scope of the Standard Industrial Classification and Enterprise Standard Industrial Classification and may contain the following types of information for each enterprise (corporation, partnership, sole proprietor, co-op, non-profit, government entity, etc.) and its constituent establishments: name,

physical location, establishment and tax identification numbers; parent company affiliation; standard industrial classification and other product and activity codes; legal form of organization codes; and employment and business receipts size codes and other economic characteristics codes.

"(b) The List shall be compiled and maintained by the Secretary of Commerce through the Bureau of the Census from information collected by that Bureau and by other Federal or State agencies.

"(c) (1) List information shall be made available for statistical purposes only to Federal Statistical agencies and designated statistical units within the Department of Commerce and other Federal agencies, and to their State cooperative agency counterparts with which they have arrangements to provide statistical services. The Secretary shall make such rules and regulations as he deems necessary and appropriate to insure maximum usage while limiting access to only those agencies or units that can insure List information as is made available is accorded confidential treatment and is used for statistical purposes only. List information will be made available to State agencies only if the Secretary is assured by the senior legal advisor to the States' Governor that under the States' law, List information shall be accorded confidential treatment and may be used for statistical purposes only.

"(2) Further, agencies' use for nonstatistical purposes of individual data derived from other sources will not be construed as incompatible with agencies' access to List information for statistical purposes."

"(d) (1) Any officer or employee of any agency having possession of, or access to, the List file or portions thereof, who willfully discloses information contained therein except as specified in this title in any manner to any person or agency known by him not to be entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

"(2) Any person who, knowing himself not to be entitled to receive it, willfully requests or obtains access to or information from the List file or portions thereof from any agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

"(e) The Secretary shall provide all items of the list information that are required by an agency to carry out its statistical responsibilities.

"(f) Copies of the List files and information therein or derived therefrom, in the possession of statistical agencies or units shall be immune from legal process or subpoena and shall not be publicly disclosed under 5 U.S.C. 552 in a manner which would identify individual companies or establishments. Except as specified in subsection (h) below, individual company information gathered in surveys or other statistical undertakings based on this List file shall be confidential and may not be used for purposes of taxation, regulation, investigation, or enforcement.

"(g) Statistical agencies or units eligible for access to the List will be monitored by the Office of Federal Statistical Policy and

Standards to minimize the development or maintenance of separate files or lists.

"(h) Information specified in subsection (a) of this section, shall be an exception to the prohibition of section 9 of this title where furnished to eligible statistical agencies or units or where required for prosecutions under subsection (d) of this section.



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Administration
 Washington, D.C. 20230

FEB 18 1979

13 FEB 1979

Mr. Allen R. Voss
 Director, General Government Division
 U. S. General Accounting Office
 Washington, D. C. 20548

Dear Mr. Voss:

This is in reply to Mr. Eschwege's letter of December 18, 1978, requesting comments on the draft report entitled "The Standard Statistical Establishment List -- After Six Years, Legal Obstacles Continue To Restrict Government Use."

We have reviewed the enclosed comments of the Census Bureau and Office of Federal Statistical Policy and Standards and believe they are responsive to the matters discussed in the report.

Sincerely,

Elsa A. Porter
 Assistant Secretary
 for Administration

Enclosure



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of the Census
Washington, D C 20233
OFFICE OF THE DIRECTOR

January 17, 1979

Comments of the Bureau of the Census on GAO Draft, "The Standard Statistical Establishment List--After Six Years, Legal Obstacles Continue to Restrict Government Use."

The Bureau of the Census appreciates the opportunity to comment on this report. We feel, for the most part, it represents a fair appraisal with a good deal of depth and insight. Our comments regarding specific items are as follows:

Page 35-Meetings with Potential Outside Users

We certainly agree with the suggestion to increase our activity with respect to meeting with user agencies. To some extent, this activity has been pursued during the past few years probably on a more informal than formal basis. Our publication on the "Working Papers" is due from the printer the first or second week in February and should provide a basis for meaningful discussions.

Page 34-User Costs

We considered at one time including a section in our "Working Papers" on user costs, but with constant changes in our computer system plus changes in changing algorithms, we came to feel it unrealistic to develop meaningful charges for some projected time in the future. We still feel this was a correct decision.

