

COMPUTER MATCHING AGREEMENT

BETWEEN

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES
OFFICE OF CHILD SUPPORT ENFORCEMENT**

AND

**STATE AGENCY ADMINISTERING
THE UNEMPLOYMENT COMPENSATION PROGRAM**

Administration of Unemployment Compensation Program

U.S Department of Health and Human Services Data Integrity Board # 2205

I. PURPOSE, LEGAL AUTHORITY, AND DEFINITIONS

This computer matching agreement, hereinafter “agreement,” governs a matching program between the U.S Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement (OCSE), and the state agency administering the unemployment compensation (UC) program, hereinafter “state agency.” This is a standard agreement between OCSE and all state agencies participating in the matching program. The state agency is the “non-federal agency” and OCSE is the “source agency” as defined by the Privacy Act. 5 U.S.C. § 552a(a)(10) and (11). OCSE and participating state agencies have entered into matching agreements and renewals for this matching program since 2005 the latest of which expires January 18, 2023 (*see* Appendix A). This agreement includes a security addendum and a cost-benefit analysis (*see* Appendix B).

A. Purpose of the Matching Program

The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, hereinafter “Privacy Act,” requires that each matching agreement specify the purpose and legal authority for conducting the matching program. 5 U.S.C. § 552a (o)(1)(A).

The purpose of the matching program is to assist the state agency in administering the Unemployment Compensation (UC) benefits program including ensuring timely and accurate UC benefit payments, ensuring program integrity, assessing and collecting unemployment tax contributions, and fulfilling federal reporting requirements. The state agency will transmit to OCSE the name and Social Security number (SSN) of each UC applicant or beneficiary. OCSE will provide the state agency with new hire and quarterly wage information from the National Directory of New Hires (NDNH) pertaining to the individuals and their employers. The state agency will use the NDNH comparison results to

establish or verify the individuals' eligibility for benefits or continuing compliance with statutory and regulatory requirements governing the UC program. The NDNH comparison results will enable the state agency to:

- Verify wages paid to applicants and beneficiaries to determine initial and continuing eligibility for benefits
- Prevent, detect, and collect improper UC benefit payments by identifying beneficiaries who have unreported wages and those who have returned to work and fraudulently continue to claim benefits
- Locate individuals with outstanding UC overpayments or “skip-tracing”

Pursuant to additional U.S. Department of Labor (DOL) requirements to administer UC benefit programs, states may use NDNH results to perform additional tasks. With the expansion of responsibilities required by state workforce agencies under their mandate, such as jobs placement and tax compliance enforcement, the uses approved for NDNH have expanded beyond determining eligibility and amounts of benefits. While the following list is not exhaustive of all possible purposes, it provides additional guidance to states on appropriate uses for, and limitations on use of, NDNH data.

Reemployment of UC benefit claimants is a top priority of the workforce system. The Bipartisan Budget Act of 2018 established permanent authorization for the Reemployment Services and Eligibility Assessment (RESEA) program by adding Section 306 to Title III of the Social Security Act (42 U.S.C. § 506). Under Section 306(b) of the Social Security Act, the purposes of the RESEA program are to:

- Improve employment outcomes and to reduce the average duration of receipt of unemployment compensation through employment
- Strengthen program integrity and reduce improper payments by detecting and preventing such payments to ineligible individuals
- Promote alignment with the broader vision of the Workforce Innovation and Opportunity Act (WIOA) of increased program integration and service delivery for job seekers including claimants and recipients of unemployment compensation
- Establish RESEA as an entry point for individuals receiving unemployment compensation to enter into other workforce system partner programs

RESEA has become an important program for the government's back-to-work efforts and economic recovery and one that affects the child support program directly. DOL and state workforce agencies are exploring many avenues to identify and provide specialized assistance to individuals classified as “long-term unemployed.” To further those efforts, states may match information pertaining to individuals who recently exhausted UC benefits with information in the NDNH to identify the “long-term unemployed.” States

can then focus efforts and resources on outreach services to those individuals who have not returned to work and need enhanced re-employment services.

Additionally, as part of states' duty to ensure timely benefits payment, state agencies are principally organized by benefit and tax functions to pay benefits and to assess and collect unemployment tax contributions. Program integrity activities are an important component to both benefit and tax functions. To support the tax compliance function, the state agency may also use NDNH comparison results to locate employers, collect delinquent UC tax contributions from employers, and identify employers who have failed to report new hires or employee wages or who misclassified the employees as independent contractors.

To meet federal operational and performance reporting requirements, the state agency may also use NDNH information to obtain information on selected UC claims to investigate as part of the state agency's Benefit Accuracy Measurement (BAM) program for purposes of quality control and meeting Improper Payment Information Act reporting requirements. BAM is a statistical survey of paid and denied UC claims which assesses the accuracy of UC payments and denials of claims by conducting comprehensive audits of representative samples of payments and denied claims. BAM matches information about claimants receiving benefits with information in the NDNH in order to identify claimants who have returned to work but continue to claim UC.

The state agency is also authorized to use NDNH information to provide data for ad hoc benefits and tax reports that may be required from time to time for special federal or state initiatives which are necessary for the effective and efficient administration of the state UC program; and, to complete the Employment and Training Administration (ETA) 9128, Reemployment Services and Eligibility Assessment Activity and 9129, Reemployment and Eligibility Assessment Outcomes, reports that are required by DOL's ETA. The ETA 9128 and 9129 reports contain data on the RESEA program.

A computerized comparison of a system of records with non-federal records for the purpose of establishing or verifying the eligibility for benefits, or continuing compliance with statutory and regulatory requirements, by applicants for or recipients or beneficiaries of cash or in-kind assistance or payments under a federal benefit program constitutes a "matching program," as defined by the Privacy Act at 5 U.S.C. § 552a(a)(8)(A)(i)(II). Records may not be disclosed from a system of records to a recipient agency or non-federal agency for use in a matching program except pursuant to a written agreement containing the provisions specified in the Privacy Act at 5 U.S.C. § 552a(o).

B. Legal Authority

Subsection 453(j)(8) of the Social Security Act provides the legal authority for conducting the matching program. In pertinent part, subsection 453(j)(8)(A) states as follows:

If, for purposes of administering an unemployment compensation program under Federal or State law, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

42 U.S.C. § 653(j)(8)(A).

Under section 303(a)(1) of the Social Security Act, state agencies administering UC benefit programs must ensure the timely and accurate payment of UC benefits to qualified workers “when due” to receive administrative grant funding from DOL.” 42 U.S.C. § 503(a)(1) Subsection 303(a)(1) of the Social Security Act is also the basis for Federal UC program requirements regarding maintenance of the confidentiality of UC information, including name and past or present employer and application of appropriate restrictions on the disclosure of such information. DOL regulations implementing the Federal UC program requirements concerning confidentiality and disclosure of UC information are at 20 CFR Part 603.

C. Definitions

The following terms contained in this agreement will have the meaning given such terms in subsection (a) of the Privacy Act. 5 U.S.C. § 552a(a):

- (1) “Federal benefit program” means 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.
- (2) “Individual” means a citizen of the United States or an alien lawfully admitted for permanent residence.
- (3) “Maintain” means to maintain, collect, use or disseminate.
- (4) “Matching program” means any computerized comparison of two or more automated systems of records or a system of records with non-federal records for the purpose of – establishing or verifying the eligibility of or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to,
 - A. cash or in-kind assistance or payments under federal benefit programs, or
 - B. recouping payments or delinquent debts under such federal benefit programs. . .
- (5) “Non-federal agency” means any state or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program. 5 U.S.C. § 552a(a)(10).
- (6) “Recipient agency” means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program.

