

for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants.

Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists. Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by a licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. If payment has not been made by that time, the matter may be referred to the Attorney General, for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and
- (b) whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland, this 15th day of June 2010.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Director, Office of Enforcement.

[FR Doc. 2010-15198 Filed 6-22-10; 8:45 am]

BILLING CODE 7590-01-P

SMALL BUSINESS ADMINISTRATION

Privacy Act of 1974, Computer Matching Program—U.S. Small Business Administration and U.S. Department of Homeland Security, Federal Emergency Management Agency

AGENCY: Small Business Administration.

ACTION: Notice of computer matching program: U.S. Small Business Administration and U.S. Department of Homeland Security, Federal Emergency Management Agency.

SUMMARY: The U.S. Small Business Administration plans to participate as a source agency in a computer matching program with and U.S. Department of Homeland Security, Federal Emergency Management Agency. The purpose of this agreement is to set forth the terms under which a computer matching program will be conducted. The matching program will ensure that applicants for SBA Disaster loans and DHS/FEMA Other Needs Assistance have not received a duplication of benefits for the same disaster. This will be accomplished by matching specific DHS/FEMA disaster, as established in the computer matching agreement.

DATES: *Effective Date:* May 21, 2010.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Small Business Administration (SBA) and the Department of Homeland Security, Federal Emergency Management Agency (DHS/FEMA) have entered into this Computer Matching Agreement (Agreement) pursuant to section (o) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), and as amended by the Computer Matching Privacy Protection Act Amendments of 1990 (Pub. L. 101-508, 5 U.S.C. 552a(p) (1990)). For purposes of this Agreement, both SBA and DHS/FEMA are the recipient agency and the source agency as defined in 5 U.S.C. 552a(a)(9), (11). For this reason, the financial and administrative responsibilities will be evenly distributed between SBA and DHS/FEMA unless otherwise called out in this agreement.

II. Purpose and Legal Authority

A. Purpose of the Matching Program

The purpose of this Agreement is to set forth the terms under which a computer-matching program will be conducted. The matching program will ensure that applicants for SBA Disaster Loans and DHS/FEMA Other Needs Assistance have not received a duplication of benefits for the same disaster. This will be accomplished by matching specific DHS/FEMA disaster data with SBA disaster loan application and decision data for a declared disaster, as set forth in this Agreement.

B. Legal Authority

The legal authority for undertaking this matching program is contained in section 7(b)(1) of the Small Business Act (15 U.S.C. 636(b)(1)) and in section 312(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), which authorizes agencies to ensure that assistance provided by each is not duplicated by another source.

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), as amended, establishes procedural requirements for agencies to follow when engaging in computer-matching activities.

III. Justification and Expected Results

A. Justification

It is the policy of both SBA and DHS/FEMA that the agencies will not provide disaster assistance or loan funds to individuals or businesses that have already received benefits from another source for the same disaster. One way to accomplish this objective is to conduct a computer-matching program between the agencies and compare the data of individuals, businesses, or other entities that may have received duplicative aid for a specific disaster from SBA and DHS/FEMA.

It is also recognized that the programs covered by this Agreement are part of a Government-wide initiative (Executive Order 13411 Improving Assistance for Disaster Victims, dated August 29, 2006) to identify duplication of benefits received by individuals, businesses, or other entities for the same disaster. That initiative and this matching program are consistent with Office of Management and Budget (OMB) guidance on interpreting the provisions of the Computer Matching and Privacy Protection Act of 1988 (54 FR 25818, June 19, 1989); and OMB Circular A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals,"

instructions on Federal agency responsibilities for maintaining records about individuals.

B. Expected Results

In processing applications for assistance for both DHS/FEMA and SBA, there are several scenarios where duplicate partial or full applications are received. For example, a husband and wife may both apply for assistance, not knowing the other had done so; a person may apply to both DHS/FEMA and SBA; or system failures may abort a registration while in progress and generate a duplicate registration when the person returns to try again, to name a few.

Based on historical data, DHS/FEMA and SBA anticipate that the computer match will reveal instances where such duplication results in excessive or duplicate assistance payments. For example, DHS/FEMA received 2,160,284 registrations in response to hurricanes Katrina and Rita, and referred 67,023 of those registrations to SBA as potential duplicates. Excluding the Katrina and Rita disasters, DHS/FEMA received 7,070,068 registrations from 1998-2009, and referred 13,809 potential duplicates to SBA. The data illustrates that the number of possible duplicates, while typically a low percentage of total registrations, could rise or fall based on a change in the volume of referrals. The data suggests that the expected results of the match are difficult to quantify precisely due to the unpredictable nature of disasters.

IV. Records Description

A. Systems of Records and Estimated Number of Records Involved

DHS/FEMA accesses records from its DHS/FEMA 008—Disaster Recovery Assistance Files (September 24, 2009, 74 FR 48763) system of records through its National Emergency Management Information System (NEMIS), and matches them to the records that SBA provides from its SBA—020 Disaster Loan Case Files (April 1, 2009, 74 FR 14911) system of records. SBA uses its Disaster Credit Management System (DCMS) to access records from its SBA—020 Disaster Loan Case Files (April 1, 2009, 74 FR 14911) system of records and match them to the records that DHS/FEMA provides from its DHS/FEMA 008—Disaster Recovery Assistance Files (September 24, 2009, 74 FR 48763) system of records. Under this agreement, DHS/FEMA and SBA exchange data for: (1) Initial registrations; (2) to update the SBA loan status, and (3) to check for a duplication of benefits.

1. For the initial registration match, SBA is the recipient of data from DHS/FEMA. DHS/FEMA will extract and provide to SBA the following information: Registrant data; registration data; registration damage; insurance policy data; registration occupants' data; registration vehicles data; National Flood Insurance Reform Act of 1994 registration data; and registration flood zone data.

2. For the Duplication of Benefits Match, SBA is the recipient of data from DHS/FEMA. DHS/FEMA will extract and provide to SBA the following information for the Automated Duplication of Benefits Interface: Registrant and damaged property data; home application assistance data; "other assistance" data; verification data; and inspection data.

3. For the Status Update match, DHS/FEMA is the recipient of data from SBA. SBA will extract and provide to DHS/FEMA personal information about SBA applicants; application data; loss to personal property data; loss mitigation data; SBA loan data; and SBA event data.

4. *Estimated number of records.* A definitive answer cannot be given as to how many records will be matched as it will depend on the number of individuals, businesses or other entities that suffer damage from a declared disaster and that ultimately apply for Federal disaster aid.

B. Description of the Match

1. *DHS/FEMA—SBA automated import/export process for initial registrations.* SBA is the recipient (i.e. matching) agency. SBA will match records from its SBA—020 Disaster Loan Case Files system of records (April 1, 2009, 74 FR 14911) and non-disaster related applications accessed via the Disaster Credit Management System (DCMS), to the records extracted and provided by DHS/FEMA from its DHS/FEMA 008—Disaster Recovery Assistance Files system of records (September 24, 2009, 74 FR 48763). DHS/FEMA will provide to SBA the following information: Personal information about the disaster assistance registrant; disaster assistance registration data; property damage data; insurance policy data; property occupant data; vehicle registration data; National Flood Insurance Program data; and Flood Zone data. SBA will conduct the match using the FEMA Disaster ID Number, FEMA Registration ID Number, Product (Home/Business) and Registration Occupant Social Security Number to create a New Pre-Application. The records SBA receives are deemed to be DHS/FEMA registrants

who are referred to SBA for disaster loan assistance. Controls on the DHS/FEMA export of data should ensure that SBA only receives unique and valid referral records.

When SBA matches its records to those provided by DHS/FEMA, two types of matches are possible: A full match and a partial match. A full match exists when an SBA record matches a DHS/FEMA record on each of the following data fields: FEMA Disaster ID Number, FEMA Registration ID Number, Product (Home/Business), and Registration Occupant Social Security Number. A partial match exists when an SBA record matches a DHS/FEMA record on one or more, but not all, of the data fields listed above. If either a full or partial match is found during this process, the record is placed in a separate queue for manual examination, investigation, and resolution. Non-matched records, those for which no SBA registration is found for a given DHS/FEMA registration, are placed into the regular Pre-Application Queue.

2. DHS/FEMA—SBA duplication of benefits automated match process. Both DHS/FEMA and SBA will act as the recipient (i.e. matching) agency. SBA will extract and provide to DHS/FEMA data from its SBA-020 Disaster Loan Case File system of records (April 1, 2009, 74 FR 14911), accessed via the DCMS. DHS/FEMA will match the data SBA provides to records in its DHS/FEMA-008 Disaster Recovery Assistance Files system of records (September 24, 2009, 74 FR 48763), accessed via NEMIS, on the FEMA Registration ID Number. SBA will issue a data call to FEMA requesting that FEMA return any records in NEMIS for which a match was found. For each match found, FEMA sends all of its applicant information to SBA so that SBA may match these records with its registrant data in the DCMS. SBA's DCMS manual process triggers an automated interface to query NEMIS using the FEMA Registration ID Number as the unique identifier. DHS/FEMA will return the fields described below for the matching DHS/FEMA record, if any, and no result when the FEMA Registration ID Number is not matched. DHS/FEMA will provide the FEMA Disaster Number, FEMA Registration Identifier, Registrant and Co-registrant Name, Mailing Address, Phone Number, Social Security Number, Damaged Property data, National Flood Insurance Reform Act data, Flood Zone data, FEMA Housing Assistance and other Assistance data, Program, Award Level, Eligibility, and Approval or Rejection data. SBA will then proceed with its duplication of benefits determination.

3. DHS/FEMA—SBA status update automated match process. DHS/FEMA will act as the recipient (i.e. matching) agency. DHS/FEMA will match records from its DHS/FEMA 008—Disaster Recovery Assistance Files system of records (September 24, 2009, 74 FR 48763), to the records extracted and provided by SBA from its SBA-020 Disaster Loan Case File system of records (April 1, 2009, 74 FR 14911). The purpose of this process is to update DHS/FEMA registrant information with the status of SBA loan determinations for said registrants. The records provided by SBA will be automatically imported into NEMIS to update the status of existing registration records. The records DHS/FEMA receives from SBA are deemed to be DHS/FEMA registrants who were referred to SBA for disaster loan assistance. Controls on the SBA export of data should ensure that DHS/FEMA only receives unique and valid referral records.

SBA will provide to DHS/FEMA the following information: Personal information about SBA applicants; application data; loss to personal property data; loss mitigation data; SBA loan data; and SBA event data. DHS/FEMA will conduct the match using FEMA Disaster Number, and FEMA Registration ID Number. Loan data for matched records will be recorded and displayed in NEMIS. Loan data will also be run through NEMIS business rules; potentially duplicative categories of assistance are sent to the National Processing Service Centers Program Review process for manual evaluation of any duplication of benefits.

C. Projected Starting and Completion Dates

This Agreement will take effect 40 days from the date copies of this signed Agreement are sent to both Houses of Congress or 30 days from the date the Computer Matching Notice is published in the **Federal Register**, whichever is later, depending on whether comments are received which would result in a contrary determination (Commencement Date). SBA is the agency that will:

1. Transmit this agreement to Congress.
2. Notify OMB.
3. Publish the Computer Matching Notice in the **Federal Register**.
4. Address public comments that may result from publication in the **Federal Register**.

Matches under this program will be conducted for every Presidential disaster declaration.

V. Notice Procedures

A. DHS/FEMA Recipients

FEMA Form 90-69 "Application/Registration for Disaster Assistance," Form 90-69B "Declaration and Release" (both included in OMB No. 1660-0002), and various other forms used for financial assistance benefits immediately following a declared disaster, use a Privacy Act statement to provide notice to applicants regarding the use of their information. The Privacy Act statements provide notice of computer matching or the sharing of their records consistent with this Agreement. The Privacy Act statement is read to call center applicants and is displayed and agreed to by Internet applicants. Also, FEMA Form 90-69B requires the applicant's signature in order to receive financial assistance. Additionally, the Federal Emergency Management Agency Disaster Assistance Improvement Program Privacy Impact Assessment and Department of Homeland Security Federal Emergency Management Agency-008 Disaster Recovery Assistance Files System of Records Notice (September 24, 2009, 74 FR 48763) provide public notice.

B. SBA Recipients

SBA Forms 5 "Disaster Business Loan Application," 5C "Disaster Home Loan Application" and the Electronic Loan Application (ELA) include notice to all applicants that in the event of duplication of benefits from DHS/FEMA or any other source, the Agency may verify eligibility through a computer matching program with another Federal or state agency and reduce the amount of the applicant's loan. All applicants are required to acknowledge that they have received this notification. Additionally, the Small Business Administration Disaster Credit Management System Privacy Impact Assessment and Small Business Administration-020 Disaster Loan Case File system of records (April 1, 2009, 74 FR 14911) provide public notice.

VI. Verification Procedure

A. DHS/FEMA—SBA Automated Import/Export Process for Initial Registrations

The matching program for the initial contact information for individuals and businesses will be accomplished by mapping registrant data for DHS/FEMA fields described earlier to the Disaster Credit Management System application data fields. During the automated import process, a computer match is performed against existing Disaster Credit Management System

Applications as described in the Section IV.1. FEMA's system of record for the registration data is known as Department of Homeland Security Federal Emergency Management Agency—008 Disaster Recovery Assistance Files system of records (September 24, 2009, 74 FR 48763).

