

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4357-N-01]

## Privacy Act of 1974; Notice of Matching Program: Matching Tenant Data in Assisted Housing Programs

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice of a computer matching program between the Department of Housing and Urban Development (HUD) and the Social Security Administration (SSA) and the Internal Revenue Service (IRS).

**SUMMARY:** Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, and the Office of Management and Budget's Guidance on the statute, HUD is updating its notice of a matching program involving comparisons between income data provided by applicants or participants in HUD's assisted housing programs and independent sources of income information. The matching program will be carried out to detect excessive housing assistance under the National Housing Act, the United States Housing Act of 1937, section 101 of the Housing and Community Development Act of 1965 and the Native American Housing Assistance and Self-Determination Act of 1996. The program provides for the verification of the matching results and the initiation of appropriate administrative or legal actions, primarily through public housing agencies, Indian Tribes and Tribally Designated Housing Entities (these three types of entities subsequently are referenced as housing agencies [HAs]), and private owners/management agents for subsidized multifamily projects.

This notice provides an overview of computer matching for HUD's assisted housing programs. Specifically, this notice describes HUD's program for computer matching its tenant data to: (a) The Social Security Administration's (SSA) earned income and the Internal Revenue Service's (IRS) unearned income data, (b) SSA's wage and social security and supplemental security income data, (c) State Wage Information Collection Agencies' (SWICAs') wage and unemployment benefit claim information, and (d) the Office of Personnel Management's personnel data.

Changes to this notice recognize: (a) A recent statutory change providing permanent authority for SSA and IRS disclosures of Federal tax return information to HUD, (b) an additional HUD matching program objective, i.e., to develop nationwide estimates of excessive housing assistance to satisfy a

financial reporting requirement, (c) the assignment of certain income verification functions to Federal employees in HUD's Chicago and Seattle Offices, and (d) HUD's current and planned use of a secure electronic facility for transmitting social security and supplemental security income data to entities that administer HUD's rental assistance programs.

**EFFECTIVE DATES:** HUD considers this as a continuous matching program. The computer matching described in this notice may begin after compliance with the reporting requirements cited in section 4 of Appendix I to OMB Circular No. A-130—Federal Agency Responsibilities for Maintaining Records About Individuals (Transmittal Memorandum No. 3; February 8, 1996). That section requires that Federal agencies provide the Chair of the House Committee on Government Reforms and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Office of Management and Budget with notice of the matching program and computer matching agreements 40 days before operating the program.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** *For Privacy Act:* Jeanette Smith, Departmental Privacy Act Officer, Room 4178, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708-2374. A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service). *For further information from recipient agency:* David L. Decker, Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, Room 5156, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708-0099, TTY—(202) 708-0850.

Director, Asset Recovery Center, Room 2207, Department of Housing and Urban Development, 77 West Jackson

Boulevard, Chicago, Illinois 60604, telephone number (312) 353-6236, ext. 2007. Gordon L. Brandhagan, Director Asset Recovery Center, Suite 200, Department of Housing and Urban Development, 909 First Avenue, Seattle, Washington 98104, telephone number (206) 220-5313. (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** This notice supersedes a similar notice published in the **Federal Register** on May 2, 1995 (60 FR 21548).

The Computer Matching and Privacy Protection Act of 1988, as amended (5 U.S.C. 552a) (the CMPP Act), the Office of Management and Budget's (OMB's) guidance on this statute entitled "Final Guidance Interpreting the Provisions of Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988" (OMB Guidance), and OMB Circular No. A-130 require publication of notices of computer matching programs. Appendix I to OMB's Revision of Circular No. A-130, "Transmittal 2, Management of Federal Information Resources," prescribes Federal agency responsibilities for maintaining records about individuals. In accordance with the CMPP Act and Appendix I to OMB Circular No. A-130, copies of this notice are being provided to the Committee on Government Reform and Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and OMB's Office of Information and Regulatory Affairs.

During Fiscal Year 1998 Federal employees located in HUD's Chicago Office have been assigned to: (1) Obtain copies from HAs, private owners/management agents' records as needed to verify the incomes of tenants who receive rental assistance, (2) compare those records with computer matching results, (3) estimate excessive housing assistance for the tenants, (4) send letters to tenants and notices to HAs, private owners/management agents, and (5) to follow up as necessary on the resolution of the income discrepancies.

## I. Authority

This matching program is being conducted pursuant to 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. 106-25); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (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. 1437-1437o); section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); and the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*).

