



BILLING CODE 3110-01

OFFICE OF MANAGEMENT AND BUDGET

Statistical Policy Directive No. 3: Compilation, Release, and Evaluation of Principal Federal Economic Indicators. Timing of Public Comments by Employees of the Executive Branch

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Solicitation of Comments.

SUMMARY: Under the Budget and Accounting Procedures Act of 1950 and the Paperwork Reduction Act of 1995 (“the PRA”), the Office of Management and Budget (OMB) issues a request for comments on the continued relevance of one provision within *Statistical Policy Directive No. 3: Compilation, Release, and Evaluation of Principal Federal Economic Indicators* (50 Fed. Reg. 38932, Sep. 25, 1985) (“Directive No. 3”). Directive No. 3 remains a robust, comprehensive source of guidance for statistical series produced by Federal statistical agencies and recognized statistical units. The government and private sector widely watch and heavily rely upon those statistical series as indicators of the current condition and direction of the economy. The procedures in Directive No. 3, published in 1985, were designed to ensure equitable, policy-neutral, and timely release and dissemination of Principal Federal Economic Indicators (“PFEIs”). The goals of Directive No. 3 remain sound, and changing those overall goals is not the subject of this notice; however, advances in information dissemination technology lead OMB to seek comment on the continued relevance of the provision that prohibits employees of the Executive Branch from commenting publicly about the release of PFEIs until at least one

hour following their release. For example, in addition to more traditional means of dissemination (e.g., newspaper or radio), agencies now disseminate their data releases to the public through the internet, including on their own websites, allowing instantaneous and equitable access to the releases. In particular, OMB seeks comment on whether advances in information dissemination technology since Directive No. 3's issuance in 1985 could provide for meeting the goals of Directive No. 3 to ensure equitable, policy-neutral, and timely release and dissemination of PFEIs under a shorter time delay, including no time delay at all.

Additional discussion of the request for public comment may be found in the **SUPPLEMENTARY INFORMATION** section below.

Electronic Availability: This notice is available on the internet on the OMB website at <https://www.whitehouse.gov/omb/>. **Federal Register** notices are also available electronically at <https://www.federalregister.gov/>.

DATES: To ensure consideration of comments on this Notice, they must be received no later than 60 days from the publication date of this notice. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to send comments electronically (see **ADDRESSES**, below).

ADDRESSES: Comments may be addressed to: Nancy Potok, Chief Statistician, Office of Management and Budget, fax number (202) 395-7245. Email comments may be sent to Statistical_Directives@omb.eop.gov, with the subject "Directive No. 3." Alternatively, comments may be sent via www.regulations.gov—a Federal E-Government website that allows the public to find, review, and submit comments on documents that agencies have

published in the **Federal Register** and that are open for comment. Simply type “OMB-2019-0001” (in quotes) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments. Comments received by the date specified above will be included as part of the official record.

Comments submitted in response to this notice may be made available to the public through relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: For information about this request for comments, contact Kerrie Leslie, Office of Management and Budget, 9215 New Executive Office Building, Washington, DC 20503, telephone (202) 395-1093, *email* Statistical_Directives@omb.eop.gov with the subject “More Info: Directive No. 3.”

SUPPLEMENTARY INFORMATION: *Background:* The Nation relies on the flow of relevant, accurate, timely, reliable, and objective statistics to support the decisions of governments, businesses, individuals, households, and other organizations. Federal statistical agencies release many of the statistics available about the United States' economy, population, natural resources, environment, and public and private institutions. It is the responsibility of Federal agencies engaging in statistical work to support the quality and accessibility of the Federal statistical information our Nation uses to monitor

and assess performance, progress, and needs. In its role as coordinator of the Federal statistical system under the PRA, OMB, among other responsibilities, is required to ensure the efficiency and effectiveness of the system. A key method OMB uses to achieve this responsibility is the promulgation, maintenance, and oversight of Government-wide principles, policies, standards, and guidelines concerning the development, presentation, and dissemination of statistical products.

OMB's Statistical Policy Directive Nos. 3 and 4 are designed to preserve and enhance the objectivity and transparency, in fact and in perception, of the processes used to release and disseminate the statistical products of Federal statistical agencies. The procedures in these directives are intended to ensure that statistical data releases adhere to data quality standards through equitable, policy-neutral, and timely release of information to the general public.

The preamble to Statistical Policy Directive No. 4 ("Directive No. 4") summarizes the history of Directive No. 3 as well as the long-standing concern about the need to maintain public confidence in the objectivity of Federal statistics. For example, in 1962, the President's Committee to Appraise Employment and Unemployment Statistics, stated¹:

The need to publish the information in a nonpolitical context cannot be overemphasized. * * * a sharper line should be drawn between the release of the statistics and their accompanying explanation and analysis, on the one hand, and the more general type of policy-oriented comment which is a function of the official responsible for policy making, on the other.

¹ "Measuring Employment and Unemployment." U.S. President's Committee to Appraise Employment and Unemployment Statistics. Transmitted September 27, 1962. p20.

In 1971, the Administration was widely criticized for the way it publicly characterized some Bureau of Labor Statistics unemployment data at the time of their release. In response, the Congress instituted the monthly Joint Economic Committee hearings on the unemployment rate, and OMB issued Directive No. 3 to provide guidance to Executive branch agencies on the compilation and release of PFEIs. Directive No. 3 provides for the designation of statistical series that provide timely measures of economic activity as Principal Economic Indicators, and requires prompt but orderly release of such indicators. The stated purposes of Directive No. 3 are to preserve the time value of the economic indicators, strike a balance between timeliness and accuracy, provide for periodic evaluation of each indicator, prevent early access to information that may affect financial and commodity markets, and preserve the distinction between the policy-neutral release of data by statistical agencies and their interpretation by policy officials. Thus, Directive No. 3 is designed to promote public confidence in Federal statistics and in the system responsible for their production, as well as trust in the purely statistical basis of PFEIs used in the Federal Government's policy decisions.