- (7) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history, and that contains the individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.
- (8) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.
- (9) "Source agency" means any agency which discloses records contained in a system of records to be used in a matching program, or any state or local government, or agency thereof, which discloses records to be used in a matching program. 5 U.S.C. § 552a(a)(11).
- (10) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

Additional terms used in this agreement are defined as follows:

- (11) "Federal Parent Locator Service" (FPLS) means a service, which includes the NDNH, conducted under the direction of OCSE pursuant to section 453 of the Social Security Act for purposes specified in sections 453 and 463. 42 U.S.C. §§ 653 and 663.
- (12) "National Directory of New Hires" (NDNH) means an automated directory maintained in the FPLS, established by subsection 453(i)(1) of the Social Security Act, containing new hire, unemployment compensation, and quarterly wage information supplied by state and federal agencies pursuant to subsections 453A(b)(1)(C) and (g)(2) of the Social Security Act. 42 U.S.C. §§ 653(i)(1), 653a(b)(1)(C), and (g)(2).
- (13) "New hire information" means employer information pertaining to newly hired employees reported to the NDNH by state and federal agencies pursuant to subsections 453A(b)(1)(C) and (g)(2)(A), and 453(i)(1) of the Social Security Act. 42 U.S.C. §§ 653a(b)(1)(C) and (g)(2)(A), and 653(i)(1).
- (14) "Quarterly wage information" means wage information reported to the NDNH by state and federal agencies pursuant to subsections 453A(g)(2)(B) and 453(i)(1) and (n) of the Social Security Act. 42 U.S.C. §§ 653a(g)(2)(B), 653(i)(1) and (n);
- (15) "Unemployment compensation information" means information pertaining to benefits paid under state and federal unemployment compensation programs and reported to the NDNH pursuant to subsections 453A(g)(2)(B) and 453(e)(3) and (i)(1) of the Social Security Act. 42 U.S.C. §§ 653a(g)(2)(B) and 653(e)(3) and (i)(1).
- (16) "Secretary" means the Secretary of the U.S. Department of Health and Human Services, unless otherwise provided specifically in the agreement.

II. JUSTIFICATION AND ANTICIPATED RESULTS

The Privacy Act requires that each matching agreement specify the justification for the program and the anticipated results, including a specific estimate of any savings. 5 U.S.C. § 552a(o)(1)(B).

A. Cost-Benefit Analysis

Unless statutorily excepted or waived by the HHS Data Integrity Board (DIB), a cost-benefit analysis must be completed and submitted to the DIB to consider in determining whether to approve the matching program. If the analysis does not demonstrate that the matching program is likely to be cost effective, the DIB may approve the matching agreement based on other supporting justifications. *See* 5 U.S.C. § 552a(u)(4)(A-C) and OMB guidance in *Privacy Act of 1974: Final Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1998*, 54 FR 25818 (June 19, 1989), at pages 25821 and 25828-25829.

Fifty-one state agencies participated in the matching program during federal fiscal year 2021. The current cost-benefit analysis (*see* Appendix B for detail) is derived from 1) fees paid by DOL to OCSE for state agencies to access the NDNH and 2) the findings provided by each state to DOL pertaining to established, avoided, and recovered overpayments that are attributable to the NDNH. The cost-benefit analysis demonstrates that the combined cost for DOL to fund the matching program for each state is significantly less than the combined established, avoided and recovered overpayments by states.

B. Other Supporting Justifications

This matching program supports compliance with the Payment Integrity Information Act of 2019 (PIIA) which focuses on preventing improper payments to ensure funding serves its intended purpose as first set out in E.O. 13520, *Reducing Improper Payments and Eliminating Waste in Federal Programs*, 74 FR 62201 (Nov. 25, 2009). Payment integrity is a top priority. OMB guidance provides the framework to reduce the administrative burden, allow agencies to focus on identifying, assessing, prioritizing, and responding to payment integrity risks, and address the underlying causes of improper payments. *See* OMB Memorandum M-21-19, *Transmittal of Appendix C to Circular A-123, Requirements for Payment Integrity Improvement* (March 5, 2021).

Because the UC program has been identified as susceptible to significant improper payments, the matching program facilitates compliance with the applicable requirements of 31 U.S.C. §§ 3351-3358.

DOL mandated use of the NDNH for the BAM program in 2007 (*see* UIPL No. 3-07, Change 1) to detect benefit year earnings (BYE) overpayments beginning in December 2011 (*see* UIPL No. 19-11).

This mandate is based on the Department's administrative authority granted under Section 303(a)(1) of the Social Security Act and Sections 3306(h) and 3304(a)(4) of the Internal Revenue Code. Studies done by DOL confirm that use of NDNH results in earlier detection of improper payments, prevents future overpayments, and increases the likelihood of overpayment recovery.

NDNH is a centralized database of wage and employment information and, as such, provides an effective and efficient means to obtain income information, preferable to other means of obtaining the same information. The matching program will assist the state agency in detecting fraud, waste, and abuse and will enhance program integrity by strengthening the state agency's oversight and management of the UC program. It will serve as a deterrent to some individuals who otherwise may fraudulently apply for and receive UC benefits and it will provide information to reduce erroneous payments. The program will also provide useful information on the employment and earnings of UC applicants and recipients, specifically: 1) those who are employed with the federal government; 2) those who are employed in another state, including those who have been rehired by a previous employer after having been separated from such prior employment for at least 60 consecutive days (Pub. L. 112-40, effective April 21, 2012, amending subsection 453A(a)(2) of the Social Security Act, 42 U.S.C. § 653a(a)(2)); and 3) those whose information is not readily available through the State Directory of New Hires, state workforce agencies, or other data reporting systems.

The positive results of the previous matching programs between the state agency and OCSE further justify the proposed matching program. *See* section II.A and the cost-benefit analysis at Appendix B to this agreement.

C. Specific Estimate of Any Savings

DOL conducted the cost-benefit analysis (*see* Appendix B) of fees DOL paid for states to participate in the matching program and the FY 2021 NDNH match outcomes provided to DOL by each state agency. DOL paid OCSE \$2.2 million for all 53 states to participate in the matching program and, after verification of previously unknown earnings, state agencies collectively reported approximately \$134 million in established and avoided overpayments attributable to the NDNH. The cost-benefit analysis demonstrates that the matching program is likely to be cost effective and will likely continue to help states reduce improper UC benefit payments.

III. RECORDS DESCRIPTION

The Privacy Act requires that each matching agreement specify a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program. 5 U.S.C. § 552a(o)(1)(C).

A. Sources of the Records Used in This Matching Program

1. OCSE System of Records

OCSE will disclose match results to the state agency from the following system of records: *OCSE National Directory of New Hires*, System No. 09-80-0381; *see* System of Records Notice (SORN) published in full at 87 FR 3553 (January 24, 2022). The disclosure of NDNH records by OCSE to the state agency is authorized by routine use (13) published in the NDNH SORN. 87 FR 3553, 3555 (January 24, 2022).

2. State Agency Records

The state agency records used in the information comparison contain information collected by the state agency in its administration of the UC benefits program. States are authorized to collect such information pursuant to subsections 1137(a) and (b)(3) of the Social Security Act (42 U.S.C. § 1320b-7(a)(1) and (b)(3)), which require an applicant for, or recipient of, UC benefits to furnish a Social Security number as a condition of eligibility.

B. Number of Records Involved

States submitted approximately 1,104,382,714 records for NDNH matching in fiscal year 2021. The input file provided to OCSE by the state agency will contain records representing a portion of that state's caseload. Each state agency's agreement signature page provides the estimated number of records to be submitted to OCSE by the state agency.

The approximate number of records in the output file provided to the state agency by OCSE will depend upon the number of individuals whose information is maintained in the NDNH and the amount of NDNH information, if any, associated with those individuals.

C. Specified Data Elements Used in the Match

1. Data Elements in the State Agency Input File

The state agency input file provided to OCSE contains records pertaining to individuals who are UC benefit applicants or recipients. Each individual record contains the following data elements, where available:

- Name
- Social Security number

Additionally, the state agency will indicate in the Passback Data field of the Input Detail Records, a code to identify the purpose for which the record is being submitted for NDNH matching. For the BAM program, the state agency must comply with guidance issued by DOL (*see* UIPL No. 3-07, Change 1 "Use of National Directory of

New Hires in Unemployment Insurance Benefit Accuracy Measurement (BAM) Audits," February 27, 2008).

To obtain new hire data for the BAM program, UIPL No. 3-07 instructed state BAM units to coordinate with the organizational unit responsible for their state agency's administration of NDNH matching. Each state agency will identify a unique code in the Passback Data field to identify BAM records submitted for NDNH matching.

OCSE will verify the name and Social Security number combinations in the state agency's input file using Social Security Administration processes. States may change the default setting from "Y" to "N" to indicate to OCSE that the state verified their records before submitting them for comparison.

2. NDNH Data Elements

To accomplish the purposes of this matching program, the state agency will request the following data elements from the NDNH new hire and quarterly wage, files. The file provided to the state agency by OCSE will contain the requested new hire and quarterly wage information, if any, pertaining to the individuals whose Social Security numbers are contained in the state agency input file. The file will also contain a code indicating whether the state requested OCSE to verify the name and Social Security number combination of each individual and a code indicating why a record was rejected.

a. New Hire File

- New hire processed date
- Employee name
- Employee address
- Employee date of hire
- Employee state of hire
- Federal Employer Identification Number
- State Employer Identification Number
- Department of Defense code
- Employer name
- Employer address
- Transmitter agency code
- Transmitter state code
- Transmitter state or agency name

b. Quarterly Wage File

- Quarterly wage processed date
- Employee name
- Federal Employer Identification Number
- State Employer Identification Number

- Department of Defense code
- Employer name
- Employer address
- Employee wage amount
- Quarterly wage reporting period
- Transmitter agency code
- Transmitter state code
- Transmitter state or agency name

D. Frequency of Data Exchanges

Subsection 453(j)(8) of the Social Security Act (42 U.S.C. § 653(j)(8)) requires comparison and disclosure to assist states to carry out their responsibilities under UC to the extent and with the frequency that the Secretary determines to be effective.