The Omnibus Budget Reconciliation Act of 1993 (Budget Reconciliation Act) authorizes HUD to request from the SSA and the IRS Federal tax return data as prescribed in section 6103(l)(7) of title 26 of the United States Code (Internal Revenue Code). The Federal tax return data that HUD receives includes income data that individuals receive from employers and financial institutions (e.g., income data that would be shown on IRS Form W-2's and Form 1099's) for use in preparing tax returns. The Budget Reconciliation Act limits HUD's access to tax return data and prohibits HUD's redisclosure of tax return data to HAS, and private owners/management agents for subsidized multifamily projects. However, it allows HUD to disclose the fact that discrepancies exist between information provided by tenants and other sources, and to request that HAS, private owners and agents reverify tenant incomes when income comparisons indicate uncertain eligibility benefits or an excessive level of benefits.

Section 542(b) of HUD's 1998 Appropriation Act (Pub. L. 105-65; October 27, 1997) eliminated a September 30, 1998 sunset provision to 26 U.S.C. 6103(l)(7)(D)(ix) of the Internal Revenue Code effectively making permanent the authority for SSA and IRS disclosures of Federal tax return information to HUD.

Section 3003 of the Budget Reconciliation Act requires that applicants and participants in assisted housing programs sign a consent form authorizing the Secretary of HUD to request that the Commissioner of Social Security and the Secretary of the Treasury release the Federal tax return data. The final rule regarding participants' consent to the release of information was published by HUD in the **Federal Register** on March 20, 1995 (61 FR 11112).

The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD and HAS (but not private owners/management agents for subsidized multifamily projects) to request wage and claim information from State Wage Information Collection Agencies (SWICAs) responsible for administering State unemployment laws in order to undertake computer matching. This Act authorizes HUD to require applicants and participants to sign a consent form authorizing HUD or

the HA to request wage and claim information from the SWICAs.

The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants (as well as members of their households six years of age and older) in HUD-administered programs involving rental assistance to disclose to HUD their social security numbers (SSNs) as a condition of initial or continuing eligibility for participation in the programs.

## II. Objectives To Be Met by the Matching Program

HUD's primary objective in implementing the computer matching program is to increase the availability of housing assistance to individuals who meet the requirements of the housing assistance programs. Other objectives include determining the appropriate level of housing assistance, identifying and recovering excessive housing assistance received by tenants, and deterring future abuses of assisted housing programs. Using Federal tax return data, HUD now conducts computer matching and income verification program annually for a random sample of households that received rental assistance. HUD also conducts computer matching involving selected housing agencies, owners and agents. HUD plans to start implementing larger-scale computer matching in Fiscal Year 1999.

Based on the computer matching and subsequent HUD analysis of tenant-provided information, HUD develops nationwide estimates of the extent of excess rental assistance attributable to unreported income. HUD uses the estimates for financial statement reporting purposes. In addition, HUD sends letters to tenants and notices to HAS and private owners/management agents so that these parties may resolve the income discrepancies and appropriate administrative or legal actions may be taken.

HUD's various assisted housing programs, available through HAS or subsidized multifamily project owners/management agents, require that applicants meet certain income and other criteria to be eligible for housing assistance. In addition, tenants are required to report the amounts and sources of their income on at least an annual basis. The matching program identifies tenants receiving excessive housing assistance resulting from unreported or underreported family income. When the excessive housing assistance is identified, some tenants move out of assisted housing units while others agree to repay excessive

housing assistance. Both these actions increase funds or units available to serve other beneficiaries of HUD programs. When tenants continue to be eligible for housing assistance, but at a reduced level, the tenants will be required to increase their contributions toward rent.

## III. Program Description

In this computer matching program, tenant-provided information included in HUD's automated files will be compared to data from the SSA and the IRS, as well as from SWICAs and the Office of Personnel Management (OPM). HUD intends the SSA and IRS matching to be a continuing program for assisted housing programs nationwide. HUD will normally request that the SSA conduct matching of earned income information, and that the IRS conduct matching of unearned income information, several times annually. HUD will request SSA matching of social security and supplemental security income information monthly. In the future, HUD may request this data more frequently for some rental assistance programs.

HUD anticipates that it will conduct SWICA matching in selected States. Furthermore, HUD anticipates that SWICA and OPM matching will be used only occasionally to supplement SSA and IRS matching and income verification. HAS may also request SWICA matching.

HUD will disclose to the SSA, IRS, and SWICAs only tenant personal identifiers, i.e., SSNs, surnames, dates of birth, and sexes. The SSA, IRS, and SWICAs will conduct the matching of the HUD-provided personal identifiers to personal identifiers included in their automated files. Those agencies will provide income data to HUD only for individuals with matching personal identifiers.