If the registrant's data does not match an existing Pre-Application or Application in the SBA's Disaster Credit Management System, then the registrant's data will be inserted into the Disaster Credit Management System to create a new Pre-Application and an SBA application for disaster assistance may be mailed to the registrant. If the registrant's data does match an existing Pre-Application or Application in SBA's Disaster Credit Management System, it indicates that there may be an existing Pre-Application/Application for the registrant in the Disaster Credit Management System. The system will insert the record within the SBA's Disaster Credit Management System but will identify it as a potential duplicate. This will be further reviewed by SBA employees to determine whether the data reported by the DHS/FEMA registrant is a duplicate of previously submitted registration information. Duplicate Pre-Applications or Applications will not be processed. DHS/FEMA takes steps to ensure that only valid and unique registrants are referred to SBA through the computer matching process.

B. DHS/FEMA-SBA Duplication of Benefits Automated Match Process

The matching program is to ensure that recipients of SBA Disaster Loans have not received duplicative benefits for the same disaster from DHS/FEMA. This will be accomplished by matching the DHS/FEMA Registration ID Number. If the data matches, specific to the application or approved loan, the dollar values for the benefits issued by DHS/FEMA may reduce the eligible amount of the disaster loan or may cause SBA loan proceeds to be used to repay the grant program in the amount of the duplicated assistance.

DHS/FEMA and SBA are responsible for verifying the submissions of data used during each respective benefit process and for resolving any discrepancies or inconsistencies on an individual basis. Authorized users of both the Disaster Credit Management System and National Emergency Management Information System will not make a final decision to reduce benefits of any financial assistance to an applicant or take other adverse action against such applicant as the result of information produced by this matching

program until an employee of the agency taking such action has independently verified such information.

The matching program for duplication of benefits will be executed as part of loan processing and prior to each disbursement on an approved SBA disaster loan. Any match indicating that there is a possible duplicated benefit will be further reviewed by an SBA employee to determine whether the FEMA grant monies reported by the applicant or borrower are correct and matches the data reported by DHS/FEMA. If there is a duplication of benefits, the amount of the SBA disaster loan will be reduced accordingly after providing applicant with written notice of the changes, by processing a loan modification to reduce the loan amount or, where appropriate, by using the SBA loan proceeds to repay the FEMA grant program.

VII. Disposition of Matched Items

After a computer match has been performed, records of applicants that are not identified as being a recipient of both DHS/FEMA and SBA benefits will be eliminated from the Disaster Credit Management System and destroyed. Other identifiable records that may be created by SBA or DHS/FEMA during the course of the matching program will be destroyed as soon as they have served the matching program's purpose, and under any legal retention requirements established in conjunction with the National Archives and Records Administration or other authority. Destruction will be by shredding, burning or electronic erasure, as appropriate.

Neither SBA nor DHS/FEMA will create a separate permanent file consisting of information resulting from the specific matching programs covered by this Agreement except as necessary to monitor the results of the matching program. Information generated through the matches will be destroyed as soon as follow-up processing from the matches has been completed unless the information is required to be preserved by the evidentiary process.

VIII. Security Procedures

SBA and DHS/FEMA agree to the following information security procedures:

A. Administrative. The privacy of the subject individuals will be protected by strict adherence to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). SBA and DHS/FEMA agree that data exchange and any records created during the course of this matching program will be maintained and

safeguarded by each agency in such a manner as to restrict access to only those individuals, including contractors, who have a legitimate need to see them in order to accomplish the matching program's purpose. Persons with authorized access to the information will be made aware of their responsibilities pursuant to this Agreement.

B. Technical. DHS/FEMA will transmit the data (specified in this Agreement) to SBA via the following process:

1. SBA will pull application data from FEMA Disaster Assistance Center (DAC) via a Web services based Simple Object Access Protocol, Extensible Markup Language/Hypertext Transfer Protocol Secure request. The data will be used to create applications inside the Disaster Credit Management System. For each record, a response will be sent back to FEMA DAC indicating success or failure.

The SBA/Disaster Credit Management System to DHS/FEMA Disaster Assistance Center export of referral data (specified in this Agreement) will occur via a Web services based Simple Object Access Protocol, Extensible Markup Language/Hypertext Transfer Protocol Secure request.

The DHS/FEMA Duplication of Benefits Interface will be initiated from the Disaster Credit Management System to the DHS/FEMA Disaster Recovery Assistance-National Emergency Management Information System through a secured Virtual Private Network tunnel, open only to SBA domain Internet Protocol addresses. The results of the query are returned to the Disaster Credit Management System in real-time and populated in the Disaster Credit Management System for delegated SBA staff to use in the determination of duplication of benefits.

C. Physical. SBA and DHS/FEMA agree to maintain all automated matching records in a secured computer environment that includes the use of authorized access codes (passwords) to restrict access. Those records will be maintained under conditions that restrict access to persons who need them in connection with official duties related to the matching process.

D. On-Site inspections. SBA and DHS/FEMA may make on-site inspections of the other agency's recordkeeping and security practices, or make provisions beyond those in this Agreement to ensure adequate safeguarding of records exchanged.

IX. Records Usage, Duplication and Rediscovery Restrictions

SBA and DHS/FEMA agree to the following restrictions on use, duplication, and disclosure of information furnished by the other agency.

A. Records obtained for this matching program or created by the match will not be disclosed outside the agency except as may be essential to conduct the matching program, or as may be required by law. Each agency will obtain the written permission of the other agency before making such disclosure (see routine uses in Department of Homeland Security Federal Emergency Management Agency—008 Disaster Recovery Assistance Files system of records (September 24, 2009, 74 FR 48763) and Small Business Administration—020 Disaster Loan Case File system of records (April 1, 2009, 74 FR 14911)).

B. Records obtained for this matching program or created by the match will not be disseminated within the agency except on a need-to-know basis, nor will they be used for any purpose other than that expressly described in this Agreement. Information concerning “non-matching” individuals, businesses or other entities will not be used or disclosed by either agency for any purpose.

C. Data or information exchanged will not be duplicated unless essential to the conduct of the matching program. All stipulations in this Agreement will apply to any duplication.

D. If required to disclose these records to a state or local agency or to a government contractor in order to accomplish the matching program's purpose, each agency will obtain the written agreement of that entity to abide by the terms of this Agreement.

E. Each agency will keep an accounting of disclosure of an individual's record as required by section 552a(c) of the Privacy Act and will make the accounting available upon request by the individual or other agency.

X. Records Accuracy Assessments

DHS/FEMA and SBA attest that the quality of the specific records to be used in this matching program is assessed to be at least 99% accurate. The possibility of any erroneous match is extremely small.

In order to apply for assistance online via the Disaster Assistance Center (DAC) portal an applicant's name, address, Social Security Number, and date of birth are sent to a commercial database provider to perform identity

verification. The identity verification ensures that a person exists with the provided credentials. In the rare instances where the applicant's identity is not verified online or the applicant chooses, the applicants must call one of the DHS/FEMA call centers to complete the registrations. The identity verification process is performed again. Depending on rare circumstances, an applicant is allowed to register using an ersatz Social Security Number. Applicants must update their Social Security Number and pass the identity verification to obtain assistance.

XI. Comptroller General Access

The parties authorize the Comptroller General of the United States, upon request, to have access to all SBA and DHS/FEMA records necessary to monitor or verify compliance with this matching agreement. This matching agreement also authorizes the Comptroller General to inspect any records used in the matching process that are covered by this matching agreement. (31 U.S.C. 717 and 5 U.S.C. 552a(b)(10)).

XII. Duration of Agreement

The Agreement may be renewed, terminated or modified as follows:

A. *Renewal or Termination.* This Agreement will become effective in accordance with the terms set forth in paragraph IV.C and will remain in effect for 18 months from the commencement date. At the end of this period, this Agreement may be renewed for a period of up to one additional year if the Data Integrity Board of each agency determines within three months before the expiration date of this Agreement that the program has been conducted in accordance with this Agreement and will continue to be conducted without change. Either agency not wishing to renew this Agreement should notify the other in writing of its intention not to renew at least three months before the expiration date of this Agreement. Either agency wishing to terminate this Agreement before its expiration date should notify the other in writing of its wish to terminate and the desired date of termination.

B. *Modification of the Agreement.* This Agreement may be modified at any time in writing if the written modification conforms to the requirements of the Privacy Act and receives approval by the participant agency Data Integrity Boards.

XIII. Reimbursement of Matching Costs

SBA and DHS/FEMA will bear their own costs for this program.

XIV. Data Integrity Board Review/Approval

SBA and DHS/FEMA's Data Integrity Boards will review and approve this Agreement prior to the implementation of this matching program. Disapproval by either Data Integrity Board may be appealed in accordance with the provisions of the Computer Matching and Privacy Protection Act of 1988, as amended. Further, the Data Integrity Boards will perform an annual review of this matching program. SBA and DHS/FEMA agree to notify the Chairs of each Data Integrity Board of any changes to or termination of this Agreement.

XV. Points of Contacts and Approvals

For general information please contact: Thomas R. McQuillan (202-646-3323), Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security; and Ethel Matthews (202-205-7173), Senior Privacy Advisor, Office of the Chief Information Officer, Small Business Administration.

Paul T. Christy,

Acting Chief Information Officer/Chief Privacy Officer.

[FR Doc. 2010-15113 Filed 6-22-10; 8:45 am]

BILLING CODE 8025-01-P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Partially Closed Meeting of the President's Council of Advisors on Science and Technology

ACTION: Public Notice.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C., App.

DATES: July 16, 2010.

ADDRESSES: The meeting will be held at the Keck Center of the National Academies, 500 5th Street, NW., Room Keck 100, Washington, DC.

Type of Meeting: Open and Closed.
Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on July 16, 2010 from 10 a.m.–5 p.m. with a lunch break from 12:30 p.m. to 2 p.m.

Open Portion of Meeting: During this open meeting, PCAST is tentatively scheduled to hear presentations on space policy and science, technology,

SMALL BUSINESS ADMINISTRATION

SBA NOTICE

TO: MANAGEMENT BOARD MEMBERS

NOTICE NO.

9000-574

EFFECTIVE

9/1/89

SUBJECT: Computer Matching and Privacy Protection Act
Implementation

The Computer Matching and Privacy Protection Act of 1988, P.L. 100-503, is an amendment to the Privacy Act of 1974. It establishes procedural safeguards affecting agencies' use of Privacy Act records in performing certain types of computerized matching programs. The Act requires agencies to conclude written agreements specifying the terms under which matches are to be done. It also provides due process rights for record subjects to prevent agencies from taking adverse actions unless they have independently verified the results of the match and given the subject 30 days advance notice. Oversight is accomplished in a variety of ways: by having agencies (a) publish matching agreements, (b) report matching programs to OMB and Congress; and (c) establish internal boards to approve their matching activity. The effective date of the Act is January 1, 1990.

As stated above, the Act requires each Federal agency that acts as either a source or recipient of data in a computerized matching program to establish a Data Integrity Board consisting of senior agency officials designated by the agency head to oversee the agency's participation. Two board members are mandated by the Act. They are the agency's Inspector General and the senior official responsible for the implementation of the Privacy Act. The Board will be composed of the Associate Deputy Administrator for Management and Administration (Chairperson), the Assistant Administrator for Hearings and Appeals (Secretary), the Inspector General, the General Counsel, and the Assistant Administrator for Information Resources Management. Respective program managers will participate in an advisory capacity as needed for computer matches involving their program area.

The Board is responsible for approving or disapproving all computerized matching agreements involving SBA data. It must review the matching agreement that supports each proposed matching program and determine if it is in conformance with the provisions of the Act, as well as with any other relevant

EXPIRES 3/1/90

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SBA Form 1353 (3-83)

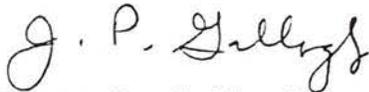
HEARINGS AND APPEALS
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RECEIVED

The Board has the responsibility for approving or disapproving computerized matching agreements. It must review the matching agreement that supports each proposed matching program and determine if it is in conformance with the provisions of the Act, as well as with any other relevant statutes, regulations, or guidelines. While some of the work of the Board may be delegated - for example, the compilation of reports, advising program officials and maintaining and disseminating information about the reliability of the data used in the matching - the approval of the matching agreements may not be delegated.

The Data Integrity Board should meet as needed to ensure that SBA matching programs are carried out efficiently, expeditiously and in conformance with the Act. However, the Board must conduct an annual review of all matching programs in which SBA has participated as either a source or recipient agency. The Board will also report on whether the matches are in compliance with the matching agreements and on the effectiveness of the program to the agency in terms of costs and benefits. The reporting requirements will be defined in a revision to Appendix I of OMB Circular No. A-130, "Management of Federal Information Resources".



James P. Gallogly

1. Recommendation: Establish an SBA Data Integrity Board to implement and carry out the provisions of the Computer Matching and Privacy Protection Act of 1988, P.L. 100-503.

Approved _____

Disapproved _____

Date _____

2. Recommendation: The Board will be composed of the Associate Deputy Administrator for Management and Administration (Chairperson), the Assistant Administrator for Hearings and Appeals (Secretary), the Inspector General, the General Counsel and the Assistant Administrator for Information Resources Management. Respective program managers will participate in an advisory capacity as needed for computer matches involving their program area.