The Secretary has determined that comparisons and disclosures at a frequency established by the state agency are effective in assisting states to carry out responsibilities under UC. The state agency may request weekly comparisons and disclosures of new hire and quarterly disclosures of wage information.

E. Projected Start and Completion Dates

The projected start date of this agreement is January 19, 2023, and the projected expiration date is July 18, 2024 (18 months from the start date). The parties may, within three months prior to the expiration date of this agreement, renew the agreement for a period of up to one year, if the requirements stated in section XII.A are met, which would make the expiration date of this agreement July 18, 2025.

OCSE and the HHS DIB Chairperson signed this agreement. To access the NDNH, state agencies must sign and return it to OCSE before the current agreement expires.

IV. NOTICE PROCEDURES

A. Individualized Notice that Information May Be Subject to Verification through Matching Programs

The Privacy Act requires that the matching agreement specify procedures for providing individualized notice at the time of application, and periodically thereafter, subject to guidance provided by the Director of the Office of Management and Budget, to applicants for and recipients of financial assistance or payments under federal benefit programs, that any information provided by such applicants and recipients may be subject to verification through matching programs. 5 U.S.C. § 552a(o)(1)(D)(i).

Pursuant to this requirement, the state agency has implemented procedures and developed forms for providing individualized notice, at the time of application, and periodically

thereafter. The notice informs the applicants or recipients that the information they provide may be verified through matching programs. The notification methods include, but are not limited to, a statement on the initial application for UC benefits (hard copy and electronic); an explanation in the benefit program handbook provided at the time of application; a banner on the state agency website for UC benefits applicants; and, a statement in letters to applicants and recipients of UC benefits.

B. Constructive Notice of Matching Program

The Privacy Act requires federal agencies to publish notice of the establishment or revision of a matching program with a non-federal agency in the Federal Register for public notice and comment, at least 30 days prior to conducting such program. 5 U.S.C. § 552a(e)(12).

OCSE will publish the required public notice of the matching program in the *Federal Register* at least 30 days before conducting the program and will make the notice and this agreement available on the HHS computer matching agreement (CMA) internet site as required by OMB Memorandum M-17-06 *Policies for Federal Agency Public Websites and Digital Services*. These publications will provide constructive notice of the matching program to affected individuals. OCSE will not publish the *Federal Register* notice until OCSE has reported the matching program to the Office of Management and Budget (OMB) and Congress for advance review and OMB has completed its review as required by 5 U.S.C. § 552a(o)(2)(A) and (r) and OMB Circular A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, 81 FR 94424 (Dec. 23, 2016), at pages 17-23.

V. VERIFICATION PROCEDURES AND OPPORTUNITY TO CONTEST FINDINGS

The Privacy Act at 5 U.S.C. § 552a(o)(1)(E) requires that each matching agreement specify procedures for verifying information produced in the matching program and for providing affected individuals an opportunity to contest findings before an adverse action is taken against them, which procedures must comply with 5 U.S.C. § 552a(p), addressed below.

A. Verification Procedures

Subsection (p) of the Privacy Act provides as follows:

(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until

(A)(i) the agency has independently verified the information; or . . .

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of –

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

5 U.S.C. § 552a(p).

Thus, pursuant to the Privacy Act, the state agency understands that information obtained from the NDNH is not conclusive evidence of the address, employment and financial information of an identified individual and must, in accordance with 5 U.S.C. § 552a(p)(2), independently verify the NDNH information before taking adverse action to deny, reduce, or terminate benefits. State agencies have procedures to verify the current employment and income status of the applicant or recipient before taking action, which include, but are not limited to, notification of third parties, such as named employers or other state agencies, and calls to the applicant or recipient. These verification procedures and methods vary from state to state, as do the methods for notification of such findings, which include letters to applicants and recipients of UC benefits advising them of possible pending action.

Further, subsection (q)(1) of the Privacy Act provides that, notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-federal agency for a matching program if such source agency has reason to believe that the verification and opportunity to contest requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency. 5 U.S.C. § 552a(q)(1). *See also* the Office of Management and Budget guidelines *Privacy Act of 1974: Final Guidance Interpreting the*

Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1998, 54 FR 25818 (June 19, 1989), at pages 25827, 25829.

Information in the NDNH is also verified to ensure accuracy of records (*see* section IX). Records in an NDNH output file from OCSE to a state agency will indicate whether each name and Social Security number combination in the match results obtained from the NDNH has been verified for accuracy. OCSE verification procedures and output file indicators increase the likelihood that the NDNH information OCSE provides to the state agency will pertain to the appropriate individuals.

B. Opportunity to Contest Findings

The state agency has established and implemented procedures which require that, prior to taking adverse action against an individual, the state agency must notify the individual of the findings, the opportunity to contest the findings, and the date by which the individual must respond to the notice, in accordance with 5 U.S.C. § 552a(p)(1).

VI. DISPOSITION OF MATCHED ITEMS

The Privacy Act requires that each matching agreement specify procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-federal agency in such matching program. 5 U.S.C. § 552a(o)(1)(F). The Privacy Act also requires that each matching agreement specify procedures governing the use by the recipient agency or non-federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program. 5 U.S.C. § 552a(o)(1)(I).

The following provisions specify the retention periods for the records contained in the input file provided by the state agency and for the NDNH records in the output file provided by OCSE, which includes the information contained in those records, even NDNH records that are not labeled as such. Electronic files and information and any paper printouts must be disposed of as provided in the Security Addendum at III. 23. and 28.

A. State Agency Records in the Input File

OCSE may retain the records contained in the input file provided to OCSE by the state agency only for the period of time required for any processing related to the matching program, but no longer than 60 days after the transmission of the file to OCSE.

B. NDNH Records in the Output File

1. Copy of NDNH Records in the Output File

OCSE may retain copies of the records contained in the NDNH output file that OCSE provided to the state agency only for the period of time required to ensure the successful

transmission of the output file to the state agency, but no longer than 60 days after the transmission of the output file to the state agency.

2. NDNH Records in Output File Provided to State Agency

The state agency may retain NDNH records contained in the output file OCSE provided to the state agency only for the period of time required to achieve the authorized purpose of the matching program, but no longer than three years from the date of disclosure of the files to the state agency.

VII. SECURITY PROCEDURES

The Privacy Act requires that each matching agreement specify procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs. 5 U.S.C. § 552a(o)(1)(G). Federal agencies must ensure that state agencies afford the appropriate equivalent level of security controls as maintained by the federal agency. *See* OMB Memorandum 01-05, *Guidance on Inter-Agency Sharing of Personal Data - Protecting Personal Privacy* (December 20, 2000).

The procedures and controls to ensure the appropriate equivalent level of security for records matched and the results of such programs are specified in the security addendum to this agreement.

VIII. RECORDS USAGE, DUPLICATION, AND REDISCLOSURE RESTRICTIONS

The Privacy Act requires that each matching agreement specify prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or non-federal agency, except where provided by law or essential to the conduct of the matching program. 5 U.S.C. § 552a(o)(1)(H). The Privacy Act also requires that each matching agreement specify procedures governing the use by a recipient agency or non-federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program.

5 U.S.C. § 552a(o)(1)(I).

Restrictions on duplication, redisclosure, and use of records are also found in the Social Security Act. Subsection 453(l)(1) requires that NDNH information and the results of comparisons using NDNH information shall not be used or disclosed except as expressly provided in section 453, subject to section 6103 of the Internal Revenue Code of 1986. 42 U.S.C. § 653(l)(1). Subsection 453(l)(2) provides that an administrative penalty (up to and including dismissal from employment) and a fine of \$1,000 shall be imposed for each act of unauthorized access to, disclosure of, or use of, information in the NDNH by any officer or employee of the United States or any other person who knowingly and willfully violates the requirement. 42 U.S.C. § 653(l)(2). Subsection 453(m) requires the Secretary of the U.S. Department of Health and Human Services to establish and implement safeguards with respect to the entities established

under this section designed to restrict access to confidential NDNH information to authorized persons and restrict use of such information to authorized purposes. 42 U.S.C. § 653(m)(2).

