



## Department of Housing and Urban Development

[Docket No. FR-7009-N-06]

### Privacy Act of 1974; Matching Program

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner and Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (HUD).

**ACTION:** Notice of a Re-Established Matching Program.

**SUMMARY:** Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, HUD is providing notice of its intent to execute a new computer matching agreement with the U.S. Department of Health and Human Services (HHS) for a recurring matching program with HUD's Office of Public and Indian Housing (PIH) and Office of Housing, involving comparisons of information provided by participants in any authorized HUD rental housing assistance program with the independent sources of income information available through the National Directory of New Hires (NDNH) maintained by HHS. HUD will obtain HHS data and make the results available to: (1) Program administrators such as public housing agencies (PHAs) and private owners and management agents (O/As) (collectively referred to as POAs) to enable them to verify the accuracy of income reported by the tenants (participants) of HUD rental assistance programs, and (2) contract administrators (CAs) overseeing and monitoring O/A operations as well as independent public auditors (IPAs) that audit both PHAs and O/As. The most recent renewal of the current matching agreement expired on October 24, 2018.

**DATES:** Applicability Date: The applicability date of this matching program shall be January 11, 2019 or 30 days from the date that the Computer Matching Agreement, signed by HUD and

HHS Data Integrity Boards, are sent to OMB and Congress, whichever is later, provided no comments that would cause a contrary determination are received. The matching program will continue for 18 months after the applicable date and may be extended for an additional 12 months, if the respective agency Data Integrity Boards (DIBs) determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

**Comment Due Date: [Insert date 30 days from date of publication in the FEDERAL REGISTER.]**

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically. Comments may also be submitted to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, Room 10110, SW., Washington, DC 20410. Communications should refer to the above docket number. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** John Bravacos, Senior Agency Official for Privacy, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10139, Washington, DC 20410, telephone number (202) 402-3053 (this is not a toll-free number).

Hearing- or speech- impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** On March 11, 2009, Section 239 of HUD's 2009 Appropriations Act modified Section 904 of the Stewart B. McKinney Act of 1988, as amended, to include the Disaster Housing Assistance Program (DHAP) as a “program” of HUD for the purpose of income verifications and computer matching. As such, pursuant to the Computer Matching and Privacy Protection Act (CMPPA) of 1988, as amended; OMB's guidance on this statute entitled, “Final Guidance Interpreting the Provisions of Public Law 100-503”; OMB Circular No. A-108, “Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act;” and OMB Circular No. A-130, “Managing Information as a Strategic Resource”; HUD is providing the public with notice of a new computer matching agreement with HHS (previous notice of a computer matching program between HUD and HHS was previously published at 81 FR 13403 on March 14, 2016). The first HUD-HHS computer matching program was conducted in September 2005, with HUD's Office of Public and Indian Housing (PIH). The scope of the HUD-HHS computer matching program was extended to include HUD's Office of Housing in December 2007, and to HUD's Disaster Housing Assistance Program (DHAP) in January 2011.

The matching program will be carried out only to the extent necessary to: (1) verify the employment and income of participants in certain rental assistance programs to correctly determine the amount of their rent and assistance, (2) identify, prevent, and recover improper payments made on behalf of tenants, and (3) after removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals participating in any HUD authorized rental housing assistance program.

HUD will make the results of the computer matching program available to public housing agencies (PHAs), private housing owners and management agents (O/As) administering HUD rental assistance programs to enable them to verify employment and income and correctly determine the rent and assistance levels for individuals participating in those programs, and contract administrators (CAs) overseeing and monitoring O/A operations. This information also may be disclosed to the HUD Office of Inspector General (HUD/OIG) and the United States Attorney General in detecting and investigating potential cases of fraud, waste, and abuse within HUD rental assistance programs.

In addition to the above noted information disclosures, limited redisclosure of reports containing NDNH information may be redisclosed to the following persons and/or entities: (1) Independent auditors for the sole purpose of performing an audit of whether these HUD authorized entities verified tenants' employment and/or income and calculated the subsidy and rent correctly; and (2) entities and/or individuals associated with grievance procedures and judicial proceedings (*i.e.* lawyers, court personnel, agency personnel, grievance hearing officers, etc.) relating to independently verified unreported income identified through this matching program.

HUD and its third-party administrators (PHAs, O/As, and CAs) will use this matching authority to identify, reduce or eliminate improper payments in HUD's rental housing assistance programs, while continuing to ensure that HUD rental housing assistance programs serve and are accessible by its intended program beneficiaries.

## **I. PARTICIPATING AGENCIES**

Department of Housing and Urban Development and the Department of Health and Human Services.