Approved _____

Disapproved _____

Date _____

3. Recommendation: The Board will meet as required, but at least annually, to review and report on the Agency's compliance with the Act. The Board will also ensure that any external reporting requirements of the Act are met.

Approved _____

Disapproved _____

Date _____

Monday
June 19, 1989

STREETS
FRONT
STREETS
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Part III

**Office of
Management and
Budget**

Privacy Act of 1974; Final Guidance
Interpreting the Provisions of Public Law
100-503, Computer Matching and Privacy
Act of 1988; Notices

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988

AGENCY: Office of Management and Budget.

ACTION: Issuance of final guidance.

SUMMARY: These Guidelines implement the provisions of Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988. This Act amends the Privacy Act of 1974 to establish procedural safeguards affecting agencies' use of Privacy Act records in performing certain types of computerized matching programs. The Act requires agencies to conclude written agreements specifying the terms under which matches are to be done. It also provides due process rights for record subjects to prevent agencies from taking adverse actions unless they have independently verified the results of a match and given the subject 30 days advance notice. Oversight is accomplished in a variety of ways: by having agencies (a) publish matching agreements, (b) report matching programs to OMB and Congress; and (c) establish internal boards to approve their matching activity. The Act becomes effective on July 19, 1989.

EFFECTIVE DATE: These Guidelines are effective June 19, 1989.

FOR FURTHER INFORMATION CONTACT: Robert N. Veeder, Office of Management and Budget, Office of Information and Regulatory Affairs, Information Policy Branch, Telephone (202) 395-4814.

SUPPLEMENTARY INFORMATION: Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988 was enacted on October 18, 1988. It will become effective on July 19, 1989. The Act requires OMB to issue guidance on interpreting and implementing its provisions no later than the eighth month after enactment, or June 19, 1989.

On April 19, 1989, OMB published for public comment proposed interpretive guidance. The notice especially invited comment on the applicability of the Act to two examples of matching activity:

- The entering of information received orally into an automated data base for the purpose of determining eligibility for a Federal benefit;
- The automation by a Federal agency of data from a Federal non-automated system of records.

The proposal also solicited examples of routine administrative matches using Federal personnel or payroll records that should be excluded from the Act's

coverage, and matches for which Data Integrity Boards should waive the Act's benefit/cost requirement.

At the expiration of the comment period, OMB had received comments from 42 respondents. These fell into five categories:

- The Congress (2)
- Federal agencies (24)
- State agencies (14)
- Public Interest Groups (1)
- Public Employee Unions (1)

In addition to providing comments on the specific areas requested, most commentators also chose to comment more broadly on the guidance.

Although the following guidance is published in final form, OMB realizes that the implementation of this complex Act will undoubtedly require the issuance of additional and clarifying guidance and intends to monitor the agencies implementation closely to that end.

Section By Section Analysis

Section 5a(1)(a)—Matching Program Definition

Caution Against Eluding the Act's Requirements

Several commentators advised OMB to explicitly warn agencies, both Federal and State, against engaging in sophistry or subterfuge, to avoid the reach of the Act. They pointed out, for example, that a Federal agency might combine two disparate systems of records containing payroll and personnel records of Federal employees into a single system and match data sets within the new system. This activity would not be covered, although a match between the two separate systems would have been. In other cases, agencies might convert automated records to paper records to perform a manual match, albeit one of more limited scope. OMB thinks these recommendations are pertinent and has added cautionary advice to the matching program definition section to caution agencies not to engage in activities intended to frustrate the normal application of the Act.

Distinction Between Federal to Federal and Federal to Non-federal Matches

OMB, in making a literal interpretation of the statutory definition of a matching program, distinguished between Federal-to-Federal and Federal-to-non-Federal matches. In the former case, the necessary components were that there were two or more automated systems of records and that the comparison of records in these systems was done via a computer. This is essentially the classic definition of a matching program that OMB put forth in

guidance issued in 1979 and revised in 1982. It is the definition that the General Accounting Office has asserted in its study of the costs and benefits of conducting matching programs: Computer Matching: Assessing its Costs and Benefits, GAO/PEMD-87-2, November 1986.

In defining the Federal/non-Federal match, however, OMB read the statute as applying to both automated and non-automated records so long as the comparison was done via computer. Several commentators objected to placing a heavier administrative burden on State and local agencies engaged in matching with Federal agencies than on Federal agencies matching with each other. One commentator suggested that the OMB reading was in error and that the modifier "automated" could properly and reasonably be read as modifying all of the data bases involved.

Other commentators pointed out that the clear intent of the Act was to deal with situations where large numbers of individuals were subjected to automated scrutiny with potentially adverse consequences, and that in actual practice, that meant automated comparisons of automated data bases. Certainly the Privacy Act itself contains an expression of Congressional concern on precisely this point: that use of computers could "greatly magnify the harm" to an individual.

After careful consideration of these arguments, OMB has revised the definition to clarify that in both Federal-to-Federal and Federal-to-non-Federal matching programs what is involved is the automated comparison of two or more automated record sets, whether systems of records or non-Federal records. In taking this position, OMB is extremely concerned that agencies not adopt data exchange practices that deliberately avoid the reach of the Act where compliance would otherwise be required. The guidance has been revised to cite this concern and give examples of such improper practices.

State Agencies' Concerns

A number of State respondents asserted that matches between the Social Security Administration and State agencies in which SSA merely provided information with which to update a benefits file to reflect an across-the-board cost-of-living allowance change should not be considered a matching program under the Act. They asserted that the match, if one occurred, was really done at SSA, and disclosure to the States of COLA information did not involve a computerized comparison of two

independent record sources. OMB is sympathetic to the concerns of the States, but unpersuaded by this analysis. The record as maintained by the state agency is a State record, not a Federal record. The matching process involves comparing information provided by a Federal source to that record using a computer to perform the comparison. There are potentially adverse consequences for the record subject. Eligibility for a Federal benefit program is involved. Clearly, this is a Federal-to-non-Federal matching program contemplated by the Act.

It should be noted that States are free to update their files for across-the-board cost-of-living adjustments without matching with Federal records. Since the COLA percentages are known in advance, are uniform, and are automatic, States can compute these COLA's themselves. Actions taken based on benefit levels recomputed by the States without the involvement of a Federal system of records matching program would be subject to the laws and regulations governing such programs rather than the Matching Act.

An additional State concern relates to how to conduct the independent verification required by the Act for these kinds of matches. That is discussed below.

Entering of Information Received Orally

A final consideration in the definition of what constitutes a matching program for purposes of the Act is the response of the commentators to specific questions OMB raised in its proposed guidance. Specifically, we asked whether when a State benefits clerk takes information received orally from an applicant and enters it into an automated Federal Privacy Act system of records the provisions of the Matching Act come into play. A majority of respondents thought that to the extent that no record existed at the State level, such a query would not be covered. However, if the query produced a record that the State would ultimately maintain, it was covered. Since it is unlikely that a State would never memorialize such a query, this issue is perhaps more academic than real. In any case, the guidance has been amended to add this example.

Section 5a(1)(d)—Matching Purpose Elements of Matching Purpose

Several commentators found OMB's discussion of the elements of the purpose section less clear than OMB intended. The section has been redrafted.

Ultimate Purpose

Two commentators took exception to OMB's assertion that peripheral consequences of a matching program, even if having an ultimate adverse result, could be discounted in determining whether a match was covered. They urged instead that OMB broadly construe the purpose section to take in the ultimate purpose of the match (by which OMB assumes they mean any ultimate consequence, whether intended or unintended). OMB is unpersuaded by this rationale. The thrust of the Act is to cover matching programs whose purpose is clear and deliberate and intended to accomplish one of three stated purposes: to determine eligibility for a Federal benefit, compliance with benefit program requirements, or to effect recovery of improper payments or delinquent debts from current or former beneficiaries. The more tenuous the nexus between the operation of the program and these purposes is the harder it is to find any applicability of the Act. Having said that, however, OMB remains concerned that agencies not avoid the reach of the Act by disguising the real purpose of their matching programs.

Section 5a(3)—Exclusions From the Matching Definition

Statistical Matches for Research Purposes

Two commentators criticized the inclusion of "pilot matches" in this excluded category. In the past, agencies have done pilot matches using a small data subset to determine whether it would be productive to perform a match of the entire dataset. Given the requirement in the Act for benefit/cost analysis, OMB thinks that pilot matches are a reasonable approach to determining whether to engage in a broader matching activity. OMB does not think that this kind of information gathering activity should be subject to the administrative requirements that attach to regular matches so long as the agency keeps these matches solely in a statistical information gathering channel. Nevertheless, OMB is sensitive to the concerns raised and has amended the guidance to require Data Integrity Board approval of all pilot matches. It is at this point that the Board can decide whether to conduct a matching program and comply with the Act's full requirements, or a pilot program. If a full matching program, the results of the match may be used to take adverse action. If a pilot program, they may not.

Law Enforcement Agency Exclusion

One agency recommended that the guidance specifically cite the Inspector General (IG) as a law enforcement agency. OMB failed to realize that commentators would be unaware that the Inspector General Act gave the Inspector criminal law enforcement responsibilities. While we are hesitant to include a comprehensive list of eligibles we have amended the guidance to cite that part of the IG office that performs criminal law enforcement activities as eligible for the exclusion.

Two commentators were concerned that the proposed guidance on the law enforcement exclusion was too brief. OMB has expanded the discussion in the final version to make it clear that that exception may only be taken by an agency or component that is designated by statute (either Federal or State) as having a criminal law enforcement responsibility as its primary purpose and that it may only claim the exclusion after the initiation of an investigation of a named person or persons in order to gather evidence.

Routine Administrative Matches Involving Federal Personnel Records

One commentator suggested that OMB define the word "predominantly" as used in the exclusion. OMB has included a definition of this word to mean that the data base either be established to contain records about Federal employees, or that the majority of records in the data base be about such employees.

Two commentators urged that OMB provide additional examples of what is covered by the exclusion. OMB has amended the guidance to reflect this consideration.

Section 5a(1)(c)—Federal Benefit Program

Former Beneficiaries

One commentator noted that the guidance was silent as to the Act's coverage of former beneficiaries and urged that OMB explicitly cite them. OMB agrees. The Act provides as one of its purposes the recouping of Federal benefits payments. Certainly this process could involve those who are no longer beneficiaries but remain in default. The guidance has been amended to include this category of beneficiaries.

Section 5a,b,c—Agency Responsibilities/Definitions

Expand Discussion of Agencies' Roles/Responsibilities

Several commentators suggested that OMB expand the definition section to clarify the roles and responsibilities of the recipient, source, and Non-Federal agencies, especially in terms of which is responsible for publishing matching notices in the Federal Register. OMB agrees and has expanded this section.

Section 6a—Giving Prior Notice

Direct Notice Only

One commentator strongly urged OMB to state that the Act requires direct notice to the record subject, and that Federal Register constructive notice is insufficient to meet this requirement. OMB has considered this comment, and agrees that the section requires direct notice at the time of application. It does not, however, require direct notice at other times. Examination of the statutory wording shows that the Act calls merely for "notice" subsequent to the direct notice at the time of application. This is understandable, since the point at which it is most critical to provide notice is at the point when the individual has the option of providing or withholding information. Notice at this point permits the applicant to make an informed choice about participating. Moreover, for matching programs whose purpose is to locate individuals in order, for example, to recoup payments improperly granted, direct notice may well be impossible. OMB thinks that the guidance as written gives agencies the flexibility to deal with the many circumstances involved in conducting matching programs. However, OMB intends to monitor agencies' activities to ensure that constructive notice does not become an administratively convenient substitute for direct notice when direct notice is achievable without an unreasonable expenditure of resources.

Cite Section (e)(3) Requirement

Two commentators cited the Privacy Act's (e)(3) notice as one appropriate place for the matching notice and urged OMB to cite it as such in the guidance. OMB agrees and has done so.

Federal/State Responsibilities

One State agency asserted that the Federal agency should do the notice. OMB thinks that if a Federal form is involved in the application for a benefit, it is within the power of the Federal agency creating the form to provide the notice and it should do so. For periodic

notice, however, Federal agencies may wish to accomplish this requirement through the State or local governmental benefit providers. OMB has included a discussion of this issue in the section on agency definitions and roles and responsibilities.

Section 6b—Constructing Matching Agreements

Existing Agreement Carryover

One commentator suggested that the guidance assert that existing agreements could suffice until the program was due for renewal and only at that time should they be revised to include the terms of the Matching Act. Similarly, a State commentator suggested that the existing State/Federal agreements should be sufficient. It is OMB's interpretation that the statute clearly requires that by the effective date of the Act, any matching programs conducted by an agency must have agreements approved by the Data Integrity Boards. The statute sets out the terms of those agreements. To the extent that existing agreements include these elements, they will suffice. If they do not, any missing elements must be agreed to by the participants.

Duplication and Redislosure

Two commentators strongly urged OMB to expand the discussion of this section to substantially restrict any subsequent use of the matching data by the recipient agency. Both cited the "essential purpose" wording of the statute as being more restrictive than the "compatibility standard" that applies to routine use disclosures. OMB agrees and has expanded the discussion of this point in the guidance.

Section 6b—Publication Requirements

Inclusion of System(s) of Records

One commentator suggested that the matching notice identify the system or systems of records from which records will be matched. OMB agrees and has adopted this suggestion.