Subsection 453(j)(8) of the Social Security Act, under which this matching program is authorized, further restricts the redisclosure and use of records. Subsections 453(j)(8)(A) and (B) of the Social Security Act provide that OCSE shall disclose to the state agency information in the NDNH only to the extent that OCSE determines that the disclosure would not interfere with the effective operation of the child support program. 42 U.S.C. § 653(j)(8)(B). Subsection 453(j)(8)(C)(i) provides the state agency may not use or disclose information provided by OCSE except for purposes of administering a UC program under federal or state law. 42 U.S.C. § 653(j)(8)(C)(i). OCSE may not commence, or may discontinue, disclosure of NDNH information upon a determination that such disclosure interferes with the effective operation of the child support program. OCSE will provide the state agency with ten days' advance written notice prior to discontinuation of the disclosure of NDNH information.

In accordance with such requirements, OCSE must use state agency records solely as provided in this agreement and must not duplicate or redisclose those records within or outside of OCSE. The state agency must use the results of the information comparison solely for the purposes authorized pursuant to this agreement and in accordance with the terms and conditions specified in this agreement, including the security addendum. The state agency may not redisclose or duplicate the results of the information comparison.

If a state agency determines that redisclosure to a specified entity is essential to accomplishing the matching program's purposes (as specified in section I. of this agreement), the state agency must obtain OCSE's written approval prior to any redisclosure. The state agency must submit a written request to OCSE describing the purpose, manner, and frequency of the proposed redisclosure and the entities to which such redisclosure is to be made. The state agency must certify that it will ensure the appropriate equivalent level of security controls on the entity's use of NDNH information. OCSE must review any such request and advise the state agency whether the request is approved or denied.

IX. RECORDS ACCURACY ASSESSMENTS

The Privacy Act requires that each matching agreement specify information on assessments that have been made on the accuracy of the records that will be used in the matching program. 5 U.S.C. § 552a(o)(1)(J).

A. NDNH Records

The information maintained within the NDNH is reported to OCSE by state and federal agencies. OCSE verifies the accuracy of name and Social Security number combinations maintained by OCSE against Social Security Administration databases in accordance with 42 U.S.C. § 653(j)(1). A record reported to the NDNH is considered "verified" if the name and Social Security number combination has a corresponding name and Social Security number combination within Social Security Administration databases.

One hundred percent of the employee name and Social Security number combinations contained in the new hire file and the unemployment insurance file against which input files are compared have been verified against Social Security Administration databases. For quarterly wage, 77 percent of name and Social Security number combinations have been verified because some states do not collect enough name data. However, information comparisons may be conducted and reliable results obtained.

B. State Agency Records

Pursuant to OCSE's procedure for verifying state agency records prior to conducting an information comparison with the NDNH (*see* section III.C.1), name and Social Security number combinations within the state agency records are highly accurate.

X. COMPTROLLER GENERAL ACCESS

The Privacy Act requires that each matching agreement specify that the Comptroller General of the United States may have access to all records of a recipient agency or a non-federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with this agreement. 5 U.S.C. § 552a(o)(1)(K). OCSE and the state agency agree that the Comptroller General may have access to such records for the authorized purpose of monitoring or verifying compliance with this agreement.

XI. REIMBURSEMENT/FUNDING

Subsection 453(k)(3) of the Social Security Act requires a state or federal agency that receives information from the Secretary to reimburse the Secretary for costs incurred by the Secretary in furnishing the information. The reimbursement shall be at rates which the Secretary determines to be reasonable and will include the costs of obtaining, verifying, maintaining, and comparing the information. 42 U.S.C. § 653(k)(3).

Subsection 453(j)(8)(E) of the Social Security Act requires the state agency to reimburse OCSE in accordance with subsection (k)(3), for the costs incurred by OCSE in furnishing the information. 42 U.S.C. § 653(j)(8)(E).

OCSE has established a full-cost reimbursement methodology for calculating user fees for each state or federal agency receiving information from the NDNH. A reimbursement agreement must be executed each federal fiscal year in which this computer matching agreement is in effect and if the state agency participates in the match. The state agency must reimburse OCSE in accordance with the terms of such reimbursement agreement.

XII. DURATION OF AGREEMENT

A. Effective Date of the Agreement

As stated in III.E., the State Agency and OCSE intend that the effective date of this agreement will be January 19, 2023, the day after the expiration date of the renewal of the prior matching agreement, No. 2001.

OCSE and the state agency may commence comparisons and disclosures under this agreement upon completion of all of the following requirements:

- OCSE and the authorized state agency officials sign the agreement.
- The HHS DIB approves this matching agreement and the HHS DIB Chairperson signs the agreement.
- The state agency submits the documentation required by OCSE to assess the security posture of the state agency.
- OCSE reports the matching program to OMB and Congress for their advance review and, upon completion of OMB's advance review, OCSE publishes the matching notice in the *Federal Register* for 30 calendar days, as required by 5 U.S.C. § 552a(e)(12), (o)(2)(A) and (r) and OMB Circular A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, 81 FR 94424 (Dec. 23, 2016), at pages 17-23.

This agreement will remain in effect for 18 months as permitted by 5 U.S.C. § 552a(o)(2)(C). The parties may, within three months prior to the expiration date of this agreement, renew the agreement for a period of up to one year if OCSE and the state agency certify to the HHS DIB in writing that the matching program has been conducted in compliance with the agreement and will be conducted without any significant change. *See* 5 U.S.C. § 552a(o)(2)(D) and reissued OMB Circular A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*, (Dec. 23, 2016), at pages 17-20.

The Privacy Act at subsection (q) provides that no source agency may renew a matching agreement unless the recipient agency or non-federal agency has certified that it has complied with the provisions of that agreement and the source agency has no reason to believe that the certification is inaccurate. 5 U.S.C. § 552a(q)(2)(A) and (B).

B. Modification of the Agreement

This agreement may be modified at any time by a written amendment which is approved by the state agency, OCSE, and by the HHS DIB. If any significant changes are requested, a new agreement will be required.

C. Termination of the Agreement

This agreement may be terminated at any time with the consent of both agencies.

Either agency may unilaterally terminate this agreement upon written notice to the other agency, in which case, the termination date will be effective 90 days after the date of the notice or at a later date specified in the notice provided this date does not exceed the approved duration of the agreement.

If OCSE has reason to believe that the verification and opportunity to contest requirements of subsection (p) of the Privacy Act or any other requirement of this agreement is not being met, OCSE must terminate disclosures of records contained in the NDNH under the agreement, in accordance with subsection 552a(q)(1) of the Privacy Act (as amended). 5 U.S.C. § 552a(q)(1).

If OCSE determines that any authorized entity to which NDNH information is redisclosed is not complying with any of the terms and provisions in this agreement, OCSE may terminate this agreement.

If OCSE determines that the privacy or security of NDNH information is at risk, OCSE may terminate the agreement and any further disclosures without prior notice to the state agency.

XIII. NECESSITY OF INFORMATION FOR AUTHORIZED PURPOSE

Subsection 453(j)(8)(C)(i) and (ii) of the Social Security Act prohibits “a state agency from using or disclosing information provided ... except for purposes of administering a program in subparagraph A” by authorized persons for authorized uses and disclosures. 42 U.S.C. §§ 653(j)(8)(A) and (C)(i) and (ii).

The state agency will comply with this requirement by ensuring that information pertaining to individuals and each data element requested, the frequency of transmission, and the retention and disposition periods of NDNH information are necessary to accomplish the authorized purpose for obtaining NDNH information – assisting state agency administering UC benefits program (*see* sections III.B, III.D, and VI.).

The state agency may provide to authorized users, as provided in section VIII., of this agreement, only the specific NDNH information necessary to perform their official duties and to accomplish the purpose for obtaining NDNH information.

XIV. PERIODIC REPORTING OF PERFORMANCE OUTCOMES

The Office of Management and Budget requires OCSE to periodically report measures of the performance of the FPLS, including the NDNH, through various federal management devices, such as the Office of Management and Budget Information Technology Dashboard, the Annual

Report to Congress, and the Major IT Business Case. OCSE is required to provide performance measures demonstrating how the FPLS supports OCSE's strategic mission, goals and objectives, and cross-agency collaboration. OCSE also requests such performance reporting to ensure matching partners use NDNH information for the authorized purpose.