Page 36-Procedures for Assuring Confidentiality

The Bureau does have stringent procedures for assuring confidentiality including the safeguarding of Internal Revenue Service information. Methods and procedures have been worked out and refined over a 25-year period. These would form the framework for developing regulations dealing with confidentiality once legislation is passed.

With respect to monitoring, we do not plan an investigative type activity. Violations or breaches of confidentiality would usually be apparent, and any agency violating the confidence would not continue to receive access.



Page 37-Farm Portion of the List

Again, back to the inception of directory planning, farms have been considered an integral part of the list. A Memorandum of Agreement between the Bureau and the Statistical Reporting Service was signed in 1969. This agreement provided for the establishment, maintenance, and utilization of a list of farms for statistical purposes subject to the confidentiality laws and regulations of both agencies.

Subsequently, and following the ruling that the Department of Agriculture could not have access to tax information, the USDA was forced into building their own list. Funding to USDA was provided for this activity, and the Bureau has received no funds for the farm portion of the list. Given funds for developing a list of farms, the Bureau has the capability to provide a list usable by all statistical agencies.

Page 38-Use Restrictions Benefit the Bureau

It is not true that there is no incentive to promote list sharing. On the contrary, this has been the basic thrust of the entire SSEL program, and has been worked toward as an ultimate goal. Virtually no changes in the design or system will be necessary to make it usable by other agencies. We have found that use of the directory by other users of the file within the Bureau tends to improve the quality of the file. We are certain this enhancement will continue and increase as a result of interchange with other agencies.

The indication that reimbursable work in the Economic Surveys Division has increased as a result of the list is somewhat misleading. The division is a new division, established only in 1971, and one of its basic objectives was to perform reimbursable work, similar to the Demographic Surveys Division in the demographic area. Consequently, one could expect an increase and, further, almost all of the work performed would have been done regardless of whether other agencies would have had access to the list.

Page 43-Draft Legislation

The Bureau would like to emphasize that the legislation attached to the GAO report is a draft prepared for discussion purposes only and does not necessarily reflect the views of the Department of Commerce or the Executive Branch. We request that the draft report be revised to make this fact clear by including this statement.



UNITED STATES DEPARTMENT OF COMMERCE
Office of Federal Statistical Policy and Standards
Washington, D.C. 20230

January 17, 1979

Comments of the Office of Federal Statistical Policy and Standards on GAO Draft, "The Standard Statistical Establishment List--After Six Years, Legal Obstacles Continue to Restrict Government Use."

The Office of Federal Statistical Policy and Standards appreciates the opportunity to comment on this report. Comments regarding specific items are as follows:

We have reviewed the draft report The Standard Statistical Establishment List--After Six Years, Legal Obstacles Continue to Restrict Government Use. We find this draft report generally is a balanced treatment of the objectives and efforts to bring this project to a fully operational stage. We are encouraged by the GAO support for legislative changes to make the Standard Statistical Establishment List available for use across the Federal statistical system.

The recommendations made in the draft report are in line with our plans for work on this project. Within the limits of our resources and authority we will take action on each of the recommendations.

The Administration has under active consideration the development of proposed legislation to permit use of the Standard Statistical Establishment List by statistical agencies.

The recommendation to include in the legislation a provision for waiver of confidentiality by the respondent will be considered. We believe the primary issue here is whether or not this needs to be explicitly stated in statute.

The listing of information included in the List (p. 2 of draft) may be misleading to the casual reader who misses the footnote. Because of the importance of the information in the footnote, we suggest the last three items should read "Codes for 1st quarter employment size class", "Codes for total annual payroll size class", "Codes for gross sales/receipts size class (will be added in the future)". The footnote could then read "The size class codes indicate a range where the upper end of the range would be at least double the lower end."

GAO note: Page references in the appendix have been changed to agree with the page numbers in the final report.



THE SECRETARY OF THE TREASURY
WASHINGTON 20220

JAN 24 1979

Dear Mr. Voss:

This is in response to your letter of December 18, 1978, requesting joint Treasury Department--Internal Revenue Service review and comment upon your November 28, 1978 draft report on the Census Bureau's Standard Statistical Establishment List (SSEL). The draft report recommends statutory amendments of Titles 13 and 26 of the United States Code to permit the Census Bureau to make the SSEL available to other Federal agencies and certain State agencies for statistical purposes. We believe that considerations of protecting the privacy of taxpayers' returns and return information by restricting their use for statistical purposes unrelated to tax administration outweigh the argument for your proposal.

