

COMMENTS OF THE ELECTRONIC PRIVACY INFORMATION CENTER

to the

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES' ADMINISTRATION FOR CHILDREN AND FAMILIES

System of Records Notice, System No. 09-80-0375,
Temporary Assistance for Needy Families (TANF) Data

91 Fed. Reg. 37,406 (as modified by 91 Fed. Reg. 45,278 & 91 Fed. Reg. 51,174)

ACF-2026-0727-0001

August 11, 2026

The Electronic Privacy Information Center (EPIC) submits these comments in response to the System of Records Notice for System No. 09-80-0375, Temporary Assistance for Needy Families (TANF) Data (TANF Notice) published by the U.S. Department of Health and Human Services' Administration for Children and Families on June 23, 2026¹ (and modified on July 20, 2026² and August 7, 2026³). EPIC is a public interest research center in Washington, D.C., established in 1994 to protect privacy, freedom of expression, and democratic values in the information age.

The TANF Notice should be promptly withdrawn and the proposals it sets out abandoned. Through the Notice, ACF asserts egregiously broad and nebulous authority to collect, process, and redisclose vast quantities of sensitive personal information from current and former recipients of TANF financial assistance and members of their households. These data types include—but are assuredly not limited to—"Social Security number, date of birth, citizenship/immigration status, race, employment status, education level, hours of participation in work activities, and income."⁴

ACF's Notice and its proposed courses of action fail for at least three reasons. First, the TANF Notice flunks the Privacy Act's requirements for a system of records notice by failing to provide adequate detail for public participation and asserting an invalid routine use. Second, ACF's proposed aggregation and disclosure of individual-level TANF data greatly exceeds its legal authority and would violate multiple federal statutes. Finally, ACF has violated the Computer Matching and Privacy Protection Act by failing to identify or provide an opportunity

¹ 91 Fed. Reg. 37,406 (June 23, 2026).

² 91 Fed. Reg. 45,278 (July 20, 2026).

³ 91 Fed. Reg. 51,174 (August 7, 2026).

⁴ 91 Fed. Reg. at 37,408.

to comment on computer matching agreements that would authorize the automated comparison of individual-level TANF data with HHS and other agency records.

I. The TANF Notice is impermissibly vague and fatally deficient.

The Privacy Act requires agencies to “publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include . . . the categories of records maintained in the system[,] each routine use of the records contained in the system,” and “the categories of sources of records in the system.”⁵ The TANF Notice fails at this charge in at least two critical respects.

First, the TANF Notice lacks the requisite detail for “interested persons” to provide fully informed “written data, views, or arguments”⁶ on ACF’s proposal to amass and redisclose sensitive personal information about TANF recipients and their household members. For example, the Notice proposes to expand the categories of record sources—previously limited to information “obtained from TANF grantee agencies in the states, territories, and Tribal organizations”⁷—to include “other HHS records” and information from “other federal or state agencies or entities engaged to assist ACF with program integrity reviews or projects.”⁸ Yet the Notice provides no detail as to which HHS records and information types will be newly ingested, places no limit on which agencies or entities will be engaged to perform “program integrity” work, and says nothing about which “projects” those entities will carry out. Although the SORN states that data received from other agencies “may include SSN, date of birth, county of residence, name, address, and detailed immigration status information,”⁹ this list is non-exhaustive and lacks any limiting condition.

Routine Use 10 likewise fails to provide adequate detail for informed public evaluation. It announces that ACF may disclose data from the TANF System of Records to “another federal or grantee agency or entity engaged by ACF (*e.g.*, DHS or TANF program administrators) to assist ACF with program integrity reviews or projects,”¹⁰ but it again fails to enumerate (beyond two possible examples) which agencies and entities this will include or what reviews and projects they will undertake. Taken together, these proposed changes to the TANF System of Records leave few apparent limits on what sensitive personal data may be collected (and from whom) or disclosed (and to whom). ACF has not provided sufficient information for individuals to understand what personal records may be caught up in the TANF System of Records or to provide a fully informed view on whether that information is being adequately safeguarded.