To assist OCSE in its compliance with federal reporting requirements and to provide assurance that the state agency uses NDNH information for the authorized purpose, the state agency must provide the DOL with performance outputs and outcomes attributable to its use of NDNH information for the purposes set forth in this agreement. DOL provides the performance reports to OCSE on behalf of the state workforce agencies, who provide the information to DOL. DOL must annually provide such reports, in a format determined by OCSE, to OCSE no later than three months after the end of each fiscal year of the matching program.

The performance report may also assist the DOL in the development of a cost benefit analysis of the matching program required for any subsequent matching agreements in accordance with 5 U.S.C. § 552a(o)(1)(B). *See* section II.A of this agreement and Appendix B.

XV. PERSONS TO CONTACT

- A.** The U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement contact for programs is:

Maureen Henriksen
Data Access Manager
Division of Federal Systems
Office of Child Support Enforcement
Administration for Children and Families
Mary E. Switzer Building
330 C Street SW, 5th Floor
Washington, DC 20201
Phone: 202-205-3848
Email: Maureen.Henriksen@acf.hhs.gov

- B.** The contacts on behalf of the state agency are:

[NAME]
[TITLE]
[AGENCY]
[MAILING ADDRESS]
[CITY, STATE, ZIP CODE]
Phone: [XXX-XXX-XXXX]
Email: [EMAIL ADDRESS]

[NAME]
[TITLE]
[AGENCY]
[MAILING ADDRESS]
[CITY, STATE, ZIP CODE]
Phone: [XXX-XXX-XXXX]
Email: [EMAIL ADDRESS]

XVI. APPROVALS

The authorized officials, whose signatures appear below, accept and expressly agree to the terms and conditions expressed herein, confirm that no verbal agreements of any kind will be binding or recognized, and hereby commit their respective organizations to the terms of this agreement.

A. U. S. Department of Health and Human Services Program Official

Tanguler S. Gray -S Digitally signed by Tanguler S. Gray -S Date: 2022.07.18 09:02:00 -0400	
Tanguler Gray Commissioner Office of Child Support Enforcement	Date

B. U. S. Department of Health and Human Services Data Integrity Board

/s/	
Cheryl Campbell Chairperson	Date

C. State Agency Official

The state of _____ will submit approximately _____ records in each input file, which represent approximately _____ individuals, at the frequency specified in section III.D of this agreement. This number is an estimate of the number of records provided to OCSE by the state agency and may fluctuate within the effective period of the agreement.

[Name of State Agency Authorized Official] [Title of State Agency Authorized Official]	Date

SECURITY ADDENDUM

**U.S. Department of Health and Human Services
Administration of Children and Families
Office of Child Support Enforcement**

and

STATE AGENCY ADMINISTERING THE UNEMPLOYMENT COMPENSATION PROGRAM

Administration of Unemployment Compensation Program

I. PURPOSE AND EFFECT OF THIS SECURITY ADDENDUM

The purpose of this security addendum is to specify the security controls that the Office of Child Support Enforcement (OCSE) and the state workforce agency administering the unemployment compensation program (state agency) must have in place to ensure the security of the records compared against records in the National Directory of New Hires (NDNH), and the results of the information comparison.

By signing this security addendum, OCSE and the state agency agree to comply with the security requirements established by the U.S. Department of Health and Human Services and OCSE. OCSE and the state agency agree to use the information for authorized purposes in accordance with the terms of the computer matching agreement (agreement) between the state agency and OCSE.

OCSE may update this security addendum to address process or technology changes, as well as new or revised federal security requirements and guidelines. In such instances, OCSE must provide the state agency with written notification of such changes and require written assurance by the state agency that it must comply with new or revised security requirements.

II. APPLICABILITY OF THIS SECURITY ADDENDUM

This security addendum is applicable to the agency, personnel, facilities, documentation, information, electronic and physical records, other machine-readable information, and the information systems of OCSE and the state agency, and state agency authorized entities (such as contractors and entities specified in the agreement), which are hereinafter “OCSE” and “state agency.”

III. SECURITY AND PRIVACY SAFEGUARDING REQUIREMENTS

The safeguarding requirements in this security addendum are drawn from the *Office of Child Support Enforcement Division of Federal Systems Security Requirements for State Agencies Receiving National Directory of New Hires Data*. This document is available upon request from ocsesecurity@acf.hhs.gov.

This section provides the safeguarding requirements with which OCSE and the state agency must comply and continuously monitor. The state agency must also comply with three additional requirements: Breach Reporting and Notification Responsibility; Security Certification; and Audit Requirements.

The safeguarding requirements for receiving NDNH information as well as the safeguards in place at OCSE for protecting the agency input files are as follows:

1. The state agency must restrict access to, and disclosure of, NDNH information to authorized personnel who need NDNH information to perform their official duties in connection with the authorized purposes specified in the agreement.

OCSE restricts access to and disclosure of the agency input files to authorized personnel who need them to perform their official duties as authorized in this agreement.

Policy/Requirements Traceability: 5 U.S.C. § 552a(b)(1), NIST SP 800-53 Rev 5, *Security and Privacy Controls for Information Systems and Organizations*, AC-3, AC-6

2. The state agency must establish and maintain an ongoing management oversight and quality assurance program to ensure that only authorized personnel have access to NDNH information.

OCSE management oversees the use of the agency input files to ensure that only authorized personnel have access.

Policy/Requirements Traceability: 5 U.S.C. § 552a; NIST SP 800-53 Rev 5, PL-4(1), PS-6, PS-8

3. The state agency must advise all authorized personnel who will access NDNH information of the confidentiality of NDNH information, the safeguards required to protect NDNH information, and the civil and criminal sanctions for non-compliance contained in the applicable state and federal laws, including section 453(1)(2) of the Social Security Act. 42 U.S.C. § 653(1)(2).

OCSE advises all personnel who will access the agency input files of the confidentiality of the information, the safeguards required to protect the information, and the civil and criminal sanctions for non-compliance contained in the applicable federal laws.

Policy/Requirements Traceability: 5 U.S.C. § 552a; NIST SP 800-53 Rev 5, PL-4(1), PS-6, PS-8

4. The state agency must deliver security and privacy awareness training to personnel with authorized access to NDNH information and the system that houses, processes, or transmits NDNH information. The training must describe each user's responsibility for proper use and protection of NDNH information, how to recognize and report potential indicators of insider threat, and the possible sanctions for misuse. All personnel must receive security and privacy awareness training before accessing NDNH information and at least annually thereafter. The training must cover the matching provisions of the federal Privacy Act, the Computer Matching and Privacy Protection Act, and other state and federal laws governing use and misuse of NDNH information.

OCSE delivers security and privacy awareness training to personnel. The training describes each user's responsibility for proper use and protection of other agencies' input files, how to recognize and report potential indicators of insider threat, and the possible sanctions for misuse. All personnel receive security and privacy awareness training before accessing agency input files and at least annually thereafter. The training covers the other federal laws governing use and misuse of protected information.

Policy/Requirements Traceability: 5 U.S.C. § 552a; 44 U.S.C. § 3551 et seq; OMB Circular A-130, *Managing Information as a Strategic Resource*; OMB M-17-12, *Preparing for and Responding to a Breach of Personally Identifiable Information*; NIST SP 800-53 Rev 5, AT-2(2), AT-3

5. The state agency personnel with authorized access to NDNH information must sign non-disclosure agreements, rules of behavior, or equivalent documents before system access, annually, and if changes in assignment occur. The non-disclosure agreement, rules of behavior, or equivalent documents must outline the authorized purposes for which the state agency may use NDNH information, the privacy and security safeguards contained in this agreement and security addendum, and the civil and criminal penalties for unauthorized use. The state agency may use "wet" and/or electronic signatures to acknowledge non-disclosure agreements, rules of behavior, or equivalent documents.

OCSE personnel with authorized access to the agency input files sign non-disclosure agreements and rules of behavior annually.

Policy/Requirements Traceability: OMB Circular A-130 – Appendix I, *Responsibilities for Protecting and Managing Federal Information Resources*; OMB M-17-12; NIST SP 800-53 Rev 5, PS-6

6. The state agency must maintain records of authorized personnel with access to NDNH information. The records must contain a copy of each individual's signed non-disclosure agreement, rules of behavior, or equivalent document and proof of the individual's participation in security and privacy awareness training. The state agency must make such records available to OCSE upon request.

OCSE maintains a record of personnel with access to the agency input files. The records contain a copy of each individual's signed non-disclosure agreement, rules of behavior, or equivalent document and proof of the individual's participation in security and privacy awareness training.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, AT-4

7. The state agency must have appropriate procedures in place to report confirmed and suspected security or privacy incidents (unauthorized use or disclosure involving personally identifiable information), involving NDNH information. Immediately upon discovery, but in no case later than one hour after discovery of the incident, the state agency must report confirmed and suspected incidents, in either electronic or physical form, to OCSE, as designated in this security addendum. The requirement for the state agency to report confirmed or suspected incidents involving NDNH information to OCSE exists in addition to, not in lieu of, any state agency requirements to report to the United States Computer Emergency Readiness Team (US-CERT).

