

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. N-95-3853; FR-3833-N-02]

**Preferences for Admission to Assisted Housing; Preference for Working Families—Notice of Statutory Amendment; Clarification**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner; and Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** On January 18, 1995, HUD published a notice that advised that sections 6(c)(4)(A)(ii) and (8)(d)(1)(A)(ii) of the U.S. Housing Act of 1937 were amended by the HUD Appropriations Act for Fiscal Year 1995 to provide a discretionary local preference for admission to public housing and HUD-assisted housing for “families that include one or more adult members who are employed.” The amendment by the HUD Appropriations Act provides that this preference for working families “shall be effective only during fiscal year 1995.”

The purpose of this notice is to clarify that preferences for admitting working families to public housing and HUD-assisted housing can continue to be used indefinitely, under the conditions described in HUD final rules published on July 18, 1994, and entitled, respectively, “Preferences for Admission to Assisted Housing” and “Section 8 Certificate and Voucher Programs Conforming Rule: Admissions.”

**FOR FURTHER INFORMATION CONTACT:** For the public housing and Section 8 Existing Housing programs, Sherone Ivey, Occupancy Division, Office of Public Housing, (202) 708-0744 (voice); (202) 708-0850 (TDD).

For other Section 8 programs, Barbara Hunter, Planning and Procedures Division, Office of Multifamily Housing, Office of Housing (202) 708-3944 (voice); (202) 708-4594 (TDD).

None of these telephone numbers is toll-free. The individuals listed above are located at the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

**SUPPLEMENTARY INFORMATION:****I. Background**

On January 18, 1995 (60 FR 3646), HUD published a notice that advised that sections 6(c)(4)(A)(ii) and (8)(d)(1)(A)(ii) of the U.S. Housing Act of 1937 (42 U.S.C. 1437d and 42 U.S.C.

1437f) were amended by the HUD Appropriations Act for Fiscal Year 1995 (Pub.L. 103-327, approved September 28, 1994, 108 Stat. 2315) to provide a discretionary local preference for admission to public housing and HUD-assisted housing for “families that include one or more adult members who are employed.” The two statutory amendments cover public housing and section 8 existing housing.

In the January 18, 1995 notice, HUD noted that the preference added by the Congress is consistent with two HUD final rules, both published on July 18, 1994, and entitled, “Preferences for Admission to Assisted Housing” (59 FR 36616), and “Section 8 Certificate and Voucher Programs Conforming Rule: Admissions” (59 FR 36662). The January 18, 1995 notice also advised that the HUD Appropriations Act provides that this preference “shall be effective only during fiscal year 1995.”

Since publication of the January 18, 1995 notice, HUD has received a number of inquiries concerning the HUD Appropriations Act “limitation” of the working family preference to FY 1995.

The purpose of this notice is to clarify that preferences for admitting working families to assisted housing can continue to be used indefinitely, under the conditions described in the two HUD final rules published on July 18, 1994.

The amendments made by the HUD Appropriations Act cover public housing and section 8 existing housing (including section 8 project-based assistance), but not Indian housing. However, all three programs can establish preferences for working families, according to the terms in HUD regulations, and HUD encourages the adoption and continued use of such preferences.

Dated: April 24, 1995.

**Jeanne K. Engel,**

*General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.*

**Michael B. Janis,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

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BILLING CODE 4210-27-P and 4210-33-P

**Office of the Assistant Secretary for Administration**

[Docket No. N-95-3914; FR 3896-N-01]

**Privacy Act of 1974—Amended System of Records**

**AGENCY:** Office of the Assistant Secretary for Administration, HUD.

**ACTION:** Notice; Modification of an existing system of records.

**SUMMARY:** Pursuant to the provision of the Privacy Act of 1974, as amended (5 U.S.C. 552a) the Assistant Secretary for Public and Indian Housing is amending the system of records titled, “Tenant Eligibility Verification Files”—HUD/PIH-1, previously published at 58 FR 37600; July 12, 1993 and amended at 59 FR 14869; March 30, 1994. This system of records contains computer matching and tenant eligibility verification records necessary to support the identification of tenants who have been or may be obtaining excessive rental housing assistance. The system of records also supports referrals of information concerning those tenants to entities that administer HUD rental assistance programs (i.e., housing agencies [which includes public housing agencies and Indian housing authorities], owners of subsidized multifamily projects, and management agents) and to law enforcement agencies for possible administrative or legal actions, as appropriate. However, HUD may not redisclose to entities that administer HUD programs information that HUD obtains from the Social Security Administration (SSA) and the Internal Revenue Service (IRS), pursuant to 26 U.S.C. 6103(l)(7)(D)(ix)—a section of the Internal Revenue Code added by section 13403 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66.