Second, to the extent that the TANF Notice delineates Routine Use 10, it describes a routine use that is wildly incompatible with the narrow purposes for which TANF recipient and household member data was collected in the first place—that is, to establish benefits eligibility. Consistent with the Code of Fair Information Practices,¹¹ when one agency seeks to redisclose

⁵ 5 U.S.C. § 552a(e)(4).

⁶ 5 U.S.C. § 552a(e)(7).

⁷ 89 Fed. Reg. 25,880, 25,882 (Apr. 12, 2024).

⁸ 91 Fed. Reg. at 37,407.

⁹ 91 Fed. Reg. at 37,408.

¹⁰ 91 Fed. Reg. at 37,407.

¹¹ EPIC, *The Code of Fair Information Practices* (2026), <https://epic.org/fair-information-practices/>.

personal records that it obtained from another agency, the “compatib[ility]”¹² of a proposed routine use must be evaluated according to the original “collection from the person providing the information[.]”¹³ Individual TANF recipients provide their sensitive personal data for a specific, well understood purpose: to obtain financial assistance. Routine Use 10 is incompatible with this purpose, reaching far beyond reasonably foreseeable fraud prevention uses to authorize ill-defined “program integrity” fishing expeditions. As noted, Routine Use 10 would authorize ill-defined disclosures of unspecified data to indeterminate entities for unidentified projects. Such a broad license to disclose personal records lacks any “meaningful degree of convergence” with the purposes for which TANF recipients disclose personal data or grantees collect it.¹⁴

Notably (and damningly), Routine Use 10 lacks the strict safeguards that Congress has established for the handling of individual-level TANF data by both state agencies and HHS itself. Whereas states must ensure that such data “is made available only to the extent necessary to assist in the valid administrative needs of the program”¹⁵ and HHS may not disclose such data “except as the head of the applicable agency may by regulations prescribe and except as otherwise provided by Federal law,”¹⁶ Routine Use 10 is neither bounded by administrative necessity nor rooted in regulation or statute. It is at direct odds with the robust privacy protections that Congress and HHS have established for TANF recipients, and it should be withdrawn.

II. ACF lacks the legal authority to amass and disclose TANF data as described by the TANF Notice.

Even if the TANF Notice were not lacking in critical detail, ACF’s proposed amassing and disclosure of individual-level TANF data greatly exceeds its legal authority and would violate multiple federal statutes. ACF may not adopt a SORN that purports to legitimize the illegitimate.

First, ACF lacks a source of legal authority to conduct open-ended “program integrity reviews (e.g. comprehensive assessments of how grantees administer TANF programs and follow statutory requirements)[.]”¹⁷ In fact, HHS is expressly prohibited under the TANF statute from “regulat[ing] the conduct of States under this part or enforc[ing] any provision of this part, except to the extent expressly provided in this part.”¹⁸ None of those exceptions describe anything approaching the “comprehensive assessments” that ACF intends to undertake and upon which its proposed disclosure of individual-level TANF data is premised.

Second, ACF’s invocation of 8 U.S.C. § 1373 is without merit. That provision provides no affirmative authority for an agency to disclose personal records of any kind; it merely prohibits government entities and officials from “restrict[ing]” the transmission of “information

¹² 5 U.S.C. § 552a(a)(7).

¹³ *Covert v. Harrington*, 667 F. Supp. 730, 738 (E.D. Wash. 1987), *aff’d sub nom. Covert v. Harrington*, 876 F.2d 751 (9th Cir. 1989).

¹⁴ *Britt v. Naval Investigative Serv.*, 886 F.2d 544, 549 (3d Cir. 1989).

¹⁵ 42 U.S.C. § 1320b-7(a)(5)(A)

¹⁶ 42 U.S.C. § 1306(a)(1).

¹⁷ TANF SORN.