OCSE has appropriate procedures in place to report security or privacy incidents, or suspected incidents involving the agency input files. Immediately upon discovery but in no case later than one hour after discovery of the incident, OCSE will report confirmed and suspected incidents to the state agency security contact designated in this security addendum. The requirement for OCSE to report confirmed or suspected incidents to the state agency exists in addition to, not in lieu of, requirements to report to US-CERT or other reporting agencies.

Policy/Requirements Traceability: OMB Circular A-130 – Appendix I; OMB M-17-12; NIST SP 800-53 Rev 5, IR-6

8. The state agency must prohibit the use of non-state agency furnished equipment to access NDNH information without specific written authorization from the appropriate state agency representatives.

OCSE does not permit personnel to access the agency input files remotely using non-agency furnished equipment.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, AC-20(1)(2)

9. The state agency must require that personnel accessing NDNH information remotely (for example, telecommuting) adhere to all the security and privacy safeguarding requirements provided in this security addendum. State agency and non-state agency furnished equipment must have appropriate software with the latest updates to protect against attacks, including, at a minimum, current antivirus software and up-to-date system patches and other software patches. Before electronic connection to state agency resources, the state agency must scan the state agency and non-state agency furnished equipment to ensure compliance with the state agency standards. All remote connections must be through a Network Access Control, and all data in transit between the remote location and the agency must be encrypted using Federal Information Processing Standards (FIPS) 140-2 encryption standards. Personally owned devices must not be authorized. (*See numbers 8 and 19 of this section for additional information*).

OCSE does not permit personnel to access the agency input files remotely using non-agency furnished equipment.

Policy/Requirements Traceability: OMB-M-17-12; NIST SP 800-53 Rev 5, AC-17, AC-20

10. The state agency must implement an effective continuous monitoring strategy and program that must ensure the continued effectiveness of security controls by maintaining ongoing awareness of information security, vulnerabilities, and threats to the information system housing NDNH information. The continuous monitoring program must include configuration management, patch management, vulnerability management, risk assessments before making changes to the system and environment, ongoing security control assessments, and reports to state agency officials as required.

OCSE has implemented a continuous monitoring strategy and program that ensures the continued effectiveness of security controls by maintaining ongoing awareness of information security, vulnerabilities, and threats to the information system housing the input files. The continuous monitoring program includes configuration management, patch management, vulnerability management, risk assessments before making changes to the system and environment, ongoing security control assessments, and reports to the U.S. Department of Health and Human Services officials as required.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, CA-7(1)(4); NIST SP 800-137, *Information Security Continuous Monitoring for Federal Information Systems and Organizations*

11. The state agency must maintain an asset inventory of all software and hardware components within the boundary of the information system housing NDNH

information. The inventory must be detailed enough for the state agency to track and report.

OCSE maintains an inventory of all software and hardware components within the boundary of the information system housing the agency input files.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, CM-2(3)(7), CM-7(1)(2)(4), CM-8(1)(3), CM-11, IA-3, PM-5, SA-4(1)(2)(9)(10), SC-17, SC-18, SI-4(2)(4)(5)

12. The state agency must maintain a system security plan describing the security requirements for the system housing NDNH information and the security controls in place or planned for meeting those requirements. The system security plan must describe the responsibilities and expected behavior of all individuals who access the system.

OCSE maintains a system security plan that describes the security requirements for the information system housing the agency input files and the security controls in place or planned for meeting those requirements. The system security plan includes responsibilities and expected behavior of all individuals who access the system.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, PL-2; NIST SP 800-18 Rev 1, *Guide for Developing Security Plans for Federal Information Systems*

13. The state agency must maintain a plan of action and milestones (corrective action plan) for the information system housing NDNH information to document plans to correct weaknesses identified during security control assessments and to reduce or eliminate known vulnerabilities in the system. The state agency must update the corrective action plan as necessary based on the findings from security control assessments, security impact analyses, and continuous monitoring activities.

OCSE maintains a plan of action and milestones for the information system housing the agency input files to document plans to correct weaknesses identified during security control assessments and to reduce or eliminate known vulnerabilities in the system. OCSE updates the plan of action and milestones as necessary based on the findings from security control assessments, security impact analyses, and continuous monitoring activities.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, CA-5; NIST SP 800-18 Rev 1

14. The state agency must maintain a baseline configuration of the system housing NDNH information. The baseline configuration must include information on system components (for example, standard software packages installed on workstations, notebook computers, servers, network components, or mobile devices; current version numbers and patch information on operating systems and applications; and

configuration settings/parameters), network topology, and the logical placement of those components within the system architecture.

OCSE maintains a baseline configuration of the information system housing the agency input files.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, CA-7, CA-9, CM-2(3)(7), CM-3(2), CM-5, CM-6, CM-7(1)(2)(4), CM-8(1)(3), CM-11, SI-4(2)(4)(5)

15. The state agency must limit and control logical and physical access to NDNH information to only those personnel authorized for such access based on their official duties, and identified in the records maintained by the state agency pursuant to numbers 6 and 27 of this section. The state agency must prevent personnel from browsing by using technical controls or other compensating controls.

OCSE limits and controls logical and physical access to the agency input files to only those personnel authorized for such access based on their official duties. OCSE prevents browsing using technical controls that limit and monitor access to the agency input files.

Policy/Requirements Traceability: 5 U.S.C. § 552a; NIST SP 800-53 Rev 5, AC-2, AC-3

16. The state agency must transmit and store all NDNH information provided pursuant to this agreement in a manner that safeguards the information and prohibits unauthorized access. All electronic state agency transmissions of information must be encrypted utilizing a FIPS 140-2 compliant product.

OCSE and state agency exchange data via a mutually approved and secured data transfer method that utilizes a FIPS 140-2 compliant product.

Policy/Requirements Traceability: OMB M-17-12; FIPS 140-2, *Security Requirements for Cryptographic Modules*; NIST SP 800-53 Rev 5, MP-4, SC-8

17. The state agency must transfer and store NDNH information only on state agency owned portable digital media and mobile computing and communications devices that are encrypted at the disk or device level, using a FIPS 140-2 compliant product. (*See* numbers 8 and 18 of this section for additional information).

OCSE does not copy the agency input files to mobile media.

Policy/Requirements Traceability: OMB M-17-12; FIPS 140-2

18. The state agency must prohibit the use of computing resources resident in commercial or public facilities (for example, hotels, convention centers, airports) from accessing, transmitting, or storing NDNH information.

OCSE prohibits the use of computing resources resident in commercial or public facilities (for example, hotels, convention centers, airports) from accessing, transmitting, or storing the agency input files.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, AC-19(5), CM-8(3)

19. The state agency must prohibit remote access to NDNH information, except via a secure and encrypted (FIPS 140-2 compliant) transmission link and using two-factor authentication. The state agency must control remote access through a limited number of managed access control points.

OCSE prohibits remote access to the agency input files except via a secure and encrypted (FIPS 140-2 compliant) transmission link and using two-factor authentication.

Policy/Requirements Traceability: OMB M-17-12; FIPS 140-2; NIST SP 800-53 Rev 5, AC-17, IA-2(6)(12), SC-8

20. The state agency must maintain a fully automated audit trail system with audit records that, at a minimum, collect data associated with each query transaction to its initiator, capture date and time of system events and types of events. The audit trail system must protect data and the audit tool from addition, modification or deletion and should be regularly reviewed and analyzed for indications of inappropriate or unusual activity.

OCSE maintains a fully automated audit trail system with audit records that, at a minimum, collect data associated with each query transaction with its initiator, capture date and time of system events and types of events. The audit trail system must protect data and the audit tool from addition, modification or deletion and should be regularly reviewed and analyzed for indications of inappropriate or unusual activity.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, AU-2, AU-3, AU-6(1)(3), AU-8, AU-9(4), AU-11

21. The state agency must log each computer-readable data extract (secondary store or files with duplicate NDNH information) from any database holding NDNH information and verify that each extract has been erased within 60 days after completing authorized use. If the state agency requires the extract for longer than 60 days to accomplish a purpose authorized pursuant to this agreement, the state agency must request permission, in writing, to keep the extract for a defined period of time, subject to OCSE written approval. The state agency must comply with the retention and disposition requirements in the agreement.