The process of income matching between HUD and the OPM varies from the above. The OPM will disclose its data to HUD, and HUD will conduct the computer matching to OPM data.

HUD will then compare the SSA, IRS, OPM, and SWICA income data to tenant-reported income data included in HUD's system of records known as the Tenant Housing Assistance and Contract Verification Data (HUD H-11), published at 62 FR 11909; March 13, 1997. This comparison will identify, based on criteria established by HUD, tenants whose incomes require further verification.

### A. Income Verification

HUD will normally request that HAS or private owners/management agents

verify matching results as described below. However, under certain limited circumstances, HUD may verify tenant incomes with independent income sources. For example, such circumstances may include: (a) When HUD declares an HA in breach of an annual contributions contract; or (b) when tenants fail to disclose SSA and IRS data, or the tenants commit other serious violations, and HUD's analysis of the data could support legal actions. HUD may send letters to employers to request income data, but HUD will not disclose tax return data to HAs, private owners/management agents, employers, or payers.

*(1) Verification of SSA and IRS Data Referenced in Section 6103(l)(7) of the Internal Revenue Code*

Since HUD cannot redisclose tax return data directly to HAs or private owners/management agents, HUD plans to notify tenants of discrepancies between the tenant-reported income and the SSA and IRS data. HUD will supply the tenants with their income information taken directly from SSA and IRS data and request that the tenants provide this information to the HA or private owner/management agent. Concurrently, HUD will notify the HA or the private owner/management agent that a discrepancy exists between information provided by the tenants and other sources and will request reverification of the tenants' incomes. The notifications to the HAs and private owners/management agents will not include any tax return information.

Income information that tenants disclose to the HA or private owners/management agents will be verified directly with the income source or with other tenant-provided information. Tenants who fail to report to the HA or private owner/management agent after HUD's initial notice will receive a second notice sent by the HA or private owner/management agent. If the tenants still fail to provide the information to the HA or private owner/management agent, the HA or private owner/management agent may then terminate housing assistance, after providing the tenants an opportunity to challenge any adverse action.

The SSA and the IRS have advised HUD that the process described in the preceding paragraph is consistent with the intent of section 6103(l)(7) of the Internal Revenue Code, as the intent of the matching is to create a dialogue between the benefit recipient and the benefit provider.

*(2) Verification of Social Security and Supplemental Security Income Data*

Unlike the income information supplied by the SSA and the IRS for tax

purposes, SSA's social security and supplemental security income data may be disclosed to HAs and private owners/management agents. Therefore, after receiving this data from the SSA and comparing it to tenant-reported income, HUD will disclose the SSA social security and supplemental security income data to HAs and private owners/management agents. These disclosures will include information on monthly social security and supplemental security income data and, where applicable, income discrepancy information between previous tenant-reported data and the income amounts provided by the SSA. HAs and private owners/management agents will use this information in periodic verifications of tenant incomes that are required to determine program eligibility and rental assistance amounts.

HUD has implemented a secure electronic facility for transmitting social security and supplemental security income data to all HAs. HUD plans to expand this facility to provide the same type of data to private owners/management agents, who previously received the information from the SSA.

*(3) Verification of SWICA Data*

HUD will disclose matching results for SWICA wage and unemployment claim data directly to HAs, but not to private owners/management agents. The comparison of SWICA wage information and the tenant-reported data will reveal whether income verification is necessary. HAs must then obtain wage information directly from the tenants' employers, including information from prior years, when appropriate. The SWICA unemployment claim data must be verified with the tenants. Verification with the SWICA would only be required if tenants dispute the SWICA claim data.

*(4) Verification of OPM Data*

HUD will disclose matching results for OPM data to HAs and private owners/management agents. The OPM data, when compared to the tenant-reported data, provides an indicator that income verification is necessary. The HAs and private owners/management agents may then obtain wage information directly from employers, including information from prior years when appropriate.

*B. Administrative or Legal Actions*

Regarding all the matching described in this notice, HUD anticipates that HAs and private owners/management agents will take appropriate actions in consultation with tenants to: (1) Resolve prior income disparities between tenant-reported and independent income source data, and (2) use correct income

amounts in determining rental assistance.

After verifying that the tenants had access to income that the tenants did not report, the HAs or private owners/management agents will:

- (1) Notify the tenants in writing of any findings;
- (2) Calculate the unreported income and excessive housing assistance received by the family;
- (3) Offer the tenants an opportunity to contest any findings;
- (4) Provide a grievance hearing or a right to contest to the tenants, if requested; and
- (5) Initiate, as appropriate, administrative or legal actions to resolve the tenants' underpayments of rent, using guidelines in HUD regulations and handbooks.

