

ATTACHMENT 1

PRIVACY PROTECTION PROVISIONS

These privacy protection provisions of the Social Security Administration (SSA) provide the terms, conditions, and safeguards governing disclosures of records, information, or data (herein “data”) made by SSA to any State Agency that receives SSA data to administer state-funded benefit programs, under the subject Information Exchange Agreement (“IEA/S”). These privacy protection provisions ensure that SSA makes such disclosures of data, and the State Agency uses such disclosed data, in accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. § 552a) and related Office of Management and Budget guidelines.

I. Record Description

A. Systems of Records (“SOR”)

SSA SORs used for purposes of the subject data exchanges may include:

- 60-0058 -- Master Files of Social Security Number (SSN) Holders and SSN Applications;
- 60-0059*-- Earnings Recording and Self-Employment Income System;
- 60-0090 -- Master Beneficiary Record;
- 60-0103 -- Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB);
- 60-0269 -- Prisoner Update Processing System (PUPS); and,
- 60-0321 -- Medicare Part D and Part D Subsidy File.

*Note: The State Agency may only request Federal tax information (FTI) data contained in **SOR 60-0059** (Earnings Recording and Self-Employment Income System) for state-funded, state-administered programs if the disclosure is explicitly authorized by 26 U.S.C. § 6103.

B. Data Elements

Data elements disclosed in the subject data exchanges are Personally Identifiable Information (“PII”) from specified SSA SORs, including names, SSNs, addresses, amounts, and other information related to SSA benefits and earnings information. Specific listings of data elements are available at:

<http://www.ssa.gov/dataexchange/>

C. Number of Records Involved

The number of records for each program in the subject data exchanges is equal to the number of Title II, Title XVI, or Title XVIII recipients resident in the State as recorded in SSA’s Annual Statistical Supplement found on Internet at:

<http://www.ssa.gov/policy/docs/statcomps/>

This number will fluctuate during the term of the IEA/S, corresponding to the number of Title II, Title XVI, and Title XVIII recipients added to or deleted from SSA databases.

II. Notice and Opportunity to Contest Procedures

A. Notice to Applicants

The State Agency will notify all individuals who apply for the state-funded benefits under programs identified in the IEA/S that any data they provide are subject to verification through data exchanges with SSA. The State Agency will provide such notice through appropriate language printed on application forms or separate handouts.

B. Notice to Beneficiaries/Recipients/Annuitants

The State Agency will provide notice to beneficiaries under the programs covered by the IEA/S informing them of ongoing data exchanges with SSA.

C. Opportunity to Contest

The State Agency will not terminate, suspend, reduce, deny, or take other adverse action against an applicant for or recipient of program benefits based on data disclosed by SSA from its SORs until the individual is notified in writing of the potential adverse action and provided an opportunity to contest the planned action. "Adverse action" means any action that results in a termination, suspension, reduction, or final denial of eligibility, payment, or benefit. Such notices will:

1. Inform the individual of the data exchange findings and the opportunity to contest these findings;
2. Give the individual until the expiration of any time period established for the relevant program by a statute or regulation for the individual to respond to the notice. If no such time period is established by a statute or regulation for the program, a 30-day period will be provided. The time period begins on the date on which notice is mailed or otherwise provided to the individual to respond; and
3. Clearly state that, unless the individual responds to the notice in the required time period, the State Agency will conclude that the SSA data are correct and will effectuate the threatened action or otherwise make the necessary adjustment to the individual's benefit or entitlement.

III. Disposition and Records Retention

- A. The State Agency will retain all data received from SSA to administer programs under the IEA/S only for the required processing times for the applicable programs and will then destroy all such data.
- B. The State Agency may retain SSA data in hardcopy to meet evidentiary requirements, provided that they retire such data in accordance with applicable state laws governing the State Agency's retention of records.
- C. The State Agency may use any accretions, deletions, or changes to the SSA data disclosed under the IEA/S to update their master files of state-funded benefit program applicants and recipients and retain such master files in accordance with applicable state laws governing the State Agency's retention of records.
- D. The State Agency may not create separate files or records comprised solely of the data provided by SSA to administer programs under the IEA/S.
- E. SSA will delete electronic data input files received from the State Agency after it processes the applicable match. SSA will retire its data in accordance with the Federal Records Retention Schedule (44 U.S.C. § 3303a).