¹⁸ 42 U.S.C. § 617.

regarding the citizenship or immigration status, lawful or unlawful, of any individual.”¹⁹ As one court recently made clear, nothing in § 1373 would permit HHS to construct or expand a system of records “with complete disregard for the Privacy Act’s protections.”²⁰

Third, the TANF System of Records contains Social Security numbers, the disclosure of which is specifically barred by the Social Security Act. “Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no authorized person”—including HHS personnel—“shall disclose any such social security account number or related record.”²¹ Yet the TANF Notice reserves to HHS the right to disclose Social Security numbers and related records to other entities in service of its broadly defined “program integrity” activities. This it cannot do.

Finally, ACF’s sweeping aggregation of sensitive personal information about TANF recipients and household members fails to comply with the Privacy Act’s rigorous data minimization standards. An agency may only collect information for a purpose that either a statute or executive order requires the agency to accomplish²²—a lawful purpose which, as noted, is absent here. Even then, the agency may only collect information that is relevant and necessary to accomplish the specified purpose.²³ The TANF Notice fails to identify any legal authority for its proposed repurposing of the TANF System of Records, and it certainly does not establish that the vastly greater volume of TANF data evidently sought by HHS is relevant or necessary for such a purpose.

III. ACF has apparently failed to comply with the Computer Matching and Privacy Protection Act.

ACF has failed to identify or provide an opportunity to comment on the required interagency agreements that would authorize the computer matching of individual-level TANF data with HHS and other agency records. Absent such computer matching agreements, ACF’s proposed automated comparison of personal records violates the Computer Matching and Privacy Protection Act (CMPPA).²⁴

Under the CMPPA (which amended the Privacy Act), a computer matching agreement is required when agencies match datasets to determine federal benefit eligibility.²⁵ Matching agreements must include detailed data elements and meet strict requirements designed to ensure public transparency and participation, congressional and agency oversight, and rigorous legal

¹⁹ 8 U.S.C. § 1373; *see also Relationship Between Illegal Immigr. Reform & Immigrant Resp. Act of 1996 & Statutory Requirement for Confidentiality of Census Info.*, 23 Op. O.L.C. (May 18, 1999) (slip op. at 6), 1999 WL 34995963 (recognizing that 8 U.S.C. § 1373(a) does “not clearly invest governmental officials or entities with the affirmative authority to disclose information in circumstances where they otherwise would be prohibited from doing so by a federal statute”).

²⁰ *League of Women Voters v. U.S. Dep’t of Homeland Sec.*, No. CV 25-3501 (SLS), 2026 WL 1784297, at *33 (D.D.C. June 22, 2026).

²¹ 42 U.S.C. § 405(c)(2)(B)(viii)(I).

²² 5 U.S.C. § 552a(e)(1).

²³ *Id.*

²⁴ *See* 5 U.S.C. § 552a(o).

²⁵ *Id.*

compliance.²⁶ Like SORNs, an agency must provide advance notice to the public and Congress and opportunity for public comment whenever it establishes or significantly changes a matching program.²⁷

The TANF Notice makes clear that one purpose of the revised system is to determine “whether grantees are ensuring that TANF recipients are eligible in accordance with the requirements of Title IV-A of the Social Security Act.”²⁸ Any automated comparison of HHS records with personal records held by another federal or state agency for this purpose would constitute a matching program, thereby obligating ACF to enter and provide public notice of a corresponding computer matching agreement. ACF has not done so. To the extent that ACF seeks to rely on an existing computer matching agreement, that agreement must now be modified to reflect the planned expansion of the TANF System of Records and opened for public comment as well. ACF has not done this either.

Having failed to provide such notice or identify applicable matching agreements, ACF appears to have violated the Computer Matching and Privacy Protection Act. For this reason too, the proposed expansion of the TANF System of Records should be abandoned.

IV. Conclusion

ACF should withdraw the TANF Notice and immediately abandon its proposal to dramatically expand the purpose and scope of the TANF System of Records. If you have any further questions, please contact John Davisson, EPIC Deputy Director and Director of Enforcement, at davisson@epic.org.

Respectfully submitted,

/s/ John Davisson

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²⁶ See 5 U.S.C. §§ 552a(o)(1)–(2).

²⁷ See 5 U.S.C. §§ 552a(e)(12), (r).

²⁸ 91 Fed. Reg. at 37,407.