

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 2003

[Docket No. FR-4575-P-02]

RIN 2508-AA11

**Implementation of the Privacy Act of
1974**

AGENCY: Office of Inspector General,
HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations of the Office of Inspector General (OIG) that implement the Privacy Act of 1974 to conform these regulations to the OIG's notice adding two new systems of records to the four systems of records already in existence.

DATES: *Comment Due Date:* July 21, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. 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: Bryan Saddler, Acting Counsel to the Inspector General, Room 8260, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 708-1613. (This is not a toll free number.) A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1-800-877-8339 (Federal Information Relay Services). (This is a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The Inspector General Act of 1978 (5 U.S.C. App. 3) was enacted to create independent and objective units to perform various investigative and monitoring functions in several Executive Agencies of the Federal Government, including the Department of Housing and Urban Development (HUD). This Act confers broad authority upon the Inspector General to conduct independent investigations, audits, and other activities. Consistent with its statutory independence, the OIG of HUD adopted separate regulations at 24 CFR Chapter XII. Chapter XII is applicable to such OIG matters as availability of

information to the public (part 2002) and production of information in response to subpoenas or demands of courts or other authorities (part 2004). See 57 FR 2225, January 21, 1992.

In June 1992, the Inspector General of HUD also adopted part 2003 of Chapter XII, for the purpose of implementing the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) with respect to OIG records. Part 2003 generally incorporated the Department's existing Privacy Act regulations (24 CFR part 16), but also contained a series of general and specific exemptions for three of OIG's four existing systems of records.

This proposed rule would amend these regulations consistent with the OIG notice, published elsewhere in this **Federal Register**, that adds two new systems of records to the four systems of records already in existence.

Findings and Certifications

Environmental Review

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this issuance is categorically excluded from environmental review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321).

Regulatory Flexibility Act

This rule would not create a significant economic impact on a substantial number of small entities. This rule is limited to proposing to make a conforming amendment to existing regulations.

While HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes any comments regarding alternatives to this rule that would meet HUD's objectives, as described in this preamble, and would be less burdensome to small entities.

Executive Order 13132, Federalism

This rule does not have Federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48, 64, codified at 2 U.S.C. 1531-1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

List of Subjects in 24 CFR Part 2003

Privacy.

Accordingly, 24 CFR chapter XII, part 2003, is proposed to be amended to read as follows:

**PART 2003—IMPLEMENTATION OF
THE PRIVACY ACT OF 1974**

1. The authority citation for part 2003 is revised to read as follows:

Authority: 5 U.S.C. 552a; 5 U.S.C. App. 3 (Inspector General Act of 1978); 42 U.S.C. 3535(d).

2. In § 2003.8, the introductory text of paragraph (a) is revised to read as follows:

§ 2003.8 General exemptions.

(a) The systems of records entitled "Investigative Files of the Office of Inspector General," "Hotline Complaint Files of the Office of Inspector General," "Name Indices System of the Office of Inspector General," and "AutoInvestigation of the Office of Inspector General" consist, in part, of information compiled by the OIG for the purpose of criminal law enforcement investigations. Therefore, to the extent that information in these systems falls within the scope of exemption (j)(2) of the Privacy Act, 5 U.S.C. 552a(j)(2), these systems of records are exempt from the requirements of the following subsections of the Privacy Act, for the reasons stated below.

* * * * *

3. In § 2003.9, the introductory text of paragraph (a) is revised, and paragraph (b) is revised, to read as follows:

§ 2003.9 Specific Exemptions.

(a) The systems of records entitled "Investigative Files of the Office of Inspector General," "Hotline Complaint Files of the Office of Inspector General," "Name Indices System of the Office of Inspector General," and "AutoInvestigation of the Office of Inspector General" consist, in part, of investigatory material compiled by the OIG for law enforcement purposes. Therefore, to the extent that information

in these systems falls within the coverage of exemption (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2), these systems of records are exempt from the requirements of the following subsections of the Privacy Act, for the reasons stated below.

* * * * *

(b) The systems of records entitled "Investigative Files of the Office of Inspector General," "Hotline Complaint Files of the Office of Inspector General," "Name Indices System of the Office of Inspector General," and "AutoInvestigation of the Office of

Inspector General" consist in part of investigatory material compiled by the OIG for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence. Therefore, to the extent that information in these systems fall within the coverage of exemption (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5), these systems of records are

exempt from the requirements of subsection (d)(1), because release would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. Revealing the identity of a confidential source could impede future cooperation by sources, and could result in harassment or harm to such sources.

Dated: April 25, 2000.

Susan Gaffney,

Inspector General.

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