



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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THE DIRECTOR

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MEMORANDUM TO HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Russell T. Vought
Director

SUBJECT: Preventing Improper Payments and Protecting Privacy Through Do Not Pay

Overview

It is the policy of this Administration to promote financial integrity and ensure accountability to American taxpayers. On March 25, 2025, President Trump signed Executive Order (EO) 14249, *Protecting America's Bank Account Against Fraud, Waste, and Abuse*,¹ which requires Executive Branch agencies to take action to defend against financial fraud and prevent improper payments in collaboration with the U.S. Department of the Treasury (Treasury), the Federal Government's largest financial payment manager. The EO requires effective use of Treasury's Do Not Pay Working System (Do Not Pay),² which, to date, has failed as a tool for comprehensive screening for improper payments to protect against waste, fraud, and abuse. This Memorandum provides guidance to help agencies implement Section 3(c) and (d) of EO 14249 to strengthen the Executive Branch's capacity and flexibility to prevent improper payments while preserving important safeguards under the Privacy Act of 1974 (Privacy Act).³

Background

The Payment Integrity Information Act of 2019⁴ (PIIA) requires "[e]ach executive agency . . . [to] ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds" and provides that "[f]or purposes of identifying and preventing improper payments, each executive agency shall have access to, and use of, the Do

¹ 90 Fed. Reg. 14,011 (Mar. 28, 2025).

² For purposes of this guidance, the Do Not Pay Working System is the same as the Initial Working System identified in 31 U.S.C. § 3354(c). It includes Treasury's system of records for Do Not Pay.

³ 5 U.S.C. § 552a.

⁴ 31 U.S.C. § 3351 *et seq.*

Not Pay Initiative to verify payment or award eligibility.”⁵ In accordance with PIIA, Do Not Pay contains a centralized portal that agencies can use to screen potential benefit recipients, vendors, and other payees against databases that help determine their eligibility to receive the payment and help agencies ensure the payment is made to the right recipient. To the detriment of the American taxpayer, this tool has been poorly managed over the last four years and has had limited impact on preventing improper payments. EO 14249 reaffirms this Administration’s commitment to eliminating improper payments by enhancing the requirement for agencies to use Do Not Pay as part of a pre-certification verification process for payment and award eligibility.⁶

The Director of the Office of Management and Budget (OMB) is responsible for issuing guidance on Do Not Pay under PIIA, and is also required by the Privacy Act to provide guidance and assistance to agencies implementing that statute’s requirements.⁷ Consistent with the goals of EO 14249, this Memorandum will enable agencies to access Do Not Pay more easily, while protecting privacy, improving the ability to prevent waste and improper payments.

EO 14249 requires agency heads to “review and modify, as applicable, their relevant system of records notices under the Privacy Act of 1974 to include a ‘routine use’ that allows for the disclosure of records to the Department of the Treasury for the purposes of identifying, preventing, or recouping fraud and improper payments, to the extent permissible by law,” within 90 days of that order.⁸ Additionally, the EO emphasizes the need “to minimize administrative barriers to accessing and using data to prevent fraud and improper payments by exercising the authority in 31 U.S.C. 3351 *et seq.* to waive [the procedural requirements of the Privacy Act to enter into matching agreements] . . . in any case or class of cases for computer matching activities, to the extent permissible by law.”⁹

As agencies take the actions required by EO 14249, they are responsible for following the guidance provided in this Memorandum, consistent with law and policy, including the detailed instructions provided in Appendix I, *Routine Use for Do Not Pay*, and Appendix II, *Four-Year Waiver of Matching Agreement Requirement for Do Not Pay*. This guidance complements other OMB guidance on Do Not Pay and the Privacy Act.¹⁰ The term *improper payment* is defined at 31 U.S.C. § 3351(4); in this Memorandum, this term includes fraudulent transactions. Given the focus of this Memorandum on Privacy Act requirements, the terms *agency*, *individual*, *maintain*, *record*, *system of records*, *routine use*, *matching program*, *Federal benefit program*, and *Federal personnel* have the meanings given those terms in the Privacy Act.¹¹

⁵ *Id.* § 3354(a)(1), (b)(3).

⁶ Executive Order 14249, § 3(b).

⁷ 5 U.S.C. § 552a(v).

⁸ Executive Order 14249, § 3(d).

⁹ *Id.* § 3(c).

