

## **Delegation of Authority from the Chief Data Officer to the Director of the Bureau of Transportation Statistics in Accordance with 44 U.S.C. §§ 3520(c) and (d)**

Section 202 of Title II of the Foundations for Evidence-Based Rulemaking Act of 2018, Pub. L. No. 115-435 (January 14, 2019) required the head of each Federal agency to designate a Chief Data Officer (CDO) for the agency and granted the CDO authority to carry out specified data management functions on behalf of the agency.<sup>1</sup> The Act also required the CDO to delegate any of the specified responsibilities to the head of a statistical agency or unit within the agency to the extent necessary to comply with statistical laws.<sup>2</sup> In addition, the head of a statistical agency to whom a responsibility is delegated is required to consult with the CDO in carrying out that authority.<sup>3</sup> Similarly, the CDO must consult with any statistical official of the agency in carrying out certain data management and other enumerated requirements.<sup>4</sup> The statute also requires the CDO to defer to the head of a statistical agency to whom a responsibility has been delegated regarding the necessary delegation of the responsibility with respect to any data acquired, maintained, or disseminated by the agency under applicable statistical law.<sup>5</sup>

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<sup>1</sup> See 44 U.S.C. 3520(a)-(c). Specifically, paragraph (c) states that the CDO shall:

- (1) be responsible for lifecycle data management;
- (2) coordinate with any official in the agency responsible for using, protecting, disseminating, and generating data to ensure that the data needs of the agency are met;
- (3) manage data assets of the agency, including the standardization of data format, sharing of data assets, and publication of data assets in accordance with applicable law;
- (4) in carrying out the requirements under paragraphs (3) and (5), consult with any statistical official of the agency (as designated under section 314 of title 5);
- (5) carry out the requirements of the agency under subsections (b) through (d), (f), and (i) of section 3506, section 3507, and section 3511;
- (6) ensure that, to the extent practicable, agency data conforms with data management best practices;
- (7) engage agency employees, the public, and contractors in using public data assets and encourage collaborative approaches on improving data use;
- (8) support the Performance Improvement Officer of the agency in identifying and using data to carry out the functions described in section 1124(a)(2) of title 31;
- (9) support the Evaluation Officer of the agency in obtaining data to carry out the functions described in section 313(d) of title 5;
- (10) review the impact of the infrastructure of the agency on data asset accessibility and coordinate with the Chief Information Officer of the agency to improve such infrastructure to reduce barriers that inhibit data asset accessibility;
- (11) ensure that, to the extent practicable, the agency maximizes the use of data in the agency, including for the production of evidence (as defined in section 3561), cybersecurity, and the improvement of agency operations;
- (12) identify points of contact for roles and responsibilities related to open data use and implementation (as required by the Director);
- (13) serve as the agency liaison to other agencies and the Office of Management and Budget on the best way to use existing agency data for statistical purposes (as defined in section 3561); and
- (14) comply with any regulation and guidance issued under subchapter III, including the acquisition and maintenance of any required certification and training.

<sup>2</sup> See 44 U.S.C. 3520(d).

<sup>3</sup> *Id.*

<sup>4</sup> See 44 U.S.C. 3520(c)(3)-(5).

<sup>5</sup> See 44 U.S.C. 3520(d).

Pursuant to this authority, the DOT CDO delegates to the Director of the Bureau of Transportation Statistics (BTS Director) the authorities enumerated in 44 U.S.C. § 3520(c) to the extent necessary to comply with statistical laws. This delegation allows the BTS Director to conduct statutory duties as assigned and the activities authorized to be undertaken by BTS. To ensure the greatest possible continuity of the treatment, maintenance, accessibility, and security of data generally, the BTS Director must consult with the DOT CDO when exercising any of the delegated authorities. The DOT CDO must similarly consult with the BTS Director in carrying out the requirements to manage DOT data assets and with respect to general information resources management, collection of information, information dissemination, records management, and data inventory. Both the CDO and BTS Director, as appropriate, would also consult with other DOT officials as necessary in carrying out the authorities set forth in 44 U.S.C. 3520. As the CDO and BTS Director work together to implement this delegation, the DOT CDO will defer to the BTS Director regarding whether the delegation applies with respect to any data acquired, maintained, or disseminated by DOT under applicable statistical law.

For purposes of this delegation, “statistical law” is defined in 44 U.S.C. § 3502(23) as “subchapter III of 49 U.S.C. Chapter 35 and other laws pertaining to the protection of information collected for statistical purposes as designated by the [OMB] Director.” In OMB Memorandum M-19-23, the OMB Director further defined “statistical law” as including section 314 of Title I of the Evidence Act and “policies promulgated pursuant to 44 U.S.C. §§ 3504(e) and 3506(e) and the statutes authorizing each of the principal statistical agencies and each of their statistical programs.” For BTS, this includes Chapter 63 of Title 49 of the United States Code.

**DELEGATION TO THE DIRECTOR  
OF THE BUREAU OF TRANSPORTATION STATISTICS**

I, in my official capacity as the Chief Data Officer for the Department of Transportation and pursuant to 44 U.S.C. 3520(d), hereby delegate to the Director of the Department of Transportation's Bureau of Transportation Statistics the authority to carry out the functions and exercise any of the responsibilities enumerated in Section 202 of Title II of the Foundations of Evidence-Based Rulemaking Act of 2018, Pub. L. No. 115-435 (January 14, 2019) as codified in 44 U.S.C. 3520(c) to the extent necessary to comply with statistical law. Statistical law is defined at 44 USC 3502(23) and further clarified in Office of Management and Budget Memorandum M-19-23, and includes subchapter III of 44 USC chapter 35 and 49 USC Chapter 63.

The Director of the Bureau of Transportation Statistics may redelegate and authorize successive redelegations of these authorities, but these authorities shall not be delegated to officials outside of the Bureau of Transportation Statistics.

Activities under this delegation are subject to required consultation between the Chief Data Officer and the BTS Director, and consultation with other Department of Transportation officials, as necessary in carrying out the responsibilities set forth in 44 U.S.C. 3520. The Chief Data Officer will defer to the BTS Director regarding application of this delegation to any data acquired, maintained, or disseminated by DOT under applicable statistical law.

This delegation is effective immediately. If 44 U.S.C. § 3520(c) or (d) are amended after the date of this delegation, this delegation will terminate and be superseded by the amended 44 U.S.C. § 3520(c) and/or (d).

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