Amendments to the system of records: (a) Expand the scope of HUD/PIH-1 to include: Tenant records for all HUD assisted housing programs; earned and unearned income records that HUD will obtain from the SSA and the IRS, respectively; Title II (social security) and Title XVI (supplemental security income) records that HUD will obtain from the SSA; records provided by other Federal agencies for matching to tenant data that may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive, (b) cite legal authorities for the SSA and the IRS records to be included in HUD/PIH-1, (c) cite routine uses for the SSA and the IRS records, (d) delete specific reference to United States Postal Service records, (e) increase the retention period for the HUD/PIH-1 records from 6 months to 1 year, (f) incorporate the additional routine use previously published at 59 FR 14869; March 30, 1994, concerning referral to Federal employers to ensure effective implementation of the Standard of Ethical Conduct for Employees of the Executive Branch, and (g) add a routine use concerning statistical information

needed to evaluate the effectiveness of computer matching, income verification and related administrative or legal actions taken.

The exemptions of HUD/PIH-1 from certain provisions of the Privacy Act of 1994, described at 59 FR 9406; February 28, 1994, continue to apply to HUD/PIH-1, as amended.

**EFFECTIVE DATE:** This proposal shall become effective without further notice on June 1, 1995, unless comments are received during or before that date which would result in a contrary determination.

**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. An original and four copies of comments should be submitted. 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:** Jeanette Smith, Departmental Privacy Act Officer, Telephone Number (202) 708-2374, concerning Privacy Act matters. David L. Decker, Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, Telephone Number (202) 708-0099, concerning computer matching matters. [These are not toll free numbers.]

**SUPPLEMENTARY INFORMATION:** The amendments to this system of records are needed to: (a) Expand and improve the effectiveness of HUD's computer matching programs by consolidating responsibilities concerning assisted housing programs into one office, (b) implement provisions of the Omnibus Budget Reconciliation Act of 1993 that permit SSA and IRS disclosure to HUD of earned and unearned income information, respectively, for tenants who receive housing assistance from HUD's programs, (c) develop more efficient and effective methods for verifying social security and supplemental security income information used in determining tenants' eligibility for, and amount of, housing assistance, and (d) permit inclusion of automated records of other Federal agencies for matching to tenant data that may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive.

Regarding item (c) above, entities that administer HUD's assisted housing programs currently request from the SSA social security and supplemental security income information needed to determine tenants' eligibility for, and level of benefits, by submitting a mark sense card to the SSA. Then the SSA processes the card and mails the income information to the entity administering HUD assisted housing programs. The SSA has advised HUD of plans to terminate obsolete mark sense card operations, and requested that HUD work with SSA is developing an alternative process. HUD and the SSA have concluded that computer matching provides a more efficient and more effective technique for providing social security and supplemental security information to entities that administer HUD's assisted housing programs than the mark sense card operations. HUD plans to use HUD/PIH-1 records in identifying tenants who have underreported social security and supplemental security information.

Entities that administer HUD's assisted housing programs may continue to use the mark sense card processing operations, which is also known as the Third Party Query System (TPQS), until further notice. HUD plans to initiate testing of computer matching to verify social security and supplemental income information during Fiscal Year 1995. When HUD has demonstrated success in the computer matching process and is ready for large-scale implementation of the matching, HUD will, in coordination with SSA, inform entities that administer HUD assisted housing programs to discontinue use of the TPQS.

HUD will also use HUD/PIH-1 in reporting potential income disparities to tenants or the entities that administer HUD's assisted housing programs, as permitted under law. A notice of the HUD/SSA/IRS computer matching program concerning earned and unearned income, social security, and supplemental security income is published in today's **Federal Register**.

A report of HUD's intention to establish the system has been submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs, and the House Committee on Government Operations pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," July 25, 1994; 59 FR 37914.

**Authority:** 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of Housing and Urban Development Act (41 U.S.C. 3535(d)).

Issued at Washington, DC, April 20, 1995.

**Marilynn A. Davis,**

*Assistant Secretary for Administration.*

#### HUD/PIH-1

##### SYSTEM NAME:

Tenant Eligibility Verification Files.