Section 6f—Independent Verification, Notice and Wait Period, Opportunity to Contest Adverse Finding

Combining the Independent Verification and Statutory Notice Requirements

Federal benefits program matching as well as the matching of Federal employee records occurs across a wide spectrum of purposes and consequences. It would be of dubious utility to apply the verification requirements equally to all matches and argue that a match that results in an adverse consequence of the loss of, for example, a tuition assistance payment should receive the same due

process procedures as one that results in the loss of an AFDC payment or Food Stamp Program eligibility. This is not to say that agencies can ignore or minimize these requirements for matches that result in less severe consequences; but only that they should bring some degree of reasonableness to the process of verifying data.

Conservation of agency resources dictates that the procedures for affording due process be flexible and suited to the data being verified and the consequence to the individual of making a mistake. In some cases, if the source agency has established a high degree of confidence in the quality of its data and it can demonstrate that its quality control processes are rigorous, the recipient agency may choose to expend fewer resources in independently verifying the data than otherwise. Indeed, several commentators urged OMB to make it clear that in certain circumstances, the verification and notice and wait steps can be combined into one. OMB agrees and has amended the sections to permit this occurrence; but, to make it clear that agencies should think through carefully when to use this compression and not consider it a routine process. To ensure that this consideration takes place, OMB has amended the guidance to require that the Data Integrity Boards make a formal determination of when to compress these two due process steps. OMB will collect these decisions as part of the reporting process.

Time Period for Notice

One commentator suggested that because the waiting period provided by the Matching Act was 30 days (or more if program statutes or regulations provided a longer period), the guidance should reflect this minimum period and not arbitrarily add transit time. On reflection, OMB agrees and has amended the section.

Coercing Record Subjects

One commentator expressed concern lest agencies attempt to coerce subjects into accepting the agencies adverse finding. The solution offered was to prohibit agencies from taking any action until the expiration of the 30 days notice and wait period. In order to forestall some speculative behavior on the part of the agency, this solution could put the government in the position of providing a benefit it knows improper to a recipient who has acknowledged his ineligibility. OMB has not adopted the suggestion but has included a caution to agencies against coercing individuals into agreeing with the finding.

Section 7a—Data Integrity Board Operation Location

Two commentators were unclear about whether State and local agencies were required to have such boards. OMB has amended the guidance to make it clear that the Data Integrity Board requirement applies only to Federal agencies. Another commentator suggested that having approval by both a source and a recipient Board was unnecessary. OMB disagrees. A significant purpose of the Act is to ensure that all parties to a matching program have enough information to make a reasoned decision about participating and that each understands the process whereby the data will be matched. One should note that there are civil remedies provisions in the Privacy Act as well as criminal penalties for wrongful acts. It is in the interest of all parties to ensure that the Privacy Act requirements are adequately met.

Operation

One commentator urged OMB to flatly prohibit delegation of approval of matching agreements. OMB agrees and has amended the guidance to make it clear that approvals (and denials) must be done by the Board itself. Another commentator suggested OMB establish a time limitation for Board determinations. OMB thinks this is a management matter best left to agency discretion but has added an instruction to agencies that they ensure expeditious consideration.

Review and Reports

One commentator recommended OMB expand the review and report requirements of the Data Integrity Boards. OMB agrees but is in the process of revising Circular No. A-130, Appendix I, to include these requirements. The commentator also suggested that OMB tell agencies to treat the annual review period as beginning on the effective date of the Act. OMB will include this suggestion in the revision.

Section 7c—Benefit Cost Requirement

Waivers of Requirement

One commentator recommended that OMB make it clear that the benefit-cost requirement be waived for matches done either pursuant to a statutory requirement or for a law enforcement purpose. OMB disagrees. The statute permits waiver for statutory matches, but only for the first year. The intent of the drafters was to recognize that the presumption the Act imposes of a favorable benefit-cost ratio was irrelevant in the face of a statutory

mandate to match. Nevertheless, the Act requires a benefit-cost determination in subsequent years in order to provide information to Congress about required matches that are not achieving a cost-beneficial result. As to law enforcement matches, the statute already excludes a significant portion of such matches from all of the Act's requirements. Another commentator recommended that the requirement for all matches done to recoup payments be waived since the results, i.e., ultimate recoveries, are generally uncertain. This suggestion brings up an important point about conducting these assessments: there will be a range of data available to agencies in performing benefit-cost analysis, some of which will be helpful and some of which will be merely speculative. Where data in an agency's hands clearly indicates an unfavorable ratio, prudent management dictates abandoning the match. Where the reverse is true, agencies should conduct the match. Where the data is unclear, agencies should gather data to permit a better analysis. This may mean conducting a program on the basis of data that, while speculative, suggests that the result will be favorable, and then subjecting the results of the match to careful analysis to determine if that is the case. OMB expects that for the first year, benefit-cost analysis will be a less rigorous process than for subsequent years.

Two commentators suggested that waivers be granted only where the analysis was impossible to do or would be unhelpful. OMB has not adopted this suggestion finding this standard to be too subjective to provide a solid basis on which to waive the requirement. OMB will include as a reflection of Congressional intent, a statement that waivers should be granted sparingly if at all.

Benefit-Cost Checklist and Methodology

Two commentators urged that a checklist providing a step-by-step methodology for accomplishing benefit-cost analysis be appended to the guidance. OMB agrees that this should be done and is working on such a checklist but is doubtful that it will be ready in time to be added to the final guidance. Rather than delay publication past the statutory deadline, OMB will issue the checklist as soon as it is available in the same manner as it issues the guidance itself. OMB will also cite the GAO Report, Computer Matching: Assessing its Costs and Benefits, GAO/PEMD-87-2, November 1986, in the section.

Other Comments

Disclosures for Matching

Several commentators urged OMB to discuss the ways in which records could be disclosed for a matching program. One in particular wanted to know if there was an exception in section (b) of the Privacy Act for matching disclosures. OMB has added a discussion of the procedural requirements to the matching agreements section. It notes that agencies must find an exception to the written consent rule in section (b) or obtain the written consent of the record subject to the disclosure; there is no specific exception for a matching program.

Denial of an IG Proposal

One commentator urged that the guidance make it clear that disapproval of an Inspector General proposed match could take place only because of a defect in the matching agreement. OMB agrees that the proper role of the Board is not to engage in management decisions about the utility of conducting matching programs, but to ensure that such programs are carried out in strict compliance with the terms of the Privacy Act, as amended by Pub. L. 100-503, and "all relevant statutes, regulations and guidelines." Nevertheless, it is the responsibility of the Board to ensure that each of the terms of the agreements are complied with. That determination may require them to go beneath the written agreement to examine the matching process itself. For example, if the agreement indicates that matching subjects have been given individualized notice at the time of the application on the application form itself, the Board may wish to examine the form to see if this notice is adequate.

Training

One commentator suggested that OMB set up training in the Act's provisions. OMB agrees and is working on a training program that will address this suggestion.

Office of Management and Budget Guidelines on the Conduct of Matching Programs

1. *Purpose:* These Guidelines augment and should be used with the "Office of Management and Budget (OMB) Guidelines on the Administration of the Privacy Act of 1974," issued on July 1, 1975, and supplemented on November 21, 1975, and Appendix I to OMB Circular No. A-130, published on December 24, 1985 (see 50 FR 52738).

They are intended to help agencies relate the procedural requirements of the Privacy Act (as amended by Pub. L. 100-503, the Computer Matching and Privacy Protection Act of 1988—hereinafter referred to as the Computer Matching Act), with the operational requirements of automated matching programs. These are policy guidelines applicable to the extent permitted by law. They do not authorize activities that are not permitted by law; nor do they prohibit activities expressly required to be performed by law. Complying with these Guidelines, nonetheless, does not relieve a Federal agency of the obligation to comply with the provisions of the Privacy Act, including any provisions not cited in these Guidelines.

2. *Authority:* Section 6 of Pub. L. 100-503, The Computer Matching and Privacy Protection Act of 1988, requires OMB to issue implementation guidance on the Amendments.

3. *Scope:* These guidelines apply primarily to all Federal agencies subject to the Privacy Act of 1974. For this purpose, the Privacy Act relies upon the definition in the Freedom of Information Act (FOIA) 5 U.S.C. 552 at (e): "any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency." For the purposes of these guidelines, components of departments, e.g., the Health Care Financing Administration of the Department of Health and Human Services, are not considered individual agencies.

Note that the definition incorporates the "agency" definition used in the Administrative Procedure Act (5 U.S.C. 551 at (1)) which also contains a series of categories that are not covered, including State and local governments.

The Computer Matching Act amendment, however, brings State and local governments within the ambit of the Privacy Act when they are engaging in certain types of matching activities; but only in conjunction with a Federal agency that is itself subject to the Privacy Act, and only when a Federal system of records is involved in the match.

In general, a State or local agency or agent thereof, that is either: (1) Providing records to a Federal agency for use in a matching program covered by the Act; or (2) receiving records from a Federal agency's system of records for use in a matching program covered by the Act, must comply with certain of the Act's provisions. What State and local

governments must do to meet the requirements of the Act is explained in paragraph 9 below.

4. *Effective Date:* These guidelines are effective on June 19, 1989.

5. *Definitions:* The Computer Matching Act is an amendment of the Privacy Act of 1974 and the provisions of the former should be read within the context of the latter, and all the terms originally defined in the Privacy Act of 1974 apply.

It is especially important to note that the Computer Matching Act does not extend Privacy Act coverage to those not originally included. Thus, the subjects of Federal systems of records covered by the Computer Matching Act are "individuals," i.e., U.S. citizens and aliens lawfully admitted for permanent residence.

Two definitions that are especially relevant to matching programs are:

- "Record" which the Privacy Act defines as an item of information about an individual, including his or her name or some other identifier, and,
- "System of Records" which is a collection of such "records" from which an agency retrieves information by reference to an individual identifier.

In addition, the Computer Matching Act provides the following new terms:

a. *Matching Program.* At its simplest, a matching program is the comparison of records using a computer. The records must themselves exist in automated form in order to perform the match. Manual comparisons of, for example, printouts of two automated data bases, are not included within this definition. Note, however, participating agencies should not create data sharing methods merely to avoid the reach of the Act where the Act's application would otherwise be reasonable and proper. A matching program covers not only the actual computerized comparison, but the investigative followup and ultimate action, if any.

The Computer Matching Act covers two kinds of matching programs: (1) Matches involving Federal benefits programs and, (2) matches using records from Federal personnel or payroll systems of records.

(1) *Federal Benefits Matches.* The Act defines a Federal benefits matching program as:

"any computerized comparison of two or more automated systems of records or a system of records with non-Federal records, by applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs . . . (i.e., any program administered or

funded by the Federal government, or by any agent or State on behalf of the Federal government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals). . . . for the purpose of establishing or verifying the eligibility of or continuing compliance with statutory and regulatory requirements, or [for the purpose of] recouping payments or delinquent debts under such Federal benefit programs." (See 5 U.S.C. 552a(a)(8) and (12).)

The elements of this definition are discussed below:

(a) *Computerized Comparison of Data.* The record comparison must be a computerized comparison involving records from:

- Two or more automated systems of records (i.e., systems of records maintained by Federal agencies that are subject to the Privacy Act); or,
- A Federal agency's automated system of records and automated records maintained by a non-Federal (i.e., State or local government) agency or agent thereof. To be covered, matches of these records must be computerized. Some examples of computerized matches include the following:

A State benefits clerk accesses an automated Federal system of records and enters data received from an applicant and maintained in automated form by the State. The clerk matches this information with the Federal information, makes an eligibility determination and updates the State data base.

A State benefits clerk enters data about applicants for a Federal benefit program into an automated data base. At the end of the week, the State agency sends current applicant tapes to the Federal benefits agency which matches them against its own automated system of records and reports the results to the State.

A Federal agency operating a benefits program sends a tape of defaulters to the Office of Personnel Management to match against an OPM automated system of records containing information about Federal retirees in order to locate defaulters.

(b) *Categories of Subjects Covered.* The Computer Matching Act provisions cover only the following categories of record subjects:

- Applicants for Federal benefit programs (i.e., individuals initially applying for benefits);
- Program beneficiaries (i.e., individual program participants who are currently receiving or formerly received benefits);

—Providers of services to support such programs (i.e., those who are not the primary beneficiaries of Federal benefits programs, but may derive income from them—health care providers, for example).

(c) *Types of Programs Covered.* Only Federal benefit programs providing cash or in-kind assistance to individuals are covered by this definition. State programs are not covered. Federal programs not involving cash or in-kind assistance are not covered. Programs using records about subjects who are not individuals as defined by section (a)(2) of the Privacy Act—U.S. citizens or aliens lawfully admitted for permanent residence—are not covered.

(d) *Matching Purpose.* The match must have as its purpose one or more of the following:

- Establishing or verifying initial or continuing eligibility for Federal benefit programs; or
- Verifying compliance with the requirements—either statutory or regulatory—of such programs; or
- Recouping payments or delinquent debts under such Federal benefit programs.

It should be noted that the four elements, (i.e., computerized comparison, categories of subjects, Federal benefit program, and matching purpose) all must be present before a matching program is covered under the provisions of the Computer Matching Act. Thus, for example, if the Department of Education matched a student loan recipient data base with a Veterans Administration (VA) education benefit recipient data base for the purpose of ensuring that both agencies were maintaining the most current and accurate home address information, that would not be covered since the "matching purpose" is not one of the three enumerated above. If, however, the purpose of the match were to identify recipients who were receiving benefits in excess of those to which they were entitled, the match would be covered.