## **II. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM**

This matching program is being conducted pursuant to Section 217 of the Consolidated Appropriation Act of 2004 (Pub. L. 108-199, Approved January 23, 2004), which amended Section 453(j) of the Social Security Act (42 U.S.C. 653(j)), Sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, approved August 10, 1993); Section 542(b) of the 1998 Appropriations Act (Pub. L. 105-65); Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by Section 239 of HUD's 2009 Appropriations, effective March 11, 2009 (42 U.S.C. 3544); Section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701-1750g); the United States Housing Act of 1937 (42 U.S.C. 1437-1437z); Section 101 of the Housing and Community Development Act of 1965 (12 U.S.C. 1701s); the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*); and the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 1437a(f)).

The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants (as well as members of their household 6 years of age and older) in HUD-administered programs involving rental housing assistance to disclose to HUD their Social Security Numbers (SSNs) as a condition of initial or continuing eligibility for participation in the programs. Effective January 31, 2010, all applicants and participants under the age of 6, are required to disclose their SSN to HUD, in accordance with regulatory revisions made to 24 CFR 5.216, as published at 74 FR 68924, on December 29, 2009.

Section 217 of the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, approved January 23, 2004) authorizes HUD to provide to HHS information on persons participating in any programs authorized by:

(i) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*);

(ii) Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(iii) Section 221(d)(3), 221(d)(5) or 236 of the National Housing Act (12 U.S.C. 17151(d) and 1715z-1); (iv) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or (v) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

The Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification (EIV) System—Amendments; Final rule published at 74 FR 68924 on December 29, 2009, requires program administrators to use HUD's EIV system to verify tenant employment and income information during mandatory re-examinations or recertifications of family composition and income and reduce administrative and subsidy payment errors in accordance with HUD administrative guidance (HUD regulation at 24 CFR 5.233).

This matching program also assists HUD in complying with the following Federal laws, requirements, and guidance related to identifying and reducing improper payments:

1. Improper Payments Elimination and Recovery Act of 2010 (IPERA) (Pub. L. 111-204) (July 22, 2010);
2. Presidential Memorandum on Enhancing Payment Accuracy Through a “Do Not Pay List” (June 18, 2010);
3. Office of Management and Budget M-18-20, Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement” (June 26, 2018);
4. Presidential Memorandum on Finding and Recapturing Improper Payments (March 10, 2010);

5. Reducing Improper Payments and Eliminating Waste in Federal Programs (Executive Order 13520, November 2009);

6. Improper Payments Information Act of 2002 (Pub. L. 107-300);

7. Office of Management and Budget M-03-13, Improper Payments Information Act of 2002;

8. Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, (Pub. L. 112-248) (January 10, 2013); and

9. Office of Management and Budget M-13-20, Protecting Privacy while Reducing Improper Payments with the Do Not Pay Initiative (August 16, 2013).

This matching program is also authorized by subsections 453(j)(7)(A), (C)(i), and (D)(i) of the Social Security Act (as amended and authorized by Section 217 of the Consolidated Appropriations Act of 2004 (Pub. L. 108-199)). Specifically, the aforementioned law authorizes HHS to compare information provided by HUD with data contained in the NDNH and report the results of the data match to HUD. The Social Security Act gives HUD the authority to disclose this information to CAs, O/As, and PHAs for the purpose of verifying the employment and income of individuals receiving benefits in the above programs. HUD shall not seek, use or disclose information relating to an individual without the prior written consent of that individual, and HUD has the authority to require consent as a condition of participating in HUD rental housing assistance programs.

The NDNH contains new hire, quarterly wage, and unemployment insurance information furnished by state and Federal agencies and is maintained by HHS' Office of Child Support Enforcement (OCSE) in its system of records "OCSE National Directory of New Hires," No. 09-80-0381, published in the Federal Register at 80 FR 17894 (specifically pages 17906-17909) on

April 2, 2015. This system of records notice authorizes disclosure of NDNH information to HUD pursuant to Routine Use (12) “for the purpose of verifying the employment and income of the individuals and, after removal of personal identifiers, for the purpose of conducting analyses of the employment and income reporting of such individuals.”

The HUD records used in the information comparison are retrieved from the Tenant Rental Assistance Certification System (TRACS) covered under HUD's Tenant Rental Assistance Certification System (HSNG/MF.HTS.02), published on August 22, 2016 (81 FR 56684); and the Inventory Management System (IMS), also known as the Public and Indian Housing (PIH) Information Center (PIC) (HUD/PIH.01), published on April 13, 2012 (77 FR 22337). The results of the information comparison are maintained within, the HUD system of records, Enterprise Income Verification System (EIV), No. HUD/PIH-5, last published in the Federal Register at 71 FR 45066 on August 8, 2006, and updated on September 1, 2009, at 74 FR 45235. “Routine use” (1) of the system of records authorizes disclosure of HUD records to HHS.