¹⁰ *E.g.*, Appendix C to OMB Circular No. A-123, *Requirements for Payment Integrity Improvement* (March 5, 2021); OMB Circular No. A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act* (Dec. 2016).; *Privacy Act Implementation: Guidelines and Responsibilities*, 40 Fed. Reg. 28,948, 28,961 (July 9, 1975); *Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988*, 54 Fed. Reg. 25,818, 25,826 (June 19, 1989).

¹¹ See 5 U.S.C. § 552a(a)(1), (2), (3), (4), (5), (7), (8), (12), (13).

While the goal of this guidance is to increase the Federal Government’s efficiency in preventing improper payments, it is also important to acknowledge that sharing personally identifiable information can present risk to individuals without appropriate safeguards for privacy. EO 14249 recognized this risk in directing the Secretary of the Treasury and agency heads to “take all necessary steps to protect classified information and systems, as well as personally identifiable information and tax return information, through the implementation of this order.”¹²

OMB Assistance

Agencies may submit questions about this Memorandum to OMB via the following email address: privacy-oira@omb.eop.gov. For other questions about implementation of EO 14249, agencies should email the following address: BankAccountEO@omb.eop.gov.

Appendix

¹² Executive Order 14249, § 7(c).

APPENDIX I: Routine Use for Do Not Pay

The Privacy Act prohibits agencies from disclosing “any record which is contained in a system of records by any means of communication to any person, or to another agency” without the prior written consent of the individual to whom the record pertains, unless an exception applies.¹³ One exception is for a “routine use” published in an agency’s system of records notice (SORN)¹⁴ that allows for a disclosure that is compatible with the purpose for which the information was collected.¹⁵ EO 14249 requires agency heads to “review and modify, as applicable, their relevant system of records notices under the Privacy Act of 1974 to include a ‘routine use’ that allows for the disclosure of records to the Department of the Treasury for the purposes of identifying, preventing, or recouping fraud and improper payments, to the extent permissible by law,” within 90 days of that order.¹⁶

By that same deadline, EO 14249 required agency heads to submit a compliance plan to the OMB Director detailing their implementation strategies.¹⁷ In April 2025, OMB and Treasury provided to agency Chief Financial Officers instructions on the development and submission of such a compliance plan by June 23, 2025. Those instructions directed agencies to identify actions they are taking to review and modify relevant SORNs for purposes of implementing the routine use provision in Section 3(d) of EO 14249, which is a responsibility of Senior Agency Officials for Privacy.

a. Routine Use and Compliance Timeline

In accordance with Section 3(d) of EO 14249, each Senior Agency Official for Privacy,¹⁸ in consultation with the agency’s Chief Financial Officer and Chief Information Officer, is required to take the following steps:

i. By Friday, September 19, 2025

1. Identify which of the agency’s systems of records maintain information about applicants for, or recipients of, Federal funds that agencies use to make eligibility determinations for payments to beneficiaries, award and loan recipients, vendors, contractors, and other payees;
2. Determine which of the identified systems of records maintain information whose disclosure to Treasury would be relevant and necessary for identifying, preventing, or recouping improper payments by reviewing payment and award eligibility through the Do Not Pay Working System; and

¹³ 5 U.S.C. § 552a(b).

¹⁴ *Id.* § 552a(e)(4).

¹⁵ *Id.* § 552a(a)(7).

¹⁶ Executive Order 14249, § 3(d).

¹⁷ *Id.* § 7(a).

¹⁸ The Senior Agency Official for Privacy has agency-wide responsibility and accountability for the agency’s privacy program, and is responsible for ensuring that “the agency complies with applicable privacy requirements in law, regulation, and policy.” OMB Memorandum M-16-24, *Role and Designation of Senior Agency Officials for Privacy* (Sept. 15, 2016).

3. Report to OMB and Congress in accordance with OMB Circular No. A-108¹⁹ any proposal(s) to add the following routine use to the agency's SORN(s) or to modify an existing routine use in the agency's SORN(s) so that it conforms to the following routine use.