As you note on page 25 of your draft report, at the time that your office completed its review of the issues presented by disclosure of the SSEL, the Commerce Department was awaiting a Treasury Department response to its request for support for statutory amendments along the lines suggested in the report.

After careful consideration of Secretary Kreps' request by the Treasury Department and the Service, Secretary Blumenthal on December 18, 1978, responded to Secretary Kreps that the Treasury Department could not support her legislative initiative insofar as tax return information contained in the SSEL was concerned. We are attaching a copy of Secretary Blumenthal's response, which describes the basis for his conclusion.

In Chapter 3 of your draft report, you suggest that because of concerns about privacy as well as the "Watergate" controversy in 1974 and 1975, neither the Commerce Department nor the Office of Management and Budget felt that the climate

at that time was favorable for introduction of legislation to permit disclosure and use of the SSEL by other agencies. This was because the confidentiality issue was particularly sensitive then, and both the private and public sectors of the country--including the Congress--were not very receptive to the idea of data sharing, even for statistical purposes.

As you undoubtedly know, one of the principal concerns which led the Congress to revise section 6103 was the nontax related statistical use of tax returns and tax return information. Executive Orders 11697 and 11709, issued in 1973, would have permitted Department of Agriculture access to farmers' tax returns and tax return information for departmental statistical purposes. The resulting criticism on the Hill led to revocation of the orders and introduction of legislation which would have prohibited the use of tax data for any nontax related statistical purpose. Congressional focus on the concerns generated by this situation, among others, produced the 1976 amendments to section 6103. We believe that the policy considerations underlying section 6103's limitations on the use of tax data for nontax statistical purposes are still sound.

As further justification for your legislative proposal, you state that much of the information contained in the SSEL is also available from telephone directories, State industrial directories, and private mailing lists. These alternative sources are cited as indicating the lack of sensitivity which would be involved by disclosure of the same information by means of the SSEL. We do not believe that, simply because the equivalent of tax return information may be reasonably available from an alternative source, the tax return information itself should, therefore, be generally available for statistical purposes from the Census Bureau. Any such policy approach would represent the most basic departure from the considerations which produced the 1976 revision of section 6103. In fact, a persuasive policy argument can be

advanced that the availability of alternative sources should rule out access to tax information in the first instance. See, for example, section 6103 (f) (3), (i) (1) (B) (iii), (k) (6), and (l) (6) (A) (ii).

You point to the Privacy Act of 1974 as indicating a Congressional policy to draw confidentiality distinctions between records used for statistical purposes and those put to other uses. As we read the Act, however, it provides relatively narrow distinctions in this area. 5 U.S.C. 552a (b) (4) permits Census Bureau access to an individual's identifiable records without his consent only for purposes of planning or carrying out a census or survey under Title 13, and 5 U.S.C. 552a (b) (5) would not permit the transfer of the individual's records to any other agency for statistical purposes in identifiable form without his consent.

We also question whether the Privacy Act can, as you suggest, be read to generally exempt business information from its consent-to-disclosure requirements. Many individuals--and farmers would be a ready example--conduct businesses in the form of sole proprietorships. As we understand the Privacy Act, business information regarding sole proprietorships is clearly protected. In revising section 6103 in 1976, the Congress, as you know, made no distinctions between tax returns and tax return information relating to individuals and those relating to businesses. Both categories of taxpayers are afforded the same privacy protection. We suggest that the reason for this may well have been the difficulties involved in drawing any meaningful policy distinction between individuals and businesses or between individuals and artificial entities, such as corporations, partnerships, estates, and trusts. The relationship between individual tax information and that of the individual's business or of an entity of which he is a shareholder, partner, or beneficiary is often so close as to make any distinction essentially meaningless. For example, the tax return of a closely held family corporation can provide significant information regarding the financial affairs and worth of its shareholders, as can the tax return of a partnership indicating the partners' distributive shares of partnership income.