##### SYSTEM LOCATION:

Headquarters.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants receiving housing assistance provided by programs administered by the Department of Housing and Urban Development, or information concerning those tenants obtained from other Federal or State agencies, housing agencies, owners, and management agents.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of: (1) Automated tenant data obtained from HUD's HUD/H-11, Tenant Housing Assistance and Contract Verification Data, published at 59 FR 6035; February 9, 1994, (two HUD automated systems—the Multifamily Tenant Certification System and the Tenant Rental Assistance Certification System—are the primary components of HUD/H-11); (2) automated tenant data provided by housing agencies, owners or management agents (generally these records are available in HUD/H-11); (3) automated earned income data that the SSA provides under 26 U.S.C. 6103(l)(7)(A); (4) automated unearned income data that the IRS provides to HUD under 26 U.S.C. 6103(l)(7)(B); (5) automated Title II (social security) and Title XVI (supplemental security income) data that the SSA provides to HUD under a routine use; (6) automated wage, salary and annuity data from State wage information collection agencies; (7) automated data from the Office of Personnel Management's General Personnel Records (OPM/GOVT-1), the Civil Service Retirement and Insurance Records System (OPM/Central-1); (8) the Department of Defense's Defense Manpower Data Center Data Base (S322.10.DMDC); (9) automated records from the SSA's Master Files of Social Security Number Holders, known as the Enumeration Verification System; (10) applications for housing assistance and other related documentation obtained from tenant case files maintained by housing agencies, owners, and management; (11) data received from employers confirming income or deductions supporting determinations of eligibility for, and the amount of, housing assistance benefits; (12) automated records provided by other Federal agencies for matching to tenant

data that may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive; (13) automated records provided by other Federal agencies under the investigative exclusion of the Computer Matching and Privacy Protection Act of 1988; and (14) automated records provided by housing agencies, owners and management agents regarding actions taken on computer matching results.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The records will be obtained to detect excessive assisted housing that tenants receive using income information as provided under sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993, Public Law, 103-66; and section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Public Law 100-628.

The Omnibus Budget Reconciliation Act of 1993, Public Law 103-66, permitted HUD to request from the Commissioner of the SSA and the Secretary of the Treasury, SSA and IRS earned and unearned income information, respectively, needed to verify the incomes of tenants who receive housing assistance. However, the Act precludes HUD from redisclosing that information to entities that administer HUD programs (i.e., housing agencies, owners and management agents). But the Act allows HUD to notify those entities that disparities exist between the tenant-reported incomes and income obtained from independent income sources, i.e., the SSA, the IRS or State wage data. HUD plans to identify disparities between tenant-reported and independent income source information, to notify tenants of disparities, and to request that the tenants disclose independent income source data to entities administering HUD programs.

The McKinney Amendments of 1988 authorized HUD to request wage and claim information from State agencies responsible for the administration of State unemployment law, to permit computer matching in HUD's rental assistance programs.

Section 165 of the Housing and Community Development Act of 1987, Public Law 100-242; the National Housing Act, 12 U.S.C. 1701-1750g authorizes HUD to require applicants and participants (including all members of their household six (6) years of age and older) in HUD-administered programs involving housing assistance to disclose to HUD their social security

numbers as a condition of initial or continuing eligibility for participation.

Applicable laws concerning HUD's assisted housing programs include: The United States Housing Act of 1937, 42 U.S.C. 1437-1437o; and section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

1. Records included in the system may be used in conducting computer matching to aid in the identification of tenants who have received excessive rental housing assistance.

2. Records that HUD obtains from the SSA and the IRS under the authority of 26 U.S.C. 6103(l)(7), may be disclosed only to the tenant/taxpayer, to HUD employees responsible for investigating or prosecuting such violation or enforcing or implementing a statute, rule or regulation, or as otherwise permitted under 26 U.S.C. 6103.

3. Records that indicate a potential violation of law, whether criminal, civil or regulatory in nature, except for records obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to the appropriate Federal, State or local agency charged with the responsibility for investigating or prosecuting such violation or enforcing or implementing a statute, rule or regulation.

4. Records, except for those obtained from the SSA or IRS under the authority of 26 U.S.C. 6103(l)(7), may be disclosed to a congressional office in response to an inquiry from that congressional office made at the request of the individual who is the subject of the records.

5. Records, with the exception of those obtained pursuant to 26 U.S.C. 6103(l)(7), may be disclosed to housing agencies, owners and management agents in order to assist them in determining tenants' eligibility for housing assistance, and the amount of that assistance and to facilitate recovery of money or property or other administrative actions, i.e., eviction, necessary to promote the integrity of programs.

6. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed during the course of an administrative proceeding where HUD or a housing agency, owner or management agent is a party to the litigation and disclosure is relevant and reasonably necessary to adjudicate the matter.

7. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to a Federal agency, in response to its

request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

8. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to a Federal agency to initiate Federal salary or annuity offsets as necessary to collect excessive housing assistance received by the tenant.

9. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), concerning an individual's receipt of excessive housing assistance, including the individual's actions to repay the same, may be disclosed to the Federal agency that employs such individual, for the purpose of notifying the employer of potential violation of the Standards of Ethical Conduct for Employees of the Executive Branch.

10. Records may be used to provide statistical information for use in evaluating the effectiveness of computer matching, income verification and related administrative or legal actions taken.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are stored manually in tenant case files and electronically in office automation equipment. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7)(A) and (B), may also be stored on mainframe computer facilities.

