
Computer Matching Agreement Procedure

Directive No:
CIO 2151-P-09.1CIO Approval:
August 2019Review Date:
August 2021

*Issued by the EPA Chief Information Officer,
Pursuant to Delegation 1-19, dated 07/07/2005*

Computer Matching Agreement Procedure

1. PURPOSE

In accordance with provisions of P.L. 100-503, the Computer Matching and Privacy Protection Act (CMPPA) of 1988, a computer matching agreement is required for any computerized comparison of two or more electronic systems of records, or a system of records with non-federal records, for the purpose of establishing or verifying eligibility or compliance as it relates to cash or in-kind assistance or payments under federal benefit programs. The 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 activities. The Act requires agencies to implement written agreements specifying the terms under which matches are to be done. This procedure establishes the process the Agency uses to participate in computer matching activities.

2. SCOPE

The procedure applies to all U.S. Environmental Protection Agency (EPA) offices that need to engage in a computerized comparison of two or more automated federal systems of records (e.g., payroll or personnel), or a federal system of records with non-federal records, in order to verify eligibility or statutory/regulatory compliance in relation to assistance or payments under federal benefit programs or to recoup payments or delinquent debts under such federal benefit programs.

3. AUDIENCE

The audience for this procedure includes all EPA employees and those working on behalf of EPA who need to participate in computer matching activities.

4. BACKGROUND

Due to the increasing automation of government programs, electronic records play a significant and pervasive role in federal recordkeeping. P.L. 100-503, The CMPPA of 1988, is the first amendment to the Privacy Act to attempt to deal with the issue of automated records and their use.

Pursuant to 5 U.S.C. § 552a(o), any record covered by the Privacy Act and contained in a system of records may only be disclosed to a recipient agency or non-federal agency for use in a computer matching program pursuant to a Computer Matching Agreement (CMA) between the source agency (the federal agency that discloses records to be used in a matching program) and the recipient agency (the federal, state or local agency [or its

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contractor] that receives records). A CMA must be in place before a computer matching activity is initiated.

The CMA must define the purpose, legal authority, and justification for the activity and the anticipated results, including a specific estimate of any cost savings. The CMA must also provide a description of the records being matched; procedures for verifying the accuracy of information produced; and procedures for the retention, security, and timely destruction of the records. EPA must transmit copies of CMAs to the Office of Management and Budget (OMB) and Congressional oversight committees and make CMAs available to the public upon request. Notice of the establishment or revision of a computer matching program must be published in the *Federal Register* at least 40 days in advance of its implementation.

Appeals of a Data Integrity Board (DIB) denial for a CMA must be submitted to the Director of OMB.

5. AUTHORITY

Computer Matching and Privacy Protection Act of 1988 amended, (Pub. L. 100503) 5 U.S.C. § 552a
The Privacy Act of 1974, as amended 5 U.S.C. § 552a

6. PROCEDURE

Public Law 100-503 divides computer matching programs into two kinds of matching programs: (1) matches involving federal benefit programs, and (2) matches using records from federal personnel or payroll systems of records.

1. Federal Benefit Programs Matches. All the critical elements below must be present before a program is covered by the CMPPA. Questions concerning whether a match is covered by the CMPPA should be referred to the Agency Privacy Officer.

The record comparison must involve records from:

- 1) Two or more automated systems of records that are subject to the Privacy Act;
or,
- 2) A federal agency's automated system of records and automated records maintained by a non-federal agency or agent thereof.

The Act covers only the following categories of record subjects:

- 1) Applicants (individuals initially applying for benefits) for federal benefit programs;
- 2) Program beneficiaries (individual program participants who are currently receiving or formerly received benefits); and,
- 3) Providers of services to support such programs.

The match must have as its purpose one or more of the following:

- 1) Establish or verify initial or continuing eligibility for federal benefit programs;
- 2) Verify compliance with the statutory or regulatory requirements of such programs;
or

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3) Recoup payments or delinquent debts under such federal benefit programs.

- 2. Federal Personnel or Payroll Matches.** Matches comparing records from automated federal personnel or payroll systems of records, or such records with automated records of State and local governments when performed for purposes other than those that are routine or administrative in nature.