Routine Use

To the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

- ii. **Expediently (to the extent permissible by law, usually within two weeks of the date on which OMB has concluded review of a proposal to modify a system of records),** address any comments from OMB and Congress²⁰ and submit the modified SORN(s) for publication in the *Federal Register*.²¹
- iii. **Subsequently, when establishing a new system of records that meets the criteria in (a)(i),** include the routine use provided in this Memorandum in the agency's SORN.

b. Additional Guidance

The following guidance is intended to assist agencies in carrying out these requirements in compliance with law and policy:

- i. **Customization of the Routine Use.** Agencies are required to include the version of the routine use provided in this Memorandum in relevant agency SORNs. This requirement is intended to standardize agencies' approach to disclosing records to Do Not Pay. An agency, however, may add more specific language to its routine use to meet legal, regulatory, or policy requirements. For example, an agency may need to include a limitation on the categories of records disclosed.
- ii. **Modification of an Existing Routine Use.** If a SORN already includes a routine use with the same category of users and purpose of use, the agency must still update the routine use to make it conform with the routine use provided in this Memorandum. Generally, the modification of a routine use is considered a significant change that requires reporting the proposal to OMB and Congress and publishing a notice in the *Federal Register*.²²

¹⁹ OMB Circular No. A-108, § 7.

²⁰ *Id.* § 7(b).

²¹ If OMB concludes review before its typical 30-day review period has ended, that does not waive the adequate advance notice that is required to Congress.

²² See OMB Circular No. A-108, § 6(b)(8).

- iii. **Other Modifications to the System of Records.** When including a new or modified routine use, agencies should consider whether other modifications to the system of records and its SORN are necessary (*e.g.*, updates to the purpose(s) of the system).
- iv. **Consolidation of the Report.** Consistent with OMB Circular No. A-108, when adding the routine use to multiple SORNs concurrently, agencies may submit a single, consolidated report to OMB (and a single, consolidated report to Congress) describing the changes.²³ However, the changes must be properly reflected in all of the published SORNs that the agency has determined should include the routine use.²⁴
- v. **Publication in the *Federal Register*.** As required by the Privacy Act, agencies must publish an appropriate notice²⁵ in the *Federal Register* with any new or modified routine use at least 30 days before the effective date of the routine use.²⁶ Once the notice is published in the *Federal Register*, “[a]n agency shall not disclose any records pursuant to a new or modified routine use until after the 30-day comment period has ended and the agency has considered any comments from the public and determined that no further modifications are necessary.”²⁷
- vi. **Relevant and Necessary Disclosure.** When making a disclosure to Treasury pursuant to the routine use, agencies must only disclose the specific information elements that are directly relevant to identify, prevent, or recoup improper payments through Do Not Pay.²⁸

²³ *Id.* § 7(f).

²⁴ *Id.*

²⁵ As stated in OMB Circular No. A-108, § 6(k): “Agencies are strongly encouraged to publish all routine uses applicable to a system of records in a single *Federal Register* notice for that system. However, some agencies choose to publish a separate notice of routine uses that are applicable to many systems of records at the agency, and then incorporate them by reference into the notices for specific systems to which they apply. When incorporating such routine uses by reference, agencies shall ensure that the routine use section of the SORN clearly indicates which of the separately published routine uses apply to the system of records and includes the *Federal Register* citation where they have been published.”

²⁶ See 5 U.S.C. § 552a(e)(11).

²⁷ OMB Circular No. A-108, § 6(k).

²⁸ Section 3(e) of EO 14249 highlights health records as an example of information that would not be necessary to disclose for the purpose of verifying payment information or detecting and preventing improper payments.

APPENDIX II: Four-Year Waiver of Matching Agreement Requirement for Do Not Pay

The Privacy Act includes a series of requirements that apply when agencies engage in a matching program.²⁹ Generally, a matching program is a computerized comparison of records from two or more automated systems of records maintained by Federal agencies, or an automated system of records and automated records maintained by a non-Federal agency (or agent thereof). One of the requirements for matching programs is for the participating agencies to enter into a matching agreement, which is a written agreement specifying important details about the matching program. This requirement helps to ensure that the matching program is conducted in a manner that ensures accountability, due process, information quality, data minimization, security, and transparency.³⁰ Congress, however, recognized a need for flexibility in how agencies implement these safeguards for matching programs conducted under Do Not Pay.

PIIA states that “[t]he head of the agency operating the [Do Not Pay] Working System may, in consultation with the Office of Management and Budget, waive the requirements of section 552a(o) of title 5 in any case or class of cases for computer matching activities conducted under this section.”³¹ EO 14249 emphasizes this flexibility in directing the Secretary of the Treasury “to minimize administrative barriers to accessing and using data to prevent fraud and improper payments by exercising the authority in 31 U.S.C. 3351 *et seq.* to waive the requirements of 5 U.S.C. 552[a](o), in consultation with the OMB Director, in any case or class of cases for computer matching activities, to the extent permissible by law.”³²

To facilitate matching activities for Do Not Pay, this Memorandum provides guidance to establish requirements governing such waivers, in accordance with the OMB Director’s authority in the PIIA.³³ A waiver is not required for any Do Not Pay activity that is not part of a matching program because such activities are not subject to the requirement for a computer matching agreement at 5 U.S.C. § 552a(o). Thus, although the eligibility criteria below define the scope of the waiver to be granted by Treasury under PIIA,³⁴ the waiver criteria do not limit use of Do Not Pay in circumstances in which the matching requirements of the Privacy Act do not apply.