IV. Records Usage, Duplication, and Redisclosure Restrictions

- A. The State Agency will use and access SSA data and the records created using that data only for the purpose of verifying eligibility for the specific programs identified in the IEA/S.
- B. The State Agency will comply with the following limitations on use, duplication, and redisclosure of SSA data:
 - 1. The State Agency will not use or redisclose the data disclosed by SSA for any purpose other than to determine eligibility for, or the amount of, benefits under the programs identified in the IEA/S.
 - 2. The State Agency will not extract information concerning individuals who are neither applicants for, nor recipients of, benefits under the programs identified in the IEA/S. In limited circumstances that are approved by SSA, the State Agency may extract information about an individual other than the applicant/recipient when the applicant/recipient has provided identifying information about the individual and the individual's income or resources affect the applicant's/recipient's eligibility for such program.
 - 3. The State Agency will not disclose to an applicant/recipient information about another individual (i.e., an applicant's household member) without the written consent from the individual to whom the information pertains.

4. The State Agency will use the FTI disclosed by SSA only to determine individual eligibility for, or the amount of, assistance under a state plan pursuant to section 1137 programs and child support enforcement programs in accordance with 26 U.S.C. § 6103(1)(7) and (8). Disclosure of FTI to the State Agency for state-funded, state-administered programs is strictly prohibited unless explicitly authorized by 26 U.S.C. § 6103. Moreover, contractors and agents acting on behalf of the State Agency will only have access to FTI where specifically authorized by 26 U.S.C. § 6103 and the current revision of Internal Revenue Service Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies*, available at <http://www.irs.gov>.
5. The State Agency will restrict access to the data disclosed by SSA to only those authorized State employees, contractors, and agents who need such data to perform their official duties in connection with the purposes identified in the IEA/S.
6. The State Agency will enter into a written agreement with each of its contractors and agents who need SSA data to perform their official duties whereby such contractor or agent agrees to abide by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in the IEA/S, including these privacy protection provisions. The State Agency will provide its contractors and agents with copies of the IEA/S, including all related attachments, before initial disclosure of SSA data to such contractors and agents. Prior to signing the IEA/S, and thereafter at SSA's request, the State Agency will obtain from its contractors and agents a current list of the employees of such contractors and agents with access to SSA data and provide such lists to SSA.
7. If State Agency are authorized or required – pursuant to an applicable law, regulation, or intra-governmental documentation – to provide SSA data to another State or local government entity for the administration of the state-funded, state-administered programs covered by the IEA/S, the State Agencies must ensure that the State or local government entity, including its employees, abides by all relevant Federal laws, restrictions on access, use, and disclosure, and security requirements in the IEA/S. At SSA's request, the State Agencies will provide copies of any applicable law, regulation, or intra-governmental documentation that authorizes the intra-governmental relationship with the State or local government entity. Upon request from SSA, the State Agency will also establish how they ensure that State or local government entity complies with the terms of the IEA/S.
8. The State Agency's employees, contractors, and agents who access, use, or disclose SSA data in a manner or purpose not authorized by the IEA/S may be subject to civil and criminal sanctions pursuant to applicable Federal statutes.
9. The State Agency will conduct triennial compliance reviews of its contractor(s) and agent(s) no later than three years after the initial approval of the security certification to SSA. The State Agency will share documentation of its recurring compliance

reviews with its contractor(s) and agent(s) with SSA. The State Agency will provide documentation to SSA during its scheduled compliance and certification reviews or upon request.

- C. The State Agency will not duplicate in a separate file or disseminate, without prior written permission from SSA, the data disclosed under the IEA/S for any purpose other than to determine entitlement or eligibility to state-funded benefits under the programs identified in the IEA/S. The State Agency proposing the redisclosure must specify in writing to SSA what data are being disclosed, to whom, and the reasons that justify the redisclosure. SSA will not give permission for such redisclosure unless the redisclosure is required by law or essential to the conduct of the programs and authorized under a routine use. To the extent SSA approves the requested redisclosure, the State Agency will ensure that any entity receiving the redisclosed data will comply with the procedures and limitations on use, duplication, and redisclosure of SSA data, as well as all administrative, technical, and physical security requirements governing all data SSA provides electronically to the State Agency including specific guidance on safeguarding and reporting responsibilities for PII, as set forth in these privacy protection provisions, the IEA/S, and its related attachments.