Moreover, elements that are peripheral to the match, even if within the definitions above will not raise a match to the Act's coverage. For example, the Federal Parent Locator Service conducts matches to locate absentee parents who are not paying child support. Such matches may result in the identified spouse being ordered to commence payments, and some of those payments may go to recoup payments made from a Federal benefit program such as Aid to Families with Dependent Children. Because the recoupment is not the primary purpose of the match, but

only an incidental consequence, such matches would not be covered.

(2) *Federal Personnel or Payroll Records Matches.* The Computer Matching Act also includes matches comparing records from automated Federal personnel or payroll systems of records, or such records and automated records of State and local governments. Again, it should be noted that the comparison must be done by using a computer; manual comparisons are not covered. Matches in this category must be done for other than "routine administrative purposes" as defined in paragraph 5a(3)(e) below. In some instances, a covered match may take place within a single agency. For example, an agency may wish to determine whether any of its own personnel are participating in a benefit program administered by the agency, and are not in compliance with the program's eligibility requirements. This internal match will certainly result in an adverse action if ineligibility is discovered. Therefore, it is covered by the requirements of the Computer Matching Act. Again, agencies should not attempt to avoid the reach of the Act by, for example, improperly combining dissimilar systems into a single system, matching data within the system to make an eligibility determination, and arguing that the match is not covered because only one system of records is involved.

(3) *Exclusions from the Definition of a Matching Program.* The following are not included under the definition of matching programs. Agencies operating such programs are not required to comply with the provisions of the Computer Matching Act, although they may be required to comply with any other applicable provisions of the Privacy Act.

(a) *Statistical Matches Whose Purpose is Solely to Produce Aggregate Data Stripped of Personal Identifiers.* This does not mean that the data bases used in the match must be stripped prior to the match, but only that the results of the match must not contain individually identifiable data. Implicit in this exception is that this kind of match is not done to take action against specific individuals; although, it is possible that the statistical inferences drawn from the data may have consequences for the subjects of the match as members of a class or group. For example, a continuing matching program that shows one geographical area consistently experiencing a higher default rate than others may result in more rigorous scrutiny of applicants from that area, but would not be a covered matching program.

(b) *Statistical Matches Whose Purpose is in Support of Any Research or Statistical Project.* The results of these matches need not be stripped of identifiers, but they must not be used to make decisions that affect the rights, benefits or privileges of specific individuals. Again, it should be noted that this provision is not intended to prohibit using any data developed in these matches to make decisions about a Federal benefit program in general that may ultimately affect beneficiaries.

(c) *Pilot Matches.* This exclusion could also cover so-called "pilot matches," i.e., small scale matches whose purpose is to gather benefit/cost data on which to premise a decision about engaging in a full-fledged matching program. Because of concern about possible misuse of these matching programs to avoid full compliance with the Matching act, OMB will require that pilot matches must be approved by the agency Data Integrity Boards. It is at this point that the agency can decide whether to conduct a statistical data gathering match without consequences to the subjects or a full-fledged program where results will be used to take specific action against record subjects.

(d) *Law Enforcement Investigative Matches Whose Purpose is to Gather Evidence Against a Named Person or Persons in an Existing Investigation.* Certain matches performed in support of civil or criminal law enforcement activities that otherwise would be covered because they seek to establish or verify Federal benefit eligibility or use Federal personnel or payroll records, are excluded from coverage by this section. To be eligible for exclusion, the match must be done by an agency or component whose principal statutory function involves the enforcement of criminal laws, i.e., an agency that is eligible to exempt certain of its record systems under section (j)(2) of the Privacy Act such as the Federal Bureau of Investigation, the Drug Enforcement Agency, or components of agencies' Office of Inspectors General.

The match must flow from an investigation already underway which focuses on a named person or named persons; "fishing expeditions" in which the subjects are identified generically as "program beneficiaries," are not eligible for this exclusion (note that the investigation may be into either criminal or civil law violations). The use of the phrase "person or persons" in this context broadens the exclusion to include subjects that are other than "individuals" as defined by the Privacy Act. Thus, for example a business entity could be the named subject of the

investigation, while the records matched could be those of customers or clients. This does not mean however, that the rights afforded by the Privacy Act are extended by this section to other than "individuals."

Finally, the match must be for the purpose of gathering evidence against the named person or persons.

(e) Tax Administration Matches.

There are four specific categories exclusions for matches using "tax information." While that term is not defined in the Computer Matching Act, the Report accompanying the House version of the Act, H.R. 4699, cites "tax returns" and "tax return information" as the tax information that is covered by the exclusion. Those terms are defined in Section 6103 of Title 26 U.S.C. at (b)(1)-(b)(3). It is clear from these sections that the information covered is under the control of the Internal Revenue Service (IRS) of the Department of the Treasury since the definitions speak of information that is "filed with the Secretary" or "received by, prepared by, furnished to, or collected by the Secretary." Moreover, Section 6103(a) prohibits Federal, State and local governmental employees from disclosing tax information except as authorized by the Internal Revenue Code. This is not to say that all information in the possession of the IRS is covered by the exclusion; only tax information. Thus, for example, personnel records relating to the management of the IRS workforce would not be covered.

The exclusion covers the following:

- Matches done pursuant to Section 6103(d) of the Tax Code. These matches involve disclosures of taxpayer return information to State tax officials. For matches covered by this exclusion, neither the Federal disclosing entity nor the State recipient need comply with the provisions of the Computer Matching Act.
- Matches done for the purposes of "tax administration" as that term is defined in Section 6103(b)(4) of the Internal Revenue Code: "The term 'tax administration' means the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State) and tax conventions to which the United States is a party; and the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions; and includes assessment, collection,

enforcement, litigation, publication, and statistical gathering functions under such laws, statutes or conventions." While this definition is very broad and covers a great deal of discretionary activities on the part of IRS management, it is not intended to exempt all IRS activities from the Act's coverage; only those that truly relate to administration of the nation's tax system (as opposed to management of the IRS workforce, for example). Thus, the exclusion will permit the IRS to continue to match tax returns with interest and dividend statements, for example. It should be noted that the Bureau of Alcohol, Firearms, and Tobacco of the Treasury Department also has collection and enforcement authority under the Internal Revenue Code, and tax administration is, therefore, a part of that agency's responsibilities as well.

—Tax refund offset matches done pursuant to the Deficit Reduction Act of 1984 (DEFRA). That Act contains procedures for affording matching subjects due process that are analogous to those contained in these guidelines.

—Tax refund offset matches conducted pursuant to statutes other than the DEFRA provided OMB finds the due process provisions of those statutes "substantially similar" to those of the DEFRA. OMB will periodically revise these guidelines to add such programs as such statutes are enacted. Agencies should notify OMB promptly when they think an existing statute provides an exemption in this category.

(f) Routine Administrative Matches

Using Federal Personnel Records. These are matches between a Federal agency and other Federal agencies or between a Federal agency and non-Federal agencies for administrative purposes that use data bases that contain records predominantly relating to Federal personnel. The term predominantly means that the percentage of records in the system that are about Federal employees must be greater than of any other category therein contained. In some cases, Federal employees will predominate because of absolute numbers; in others, because they represent the largest single category. The term "federal personnel" is defined by the Act as: "officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor

benefits)." It should be noted that by including individuals eligible for survivor benefits in the category, the Act covers individuals who may never have been employed by the Federal government.

Matches whose purpose is to take "any adverse financial, personnel, disciplinary or other adverse action against Federal personnel . . ." whose records are involved in the match, are not excluded from the Act's coverage.

Examples of matches that are excluded include an agency's disclosure of time and attendance information on all agency employees to the Department of the Treasury in order to prepare the agency's payroll; or disclosure of Department of Defense (DoD) Reserve Officer identifying information to a State in order to validate and update addresses of Reservists residing in the State; or disclosure of retiree annuity files from the DoD to the Department of Veterans Affairs in order to determine the percentage of total annuity each agency is responsible for paying.

Note that this exclusion does not bring under the Act's coverage matches that may ultimately result in an adverse action. It only requires that their purpose not be intended to result in an adverse action. Thus, in the DoD/State reservist match example, the consequence of the match may well be that a reservist is dropped from the program because no address can be found for him or her. This result, however negative, would not bring the match under the Act's coverage since its primary purpose was only to update an address listing.

(g) Internal Agency Matches Using Only Records From the Agency's System of Records. Internal agency matching is excluded on the same basis as Federal personnel record matching above: provided no adverse intent as to a Federal employee motivates the match. Section (b)(1) of the Privacy Act permits agencies to disseminate Privacy Act records to agency employees on an official need-to-know basis. This exclusionary provision does not disturb that principle, except where Federal personnel records are involved. Thus, for example, the Social Security Administration could match with the Health Care Financing Administration to detect and ultimately recoup overpayments for a specific Department of Health and Human Services program. That match would not be covered by the provisions of the Computer Matching Act.

Moreover, the mere presence of Federal employee records in the data bases being matched would not

necessarily bring the match under the Act's coverage. To be covered, the records would have to be predominantly those relating to Federal employees and the primary intent would have to be to take an adverse action of some kind against the Federal employees specifically. If the Department of Education matched its student loan defaulter file against its own employee data base in order to detect and take action against Education employees who have defaulted, that match would be covered by the Act. The same department matching its undergraduate student loan defaulter file against its medical school loan defaulter file in order to determine the incidence of repeat defaulters, would not be covered, even though some of those in the data base might be Federal employees.

(h) *Background Investigation and Foreign Counter-intelligence Matches.* Matches done in the course of performing a background check for security clearances of Federal personnel or Federal contractor personnel are not covered. Not are matches done for the purpose of foreign counter-intelligence.

b. *Recipient Agency.* Recipient agencies are Federal agencies (or their contractors) that receive records from the Privacy Act systems of records of other Federal agencies or from State and local governments to be used in matching programs.

Responsibilities. Recipient agencies are responsible for publishing matching notices in the Federal Register pursuant to the requirements of the Matching Act described below. Where a recipient agency is not the actual beneficiary of the matching program, it may negotiate with the actual beneficiary agency for reimbursement of the costs incurred in publishing. A recipient agency that is the beneficiary of the program should take the lead in performing a benefit-cost analysis and share that analysis with source agencies to help their Data Integrity Boards make a determination about providing data for the match. Recipient agencies are also responsible for making the matching program report to OMB and the Congress discussed below.

c. *Source Agency.* A source agency is a Federal agency that discloses records from a system of records to another Federal agency to a State or local governmental agency to be used in a matching program. It is also a State or local governmental agency that discloses records to a Federal agency to be used in a matching program. The Computer Matching Act does not cover matching between non-Federal entities. A Federal source agency is required to have its own Data Integrity Board

approve the agreement controlling the match; Non-Federal agencies are not required to have such boards. Source agencies are not responsible for publishing the notice of the match or reporting the match to OMB and Congress.

d. *Non-Federal Agency.* A non-Federal agency is a State or local governmental agency that receives records contained in a system of records from a Federal agency to be used in a matching program. State and local agencies are not responsible for publishing notices in the Federal Register or making reports to OMB and the Congress. Nor are they required to establish Data Integrity Boards to approve matching agreements. They should be prepared to provide to Federal source agencies data needed by those agencies to carry out their reporting and other responsibilities, e.g., benefit-cost analysis.

e. *Federal Benefit Program.* See paragraph 5a(1)(c) above.

f. *Conducting Matching Programs.* The following applies to Federal agencies. Requirements pertaining to non-Federal agencies are in paragraph 9 below.

Agencies undertaking matching programs covered by the Computer Matching Act will need to make sure that they comply with the following requirements:

a. *Comply with Privacy Act Systems of Records and Disclosure Provisions:* Federal agencies must ensure that they identify the systems of records involved in the matching programs and have published the necessary notices. Moreover, because the Matching Act does not itself authorize disclosures from systems of records for the purposes of conducting matching programs, agencies must justify any disclosures under section (b) of the Privacy Act. This means obtaining the written consent of the record subjects to the disclosure or relying on one of the 12 exceptions to the written consent rule. To rely on exception (b)(3), for a routine use, agencies must have published their intent to disclose in the Federal Register 30 days prior to any actual disclosure.

b. *Give Prior Notice to Record Subjects.* There are two ways in which record subjects can receive notice that their records may be matched:

—By direct notice when there is some form of contact between the government and the subject, e.g., information on the application form when they apply for a benefit or in a notice that arrives with a benefit that they receive;

—By constructive notice, e.g., publication of systems notices, routine use disclosures, and matching programs in the Federal Register.

For front-end eligibility verification programs whose purpose is to validate an applicant's initial eligibility for a benefit and later to determine continued eligibility, agencies should provide direct notice by amending the application form where necessary to enlarge the statement provided pursuant to section (e)(3) of the Privacy Act so that applicants are put on notice that the information they provide may be verified through a computer match. Agencies should also provide periodic notice whenever the application is renewed, or at the least, during the period the match is authorized to take place, in a notice accompanying the benefit. Providers of services should be given notice on the form on which they apply for reimbursement for services provided.

In some cases, constructive notice may have to suffice. For example, a Federal agency that discloses records to a State or local government in support of a non-Federal matching program is not obligated to provide direct notice to each of the record subjects; Federal Register publication in this instance is sufficient. Moreover, in some instances, it may not be possible to provide direct notice—in matches done to locate individuals, in emergency situations where health and safety reasons argue for a swift completion of the match; or in investigative matches where direct notice immediately prior to a match would provide the subject an opportunity to alter behavior.