²⁹ A matching program pertains to either (1) Federal benefit programs or (2) Federal personnel or payroll records. A Federal benefit program is defined at 5 U.S.C. § 552a(a)(12) to mean “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.” A Federal benefit match is performed for purposes of determining or verifying eligibility for payments under Federal benefit programs, verifying compliance with the requirements of such programs, or recouping payments or delinquent debts under such programs. A matching program involves not just the matching activity itself, but also the investigative follow-up and ultimate action, if any. See U.S.C. § 552a(a)(8); see also Appendix C to OMB Circular No. A-123, § VIII.

³⁰ See 5 U.S.C. § 552a(o).

³¹ 31 U.S.C. § 3354(b)(3)(B)(i).

³² Executive Order 14249, § 3(c). Although the quoted text from Section 3(c) of the Federal Register version of EO 14249 refers to “5 U.S.C. 552(o),” 5 U.S.C. § 552a(o) is correctly cited in the version of the EO on the White House website at <https://www.whitehouse.gov/presidential-actions/2025/03/protecting-americas-bank-account-against-fraud-waste-and-abuse/>.

³³ 31 U.S.C. § 3354(b)(3)(B)(ii).

³⁴ *Id.* § 3354(b)(3)(B).

a. Eligibility Criteria for Waiver

Following appropriate evaluation and documentation of the benefits and risks, Treasury, in consultation with OMB, will grant a forthcoming four-year waiver of the requirement for entering into³⁵ a matching agreement under 5 U.S.C § 552a(o) for the class of matching programs that meet all of the following criteria:

- i. The only purposes of the matching program are identifying and preventing improper payments and conducting any related recovery activities by verifying through Do Not Pay prepayment or pre-award eligibility.
- ii. The matching program involves one or more databases contained in Do Not Pay during the period in which the waiver is in effect.
- iii. The matching program involves either:
 1. one payment-certifying agency's³⁶ system(s) of records that maintain(s) information relevant and necessary for verifying payment or award eligibility and related recovery activities; or
 2. a state,³⁷ or agency thereof, responsible for reducing improper payments of a state-administered, federally funded program.
- iv. The matching program involves verifying prepayment or pre-award eligibility in one or more of the eligible object classes identified in the following table, as defined in OMB Circular No. A-11,³⁸ or any other object classes specified by Treasury, in consultation with OMB.

³⁵ Agencies should continue to observe the requirements of existing matching agreements in place as of the issuance of this waiver until their expiration. This waiver may apply to matching programs that are established or re-established during the period in which this waiver is in effect.

³⁶ The payment-certifying agency is a Federal agency in the Executive Branch that has the authority to issue a payment or award and engages in a matching program for the purposes of determining or verifying eligibility for the payment or award.

³⁷ This Memorandum defines a *state* as a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe, in alignment with 31 U.S.C. § 3351(8).

³⁸ OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget* (July 25, 2024), § 83.

Object Classes <u>Eligible</u> for Waiver	Object Classes <u>Not Eligible</u> for Waiver
12.1 – Civilian personnel benefits	11.1 – Full-time permanent ³⁹
12.2 – Military personnel benefits	11.3 – Other than full-time permanent
13.0 – Benefits for former personnel	11.5 – Other personnel compensation
25.1 – Advisory and assistance services	11.6 – Military personnel – basic allowance for housing
25.2 – Other services from non-Federal sources	11.7 – Military personnel
25.3 – Other goods and services from Federal sources	11.8 – Special personnel services payments
25.4 – Operation and maintenance of facilities	21.0 – Travel and transportation of persons
25.5 – Research and development contracts	22.0 – Transportation of things
25.6 – Medical care	23.1 – Rental payments to GSA
25.7 – Operation and maintenance of equipment	23.2 – Rental payments to others
25.8 – Subsistence and support of persons	23.3 – Communications, utilities, and miscellaneous charges
26.0 – Supplies and materials	24.0 – Printing and reproduction
31.0 – Equipment	43.0 – Interest and dividends
32.0 – Land and structures	91.0 – Unvouchered
33.0 – Investments and loans	92.0 – Undistributed
41.0 – Grants, subsidies, and contributions	94.0 – Financial transfers
42.0 – Insurance claims and indemnities	
44.0 – Refunds	