### **III. PURPOSES**

HUD's primary objective of the computer matching program is to verify the employment and income of participants in certain rental assistance programs to determine the appropriate level of rental assistance, and to detect, deter and correct fraud, waste, and abuse in rental housing assistance programs. In meeting these objectives, HUD also is carrying out a responsibility under 42 U.S.C. Sec. 1437f(K) to ensure that income data provided to PHAs, and O/As, by household members is complete and accurate. HUD's various rental housing assistance programs require that participants meet certain income and other criteria to be eligible for rental assistance. In addition, tenants generally are required to report and recertify the amounts and

sources of their income at least annually. However, under the Quality Housing and Work Responsibility Act (QHWRA) of 1998, PHAs operating Public Housing programs may offer tenants the option to pay a flat rent, or an income-based rent. Those tenants who select a flat rent will be required to recertify income at least every three years. In addition, the changes to the Admissions and Occupancy final rule (March 29, 2000 (65 FR 16692)) specified that household composition must be recertified annually for tenants who select a flat rent or income-based rent.

#### **IV. CATEGORIES OF INDIVIDUALS**

This notice of computer matching program applies to individuals receiving services from the following rental assistance programs:

- A. Disaster Housing Assistance Program (DHAP)
- B. Public Housing
- C. Section 8 Housing Choice Vouchers (HCV)
- D. Project-Based Vouchers
- E. Section 8 Moderate Rehabilitation
- F. Project-Based Section 8
  - 1. New Construction
  - 2. State Agency Financed
  - 3. Substantial Rehabilitation
  - 4. Sections 202/8
  - 5. Rural Housing Services Section 515/8
  - 6. Loan Management Set-Aside (LMSA)
  - 7. Property Disposition Set-Aside (PDSA)
- G. Section 101 Rent Supplement

H. Section 202/162 Project Assistance Contract (PAC)

I. Section 202 Project Rental Assistance Contract (PRAC)

J. Section 811 Project Rental Assistance Contract (PRAC)

K. Section 236 Rental Assistance Program

L. Section 221(d)(3) Below Market Interest Rate (BMIR)

**Note:** This notice does not apply to the Low-Income Housing Tax Credit (LIHTC) or the Rural Housing Services Section 515 without Section 8 programs.

## **V. CATEGORIES OF RECORDS**

The following are the categories of record in this matching agreement:

### **A. HUD Input File**

- First name
- Last name
- Date of birth
- Social Security number

### **B. New Hire File**

- New hire processed date
- Employee name
- Employee address
- Employee date of hire
- Employee state of hire
- Federal Employer Identification Number
- State Employer Identification Number
- Department of Defense status code
- Employer name

- Employer address
- Transmitter agency code
- Transmitter state code
- Transmitter state or agency name

### **C. Quarterly Wage File**

- Quarterly wage processed date
- Employee name
- Federal Employer Identification Number
- State Employer Identification Number
- Department of Defense code
- Employer name
- Employer address
- Employee wage amount
- Quarterly wage reporting period
- Transmitter agency code
- Transmitter state code
- Transmitter state or agency name

### **D. Unemployment Insurance File**

- Unemployment insurance processed date
- Claimant name
- Claimant address
- Claimant benefit amount
- Unemployment insurance reporting period
- Transmitter state code

- Transmitter state or agency name

## **VI. SYSTEM(S) OF RECORDS**

OCSE NDNH contains new hire, quarterly wage, and unemployment insurance information furnished by state and federal agencies and is maintained by OCSE in its system of records “OCSE National Directory of New Hires,” No. 09-80-0381, published in the Federal Register at 80 FR 17906 on April 2, 2015, and updated on February 14, 2018, at 83 FR 6591. The disclosure of NDNH information by OCSE to HUD constitutes a “routine use,” as defined by the Privacy Act. 5 U.S.C. §552a(b)(3). Routine use (12) of the system of records authorizes the disclosure of NDNH information to HUD. 80 FR 17906, 17907 (April 2, 2015).

The HUD records used in the information comparison are retrieved from, and the results of the information comparison are maintained within, the HUD system of records “Enterprise Income Verification” (EIV), No. HUD/PIH-5, last published in the Federal Register at 71 FR 45066 on August 8, 2006, and updated on September 1, 2009, at 74 FR 45235. “Routine use” (1) of the system of records authorizes disclosure of HUD records to OCSE.

Dated: December 21, 2018

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