**RETRIEVABILITY:**

Records may be retrieved by manual or computer search of indices by the name, social security number, housing agency, owner or management agent.

**SAFEGUARDS:**

Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those persons whose official duties require access. Computer files and printed listings are maintained in locked cabinets. Computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated records is limited to authorized personnel who must use a password system to gain access. HUD will safeguard the SSA and the IRS records obtained pursuant to 26 U.S.C.

6103(l)(7)(A) and (B) in accordance with 26 U.S.C. 6103(p)(4) and the IRS's "Tax Information Security Guidelines for Federal, State and Local Agencies."

**RETENTION AND DISPOSAL:**

Only those computer files and printouts created from the computer matching that meet predetermined criteria are maintained. These records will be destroyed as soon as they have served the matching program's purpose. All other records will be destroyed as soon as possible within 1 year. Paper listings containing personal identifiers will be shredded. Computer source files provided by other organizations will be returned to those organizations or destroyed in accordance with computer matching agreements.

Except for tax return information that HUD may not redisclose to housing agencies, owners or agents, the information may be referred to housing agencies, owners or agents for administrative actions, i.e., recoupment of excessive housing assistance. Information obtained through computer matching and tenant case file reviews will be destroyed as soon as follow-up processing of this information is completed, unless the information is required for evidentiary reasons or needed by housing agencies, owners and agents for use in program eligibility determinations. When needed for evidentiary documentation, the information will be referred to the HUD Office of Inspector General (OIG) or other appropriate Federal, State or local agencies charged with the responsibility for investigating or prosecuting such violations. When referred to the HUD OIG the information then becomes a part of the Investigative Files of the Office of Inspector General, HUD/OIG-1.

**SYSTEM MANAGER AND ADDRESS:**

Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5156, Washington, DC. 20410.

**NOTIFICATION PROCEDURES:**

Records are generally exempt from Privacy Act access. However, the System Manager will give consideration to a request from an individual for notification of whether the system contains records pertaining to that individual.

**RECORD ACCESS PROCEDURES:**

Records are generally exempt from Privacy Act access. However, the System Manager will give consideration

to a request from an individual for access to records pertaining to that individual. The procedures for requesting access to records appear in 24 CFR part 16.

**CONTESTING RECORD PROCEDURES:**

Records are generally exempt from Privacy Act amendment or correction. However, the System Manager will give consideration to a request from an individual for amendment or correction of records pertaining to that individual. The procedures for amendment or correction of records appear in 24 CFR part 16.

**RECORD SOURCE CATEGORIES:**

The Assistant Secretary for Public and Indian Housing collects information from a variety of sources, including: Housing agencies, the Assistant Secretary for Housing-Federal Housing Commissioner (tenant information provided by owners and agents), State wage information collection agencies, other Federal and State agencies, law enforcement agencies, program participants, complainants, and other nongovernmental sources.

**EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:**

This system of records is exempt from the requirements of: subsections (c)(3), (d)(1), (d)(2) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2); and from the requirements of subsection (d)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

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**BILLING CODE 4210-01-P**

**[Docket No. N-95-3848; FR 3795-N-01]**

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

**AGENCY:** Office of the Assistant Secretary for Administration, HUD.

**ACTION:** Notice of matching program.

**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 announces a revised 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, and section 101 of the Housing and Community Development

Act of 1965. 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 housing authorities, 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:

(1) Adds Social Security Administration (SSA) and Internal Revenue Service (IRS) data concerning earned and unearned income to the matching program as independent sources for computer matching;

(2) Describes verification processes for the SSA and IRS matching that differ from processes previously used;

(3) Expands the matching to cover social security and supplemental social security income data maintained by the SSA; and

(4) Recognizes the transfer of computer matching/tenant income verification functions from HUD's Office of Inspector General to offices that administer the assisted housing programs. Those offices include the Office of the Assistant Secretary for Public and Indian Housing and the Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

This notice also sets forth new starting and ending dates for the matching program.

**EFFECTIVE DATES:** HUD anticipates that during the third quarter of calendar year 1995 it will: (a) Request that SSA and IRS conduct the initial computer matching, and (b) compare SSA and IRS matching results to its tenant data.

During the third quarter of calendar year 1995, HUD plans to initiate the tenant income verification process for a limited number of organizations that administer HUD assisted housing programs. HUD anticipates that the tenant income verification process will be expanded in Fiscal Year 1996 to include more organizations that administer HUD assisted housing programs. The projected dates for SSA and IRS matching are effective unless comments are received that result in a contrary determination, and HUD withdraws this notice.

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 (59 FR 37916; July 25, 1994). That section