Since OMB's publication of Directive No. 3, this theme and the importance of OMB's role in implementation has been reinforced. In 1995, the Congress reauthorized the PRA, including OMB's responsibility for coordination of the Federal statistical system to ensure the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes. In December 2000, the Congress passed and the President signed into law what has come to be known as the Information Quality Act (44 U.S.C. 3516 note), which directed OMB to issue Government-wide information

quality guidelines to ensure the “quality, objectivity, utility, and integrity” of all information, including statistical information, disseminated by Federal agencies.

In 2005, the National Research Council (“NRC”) of the National Academy of Sciences² stated that for Federal Statistical Agencies to demonstrate their credibility, they:

*** must be, and must be perceived to be, free of political interference and policy advocacy. *** Without the credibility that comes from a strong degree of independence, users may lose trust in the accuracy and objectivity of the agency’s data, and data providers may become less willing to cooperate with agency requests. *** [A statistical agency] must be impartial and avoid even the appearance that its collection, analysis, and reporting processes might be manipulated for political purposes. ***

In 2014, consistent with these comments by the NRC, as well as those of the Government Accountability Office’s report entitled *Data Quality: Expanded Use of Key Dissemination Practices Would Further Safeguard the Integrity of Federal Statistical Data* (GAO–06–607), OMB issued *Statistical Policy Directive No. 1: Fundamental Responsibilities of Federal Statistical Agencies and Recognized Statistical Units* (79 Fed. Reg. 71610, Dec. 2, 2014). Further, in January 2019, Congress passed the Foundations for Evidence-Based Policymaking Act of 2018, which in section 3563 of title 44 codified the responsibilities of statistical agencies and units subject to section 3563 to:

*** “(A) produce and disseminate relevant and timely statistical information;
“(B) conduct credible and accurate statistical activities;

² National Research Council. 2005. *Principles and Practices for a Federal Statistical Agency: Third Edition*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/11252>.

“(C) conduct objective statistical activities; and

“(D) protect the trust of information providers by ensuring the confidentiality and exclusive statistical use of their responses. * * *

Dissemination of PFEIs must continue to adhere to these statutory requirements.

However, advances in information dissemination technology may provide for meeting these requirements and the goals outlined in Directive No. 3 in different procedural ways than when Directive No. 3 was issued in 1985. In particular, the internet has, for decades, provided broader, timelier dissemination of information to the public than more historic means of dissemination (*e.g.*, newspaper or radio), as well as provided for attribution of the information to particular entities. Federal Statistical Agencies³ have long had their own websites, providing a platform on which to disseminate their data releases and policy-neutral analysis, and, in many cases, also have other ways on the internet, such as social media accounts, to disseminate their data releases and policy-neutral analysis. In short, modern forms of dissemination, being more speedy and comprehensive, may reduce the need for such a long time period between the release of PFEIs, and policy comment on them by employees of the Executive Branch.

Request for Comments: The full text of Directive No. 3, as issued in 1985, is available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/inforeg/statpolicy/dir_3_fr_09251985.pdf. This notice requests comment on the continued relevance of the provision of Directive No. 3 that prohibits public comment by employees of the Executive Branch from speaking about the release until *at least one hour* following the release of PFEIs. In particular, OMB seeks comment on whether advances in

³ A Federal Statistical Agency is an agency or organizational unit of the Executive Branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes. *See* 44 U.S.C. 3561(11).

information dissemination technology since Directive No. 3's issuance in 1985 could provide for meeting the goals of Directive No. 3 to ensure equitable, policy-neutral, and timely release and dissemination of PFEIs under a shorter time delay, including no time delay at all.

The text relevant to the specified provision for comment appears within the last paragraph of Section 5. For ease of review, the abbreviated text of Section 5 is provided below, and the text describing the current limitation on Executive Branch employees is provided in bolded text.

*5. Release Procedure. * * * Except for the authorized distribution described in this section, agencies shall ensure that no information or data estimates are released before the official release time.*

The agency will provide prerelease information to the President, through the Chairman of the Council of Economic Advisers, as soon as it is available. The agency may grant others prerelease access only under the following conditions:

(a) The agency head must establish whatever security arrangements are necessary and impose whatever conditions on the granting of access are necessary to ensure that there is no unauthorized dissemination or use.

(b) The agency head shall ensure that any person granted access has been fully informed of and agreed to these conditions.

(c) Any prerelease of information under an embargo shall not precede the official release time by more than 30 minutes.

(d) In all cases, prerelease access shall precede the official release time only to the extent necessary for an orderly review of the data.

*All employees of the Executive Branch who receive prerelease distribution of information and data estimates as authorized above are responsible for assuring that there is no release prior to the official release time. Except for members of the staff of the agency issuing the principal economic indicator who have been designated by the agency head to provide technical explanations of the data, employees of the Executive Branch shall not comment publicly on the data until **at least one hour after the official release time.***

Any changes to the text from Section 5 would neither affect nor replace any of the other standards and guidelines articulated in Directive No. 3.

OMB seeks comments from all interested parties, including data users, businesses, and the media, on the continued relevance of the one-hour delay identified in the provision that “employees of the Executive Branch shall not comment publicly on the data until at least one hour after the official release time.” In particular, OMB seeks comment about maintaining the one-hour delay, as well as reducing the time duration of the delay to some amount less than one hour, including consideration of the option of eliminating the delay entirely.

Dominic Mancini,
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