Excluded matches. A match may meet the criteria established for computer matching but may be excluded if it falls under one of the CMPPA exclusionary clauses. Questions concerning whether a match falls under one of the following exclusions should be referred to the Agency Privacy Officer. Examples of excluded matches, include:

- 1) Statistical matches for which the purpose is solely to produce aggregate data stripped of personal identifiers;
- 2) Statistical matches for which the purpose is to support a research or statistical project, the data from which may not be used to make decisions that, affect the rights, benefits or privileges of specific individuals;
- 3) Pilot matches, such as small scale matches to gather benefit/cost data on which to premise a decision about engaging in a full-fledged matching program. A pilot match is forbidden unless it is expressly approved by the DIB. Data developed during a pilot match may not be used to make decisions affecting the rights, benefits, or privileges of specific individuals;
- 4) Law enforcement investigative matches by an agency or component whose principle statutory function involves the enforcement of criminal laws, the purpose of which is to gather evidence against a named person or persons in an existing investigation. The match must flow from a civil or criminal law enforcement investigation already under way;
- 5) Tax administration matches;
- 6) Routine administrative matches using predominantly federal personnel records, provided the purpose is not to take any adverse action against federal personnel, as defined in the Privacy Act;
- 7) Internal matches using only records from the Agency's system of records. However, an internal match whose purpose is to take any adverse financial, personnel, disciplinary or other adverse action against federal personnel is covered; and
- 8) Background investigations and foreign counterintelligence matches.

The procedures the Agency will follow to participate in computer matching activities are described below.

The **participating program office** will:

- Notify their program or regional Liaison Privacy Official and the Agency Privacy Officer when needing to conduct a computerized comparison of two or more automated federal system of records (e.g., payroll and/or personnel) or of a federal system of records with non-federal records in order to verify eligibility or compliance in relation to assistance or payments under federal benefit programs or to recoup payments or delinquent debts under such federal benefit programs.
- Ensure that the system containing the needed records is covered by a System of Records Notice (SORN) that allows for the computer matching activity as a part of the system's routine uses.

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- If necessary, revise the SORN routine uses for the system to allow for the matching activity.
- Develop a Memorandum of Understanding (MOU) with the source agency that clearly defines restrictions on the use of the records; establishes security controls; and provides instructions for reporting breaches and for maintaining, duplicating and disclosing the necessary records.
- Prepare a cost/benefit analysis for the CMA which is included in the matching agreement as justification for the proposed matching program, including a "specific estimate of any savings," and which verifies the value to the Agency of conducting the computer matching in instances where EPA is the recipient Agency in a match between two federal agencies or in any instance involving non-federal match activities.
- Prepare a CMA for an 18-month period.¹
- Prepare a *Federal Register* Notice announcing the matching program for the Privacy Program to submit for publication in the *Federal Register* in instances where EPA is the recipient Agency in a match between two federal agencies or in any instance involving a non-federal match.
- Extend, renew and/or terminate the CMA, as appropriate.
- Advise the DIB of modifications or changes to existing CMAs prior to renewal.
- Report annually to the DIB on CMA activities.

The **Agency Privacy Officer** will coordinate the review of the CMA package and provide guidance and assistance to the participating program or regional office and the DIB. The Agency Privacy Officer will:

- Notify the Senior Agency Official for Privacy (SAOP) when a computer matching activity is required.
- Review and approve the CMA, MOU, *Federal Register* Notice and related documents in coordination with the Office of General Counsel.
- Ensure that the *Federal Register* Notice about the CMA meets CMPPA requirements and has been cleared by Data Integrity board.
- Submit the completed CMA package to *Federal Register* Office for publication at least 40 days prior to the implementation of the matching program.

The **Data Integrity Board (DIB)** will:

- Review and approve the cost/benefit analysis to determine if the proposed program is likely to be cost effective.
- Assess the costs and benefits of the program and determine whether the program should be continued.
- Provide final review and approval of CMAs.²
- Review on-going matching programs annually to ensure that statutory, regulatory, OMB and Agency requirements and policies are met.

¹ Under *Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA)* a CMA is published for three years with a three-year renewal.

² Under the *Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA)*, instances where the DIB takes longer than 60 days to make a decision on a CMA must be reported to EPA's Inspector General and posted on EPA's public privacy website.