OCSE does not extract information from the agency input files.

Policy/Requirements Traceability: OMB M-17-12, NIST SP 800-53 Rev 5, MP-4, MP-6, SI-12

22. The state agency must utilize a time-out function for remote access and mobile devices that require a user to re-authenticate after no more than 30 minutes of inactivity (*see* numbers 8, 9, and 19 of this section for additional information).

OCSE utilizes a time-out function for remote access and mobile devices that requires a user to re-authenticate after no more than 30 minutes of inactivity.

Policy/Requirements Traceability: OMB M-17-12, NIST SP 800-53 Rev 5, AC-11, AC-12, AC-17, SC-10

23. The state agency must erase electronic records after completing authorized use in accordance with the retention and disposition requirements in the agreement (*see* Disposition of Matched Items in section VI of the computer matching agreement). When storage media are disposed of, the media will be destroyed or sanitized so that the erased records are not recoverable.

OCSE erases the electronic records after completing authorized use in accordance with the retention and disposition requirements in the agreement.

Policy/Requirements Traceability: 5 U.S.C. § 552a, NIST SP 800-53 Rev 5, MP-4, MP-6, SI-12

24. The state agency must implement a Network Access Control (also known as Network Admission Control (NAC)) solution in conjunction with a Virtual Private Network (VPN) option to enforce security policy compliance on all state agency and non-state agency remote devices that attempt to gain access to, or use, NDNH information. The state agency must use a NAC solution to authenticate, authorize, evaluate, and remediate remote wired and wireless users before they can access the network. The implemented NAC solution must evaluate whether remote machines are compliant with security policies through host(s) integrity tests against predefined templates, such as patch level, service packs, antivirus, and personal firewall status, as well as custom created checks tailored for the state agency enterprise environment. The state agency must disable functionality that allows automatic code execution. The solution must enforce security policies by blocking, isolating, or quarantining non-compliant devices from accessing the state network and resources while maintaining an audit record on users' access and presence on the state network (*see* numbers 8 and 19 of this section for additional information).

OCSE ensures that personnel do not access the agency input files remotely using non-agency furnished equipment.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, AC-17, AC-20, IA-2(6)(12), IA-3

25. The state agency must ensure that the organization responsible for the data processing facility storing, transmitting, or processing NDNH information complies with the security requirements established in this security addendum. The “data processing facility” includes the personnel, facilities, documentation, data, electronic and physical records and other machine-readable information, and the information systems of the state agency including, but not limited to, employees and contractors working with the data processing facility, statewide centralized data centers, contractor data centers, and any other individual or entity collecting, storing, transmitting, or processing NDNH information.

OCSE ensures that the data processing facility complies with the security requirements established in this security addendum.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, SA-9(2)

26. The state agency must store all NDNH information provided pursuant to this agreement in an area that is physically safe from access by unauthorized persons during duty hours as well as non-duty hours or when not in use.

OCSE stores the agency input files provided pursuant to this agreement in an area that is physically safe from access by unauthorized persons during duty hours as well as non-duty hours or when not in use.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, PE-2, PE-3

27. The state agency must maintain a list of personnel authorized to access facilities and systems processing sensitive data, including NDNH information. The state agency must control access to facilities and systems wherever NDNH information is processed. Designated officials must review and approve the access list and authorization credentials initially and periodically thereafter, but no less often than annually.

OCSE maintains lists of personnel authorized to access facilities and systems processing the agency input files. OCSE controls access to facilities and systems wherever the agency input files are processed. Designated officials review and approve the access list and authorization credentials initially and periodically thereafter, but no less often than annually.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, AC-2, PE-2

28. The state agency must label printed reports containing NDNH information to denote the level of sensitivity of the information and limitations on distribution. The state agency must maintain printed reports in a locked container when not in use and must

not transport NDNH information off state agency premises. In accordance with the retention and disposition requirements in the agreement, the state agency must destroy these printed reports by burning or shredding.

OCSE does not generate printed reports containing the agency input files.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, MP-2, MP-3, MP-4, MP-5, MP-6

29. The state agency must use locks and other protective measures at all physical access points (including designated entry and exit points) to prevent unauthorized access to computer and support areas containing NDNH information.

OCSE uses locks and other protective measures at all physical access points (including designated entry and exit points) to prevent unauthorized access to computer and support areas.

Policy/Requirements Traceability: NIST SP 800-53 Rev 5, PE-3

IV. CLOUD SOLUTION (OPTIONAL)

The state agency may choose to use cloud computing to distribute services over broader architectures. The cloud service provider must be Federal Risk and Authorization Management Program (FedRAMP) certified in order to meet federal security requirements for cloud-based computing or data storage solutions. Cloud implementations are defined by the service model and deployment model used. Software as a Service, Platform as a Service, and Infrastructure as a Service are examples of cloud service models for cloud implementation. The deployment models may include private cloud, community cloud, public cloud, and hybrid cloud. Data security requirements as defined below still must be met regardless of the type of cloud implementation chosen.

1. The cloud-based solution must reside on a FedRAMP compliant system. FedRAMP is a government-wide program that provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services.
2. Use of a cloud solution must be approved in advance by OCSE before connectivity to NDNH information can be established.

3. The state agency and the cloud service provider must comply with all requirements in this agreement, including the security addendum, in accordance with section III of the agreement, including the data retention policies agreed upon by the state agency and OCSE to ensure that all required statutory requirements are met. The state agency must ensure such compliance by the cloud service provider.
4. The data stored by the cloud service provider should ONLY be used for the authorized purpose of the matching program.
5. It is the obligation of the matching partner to ensure that the cloud housing NDNH information is stored domestically and is specified in the contract or Service Level Agreement between the matching partner and the cloud service provider.

V. BREACH REPORTING AND NOTIFICATION RESPONSIBILITY

Upon disclosure of NDNH information from OCSE to the state agency, the state agency is the responsible party in the event of a confirmed or suspected breach of the information, including responsibility for any costs associated with breach mitigation and remediation. Immediately upon discovery, but in no case later than one hour after discovery of the incident, the state agency must report confirmed and suspected incidents, in either electronic or physical form, to OCSE, as designated in this security addendum. The state agency is responsible for all reporting and notification activities, including but not limited to: investigating the incident; communicating with required state government breach response officials; notifying individuals whose information is breached; notifying any third parties, including the media; notifying any other public and private sector agencies involved; responding to inquiries about the breach; resolving all issues surrounding the information breach; performing any follow-up activities; correcting the vulnerability that allowed the breach; and any other activity, as required by OMB M-17-12, *Preparing for and Responding to a Breach of Personally Identifiable Information*, and other federal law and guidance..

Policy/Requirements Traceability: *US-CERT Federal Incident Notification Guidelines* (April 1, 2017); OMB Circular A-130 – Appendix I; OMB M-17-12; NIST SP 800-53 Rev 5, IR-6

VI. SECURITY REQUIREMENTS

1. Security Posture

The state agency has submitted to OCSE the required documentation and OCSE has reviewed and approved the state agency's security posture.

2. Independent Security Assessment

The state agency must submit to OCSE a copy of a recent independent security assessment every four years. Refer to the *Office of Child Support Enforcement Division of Federal Systems Security Requirements for State Agencies Receiving National Directory of New Hires Data*, section VI, for additional guidance.

If major organizational or system framework changes are required after OCSE approves the state's independent security assessment, it is vital for the state to notify OCSE of the changes before implementing them. The state will also need to provide an independent security assessment of the major system changes to OCSE before the system can be approved to access the NDNH.

VII. AUDIT REQUIREMENTS

OCSE has the right to audit the state agency or make other provisions to ensure that the state agency is maintaining adequate safeguards to protect NDNH information. Audits ensure that the security policies, practices and procedures, and controls required by OCSE are in place within the state agency.

Policy/Requirements Traceability: *OMB M-22-05, Fiscal Year 2021-2022 Guidance on Federal Information Security and Privacy*, December 6, 2021 OMB Circular No. A-130 – Appendix I

VIII. PERSONS TO CONTACT

- A.** The U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement contact is:

Venkata Kondapolu, Director
Division of Federal Systems
Office of Child Support Enforcement
Administration for Children and Families
Mary E. Switzer Building
330 C Street, SW, 5th Floor
Washington, DC 20201
Phone: 202-260-4712
Email: Venkata.kondapolu@acf.hhs.gov

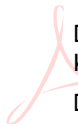

- B.** The state agency contact is:

[NAME]
[TITLE]
[DIVISION]
[AGENCY]
[MAILING ADDRESS]
[CITY, STATE, ZIP CODE]
Phone: [XXX-XXX-XXXX]
E-mail: [EMAIL ADDRESS]

IX. APPROVALS

By their signatures below, the authorized officials approve this security addendum.