In any case, notice to the record subject should be done well before a matching program commences. It should be part of the normal process of implementing a Federal benefits program.

c. *Matching Notices—Publication Requirements.* Agencies must publish notices of the establishment or alteration of matching programs in the Federal Register at least 30 days prior to conducting such programs. Only one notice is required and the recipient Federal agency in a match between Federal agencies or in a match in which a non-Federal agency discloses records to a Federal agency is responsible for publishing such notices. Where a State or local agency is the recipient of records from a Federal agency's system of records, the Federal source agency is responsible for publishing the notice. Such notices should contain the following information:

- Name of participating agency or agencies;
- Purpose of the match;
- Authority for conducting the matching program. (It should be noted that the Computer Matching Act provides no independent authority for carrying out any matching activity);
- Categories of records and individuals covered;
- Inclusive dates of the matching program;
- Address for receipt of public comments or inquiries.

Copies of proposed matching notices must accompany reports of proposed matches submitted pursuant to section (r) of the Privacy Act as amended. See OMB Circular No. A-130, Appendix I, as amended.

d. Preparing and Executing Matching Agreements. Agencies should allow sufficient lead time to ensure that matching agreements can be negotiated and signed in time to secure Data Integrity Board decisions. Federal agencies receiving records from or disclosing records to non-Federal agencies for use in matching programs are responsible for preparing the matching agreements and should solicit relevant data from non-Federal agencies where necessary. In cases where matching takes place entirely within an agency under the Federal personnel or payroll matching provisions, the agency may satisfy the matching agreement requirements by preparing a Memorandum of Understanding between the system of records managers involved, and presenting that to the Data Integrity Board for consideration.

Agreements must contain the following:

- Purpose and Legal Authority.** Since the Computer Matching Act provides no independent authority for the operation of matching programs, agencies should cite a specific Federal or State statutory or regulatory basis for undertaking such programs.
- Justification and Expected Results.** An explanation of why computer matching as opposed to some other administrative activity is being proposed and what the expected results will be.
- Records Description.** An identification of the system of records or non-Federal records, the number of records, and what data elements will be included in the match. Projected starting and completion dates for the program should also be provided. Agencies should specifically identify the Federal system or systems of records involved.
- Notice Procedures.** A description of the individual and general periodic notice procedures. See paragraph 6.a., above.
- Verification Procedures.** A description of the methods the agency will use to independently verify the information obtained through the matching program. See paragraph 6.f., below.
- Disposition of Matched Items.** A statement that information generated through the match, will be destroyed as soon as it has served the matching program's purpose and any legal retention requirements the agency establishes in conjunction with the National Archives and Records Administration or other cognizant authority.
- Security Procedures.** A description of the administrative and technical safeguards to be used in protecting the information. They should be commensurate with the level of sensitivity of the data.
- Records Usage, Duplication and Rediscovery Restrictions.** A description of any specific restrictions imposed by either the source agency or by statute or regulation on collateral uses of the records used in the matching program. The agreement should specify how long a recipient agency may keep records provided for a matching program, and when they will be returned to the source agency or destroyed. In general, recipient agencies should not subsequently disclose records obtained for a matching program and under the terms of a matching agreement for other purposes absent a specific statutory requirement or where the disclosure is essential to the conduct of a matching program. The essential standard is a strict test that is more restrictive than the "compatibility" standard the Privacy Act establishes for disclosures made pursuant to section (b)(3): "for a routine use." Thus, under the essential standard, the results of the match may be disclosed for follow-up and verification or for civil or criminal law enforcement investigation or prosecution if the match uncovers activity that warrants such a result. This is not to say that agencies may never use the results of a matching program to make other eligibility determinations. For example, in the case of State/SSA COLA adjustment matches, States may use the results of this match to adjust payment levels for other benefits programs. If they do so, however, the subsequent uses must be included as part of the overall matching program as to the matching agreements, Federal Register notice, and the reporting requirements.

Moreover, the Act's due process requirements will apply to the subsequent adjustments as well.

—**Records Accuracy Assessments.** Any information relating to the quality of the records to be used in the matching program. Record accuracy is important from two standpoints. In the first case, the worse the quality of the data, the less likely a matching program will have a cost-beneficial result. In the second case, the Privacy Act requires Federal agencies to maintain records they maintain in systems of records to a standard of accuracy that will reasonably assure fairness in any determination made on the basis of the record. Thus an agency receiving records from another Federal agency or from a non-Federal agency needs to know information about the accuracy of such records in order to comply with the law. Moreover, the Privacy Act also requires agencies to take reasonable steps to ensure the accuracy of records that are disclosed to non-Federal recipients.

—**Comptroller General Access.** A statement that the Comptroller General may have access to all records of a recipient agency or non-Federal agency necessary to monitor or verify compliance with the agreement. It should be understood that this requirement permits the Comptroller General to inspect State and local records used in matching programs covered by these agreements.

e. Securing Approval of Data Integrity Boards. Before an agency may participate in a matching program, the agency's Data Integrity Board must have evaluated the proposed match and approved the terms of the matching agreement. Agencies should ensure that boards consider matching proposals presented to them expeditiously so as not to cause bureaucratic delays to necessary programs. (See paragraph 7.d. below, for appeals of Board disapprovals).

f. Reports to OMB and Congress. See OMB Circular No. A-130, Appendix I as amended.

g. Providing Due Process to Matching Subjects. The Computer Matching Act prescribes certain due process requirements that the subjects of matching programs must be afforded when matches uncover adverse information about them.

—**Verification of Adverse Information.** Agencies may not premise adverse action upon the raw results of a computer match. Any adverse

information so developed must be subjected to investigation and verification before action is taken. Federal benefits program matching as well as the matching of Federal employee records occurs across a wide spectrum of purposes and consequences. It would be of dubious utility to apply the verification requirements equally to all matches and argue that a match that results in an adverse consequence of the loss of, for example, a tuition assistance payment should receive the same due process procedures as one that results in the loss of an AFDC payment or Food Stamp Program eligibility. This is not to say that agencies can ignore or minimize these requirements for matches that result in less severe consequences; but only that they should bring some degree of reasonableness to the process of verifying data.

Conservation of agency resources dictates that the procedures for affording due process be flexible and suited to the data being verified and the consequence to the individual of making a mistake. In some cases, if the source agency has established a high degree of confidence in the quality of its data and it can demonstrate that its quality control processes are rigorous, the recipient agency may choose to expend fewer resources in independently verifying the data than otherwise. In such cases, it may be appropriate to combine the verification and notice requirements into a single step, especially if the record subject is the best source for verification. In certain circumstances, therefore, the verification and notice and wait steps can be combined into one. However, agencies should think through carefully when to use this compression and not consider it a routine process.

To ensure that this consideration take place, it will be the responsibility of the Data Integrity Boards to make a formal determination as to when it is appropriate to compress the verification and notice and wait periods into a single period. OMB intends to collect these decisions as part of the reporting process.

In many cases, the individual record subject is the best source for determining a finding's validity, and he or she should be contacted where practicable. In other cases, the payer of a benefit will have the most accurate record relating to payment and should be contacted for verification. Note that, in some cases, contacting the subject initially may permit him or her to conceal data relevant to a decision; and,

in those cases, an agency may elect to examine other sources. Absolute confirmation is not required; a reasonable verification process that yields confirmatory data will provide the agency with a reasonable basis for taking action.

As to applicants for Federal benefits programs whose eligibility is being verified through a matching program, agencies may not make a final determination until they have completed the due process steps the Act requires. This does not mean, however, that they are required to place an applicant on the rolls pending a determination, but only that they may not make a final decision.

For matching subjects receiving benefits, however, agencies may not suspend or reduce payments until the due process steps have been completed.

—Notice and Opportunity to Contest.

Agencies are required to notify matching subjects of adverse information uncovered and give them an opportunity to explain prior to making a final determination. Again, this does not mean that an applicant must be put on the rolls pending his or her explanation, but only that the agency may not make a final determination. Current benefits recipients, however, may not have those benefits suspended or reduced pending the expiration of this period.

Individuals may have 30 days to respond to a notice of adverse action, unless a statute or regulation grants a longer period. The period runs from the date of the notice until 30 calendar days later, including transit time.

If an individual contacts the agency within the notice period and indicates his or her acceptance of the validity of the adverse information, agencies may take immediate action to deny or terminate. However, agencies are cautioned against attempting to coerce a record subject into accepting the result. Agencies may also take action if the period expires without contact.

If the Federal benefit program involved in the match has its own due process requirements, those requirements may suffice for the purposes of the Computer Matching Act, provided they are at least as strong as that Act's provisions.

In any case, if an agency determines that there is likely to be a potentially significant effect on public health or safety, it may take appropriate action, notwithstanding these due process provisions.

7. Establishing Data Integrity Boards: The Computer Matching Act requires that each Federal agency that acts as either a source or recipient in a

matching program, establish a Data Integrity Board to oversee the agency's participation. Non-Federal governmental entities are not required to have such boards. It should be noted that the fact that records about an agency's personnel are used in a matching program does not automatically trigger this requirement. Because, for example, the Office of Personnel Management (OPM) asserts government-wide ownership of the system of records containing the Federal employee Official Personnel Folder (OPF), disclosures from this system of records involve OPM, not the employing agency. There are many small agencies that will never directly disclose records from their own systems of records for matching purposes and they are thus not required to establish Data Integrity Boards.

a. Location and Staffing. While the Act specifies neither the organizational level at which the Boards are to be established, nor their makeup (with two exceptions), it is clear from the context of the Data Integrity Board section that Congress expected agencies to place the Boards at the top of the organization and staff them with senior personnel. It is the intent of these guidelines not to dictate a specific structure but to suggest ways of complying with this expectation.

—Location. As to location, because the Boards are to serve a coordinating function, it would be inappropriate to locate them at other than the departmental level (or its agency equivalent). This is not to say that subordinate boards at component levels may not be useful to do the preliminary work necessary to provide a matching program proposal to the senior Board for approval. Indeed, in large agencies with many matching programs, this will likely be the rule. But, the approval should come from the top, and this argues for the placement suggested above.

—Staffing. The Act requires that the Board consist of senior agency officials designated by the agency head. The only two mandatory members are the Inspector General of the agency (if any) who may not serve as Chairman, and the senior official responsible for the implementation of the Privacy Act who has been designated pursuant to 44 U.S.C. 3506(b). OMB recommends that the agency Privacy Act Officer be designated as the Board's Secretary.

—Operation. While much of the work of the Board may be delegated to less senior members—for example, the compilation of reports, advising of program officials, and maintaining

and disseminating information about the accuracy and reliability of data used in matching—the approval of matching agreements may not be delegated.

The Board should meet often enough to ensure that agency matching programs are carried out efficiently, expeditiously and in conformance with the Privacy Act, as amended.

b. Review Responsibilities. Because matching agreements are key to the implementation of the Computer Matching Act, the Act makes their review the foremost responsibility of the Boards. Boards are responsible for approving or disapproving matching programs based upon their assessment of the adequacy of these agreements. They should ensure that their reasons for either approving or denying are well documented. Agency officials proposing matching programs should ensure that they provide the Data Integrity Board with all of the information relevant and necessary to permit it to make an informed decision, including, where appropriate, a benefit/cost analysis. Note that both the Federal source and recipient agencies must have the matching agreement ratified by their boards.

—Review of Proposals to Conduct or Participate in Matching Programs. The Board must review the matching agreements that support each proposed matching program and find them in conformance with the provisions of the Computer Matching Act as well as any other relevant statutes, regulations, or guidelines. Boards are specifically responsible for determining when to compress the due process steps of verification and notice and wait into a single step. A matching agreement should remain in force for only so long as necessary to accomplish the specific matching purpose; indeed, it automatically expires at the end of 18 months unless within 3 months prior to the actual expiration date, the Data Integrity Board finds that the program will be conducted without change and each party certifies that the program has been conducted in compliance with the matching agreement. Under this finding, the Board may extend the agreement for 1 additional year.

—Annual Review. The Act requires Data Integrity Boards to conduct an annual review of all matching programs in which the agency has participated as either a source or recipient agency. This review has two focuses: to determine whether the matches have been, or are being, conducted in accordance with the

appropriate authorities and under the terms of the matching agreements; and, to assess the utility of the programs in terms of their costs and benefits. The Act suggests that this latter review as it pertains to recurring programs, should result in a basis for continuing participation in, or operation of, such programs. The Computer Matching Act also requires the Boards to review annually agency recordkeeping and disposal policies and practices for conformance with the Act's provisions. These reviews should take place within the context of the annual review referenced above. In addition, the Boards may review and report on matching activities not covered by the Computer Matching Act.

c. Benefit/Cost Analysis. The Computer Matching Act requires that a benefit/cost analysis be a part of an agency decision to conduct or participate in a matching program. The requirement occurs in two places: in matching agreements which must include a justification of the proposed match with a "specific estimate of any savings"; and, in the Data Integrity Board review process.

The intent of this requirement is not to create a presumption that when agencies balance individual rights and cost savings, the latter should inevitably prevail. Rather, it is to ensure that sound management practices are followed when agencies use records from Privacy Act systems of records in matching programs. Particularly in a time when competition for scarce resources is especially intense, it is not in the government's interests to engage in matching activities that drain agency resources that could be better spent elsewhere. Agencies should use the benefit/cost requirement as an opportunity to reexamine programs and weed out those that produce only marginal results.