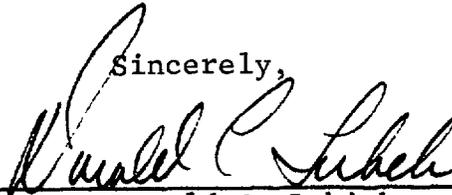
In any event, we do not think that the Privacy Act can or should be regarded as a definitive indication of Congressional policy regarding the confidentiality of tax information. In its report on the 1976 revision of section 6103, the Senate Finance Committee observed:

Recent Congressional action with respect to privacy in general has had an impact on the disclosure of tax information. (Privacy Act of 1974, Public Law 93-579.) However, the Congress did not specifically focus on the unique aspect of tax returns in the Privacy Act.

S. Rep. No. 94-938 (94th Cong., 2d Sess.) 318.

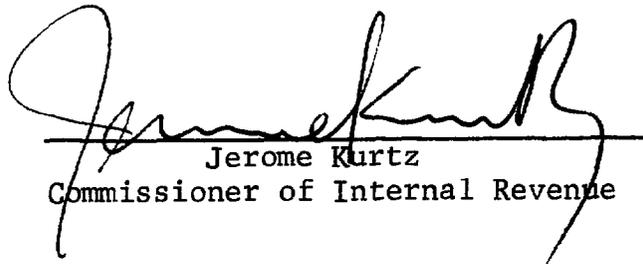
We hope that Secretary Blumenthal's letter and this joint response will be helpful to you in developing your final report.

Sincerely,



Donald C. Lubick

Assistant Secretary for Tax Policy



Jerome Kurtz

Commissioner of Internal Revenue

Mr. Allen R. Voss, Director
General Government Division
United States General Accounting Office
Washington, D. C. 20548

Enclosure

GAO note: Page references in the appendix have been changed to agree with the page numbers in the final report.

THE SECRETARY OF THE TREASURY
WASHINGTON 20220

JUL 10 1978

Dear Juanita:

This is in response to your letter of June 23, 1978, seeking Treasury support for a proposed Department of Commerce legislative initiative regarding use of the Standard Statistical Establishment List (SSEL). Following receipt of your letter, Treasury staff has had extensive communications with your staff, representatives of the General Accounting Office, and officials of other interested Federal agencies. After a thorough study of the issues raised and the competing considerations, we have decided that the Department of the Treasury cannot support this legislative initiative insofar as tax return information would be contained in the SSEL.

The draft bill you propose would amend Title 13 of the United States Code to authorize the Bureau of the Census to establish and maintain an SSEL file which would include the following types of information for each enterprise listed: name, physical location, establishment and tax identification numbers, product activity codes, legal form of organization codes, employment and business receipts size codes, and other economic characteristic codes. The information in the SSEL file would be a compilation of information collected by the Bureau of the Census and by other Federal and state agencies. The draft bill would also authorize the Bureau of the Census to make this information available, for statistical purposes only, to Federal statistical agencies and designated statistical units within your Department and other Federal agencies, and to the state cooperative agency counterparts with which they have arrangements to provide statistical services.

Although your letter contemplates that the SSEL file information to be made available by the Bureau of the Census to other statistical agencies would include tax return information, the draft bill you propose would not modify section 6103 of the Internal Revenue Code which prohibits the disclosure of tax return information in the fashion contemplated by your proposal. The only authorization in the Internal Revenue Code for disclosure of tax return

information to the Bureau of the Census is contained in section 6103(j)(1). This provision authorizes disclosure of returns and return information to the Bureau of the Census for limited statistical purposes, and does not authorize any further disclosure of such information by the Bureau of the Census to other statistical agencies or units. Therefore, as we interpret current law, we are prohibited from disclosing tax return information to the Bureau of the Census for further disclosure to other statistical agencies or units, and the Bureau of the Census is also prohibited from disclosing tax return information to other statistical agencies or units. Consequently, we believe an amendment to section 6103 of the Internal Revenue Code would be required in order to accomplish your objective of including tax return information in the SSEL.