The waiver will be in effect for four years from its issuance. During that period, Treasury will report annually to OMB on the effectiveness of this approach to preventing improper payments and safeguarding privacy, in accordance with reporting requirements to be set by OMB. At least six months before the end of the four-year period, Treasury, in consultation with OMB, will make a determination about the continuation of this waiver.

b. Requirements to Receive Waiver

No written request for a waiver is needed for matching programs that meet these criteria,⁴⁰ provided that the payment-certifying agency (or state, or agency thereof) and Treasury comply with the following requirements before conducting the matching program:

- i. **Data Sharing Agreement.** Any payment-certifying agency or state (or agency thereof) making use of this waiver must first establish a written data sharing agreement with Treasury⁴¹ that describes the terms of the matching program, including how both parties will safeguard the records involved. At a minimum, the data sharing agreement must specify:

³⁹ Object classes 11.1 through 11.8 relate to personnel compensation.

⁴⁰ This guidance replaces the following sentences from Appendix C to OMB Circular No. A-123, § IV(E)(5)(a): “To request a CMA waiver for matching programs, agencies must send a CMA Waiver Request to Treasury. CMA Waiver Requests will be handled and evaluated by Treasury based on procedures and criteria established by OMB.”

⁴¹ This data sharing agreement may be the same as the one Treasury establishes when onboarding Do Not Pay users.

1. the categories of records that will be matched, including each data element;
 2. procedures for verifying information produced in such matching program;⁴²
 3. procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such program;
 4. prohibitions on duplication and redisclosure of records provided by the payment-certifying agency (or state, or agency thereof), except where required by law or essential to the conduct of the matching program; and
 5. procedures governing the use of records provided by the payment-certifying agency (or state, or agency thereof), including return of the records to the payment-certifying agency (or state, or agency thereof) or destruction of records used in the matching program.
- ii. **Reporting to OMB and Congress.** Any agency making use of this waiver must still report to OMB and Congress any proposal to establish, re-establish, or significantly modify a matching program.⁴³ The transmittal letter for the report to OMB and Congress must include confirmation that the data sharing agreement required by this Memorandum has been signed by the payment-certifying agency (or state, or agency thereof) and Treasury. When concurrently establishing, re-establishing, or significantly modifying multiple matching programs that involve the Do Not Pay Working System, agencies may submit a single, consolidated report to OMB (and a single, consolidated report to Congress) describing the changes.
- iii. **Matching Notice.** Any agency making use of this waiver must still publish notice of the matching program in the *Federal Register*. The agency may not conduct the new, re-established, or significantly modified matching program until after the required 30-day public comment period has ended.⁴⁴ The matching notice must comply with OMB Circular No. A-108 requirements and must explain in the Supplementary Information section that a waiver of the matching agreement requirement under 5 U.S.C. § 552a(o) has been granted.
- iv. **Compliance with Privacy Act Requirements.** Any agency making use of this waiver must still comply with all other applicable requirements of the Privacy Act. For example, a waiver of the matching agreement requirement under 5 U.S.C. § 552a(o) does not affect the requirement at 5 U.S.C. § 552a(p)(1)(A) for the agency to independently verify information produced by the matching program, or the requirement at 5 U.S.C. § 552a(p)(1)(B) for the agency to provide an individual with notice containing a statement of the agency's findings and informing the individual of the opportunity to

⁴² 5 U.S.C. § 552a(p).

⁴³ See OMB Circular No. A-108, § 9(c).

⁴⁴ 5 U.S.C. § 552a(e)(12).

contest such findings. Agencies should not adopt practices that deliberately avoid the reach of the Privacy Act where compliance would otherwise be required.⁴⁵

- v. **Privacy Act Training.** Agencies making use of this waiver must conduct annual, mandatory role-based training on applicable Privacy Act requirements for agency officials involved in conducting the matching program.

⁴⁵ For example, the matching requirements of the Privacy Act apply to all matching activities that involve a subset of records from a system of records when the subset of records itself would meet the definition of *system of records* in the Privacy Act, so long as the other qualifications in the statute are met.