While the Act appears to require a favorable benefit/cost ratio as an element of approval of a matching program, agencies should be cautious about applying this interpretation in too literal a fashion. For example, the first year in which a matching program is conducted may show a dramatic benefit/cost ratio. However, after it has been conducted on a regular basis (with attendant publicity), its deterrent effect may result in much less favorable ratios. Elimination of such a program, however, may well result in a return to the prematch benefit/cost ratio. The agency should consider not only the actual savings attributable to such a program, but the consequences of abandoning it.

For proposed matches without an operational history, benefit/cost analyses will of necessity be speculative. While they should be based upon the best data available, reasonable estimates are acceptable at this stage. Nevertheless, agencies should design their programs so as to ensure the collection of data that will permit more accurate assessments to be made. As more and more data become available, it should be possible to make more informed assumptions about the benefits and costs of matching. One source of information about conducting benefit-cost analysis as it relates to matching programs is the GAO Report, "Computer Matching, Assessing its Costs and Benefits," GAO/PEMD-87-2, November, 1986. Agencies may wish to consult this report as they develop methodologies for performing this analysis.

Because matching is done for a variety of reasons, not all matching programs are appropriate candidates for benefit/cost analysis. The Computer Matching Act tacitly recognizes this point by permitting Data Integrity Boards to waive the benefit/cost requirement if they determine in writing that such an analysis is not required. It should be noted, however, that the Congress expected that such waivers would be used sparingly. The Act itself supplies one such waiver: if a match is specifically required by statute, the initial review by the Board need not consider the benefits and costs of the match. Note that this exclusion does not extend to matches undertaken at the discretion of the agency. However, the Act goes on to require that when the matching agreement is renegotiated, a benefit/cost analysis covering the preceding matches must be done. Note that the Act does not require the showing of a favorable ratio for the match to be continued, only that an analysis be done. The intention is to provide Congress with information to help it evaluate the effectiveness of statutory matching requirements with a view to revising or eliminating them where appropriate.

Other examples of matches in which the establishment of a favorable benefit/cost ratio would be inappropriate are:

- A match of a system of records containing information about nurses employed at VA hospitals with records maintained by State nurse licensing boards to identify VA nurses with "impaired licenses", i.e., those who have had some disciplinary action taken against them.
- A match whose purpose is to identify and correct erroneous data, e.g.,

Project Clean Data which was run to correct and eliminate erroneous Social Security Numbers.

—Selective Service System matching to identify 18-year-olds for draft registration purposes.

d. *Appeals of Denials.* If a Board disapproves a matching agreement, the Computer Matching Act permits any party to the agreement to appeal that disapproval to the Director of the Office of Management and Budget. While this literally means that a recipient agency (whether Federal or non-Federal) could appeal the refusal of a source agency to approve an agreement, the actual results of such cross agency appeals, even if successful, are unlikely to result in the implementation of a matching program since the source agency may still properly refuse to disclose the necessary Privacy Act records. Nothing in the appeal process is intended to result in one agency being able to force another agency to participate unwillingly in a matching program.

Accordingly, OMB will only entertain appeals from senior agency officials who are parties to a proposed matching agreement that has been disapproved by the agency's own Data Integrity Board. By senior officials, OMB means the Inspector General of an agency or the head of an operating division carrying out the matching program.

The appeal should be forwarded to the Director, Office of Management and Budget, Washington, DC 20503 within 30 days following the Board's written disapproval. The following documentation should accompany the appeal:

- Copies of all of the documentation accompanying the initial matching agreement proposal;
- A copy of the Board's disapproval and reasons therefor;
- Evidence supporting the cost-effectiveness of the match;
- Any other information relevant to a decision, e.g., timing considerations, the public interest served by the match, etc.

The Director will promptly notify Congress of receipt of an appeal and of his or her decision. A decision to approve a matching agreement will not be effective until 30 days after it is so reported to Congress. The decision of the Director shall be based upon the information submitted.

OMB expects that this appeal process will be rarely used. One way to ensure its rarity is for agencies to present only well thoughtout and thoroughly documented proposals to the Boards for decisions.

e. *Information Maintenance and Dissemination Responsibilities.* The Act anticipates that the Data Integrity Boards will be an information resource on matching for the agency. Thus, while the full Board may actually convene only a few times each year to consider matching program proposals, the Act requires a continuing presence to carry out these additional functions. The Board, therefore, should designate a representative to answer questions on matching both from within the agency and from outside entities. This point of contact should be able to advise on what actions are needed to comply with the provisions of the Computer Matching Act, and to collect and disseminate information on the quality of the records used in matching programs.

8. *General Reporting Requirements:* The reporting requirements of the Data Integrity Boards will be contained in OMB Circular No. A-130, Appendix I. Matching reports are to be included in the general Privacy Act implementation reporting requirements outlined in that Circular.

9. *Specific Responsibilities of Non-Federal Agencies:* It is not the intent of this Act to affect, nor do its provisions reach, State and local governments using their own records for matching purposes. Nor does the Act reach State or local matching programs using records from Federal systems of records for purposes other than those defined in the Act as for a "matching program."

Thus, for example, a Federal agency could disclose information about beneficiaries of a Federal program to a State agency in order to permit the State to conduct a matching program to determine eligibility for a State public assistance program. So long as the purpose was to validate eligibility for the State as opposed to the Federal benefit program, the Computer Matching Act would not come into play.

If however, the Federal agency disclosed the names and income levels of its own Federal employees to a State under these circumstances, the matching requirements would have to be met since this match would be covered

under the "Federal employee personnel and payroll" provisions.

Non-Federal agencies intending to participate in covered matching programs are required to do the following:

- Execute matching agreements prepared by a Federal agency or agencies involved in the matching program;
- Provide data to Federal agencies on the costs and benefits of matching programs;
- Certify that they will not take adverse action against an individual as a result of any information developed in a matching program unless the information has been independently verified and until 30 days after the individual has been notified of the findings and given an opportunity to contest them.
- For renewals of matching programs, certify that the terms of the agreement have been followed.

10. *Sanctions:* The Computer Matching Act specifies that neither a Federal nor a non-Federal agency may disclose a record for use in a matching program if either has reason to believe the recipient is not meeting the terms of the matching agreement or the due process requirements of the Computer Matching Act. This provision does not create an affirmative duty on the part of a source agency to investigate a recipient agency's level of compliance. However, if a source agency receives information that would lead it to conclude that the recipient agency was not in compliance, it must consult with that agency before continuing to participate in the matching program.

Moreover, it should be noted that the civil remedies provisions of the Privacy Act are available to matching record subjects who can demonstrate that they have been harmed by an agency's violation of the Privacy Act or its own regulations. A successful litigant is entitled under the Privacy Act to receive at least \$1,000 and reasonable attorney's fees. Given the large numbers of record subjects typically involved in a matching program, agencies should be especially diligent in guarding against actions that would create liabilities.

S. Jay Plager,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 89-14525 Filed 6-16-89; 8:45 am]

BILLING CODE 3110-01-M

THE COMPUTER MATCHING AND PRIVACY PROTECTION ACT OF 1988

(An Overview)

The Computer Matching and Privacy Protection Act is a law that amends the Privacy Act to establish procedural safeguards and to regulate the use of computer matching conducted by Federal agencies.

It is also a law designed to combat fraud, waste, and abuse in Federal benefits programs and to ensure privacy, integrity, and verification of data disclosed for computer matching programs.

Computer matching is the computerized comparison of automated records for the purpose of verifying eligibility for a Federal benefits program, or recovering payments or delinquent debts.

The law provides that computer matching can only be conducted pursuant to terms of a formal written matching agreement entered into by the agency providing the data to be matched and the agency receiving the data.

The Act covers two kinds of matching programs: matches involving Federal benefits programs, and matches using records from Federal personnel or payroll systems of records.

The Act does not apply to matches conducted for statistical, security, research, law enforcement, tax, and certain other purposes.

The Act further provides due process rights for individuals affected by computer matches, mandating that individuals be notified and given an opportunity to contest any adverse findings resulting from a computer match.

Before any adverse action can be taken against an individual, under the law information resulting from computer matches must be independently verified.

-2-

The law requires that all matching agreements entered into by agencies contain the following information:

- (1) The purpose and legal authority for the match
- (2) A justification for and expected results from the match
- (3) A description of the records to be used (name, number, and data elements of records), including projected starting and completion dates
- (4) The procedures for notifying individuals and the public about the matching program.
- (5) The procedures for verifying information obtained through matching programs
- (6) The methods for retaining or disposing of records generated through the match
- (7) Safeguards to be used to protect information
- (8) A description of all restrictions imposed concerning the use, duplication, and redisclosure of records used in a matching program
- (9) A statement as to the accuracy or quality of records to be used
- (10) A statement that the Comptroller General may have access to all records to monitor or verify compliance with the agreement.

-3-

The Act requires each Federal agency participating in a matching program to establish a Data Integrity Board.

The purpose of the Board is to oversee and coordinate the agency's participation in computer matching programs.

The Board is to consist of senior agency officials and perform the following functions:

- (1) Review, approve, and maintain all written agreements associated with matching programs
- (2) Review all matching programs in which agencies participated during the year
- (3) Assess the costs and benefits of such programs
- (4) Review all recurring matching programs participated in during the year
- (5) Compile an annual report to OMB describing complete matching activities of the agency
- (6) Serve as the clearinghouse for the review of all records used in matching programs for accuracy, completeness, and reliability
- (7) Provide guidance and direction to components on program requirements
- (8) Review agency recordkeeping and disposal policies for matching programs
- (9) Review, where necessary, and report on matching activities that are not matching programs.

Under the Act, any disapproval by the Board of a proposed matching program may be appealed to the Director of OMB by any party to the agreement.

CORRESPONDENCE DIGEST OR MEMORANDUM

TO	X	The Administrator
		Deputy Administrator

DATE:

FROM: Assistant Administrator
for Information Resources Management

SUBJECT: Establishment of the SBA Data Integrity Board

The Computer Matching and Privacy Protection Act of 1988, P.L. 100-503, is an amendment to the Privacy Act of 1974. It establishes procedural safeguards affecting agencies' use of Privacy Act records in performing certain types of computerized matching programs. The Act requires agencies to conclude written agreements specifying the terms under which matches are to be done. It also provides due process rights for record subjects to prevent agencies from taking adverse actions unless they have independently verified the results of the match and given the subject 30 days advance notice. Oversight is accomplished in a variety of ways: by having agencies (a) publish matching agreements, (b) report matching programs to OMB and Congress; and (c) establish internal boards to approve their matching activity. The Act becomes effective on July 19, 1989.

As stated above, the Act requires each Federal agency that acts as either a source or recipient of data in a computerized matching program to establish a Data Integrity Board consisting of senior agency officials designated by the agency head to oversee the agency's participation. Two board members are mandated by the Act. They are the agency's Inspector General and the senior official responsible for the implementation of the Privacy Act. OMB recommends that the Privacy Act Officer be designated as the Board's Secretary.

SURNAME AND ORGANIZATION	PREPARED BY	CLEARED BY	CLEARED BY
	J. Gallogly AA/IRM	L. Barrett EXT: 6463	IG OGC
INITIALS AND DATE			
	JB 7/14/89		

CONTROL NO. _____

CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY
Reviews & Appeals	Finance & Investment			EXECUTIVE SECRETARIAT	ASSOCIATE DEPUTY ADMINISTRATOR	DEPUTY ADMINISTRATOR
<i>JB</i> <i>7/17/89</i>						

ACTION COMPLETED: (SIGNATURE) _____ DATE: _____

statutes, regulations, or guidelines. While some of the work of the Board may be delegated - for example, the compilation of reports, advising program officials and maintaining, and disseminating information about the reliability of the data used in the matching - the approval of the matching agreements may not be delegated.

The Data Integrity Board will meet within 30 days to initiate the steps needed to ensure that SBA's matching programs are carried out in conformance with the Act. The Board must conduct an annual review of all matching programs in which SBA has participated as either a source or recipient agency. In addition the Board must also report on whether a match is in compliance with the matching agreement and the effectiveness of the program to the agency in terms of costs and benefits.

Each program manager is responsible for ensuring that computerized matches involving their program's data is approved by the Board prior to beginning the matching procedures. The program manager must also provide the Board with assurance that all requirements such as formal announcements in the Federal Register, signed agreements, assessments of the costs and benefits, notification of participants, and etc., are carried out in conformance with the Act.

If you require additional information regarding this Notice, please contact the Office of Information Resources Management point of contact, Lawrence E. Barrett at 653-6463.


Susan Engeleiter
Administrator

SMALL BUSINESS ADMINISTRATION

2006 BIENNIAL COMPUTER MATCHING REPORT FOR 2004-2005

1. Data Integrity Board

Lewis Andrews	Chairperson Assistant Administrator/Management and Administration
Delorice P. Ford	Secretary Assistant Administrator/Office of Hearings and Appeals
Eric M. Thorson	Inspector General
Christine Liu	Chief Information Officer
Robert Gangwere	Acting General Counsel
Lisa Babcock	Director, Freedom of Information/Privacy Acts Office

Delorice P. Ford (Secretary)
409 Third Street, S.W.
Washington, D.C. 20416
(202) 481-8203
delorice.ford@sba.gov

Eric M. Thorson, Inspector General, replaced Robert Seabrooks as Inspector General.