The HAs and private owners/management agents may not suspend, terminate, reduce, or make a final denial of any housing assistance to any individual as the result of information produced by this matching program until: (a) The individual has received notice from the HA or private owner/management agent of its findings and informing the individual of the opportunity to contest such findings and (b) either the notice period provided in applicable regulations of the program, or 30 days, whichever is later, has expired. In most cases, HAs and private owners/management agents will resolve income discrepancies in consultation with tenants.

In legal actions, HAs and private owners/management agents may refer cases to local law enforcement entities or HUD's Office of Inspector General (OIG) for possible investigation and prosecution, either criminal or civil. Referrals to the OIG should involve only egregious cases.

*C. Public Reporting Burden on Computer Matching/Income Verification Results*

The information collection requirements contained in §§ 5.609 and 5.617 have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

HUD plans to use automated approaches for monitoring use of social security and supplemental security income data. Further, HUD plans to request feedback from HAs, and private owners/management agents concerning

the use of Federal tax return data that tenants disclose to entities that administer HUD's rental assistance programs. In developing the methodology, HUD will avoid imposing any unnecessary burden on HAs and private owners/management agents.

#### IV. Records To Be Matched

SSA and IRS will conduct the matching of tenant SSNs and additional identifiers (such as surnames and dates of birth) to tenant data that HUD supplies from its system of records known as the Tenant Housing Assistance and Contract Verification Data (HUD H-11). Within HUD, this system of records includes two automated systems known as the Multifamily Tenant Characteristics System (a system for programs under the Office of the Assistant Secretary for Public and Indian Housing) and the Tenant Rental Assistance Certification System (a system for programs under the Office of the Assistant Secretary for Housing—Federal Housing Commissioner). HAs and private owners/management agents for subsidized multifamily projects provide HUD with the tenant data that is included in HUD H-11.

The SSA will match the HUD H-11 records to the SSA's Earnings Recording and Self-Employment Income System (HHS/SSA/OSR, 09-60-0059) (Earnings Record); Master Beneficiary Record (HHS/SSA/OSR, 09-60-0090) (MBR); and Supplemental Security Income Record (HHS/SSA/OSR, 09-60-0103) (SSR). The IRS will match the HUD H-11 records to its Wage and Information Returns (IRP) Master File (Treas/IRS 22.061). The IRS also refers

to this file as the Information Return Master File (IRMF).

HUD will place matching data into its Tenant Eligibility Verification Files (HUD/PIH-1), described at 60 FR 21545 (May 2, 1995.) The HUD/PIH-1 files are specifically exempt from certain provisions of the Privacy Act, as described in a notice published on February 28, 1994 (59 FR 9406) and a notice published on March 30, 1994 (59 FR 14869).

HUD may also coordinate SWICA income computer matches for its rental assistance programs using tenants' SSNs and surnames. SWICAs will match tenant records to machine-readable files of quarterly wage data and unemployment insurance benefit data. Results from this matching will be provided to HUD or HAs, which will then determine whether tenants have unreported or underreported income. The matching will be done in accordance with a written agreement between the SWICA and HUD.

In addition, tenants' SSNs may be matched to the OPM's General Personnel Records (OPM/GOVT-1), the Civil Service Retirement and Insurance Records System (OPM/Central-1), and the Department of Defense's Defense Manpower Data Center Data Base (S322.10.DMDC). Tenant data may be matched to the SSA's Master Files of Social Security Number Holders (HHS/SSA/OSR, 09-60-0058) and Death Master Files for the purpose of validating SSNs contained in tenant records. These records will also be used to validate SSNs for all applicants, tenants, and household members who are six (6) years of age and over to identify noncompliance with program

eligibility requirements. HUD will compare tenant SSNs provided by HAs or private owners/management agents to reveal duplicate SSNs and potential duplicate housing assistance.

#### V. Period of the Match

The computer matching program will be conducted according to agreements between HUD and the SSA, IRS, OPM, and SWICAs. The computer matching agreements for the planned matches will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the date the agreement is signed, whichever comes first.

The agreements may be extended for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met:

(1) Within 3 months of the expiration date, all Data Integrity Boards review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and

(2) All parties certify that the program has been conducted in compliance with the agreement.

The agreement may be terminated, prior to accomplishment of the computer matching purpose or 18 months from the date the agreement is signed (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Dated: November 25, 1998.

**Joseph F. Smith,**  
*Acting Assistant Secretary for Administration.*

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