The Department of the Treasury would have no objection to the amendments to Title 13 contained in the draft bill you propose to the extent they relate to information other than tax return information. We would, however, have significant concerns with any proposal to amend section 6103 of the Internal Revenue Code to authorize disclosure of tax return information to be used for SSEL purposes. The provisions of the Internal Revenue Code which regulate the disclosure of tax return information reflect a Congressional affirmation of the general policy that information submitted to the Government on tax returns should be used for tax administration purposes. The considerations which underlie the strict limitations imposed by Congress upon the disclosure of tax return information are the taxpayer's expectation of and right to privacy, and the potential impact of disclosure upon the continuation of compliance with our voluntary tax assessment system. The integrity of the tax system can be undermined if the Internal Revenue Service becomes a general source of information for state and Federal agencies. Therefore, we believe that any proposal to further erode the statutory limitations on disclosure of tax return information must be supported by compelling policy considerations.

We appreciate that your SSEL proposal is an efficient way to provide a much needed sampling frame for surveys of businesses, and that the use of alternative sources of information would be more costly and entail greater respondent burdens. Nevertheless, after weighing these

considerations against the taxpayer's right to privacy and the potential impact upon compliance with our voluntary tax assessment system, we are unable to conclude that the policy considerations supporting the establishment of the SSEL system you propose are sufficiently compelling to override the privacy considerations supporting the present restrictions on disclosure of tax return information. For this reason, we are unable to support the use of tax return information in connection with your legislative initiative.

Best regards.

Sincerely,

Mikg

W. Michael Blumenthal

The Honorable
Juanita M. Kreps
The Secretary of Commerce
Washington, D.C. 20230

9426



THE SECRETARY OF COMMERCE
Washington, D C 20230

JUN 23 1978

Dear Mike,

The purpose of this letter is to enlist your support for a proposed Department of Commerce legislative initiative (enclosed) allowing full and effective use of a Standard Statistical Establishment List (SSEL). As you know, Internal Revenue Service (IRS) records, especially for small businesses and new businesses, are an important input to the SSEL maintained by the Census Bureau.

This program (SSEL) was developed by the Bureau of the Census to provide a common mailing list and sampling frame for Federal statistical agencies. A common sampling frame for economic surveys would provide more compatible economic statistics and reduce the duplicative agency and survey respondent efforts needed to maintain and update several similar, but not identical sampling frames.

We are preparing to introduce this legislative initiative presently. However, this proposal has evoked opposition by your Department. This opposition is based on Section 6103 of the I.R.C. as amended by the Tax Reform Act of 1976 and the legislative history of the 1976 Act.

The proposed legislation would envision quantitative IRS data to be provided to the Bureau of the Census, as is now done, and Census would then translate these data into location, size and type of activity codes before the SSEL was available for use by other statistical agencies. IRS tax information would be only one of the sources of names, addresses and SSEL codes. Other sources in and out of the Commerce Department will provide the basis for over 90% of the volume of business activity covered by the SSEL. The tax information would be used almost solely for the small and new businesses. Further, the Census Bureau will not divulge the source (e.g. IRS) of the input information used to create the SSEL record for any specific business. The use of codes for categories of identifiers, access to the SSEL, and penalties for improper use, are carefully spelled out in the proposed legislation.

2

In addition, the SSEL is concerned only with the characteristics, including gross receipts, of business establishments, not with business income or personal income. Thus the possibilities of revealing personal income in a primarily sole proprietorship industry such as farming do not exist. Even if net income from farming could be roughly estimated from gross receipts information, most farm operators have other sources of income and this is not identified in the SSEL.

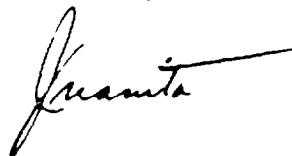
Other ways to develop the statistical list have been evaluated. Alternatives without tax return input are prohibitively costly, both to the Federal Government and to the respondent. Without IRS input, Federal statistics would be less comparable to the true picture of the U.S. business world. Also, a procedure to ask permission of businesses to use the names and codes of their establishment in the directory would be very costly and would be substantially statistically biased.

The SSEL concept has been strongly endorsed by the Federal Paperwork Commission, by the 1971 Presidential Commission on Federal Statistics, and numerous other groups. The current Administration, as well as the two previous Administrations, have given very strong support to efforts that will reduce paperwork and the burden on survey respondents. We believe the legislation would reduce public reporting burden, reduce Federal Government cost, improve economic data, and still protect the records needed for input to the SSEL from detrimental use.

I look forward to receiving your support for this legislative initiative.

With warm regards,

Sincerely,



Enclosure

Honorable W. Michael Blumenthal
Secretary of the Treasury
Washington, D. C. 20220

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