Robert Gangwere, Acting General Counsel, replaced David A. Javdan as General Counsel.

Christine Liu, Chief Information Officer, replaced Steven Galvan as Chief Information Officer.

2006 BIENNIAL COMPUTER MATCHING REPORT FOR 2004-2005
Small Business Administration

2. Matching Programs

Reporting Agency	Title of Match	Matching Agency	Purpose	Publication Date	Federal Register Notice
SBA	CAVIRS	HUD	To enable HUD to prescreen Federal loan applicants who may be ineligible	5/14/92	57 FR 20727

3. Cost/Benefit Analysis

Cost/benefit analysis was conducted for the match that the SBA participates in. The analysis identified positive effects.

4. Waived Cost/Benefit Analysis

The Board did not waive any cost/benefit analysis.

5. Rejected Matches

The Board did not reject any matches.

6. Matching Violations

The Board did not identify any matching violations

7. Litigation

There was no litigation involving SBA's matching activities.

8. Litigation Based On Allegations Of Inaccurate Records

There was no litigation resulting from allegations of inaccurate records.

1996-1997 BIENNIAL COMPUTER MATCHING REPORT

FOR THE

SMALL BUSINESS ADMINISTRATION

1. Data Integrity Board

Larry Barrett	Acting AA/M&A, Chairperson
Mona Mitnick	AA/OHA, Secretary
Karen Lee	Acting Inspector General
Larry Barrett	Chief Information Officer
John T. Spotilla	General Counsel
Lisa Babcock	FOI/PA Appellate Office

Mona Mitnick (Secretary)
409 Third Street, S.W.
Washington, D.C. 20416
(202) 401-8202
mona.mitnick@sba.gov

Larry Barrett, as Acting Assistant Administrator for Management and Administration, replaced Antonella Pinalta, formerly the Assistant Administrator for Management and Administration, as Chairman of the Data Integrity Board (DIB).

Karen Lee, Acting Inspector General, replaced James Hoobler, the former Inspector General.

2. Matching Programs

Reporting Agency	Title of Match	Matching Agency	Purpose	Publication Date	Federal Register Notice
SBA	CAVIRS	HUD	To enable HUD to prescreen Federal loan applicants who may be ineligible	5/14/92	57 FR 20727
SBA	Delinquent Debtors	U.S. Postal Service	To identify Postal employees who are indebted to the Federal Government under SBA programs	12/17/91	56 FR 65525
SBA	Delinquent Debtors	DOD Defense Manpower Data Center	Identification of active and retired Federal employees owing delinquent debts under SBA programs	2/14/92	57 FR 5428

3. Cost/Benefit Analysis

Cost/benefit analysis were conducted for each of the three matches in which the SBA participates.

4. Waived Cost/Benefit Analysis

N/A

5. Rejected Matches

N/A

6. Matching Violations

N/A

7. Litigation

N/A

8. Inaccurate Records

N/A

SMALL BUSINESS ADMINISTRATION

SBA NOTICE

TO: MANAGEMENT BOARD MEMBERS	NOTICE NO. 9000-574
	EFFECTIVE 9/1/89
SUBJECT: Computer Matching and Privacy Protection Act Implementation	

The Computer Matching and Privacy Protection Act of 1988, P.L. 100-503, is an amendment to the Privacy Act of 1974. It establishes procedural safeguards affecting agencies' use of Privacy Act records in performing certain types of computerized matching programs. The Act requires agencies to conclude written agreements specifying the terms under which matches are to be done. It also provides due process rights for record subjects to prevent agencies from taking adverse actions unless they have independently verified the results of the match and given the subject 30 days advance notice. Oversight is accomplished in a variety of ways: by having agencies (a) publish matching agreements, (b) report matching programs to OMB and Congress; and (c) establish internal boards to approve their matching activity. The effective date of the Act is January 1, 1990.

As stated above, the Act requires each Federal agency that acts as either a source or recipient of data in a computerized matching program to establish a Data Integrity Board consisting of senior agency officials designated by the agency head to oversee the agency's participation. Two board members are mandated by the Act. They are the agency's Inspector General and the senior official responsible for the implementation of the Privacy Act. The Board will be composed of the Associate Deputy Administrator for Management and Administration (Chairperson), the Assistant Administrator for Hearings and Appeals (Secretary), the Inspector General, the General Counsel, and the Assistant Administrator for Information Resources Management. Respective program managers will participate in an advisory capacity as needed for computer matches involving their program area.

The Board is responsible for approving or disapproving all computerized matching agreements involving SBA data. It must review the matching agreement that supports each proposed matching program and determine if it is in conformance with the provisions of the Act, as well as with any other relevant

EXPIRES 3/1/90

PAGE 1

SBA Form 1353 (3-83)

HEARINGS AND APPEALS
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page 2

statutes, regulations, or guidelines. While some of the work of the Board may be delegated - for example, the compilation of reports, advising program officials and maintaining, and disseminating information about the reliability of the data used in the matching - the approval of the matching agreements may not be delegated.

The Data Integrity Board will meet within 30 days to initiate the steps needed to ensure that SBA's matching programs are carried out in conformance with the Act. The Board must conduct an annual review of all matching programs in which SBA has participated as either a source or recipient agency. In addition the Board must also report on whether a match is in compliance with the matching agreement and the effectiveness of the program to the agency in terms of costs and benefits.

Each program manager is responsible for ensuring that computerized matches involving their program's data is approved by the Board prior to beginning the matching procedures. The program manager must also provide the Board with assurance that all requirements such as formal announcements in the Federal Register, signed agreements, assessments of the costs and benefits, notification of participants, and etc., are carried out in conformance with the Act.

If you require additional information regarding this Notice, please contact the Office of Information Resources Management point of contact, Lawrence E. Barrett at 653-6463.


Susan Engeleiter
Administrator

CORRESPONDENCE DIGEST OR MEMORANDUM

TO The Administrator
 Deputy Administrator

DATE:

FROM: Assistant Administrator
 for Information Resources Management

SUBJECT: Establishment of the SBA Data Integrity Board

The Computer Matching and Privacy Protection Act of 1988, P.L. 100-503, is an amendment to the Privacy Act of 1974. It establishes procedural safeguards affecting agencies' use of Privacy Act records in performing certain types of computerized matching programs. The Act requires agencies to conclude written agreements specifying the terms under which matches are to be done. It also provides due process rights for record subjects to prevent agencies from taking adverse actions unless they have independently verified the results of the match and given the subject 30 days advance notice. Oversight is accomplished in a variety of ways: by having agencies (a) publish matching agreements, (b) report matching programs to OMB and Congress; and (c) establish internal boards to approve their matching activity. The Act becomes effective on July 19, 1989.

As stated above, the Act requires each Federal agency that acts as either a source or recipient of data in a computerized matching program to establish a Data Integrity Board consisting of senior agency officials designated by the agency head to oversee the agency's participation. Two board members are mandated by the Act. They are the agency's Inspector General and the senior official responsible for the implementation of the Privacy Act. OMB recommends that the Privacy Act Officer be designated as the Board's Secretary.

CONTROL NO. _____

SURNAME AND ORGANIZATION	PREPARED BY	CLEARED BY	CLEARED BY
	J. Gallogly AA/IRM	L. Barrett EXT: 6463	IG OGC
INITIALS AND DATE			
	<i>JB</i>	<i>7/14/89</i>	

CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY	CLEARED BY
hearings & appeals	Finance & Investment			EXECUTIVE SECRETARIAT	ASSOCIATE DEPUTY ADMINISTRATOR	DEPUTY ADMINISTRATOR
<i>EB</i>						
<i>7/17/89</i>						

ACTION COMPLETED: (SIGNATURE)

DATE:

The Board has the responsibility for approving or disapproving computerized matching agreements. It must review the matching agreement that supports each proposed matching program and determine if it is in conformance with the provisions of the Act, as well as with any other relevant statutes, regulations, or guidelines. While some of the work of the Board may be delegated - for example, the compilation of reports, advising program officials and maintaining and disseminating information about the reliability of the data used in the matching - the approval of the matching agreements may not be delegated.

The Data Integrity Board should meet as needed to ensure that SBA matching programs are carried out efficiently, expeditiously and in conformance with the Act. However, the Board must conduct an annual review of all matching programs in which SBA has participated as either a source or recipient agency. The Board will also report on whether the matches are in compliance with the matching agreements and on the effectiveness of the program to the agency in terms of costs and benefits. The reporting requirements will be defined in a revision to Appendix I of OMB Circular No. A-130, "Management of Federal Information Resources".

J. P. Gallogly
James P. Gallogly

1. Recommendation: Establish an SBA Data Integrity Board to implement and carry out the provisions of the Computer Matching and Privacy Protection Act of 1988, P.L. 100-503.

Approved _____

Disapproved _____

Date _____

2. Recommendation: The Board will be composed of the Associate Deputy Administrator for Management and Administration (Chairperson), the Assistant Administrator for Hearings and Appeals (Secretary), the Inspector General, the General Counsel and the Assistant Administrator for Information Resources Management. Respective program managers will participate in an advisory capacity as needed for computer matches involving their program area.

Approved _____

Disapproved _____

Date _____

3. **Recommendation:** The Board will meet as required, but at least annually, to review and report on the Agency's compliance with the Act. The Board will also ensure that any external reporting requirements of the Act are met.

Approved _____

Disapproved _____

Date _____



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

*Ramos Conf. of the
and ?*

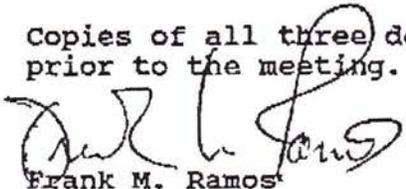
Date: August 3, 1990
To: Distribution List
From: Associate Deputy Administrator
for Management and Administration
Subject: Data Integrity Board Meeting

The Data Integrity Board will meet on 8/22/90 at 10:30 a.m.
in the OIRM Conference Room on the ninth floor.

The purpose of the meeting is to discuss the following items:

1. A draft SBA Notice reminding personnel of the requirement to obtain approval before conducting matching.
2. A draft of proposed operating procedures for the Board.
3. A request for guidance from the AA/Financial Assistance on whether to proceed with performing benefit/cost analysis for two proposed matches.

Copies of all three documents are attached for your review prior to the meeting.


Frank M. Ramos

Attachments

Distribution List:

✓ Charles R. Gillum, Inspector General
Sally B. Narey, General Counsel
John H. Barnett, AA/Hearings and Appeals
Lawrence E. Barrett, Acting AA/IRM

DRAFT

SBA NOTICE

TO: Management Board Members
Anybody else ?

SUBJECT: Computerized Data Matching Programs

The Computer Matching and Privacy Protection Act of 1988 (P.L. 100-503) defined procedural safeguards affecting Federal agencies' use of Privacy Act records in carrying out certain types of computerized matching programs. It required each agency that acts as either a source or recipient of data in a computerized matching program to establish a Data Integrity Board consisting of senior agency officials, appointed by the agency head, to oversee the agency's participation. In compliance with this, the Administrator created the SBA Data Integrity Board on 9/1/89 (SBA Notice 9000-974).

Effective immediately, all proposals for computerized matches involving SBA data are to be submitted to the SBA Data Integrity Board to determine if they are covered by P.L. 100-503. If a proposed match is covered, it must comply with documentation requirements cited in the Act such as formal announcements in the Federal Register, signed agreements, assessment of the costs and benefits, notification of participants, etc.; before the Board will approve any matching activity.

Proposals are to be submitted to the Secretary of the SBA Data Integrity Board John H. Barnett (Assistant Administrator for Hearings and Appeals), for consideration. Should there be any questions, contact Mr. Barnett on 653-7735.

Thank you for your cooperation.

Frank M. Ramos
Associate Deputy Administrator
for Management and Administration

Chairman, SBA Data Integrity Board

DRAFTSBA DATA INTEGRITY BOARDOUTLINE FOR OPERATIONS

1. The responsibility for reviewing and approving computer matches covered by P.L. 100-503 lies with the Data Integrity Board. It may not be delegated.
2. The Board Secretary will act as the contact point for the Board with a requestor seeking approval for a computer match.
3. The Board Secretary will also be the operational focal point, report preparer, and document and file custodian for the DIB.
2. A requester will submit a proposal for computer matching to the Secretary for action.
3. The Secretary will determine if it is a covered match. Consultation with other Board members may be necessary and may be requested at any time.
4. If it is a covered match, the Secretary will inform the requestor of the documentation requirements and answer any questions.
5. When the requestor returns with the complete documentation, the Secretary will convene the Board for a formal review.
6. If the proposal is approved, the reporting requirements to Congress and OMB will be produced by the Secretary and presented to the Chairman for approval and signature. All DIB reporting requirements have already been documented in the excerpt of OMB Bulletin No. 89-22 (attached).
7. The Secretary will retain a record of all matching agreement proposals rejected by the Board, along with the reasons for rejection.
8. The Secretary will retain a record of any violation of matching agreements that have been alleged or identified, together with any actions taken.
9. The Secretary will develop the annual matching activities information report for OMB, as outlined in the 89-22 excerpt attached, and present it to the Chairman for submission.
10. The Secretary may call on any DIB member, or their designees, for assistance at any time throughout the above process.