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The CMPPA requires that, prior to taking any adverse action against an individual based on the match results, information generated through a matching program must be independently verified. The CMPPA also requires that agencies notify matching subjects of adverse information uncovered and provide them an opportunity to contest such findings prior to making a final determination. Where a statute or regulation does not establish a time period for the individual to respond to the notice, the individual's opportunity to respond shall end no later than 30 calendar days from the date the notice is mailed or otherwise provided to the individual. The DIB may determine, in accordance with guidance issued by the Director of OMB, that it is appropriate to compress the verification and notice requirements into a single step. This may be the case where there is a high degree of confidence that the information provided to the recipient agency is accurate and/or where the individual subject is the best source for verifying the matched data. To ensure that compression is not a routine process, however, the OMB guidance requires that the DIB must make a formal determination if it decides it is appropriate to compress the verification and notice requirements into a single time period.

Independent verification of adverse information requires an investigation of:

- The amount of any asset or income involved;
- Whether the individual actually has access to this asset or income for individual use; and
- The period of time in which the individual actually had possession of the asset or income.

Any required notice period may be waived if the agency determines the public health or safety may be adversely affected or significantly threatened during any notice period required.

7. ROLES AND RESPONSIBILITIES**Agency Privacy Officer:**

- Serves as an advisory member of the DIB without voting rights
- Prepares biennial reports on CMA activities for submission by EPA's Senior Agency Official for Privacy (SAOP)
- Submits regulatory documents to OP for publication in the *Federal Register*
- Provides training materials and support to the DIB

Chief Information Officer/Senior Agency Official for Privacy:

- Convenes and chairs the DIB
- Designates senior officials as members when matching is required
- Trains DIB members on roles and responsibilities
- Submits annual reports to OMB and Congress for ongoing CMAs
- Periodically reviews the effectiveness and responsiveness of the DIB to determine if additional support or instruction is needed

Chief Information Security Officer (CISO):

- Serves as an advisory member of the DIB without voting rights

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Chief Privacy Officer:

- Chairs the DIB when the SAOP is absent
- Participates in computer matching programs as required
- Establishes a training program for DIB members to ensure knowledge and fulfillment of their duties

Data Integrity Board (DIB):

The DIB is composed of the EPA's CIO/SAOP, Principal Deputy General Counsel, Inspector General, and senior officials from the Office of the Chief Financial Officer, the Administration and Resources Management and the lead Regional Office, as appropriate. The DIB is responsible for the oversight and coordination of program operations, including the execution of certain specified reviews and reporting functions.

All members of the DIB will:

- Attend a training program for members administered by the CIO/SAOP
- Oversee and coordinate the implementation of the CMPPA as it relates to Agency participation in matching programs
- Review, approve and maintain all CMAs
- Ensure that the Agency has completed and submitted a cost-benefit analysis for each CMA, if required, which demonstrates that the program is likely to be cost effective
- Evaluate annually each ongoing matching program to ensure statutory, regulatory and Agency requirements, guidelines and policies are met
- Determine if a CMA should be continued
- Review Agency recordkeeping and disposal policies and practices for matching programs
- Provide interpretation and guidance to staff on requirements for matching programs
- Serve as the Agency's point of contact for receiving and giving information on the accuracy, completeness, and reliability of records used in matching programs
- Submit an annual report on ongoing matching activities to OMB and the EPA Administrator
- Submit a biennial report on matching activities to the appropriate Congressional oversight committees and OMB
- Document all decision-making activities of the board

Deputy Chief Information Security Officer (DCISO)

- Serves as an advisor when the CPO is chair of DIB when SAOP is absent.

Principal Deputy General Counsel:

- Is a member of the DIB
- Provides legal support to the participating program office
- Reviews CMA activities for legal sufficiency
- Reviews final documents in concert with the Agency Privacy Officer

Recipient Agency

- Responsible for publishing the *Federal Register* Notice
- Responsible for reporting to OMB and Congress on matching activities
- Performs the cost/benefit analysis and shares that analysis with the source agency to help their DIB make a determination on the CMA

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Source Agency:

- Prepares an MOU that defines the restrictions of the use of the records; establishes security controls; and provides instructions for reporting breaches and for maintaining, duplicating and disclosing the necessary records
 - Prepares the CMA when matching with a non-federal agency
 - Obtains approval of the CMA by the recipient agency or non-federal agency Submits the CMA to the DIB
 - Advises the DIB of modifications or changes to existing CMAs prior to renewal
 - Reports annually to DIB on on-going CMA activities
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8. RELATED INFORMATION

OMB Circular A-130, "Managing Federal Information as a Strategic Resource," Appendix I, "Responsibilities for Protecting and Managing Federal Information Resources" July 2016
 OMB Bulletin 89-22, "Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public."