A. U.S. Department of Health and Human Services Officials

Venkata Kondapolu -S  Digitally signed by Venkata Kondapolu -S Date: 2022.07.11 21:00:18 -04'00'	
Venkata Kondapolu Director Division of Federal Systems Office of Child Support Enforcement	Date
Tanguler S. Gray -S  Digitally signed by Tanguler S. Gray -S Date: 2022.07.18 09:02:00 -04'00'	
Tanguler Gray Commissioner Office of Child Support Enforcement	Date

B. State Agency Official[s]

NAME OF STATE AGENCY

[Name of State Agency Authorized Official] [Title of State Agency Authorized Official]	Date
[Name of State Agency Authorized Official (if two signatures are required)] [Title of State Agency Authorized Official]	Date

APPENDIX A

Previous Computer Matching Agreements between OCSE and State SWA Agencies

Previous matching agreements and renewals between the Office of Child Support Enforcement (OCSE) and the state agencies administering the Unemployment Compensation (UC) Benefit Program are as follows:

- Computer Matching Agreement, HHS No. 2001, effective July 19, 2020 through January 18, 2022; Amendment and Renewal, effective January 19, 2022 through January 18, 2023.
- Computer Matching Agreement, HHS No. 1706, effective January 19, 2018 through July 18, 2019; Renewal, effective July 19, 2019 through July 18, 2020.
- Computer Matching Agreement, HHS No.1504, effective July 13, 2015 through January 12, 2017; Amendment and Renewal, effective January 13, 2017 through January 12, 2018.
- Computer Matching Agreement, HHS No. 1204 effective January 13, 2013 through July 12, 2014; Amendment and Renewal, effective July 13, 2014 through July 12, 2015.
- Computer Matching Agreement, HHS No. 1002, effective July 13, 2010 through January 12, 2012; Amendment and Renewal, effective January 13, 2012 through January 12, 2013.
- Computer Matching Agreement, HHS No. 0705, effective January 13, 2008 through July 12, 2009; Renewal, effective July 13, 2009 through July 12, 2010.
- Computer Matching Agreement, HHS No. 0505, effective July 1, 2005 through December 31, 2006; Renewal, effective January 1, 2007 through December 31, 2007.

APPENDIX B

Administration of the Unemployment Compensation Program

COST-BENEFIT ANALYSIS

BACKGROUND:

Public Law 108–295 (“SUTA Dumping Prevention Act of 2004”) authorized state agencies to access the National Directory of New Hire (NDNH), “for purposes of administering an unemployment compensation (UC) program under Federal or state law.” The NDNH is the only national database that maintains wage and employment information, including information for multi-state employers, and federal civilian and the military. Access to the comprehensive wage and employment information maintained in the NDNH provides state agencies with information about whether UC claimants have returned to work and helps SWAs to prevent and recover improper overpayments.

COSTS

Key Elements 1 and 2: Personnel and Computer Costs

For Agencies –

- **Source Agency:** Office of Child Support Enforcement (OCSE) does not provide personnel or computer costs to the U.S. Department of Labor (DOL).
- **Non-Federal Agencies:** State Workforce Agencies (SWAs) are not required to provide personnel or computer costs to DOL; however, under the terms of the FY2021 reimbursement agreement between DOL and OCSE, DOL paid OCSE \$ 2.2 million to reimburse OCSE for SWAs to access the NDNH. These cost estimates for states to access the NDNH are developed by OCSE, in part, by using UC workload analysis and transaction costs.
- **Justice Agencies:** N/A

For Clients: N/A

For Third Parties: N/A

For the General Public: N/A

BENEFITS

Key Element 3: Avoidance of Future Improper Overpayments

To Agencies –

- **Source Agency:** N/A
- **Non-Federal Agencies:** As of September 2021, 53¹ SWAs matched UC claims data with the NDNH information. For the period January 2004 to September 2021, state UC agencies identified \$2.4 billion in improper overpayments through NDNH and State Directories of New Hire (SDNH) computer matching. Since 2007 the first year in which

states reported improper overpayments detected through NDNH and SDNH computer matching, states identified an average of \$145.18 million in improper overpayments per year.

DOL estimates that NDNH and SDNH computer matching helped SWAs avoid approximately \$175.19 million in improper overpayments during Fiscal Year (FY) 2021; however, beginning in Calendar Year 2012, DOL began capturing NDNH data as a separate line item from SDNH overpayments data in its reports. For FY 2021, the improper overpayments established² by computer matching with NDNH represented 43.4 percent or \$57.4 million of the total improper overpayments established by NDNH and SDNH computer matches. The following table provides the NDNH detail and includes FY20 for comparison purposes.

FY	Total Amount of NDNH and SDNH Improper Overpayments Established	NDNH Amount of Overpayments as a Percent of Total NDNH and SDNH Established Improper Overpayments	Total Amount of NDNH Improper Overpayments Established	Estimated Improper Overpayments Avoided using SDNH & NDNH	Estimated Improper Overpayments Avoided using NDNH
2020	\$139.49M	39.05%	\$54.47M	125.02M	\$48.54M
2021	\$132.33M	43.38%	\$57.40M	\$175.19M	\$76.82M

- **Justice Agencies:** N/A

To Clients: N/A

To the General Public: Improper Overpayments avoided or recovered through this computer matching program accrue to state UC trust fund accounts. UC benefits are paid for with employer-paid payroll taxes. Ensuring state trust fund solvency helps employers keep their UC taxes low. Controlling improper overpayments also boosts public confidence in the program as a whole.

¹53 states signed the NDNH Computer Matching Agreement in calendar year (CY) 2021; however, VI and PR did not submit UI benefit records to the NDNH for matching in CY 2021.

² The term “established” means detected. It is defined in our data collection, the ETA 227 report contained in ET Handbook No. 401, 5th Edition - https://wdr.doleta.gov/directives/attach/ETAH/ETHand401_5th.pdf. The ETA 227 report is in Section IV, starting on page 155 of the handbook, and the definition is on page 162, as follows: “Cases Established. Any single issue involving an overpayment that has been determined for a claimant within a single calendar quarter and for which a formal notice of determination has been issued. An overpayment that covers one or more weeks (or partial weeks) of benefits shall be counted as one case if all weeks of overpayments are included in the same notice of determination. An overpayment covering consecutive weeks of benefit that span two calendar quarters should be reported for the calendar quarter in which the notice of decision is issued.”

Key Element 4: Recovery of Improper Payments and Debts

To Agencies –

- **Source Agency:** N/A
- **Non-Federal Agencies:** SWAs are required to report recovered improper overpayments to DOL. The FY21 report outcomes from SWAs, compiled by DOL, are presented in the subsequent section, “FY 21 Summary of Established and Recovered Improper Payments,” and demonstrate that SWAs recovered these improper UC overpayments based on information they received from the NDNH and, in turn, benefited by recovering improper UC overpayments

To Clients: Recovering improper UC benefit payments helps UC benefit applicants and recipients (“clients”) because it returns funds to the agency and makes them available to be paid to eligible individuals who are genuinely in need of assistance.

To the General Public: Recovering overpayments that are detected using the NDNH benefits tax-payers because SWAs recoup tax dollars that were improperly paid to UC benefit recipients. Recovering overpayments also promotes public confidence in and support for the UC program. The recovery of overpayments is a top priority. State recovery efforts are monitored by DOL and performance standards are in place to further ensure an aggressive pursuit of these funds.

FY 21 Summary of Established and Recovered Improper Payments

Source: ETA 227 Overpayment Detection and Recovery Activities report.

Total Overpayments Established*	\$5,338M
Total Overpayments Recovered	\$1,143M
Percent Recovered	21.41%
Overpayments Established Using SDNH & NDNH	\$132.33M
Estimated New Hire Overpayments Recovered	\$28.34M
Total Overpayments Prevented + Recovered**	\$203.52M

Notes: Amounts are in the millions (M) of dollars.

* Excluding Penalty.

** Estimated by average overpayment established using wage record computer matching minus average overpayment established using NDNH and SDNH computer matching, multiplied by number of overpayments established using NDNH and SDNH computer matching.

CONCLUSION

The net benefit of SWA access to NDNH and SDNH computer matches is estimated at \$201.32 M (\$203.52 M total avoided and recovered overpayments in FY21 minus FY21 \$2.2 M NDNH matching fees paid by DOL to OCSE), with approximately \$134M (\$57.4M established overpayments and \$76.8M avoided overpayments) attributable to the NDNH.