OMB Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988. OMB Guidelines on the Administration of the Privacy Act of 1974.

OMB M-13-20, Protecting Privacy while Reducing Improper Payments with the Do Not Pay Initiative.

Agency's Privacy Policy 2151.0

Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) 31 U.S.C. § 3321

OMB Circular A-108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.

9. DEFINITIONS

Computer Matching Program – The comparison of automated records using a computer. Manual comparisons of printouts of two automated data bases are not included in this definition. A matching program covers the actual computerized comparison and any investigative follow-up and ultimate action. Public Law 100-503 divides computer matching programs into covered and non-covered matching programs. Two kinds of matching programs are covered: (1) matches involving federal benefits programs, and (2) matches using records from federal personnel or payroll systems of records. Questions concerning whether a match is covered by the CMPPA should be referred to the Agency Privacy Officer.

Cost/Benefit Analysis - A part of an agency decision to conduct or participate in a computer matching program. It must be included in matching agreements as justification for the proposed matching program and include a "specific estimate of any savings."³ The analysis is also used by the DIB in the review process.

Data Integrity Board – The board of senior agency advisors designated by the CIO/SAOP that is responsible for reviewing the Agency's proposals to conduct or participate in a matching program and for conducting an annual review of all matching programs in which the Agency is participating.

³ A CMA for the Do Not Pay Initiative (DNP) does not require the estimate of cost savings.

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Federal Benefit Program – 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.

Matching Agreement – A written agreement between the source agency and the recipient agency (or non-federal agency) specifying the terms of the matching activity program. There are three categories of matching agreement: new, extension and renewal.

- A. *New Agreement* - A new agreement is created the first time a matching agreement is developed for a matching program. The matching program itself may have been in existence prior to the CMPPA. The agreement may exist for up to 18 months and may be extended 12 additional months. A new agreement must be reviewed by the DIB and requires development of a cost/benefit analysis.
- B. *Extension Agreement* - An extension agreement allows the continuation of an existing agreement for an additional 12 months, without additional review by the DIB, provided certain conditions are met. The participating agencies must certify to the Chairperson of the DIB that the matching program will be continued in full compliance with the existing agreement and requested within the last 90 days of the existing agreement.
- C. *Renewal Agreement* - When the initial matching agreement (including any extension) has expired, a renewal agreement permits the matching program to continue and may exist for up to 18 months. This agreement must be approved by the DIB within the last 90 days of the existing agreement. Requires the same review, reports and notices as a new agreement.

Non-Federal Agency - Any state or local government or agency that receives records contained in a system of records from a source agency for use in a matching program.

Participating Program Office – Acts as the source agency on matching agreements with non-federal agencies.

Recipient Agency - Federal agencies (or their contractors) that receive records from Privacy Act systems of records of other federal agencies or from state and local governments to be used in matching programs. Recipient agencies are generally assumed to be the beneficiary of a matching program and are responsible for the reporting and publishing requirements of the Act.

Source Agency - Any federal agency that discloses records contained in a system of records to be used in a matching program, or any state or local government, or federal agency which discloses records to be used in a matching program. The source agency provides input to EPA in preparing the agreement, and in carrying out the reporting responsibilities, including cost/benefit analysis.

System of Records – A group of any records under the control of the agency from which information is retrieved by a name, number, symbol, or other unique personal identifier assigned to the individual.

10. WAIVERS

Specific estimate of savings for cost-benefits analysis. The CMA for Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) is published for three years with a three-year renewal as opposed to the 18-month period with a 12month

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extension for other CMAs. A CMA for the Do Not Pay Initiative (DNP) does not require the estimate of cost saving.

11. MATERIAL SUPERSEDED

This revised policy replaces all previous versions of this policy.

12. CONTACTS

For further information, please contact the Office of Mission Support - Environmental Information (OMS-EI), Office of Information Security and Privacy (OISP).

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and Chief Information Officer
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